

Intolerance and Discrimination against Muslims in the EU

Developments since September 11

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Preface

The purpose of this report is to raise awareness about intolerance and discrimination against Muslims in the EU, as well as to highlight problems with respect to the exercise of freedom of religion by Muslims in the region. The report covers eleven EU member states: Austria, Belgium, Denmark, France, Germany, Greece, Italy, the Netherlands, Spain, Sweden and the United Kingdom.

The report, which is framed around relevant international human rights standards,¹ focuses on concerns communicated by Muslim organizations and other groups monitoring the rights of Muslims. However, it is primarily based on second-hand information, including statements by Muslim and anti-racist groups, material published by international human rights organizations and monitoring bodies, research findings, media reports and official documents.

The report does not discuss the issues covered in an exhaustive manner, and it should not be understood as a comprehensive contribution to the highly complicated debate surrounding the integration of Muslims, and other minority members, into the EU societies. More narrowly, it highlights worrisome trends that may undermine positive efforts to promote the integration of Muslims.

The report is an expanded version of an earlier report published by the IHF in advance of a conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination organized by the Organization for Security and Cooperation in Europe (OSCE) in Brussels on September 13-14, 2004. It also provides follow-up to parts of the IHF report *Anti-Terrorism Measures, Security and Human Rights* published in April 2003.²

¹ For an overview of relevant legal standards, see the Annex.

² Available at http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=928

Introduction and Recommendations to the EU Member States

In the aftermath of September 11,³ the social climate facing Muslims has deteriorated in the countries covered by this report. As the fight against terrorism has been stepped up and the perceived threat of religious extremism has been given wide attention in public debate, pre-existing prejudice and discrimination against Muslims have been reinforced. Muslims have increasingly felt that they are viewed with distrust and hostility and that they are stigmatized because of their beliefs. These developments are a major focus of the report.

In the wake of September 11, there have also been many positive initiatives aimed at “building bridges” between Muslim and other communities, promoting tolerance and supporting the participation of Muslims in society. In various ways, authorities and civil society have been involved in such initiatives in the EU member states.

However, the IHF is concerned that the atmosphere of growing distrust against Muslims that has developed since September 11 threatens to undermine efforts to promote integration and further increase the vulnerability of Muslims to human rights violations and marginalization. Current trends – if they are allowed to continue – may also foster feelings of resentment and frustration among Muslims and erode their confidence in the authorities. As pointed out by Muslim and civil liberties organizations, the fact that Muslims have increasingly experienced hostility, discrimination and exclusion since September 11 may enhance their susceptibility to propaganda by organizations that advocate violent methods to protest injustices suffered by Muslims. Hence, it is only by scrupulously defending the rights of their Muslim minorities that the EU member states can retain the confidence of these minorities and fruitfully promote their integration in the long run, including by undermining the appeal of extremist organizations.

The IHF recognizes that integration always is a two-way process, which involves commitment on both sides. Thus, successful integration of Muslim minorities in the EU naturally also requires that the members of these minorities make active efforts to participate in the societies in which they reside. It is clear that most Muslims are struggling to become fully involved in their societies on equal terms with others, while preserving their particular ethnic, religious and cultural identities. However, sometimes immigrants of Muslim origin, as well as immigrants of other backgrounds, choose strategies for preserving their particularities that tend to reinforce their segregation in society. Such strategies include adherence to practices and ideologies that reject international human rights standards

³ Throughout the report, the expression “September 11” is used to denote the terrorist attacks that took place in the United States on September 11, 2001.

and universal democratic norms. The IHF calls for increasing attention to these issues, and emphasizes that religious and cultural norms can never justify intolerant or abusive behavior.

However, it is essential that a strict distinction always be made between individuals who seek to protect their identities by committing reprehensible acts and the particular ethnic, religious or cultural communities to which these individuals belong. The responsibilities of individuals with regard to integration should also always be viewed in light of the opportunities to participate in society that are available to them, e.g. in terms of education, employment and political participation. It should not be overlooked that experiences of discrimination and exclusion may result in Muslims and other minority members adopting behaviors that further underscore their segregation in relation to the majority population.

The fact that integration is a two-way process also highlights the importance of dialogue in facilitating the integration of Muslims in the EU. It is essential that the EU member states engage in consultation and cooperation with Muslim communities for the purpose of elaborating integration strategies in different areas of society. In this way, the EU member states can better ensure that the measures adopted adequately correspond to existing needs among Muslims and that Muslims feel that they have a stake in the measures rather than that they are imposed on them from outside.

Against the background of the discussions in this report, the IHF would like to make the following recommendations:

1. The EU member states should take effective measures to protect Muslims and other vulnerable minority groups from religiously or racially motivated discrimination, hostility and violence and ensure that such abuses are effectively investigated, prosecuted and punished. They should consider strengthening legislation that prohibits discrimination and hate crimes motivated by religious or racial bias and effectively transpose into national law the two EU Council directives on equal treatment from 2000 if they have not yet done so.⁴

⁴ Two EU Council directives adopted in 2000 set common minimum levels of legal protection against certain forms of discrimination in the EU member states. The first of these, directive 2000/43, requires member states to adopt a series of measures to combat discrimination on the grounds of racial or ethnic origin in employment, education, social protection and access to and supply of public goods and services. The other one, directive 2000/78, lays down a framework for measures to combat discrimination on the grounds of religion or belief, disability, age or sexual orientation in employment. The EU member states were due to transpose the two directives into national law by the end of June and December 2003 respectively. However, several EU member states failed to meet the deadlines, resulting in the EU Commission initiating infringement proceedings against them. See information about the anti-discrimination directives at http://www.europa.eu.int/comm/employment_social/fundamental_rights/legis/legin_en.htm

2. To enhance efforts to prosecute and punish discriminatory and violent acts, the EU member states should establish training programs for all law enforcement branches on the implementation of legislation related to religiously and racially motivated discrimination and hate crimes. They should also engage in efforts to encourage Muslims and other minority members to report such crimes to police.
3. The EU member states should promote systematic efforts to monitor discrimination against Muslims in employment, housing, access to service and other areas of society in order to increase knowledge of such trends and to facilitate the development of effective strategies to prevent and combat discrimination based on religious beliefs. They should encourage the adoption of codes of conduct, in accordance with relevant national and international standards, to counter discriminatory practices.
4. The EU member states should take effective measures to promote tolerance among their citizens. To this end, they should encourage debate within the media about their responsibility to avoid perpetuating prejudice when reporting on Islam and Muslim communities, develop campaigns to foster respect for cultural and religious pluralism, and raise awareness of positive contributions of Muslims and other minority members to society.
5. The EU member states should ensure that any measures adopted to regulate immigration or to counter religious extremism or terrorism comply with international human rights standards. In particular, they should ensure that any such measures fully respect the principle of equality before the law and do not amount to discrimination on grounds such as religion, nationality or ethnicity. The member states should instantly amend, rescind or nullify any laws that have the effect of creating or perpetuating discrimination on grounds such as religion, nationality or ethnicity. They should also make sure that they, in their actions, consistently distinguish between those individuals who abuse immigration regimes and those of immigrant origin generally, as well as between those individuals who advocate and commit violence in the name of Islam and the majority of Muslims who condemn such violence.
6. The EU member states should ensure respect for the right of Muslims to freely practice their religion, including the right to celebrate religious holidays, the right to construct houses of worship without undue obstacles, the right to observe funeral rites, the right to wear distinctive clothing, the right to observe dietary regulations, the right to organize instruction in their religion and the right to train religious leaders. Any restrictions placed on the right of Muslims to freely practice their religion must be in strict conformity with requirements of international law, i.e. they must be necessary to protect public safety, order, health, or morals

or the fundamental rights and freedoms of others and they must be non-discriminatory and proportionate to the aim pursued.

7. As a means of ensuring respect for the freedom of religion of Muslims, the EU member states should commission relevant human rights institutions in their respective countries to elaborate concrete guidelines, on the basis of international standards, for how to accommodate the religious needs of Muslims in different areas of society. Such guidelines, which should give special consideration to issues that have proved controversial in the national context, should be widely circulated.
8. The EU member states should actively engage in dialogue with Muslim communities for the purpose of developing strategies to promote the integration of Muslims in different fields of society and to address problems related to the practice of Islam. In doing so, the EU member states should recognize the diversity of the Muslim minorities of their countries, and take care to grant voice to representatives of different groups within these minorities. One way for the EU member states to ensure that a plurality of Muslim views can be heard is to facilitate the establishment of democratically elected Muslim representative bodies, which can function as negotiation partners for the authorities. Where such bodies exist, agreements about their operational freedom should be respected.

Summary

As stated in the preface, the purpose of this report is to raise awareness about intolerance and discrimination against Muslims, as well as to highlight problems experienced by Muslims with respect to the exercise of freedom of religion in eleven EU member states: Austria, Belgium, Denmark, France, Germany, Greece, Italy, the Netherlands, Spain, Sweden and the United Kingdom.

For the sake of consistency and comparability, all country chapters of the report discuss the same set of topics. This chapter summarizes the major issues addressed under each of these topics. The first two sections offer general information about the situation of Muslims in the different countries covered by the report and the formal relations between the state and the Muslim communities of these countries. The other sections discuss intolerance and discrimination against Muslims, and problems related to the practice of Islam, in different areas of society. However, the section on “advocacy of hatred and violence in the name of Islam” focuses on cases where imams and other Muslim leaders have been found to promote hateful and violent ideas and measures taken to counteract such trends.

Background Information

It is estimated that more than 20 million Muslims live in the enlarged EU.⁵ It is difficult to provide an exact number since several EU countries do not register the religious affiliation of their residents and since available estimations often are approximate, e.g. because they are based on information about the national background of residents. Further complicating the picture, there are different ways of defining what is meant by the term “Muslim.” While the broadest definitions take into account everyone who was born and raised in a predominantly Muslim environment, the narrowest ones only consider those who are actively practicing Islam.⁶ In between these two definitions are definitions of “Muslims” as individuals who identify themselves as Muslims although they do not meet the criteria of being actively practicing Muslims.

As a consequence of the various ways of defining who is a Muslim, the comparability and value of the numbers of Muslims provided in the different country chapters are limited. However, keeping these limitations in mind, it can be observed that the highest number of Muslims can be found in France (4-5 million), Germany (over 3 million), the United Kingdom (more than 1.5 million), Spain (about 1

⁵ See David Masci, *An Uncertain Road: Muslims and the Future of Europe*, The Pew Forum on Religion and Public Life, December 2004, at <http://pewforum.org/publications/reports/MuslimsinEurope2004.pdf> (last visited February 24, 2005).

⁶ There are also different ways of defining who is an actively practicing Muslim. However, it is widely held that Islam establishes five fundamental obligations for devout Muslims, or the so-called Five Pillars of Islam. These are: *Shahada* (proclamation that “There is no true God except Allah and Muhammad is the Messenger of Allah”); *Salat* (prayer five times per day); *Saum* (fasting during the month of Ramadan); *Zakat* (charity); and *Hajj* (pilgrimage to Mecca for those who are able).

million) and Italy and the Netherlands (close to 1 million in both cases). The absolute number of Muslims is lower in Belgium (400,000 – 500,000), Greece (up to 400,000), Austria (more than 300,000), Sweden (also more than 300,000), and Denmark (up to 180,000), with Muslims constituting 3-4% of all residents in these countries.

In all the countries covered by the report, the major part of the Muslim communities is of immigrant origin. Most of the countries actively promoted labor immigration from Muslim countries following World War II. The initial plan was that these immigrants would stay only temporarily before returning to their countries of origin, and therefore their integration into their host societies was typically not encouraged. However, many of the labor immigrants eventually chose to stay. As of the 1970s, the EU countries imposed rigid restrictions on immigration in response to an economic downturn, and in subsequent decades, most immigrants who arrived were family members of previous labor immigrants – including those of Muslim faith – who benefited from family reunification programs. Since the 1970s, a growing number of refugees of Muslim faith have also arrived in the EU countries. As a result of these developments, Muslims have gained growing visibility in EU societies since the 1980s, especially in the capitals and other larger cities of the EU countries where most Muslims reside.

As the members of the Muslim communities in the EU countries typically come from a broad range of backgrounds, the communities are diverse, with cross-cutting ethnic, cultural, linguistic and social affiliations. They also belong to different Islamic traditions. It is therefore misleading to refer to them as coherent communities. However, among younger generations of Muslims who were born and raised in the EU, and who no longer have particularly strong ties to the countries of origin of their parents or grandparents, ethnic and cultural differences are beginning to lose their importance. Across the EU, vernacular forms of Islam are developing, and young Muslims increasingly perceive their religion in terms of personal convictions rather than in terms of family and tradition.⁷ The fact that members of the Muslim communities in the EU countries increasingly have felt that they are viewed with suspicion and distrust since September 11 has also had the effect of strengthening their sense of community. As research has shown, the more discrimination and social exclusion members of a minority face, the more they tend to unite around the perceived cause of their discrimination, e.g. their religious affiliation.⁸

⁷ Compare Jocelyne Cesari, “Muslim Minorities in Europe: The Silent Revolution,” in John Esposito and Francois Burgat (eds.), *Modernizing Islam: Religion in the Public Sphere in the Middle East and in Europe* (Rutgers University Press: 2003), p. 138.

⁸ See Åke Sander, “Muslims in Sweden,” in Muhammad Anwar, Jochen Blaschke, Åke Sander, *State Policies toward Muslim Minorities in Sweden, Great Britain and Germany* (European Migration Center: 2004), p. 264.

The Muslim communities in the EU countries are typically younger than the majority populations, with a considerably higher rate of young people. For example, one third of the Muslims in France are under 20 (compared to about 20% of the population as a whole), one third of the Muslims in Germany are under 18 (compared to 18% of the entire population),⁹ and one third of the Muslims in the United Kingdom are under 16 (compared to 20% of all residents).¹⁰ As a result of higher birth rates than among the majority population, the Muslim communities in the EU countries are also expected to continue to grow over the next few decades. According to some estimates, the number of Muslims in Europe will double by 2015.¹¹

Fifty percent or more of the Muslims in France, the United Kingdom, the Netherlands and Belgium are citizens of these countries, while the corresponding figure is a third or less in the other countries dealt with in the report. As a growing number of Muslims obtain citizenship of the EU countries where they reside, and thereby full political rights, the political involvement of Muslims is likely to grow. In several countries, traditional political parties have increasingly recognized Muslims as an important voter group, while efforts to establish Muslim parties have so far been limited.

Formal Relations between the State and the Muslim Community of the Country¹²

The legal status of Islam varies in the countries covered by the report, and formal relations between the state and the Muslim communities of these countries have been organized in different ways. Together with a number of other major religions, Islam has been officially recognized in Austria (since 1912) and Belgium (since 1974). As a result, Muslims in these countries enjoy certain rights that members of other religious minorities do not enjoy, such as the right to receive instruction in their religion in public schools. In Spain, a special cooperation agreement (from 1992) grants the country's Muslim community a number of similar rights. However, in the case of Belgium and Spain, several benefits formally granted to the Muslim communities have yet to be implemented in practice. While religious education in Islam in public schools and some other public activities carried out by the official Muslim representative organizations (see below) are subsidized by the state in all these three countries, the Belgian representative organization is the only one that receives direct state funding.

In Greece, the historical Muslim minority in Western Thrace enjoys special legal protection, including the right to establish schools and to settle questions concerning family law in accordance with Islamic law. This special protection, however, does not apply to Muslims in other parts of Greece, such as

⁹ See Timothy M. Savage, "Europe and Islam: Crescent Waxing, Cultures Clashing," *The Washington Quarterly*, Summer 2004 (27:3), p. 28.

¹⁰ Statistics compiled by the Muslim Council of Britain (MCB).

¹¹ See Omer Taspinar, "Europe's Muslim Street," *Foreign Policy*, March-April 2003, p. 77.

¹² Throughout the report, the expressions "Muslim community" and "Muslim minority" are used to refer to all Muslims residing in an individual EU member state, without suggesting that they constitute a coherent community.

recent Muslim immigrants who are primarily settled in larger cities outside of Western Thrace. Efforts of the Muslim communities in Germany and Italy to obtain a similarly privileged status in relation to the state as that granted to several other religious communities have so far not been successful. The Muslim community in Denmark has been “approved,” and therefore enjoys certain benefits, which, however, are more limited than those granted to religious communities higher up in the hierarchy of recognized religious communities in the country.

In Sweden, the Netherlands and France, all religious communities have basically the same status, and in the United Kingdom, status differences are largely symbolic. All religious communities in Sweden are eligible for state funding if they meet certain criteria regarding size and structure, and several Muslim umbrella organizations are currently supported. In the United Kingdom, the Netherlands and France, no religious communities are directly supported by the state, but state funding is available for educational and social activities of religious communities.

In Austria, Belgium, France and Spain, the Muslim communities have official representative organizations, which serve as negotiation partners with the authorities on various issues related to the practice of Islam. The Belgian organization is the only one that is entirely composed of members chosen in direct elections among the country’s Muslims. Members of the organization have, however, expressed resentment that the government has sought unduly to influence its composition. The structures of the French and Austrian organizations are not fully as democratic as the Belgian one and have been criticized as non-representative by some Muslim leaders. The representative organization in Spain is composed of two major umbrella organizations.

In a recent development, two Muslim umbrella organizations in the Netherlands were recognized as consultation partners by the government in late 2004 and early 2005. In the other countries covered by the report, different organizations represent the interests of the Muslim communities and are sometimes consulted by the authorities on issues related to the practice of Islam, although they have not been officially recognized as spokespersons.

Negative Sentiments and Harassment against Muslims

In many of the countries covered by the report, an increase in attacks on Muslims was observed following the September 11 events. After a few months, the number of incidents typically decreased, but in some countries – in particular in the United Kingdom – the number has reportedly remained higher than in the period prior to the terrorist attacks on the United States. New surges in attacks on Muslims have been reported in connection with subsequent terrorist attacks and other events involving violence committed in the name of Islam, such as hostage takings in Iraq. After the March 2004 terrorist attack in Madrid, a new increase in the level of intolerance against Muslims was observed in

Spain, Germany and other countries, while in the Netherlands, a new wave of attacks on Muslims followed the November 2004 murder of film-maker Theo van Gogh.

A major portion of all reported attacks on Muslims have involved verbal abuse. Those identified as Muslims because of their appearance have been particularly vulnerable to harassment in the street and other public places. Thus, Muslim women who wear the headscarf and Muslim (and Sikh) men with beards or turbans have been among the most frequent victims.¹³ In France, 70% of all attacks on individual Muslims that were registered by a Muslim organization in 2003-2004 comprised attacks on Muslim women who wear the headscarf. In addition to cases of verbal abuse, cases of physical violence and vandalism and arson targeting mosques, Muslim grave sites, and Muslim property have also been reported across the EU region.

Moreover, as part of a general trend in the region covered by the report, Muslim organizations have expressed concern that the social climate facing Muslims has deteriorated in the wake of September 11. As governments have stepped up their efforts to enhance national security, and the threat of religious extremism has featured prominently in public debate, pre-existing prejudices against Muslims have been reinforced. Muslims have experienced growing distrust in their interaction with members of the majority population and have felt growing pressure to justify their beliefs and to distance themselves from terrorism. In Denmark and Austria, for example, Muslim groups have observed that it has become more “legitimate” to openly express hostility against Muslims in the post-September 11 period, and that it is now possible to publicly use intolerant language against Muslims in a way that was not previously acceptable. For example, prejudices associating Islam with abuse of power, oppression of women and violence have increasingly surfaced in public debate.

According to Muslim and anti-racist organizations in Italy, the United Kingdom and other countries, many attacks against Muslims have never been reported to police because victims lacked confidence that police would deal effectively with their cases.

Media Coverage of Issues Related to Islam and Muslims

Across the countries covered by the report, Muslim and anti-racist groups have expressed regret about a growing tendency in media since September 11 to portray Muslims in a negative and stereotypical

¹³ There are dress codes for both women and men in Islam. These codes are loosely defined, and are interpreted in different ways within different orientations of Islam. However, it is generally considered a basic requirement for Muslims to dress modestly and not to wear clothes that show off the natural contours of the body or that are transparent. It is also widely held that Muslim women are required to cover their whole bodies except for the face and the hands in public, and that Muslim men are required not to expose the area between the navel and the knee. While some Muslim scholars recommend that men wear a beard and a turban, there are only few Muslim men who use a turban in the EU countries. However, as a result of stereotypical images of Muslims as bearded and turbaned, Sikh men are often mistaken to be Muslims since they are dressed this way.

fashion. It is certainly true that many media outlets seek to provide responsible and balanced coverage of developments involving Muslims and that they create space for contributions and exchange of ideas by people holding varying views with respect to issues such as the use of the headscarf and Muslim schools. However, in the context of political developments that have taken place since September 11, an increasing number of reports have reflected a narrow view of Islam and have presented it as a one-dimensional religion that is oppressive and fundamentalist and threatens democratic and civil values. These reports have also contributed to popular perceptions of Muslims as “alien” and “dangerous” and of a distinction between “us” and “them.”

Among others, Muslim representatives in France and the United Kingdom have pointed out that the trend of prejudiced reporting has been reinforced through the use of sensationalist headlines and pictures, as well as through the wide attention typically given to Muslims expressing extremist views. Muslim representatives in Denmark have also observed that moderate Muslims who are interviewed are often not given a fair chance to present their views, while Muslim representatives in Austria and Sweden have expressed resentment that people who are quoted as “experts” on Islam in media sometimes communicate a simplistic and biased interpretation of Islam.

Muslim groups in Belgium and Germany, among others, have called on media to increase coverage of positive contributions to society by Muslims, and anti-racist activists in the Netherlands have engaged in efforts to raise awareness among media producers about the importance of sound knowledge of Islam as the basis for fair portrayal of Muslims.

The Role of Political Leaders and Official Policies

In recent years, the rise of right-populist parties has had a distinct impact on the political debate about immigration and integration issues in the EU. In a number of EU countries, right-populist parties have earned the favor of voters by engaging in rhetoric associating immigrants with social ills and by calling for tough measures to restrict further immigration and to oblige immigrants to adapt to the customs of their new home countries.

In the aftermath of September 11, these parties have also exploited the fear and sense of vulnerability created by terrorist attacks in different parts of the world to depict Muslims as a threat to the security and values of the EU countries. For example, members of the Italian Northern League have cited security arguments when advocating measures to restrict the construction of mosques, and the Belgian Vlaams Blok has used security arguments to protest the allocation of state funding to Muslim communities. The French Front National has warned that the country’s Muslims share an allegiance to a wider community of believers that threatens national sovereignty.

While the rhetoric of right-populist parties has encouraged intolerance against Muslims and other minority members, their popularity has also prompted other political parties to adopt more stringent positions with regard to immigration issues. This has, in many cases, resulted in harsher immigration policies, which have further increased the vulnerability of Muslims and others of immigrant origin in society.

In Austria, where the Freedom Party has been part of the government since 2000, parts of a new asylum law were deemed unconstitutional by the Constitutional Court in October 2004, and in Denmark, where the Danish People's Party has been a major support party of the government since 2001,¹⁴ recent immigration laws are among the most stringent in the Western world. In the Netherlands, the government participation of the party formed by the populist politician Pim Fortuyn was short-lived, but the legacy of the murdered politician lives on in current immigration policies, which anti-racist organizations feel are largely characterized by rushed initiatives that reflect lacking consideration of international human rights standards.

Also in countries where the influence of right-populist parties has been limited, immigration policies have been linked to security concerns since September 11. In Spain and Greece, new restrictive measures to combat illegal immigration have been taken as part of the campaign against terrorism, and in Sweden, terrorist suspects have been expelled in violation of international human rights norms. There are credible concerns that these developments have contributed to fuelling popular prejudices against Muslims and others of foreign origin in these countries.

In the United Kingdom and Germany, Muslim groups have expressed concern that efforts taken to enhance security in the aftermath of September 11 have served to stigmatize all Muslims of these countries. In the United Kingdom, hundreds of Muslims have been arrested under anti-terrorism legislation since September 11, but only a few of them have been convicted of terrorist crimes, and a majority of those arrested have been released without charge. There has also been a great increase in the use of stop and search powers against Muslims in the context of anti-terrorism efforts, with numerous reports of Muslims who have been stopped and searched for no apparent reason other than that they are Muslim. In Germany, thousands of Muslims have been screened, searched and interrogated solely because their profiles have matched certain basic criteria, including an affiliation with Islam, and dozens of mosques have been raided without any concrete result.

According to Muslim organizations in these two countries, there is a widespread feeling among Muslims that they have been unfairly targeted by counter-terrorism policies and that they have been

¹⁴ New elections were held in early February 2005, and as the government parties and the Danish People's Party secured a majority of the seats in parliament, it appeared that the previous arrangement would continue.

placed under “collective suspicion.” For example, 64% of Muslims interviewed for a March 2004 survey in the United Kingdom were of the opinion that anti-terrorism laws have been used unfairly against the Muslim community. Muslim organizations in the two countries have also warned that current counter-terrorism policies erode the confidence of Muslims in police practice and impartiality and reduce their willingness to cooperate with police.

In France, the adoption in early 2004 of a law prohibiting “conspicuous” religious symbols in public schools was preceded by a debate in which concerns about alleged growing fundamentalism and militancy among Muslims featured prominently. While the new law is of a general character, it has widely been perceived by Muslims as a measure particularly targeting them and has thereby reinforced pre-existing resentments about intolerance and discrimination. Muslim organizations have also reported that discrimination against Muslim women who wear the headscarf peaked during those months when the most intense discussions about the new law took place.

The November 2004 murder of Theo van Gogh in the Netherlands gave rise to renewed discussions about the merits of the idea of a multicultural society in several countries. A leading theme of these discussions was the importance of ensuring that immigrants, in particular those of Muslim faith, integrate in accordance with the norms and values of the EU countries. For example in Germany, some politicians and media warned of the danger of “Muslim parallel societies” and the major opposition party re-introduced the concept of a “lead culture,” to which immigrants should be expected to conform. Muslim organizations and others expressed concern that the careless use of terms such as these has a detrimental impact on public attitudes. They also pointed out that integration always is a two-way process and that it is wrong only to demand that Muslims show greater willingness to integrate without acknowledging the need to reverse failed integration policies.

Among others, Muslim representatives in Sweden have emphasized that they welcome an open debate about various issues related to integration of Muslims, but that such a debate cannot be constructive unless issues are considered in a thorough and factual way.

Discrimination against Muslims in Different Areas of Society

In most of the countries covered by the report, there are no organizations that systematically monitor discrimination against Muslims. Such monitoring is also complicated by restrictions placed on the collection of data related to the religious affiliation of residents. However, throughout the region, available information suggests that Muslims, like other minority members, are subjected to discrimination in areas such as employment, housing and access to service.

It is often not clear to what extent the discrimination faced by Muslims is motivated by religious bias rather than by ethnic/racial bias. However, Muslim groups in France and the United Kingdom, among others, have observed that Muslims have increasingly experienced discrimination that is motivated solely or predominantly by religious bias in the aftermath of September 11. In a 2004 survey carried out in the United Kingdom, 80% of Muslims interviewed said that they had experienced discrimination because of their faith, while the corresponding figure was 45% in 2000 and 35% in 1999. Anti-discrimination bureaus in the Netherlands have received a growing number of complaints about alleged religiously motivated discrimination over the last few years, and an overwhelming majority of the 270 complaints that were registered in 2003 were filed by or on behalf of Muslims.

Reports from different countries suggest that affiliation with Islam may be a particular disadvantage in the labor market. So-called matched pair analyses undertaken in Sweden, France, the United Kingdom and other countries have shown that people with Muslim- and Arab-sounding names are less likely to be invited to a job interview than members with names characteristic of the majority population who have similar qualifications. For example, according to a study conducted in the United Kingdom, people with typical Muslim names are up to three times less likely than similarly qualified people with French-sounding names to receive a positive response to a job application.

Among others, Muslim representatives in Austria have also witnessed that Muslim women who wear the headscarf often experience difficulties in finding jobs, in particular when applying for positions involving interaction with customers. The work of monitoring bodies in, for example, the Netherlands and Sweden and case law from Denmark and other countries strengthen the impression that discrimination against Muslim women who wear the headscarf is a significant problem in the labor market.

Moreover, there are reports indicating that Muslims have experienced religiously motivated discrimination by authorities. In several countries covered by the report, Muslim communities have faced discriminatory treatment when applying for permission to open places of worship or when seeking to bury their loved ones in public cemeteries.¹⁵ In numerous cases in France, public officials have refused to assist Muslim women unless they remove the headscarf, including in terms of marriage ceremonies. According to reports from the United Kingdom, Spain, Greece and other countries, Muslims have been subjected to arbitrary identity checks and arrests by police since September 11.

It would be important to undertake more comprehensive monitoring efforts in the EU countries for the purpose of mapping discrimination against Muslims in different areas of society. Such efforts would

¹⁵ See the section on Muslim Places of Worship and Burial Facilities.

promote better understanding of discrimination patterns, and their underlying causes, and facilitate the development of effective strategies to prevent and combat discrimination on religious grounds.

Muslim Places of Worship and Burial Facilities

International standards on freedom of religion protect the right of members of religious communities to construct houses of worship and to bury their loved ones in accordance with the dictates of their religion. In some of the countries covered in the report, Muslims have experienced problems with respect to the effective exercise of these rights.

In most of the countries, there are no or few mosques that have been built for that purpose. As a result, Muslims often gather for prayers in private apartments, former industrial or commercial premises, basements and other facilities that are not intended for that use. These facilities typically have limited capacity and do not always meet health and security requirements. While a lack of resources among Muslim communities has contributed to this situation, there has also been growing political and public opposition to the construction of mosques in recent years. For example, in Denmark and the Netherlands, it has been argued that mosques with domes and minarets are not compatible with “the cultural and architectural landscape” of these countries, and in Germany and Spain, citizens’ movements have been formed to protest the establishment of new mosques. In Greece, the Greek Orthodox Church has campaigned against the construction of a mosque in downtown Athens, as well as in the vicinity of the capital’s international airport.

The process of obtaining permission for opening new mosques is also often cumbersome, in particular if the desired site is located in a central city area. Reports from France, Germany and Austria, among other countries, indicate that local authorities have sometimes arbitrarily rejected requests to build mosques.

Deceased Muslims of older generations are often transported back to their countries of origin for burial. However, among younger generations – who typically are born and raised in the EU country in which they reside and consider this their only home country – there is a growing demand for facilities that allow for burial in accordance with Islamic traditions.

While there are few private Muslim cemeteries in the countries covered by the report, separate sections have often been created in public cemeteries to facilitate burial that meet requirements such as graves facing Mecca, burial without a coffin and burial for an indefinite period of time. However, in for example Belgium, Denmark, Germany and France, there are concerns that burial fully in accordance with these and other requirements established by Islamic traditions is not always possible because of sanitation regulations, lack of space or other considerations. In Spain, Muslims have

reportedly sometimes experienced difficulties in obtaining grave sites in public cemeteries, and in Greece, Muslims are reportedly discouraged to bury their loved ones in public cemeteries outside Western Thrace.

The Islamic Headscarf

The right to freedom of religion, as protected by international standards, includes the right to manifest one's religions in different ways, such as by wearing distinctive clothing. In the last few years, the use of the headscarf by Muslim women has become the subject of increasing controversy in the EU region. In several of the countries covered by the report, discussions have evolved around the use of the headscarf in the public domain. A major theme of these discussions has been the compatibility of the use of the headscarf in schools and other public institutions, as well as other forms of public practice of religion, with the principle of separation of church and state. The discussions have also involved important considerations with respect to the relation between the right to freedom of religion and other fundamental rights, such as the right to equality of women and the rights of the child.¹⁶

However, Muslim representatives regret that discussions often have had a prejudiced tone, with the headscarf being depicted primarily as a symbol of oppression of women and an expression of religious fundamentalism. They have emphasized that even if there are cases where Muslim women and girls are forced to wear the headscarf, many more Muslims have made a voluntary and conscious choice to wear the headscarf because they consider it their religious duty. Accordingly, they argue, the use of the headscarf constitutes a central element of the religious practice of many Muslims and should be protected as such.

Muslim representatives are also concerned that politicization of the headscarf issue, and the negative attention that this has attracted to the headscarf, has served to reinforce hostility toward Muslims. Adding to such concerns, reports from across the countries covered by the report indicate that social acceptance of Muslims who wear the headscarf has declined in recent years, and that veiled Muslim women and girls have increasingly experienced intolerant comments and behavior in public places as well as discrimination in employment and other areas.¹⁷

As mentioned above, there are credible concerns that the debate surrounding the adoption in early 2004 of the French law prohibiting the use of "conspicuous" religious symbols in public schools

¹⁶ International human rights law allows for restrictions of the right to freedom of religion if this is necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. However, restrictions may only be introduced under strictly defined conditions and are of an exceptional character. See the Annex on Relevant Legal Standards.

¹⁷ See also the sections on Negative Sentiments and Harassment against Muslims and Discrimination against Muslims in Different Areas of Society.

contributed to fueling hostility against Muslims who wear the headscarf.¹⁸ Muslim groups and human rights organizations have also criticized the new law for restricting freedom of religion in a way that is not acceptable under international human rights law. Most of those who have been subjected to disciplinary measures under the law are Muslim girls wearing the headscarf, some of whom have been expelled from their schools although they have replaced their headscarves with fashionable bandanas. The number of expulsions under the new law has, however, been lower than feared.

As part of discussions on the use of the headscarf in Belgium, two senators proposed in 2004 that legislation similar to the one introduced in France be adopted. This proposal did not win broad political support. However, as a result of regulations adopted at the local level, Muslim students are reportedly not allowed to wear the headscarf in most of the country's schools. In a number of other countries, including Austria, Spain and the United Kingdom, there have been some cases where Muslim students who wear the headscarf have experienced difficulties because of restrictive school regulations, although the use of the headscarf is generally accepted in public schools in these countries. With reference to such cases, the Austrian Education Ministry has emphasized that any attempts to prevent students from wearing the headscarf infringe on the constitutionally protected right to freedom of religion, and the British Commission for Racial Equality has stated that school policies prohibiting the use of the headscarf, along with other headgear, amount to "indirect racism."

In Germany, discussions have focused on whether public school teachers should be allowed to wear the headscarf, and a number of federal states have adopted legislation to ban teachers from wearing religious attire. The legislation has in several cases been formulated so as to allow for exceptions for the expression of "Christian and occidental values," which has given rise to concerns about violations of the principle of non-discrimination. The Federal Administrative Court has stated that all forms of religious attire must be treated equally under laws banning religious clothing for teachers. However, for example, the minister of cultural affairs in Baden-Württemberg has argued that nun's attire should be exempted from the ban on religious attire that has been introduced in this federal state since it can be considered a form of "professional" rather than "religious" clothing.

In some countries, veils that cover a major part of the face – such as the *niqab* (covers the lower part of the face, up to the eyes) and the *burqa* (covers all of the face but has holes for the eyes¹⁹) – have emerged as a separate topic of discussion. Few Muslim women in the EU wear these kinds of veils, and views about their use are highly divided among Muslims in the region – more so than regarding the regular headscarf. Among others, Muslim groups in Italy have advised women to choose a regular headscarf rather than a veil covering the face in order to avoid conflicts. The Dutch Equal Treatment

¹⁸ See the section on the Role of Political Leaders and Official Policies.

¹⁹ There is also a dress known as "full *burqa*" or chador, which is a garment that covers the entire body and face and have "nets" for the eyes that allow a woman to see but prevent other people from seeing her eyes.

Commission has found that it is lawful to prohibit students from wearing the *niqab* in public schools for communication and identification purposes. In a similar vein, the National Agency for Education in Sweden has stated that veils such as the *burqa* may be banned in public schools to ensure smooth interaction between teachers and students.

Religious Education and Muslim Schools

The right to exercise religion includes as a central element the right to obtain religious education. While states are obliged to respect this fundamental right, they do not have any obligation to organize religious education in public schools. If they do organize such education, its implementation must respect the freedom of religion and conscience of all students, so that it is of a general nature and discusses issues common to different religions or that students whose parents so wish may be exempted from attending classes or offered alternative instruction. As other groups, religious communities have the right to establish and maintain their own schools on condition that the curricula of these schools meet certain minimum standards.

In the countries covered by the report, different approaches are applied with regard to religious education in public schools. In some countries, denominational religious education is organized, while in others, facts of different religions are taught from a non-denominational perspective, although the emphasis of the instruction may be on the majority religion of the country in question. Exemption from religious education classes may be granted to students on request by their parents.

Among those countries with a denominational approach are Austria and Belgium, where instruction in Islam has already been offered to Muslim students at public schools for several decades. While the costs for these classes are born by the state, the official representative bodies of the country's Muslim communities carry the main responsibility for the content of the instruction. This way of organizing education in Islam is seen as a model by Muslim communities in other EU countries. In Greece, instruction in Islam is available to Muslim students of publicly supported schools in Western Thrace. However, no similar courses are organized in other regions of the country with a high concentration of Muslims, which has caused some resentment among Muslims.

In Germany and Spain, the right to receive instruction in Islam in state-funded schools is protected by law, and the organization of such classes is currently under way. In recent years, trial classes in Islam have been organized in different parts of Germany, and in Spain a pilot scheme for instruction in Islam will be implemented in cities with a high number of Muslims as of 2005. This development has been welcomed by Muslim groups as a first step toward effective implementation of existing legal provisions. In Italy, requests made by parents of Muslim children to introduce classes in Islam in public schools – along with classes in Catholicism – have so far been unsuccessful.

While a broader religious studies model is used in publicly funded schools in Sweden, Denmark and the United Kingdom, the governments of these countries have, in recent years, granted support to an increasing number of independent religious schools, including Muslim schools. In the Netherlands, where a majority of all schoolchildren attend privately established but publicly supported schools, the number of state supported Muslim schools has also grown in recent years.

Only a small number of all Muslim students in these countries attend Muslim schools, but studies undertaken in the United Kingdom and the Netherlands have shown that there is a demand for more Muslim schools as many Muslim parents would prefer to send their children to such schools if it was possible. The major goals of Muslim schools are typically to improve the educational opportunities of Muslim students and to develop their cultural and religious identity, and it appears that their establishment at least partly reflects dissatisfaction among Muslim parents with how the needs of Muslim children are cared for in public schools. In the United Kingdom, Muslim groups have expressed regret that different religious communities are not treated equally in terms of the provision of state funding to religious schools.

As public schools in France are strictly secular, no religious instruction is offered. Privately established religious schools are eligible for state funding, and an increasing number of Muslim students reportedly attend state-supported Catholic schools.

In several of the countries covered by the report, faith-based schools – including in particular Muslim schools – have been the subject of heated discussions. As part of these discussions, concern has been expressed that Muslim schools do not educate their students in accordance with values that are of fundamental importance in EU societies, such as tolerance for diversity and equality between the sexes, and that they have a detrimental impact on the integration of their students into wider society. These concerns have typically not been very well supported by facts, but they have been fuelled by highly publicized cases where problems have been discovered at individual Muslim schools, such as unsatisfactory language and civics education.

While denouncing cases where Muslim schools have failed to live up to required criteria, Muslim representatives have expressed regret about a tendency in public debate to measure and criticize all Muslim schools because of the problems observed at a few. Among others, Muslim representatives in the United Kingdom have pointed out that other privately founded schools have also been found to have difficulties fulfilling educational requirements, and that shortcomings in this respect should not simply be traced back to the Muslim orientation of schools but be viewed in a broader perspective. Muslim spokespersons in Denmark have called for improved guidelines and dialogue between school boards and authorities for the purpose of ensuring that privately established schools – Muslim and

others – meet required educational standards. Several studies undertaken in the Netherlands have shown that most of the country's Muslim schools in fact have an open attitude toward Dutch society and actively promote integration.

In Germany, some of those advocating in favor of organizing instruction in Islam at public schools have argued that this will help reduce the influence of so-called Quran schools on Muslim students. Similar arguments have been used, for example, in the Netherlands to support the establishment of private Muslim schools. Across the region covered by the report, mosques offer instruction in Islam outside regular school hours within the framework of Quran schools. This instruction is typically not subject to any outside control, and there are concerns that it sometimes conveys an understanding of Islam that does not correspond to the contemporary reality of Muslims in the EU countries.

Advocacy of Hatred and Violence in the Name of Islam

In several of the countries covered by the report, some imams and other Muslim religious leaders have attracted wide attention because of statements encouraging hatred or violence. These cases have prompted governments to consider various measures to prevent imams from engaging in hate or violent speech, such as strengthening oversight of sermons delivered at mosques, facilitating expulsion of foreign religious leaders who are found to preach unacceptable or unlawful ideas and requiring that foreign religious leaders are proficient in the language of their host country and familiar with its values and customs.

Moderate Muslim leaders have condemned hateful and violent messages delivered in the name of Islam and have stressed that imams ought to respect the legal and social norms of the EU countries where they work. At the same time, Muslim leaders in France and elsewhere have pointed out that it is only a small minority of imams who abuse their positions by advocating unacceptable views and have expressed resentment that such cases often are given excessive media attention, which they feel only helps fuel intolerance against Muslims. Adding to such concerns, in Italy and other countries, right-populist politicians have exploited cases of imams preaching hatred or violence to engage in prejudiced rhetoric.

Moreover, Muslim and civil liberties organizations have cautioned that any measures adopted to prevent hate or violent speech in mosques must conform to international human rights standards. NGOs in Germany and the United Kingdom have criticized new provisions introduced in these countries to make it easier to expel imams and other religious leaders who promote hatred or violence for being vaguely formulated and for lending themselves to arbitrary implementation. Muslim groups in France, and more recently in the Netherlands, have expressed concern about expulsion decisions lacking in detail.

Among others, Muslim representatives in Denmark have also emphasized that it is preferable that the authorities elaborate measures through dialogue and cooperation with Muslim communities, or support initiatives emerging from within such communities, instead of taking unilateral measures. It is argued that this can better ensure that the measures correspond to actual needs among Muslim communities and are favorably received by them, which is instrumental to the success of the measures. As an example of an initiative taken within a Muslim community, a Muslim organization in Spain has proposed a scheme of self-control among the country's mosques to ensure that Friday sermons do not contain hateful or violent elements.

A major issue that has emerged in discussions about imams preaching hatred and violence is the importance of developing domestic programs for educating imams. Across the countries covered by the report, imams are often invited from abroad and work only temporarily in the countries in question. Many of these "guest" imams are not fluent in the languages of the countries where they reside or thoroughly familiar with the social, political and legal context of these countries. They also do not always have a formal theological education. To the extent that academic programs for educating imams exist in the countries covered by the report, their scope is limited.

In France and other countries, steps have recently been taken to organize language instruction and civics and history courses specifically tailored to the needs of imams. These initiatives have been welcomed by moderate Muslim leaders. However, Muslim groups have also called on the governments of their respective countries to support efforts by Muslim communities to establish comprehensive academic programs for educating imams. Muslim groups in the Netherlands have expressed resentment that the government recently decided to fund the development of an academic program for Muslim clergy at an Amsterdam university without duly consulting representatives of the country's Muslim community.

Another important issue that has surfaced in discussions about imams is the funding of mosques. In Spain and elsewhere, there are concerns that many poorly resourced mosques depend on funding from foreign sources, including extremist oriented groups that seek to promote their views in the EU countries. Political leaders and others have advocated that this trend be countered by granting state funding to mosques, an idea which remains controversial in many of the countries covered by the report. However, in Belgium, the parliament has approved funding to cover the salaries of imams working in some 100 mosques as of 2005. In Sweden, Muslim communities involving a total of 100,000 believers currently receive funding from the state, which is inter alia used to cover the salaries of imams.

Halal Slaughter

According to Islamic faith, it is not permissible to eat meat that contains blood, and in order to satisfy this requirement, animals must be slaughtered in a certain manner, i.e. through a sharp cut of the throat that induces rapid and complete bleeding resulting in the death of the animal. It is generally not acceptable to stun animals as this may result in the death of the animal prior to full hemorrhage.

In most countries covered by the report, *halal* slaughter and other forms of religious slaughter has been exempted from the general requirement to stun animals prior to slaughter. However, in Sweden, *halal* slaughter is not allowed without pre-stunning animals because of animal welfare concerns. As a result of a recent change of law, *halal* slaughter is permitted in Austria only on condition that the animal is stunned immediately after the slaughter cut, and a similar requirement applies to ritual slaughter of cattle in Denmark. In these and other countries, discussions continue about whether ritual slaughter without pre-stunning animals should be allowed. Those opposing ritual slaughter, who include animal protection groups and right-populist parties, often claim that it is a cruel and barbaric form of slaughter that should not be allowed because of “archaic” religious convictions. For example, the Danish People’s Party has campaigned against ritual slaughter by arguing that “consideration of religious minorities should not be prioritized over consideration of animals.”

Muslim representatives have emphasized that ritual slaughter is a central component of the practice of Islam, and have expressed regret that animal welfare concerns are used to advocate restrictions on its use. They have pointed out that ritual slaughter in fact involves gentle treatment of animals before and during slaughter so as to minimize their suffering. They have also noted that some studies show that correctly practiced ritual slaughter is less painful for animals than stunning them prior to slaughter (which is done, for example, by the use of electric shock or captive bolt). In a development welcomed by Muslim organizations, the UK government rejected in 2004 a recommendation to ban religious slaughter without pre-stunning animals since it found that such a ban would violate freedom of religion as protected by the European Convention on Human Rights.

Austria

Background Information

According to official statistics from 2001, some 330,000 of the 8.1 million inhabitants of Austria are Muslim. Between 1991 and 2001, the number of Muslims almost doubled. A great majority have origins in Turkey, with other countries of origin including the former Yugoslavia republics, Iran, Egypt and Tunisia. About 80,000 Muslims are citizens of Austria, and more than one-third reside in Vienna.²⁰

The influence of Islam in the territory of today's Austria stretches back several centuries. Between the 16th and 19th centuries, several wars took place between the Austrian Habsburg Empire and the Muslim Ottoman Empire, and on two occasions Ottoman forces reached the gates of Vienna before they were driven back (these two events are known as the "Turkish sieges" of 1529 and 1683).²¹ In 1908 the predominantly Muslim Bosnia and Herzegovina was included into the Austrian-Hungarian Empire, and in 1912 Islam was officially recognized by law, which facilitated its practice throughout the empire. Following the collapse of the Austrian-Hungarian Empire in 1918, this law largely lost its relevance. However, new immigration of Muslim workers, students, diplomats and refugees after World War II resulted in its revitalization in the re-constituted Austrian republic.²²

Formal Relations between the State and the Muslim Community of the Country

The legal status of religious communities in Austria is decided through a hierarchical system. A total of 13 religious communities have been granted the status of so-called state-recognized religious communities." These communities, which have special legal standing as corporations under public law, enjoy far-reaching autonomy and a number of other benefits, such as exemption from taxation, the right to confessional religious instruction in public schools and the right to spiritual care in prisons and hospitals. Another 10 religious communities have the status of so-called recognized confessional communities, which also have judicial standing but do not enjoy the same benefits as state-recognized religious communities. Religious communities that do not belong to any of the two mentioned categories may obtain the status of associations.²³

²⁰ "Muslime in Österreich: Vier Prozent der Gesamtbevölkerung," *ORF*, February 10, 2004, at <http://www.religion.orf.at>; Islamic Faith Community in Austria (Islamische Glaubensgemeinschaft in Österreich, IGGIÖ), "Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003," at <http://derislam.at>

²¹ Information obtained from *Österreich Lexikon*, at <http://www.aeiou.at/>

²² IGGIÖ, "Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003"; Beshir Abdel-Fattah, "Muslims in Austria: The Early Recognition of Religious Rights," *International Politics Journal*, April 2004; Petra Stuibler, "Vorbild Österreich?," *Die Welt*, November 23, 2004, at <http://welt.de>

²³ For more information see the chapter on Austria in IHF, *Human Rights in the OSCE Region: Report 2004 (Events 2003)*, at <http://www.ihf-hr.org>

Islam was granted the status of a state-recognized religion through the adoption of the so-called Law on Islam in 1912. This law initially applied only to adherents of the Hanefitic school of Islam, but a 1987 decision by the Constitutional Court expanded its applicability also to other schools of Islam.²⁴ As a result of the fact that Islam is a state-recognized religion, the Muslim community holds a privileged status in comparison to many other religious minorities in the country.

Since 1979 the Islamic Faith Community of Austria (IGGIÖ) has been the official representative of the country's Muslims, all of whom are formally considered to be members of this organization. IGGIÖ is in charge of the management of a broad number of issues related to the practice of Islam, including providing teachers for instruction in Islam in public schools, inviting imams from abroad and organizing spiritual care for Muslims in hospitals and prisons. It also interacts with the authorities on behalf of the Muslim population. While IGGIÖ receives state support for the implementation of some of its semi-public tasks, it largely relies on contributions by Muslim individuals and groups.²⁵

IGGIÖ has a national decision-making body, whose members are appointed by four regional committees, and a national executive, whose 12 members are drawn from the former. The chair of the executive also functions as the president of the organization.²⁶ According to some observers, the structure of IGGIÖ suffers from a democracy deficit and does not adequately reflect the diversity of the country's Muslim community.²⁷

Negative Sentiments and Harassment against Muslims

In the aftermath of September 11, pre-existent and latent feelings of hostility toward Muslims appear to have resurged. While the demand for information about Islam has grown since these events, resentment, fear and prejudiced images related to Islam have also increasingly surfaced.²⁸ Among other stereotypes, prejudices associating Islam with absolutism, ideological stagnation, a subordinate role of women and violence have been reinforced, and Muslims have increasingly often found themselves under pressure to justify their beliefs and to confirm that they do not support terrorism. It also appears that certain taboos regarding what can openly be said have been lifted and that people

²⁴ IGGIÖ, "Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003."

²⁵ IGGIÖ, "Die Islamische Glaubensgemeinschaft stellt sich vor," and "Mitgliedschaft in der Islamischen Glaubensgemeinschaft."

²⁶ IGGIÖ, "Die Islamische Glaubensgemeinschaft in Österreich stellt sich vor."

²⁷ Comments made by Günther A. Ruzznak, writer and Muslim who defines himself as an objective observer of the situation of Muslims in Austria, during press conference on the topic "Religious Freedom, Intolerance and Discrimination in Austria," organized by Human Rights without Frontiers (HRWF, an IHF cooperating organization) in Vienna, October 14, 2004.

²⁸ European Monitoring Centre on Racism and Xenophobia (EUMC), *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: Austria* (written by the Research Centre on Discourse, Politics and Identity at the Austrian Academy of Sciences in cooperation with the Institute for Conflict Research and the Ludwig Boltzmann Institute for Human Rights), p. 7, at <http://www.eumc.at>

who previously would not have dared to openly express anti-Muslim sentiments now feel that they can do so.²⁹

Among others, some prominent members of the Catholic Church have made negative statements regarding Islam. Shortly after the September 11 events, two Catholic bishops described Islam as inter alia being characterized by “a degree of fanaticism” and “a very low level of tolerance.”³⁰ In August 2002, one of these bishops, Bishop Kurt Krenn, again received wide attention when he stated in a newspaper interview that Islam is an “aggressive” religion and, with reference to the growing number of Muslims of Turkish origin in Austria, claimed that a “third Turkish siege” is currently under way.³¹ Muslim organizations strongly criticized these statements, particularly in the light of the bishops’ roles as opinion leaders.³²

Muslims are reportedly often faced with harassment in daily life. While physical attacks are rare, many Muslims have experienced verbal assaults in public transportation means and other public places. Muslim women who wear the headscarf and Muslim men who travel with women dressed this way are particularly frequent targets of offensive comments, which sometimes involve sexual insinuations or are of a threatening character. Muslim women have also experienced that they are demonstratively ignored, for example when requesting assistance to lift baby carriages into trams.³³

Media Coverage of Issues Related to Islam and Muslims

While acknowledging that many media outlets have sought to engage in balanced reporting with respect to developments since September 11, Muslim representatives regret that coverage has often been factually skewed, e.g. because Islamic concepts have been misused and the political situation in Muslim countries has been confused with Islamic theology. They also feel that Muslim organizations have been unduly criticized for failing to clearly distance themselves from terrorism and that efforts of Muslim organizations to communicate their positions have been given little attention. Moreover, they

²⁹ EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: Austria*, p. 7; “9/11: Muslime in Österreich klagen über Vorurteile,” *ORF*, September 11, 2002; “Betroffenheit und Zuversicht,” *ORF*, September 11, 2002, at <http://www.orf.at>.

³⁰ EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: Austria*, p. 11.

³¹ “Die Dritte Türkenbelagerung,” *Oberösterreichische Rundschau*, August 18, 2002, at http://www.stjosef.at/bischof.k.krenn/index.htm?islam_ooe_rundschau_18082002.htm~mainFrame (last visited October 27, 2004). It should be noted that Bishop Krenn, who was forced to step down in the fall of 2004, was notorious for his controversial views on a range of topics.

³² EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: Austria*, p. 11; Die Sozialistische Jugend Österreich, “Krenn und die dritte Türkenbelagerung,” at <http://www.sjnoe.at/content/content.php?ID=641> (last visited October 27, 2004).

³³ Information provided by Carla Amina Baghajati, press secretary of IGGIÖ, to the IHF, July 2004; report of the Initiative of Austrian Muslims (Die Initiative muslimischer ÖsterreicherInnen) included in European Network against Racism (ENAR), *ENAR Schattenbericht 2002: Rassistische Übergriffe und Strukturen in Österreich*, p. 21, at <http://www.enar-eu.org>.

deplore that even people who are cited as experts on Islam in the media often use common clichés regarding Islam.³⁴

The Role of Political Leaders and Official Policies

In its role as official representative of the country's Muslim community, IGGIÖ has good relations with the authorities, and is consulted on important issues related to the practice of Islam.³⁵ However, while the situation of Muslims may be positive in this respect, the general political climate toward people of immigrant origin and minority members is of concern.

The European Commission against Racism and Intolerance (ECRI) has criticized the widespread use of racist and xenophobic discourse within Austrian politics. The ECRI has observed that the political debate surrounding immigration issues largely focuses on immigration as a security concern and a threat to national identity, which contributes to negative popular perceptions of asylum seekers, refugees and others of immigrant origin. The ECRI has also expressed concern that the openly racist and xenophobic propaganda used by some political parties has influenced the positions adopted by mainstream political parties, thereby favoring the adoption of new restrictive immigration measures.³⁶

Above all, the Freedom Party (FPÖ), which has been part of a coalition government with the People's Party since 2000,³⁷ has persistently used racist and xenophobic language.³⁸ Shortly after September 11, the party warned of the danger that terrorists could "infiltrate" into the country in the guise of asylum seekers or refugees and put forward an anti-terrorism package that outlined a number of measures aimed at curtailing the right to seek asylum.³⁹ This move earned the party criticism from opposition parties and others for associating asylum seekers with terrorists.⁴⁰

While the proposals made by the FPÖ did not result in any immediate changes, the government began working on an overhaul of the country's asylum system in the fall of 2001. Following new elections, a new asylum law was adopted in the fall of 2003. This law, which came into force in May 2004, introduced wide-ranging restrictions of the right to seek asylum, including the automatic rejection of

³⁴ Information provided by Carla Amina Baghajati, press secretary of IGGIÖ, to the IHF, July 2004.

³⁵ Ibid.

³⁶ European Commission against Racism and Intolerance (ECRI), *Third Report on Austria* (adopted on June 25, 2004 and made public on February 15, 2005), p. 29, at <http://www.coe.int>

³⁷ A coalition including the People's Party and the FPÖ was first formed in 2000, on the basis of the results of the 1999 parliamentary elections, and subsequently re-formed in 2003, on the basis of the results of the 2002 parliamentary elections.

³⁸ For more information about the rhetoric used by the FPÖ, see the chapter on Austria in IHF, *Human Rights in the OSCE Region*, from 1999 to 2003.

³⁹ "FPÖ legt Forderungen vor: Innenminister Strasser soll freiheitliches 'Antiterrorpaket' umsetzen", *Der Standard*, October 20-21, 2001, at <http://www.derstandard.at> See also the chapter on Asylum, Immigration and Border Control Policies in IHF, *Anti-terrorism Measures, Security and Human Rights* (April 2003).

⁴⁰ EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: Austria*.

asylum seekers from countries listed as “safe countries of origin,” a new accelerated asylum process in which a first decision of admissibility is made within 48-72 hours, and considerable limitations of the right to appeal a first negative decision. All these measures increased the risk that bona fide asylum seekers will not be granted a fair process and that they will be returned to countries where they risk persecution.⁴¹

In October 2004, the Austrian Constitutional Court ruled that parts of the new asylum law were unconstitutional and therefore should be revoked, including some of the major provisions concerning the right to appeal a negative asylum decision. The Court also highlighted the importance of interpreting various provisions in a way compatible with the Constitution. It stated, for example, that the question of whether a country of origin is “safe” should always be considered on a case-by-case basis.⁴²

NGOs and international monitoring bodies are concerned that the new asylum law and other restrictive immigration measures, which have been adopted against the background of a political debate involving racist and xenophobic statements, have further reinforced negative attitudes toward asylum seekers and other people of immigrant origin. According to ECRI, “measures adopted in the asylum field [...] have diminished the protection awarded to this group of persons and have had a seriously negative impact on public opinion’s support for these persons.”⁴³

The rhetoric used by the FPÖ has also at times had an explicit anti-Muslim tone, and has thereby encouraged hostility toward this group. Members of the FPÖ have, for example, used prejudiced language when campaigning against the construction of mosques and *halal* slaughter.⁴⁴ During the elections campaign in 2002, the party opposed the right of foreigners to vote in local elections by distributing material that depicted Muslim women who wear the headscarf as a symbol of the “enemy.”⁴⁵

Discrimination against Muslims in Different Areas of Society

Muslims reportedly experience discrimination inter alia in housing and employment.⁴⁶ In particular, there are many reports of Muslim women who have had difficulties in finding jobs because they wear

⁴¹ For more detailed information about the new asylum law see the chapter on Austria in IHF, *Human Rights in the OSCE Region: Report 2004 (Events of 2003)*.

⁴² This issue will be discussed at length in the chapter of Austria to be included in the 2005 IHF report on Human Rights in the OSCE Region (due to be published in June 2005).

⁴³ ECRI, *Third Report on Austria*, p. 6.

⁴⁴ See the sections on Muslim Places of Worship and Burial Facilities and *Halal* Slaughter.

⁴⁵ For example, in FPÖ brochures, pictures of veiled Muslim women were combined with the provocative question: “The mayor of my district is from Turkey, what about yours?” ENAR, “FPÖ und Muslime Österreichs,” November 25, 2002.

⁴⁶ Information provided by Carla Amina Baghajati, press secretary of IGGIÖ, to the IHF, July 2004.

the headscarf. In a re-occurring pattern, a Muslim woman is told that a vacancy already has been filled when she shows up for an interview wearing the headscarf, or she experiences that a constructive telephone interview is abruptly ended when she mentions that she wears the headscarf.⁴⁷ It appears that discrimination is most prevalent in the service field, e.g. in terms of positions as cashiers or sales persons.⁴⁸ Employers frequently claim that they do not themselves hold any prejudices against women wearing the headscarf but that they need to take into consideration certain expectations of their customers or business partners. IGGIÖ has pointed out that this kind of attitude only serves to reinforce stereotypes, which the presence of veiled Muslim women in visible positions could counteract.⁴⁹

Because of the discriminatory treatment often faced by veiled Muslim women, public employment offices reportedly consider the use of the headscarf a “disability” in the job search process.⁵⁰ In one case, a Muslim woman’s unemployment benefits were withdrawn because she had not accepted several offers of jobs in which she would not have been allowed to wear the headscarf. This decision was, however, reversed on appeal by the woman.⁵¹

Muslim Places of Worship and Burial Facilities

There are about 150 Islamic places of worship in Austria, out of which 60 are in Vienna.⁵² Many places of worship are reportedly located in former industrial premises, apartments and other facilities that have not been built for use as mosques.⁵³ The only mosque that can be identified as such from the outside of the building is one that was opened in the vicinity of the UN headquarters in Vienna in the late 1970s. This mosque was constructed on initiative of the embassies of a number of Muslim countries.⁵⁴

In some cases, Muslims have reportedly experienced difficulties in establishing mosques because of discriminatory treatment by local authorities.⁵⁵ The following case received wide media attention at the time:

⁴⁷ Report of the Initiative of Austrian Muslims included in *ENAR Schattenbericht 2002: Rassistische Übergriffe und Strukturen in Österreich*, p. 22.

⁴⁸ “Verschleiert in Wien: Wenn Religion im Alltag zum Problem wird,” *Die Presse*, January 29, 2003.

⁴⁹ IGGIÖ, “Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003.”

⁵⁰ “Das Kopftuch gilt als ‘Behinderung’,” *Der Standard*, February 22, 2003.

⁵¹ Information provided by Carla Amina Baghajati, press secretary of IGGIÖ, July 2004.

⁵² IGGIÖ, “Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003.”

⁵³ Günther A. Rusznak, *Islam in Österreich*, not officially published document distributed during HRWF organized press conference on the topic “Religious Freedom, Intolerance and Discrimination in Austria” in Vienna, October 14, 2004, p. 16.

⁵⁴ IGGIÖ, “Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003.”

⁵⁵ Günther A. Rusznak, *Islam in Österreich*, p. 15-16.

- In 2001, a newly built mosque in the city center of Traun was demolished because it allegedly violated building regulations. This measure followed a lengthy process during which the association promoting the construction of the mosque reportedly had its appeals to a number of seemingly arbitrary decisions rejected. It was also not successful in its efforts to enter into dialogue with the local authorities. The local branch of the FPÖ actively engaged in a smear campaign, which had racist and xenophobic overtones, to stir public opinion against the mosque.⁵⁶

While the public cemetery in Traun has had a separate section for Muslim graves for many years already, the first Muslim cemetery in the country was recently opened in Vienna, 15 years after the initial appeal for a Muslim cemetery in the capital was made. IGGIÖ is in charge of the management of both the Muslim section in Traun and the new cemetery in Vienna.⁵⁷ Muslim grave sites at the cemetery in Traun have been subjected to vandalism on several occasions.⁵⁸

The Islamic Headscarf

In Austria, discussions about the use of the headscarf in schools and other public institutions have not been as heated as in some other EU countries, although the issue is not uncontroversial. In a few cases, Muslim students who wear the headscarf have experienced difficulties because of restrictive school policies. These conflicts have, however, eventually been resolved, including in the following case:⁵⁹

- As of the beginning of 2004, a public school in Linz adopted new school rules which prohibited students from wearing any kind of headgear. As a result, a 13-year-old Muslim girl was not able to attend the school wearing the headscarf. However, after intervention by educational authorities at the federal state level, the girl was granted exception under the new rules. A representative of these authorities concluded that the policies of the school were not “legally durable.”⁶⁰

⁵⁶ Günther A. Rusznak, *Islam in Österreich*, p. 13-16; SOS Menschenrechte, “Freiheitliche Moslems -raus-Politik steht in Traun vor Erfolg,” June 2000, at <http://www.sos.at>

⁵⁷ Günther A. Rusznak, *Islam in Österreich*, p. 69; and information from Günther A. Rusznak to the IHF, November 2, 2004.

⁵⁸ “Erneut Friedhofsschändung in Traun,” *Das Freie Radio Freistadt*, January 10, 2003; “Vandalen-akt bei Moslem-Gräbern,” January 2, 2003, at <http://www.rundschau.co.at>

⁵⁹ HRWF, *Religionsfreiheit, Intoleranz, Diskriminierung in der EU: Österreich 2002-2004*; Information provided by Carla Amina Baghajati, press secretary of IGGIÖ, to the IHF, July 2004; contribution by the Initiative of Austrian Muslims in ZARA, *Racism Report 2003*, p. 35.

⁶⁰ “Streit um Kopftuch-Verbot in Linzer Hauptschule,” *Der Standard*, May 17, 2004.

Against the background of developments in Germany,⁶¹ some members of the FPÖ have advocated that teachers at public schools be prohibited from wearing the headscarf. They have inter alia argued that this is necessary to ensure the religious and ideological neutrality of public schools.⁶² IGGIÖ has denounced such claims, stressing that since Islam has the status of a state-recognized religion Muslims have the right to enjoy protection in both private and public exercise of their religion.⁶³ There is also broad political consensus that the existing legal situation, in which there are no restrictions on the use of religious clothing in schools and other public institutions, need not be changed.⁶⁴ In a policy document from June 2004, the Ministry of Education, Science and Culture emphasized that the use of the headscarf is protected by the right to freedom of religion under the Austrian Constitution and the European Convention of Human Rights and that any efforts aimed at preventing Muslim students from wearing the headscarf are unlawful.⁶⁵

However, while political support for restrictions on the use of the headscarf has been limited, social acceptance of the headscarf has decreased in recent years. As prejudices associating Islam with religious fundamentalism and oppression of women have been reinforced in the aftermath of September 11, veiled Muslim women and girls have become increasingly vulnerable to harassment in public places and to discrimination in employment and other areas.⁶⁶ Among other cases, teachers have reportedly behaved in an intolerant way against Muslim girls who wear the headscarf because of their personal views regarding the role of the headscarf, and students have been forced to justify the use of the headscarf in front of their classmates.⁶⁷

Muslim representatives have expressed regret that the headscarf is widely conceived to symbolize contempt for women and lack of self-determination of women, and they have emphasized that many Muslim women wear the headscarf voluntarily because they consider it part of their religious practice.⁶⁸ In a statement published in May 2004, women representing the Green Party in Vienna spoke out against associating the use of the headscarf with subjugation of women, and they pointed out that unequal treatment of women and patriarchy are neither inherent in Islam nor unique to Muslim communities.⁶⁹

⁶¹ See the section on the Islamic Headscarf in the chapter on Germany.

⁶² “FPÖ entfacht Kopftuch-Debatte auch in Österreich,” September 26, 2003, at <http://www.wienweb.at>

⁶³ IGGIÖ, “FPÖ Politiker Tilgs Forderung eines Kopftuchverbots inakzeptabel,” September 26, 2003.

⁶⁴ Contribution by the Initiative of Austrian Muslims in ZARA, *Racism Report 2003*, p. 35.

⁶⁵ Austrian Ministry of Education, Science and Culture, *Policy document Zl.20.251/3-III/3/2004*, from June 23, 2004.

⁶⁶ For more information, see the sections on Negative Sentiments and Harassment against Muslims and Discrimination against Muslims in Different Areas of Society.

⁶⁷ Information provided by Carla Amina Baghajati, press secretary of IGGIÖ to the IHF, July 2004; contribution by the Initiative of Austrian Muslims in ZARA, *Racism Report 2003*, p. 35.

⁶⁸ “Die Negative-Bilder müssen überwunden werden,” *Der Standard*, September 29, 2003.

⁶⁹ “Wiener Grüne Frauen gegen Kopftuchverbot,” *Der Standard*, May 19, 2004.

Religious Education and Muslim Schools

The government provides funding for instruction in all state-recognized religions at public schools, and instruction in Islam has been offered at public schools since 1983. Currently some 35,000 children participate in such classes at 2,700 schools across the country, and the number remains on the rise.⁷⁰ IGGIÖ organizes teachers and is in charge of the content of the instruction, which is held in German. According to the organization, the purpose of the instruction is to improve students' knowledge of Islam and to encourage them to reflect upon and discuss issues related to religious identity and living as a Muslim in Austria. Since 1999, a private Islamic Religious Academy has been training religious teachers of Islam in Vienna. The academy offers a three-year program in cooperation with a public pedagogical college.⁷¹

In a newspaper article published in September 2004, the president of an umbrella organization for Turkish associations in Austria claimed that his organization has received numerous complaints from parents about the instruction in Islam at public schools. According to him, these complaints suggest that some teachers of Islam are seeking to spread inflammatory ideas and that this problem is compounded by the fact that the teachers generally are poorly trained. The president of IGGIÖ rejected the allegations as unfounded and defamatory, although he admitted that he, in his role as educational inspector, is not able to personally oversee all Islamic classes organized in the country.⁷²

In a separate statement, IGGIÖ emphasized that it greatly appreciates the way instruction in Islam is organized in Austria and that it takes its responsibility in this respect seriously. The organization said that it is engaged in continuing efforts to ensure and improve the quality of instruction. Among recent measures taken are the establishment of the Islamic Religious Academy and the appointment of a commission to develop a new curriculum for instruction in Islam, which will offer teachers "practical and detailed guidance."⁷³

Advocacy of Hatred and Violence in the Name of Islam

There is no comprehensive program for training imams in Austria, and imams are often invited from abroad. As with the representative bodies of other state-recognized religious communities, IGGIÖ has the right to invite clergy outside of immigration quotas and without applying for work permits on their behalf.⁷⁴ Some observers have expressed concern that "invited" imams often have poor knowledge of German, have limited contact with people outside of their own communities, and hold on to orthodox

⁷⁰ IGGIÖ, "Islamunterricht in Österreichs Schulen," October 2004.

⁷¹ IGGIÖ, "Islam in der österreichischen Gesellschaft: Referat zur Historikertagung 2003."

⁷² Christian Mayr, "Türken warnen: Österreichische Schulen als Bruststätten des Terrors," *Die Presse*, September 22, 2004.

⁷³ IGGIÖ, "Islamunterricht in Österreichs Schulen," October 2004.

⁷⁴ International Center for Migration Policy Development, *Comparative Study on the Admission of Clergy* (January 2005), p. 30.

ideas that are not always compatible with the reality of western society. There is also concern that this practice prevents internal reforms and may facilitate the spread of hateful and violent ideas.⁷⁵

IGGIÖ reportedly monitors the situation in mosques and is ready to intervene should indications arise that imams are preaching unacceptable ideas, which is said to have occurred “once or twice” in the past two decades.⁷⁶ The Ministry of Interior also reportedly carries out regular controls in mosques for the purpose of preventing the spread of hatred and violence in the name of Islam. According to a spokesperson from the Ministry of Interior, no imams working in the country have as yet been found advocating extremist ideas, and although some “more radical elements” are sometimes observed, the situation is not deemed alarming. He points out that “more radical elements” exist everywhere, “even in the Catholic Church.”⁷⁷

Halal Slaughter

Until recently, slaughter practices were regulated on the basis of animal protection legislation at the federal state level, and relevant federal regulations were lacking. As a general rule, slaughter without pre-stunning animals was prohibited, and only some federal states granted exemption for the practice of ritual slaughter.⁷⁸ In a case brought by a group of Muslims, the Federal Constitutional Court ruled in 1998 that restrictions of ritual slaughter were unconstitutional since this form of slaughter is protected under the constitutionally guaranteed right to freedom of religion.⁷⁹

A new animal protection law was adopted at the federal level in May 2004 and entered into force as of January 2005, thereby replacing existing legislation at the federal state level. The new law establishes a general requirement to stun animals prior to slaughter, but grants exemption to state-recognized religious communities for the practice of ritual slaughter. There is, however, one limitation to this exemption: animals must be stunned immediately after the ritual slaughter cut.⁸⁰ The adoption of the new law was preceded by a protracted debate during which the FPÖ vehemently insisted on a general ban on ritual slaughter, arguing that allowing it would undermine the overall aim of preventing animal cruelty in the context of slaughter. This position was supported by animal welfare groups.⁸¹

⁷⁵ Information from Günther Ruzznak to the IHF, February 22, 2005.

⁷⁶ Iris Mostegel, “Was Wiens Imame in den Moscheen predigen,” *Wiener Zeitung*, January 8, 2005, at <http://www.wienerzeitung.at>

⁷⁷ Ibid.

⁷⁸ “Deutschland: Verbot des 'Schächtens' wird gelockert,” *ORF*, January 15, 2002.

⁷⁹ Günther A. Ruzznak, “Religionsfreiheit in Österreich 2003-2004 aus der Sicht eines österreichischen Moslems,” in HRWF, *Religionsfreiheit, Intoleranz, Diskriminierung in der EU: Österreich 2002-2004*, p. 19; Günther A. Ruzznak, *Islam in Österreich*, p. 88-89.

⁸⁰ Freiland Verband, “Das neue bundesweite Tierschutzgesetz,” October 2004, at http://www.freiland.or.at/aktuelles_tierschutzges.php (last visited October 14, 2004).

⁸¹ “FPÖ beharrt auf Schächtverbot,” *ORF*, March 17, 2004.

IGGIÖ cautioned against allowing animal welfare concerns to result in discrimination against religious minorities due to lack of factual information about the nature of ritual slaughter. The organization emphasized that *halal* slaughter is practiced under strictly defined conditions aimed at ensuring the well-being of animals prior to slaughter and that a professional slaughter cut causes animals to immediately lose consciousness and to die shortly thereafter. It also pointed out that commonly used stunning methods, such as stunning through electric shock or captive bolt, are often painful for animals.⁸²

IGGIÖ is in charge of issuing certificates for the marketing and sale of *halal* slaughtered meat. Some observers have expressed concern that control of the procedures used in slaughter houses that produce *halal* meat is sometimes inadequate.⁸³

⁸² IGGIÖ, “Schächten in Österreich: Legalität steht für Juden und Muslime verfassungsrechtlich außer Frage,” November 27, 2003; “Schächten im Neuen Tierschutzgesetz,” December 13, 2003.

⁸³ Günther A. Ruznak, *Islam in Österreich*, p. 90-91.

Belgium

Background Information

There are an estimated 450,000 – 500,000 Muslims in Belgium out of a total population of 10 million. The Muslim community is diverse, with members originating from a large number of different countries. The largest groups have roots in Morocco and Turkey, countries with which migration agreements were in place in the 1960s and the 1970s. It is estimated that more than 60% of all Muslims are Belgian citizens, with most living in Brussels and in major industrial cities.⁸⁴

Formal Relations between the State and the Muslim Community of the Country

Islam is one of six religions officially recognized by the state. Recognized religious communities enjoy privileges that other religious groups do not enjoy, including the right to state subsidies, the right to religious instruction in public schools, the right to remuneration for the salaries of clergy, the right to provide chaplains in prisons, hospitals and asylum reception centers and the right to broadcasting time on public TV and radio.⁸⁵ However, although Islam has been officially recognized since 1974, the recognition is not fully effective as most of the benefits related to this status have yet to be implemented.⁸⁶

According to Muslim representatives, there has been a lack of political will to effectively implement the recognition of Islam. Another important factor that has contributed to slowing down the process is that the Muslim community for a long time did not have any representative body with which the authorities could negotiate.⁸⁷ However, in 1998, the authorities invited the Muslim community to elect a constituent assembly, members of which would form an executive body. The role of the Muslim Executive that was created through these elections is to serve as an official mediator with the authorities on issues related to the practice of Islam in Belgium.⁸⁸ The Muslim Executive has since received state funding, but it has pointed out that the amount of funding allocated to it has not been proportionate to the range of its tasks. While the representative bodies of other state-recognized religions earn income from, for example, investments and real estate, the Muslim Executive is dependent on state subsidies.⁸⁹

⁸⁴ Information from Mohamed Boulif, president of the Executive of Muslims of Belgium (EMB), to the IHF, per email December 20, 2004; Euro-Islam Info, “Country Profile: Belgium,” at <http://64.207.171.242/pages/belgium.html> (last visited September 6, 2004).

⁸⁵ Human Rights without Frontiers (HRWF) (IHF cooperating organization), *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*, at <http://www.hrwf.net>

⁸⁶ Information from Mohamed Boulif, president of the EMB, to the IHF during telephone conversation, November 16, 2004.

⁸⁷ Information from Mohamed Boulif, president of the EMB, to the IHF, December 20, 2004.

⁸⁸ HRWF, *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*.

⁸⁹ Information from Mohamed Boulif, president of the EMB, to the IHF, December 20, 2004

Contrary to mutual agreements, the government has sought to influence the composition of the Muslim Executive and has screened candidates endorsed by the Muslim Constituent Assembly before approving them.⁹⁰ This has caused resentment among members of the body, who feel that the government is seeking to restrict its operational freedom. As a result, relations between the government and the Muslim Executive have been strained ever since the body was created.⁹¹

During the past months, relations have deteriorated further as the government introduced a law in July 2004 requiring that new general elections be held within the Muslim community to fully renew the membership of the Muslim Constituent Assembly and its Executive. In 1998 it had been agreed that such elections should be organized only in 2009.⁹² An election date has been set for March 2005, and in January 2005 an elections code was presented.⁹³

The course of action of the government with respect to the new elections has been criticized by both Muslim representatives and others.⁹⁴ In November 2004, the Muslim Executive together with 30 Muslim organizations appealed to the Court of Arbitration⁹⁵ to request that the July law be annulled, arguing that it violates the principle of separation of state and church, as well as the principle of non-discrimination since the representative bodies of other recognized religious communities have not been subjected to similar treatment.⁹⁶ As of this writing, the case was still pending before the Court of Arbitration.⁹⁷

It appears that one reason why the government has interfered in the composition of the Muslim Executive is that it fears that Muslims with extremist views may gain influence in it. The Belgian Permanent Committee of the Control of Intelligence Services (known as "Comité R") alleged in its 2001 annual report that the Muslim Executive and other Muslim organizations have links to foreign extremist movements.⁹⁸ This report was criticized for poor methodology and lack of objectivity by researchers in the field,⁹⁹ and the presidents of the Muslim Executive and the Muslim Constituent Assembly expressed regret that it appeared to reflect societal prejudices and contributed to spreading

⁹⁰ HRWF, *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*.

⁹¹ Information provided by Mohamed Boulif, president of the EMB, to the IHF November 16, 2004.

⁹² HRWF, "Law Imposing Elections on the Muslim Community," July 22, 2004.

⁹³ HRWF, "Muslim Elections under the Authority of the Belgian State: Election Code – Presentation," January 27, 2005.

⁹⁴ HRWF, "Muslim Elections under the Authority of the Belgian State: Election Code – Controversies," January 27, 2005.

⁹⁵ The Court of Arbitration has been granted authority under the constitution to review legislation in view of the powers of the state. See presentation of Court of Arbitration of Belgium, at <http://www.arbitrage.be/en/common/home.html>

⁹⁶ HRWF, "Council of State and Court of Arbitration Seized by 30 Muslim Organizations," November 8, 2004.

⁹⁷ Information from HRWF to the IHF, December, 2004.

⁹⁸ *Ninth Report of the Belgian Permanent Committee of the Control of Intelligence Services to the President of the Senate, the President of the House of Representatives, the Minister of Justice and the Minister of Defence.*

⁹⁹ Felice Dassetto and Brigitte Maréchal, "Islam as seen by the 'Comite R'" (English translation by HRWF), published in *La Libre Belgique*, February 26, 2002.

disinformation.¹⁰⁰ The president of the Executive, Mohamed Boulif, has also strongly denied the implication that Muslims who participate in democratic processes, such as those through which the Muslim Constituent Assembly and its Executive are elected, would be “dangerous” in any way.¹⁰¹

In a more recent development, a Belgian senator of Moroccan origin criticized the Muslim Executive for failing to denounce the November 2004 murder of the film-maker Theo van Gogh in the Netherlands. A few weeks after the murder, she received death threats and was placed under police protection, leading some media to speculate that the Muslim Executive had threatened her.¹⁰² A Belgian convert to Islam subsequently admitted to having made the threats against the senator because he wanted to “make her change her mind.”¹⁰³ Several other politicians also received threats, but these were not related to the threat against the senator and appeared to originate from the extreme right.¹⁰⁴ In response to these events, the president of the Muslim Executive emphasized that the organization has consistently condemned any forms of physical or other attacks on the life and integrity of a person, and that it is absurd to suggest that it would support an act such as the murder of van Gogh simply because it does not publicly speak out against it.¹⁰⁵

Negative Sentiments and Harassment against Muslims

As in other EU countries, pre-existing intolerance against Muslims has been reinforced in Belgium since September 11. As the fight against terrorism has been stepped up at the international level and terrorism has become a major theme in public debate, Muslims have come under pressure to justify their beliefs and to make clear that they do not support terrorism.¹⁰⁶ A number of different forms of anti-Muslim incidents have been reported, including verbal abuse in schools and other public places, the publication and dissemination of printed material targeting Muslims, attacks on mosques as well as physical assaults.¹⁰⁷ Monitoring bodies have also expressed concern about anti-Muslim internet sites.¹⁰⁸

¹⁰⁰ “Open Letter by the President of the Executive of Muslims in Belgium addressed to Mr. Armand De Decker, President of the Senate,” June 28, 2002 (English translation by HRWF), at <http://www.hrwf.net>

¹⁰¹ Information from Mohamed Boulif, president of the EMB, to the IHF, November 16, 2004.

¹⁰² “Belgian Senator Gets Death Threat,” *BBC*, November 17, 2004; Anthony Browne, “Belgian MP Goes into Hiding after Criticizing Muslims,” *The Times*, November 18, 2004. See also the section on Media Coverage of Issues Related to Islam and Muslims.

¹⁰³ “Belgium Death Threat Suspect Held,” *BBC*, November 22, 2004; “Morddrohungen gegen belgische Politiker,” November 19, 2004, at <http://netzzeitung.de>

¹⁰⁴ Information from HRWF to the IHF, November, 2004.

¹⁰⁵ “Entretien avec Mohamed Boulif,” *Yahoo*, November 19, 2004.

¹⁰⁶ HRWF, *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*.

¹⁰⁷ European Commission against Racism and Intolerance (ECRI), *Third Report on Belgium* (adopted on June 27, 2003 and made public on January 27, 2004), at <http://www.coe.int/>; UN Committee on the Elimination of Racial Discrimination, “Concluding Observations: Belgium,” May 21, 2002, at <http://www.unhchr.ch>; HRWF, *Annual Report on Human Rights in Belgium 2002*; HRWF, *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*.

¹⁰⁸ Center for Equal Opportunity and Opposition to Racism (Centre pour l'égalité des chances et la lutte contre le racisme), *Rapport Annuel 2003: Vers l'ergissement*, at <http://www.antiracisme.be>

In late 2002, an attack on a Muslim that was widely perceived to be racially motivated sparked a wave of street protests in Antwerp, whereby young Muslim immigrants expressed their frustration about social exclusion and discrimination in a violent way:

- Mohamed Achrak, a 27-year-old Moroccan teacher of Islamic religion, was shot dead in Antwerp in November 2002 while he was visiting his parents to break the Ramadan fast. Prior to the attack Achrak had reportedly contacted police twice about threats against his family made by the man who was charged with the murder.¹⁰⁹ Following the attack, several hundred young Arabs took to the streets, smashing windows, wrecking cars and throwing stones at police as part of their protests. Largely concentrated in impoverished neighborhoods with a high unemployment rate, members of the Arabic community in Antwerp have repeatedly complained about social stigmatization and police harassment.¹¹⁰ The authorities accused the Arab-European League, an immigrant protest movement with a controversial reputation,¹¹¹ of inciting the riots and detained its leader for five days before releasing him because of lack of evidence.¹¹² In subsequent court proceedings, the man charged with the murder of Achrak was found to have been mentally ill at the time of the attack, as a result of which racial motivation could not be proven.¹¹³

Media Coverage of Issues Related to Islam and Muslims

The general impression of the Muslim Executive is that mainstream media have tried to adopt a balanced approach when reporting on violence committed in the name of Islam, and that they have been careful to make a distinction between extremist and moderate Muslims.¹¹⁴ However, the Executive regrets that there is a tendency in the media primarily to focus on sensational events and that there rarely are reports about social contributions by Muslims or efforts by Muslims to engage in

¹⁰⁹ Institute of Race Relations, "Racism in Belgium – Cases 2003," at <http://www.irr.org.uk>

¹¹⁰ See also the section on Discrimination against Muslims in Different Areas of Society.

¹¹¹ The Arab European League was founded in Antwerp in 2001 with the aim of empowering Arabic immigrants. The movement, whose followers are primarily young unemployed immigrants, has called on members of immigrant communities to resist pressures to assimilate and to actively demand their rights. The leader of the movement, who has been portrayed as a "Belgian Malcolm X" in the media, has become well-known for his provocative and confrontational style and his anti-Semitic remarks. The government has depicted the Arab European League as a "threat to society," and mainstream Muslim movements have distanced themselves from it. Running in the 2003 parliamentary elections on a platform that inter alia called for Arabic to be recognized as fourth official language and for state funding to be extended to private Muslim schools, the League did not exceed the five percent threshold. See Marlise Simons, "An Outspoken Arab in Europe: Demon or Hero?," *The New York Times*, March 1, 2003; Steven Gray, "An Arab Activist Forces Belgians to Look in Mirror," *The Washington Post*, December 27, 2002.

¹¹² "Call for Calm as Islamic Leader Charged in Belgium," *Islam Online*, November 29, 2002, at <http://www.islamonline.net>; Yann Tessier, "Arab Murder Sparks Two Days of Riot in Antwerp," *The Guardian*, November 28, 2002, at <http://www.guardian.co.uk>; Ian Black "Arab Group Denies Claims It Stoked 'Mini-intifada' on Streets of Antwerp," *The Guardian*, November 29, 2002; "Belgium Blames Riots on Arab Leader," *Radio Netherlands*, November 29, 2003, at <http://www.rnw.nl/>; Marlise Simons, "An Outspoken Arab in Europe: Demon or Hero?," *The New York Times*, March 1, 2003, at <http://www.nytimes.org>.

¹¹³ Information from the Center for Equal Opportunities and Opposition to Racism to HRWF, August 31, 2004.

¹¹⁴ Information from Mohamed Boulif, president of the EMB, to the IHF, November 16, 2004.

dialogue with members of other religious communities, which could help shape the public perception of Muslims in a more positive direction.¹¹⁵ Media coverage of the relations between the government and the Muslim Executive has at times been perceived as biased. Likewise some of the reports dealing with the November 2004 series of death threats, discussed above,¹¹⁶ were considered irresponsible as they seemed to suggest that the Muslim Executive would be behind the threats against a senator who had previously criticized the organization.¹¹⁷

The Role of Political Leaders and Official Policies

The European Commission against Racism and Intolerance (ECRI) has expressed concern about the presence of a racist discourse in politics in Belgium and about political parties that use racist propaganda.¹¹⁸ In particular, the rhetoric of the Flemish separatist party Vlaams Blok (“Flemish Bloc”) gives cause for concern. This party has inter alia depicted immigration as a threat to “the Flemish people and culture” and has called for a halt to immigration. With reference to the danger of religious fundamentalism among Muslims, it has also protested the growing number of mosques and the allocation of state funding to Muslim organizations.¹¹⁹

Under a banner of “our people first,” Vlaams Blok won 12% of the votes in the 2003 elections to the federal parliament, and increased its share to 24% of the votes in the 2004 elections to the parliament of the Flemish region.¹²⁰ Since the 2000 local elections Vlaams Blok has also controlled between a quarter and a third of the municipal council seats in a number of major cities in the Flemish region, including Antwerp.¹²¹

Given the prominence and visibility of Vlaams Blok, it is no doubt that the rhetoric used by the party has contributed to encouraging intolerant attitudes toward Muslims and other people of foreign origin. Moreover, although other political parties have refused to cooperate with Vlaams Blok, the party has indirectly been able to influence political developments as its popularity has impelled other parties to adopt tougher positions on immigration and related issues.¹²²

In an unprecedented decision, the Cassation Court – the highest court of the country – in November 2004 upheld a lower court ruling that found Vlaams Blok guilty of violating anti-racist legislation by

¹¹⁵ “Entretien avec Mohamed Boulif,” *Yahoo*, November 19, 2004.

¹¹⁶ See the section on Formal Relations between the State and the Muslim Community.

¹¹⁷ Information from HRWF to the IHF, November 2004. See also the section on Advocacy of Hatred and Violence in the Name of Islam.

¹¹⁸ ECRI, *Third Report on Belgium*. See also HRWF, *Annual Report on Human Rights in Belgium 2002* and *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*.

¹¹⁹ Stephen Fisher, “The Vlaams Blok in Flanders,” *Extreme Right Electorates and Party Success* (2001), at http://www.extremismus.com/texte/belgium_over.pdf (last visited November 8, 2004).

¹²⁰ See “Elections in Belgium,” at <http://www.electionworld.org/belgium.htm> (last visited November 8, 2004).

¹²¹ Information from HRWF to the IHF, November 2004.

¹²² *Ibid.*

regularly depicting foreigners as “criminals” and by “permanently inciting” racism. The decision meant that Vlaams Blok was no longer eligible for state funding and that its members would commit an offense if they continued to work for the party.¹²³ However, only a few days after the ruling, the leadership of Vlaams Blok announced the establishment of a new political party under the name Vlaams Belang (“Flemish Interest”). The program presented for this party was in substance the same as that of Vlaams Blok.¹²⁴

Discrimination against Muslims in Different Areas of Society

Those of foreign origin in Belgium are reportedly subjected to discrimination inter alia in employment, in housing, in access to public services and in contacts with police. The Center for Equal Opportunity and Opposition to Racism, an independent government body, received about 2,500 complaints about racist discrimination in 2003. In a trend persistent over several years, the highest number of complaints concerned employment. In 44% of the cases the alleged discrimination was believed to be motivated by ethnic origin, while in 8% of the cases it was believed to have religious grounds.¹²⁵ As the Center did not specifically register complaints filed by Muslims, it is, however, not clear to what extent this group alleged discrimination.¹²⁶

Reports indicate a range of police misconduct against those of foreign origin, including xenophobic and offensive language, arbitrary identity checks, and physical violence.¹²⁷ Among others, members of the Arab community in Antwerp have accused police of frequently treating them in a discriminatory and degrading manner.¹²⁸ Resentment about such treatment appears to have been a major factor motivating a wave of street protests in the city in late 2002.¹²⁹

Muslim Places of Worship and Burial Facilities

According to a recent study commissioned by the King Baudouin Foundation there are 328 mosques in Belgium, of which 162 are in the Flemish region, 89 in Wallonia and 77 in Brussels. The mosques are generally organized on the basis of the country of origin of believers.¹³⁰ Less than a dozen of all

¹²³ “Court Ruling Puts Future of Belgian Far-right Party in Doubt,” *The International Herald Tribune*, April 23, 2004, at <http://iht.com>; Angus Roxburgh, “Blow to Belgium’s Far Right,” *BBC*, November 9, 2004, at <http://www.bbc.co.uk>; Andrew Beatty, “Vlaams Blok Branded ‘Racist,’” *EU Observer*, November 10, 2004, at <http://www.euobserver.com>

¹²⁴ Vlaams Belang will reportedly receive state funding initially reserved for Vlaams Blok. Information from HRWF to the IHF, November and December 2004.

¹²⁵ Center for Equal Opportunity and Opposition to Racism, *Rapport Annuel 2003: Vers l’elargissement*.

¹²⁶ Information from the Center for Equal Opportunity and Opposition to Racism to the IHF, November 17, 2004.

¹²⁷ European Network Against Racism (ENAR), *ENAR Rapport Alternatif 2003: Belgique* (prepared by Marianne Gratia, assisted by Siham Nouar), at <http://www.enar-eu.org/>

¹²⁸ Steven Gray, “An Arab Activist Forces Belgians to Look in Mirror,” *The Washington Post*, December 27, 2002, at <http://www.washingtonpost.com>; Institute of Race Relations, “Racism in Belgium – Cases 2003.”

¹²⁹ See the section on Negative Sentiments and Harassment against Muslims.

¹³⁰ King Baudouin Foundation (Fondation Roi Baudouin) *Mosquées, imams et professeurs de religion islamique en Belgique* (2004), p. 14, at <http://www.kbs-frb.be>

mosques are reportedly classical mosques with domes and minarets, but an increasing number of worship places have adequate facilities.¹³¹

While the state by law remunerates the salaries of clergy who are employed by recognized religious communities, the salaries of imams have so far not been covered, to the disappointment of Muslim leaders. The situation is now in the process of changing.¹³² At the end of 2004, the federal parliament approved funding of close to €5 million to cover the salaries of imams working in about 100 mosques in 2005.¹³³ However, these funds will not be allocated until the mosques in question have been approved by the regional authorities, which, following a recent reform, are in charge of the control of places of worship.¹³⁴

The integration minister of the Flemish region indicated in January 2005 that mosques will be required to meet certain conditions in order to be approved for public funding, such as using the Dutch language except for when reciting Arabic rituals, showing tolerance for women and homosexuals and banning the preaching of extremist ideas. These conditions will not apply to other religious communities. The government of the Wallonian region announced that mosques will be recognized on the same basis as other places of worship, while the government of Brussels was yet to decide its policies as of this writing.¹³⁵

While all cemeteries are public in Belgium, they may have separate sections for Muslim graves. The Muslim Executive has engaged in negotiations with the authorities to establish such sections everywhere where there is a perceived need. In the Flemish region, recently adopted legislation allows for Muslims to be buried without a coffin (and only in a shroud), but in the two other regions of the country this is not yet possible. However, other requirements for burial in accordance with Islamic traditions can be satisfied in these regions. Most deceased Muslims are currently transported back to their countries of origin for burial, but the situation is changing with younger generations of Muslims.¹³⁶

The Islamic Headscarf

The headscarf has in recent years become a subject of debate in Belgium. As in other EU countries, the use of the headscarf in public schools and other public institutions has been questioned with reference to the principle of separation of church and state and concerns regarding the subjugation of

¹³¹ Information from Mohamed Boulif, president of the EMB, to the IHF, December 20, 2004

¹³² Information from HRWF to the IHF, November 15, 2004.

¹³³ "State to Pay Imams' Wages," *Expatica*, December 16, 2004.

¹³⁴ HRWF, "Public Financing of Islam More Restrictive Than [That of] Other Religions in the Flanders," February 14, 2005.

¹³⁵ *Ibid.*

¹³⁶ Information from Mohamed Boulif, president of the MEB, to the IHF, November 16, 2004.

women. Those defending the right to wear the headscarf have argued that restrictions on its use violate freedom of religion and risk stigmatizing all Muslim women who wear the headscarf.¹³⁷ Inspired by the French law on religious symbols that was adopted in the spring of 2004,¹³⁸ two senators proposed a bill banning the wearing of religious symbols in public institutions, such as schools and courts.¹³⁹ This proposal met with mixed reactions in the political arena, and since it was not backed by the political parties of the two senators it did not advance beyond the initial stage.¹⁴⁰

However, while there is no nation-wide law, an increasing number of local authorities have reportedly taken measures to prohibit students from wearing the headscarf and other religious attire in schools. As a result, by the end of 2004, the headscarf was reportedly not allowed in a majority of the schools in the country. In a new trend, Muslim students were sometimes requested to remove the headscarf at university level in 2004. Such requests were typically justified with safety considerations, e.g. it was argued that the headscarf may cause dangers during laboratory classes.¹⁴¹

The *burqa* also became the subject of increasing public attention in 2004. At the beginning of the year, it was reported that several communes in Brussels had incorporated a ban on “appearing masked and disguised in public” into their police regulations, with the primary aim being to target the *burqa*. Fines were laid down for those who act in violation of the ban.¹⁴² Similar bans were subsequently introduced in Antwerp and Maaseik. In September 2004, the minister in charge of integration issues in the Flemish region expressed support for efforts to ban the *burqa* in public and announced plans to prepare a “model regulation” that municipal councils of the region could use to realize such efforts. According to the minister, the *burqa* is a “symbol of oppression,” and people who cannot be identified in public “constitute a threat to security.”¹⁴³

The president of the Muslim Executive, Mohamed Boulif, finds that the level of attention given to the *burqa* is exaggerated since only few Muslim women wear this kind of veil in Belgium. He also emphasizes that it would be preferable if the authorities dealt with issues such as these through dialogue with those concerned rather than by taking unilateral measures.¹⁴⁴

¹³⁷ Compare the section on the Islamic Headscarf in the chapter on France.

¹³⁸ For more information about this law, see the chapter on France.

¹³⁹ *Le Soir*, January 6, 2004; *La Libre Belgique*, January 6, 2004.

¹⁴⁰ Information from HRWF to the IHF, September 2004.

¹⁴¹ Information from Mohamed Boulif, president of the EMB, to the IHF, November 16, 2004.

¹⁴² HRWF, “Ban on the Burqa in Six Communes of Brussels,” February 2, 2004.

¹⁴³ HRWF, “Police Regulation against the Burqa,” November 12, 2004.

¹⁴⁴ Information from Mohamed Boulif, president of the EMB, to the IHF, November 16, 2004.

The Court of Cassation set an important precedent in 2002 by ruling that local authorities could not refuse to grant an identification card to a woman who insisted on wearing the headscarf for the picture included on the card. Local authorities have reportedly complied with the ruling.¹⁴⁵

Religious Education and Muslim Schools

According to Belgian law, students of public schools who are under the age of 17 can choose between religious instruction in recognized religions and non-denominational ethics classes. For students aged 17-18 such classes are voluntary. As other recognized religious communities, the Muslim community has the right to provide teachers at government expense for religious instruction.¹⁴⁶ Islam has been taught in public schools since 1975, at both primary and secondary level.¹⁴⁷ At present, teachers of Islam are appointed by the authorities on recommendation of the Muslim Executive, and the curriculum for the instruction in Islam is developed by officials proposed by the Executive and thereafter subject to approval by the authorities.¹⁴⁸

As other groups, religious communities have the right to establish private schools that are eligible for state funding. There is currently one private Muslim school that is supported by the state.¹⁴⁹

Advocacy of Hatred and Violence in the Name of Islam

As in other EU countries, concerns have been expressed in Belgium that some imams preach ideas that run counter to integration efforts or that are extremist in character. The 2001 annual report of the Belgian Permanent Committee of the Control of Intelligence Services, which, as mentioned above, was criticized for poor methodology,¹⁵⁰ contributed to fuelling distrust regarding the role of imams. The report claimed inter alia that about one tenth of all mosques in the country are occasionally monitored because they are known to allow sermons with an extremist message to be delivered. Discussions about the role of imams have also been influenced by developments in other countries, including the Netherlands.¹⁵¹

According to a study undertaken by the King Baudouin Foundation, many imams who work in Belgium are invited from abroad and have insufficient knowledge of the social, political and cultural context of the country and poor skills in the national languages.¹⁵² The government has expressed

¹⁴⁵ Information from HRWF to the IHF, September 2004.

¹⁴⁶ HRWF, *Religious Freedom, Intolerance and Discrimination in the European Union: Belgium 2002-2003*; Euro-Islam Info, "Country Profile: Belgium."

¹⁴⁷ Hwaa Irfan, "Citizens in Name Only," *Islam Online*, June 18, 2001.

¹⁴⁸ Information from HRWF to the IHF, November 2004.

¹⁴⁹ Information from Mohamed Boulif, president of the EMB, to the IHF, December 16, 2004.

¹⁵⁰ See the section on Formal Relations between the State and the Muslim Community of the Country.

¹⁵¹ King Baudouin Foundation, *Mosquées, imams et professeurs de religion islamique en Belgique* (2004), p. 27-28.

¹⁵² *Ibid.*, p. 27.

support for the development of a “European” Islam that is “open and tolerant”¹⁵³ and has considered plans to establish an institution for educating imams in the country. However, so far no concrete measures have been taken to this end. The organization of language courses for imams is reportedly in progress.¹⁵⁴

As noted above, the allocation of public funding to cover the salaries of imams who work for mosques recognized by the authorities is currently under way.¹⁵⁵ This will considerably improve the financial situation of mosques and will place them on an equal footing with other recognized religious communities. With reference to the threat of extremist ideas being spread through mosques, the authorities in Wallonia have announced that mosques will have to meet a number of conditions that other religious communities are not required to meet in order to qualify for funding, which raises concerns about discriminatory treatment.

Halal Slaughter

Halal slaughter is permitted on the basis of common law, and may be practiced in publicly approved slaughter houses.¹⁵⁶ There have been some concerns that not all meat marketed as *halal* has in fact been slaughtered in accordance with Islamic traditions.¹⁵⁷

¹⁵³ Ibid., p. 28.

¹⁵⁴ Information from HRWF to the IHF, February 2005.

¹⁵⁵ See the section on Muslim Places of Worship and Burial Facilities.

¹⁵⁶ Information from HRWF to the IHF, November 2004.

¹⁵⁷ Information from Mohamed Boulif, president of the EMB, to the IHF, December 16, 2004.

Denmark

Background Information

There are no official statistics detailing religious affiliation in Denmark, but it is estimated that 160,000-180,000 of the 5.3 million residents of the country are Muslims.¹⁵⁸ In the late 1960s and early 1970s, many Muslims came to the country as labor migrants from countries such as Turkey, Pakistan, Morocco and the former Yugoslavia, and in the 1980s-1990s, considerable groups of Muslim refugees arrived inter alia from the Middle East, Somalia and Bosnia-Herzegovina. Muslims with refugee background currently constitute about 40% of all Muslims in Denmark.¹⁵⁹ As of the late 1990s, there were some 25,000 Muslims who were naturalized Danish citizens, and this number is likely to have grown since.¹⁶⁰ Most Muslims live in and around Copenhagen and in other major cities such as Aarhus and Odense.¹⁶¹

Denmark is traditionally characterized by a high degree of ethnic and religious homogeneity and it is only as a result of immigration in the last few decades that a greater variety of cultural and religious traditions has become visible in society.¹⁶²

Formal Relations between the State and the Muslim Community of the Country

The Danish Constitution establishes the Evangelic Lutheran Church as the national church of the country, thereby providing for close relations between the state and this church. The Evangelic Lutheran Church is the only religious community that can levy tax on its members and that receives state subsidies.¹⁶³ Eleven other religious groups, most of which are Christian, have been granted the status of “recognized” religious communities. As such, they have the right to exercise a number of semi-public tasks, including conducting marriage ceremonies with civil validity, keeping official registers over community members, and issuing birth and other certificates. Another 90 religious groups, including the Muslim community, have the status of “approved” religious communities. These communities also enjoy some benefits that “non-approved” groups do not enjoy, such as the

¹⁵⁸ Information provided by Zubair Butt Hussain, spokesperson of Muslims in Dialogue (Muslimer i Dialog, MID), to the IHF during telephone conversation, November 4, 2004.

¹⁵⁹ “Introduction to Islam and Other Religions in Denmark,” at <http://www.islam.dk>

¹⁶⁰ Jorgen Baek Simonsen, “Fra homogenitet til pluralisme. Religionsfrihed og islam i Danmark,” i Lisbet Christoffersen and Jorgen Baek Simonsen, *Visioner for religionsfrihed, demokrati og etnisk ligestilling* (Danish Board for Ethnic Equality: 1999), p. 18.

¹⁶¹ “Islam in Denmark,” at <http://www.geocities.com>

¹⁶² Jorgen Baek Simonsen, “Fra homogenitet til pluralisme. Religionsfrihed og islam i Danmark,” p. 16.

¹⁶³ The Evangelical Lutheran Church in Denmark, “Church and State,” at <http://www.interchurch.dk/LutheranChurch/> (last visited on September 6, 2004); US Department of State, *International Religious Freedom Report 2003: Denmark*, at <http://www.state.gov>

right to tax exemption and the right to establish their own cemeteries. In addition, they may be granted the right to conduct marriage ceremonies with civil validity.¹⁶⁴

There are a considerable number of Muslim organizations in the country, but none of them functions as an official spokespersons of the country's Muslims.¹⁶⁵ Muslim representatives have called on the Danish government to support the establishment of a democratically elected national council to represent the country's Muslims. These organizations have argued that the existence of such a body would prevent Muslims with extremist views from claiming to speak on behalf of the Muslim community as a whole.¹⁶⁶ However, unlike the governments of some other EU countries, the Danish government has reportedly not supported the idea of such a body.¹⁶⁷

Negative Sentiments and Harassment against Muslims

Muslims in Dialogue (MID), an NGO seeking to promote integration of Muslims into Danish society,¹⁶⁸ has observed that the social climate facing Muslims has deteriorated in Denmark during the last decade. As a result of this development, which has taken place against the background of an increasingly harsh debate about immigration issues and increasingly strict immigration policies,¹⁶⁹ it now appears possible for public figures to say things openly that were not previously acceptable, e.g. to portray Islam as an obstacle to integration or to associate Muslims with terrorism.¹⁷⁰

Harassment against Muslims and other minority members peaked in late 2001 due to what appeared to be heightened vulnerability created by the September 11 events and an election campaign that was largely dominated by a negative focus on immigration. From September to December 2001, the Central Intelligence Service registered a record number of 52 alleged racially motivated attacks on foreigners, including cases of vandalism, arson, intimidation and physical assaults.¹⁷¹ This number can be compared to a total of 18 allegedly racially motivated incidents in 2000, and 16 in 1999. In 2002, a total of 62 cases were registered. However, since the Central Intelligence Service started using a new registration system in 2002, this number cannot accurately be compared to those from

¹⁶⁴ Institut for Menneskerettigheder, "Religionsfrihed i Danmark," at <http://www.menneskeret.dk>; Danish Ministry of Refugees, Immigrants and Integration, "Religionsudøvelse i Danmark," at <http://www.inm.dk>

¹⁶⁵ For a listing of Muslim organizations, see the website of Muslimernes Landsorganisation, at <http://www.mlo.nu/>

¹⁶⁶ Liz Fekete, "National Council for Muslims Proposed," *Independent Race and Refugee News Network*, July 17, 2003, at <http://www.irr.org.uk>

¹⁶⁷ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF per email, September 6, 2004.

¹⁶⁸ See the website of the organization at <http://www.m-i-d.dk>

¹⁶⁹ See section on the Role of Political leaders and Official Policies.

¹⁷⁰ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

¹⁷¹ European Monitoring Centre on Racism and Xenophobia (EUMC), *Anti-Islamic Reactions in the EU after the Terror Attacks against the USA: Denmark* (prepared by Danish Board for Ethnic Equality/Documentation and Advisory Centre on Racial Discrimination) (May 2002), at <http://www.eumc.at>

previous years.¹⁷² According to anti-racist NGOs, the number of racist crimes and violence decreased after 2001, but in 2002 and 2003 still remained higher than it previously had been.¹⁷³

Media Coverage of Issues Related to Islam and Muslims

According to Zubair Butt Hussein, spokesperson of MID, there is a tendency in the media to write about issues related to Muslims with a stereotypical approach, resulting in reports which reinforce public misconceptions. He also feels that Muslims who are interviewed are often denied a fair chance to present their views, and that interviews with Muslims therefore typically have the character of monologues rather than dialogues.¹⁷⁴

The Role of Political Leaders and Official Policies

Among others, the Commissioner for Human Rights of the Council of Europe has expressed concern that policies toward foreigners and minority members have become increasingly restrictive in Denmark in recent years.¹⁷⁵ According to human rights observers, it is important to note that the tendency to problematize the presence of people of foreign origin in Denmark dates back to the mid-1980s, and that immigration policies have gradually been tightened since that time. As a result, the most recent developments can, in a sense, be viewed as a culmination of a longer-term development.¹⁷⁶

During the campaign leading up to the parliamentary elections held in late 2001, the alleged failure of non-native Danes to integrate into Danish society was a major theme. The government that took office after these elections¹⁷⁷ has subsequently adopted a number of restrictive measures portrayed as necessary to limit the inflow of new foreigners and to strengthen the integration of those of foreign origin who already reside in the country.¹⁷⁸ Among these measures are lowered barriers for rejecting asylum applications, tightened regulations for permanent residence and family reunification, as well as reduced levels of social benefits for refugees and foreigners. Many of the adopted measures give rise

¹⁷² The registration system was changed so as to cover not only incidents that are believed to be racially motivated but also those believed to be religiously motivated and so as to include cases whether or not the person targeted is of foreign origin. Central Intelligence Service (Politiets Efterretningstjeneste), *Årsberetning 2002*, p. 57-58.

¹⁷³ European Network Against Racism (ENAR), *Shadow Report 2003: Denmark* (author: Bashy Quraishy), p. 38, at <http://www.enar-eu.org>

¹⁷⁴ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

¹⁷⁵ *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Denmark 13th-16th April 2004*, p. 4, at <http://www.coe.int>

¹⁷⁶ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF, September 6, 2004.

¹⁷⁷ New parliamentary elections were held in February 2005 and, on the basis of the elections results, it was announced that the previous government would remain in power.

¹⁷⁸ A document entitled *The Government's Vision and Strategies for Improved Integration*, which was adopted in June 2003, states that: "By limiting the influx of new foreigners, time and resources are released for the improvement of efforts aimed at ethnic minority groups already residing in Denmark." The document is available at: http://www.inm.dk/publikationer/engelske_publicationer/integration_policy/integration_policy.pdf (last visited December 12, 2004). Compare *Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Denmark 13th-16th April 2004*, p. 4-5.

to human rights concerns. While creating some of the most stringent immigration laws in the Western world, they have also served to reinforce the perception that the presence of people of foreign origin in Denmark is something primarily negative.¹⁷⁹

Moreover, the political debate on foreigners and minorities has become increasingly harsh since the mid-1980s, when a political fringe movement for the first time warned of the alleged "invasion" of Muslims in the country.¹⁸⁰ The tone of the current debate has largely been set by the far-right Danish People's Party, which won 12% of the votes in the 2001 elections and is a key party supporting the government in parliament.¹⁸¹ Members of this party have repeatedly made highly inflammatory statements, including by accusing Muslims of undermining democratic values and promoting violence.¹⁸²

A majority of the 12 convictions that were handed down under a criminal code provision prohibiting hate speech in 2003 involved members of the Danish People's Party and the ultra-right Progressive Party who had engaged in anti-Muslim or anti-Jewish rhetoric. Anti-racist organizations have, however, expressed concern that prosecutors often dismiss complaints of alleged hate speech filed against politicians, with the motivation that it is especially important to protect the right to freedom of speech of politicians.¹⁸³ With regard to such concerns, the Danish Supreme Court established an important precedent in the following case:

- In December 2003, the Supreme Court sentenced Peter Neerup Buhl, a member of the Progressive Party, to a suspended prison sentence for making defamatory remarks about Muslims. He was found guilty of publishing a set of anti-Muslim comments on his website, including a demand that all Muslims in Denmark be placed in concentration camps and

¹⁷⁹ For comments on new measures adopted see, for example, the Danish Institute for Human Rights, *Notat til Integrationsministeriet vedrørende forslag til lov om ændring af udlændingeloven og ægteskabsloven med flere love* (February 2002) and *Utrædning: Ægtefællesammenføring i Danmark* (January 2004), at <http://www.humanrights.dk>; UNHCR's *Comments on the Draft Bill on Amending the Aliens' Act, the Marriage Act and Other Acts* (March 2002). See also chapter on Asylum, Immigration and Border Control Policies in IHF, *Anti-terrorism Measures, Security and Human Rights* (April 2003), at <http://www.ihf-hr.org>.

¹⁸⁰ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF, September 6, 2004.

¹⁸¹ At the party's annual conference in September 2004, the chairman noted with satisfaction that a number of restrictive immigration measures have been adopted since the Danish People's Party secured a central role in influencing the government's policies in 2001. See *Pia Kjærsgaards ugebrev*, September 20, 2004, at the website of the Danish People's Party, <http://danskfolkeparti.dk>. In the February 2005 elections, the party increased its share of the votes from 12 to 13% and, as of this writing, it appeared that the party would remain a support party of the previous government, which was set to remain in office.

¹⁸² See chapter on Hate Crimes and Discriminatory Policies in IHF, *Anti-terrorism Measures, Security and Human Rights*.

¹⁸³ "Politicians Absolved of Racist Slurs," *The Copenhagen Post*, December 11, 2003, at <http://www.cphpost.dk>

deported. The Supreme Court emphasized that Buhl's status as a politician did not give him carte blanche to make racially derogatory remarks.¹⁸⁴

As noted with concern by international monitoring bodies and NGOs, there has also been a tendency among political leaders from political parties other than those on the far right – including those in the government – to use prejudiced language when discussing issues related to Muslim and other minorities. Such language contributes to encouraging distrust and hostility toward members of these groups.¹⁸⁵

Discrimination against Muslims in Different Areas of Society

In early 2003, the official employment rate was 47% among people with origins in non-Western countries – a category to which many Muslims belong, while the corresponding figure was 77% among native Danes.¹⁸⁶ According to the authorities, lack of adequate professional and linguistic qualifications among those of immigrant background is a major reason for this situation.¹⁸⁷ However, studies have also shown that people of immigrant background experience direct and indirect forms of discriminatory treatment in the labor market.¹⁸⁸

As Danish legislation does not allow the registration of the religious background of residents, there is no reliable information available detailing to what extent discrimination in employment particularly affects Muslims – whether or not they are of immigrant origin. However, judging from case law in the last few years, discrimination on religious grounds is currently the most common form of discrimination in the labor market.¹⁸⁹ There have also been several publicized cases where Muslim women wearing the headscarf have alleged discrimination by employers.¹⁹⁰

¹⁸⁴ “Politicians Absolved of Racist Slurs,” *The Copenhagen Post*, December 11, 2003; “Racist Politician,” *The Copenhagen Post*, December 7, 2002.

¹⁸⁵ See, for example, European Commission against Racism and Intolerance (ECRI), *Second Report on Denmark* (adopted June 16, 2000 and made public April 3, 2001), at <http://www.coe.int/>; ENAR, *Shadow Report 2003: Denmark*, p. 35-36.

¹⁸⁶ Danish Ministry of Refugees, Immigration and Integration, *Årbog om udlændinge i Danmark 2004*.

¹⁸⁷ *Ibid.*

¹⁸⁸ See, for example, Academy for Migration Studies in Denmark (AMID), *Working Paper Series 9/2002: Kompetencer mellem kulturalisering og mangfoldighed - Om brugen og bedømmelsen af etniske minoriteters kompetencer og ressourcer på det danske arbejdsmarked*, p. 4, at <http://www.aimid.dk>; Tænketanken om udfordringer for integrationsindsatsen i Danmark, *Udlændinges integration i det danske samfund* (2001), available at the website of the Danish Ministry of Refugees, Immigrants and Integration, <http://www.inm.dk>

¹⁸⁹ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF, September 6, 2004.

¹⁹⁰ See the section on the Islamic Headscarf.

In addition to discrimination in employment, those of immigrant background reportedly experience discrimination in areas such as access to housing and public places, such as restaurants.¹⁹¹

Muslim Places of Worship and Burial Facilities

It is estimated that there are some 35-50 mosques in Denmark, most of which are located in apartments, former commercial or industrial premises and basements.¹⁹² There is currently no mosque that has been specifically built for that purpose. One reason for this is that the Muslim community is internally divided and has had difficulties in cooperating for the purpose of establishing a mosque. However, in recent years, there has also reportedly been growing political and public opposition to the construction of full-scale mosques, with some arguing that mosques with domes and minarets are not compatible with “Danish architecture.”¹⁹³

After several years of negotiations, the Broendby municipality agreed in October 2004 to sell a land plot to a Muslim association for the purpose of establishing the first Muslim cemetery in the country. The cemetery is expected to be opened in late 2005.¹⁹⁴ It is hoped that the positive decision in this case will facilitate the establishment of Muslim cemeteries elsewhere in the country.¹⁹⁵ In some local cemeteries, separate sections have been created for Muslim grave sites, but burial in accordance with all requirements of Islamic law is reportedly not possible in these sections.¹⁹⁶

The Islamic Headscarf

In recent years, there have been a number of court cases involving alleged discrimination against Muslim women wearing the headscarf. In an important ruling from 2000, the Eastern District Court decided that the refusal of a department store to accept a Muslim girl who wore the headscarf as a trainee constituted indirect discrimination. According to the Court, the department store had failed to explain why regulations prohibiting employees from wearing headgear were necessary and noted that these regulations were likely to primarily target Muslim women who use the headscarf for religious reasons.¹⁹⁷ In late 2003, the same Court established a new precedent in the following case:

¹⁹¹ ECRI, *Second Report on Denmark*; ENAR, *Shadow Report 2003: Denmark*, p. 34, 52; UN Committee on Economic, Social and Cultural Rights, *Concluding Observations: Denmark*, November 2004, at <http://www.unhchr.ch>

¹⁹² Ibid.

¹⁹³ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

¹⁹⁴ “Muslimsk gravplads klar om et år,” *DR Nyheder Online*, October 28, 2004.

¹⁹⁵ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

¹⁹⁶ ENAR, *Shadow Report 2003: Denmark*, p. 42.

¹⁹⁷ “Magasin tabte tørklæde-sag,” Hjemmeside for flygtninge of positive fred, at <http://www.arnehansen.net/000810magasin.htm> (last visited November 22, 2004); European Industrial Relations Observatory, “Court Finds against Department Store in Muslim Headscarf Case,” 2000, at <http://www.eiro.eurofound.eu.int>

- In December 2003, the Eastern District Court dismissed a complaint by a Muslim woman who was fired from her job as a supermarket cashier in 2001 because she insisted on wearing the headscarf. The Court found that the dress code of the super market, which prohibits employees who have direct contact with customers from wearing any form of headgear, was objectively motivated, proportionate and had the legitimate aim of ensuring that the supermarket appears as a politically, religiously and culturally neutral business to its customers. The Court acknowledged that the ban on wearing headgear typically would target Muslim women who use the headscarf, but concluded that it was of a general, clear and consistent nature. The Court also noted that the woman in the case under consideration should have been aware of the ban since it had been in force ever since she was employed at the supermarket.¹⁹⁸ While welcoming the decision, the company owning the department store said that it was still open to employing Muslim women who wear the headscarf for “non-visible” positions, e.g. as warehouse workers. The company motivated its policies by arguing that many of its customers consider the headscarf “provocative.”¹⁹⁹ Human rights organizations expressed regret about the decision,²⁰⁰ and the plaintiff appealed the ruling to the Danish Supreme Court, which upheld it in January 2005.²⁰¹

In an effort to accommodate the religious needs of Muslim women, some businesses have reportedly designed headscarves that can be used together with the uniforms that employees are generally required to wear.²⁰²

The far-right Danish People’s Party has repeatedly advocated a ban on the headscarf in schools and other public places. In April 2004, the party put forward a proposal that would prohibit public officials from wearing “culturally specific” headgear, but would allow for an exception for expressions of Christian-Jewish culture. The party argued, among other things, that the law was needed because the use of the headscarf has a “disturbing” impact on “ordinary people” and undermines the integration of Muslim girls.²⁰³

After reviewing the proposal, the Danish Institute for Human Rights concluded that it would result in a general ban on the right to wear headgear for religious reasons, which would not be acceptable in the present Danish context. Moreover, the Institute found that the proposal provided for unlawful

¹⁹⁸ Eastern District Court (Ostre Landsret), *Dom Nr. B-2498-02*, December 18, 2003.

¹⁹⁹ Islamic Community of Fyn (Det Islamiske Trossamfund på Fyn), “Piger med tørklæder kan få arbejde på lageret,” December 18, 2003, at http://www.wakffyn.dk/hidjab_sagen.htm

²⁰⁰ Islamic Community of Fyn, “S og D tilfreds med dom i tørklædedesag,” December 18, 2003.

²⁰¹ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF, December 7, 2004 and January 24, 2005.

²⁰² Islamic Community of Fyn, “S og D tilfreds med dom i tørklædedesag,” December 18, 2003.

²⁰³ Danish Institute for Human Rights, *Menneskeret i Danmark – Status 2004*, p. 104.

discrimination on ethnic and religious grounds since it did not offer any objective and reasonable grounds to justify differentiated treatment of those who do not belong to the Christian or Jewish culture.²⁰⁴ As of the end of 2004, the proposal had yet to be considered in parliament.²⁰⁵ The government has reportedly rejected the idea of any form of ban on religious and political symbols in public.²⁰⁶

Religious Education and Muslim Schools

Religious education classes offered in public schools deal with fundamental questions common to different religions and systems of belief, but the emphasis is on Christianity. Parents have the right to request that their children be exempted from such classes.²⁰⁷ In September 2004, the education minister announced that instruction in Islam will be incorporated as a major component into religious education classes offered at public secondary schools as of the school year 2005-2006.²⁰⁸ While welcoming this step, the spokesperson of MID cautioned that the content of the instruction should be carefully elaborated so as to ensure that individual elements of Islam are presented within the proper context. He therefore called on the Education Ministry to cooperate with Muslim organizations in developing the curriculum.²⁰⁹

Religious communities, as well as other groups in society, have the right to establish their own schools. These schools are eligible for state support if the education they offer is in accordance with the objectives set for education in public schools and they are independent institutions. As a result of a change of law in 2002, independent schools are also required to prepare students for “living in a society characterized by freedom and democracy.” The primary responsibility for overseeing the education at privately established schools lies with the parents of the students at such schools, who have an obligation to inform the authorities about persisting problems.²¹⁰ There are currently close to 20 Muslim schools in the country, half of which are located in Copenhagen.²¹¹

In the aftermath of September 11, there have been heated discussions about Muslim schools, and it has been argued that they do not adequately educate their students in a democratic spirit and that they have

²⁰⁴ Danish Institute for Human Rights, *Notat vedrørende B 201 Forslag til folketingsbeslutning om forbud mod at bære kulturbestemt hovedbeklædning* (May 2004).

²⁰⁵ Danish Institute for Human Rights, *Menneskeret i Danmark – Status 2004*, p. 106.

²⁰⁶ Information from Mandana Zarrehparvar, senior adviser with the Danish Institute for Human Rights, to the IHF, November 16, 2004.

²⁰⁷ General information about education obtained at the website of the Danish Ministry of Refugees, Immigrants and Integration.

²⁰⁸ Yahia Abu Zakariya, “Denmark to Teach Quran at Secondary Schools,” *Islam Online*, September 20, 2004.

²⁰⁹ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

²¹⁰ *Lov om friskoler og private grundskoler m.v. (759 af 05/07/2004)*, available at <http://www.retsinfo.dk>

²¹¹ Information from the website of Muslimernes Landsorganisation, at <http://www.mlo.nu/>

a negative impact on the integration of their students into Danish society.²¹² The concerns cited have been fuelled by a few cases where problems have been discovered at Muslim schools. In a greatly publicized case, two privately run Muslim schools lost their state support in 2002 because they had failed to meet the requirement of providing education in scope and quality that meets the standards of education at public schools.²¹³ It was inter alia reported that instruction in Danish had not been satisfactory at the two schools and that education materials had been censored so as to exclude information about “Western” ways of life.²¹⁴

Zubair Butt Hussain, spokesperson of MID, agrees that it is a concern that some Muslim schools do not live up to the required standards, and he finds it unquestionable that the government should intervene in such cases. However, at the same time, he feels that problematic cases have been exploited in public debate to denigrate Muslim schools generally and to portray them as having an “aggressive” mission. He stresses that also non-Muslim schools have been found having difficulties meeting educational standards, which suggests that this is more of a generic issue than an issue specifically concerning Muslim schools, and he points to the importance of improving dialogue between school boards and authorities for the purpose of ensuring that independent schools – of all orientations – fulfill their obligations.²¹⁵

With particular reference to problems discovered at Muslim schools, the Danish People’s Party has repeatedly demanded more centralized control of independent schools.²¹⁶ Regulations about the supervision of independent schools were somewhat tightened in 2002, and in late 2004, the government proposed new legislation that introduced considerable changes to existing oversight regulations.²¹⁷ The draft legislation was strongly criticized by representatives of independent schools for creating a system of overly strict state control and for streamlining the education offered at independent schools so as to limit the opportunities of these schools to have educational profiles different from those of public schools.²¹⁸ MID added voice to this criticism, saying that while it is important to ensure that independent schools meet certain standards, significant restrictions of their

²¹² See Danish Ministry of Refugees, Immigrants and Integration, *Integrationsforskningen i Danmark 1980-2002* (October 2002), p. 217-218.

²¹³ Danish Ministry of Education, “Friskole får frataget statstilskud,” May 31, 2002, and “Friskole frataget tilskud,” March 14, 2002, at <http://www.uvm.dk>

²¹⁴ “Arabic school put gag on teachers,” *The Copenhagen Post*, February 7, 2002.

²¹⁵ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, February 8, 2005.

²¹⁶ Danish People’s Party, “Louise Frevert forlanger revision af hele friskoleloven: Muslimske friskoler perverterer verdens bedste love for de frie skoler,” February 3, 2002; “DF foreslår statsligt tilsyn med friskoler,” March 23, 2003; “Friskoler skal overvåges fra centralt hold,” July 7, 2004, at <http://www.danskefolkeparti.dk>

²¹⁷ *Forslag til lov om ændring af lov om friskoler og private grundskoler m.v.* (December 2004).

²¹⁸ Dansk Friskoleforening, “Høring over udkast til lov om ændring af lov om friskoler og private grundskoler mv.,” December 3, 2004, at <http://www.friskoler.dk/Ny/DF/Artikler-korrespondence/OffKorrespondence/041203Tilsyn.html> (last visited February 6, 2005).

operational freedom do not appear to be the best solution.²¹⁹ As of this writing, the proposed law had yet to be considered in parliament.

Advocacy of Hatred and Violence in the Name of Islam

In recent years, some imams and other prominent Muslims have become the focus of attention by making comments reflecting a controversial interpretation of Islamic teachings. The following is an example of such a case:

- In September 2004, an Islamic mufti²²⁰ stated in an interview for the TV program "Dialogue with God" that women who do not wear headscarves are not worthy of respect and are themselves to be blamed if they are physically attacked or raped. Among others, the minister in charge of equality issues strongly condemned the statements made by the mufti, emphasizing that respect for the integrity of women is of fundamental importance in Danish society, and that the right of women to decide over their own bodies is a significant element in ensuring equality of women and men.²²¹

When elaborating its visions for how to improve the integration of those of immigrant background in Denmark, the government has stressed the importance of ensuring that imams do not advocate ideas that counteract integration efforts.²²² Against the background of such concerns, new regulations concerning the granting of residence permits to foreign religious clerics, missionaries and other religious workers were introduced as part of an immigration package in June 2004. According to the new regulations, foreign religious workers are required to have relevant background or education to qualify for a residence permit. The regulations also state that foreign religious workers may be deprived of their residence permit if they are found guilty of certain crimes, including hate speech.²²³

The Danish Institute for Human Rights generally welcomed the new rules as they clarified previously existing practice regarding the granting of residence permits to religious workers. However, the Institute also called on the government to engage in dialogue with different religious communities to ensure that differences in religious practice are taken into consideration in the implementation of the new law (e.g. differences with respect to what is considered relevant education and background of religious workers).²²⁴ Zubair Butt Hussain, spokesperson of MID, agreed that it is important to ensure

²¹⁹ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, February 8, 2005.

²²⁰ A mufti is an Islamic religious leader who interprets Islamic law.

²²¹ "Minister: Imamer må sige fra," *DR Nyheder Online*, September 24, 2004, at <http://www.dr.dk>;

"Ligestillingsministerens åbne brev til danske imamer," September 24, 2004, at <http://www.lige.dk>

²²² *The Government's Vision and Strategies for Improved Integration* (June 2003), p. 5.

²²³ Lov nr 427/2004, "Lov om ændring af udlændingeloven og integrationsloven," June 2004, available at the website of the Danish Ministry of Refugees, Immigrants and Integration, <http://www.inm.dk>

²²⁴ Danish Institute for Human Rights, *Menneskeret i Danmark - Status 2004*, p. 83.

that imams do not preach ideas that are unacceptable in a Danish context but stressed that it would be preferable if measures to promote this aim were elaborated through a process that actively involves the country's Muslims. As he sees it, unilaterally imposed measures may cause resentment among Muslims and therefore be counter-productive.²²⁵

Halal Slaughter

Danish legislation establishes a general requirement to stun animals prior to slaughter, but allows for exception for slaughter according to Jewish and Islamic traditions. Ritual slaughter without pre-stunning animals other than poultry may only be practiced in certified slaughter houses, and cattle must be stunned immediately after the ritual slaughter cut.²²⁶ In practice, *halal* slaughter is often carried out so that animals are pre-stunned.²²⁷

With reference to animal welfare concerns, the Danish People's Party has called for abolishing the legal exception currently made for ritual slaughter, and in early 2004, the party launched a campaign to collect signatures for such a change of law.²²⁸ According to a representative of the party, "consideration of religious minorities should not be prioritized over consideration of animals."²²⁹

²²⁵ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

²²⁶ *Dyreværnsloven* (1991), par. 13; *Bekendtgørelse om slagting og aflivning af dyr* (1994), par. 7, available at: <http://www.retsinfo.dk>

²²⁷ Information provided by Zubair Butt Hussain, spokesperson of MID, to the IHF, November 4, 2004.

²²⁸ Danish People's Party, "Underskriftsindsamling mod rituelle slagtinger," February 20, 2004.

²²⁹ Danish People's Party, "Forbyd rituelle slagtinger i Danmark," November 30, 2003.

France

Background Information

There are no official statistics about religious affiliation in France, but it is estimated that some 4-5 million of the 60 million residents are Muslims. This corresponds to about 7-8% of the population, which is a higher number than in any other EU country. It also means that Islam has the second largest number of followers after Catholicism.²³⁰

A majority of Muslims have origins in former French colonies in North Africa, including Algeria, Morocco and Tunisia. During the post-war economic boom in France, labor immigration was significant from these countries, and in subsequent decades, immigration under family reunification schemes followed. There are, however, also considerable groups of Muslims from other regions, such as Sub-Saharan Africa and Turkey.²³¹ About half of all Muslims are born or naturalized French citizens. Many Muslims are concentrated in and around bigger cities, including Paris, Lille and Marseille.²³²

Formal Relations between the State and the Muslim Community of the Country

A law adopted in 1905 establishes *laïcité*, or separation of state and church, as the leading principle in relations between the state and religious groups in France. As a rule, the state does not officially recognize or provide funding to any religious community.²³³ Religious groups may, however, register as associations, which under certain circumstances are eligible for tax-exempt status.²³⁴

While the country's Catholic, Protestant and Jewish communities have had formal representative bodies for a long time, a body representing the country's Muslim community was only recently established. After a decade of negotiations, the government and the leaders of three major Muslim associations – the Union of Islamic Organizations of France (UOIF), the National Federation of the

²³⁰ Haut Conseil à l'Intégration (HCI), *L'Islam dans la République* (2001), p. 26-27. At http://www.islamlaicite.org/IMG/pdf/isl_repu_Ht_conseil.pdf (last visited September 6, 2004)

²³¹ Ibid.

²³² Islamic Institute for Human Rights, "Country Profile: The Conditions of Muslims in France," at <http://www.iifhr.com/Country%20Profiles/France.htm> (last visited September 6, 2004); Juliane Hamer, "Muslims in France," *Islam Online*, January 2000, at <http://www.islamonline.net>; "Muslim population in France," 2003, at http://www.fact-index.com/i/is/islam_in_france.html (last visited September 6, 2004)

²³³ It should, however, be noted that there are a few exceptions to the general rule that the state does not provide funding to religious communities. The public maintenance of religious buildings that existed prior to the adoption of the 1905 law is allowed, and the salaries of chaplains working in schools, hospitals and prisons are subsidized by the state. Moreover, in Alsace and Moselle, public support for the construction of religious buildings remains possible, and in Alsace, followers of the Roman Catholic, Protestant, Lutheran and Jewish religions may choose to transfer a certain percentage of their income tax to the religious communities to which they belong in a system administered by the authorities. Private faith-based schools are also eligible for state support.

²³⁴ See for example, HCI, *L'Islam dans la République* (2001), p. 13-14; Jonathan Laurence, "Islam in France," *Center for European Studies at Harvard University*, December 2001.

Muslims of France (FNMF) and the Mosque of Paris – eventually signed an agreement in December 2002 to create the French Council of the Muslim Religion (CFCM).²³⁵ The CFCM comprises an 18-member board, a 64-member administrative council and a 197-member general assembly, whose members are partly appointed and partly indirectly elected.²³⁶ The role of the CFCM is to serve as a negotiation partner for the government on issues related to the practice of Islam in France, including the construction of mosques, the management of Muslim sections in public cemeteries, the training of imams and ritual slaughter.²³⁷

In the first elections to the CFCM, which were held in April 2004, some 4,000 representatives of close to 1,000 mosques and places of worship elected members of the general assembly, the administrative council and 25 regional bodies.²³⁸ The UOIF, which advocates a strictly conservative interpretation of Islam and has been accused of having links to the international Muslim Brotherhood movement,²³⁹ did better than expected by winning 14 seats on the governing administrative council. The likewise traditionally oriented FNMF won 16 seats, while the more liberally oriented Mosque of Paris won only 6 seats. The position as chair of the administrative council still went to the rector of the Mosque of Paris, as previously agreed.²⁴⁰ Some Muslim leaders have criticized the CFCM for having a non-democratic structure since smaller Muslim organizations are not represented and since a part of its administrative council has not been elected.²⁴¹ New elections to the CFCM have been scheduled for April 2005.²⁴²

Negative Sentiments and Harassment against Muslims

Intolerance against Muslims has reportedly been on the rise in France in recent years. This development has taken place in a political climate where there have been growing concerns about

²³⁵ Human Rights Without Frontiers (HRWF) (an IHF cooperating organization), “Accommodation of the Muslim Religion: France no Longer a Secular State?,” December 11, 2002, at <http://www.hrwf.net>; Patrick Simon, “French Muslims, Government Grapples with Integration Pains,” *Institute national d’études démographiques*, August 1, 2003, at <http://www.migrationinformation.org/Feature/display.cfm?ID=153> (last visited September 6, 2004); John Henley, “France sets up Muslim Council,” *The Guardian*, April 7, 2003, at <http://www.guardian.co.uk/>;

“France creates Muslim council,” *BBC News*, December 20, 2002, at <http://news.bbc.co.uk/>

²³⁶ Jonathan Lawrence, “The New French Minority Policies,” *The Brookings Institution*, March 2003, at <http://www.brookings.edu/fp/cuse/analysis/laurence.htm>

²³⁷ HRWF, “Accommodation of the Muslim Religion: France no Longer a Secular State?,” December 11, 2002; Patrick Simon, “French Muslims, Government Grapples with Integration Pains,” *Institute national d’études démographiques*, August 1, 2003; John Henley, “France sets up Muslim Council,” *The Guardian*, April 7, 2003, at <http://www.guardian.co.uk/>; “France creates Muslim council,” *BBC News*, December 20, 2002, at <http://news.bbc.co.uk/>

²³⁸ “French Muslims Vote for First National Body,” *Internet Center Anti-Racism Europe (ICARE)*, April 2004, at <http://www.icare.to>

²³⁹ This movement, with origins in Egypt, calls for the establishment of Islamic rule.

²⁴⁰ “French Threat to Militant Muslims after Council Vote,” *ICARE*, April 2004.

²⁴¹ See, for example, information about opposition to the CFCM at <http://www.portail-religion.com/FR/dossier/islam/pratique/institutions/CFCM/index.php> (last visited November 29, 2004.)

²⁴² “In The Tent or Out?,” *The Economist*, October 28, 2004, at <http://www.economist.com>

criminality and violence in suburbs dominated by Muslims and others of immigrant origin and where “communitarism” has been perceived as a growing problem. It is widely held that “communitarism,” which is understood to mean that individuals have a stronger religious than republican identity, has become more pronounced during the period of the second intifada²⁴³ and that this has increased the risk of divisions and conflict within French society. Reports about growing tensions between Muslim and Jewish youth have contributed to such views.²⁴⁴

According to Muslim groups, intolerance against Muslims has been further reinforced during the post-September 11 period. As Islam has increasingly been associated with oppression of women, religious fundamentalism and terrorism in public debate, Muslims have experienced increasing suspicion and distrust in their interactions with members of the majority population.²⁴⁵ They have also experienced pressure to justify their commitment to republican values, e.g. in the context of job interviews.²⁴⁶

A growing number of attacks on Muslims have been observed, ranging from verbal harassment to physical assaults and vandalism. The French Organization against Islamophobia (CCIF) was established in 2003 to monitor acts of intolerance and discrimination against Muslims. During the period from October 2003 to August 2004, this organization registered 26 cases of verbal and physical assaults on Muslims, 28 cases of vandalism and attempted arson targeting mosques, and 11 cases of desecration of Muslim graves. Four of the attacks on individual Muslims were considered grave, and over 70% were targeted at Muslim women wearing the headscarf.²⁴⁷ The following cases are among those registered by the organization:

- In April 2004, a series of attacks on Muslim institutions and property was carried out in Strasbourg. Within only a few weeks, the following incidents were reported: a Muslim-owned grocery shop was set on fire; anti-Muslim graffiti was painted on the walls of a mosque; four Muslim graves located in a military cemetery were desecrated; and the facilities of the Islamic funeral directory in the city were targeted by attempted arson.²⁴⁸ In a joint statement, representatives of the Catholic, Protestant and Jewish religions in Alsace expressed

²⁴³ The second intifada refers to the second Palestinian uprising that started in 2000 and that has involved continued violence between Israeli and Palestinian forces, resulting in the death of thousands on both sides.

²⁴⁴ Elaine R. Thomas, “France's Renewed Reaction to the Islamic Headscarf,” Document de Travail de la Chaire de Recherche du Canada en Mondialisation, Citoyenneté et Démocratie Numéro 2004-04, University of Québec, p. 20-21. See also the sections on The Role of Political Leaders and Official Policies and The Islamic Headscarf.

²⁴⁵ Information from CCIF (Collectif contre l'islamophobie) to the IHF per email, September 10, 2004.

²⁴⁶ CCIF, *Rapport d'étape du CCIF sur l'Islamophobie en France 2003/2004*, p. 17.

²⁴⁷ *Ibid.*, p. 8, 17. The monitoring of the CCIF is based on information about anti-Muslim incidents that have been reported to the organization by victims or covered by media, and it does not provide any exhaustive picture of the number of anti-Muslim incidents during the period of monitoring.

²⁴⁸ CCIF, *Rapport d'étape du CCIF sur l'Islamophobie en France 2003/2004*, p. 12.

indignation over the escalation in aggressive acts against the Muslim community in Strasbourg and expressed their solidarity with the Muslim leaders of the region.²⁴⁹

In its first monitoring report published in October 2004, the CCIF also listed a considerable number of internet sites considered to spread anti-Muslim propaganda.²⁵⁰

The rise in hostility against Muslims has been noted with concern by the National Consultative Commission on Human Rights (CNCDDH), a body established by the prime minister that is composed of governmental and non-governmental representatives. The CNCDDH highlighted the problem of racism against Muslims in its 2003 annual report, and referred inter alia to cases of anti-Muslim graffiti, violence against public figures linked to Islam and intolerant statements made by elected officials and newspaper columnists.²⁵¹

Media Coverage of Issues Related to Islam and Muslims

In the aftermath of September 11, media have increasingly been criticized for reinforcing negative stereotypes against Muslims in their coverage of issues related to Islam. According to researchers, reports often serve to associate Muslims with criminality, fanaticism and terrorism, and Muslim representatives feel that media exploit terrorist attacks and other events to depict Islam as a threat to French values. Muslim representatives also regret a tendency in the media to give wide attention to Muslims with extremist views, which are not representative of the majority of Muslims.²⁵²

In its 2003 annual report, the CNCDDH denounced media reports that identify Islam as the sole ideological cause of terrorism committed in the name of Islam and that feed “conspiracy theories” through the use of sensationalist images, headlines and comments.²⁵³

The Role of Political Leaders and Official Policies²⁵⁴

As mentioned above, official French policies toward religious communities are traditionally guided by the principle of *laïcité*. In accordance with this principle, religious practice is discouraged in the public domain, as public manifestations of religious affiliation are considered to jeopardize the unity

²⁴⁹ “Violences anti-musulmanes à Strasbourg : Juifs et Chrétiens indignés,” *AFP*, April 30, 2004.

²⁵⁰ *Ibid.*, p. 32-35.

²⁵¹ Sylvia Zappi, “L’intolérance à l’égard de l’islam passée au crible par la CNCDDH,” *Le Monde*, November 24, 2003, at <http://www.lemonde.fr>. See also CNCDDH, *Bilan des actions racistes, antisémites et xénophobes en 2003* (April 2004), at <http://www.commission-droits-homme.fr>

²⁵² Open Society Institute (OSI), *EU Monitoring Accession Program: The Situation of Muslims in France*, p. 85-86.

²⁵³ CNCDDH, *Bilan des actions racistes, antisémites et xénophobes en 2003* (April 2004).

²⁵⁴ See also the section on the Islamic Headscarf.

of the French people and to create divisions within French society.²⁵⁵ The principle of *laïcité* has never been uncontroversial, but in recent decades the growing visibility of Islam in French society has renewed debates about the boundaries between the public and private sphere with respect to religious freedom. As observed by researchers, in these debates, the growing public presence of Islam has often been confused with a rise in religious fervor and politicization among Muslims, thereby resulting in prejudiced positions.²⁵⁶

In particular, in the aftermath of September 11, concerns about the perceived incompatibility of certain elements of the practice of Islam with the principle of *laïcité* have been linked to concerns about alleged growing fundamentalism and militancy among Muslims. Public discussions have revealed that many politicians and common citizens interpret signs that Muslims take their faith seriously – for example, the use of the headscarf – as meaning that they may be fanatical and opposed to integration in accordance with values of the French republic.²⁵⁷ Against this background, the current government has actively engaged in efforts to encourage the development of a “French Islam,” which is envisioned to be composed of French-speaking and moderate Muslims who are firmly committed to republican values and who have a stronger identity as French citizens than as Muslims.²⁵⁸ These efforts include the establishment of the CFCM but also the new law prohibiting “conspicuous” religious symbols in public schools.²⁵⁹

Although the authorities have insisted that this law is not directed at the members of any particular religion, it has been widely perceived by Muslims as a measure taken against Islam. As a result, it has reinforced pre-existing resentments created by experiences of intolerance and discrimination. Reports also indicate that the turmoil surrounding the law on “conspicuous” religious symbols has contributed to fueling hostility against Muslim women wearing the headscarf.²⁶⁰ The CCIF has concluded that the headscarf has become the primary target of feelings of fear and hatred toward Muslims. According to the organization, those who engage in acts of intolerance and discrimination against veiled Muslim women – ranging from passersby in the street to public service officials – also often appear to feel

²⁵⁵ Compare Paul Yange, “Port du voile, Islam et *laïcité* en France: un débat tronqué?,” November 27, 2003, at <http://www.grioo.com/info1159.html> (last visited November 29, 2004); and John R. Bowen, “Muslim and Citizens,” *Boston Review*, February/March 2004, p. 34, at <http://www.bostonreview.net>

²⁵⁶ Compare Jocelyne Cesari, “Islam in France: The Shaping of a Religious Minority,” in Yvonne Haddad-Yazbek (ed.), *Muslims in the West, from Sojourners to Citizens* (Oxford University Press: 2002), p. 36.

²⁵⁷ Compare John R. Bowen, “Muslim and Citizens,” *Boston Review*, February/March 2004, p. 32.

²⁵⁸ Compare Elaine Sciolino, “France Envisions a Citizenry of Model Muslims,” *The New York Times*, May 7, 2003; Jonathan Laurence, “The New French Minority Policies,” published by the Brookings Institution in the US-France Analysis Series, March 2003.

²⁵⁹ See also the sections on Formal Relations between the State and the Muslim Community and the Islamic Headscarf.

²⁶⁰ See the sections on Negative Sentiments and Harassment against Muslims and Discrimination against Muslims in Different Areas of Society.

righteous in undertaking these acts because Muslim women who wear the headscarf are perceived as a threat to the republic.²⁶¹

Discussions about the relationship between the secular character of the state and the practice of Islam continue, and it is clear that there are differing views within the political elite of the country. In a highly contentious move, the newly elected chairman of the ruling Union for a Popular Majority (UPM) in late 2004 called for a revision of the 1905 law on the separation of state and church so as to allow for the allocation of public funding to major religious communities, including the Muslim community.²⁶²

The far-right Front National Party, which has had a popular support of about 10% since the mid-1980s, has continually campaigned against immigration. Using inflammatory language, the party has depicted various social problems as the result of the growing number of immigrants in the country.²⁶³ In the aftermath of September 11, Front National has stepped up rhetoric against Muslim immigrants, arguing inter alia that the ethics of Islam are not compatible with values of French civilization and that Muslims share an allegiance to a wider community of believers that threatens French sovereignty.²⁶⁴

According to party leader Jean-Marie Le Pen, “[T]here are six million Muslim citizens who are recent arrivals. They entered in civilian dress, in jeans. They would never let six million people with weapons enter our territory. But a person in jeans can become a soldier. If, despite their French citizenship, these Muslims feel an affiliation with another entity, they naturally become suspect in the eyes of those who one day will be compelled to confront them.”²⁶⁵ In an article published in *Le Monde* in April 2003, Le Pen warned against allowing the number of Muslims to increase to a point where they could “command” the country. The statements he made in this article earned him a conviction in April 2004 for inciting racial hatred.²⁶⁶

In a development that sent shock waves through the country, Le Pen qualified for the second round of the presidential elections in 2002. His success prompted tens of thousands to take to the streets to demonstrate against the policies of Front National and, in an unprecedented move, anti-racist

²⁶¹ Ibid., p. 17, 25.

²⁶² Nicolas Sarkozy made this proposal in a book published in October 2004 (*La République, les religions, l'espérance*). See Antoine d'Abbundo, “La laïcité française selon Sarkozy,” *Pèlerin Info*, November 2, 2004, at <http://www.pelerin.info/>

²⁶³ See, for example, Nonna Mayer and Mariette Sineau, “France: The Front National,” included in Helga Amberger and Brigitte Halbmayer (eds.), *Rechtsextreme Parteien* (Leske & Budrich: 2002), p. 45-46.

²⁶⁴ See Front National's program on immigration (“L'immigration: des menaces mortelles pour la France et les français”), at http://www.frontnational.com/doc_id_immigration.php (last visited February 14, 2005).

²⁶⁵ Adam Prior, “The Veil? It Protects Us From Ugly Women,” *The Guardian*, April 25, 2002.

²⁶⁶ “Jean-Marie Le Pen condamné pour incitation à la haine raciale,” *AP*, April 2, 2004.

organizations appealed to the electorate not to vote for him in the run-off.²⁶⁷ Running against incumbent President Jacques Chirac, Le Pen eventually won 17.8%, or more than 4 million votes, in the second round of the elections.²⁶⁸

Discrimination against Muslims in Different Areas of Society

There is hardly any data available on religiously motivated discrimination per se in France.²⁶⁹ However, according to Muslim organizations, whereas previously religious motives typically interacted with ethnic and other forms of bias when discrimination against Muslims took place, discrimination solely on religious grounds has increased in recent years.²⁷⁰

Muslims are reportedly subjected to discrimination inter alia in employment, at schools and universities and when seeking access to service in places such as town halls, hospitals, shops and banks. A great majority of all cases of discrimination registered by the CCIF in 2003-2004 concerned discriminatory treatment against Muslim women wearing the headscarf. Among these were numerous cases in which public service officials demanded that Muslim women remove the headscarf and “show their hair” in order to have their requests dealt with, arguing e.g. that this was necessary to ensure the identity of the women.²⁷¹ In other cases, local officials refused to conduct marriage ceremonies because women were wearing the headscarf, university students were not allowed to take exams wearing the headscarf, and Muslim mothers wearing the headscarf were prohibited from participating in school excursions.²⁷² The organization also registered several cases where women were refused the right to vote wearing the headscarf during the March 2004 regional and cantonal elections.²⁷³

The data compiled by the CCIF indicates that the number of discriminatory acts against veiled Muslim women peaked during those months when the law on “conspicuous” religious symbols was the subject of the most intense public debate.²⁷⁴

Substantiating concerns about discrimination against Muslims and other minority members in the labor market, a study undertaken by the employment agency Aida in May 2004 showed that people with Arab-sounding names are less likely than equally qualified people with French-sounding names to be invited to a job interview. The agency sent out a total of 1,806 fictitious resumes in response to

²⁶⁷ Fédération Internationale des Ligues des Droits de l'Homme (FIDH) and Ligue des Droits de l'Homme, “Lettre aux électeurs de France - Le mai 2002 : plébiscitez la démocratie,” May 2002, at <http://www.fidh.org/lettres/2002/fr/56/actu23fr.pdf> (last visited February 14, 2005).

²⁶⁸ See “Elections in France,” at <http://www.electionworld.org/election/france.htm>

²⁶⁹ OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 71, 90.

²⁷⁰ Information from the CCIF to the IHF, September 10, 2004.

²⁷¹ CCIF, *Rapport d'étape du CCIF sur l'Islamophobie en France 2003/2004*, p. 15-16.

²⁷² *Ibid.*, 23-24.

²⁷³ *Ibid.*, p. 20-21.

²⁷⁴ *Ibid.*, p. 15-16.

258 ads about people needed as senior salespersons and managers. While 30% of all men and 26% of all women with French-sounding names received a positive response, only 5% of those with Arab-sounding names were contacted for an interview.²⁷⁵

Muslim Places of Worship and Burial Facilities

The lack of an adequate number of Islamic prayer spaces to meet demands remains a problem. There are currently about 1,500 Islamic places of worship in the country, most of which are located in private apartments and have only limited capacity. More than two thirds of the existing places of worship can accommodate less than 150 worshippers, and many do not meet public health and security standards. There are only about a dozen mosques that have been built for this purpose. This situation is a source of resentment among Muslims, who feel disadvantaged in relation to members of other faith communities.²⁷⁶

Efforts by Muslim communities to build new mosques have often met with protests among local communities, and local authorities have reportedly sometimes ignored or rejected construction plans on arbitrary grounds.²⁷⁷

Local authorities are in charge of establishing and managing cemeteries. While cemeteries officially are secular, separate sections for Muslim grave sites have been created to facilitate burial in accordance with Islamic traditions, including burial without a coffin. However, because of lack of space, the general practice is to grant concessions for grave sites only for a certain period of time, and to thereafter reuse the sites. This practice is contrary to Islamic traditions, which prohibit the exhumation of people who have been buried, and it is therefore a source of conflict.²⁷⁸

The Islamic Headscarf²⁷⁹

Since the end of the 1980s, the use of the headscarf by students at public schools has been a controversial issue in France. For the first time in 1989, three Muslim students were expelled from a public school in Creil for insisting on wearing the headscarf.²⁸⁰ In the same year, the administrative appeal court, *Conseil d'Etat*, concluded in an important opinion that the use of religious symbols by

²⁷⁵ Thomas Fuller, "The Workplace: In France, Worker Bias Has a Name," *The International Herald Tribune*, November 24, 2004, at <http://www.iht.com>

²⁷⁶ HCI, *L'Islam dans la République*, p. 36-37; OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 115.

²⁷⁷ Jocelyne Cesari, "Islam in France: The Shaping of a Religious Identity," in Yvonne Haddad-Yazbek (ed.), *Muslims in the West, from Sojourners to Citizens* (Oxford University Press: 2002), p. 38; OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 116.

²⁷⁸ HCI, *L'Islam dans la République* (2001), p. 43-44; OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 116.

²⁷⁹ See also the section on Discrimination against Muslims in Different Areas of Society.

²⁸⁰ See the chapter on France in IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America – Report 2004 (Events of 2003)*, p. 157.

students at public schools is not in itself incompatible with the principle of *laïcité*. The court noted, however, that there may be cases where restrictions on the use of religious symbols are permissible, e.g. if such symbols are used as a means of proselytism or propaganda, compromise the health and security of other students or severely disturb education or order at a school.²⁸¹

In subsequent years, Muslim girls in numerous cases were expelled from public schools because of their refusal to remove the headscarf.²⁸² Some of these cases were brought before court, with courts sometimes overturning expulsion decisions. The *Conseil d'Etat* overruled such decisions in 41 out of 49 cases in 1992-1999.²⁸³

The number of expulsions dropped over the years, but in 2003 there were again several highly publicized cases.²⁸⁴ The debate about the use of the headscarf at public schools also gained new life in 2003 with the establishment of a presidential commission to consider the application of the principle of *laïcité* in France. In its final report, which was made public in December 2003, this commission (the so-called Stasi commission) recommended inter alia that students at public schools be prohibited from wearing “conspicuous” religious symbols, such as large Christian crosses, Islamic headscarves and Jewish skullcaps, in order to ensure respect for the principle of *laïcité*.²⁸⁵ More “discreet” symbols, such as medals, small crosses, stars of David, Fatimah’s hands and small Qurans, would not to be affected by the ban.²⁸⁶ While the recommendation for such a ban was of a general character, it appeared obvious that it was formulated primarily with the headscarf in mind.²⁸⁷

In the context of the publication of the report, a broad public debate about the use of the headscarf in public schools took place, with politicians, religious leaders, feminist movements, human rights NGOs, teachers’ unions and many others among the participants. A major argument used by those backing a ban on the use of the headscarf was the importance of retaining the public arena as a culturally and religiously neutral space in order to protect a common French identity and common French values.²⁸⁸ This argument was closely linked to concerns about the integration of Muslims and

²⁸¹ HCI, *L'Islam dans la République*, p. 50.

²⁸² See the chapter on France in IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America – Report 2004 (Events of 2003)*, p. 157.

²⁸³ HCI, *L'Islam dans la République*, p. 50.

²⁸⁴ See chapter on France in IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America – Report 2004 (Events of 2003)*.

²⁸⁵ It should be noted that many Muslims do not think it is correct to describe the headscarf merely as a religious symbol because they consider wearing it to be a religious duty.

²⁸⁶ See the report of the so-called Stasi commission at <http://www.ladocfrancaise.gouv.fr/brp/notices/034000725.shtml> (last visited November 26, 2004).

²⁸⁷ Compare Elaine R. Thomas, “France’s Renewed Reaction to the ‘Islamic Headscarf,’” Document de Travail de la Chaire de Recherche du Canada en Mondialisation, Citoyenneté et Démocratie Numéro 2004-04, University of Québec, p. 3.

²⁸⁸ Compare *ibid.*, p. 15-16.

other minority members into French society and about alleged growing religious fundamentalism and militancy among Muslims.²⁸⁹

Many participants in the debate also claimed that a ban was necessary to protect Muslim girls from oppression and safeguard their right to equality with boys. These participants found support in widely publicized cases of girls being pressured into wearing the headscarf by their families or communities, as well as the activities of Muslim women organizations that vocally opposed the headscarf (including an organization called “*Ni putes, Ni soumises*”, “Neither whores nor ‘submissives’”). Another argument was that a ban, through the restrictions on expressing religious diversity that it would introduce, would help counteract a spill-over of the Israeli-Palestine conflict into public schools, which has been perceived as a growing problem in recent years.²⁹⁰

Among others, Christian, Jewish and Muslim organizations opposed the proposed ban on wearing “conspicuous” religious symbols in public schools. The CFCM found that the proposed ban appeared to target Muslims in a discriminatory manner and concluded that the ban would undermine the right of Muslims to freely practice their religion in accordance with the principle of *laïcité* as it had been understood until then. The CFCM therefore appealed to the president not to endorse the recommendation made by the Stasi commission.²⁹¹ The president, however, chose to give backing to the recommendation, and in early 2004 the French parliament adopted a law prohibiting the wearing of “conspicuous” religious symbols in public schools (hereafter “the law on religious symbols”).²⁹²

International human rights organizations and international monitoring bodies have criticized the law on religious symbols for violating international standards. Commenting on the law prior to its adoption, the IHF noted that wearing certain types of clothing can be an inherent part of the manifestation of one’s religious beliefs and that, under international human rights law, it is not at the discretion of a state to determine which religious manifestations are legitimate as long as they do not violate other people’s basic human rights or do not endanger public safety, health or morals. While stressing that for many Muslim women the use of the headscarf is a deeply personal choice and a sign of their religious conviction, the IHF expressed concern that a ban on wearing the headscarf would

²⁸⁹ Compare Elaine R. Thomas, “France’s Renewed Reaction to the ‘Islamic Headscarf,’” Document de Travail de la Chaire de Recherche du Canada en Mondialisation, Citoyenneté et Démocratie Numéro 2004-04, University of Québec. See also the section on Negative Sentiments and Harassment against Muslims.

²⁹⁰ Ibid.

²⁹¹ “Le CFCM écrit au président Chirac,” *FIDÈS Journal*, December 2003, at <http://fides.ifrance.com/fides/html/laicite7.html> (last visited November 26, 2004).

²⁹² See the text of the law at http://ameli.senat.fr/publication_pl/2003-2004/209.html (last visited November 26, 2004).

serve to mistakenly stigmatize all veiled Muslim women as religious fundamentalists, thereby reinforcing existing prejudices.²⁹³

Human Rights Watch stated inter alia that unnecessary restrictions on children's rights and freedoms should not be promoted as a means of child protection and that safeguarding the rights of students to religious freedom does not undermine secularism in schools but demonstrates respect for religious diversity.²⁹⁴ The UN Committee on the Rights of the Child cautioned that the law on religious symbols "may be counterproductive, by neglecting the principle of the best interest of the child and the right of the child to education."²⁹⁵

The law on religious symbols entered into effect as of the new school year in September 2004. According to information from the French Ministry of Education, about 600 students initially came to school wearing religious symbols banned under the law, most of whom were Muslim girls wearing the headscarf.²⁹⁶ In comparison, official information indicates that some 1,500 girls wearing the headscarf attended public schools in 2003.²⁹⁷

Those students that defied the new law were invited to talks with school authorities, during which time they typically were not allowed to attend regular classes. As a result of such talks, a majority subsequently agreed to comply with the law. However, some 70 students – primarily Muslim girls but also some Sikh boys – continued to insist on wearing their religious clothing, and in late October 2004, schools began expelling students for refusing to obey the law. Those expelled were granted the right to appeal to the head of the local school board, and if they were under age 16 – the legal age for leaving school – they were required to continue their studies by correspondence, at private schools or "through other means."²⁹⁸ As noted above, there are only a few Muslim private schools in France, but a growing number of Muslim students attend private Catholic schools, where they are allowed to wear the headscarf.²⁹⁹ Some Muslim girls wearing the headscarf have reportedly sought refuge at public schools in Belgium.³⁰⁰

²⁹³ IHF, "A French Ban on Religious Symbols Would Violate International Protections of Freedom of Religion," December 17, 2004, at <http://www.ihf-hr.org>

²⁹⁴ Human Rights Watch, "Headscarf Ban Violates Religious Freedom," February 27, 2004, at <http://www.hrw.org>

²⁹⁵ UN Committee on the Rights of the Child, *Concluding Observations: France*, June 30, 2004, at <http://www.unhchr.ch>

²⁹⁶ Hugh Schofield, "Girls 'Observe' French Scarf Ban," *BBC*, September 19, 2004.

²⁹⁷ Jonathan Laurence, *Islam in France: A Contest between the Wind and the Sun*, *New Europe Review*, November 2004.

²⁹⁸ Hugh Schofield, "Girls 'Observe' French Scarf Ban," *BBC*, September 19, 2004; Elaine Sciolino, "France Turns To Tough Policy on Students' Religious Garb," *The New York Times*, October 21, 2004; Elaine Ganley, "France Expelling Muslim Girls Over Scarves," *The Ledger*, October 20, 2004, at <http://www.theledger.com>

²⁹⁹ See the section on Religious Education and Muslim Schools.

³⁰⁰ Reinhold Smonig, "Schulverweis für Verschleierte," *Die Presse*, October 30, 2004, at <http://www.diepresse.at>

Criticism of the law on religious symbols was toned down among Muslim organizations as a result of the August 2004 kidnapping of two French journalists in Iraq.³⁰¹ As the kidnappers demanded that the French headscarf ban be reversed, Muslim leaders chose to assume a low profile so as not to endanger the life of the hostages, while stressing that the headscarf ban was a “purely domestic issue.”³⁰² As a spokesperson of the CFCM put it, “Today we have to worry about the fate of the two hostages.” “The political battle, a purely French one, for religious freedom will resume later on.”³⁰³

However, in October 2004, the UOIF broke the tacit agreement to remain low-key by publicly speaking out against what it perceived to be “unjust” expulsions under the law on religious symbols.³⁰⁴ The organization had advised Muslim girls to wear fashionable bandanas instead of traditional, plain-colored headscarves to circumvent the law. However, some schools did not accept this, arguing that the bandanas were still worn for religious reasons, and several girls who had replaced their headscarves with bandanas were expelled after the period of dialogue had elapsed.³⁰⁵ The UOIF found that these expulsions violated the new law, as it prohibits “conspicuous” but not “visible” religious symbols, and called on the girls concerned to seek court action.³⁰⁶ In one case, a girl who was not allowed to wear a bandana instead of the headscarf chose a drastic strategy to avoid expulsion:

- On October 1, 2004, 15-year-old Cennet Doganay, a Muslim girl of Turkish origin, showed up at the Louis Pasteur Lycee in Strasbourg with her head shaved. Since the start of the school year, Cennet had been excluded from attending classes, and directed to a separate study room, while school officials tried to convince her to remove her headscarf. However, she insisted on covering her hair, and as her attempts to comply with the law on religious symbols by wearing a bandana and a beret were not deemed satisfactory, she decided to shave off her hair. Revealing her bald head, Cennet told reporters that she had concluded that this was the only way to comply with both French and Islamic law.³⁰⁷

The law on religious symbols is due to be reviewed after being in operation for a year.³⁰⁸

³⁰¹ The two hostages were eventually released on December 22, 2004.

³⁰² “French Muslims Show Unity Over Hostage Crisis,” *Islam Online*, September 4, 2004.

³⁰³ Elaine Sciolino, “Ban on Head Scarves Take Effect in France,” *The New York Times*, September 3, 2004.

³⁰⁴ “Islamic Group Claims French Officials Abusing Law on Religious Symbols,” *Associated Press*, October 22, 2004.

³⁰⁵ Yannis Palaiologos, “France Expels Three More Muslim Schoolgirls,” *The Independent*, October 22, 2004.

³⁰⁶ “Islamic Group Claims French Officials Abusing Law on Religious Symbols,” *Associated Press*, October 22, 2004; “French Muslims Urge Scarf Lawsuits,” *Associated Press*, October 22, 2004.

³⁰⁷ “French Schoolgirl Protesting Hijab Ban,” *Islam Online*, October 2, 2004; “Muslim Girl Shaves Head over Ban,” *BBC*, October 1, 2004.

³⁰⁸ See the chapter on France in IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America – Report 2004 (Events of 2003)*.

Religious Education and Muslim Schools

Public schools are strictly secular in France and do not offer any religious instruction, although religious facts are taught as part of the history curriculum.³⁰⁹ Many Muslims reportedly consider it important that information about contributions of Islam be better integrated into the education in public schools.³¹⁰

About 17% of all students at the primary and secondary levels attend private schools. Most private schools hold contracts with the state, under which the state provides subsidies on condition that the schools comply with a nationally approved curriculum.³¹¹ There is one private Muslim school that has had a contract with the state for more than a decade, while another one was approved for a three-year trial period in 2001.³¹² An increasing number of Muslim students attend private Catholic schools, and in some areas with a high concentration of Muslims up to 70% of the students in such schools are Muslims.³¹³

Advocacy of Hatred and Violence in the Name of Islam

The French government has taken a tough stance against the spread of hateful and violent ideas through mosques and has vowed to crack down on imams who advocate ideas that are unacceptable in a democratic context. Police reportedly monitor mosque sermons regularly for the purpose of tracking extremist imams,³¹⁴ and since 2001 more than a dozen Muslim preachers considered to pose a threat to public order have been expelled.³¹⁵

A number of high-profile expulsions were carried out in 2004, including that of Abdelkader Bouziane. Bouziane is an Algerian-born imam who caused a public outcry when he defended the right of husbands to beat their wives and the stoning of adulterous women in a magazine interview published in April 2004.³¹⁶ This case prompted the government to introduce new legislation, which allows for the expulsion of foreigners who “incite discrimination, hatred or violence against a specific person or group of persons.”³¹⁷

³⁰⁹ US Department of State, *International Religious Freedom Report 2003: France*.

³¹⁰ OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 122.

³¹¹ General information about education obtained at <http://www.frenchentree.com/fe-education/DisplayArticle.asp?ID=95> (last visited December 20, 2004).

³¹² OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 124.

³¹³ “French Muslim Girls Eye Catholic Schools,” *Associated Press*, December 12, 2003.

³¹⁴ “French Universities to Enroll Imams,” *Reuters*, December 8, 2004.

³¹⁵ “Training New Imams Seen as Key in Terrorism Fight,” *The New York Times*, October 23, 2004.

³¹⁶ Bouziane was first deported in April 2004, but he was able to return to the country after an administrative court declared his deportation unlawful since he had not been criminally charged and had not been granted any opportunity to defend himself. This decision was subsequently overturned by the highest administrative court in the country, and Bouziane was deported for the second time in October 2004. See “France Can Deport Muslim Cleric,” *BBC*, October 4, 2004; “France Departs Controversial Imams,” *BBC*, October 5, 2004.

³¹⁷ “France Backs Hate Expulsion Law,” *BBC*, July 16, 2004.

The president of the CFCM expressed strong disapproval of the statements made by Bouziane and concluded that someone who defends such ideas is “not worthy” to be an imam. However, at the same time, he criticized the enormous media attention given to such cases, warning that it only helps to fuel intolerance against Muslims.³¹⁸ The president also pointed out that it is only a minority of imams who preach unacceptable ideas and that media portrayals of the country’s imams as “a horde of foreign mercenaries without the slightest regard for rule of law” is badly exaggerated.³¹⁹ The CCIF has voiced concern that the decisions made by the Ministry of Interior to expel imams are typically lacking in detail, which makes it difficult for the imams concerned to defend themselves.³²⁰

As in other EU countries, it is an underlying problem that many imams are not adequately qualified for their positions. There are some institutions of higher learning that offer courses in Islamic theology and training for Muslim clergy, but most of the imams who work in the country have been invited from abroad.³²¹ The authorities are concerned that these imams often lack familiarity with the customs and values of French society and have poor skills in French. According to official statistics, only about 10% of the 1,000 to 1,500 imams who currently reside in the country are French citizens and about half of them are not fluent in French. Many of the “invited” imams have obtained training in religious centers in Arabic and other third countries, but some have reportedly not had any formal religious education. The authorities are also concerned that some mosques obtain funding from fundamentalist oriented sources in countries such as Saudi Arabia, which require that their imams be employed in the mosques in question.³²²

The government has stressed the importance of educating domestic imams in a moderate “French” Islam, which respects human rights and republican values. The CFCM has echoed the importance of comprehensive domestic programs for educating imams but has also emphasized that a lack of funds within the Muslim community prevents the development of such programs.³²³ As noted above, the question of providing state funding to religious communities is highly controversial because of the commitment to the principle of *laïcité*.³²⁴ However, in December 2004, the Interior Minister outlined plans to begin offering courses in French law, civics and history to imams at French universities starting in the fall of 2005.³²⁵ Language courses for imams will be introduced already in the spring of

³¹⁸ “La France expulse Abdelkader Bouziane,” April 21, 2004, at <http://www.algerie-dz.com/>

³¹⁹ Jon Henley, “France Reassures Muslims,” *The Guardian*, May 4, 2004.

³²⁰ CCIF, *Rapport d'étape du CCIF sur l'Islamophobie en France 2003/2004*, p. 10.

³²¹ International Centre for Migration Policy Development, Comparative Study on the Admission of Clergy (January 2005), p. 78.

³²² Ibid.

³²³ Ibid.

³²⁴ See the section on the Role of Political Leaders and Official Policies.

³²⁵ “French Universities to Enroll Imams,” *Reuters*, December 8, 2004.

2005. These courses will be implemented in cooperation with the CFCM and will be financed through a special fund for integration and the combat against discrimination.³²⁶

Halal Slaughter

As in most other EU countries, exemption has been granted for ritual slaughter to be practiced without stunning animals prior to slaughter.³²⁷ *Halal* slaughter can only be practiced in slaughter houses that have been officially authorized for this purpose. As the number of authorized slaughter houses remains low, demand often exceeds supply prior to Islamic holidays, which has sometimes resulted in irregular *halal* slaughter. Such cases have attracted wide media attention and provoked claims of cruelty against animals by, among others, animal welfare groups and Front National.³²⁸

³²⁶ Ministre de l'Intérieur in France, "Une formation pour les imams," February 9, 2005.

³²⁷ HCI, *L'Islam dans la République* (2001), p. 46.

³²⁸ Patrick Simon, "French Muslims, Government Grapples with Integration Pains," Institute national d'études démographiques, August 1, 2003; OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in France*, p. 119.

Germany

Background Information

There are no comprehensive official statistics regarding religious affiliation in Germany. However, primarily on the basis of statistics on the countries of origin of immigrants, it is estimated that there are about 3.3 million Muslims out of a total population of 82 million.³²⁹ Some 500,000 Muslims are citizens of the country.³³⁰ Most Muslims have origins in Turkey, from where immigration peaked in the 1960s-1970s on the basis of bilateral guest worker agreements. In later years, the number of Muslims has primarily increased as a result of family reunification as well as the arrival of asylum seekers from inter alia the Balkans, the Middle East and the Indian Subcontinent.³³¹

About 65% of all Muslims are Sunni, while the rest include some 340,000 Alevites³³² and 170,000 Iranian Imamites and Turkish Shiites.³³³ It is believed that about one third of all Muslims are “formal” Muslims who do not actively practice their religion or even reject it.³³⁴ According to figures published in 2002, only 8% of Muslims regularly participate in Friday prayers.³³⁵ However, according to the Central Institute of Islamic Archives in Germany, mosque attendance increased in 2002-2003. This trend was attributed to a growing sense of vulnerability among Muslims because of the war in Iraq and the impact this was expected to have on popular attitudes toward Muslims.³³⁶

Formal Relations between the State and the Muslim Community of the Country

While state and church are officially separated in Germany, a special relationship exists between the state and religious communities that have the status of “publicly recognized corporations” (“Körperschaften des öffentlichen Rechts”). These communities enjoy a number of privileges, including the right to levy tax on their members. Among others, Lutheran, Catholic, Jewish and a number of minority Christian churches have been given the status as publicly recognized corporations, but so far no Muslim community has obtained this status because of a failure to meet required criteria,

³²⁹ Religionswissenschaftlicher Medien- und Informationsdienst (REMID), “Religionen in Deutschland: Mitgliederzahlen,” October 2004, at <http://www.remid.de>

³³⁰ Information from the Central Council of Muslims in Germany (Zentralrat der Muslime in Deutschland, hereafter “Central Council of Muslims”), at <http://www.islam.de>

³³¹ “Country profile: Germany,” *Euro-Islam Info*, at <http://www.euro-islam.info>; Ceri Peach and Gunther Glebe, “Muslim Minorities in Western Europe,” in *Ethnic and Racial Studies*, Vol. 18:1 (New York: Routledge, 1995); Mathias Rohe, “The Legal Treatment of Muslims in Germany,” presented at International and European Forum on Migration Research in Torino, June 2003, p. 10, at <http://www.fieri.it/>

³³² It should be noted that views vary as to whether Alevism is a form of Islam. See Jean-Christian Peuch, “Court Ruling Shows Authorities' Refusal to See Alevism as a Religious Community,” *Radio Free Europe/Radio Liberty*, February 18, 2002, at <http://www.rferl.org>.

³³³ REMID, “Religionen in Deutschland: Mitgliederzahlen,” October 2004.

³³⁴ Steffen Rink, “Mitgliederzahlen von Religionsgemeinschaften,” Informationsplattform Religion, July 26, 2002, at <http://www.religion-online.info>

³³⁵ “Neue Daten,” *Religion-online Newsletter*, Nr. 2, October 31, 2002, at <http://www.religion-online.info>

³³⁶ *Betanien Nachrichten*, August 2003, at <http://www.betanien.de/newsletter/newsletter1.htm>

such as continuity in size and number. Muslim communities may, however, register as non-profit organizations, which enjoy tax exempt status.³³⁷

There are three national umbrella organizations that represent the interests of the country's Muslims: the Islamic Council of Germany, the Central Council of Muslims in Germany and the Turkish Directorate for Religious Affairs.³³⁸

Negative Sentiments and Harassment against Muslims

Attitudes toward Muslims have reportedly deteriorated in recent years. According to a survey conducted in late 2003, negative stereotypes against Muslims are on the rise among all groups of society.³³⁹ Forty-six percent of all those interviewed in the survey fully or partly agreed with the statement that "Islam is a backward religion," 34% with the statement that "I am distrustful of people of Islamic religion," and 27% with the statement that "immigration to Germany should be forbidden for Muslims."³⁴⁰ Another survey carried out by the Allensbach polling agency in September 2004 indicated that 93% of Germans associate the word "Islam" with "oppression of women" and 83% with "terrorism." Only 6% of those surveyed said that they think of Islam as being "tolerant."³⁴¹

In the aftermath of September 11, Muslims have become increasingly vulnerable to harassment. During the first few months following the attacks on the United States, a series of cases involving verbal abuse, death threats and violent attacks against Muslims and Muslim institutions were reported. Muslim women wearing the headscarf and Muslim men with turbans and long beards were reportedly particularly often the victims of harassment.³⁴² Muslim organizations also observed an increase in anti-Muslim sentiments after the Madrid bombings in March 2004.³⁴³

Following the murder of the film-maker Theo van Gogh in the Netherlands in November 2004, several attacks on mosques occurred, but it was not clear whether or to what extent they were related to the

³³⁷ Mathias Rohe, "The Legal Treatment of Muslims in Germany," presented at International and European Forum on Migration Research in Torino, June 2003; Goethe Institute, "Religions in Germany – Trends and Statistics," at <http://www.goethe.de/>; US Department of State, *International Religious Freedom Report 2003 – Germany*, at <http://www.state.gov/>

³³⁸ "Country Profile: Germany," *Euro-Islam Info*.

³³⁹ Khaled Schmitt, "Islamophobia on Rise in Germany: Study," *Islam Online*, December 26, 2003, at <http://www.islamonline.net>. See also Wilhelm Heitmeyer and Andres Zick, *Anti-Semitism, Islamophobia and Group-Focused Enmity in Germany - Research Note*, Institute for Interdisciplinary Research on Conflict and Violence at University of Bielefeld (May 2004).

³⁴⁰ Wilhelm Heitmeyer and Andres Zick, *Anti-Semitism, Islamophobia and Group-Focused Enmity in Germany - Research Note*, Institute for Interdisciplinary Research on Conflict and Violence at University of Bielefeld (May 2004).

³⁴¹ "Germans Have Negative Views of Islam," *DPA*, September 16, 2004, at <http://www.expatica.com>

³⁴² EUMC, *Anti-Islamic Reactions within the European Union after the Terror Attacks against the USA: Germany* (prepared by European Forum for Migration Studies) (May 2004), at <http://www.eumc.at>.

³⁴³ Central Council of Muslims, "Wie der Terror in Zukunft bekämpft werden kann – Gespräch mit Nadeem Elyas. Muslime müssen Missbrauch ihrer Religion klarer benennen," March 2004.

murder. Among the attacks reported were cases in which a Molotov cocktail was thrown at a mosque in Sinsheim³⁴⁴ and a newly opened mosque in Usingen was targeted by arson.³⁴⁵ A 17-year-old who was believed to have acted on the basis of anti-Turkish attitudes was arrested for the attack in Sinsheim,³⁴⁶ but the perpetrator(s) of the latter attack remained unknown as of this writing.³⁴⁷

Media Coverage of Issues Related to Islam and Muslims

According to the results of a German study that were made public in 2002, media coverage of the conflicts in the Near and Middle East largely serve to associate Islam with terrorism, and therefore have a negative impact on public attitudes toward Islam and Muslims. The researcher behind the study noted inter alia that media often give disproportionate attention to extremist opposition groups and identify Islam as a basis for violence, while overlooking economic and social factors that fuel conflicts. The researcher found that a number of positive efforts were made in the aftermath of September 11 to differentiate between Islam, on the one hand, and those who advocate violence in the name of this religion, on the other. However, these efforts were sometimes only half-hearted, and pictures used to illustrate a story undermined its content.³⁴⁸

While acknowledging positive exceptions, Muslim organizations have expressed concern about a tendency in the media to primarily report on Muslims in relation to security issues in the wake of September 11.³⁴⁹ Among others, the Islamic Council of Germany has called on media to cooperate with Muslim organizations in order to prevent the widespread attention typically given to violence committed in the name of Islam from growing into a rift between Muslims and non-Muslims in the country. In particular, the Islamic Council has encouraged media to increase coverage of the efforts of mainstream Muslim organizations to engage in dialogue and to counteract stereotypes about Islam.³⁵⁰ An example of the kind of media coverage welcomed by Muslim groups is coverage of the “Open Mosque Day,” which for the past eight years has been organized with great success throughout Germany.³⁵¹

³⁴⁴ “Brandanschlag gegen deutsche Moschee,” *Stern*, November 18, 2004, at <http://www.stern.de>;
“Brandanschlag auf Moschee in Sinsheim,” *Frankfurter Allgemeine Zeitung*, November 18, 2004, at <http://www.faz.net>

³⁴⁵ “Brandstiftung in Usinger Moschee - Gebetsraum zerstört - Hintergrund noch unklar,” *Yahoo News Deutschland*, December 23, 2004, at <http://www.yahoo.de>; “Brandanschlag auf Moschee in Hessen,” *AFP*, December 23, 2004.

³⁴⁶ “Festnahme zum Brandanschlag in Sinsheim,” *Muslimzeitung*, December 2004/January 2005, at <http://www.muslim-zeitung.de>

³⁴⁷ “Brandstiftung in Gebetsraum von Usinger Moschee,” *Muslimzeitung*, December 2004/January 2005,

³⁴⁸ “Aufgeklärte Islamphobie,” *Neue Zürcher Zeitung Online*, September 6, 2002, at <http://www.nzz.ch>

³⁴⁹ “Für die Belange der Muslime: Gespräch mit dem Vorsitzenden des Islamrats für die Bundesrepublik Deutschland,” *Islamische Zeitung*, November 26, 2003, at <http://www.islamische-zeitung.de/>.

³⁵⁰ Islamic Council of Germany (Islamrat für die Bundesrepublik Deutschland, hereafter “Islamic Council”), “Islamrat bezeichnet die Ergebnisse der Allensbach-Studie ‘besorgniserregend,’” September 17, 2004.

³⁵¹ Ingrid Scheffner, “Open Mosque Day in Berlin: More Knowledge Leads to More Tolerance,” *The Muslim News*, October 27, 2004, at <http://www.muslimnews.co.uk>

The Role of Political Leaders and Official Policies

Muslim organizations have criticized the German government for conducting its post-September 11 campaign against terrorism in such a way so as to encourage negative attitudes toward Muslims. The Central Council of Muslims has expressed concern that the authorities have used security considerations to justify a range of measures particularly targeting Muslims, which are out of proportion to the aim of enhancing national security.³⁵² Since September 11, thousands of Muslims have been subjected to screening of their personal data, house searches, interrogations and arrests solely because their profiles have matched certain basic criteria, foremost of which is an affiliation with Islam.³⁵³ According to the Central Council of Muslims, up to 70 mosques have also been raided since the attacks on the United States, in most cases without any concrete result.³⁵⁴

- In May 2003, the District Court in Stuttgart ruled that a mosque raid undertaken in Stuttgart-Bad Cannstatt in December 2002 was unlawful. While a local court issued a search warrant that enabled police to carry out the raid, the District Court found that this warrant should not have been issued since there were not sufficient grounds to justify a raid. The information presented to the local court by police had not shown that there was any concrete danger that would necessitate a search of the mosque and had not provided any details of persons or objects that the search was intended to identify.³⁵⁵

The Central Council of Muslims is concerned that the measures taken as part of the post-September 11 campaign against terrorism has had the effect of placing all Muslims under suspicion. As a result, the Council maintains, the campaign has not only served to foster prejudice against members of the Islamic community, but also to undermine the confidence of Muslims in the rule of law in Germany and in the country's law enforcement authorities.³⁵⁶ Muslim and other organizations have also cautioned that counter-terrorism policies that are contrary to rule of law principles and unduly stigmatize Muslims may result in growing support for extremist ideas among Muslims.³⁵⁷

³⁵² Information from Dr. Nadeem Elyas, chair of the Central Council of Muslims, to the IHF, March 10, 2003.

³⁵³ For more information see the chapter on Interference with the Right to Privacy in IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2003), at <http://www.ihf-hr.org>

³⁵⁴ Central Council of Muslims, "Nadeem Elyas im TAZ-Interview: Die Hemmschwelle vor den muslimischen Gotteshäusern sinkt," July 30, 2004.

³⁵⁵ Islamic Association of Germany (Islamische Gemeinschaft in Deutschland), "Auch Moscheedurchsuchung in Stuttgart rechtswidrig," May 2003.

³⁵⁶ Information from Dr. Nadeem Elyas, chair of Central Council of Muslims, to the IHF, March 10, 2003. See also comments by the Central Council of Muslims in Ruth Ziesinger and Jost Müller-Neuhof, "Die Leute werden nachts auf den Betten geholt," *Der Tagesspiegel*, October 16, 2001, at <http://www.tagesspiegel.de>; and "Integration in Gefahr," *Die Tageszeitung*, October 16, 2001 at <http://www.taz.de>.

³⁵⁷ Council of Islamic Communities in Hamburg, Central Council of Muslims, Action Community for Service for Peace, German Section of Pax Christi, "Der gesellschaftliche Friede gerät in Gefahr! Gemeinsame Stellungnahme zur Integration," November 2004.

The November 2004 murder of Theo van Gogh in the Netherlands stimulated renewed discussions about the integration of immigrants in Germany. These discussions, in which both media and politicians participated, largely focused on the “failure” of the idea of a multicultural society and the danger of “Muslim parallel societies.” The opposition Christian Democratic Party re-introduced the concept of the German majority culture as a “*leitkultur*” (“lead culture”), to which immigrants should be expected to adapt. In a high-profile speech at the party’s annual conference in early December 2004, party leader Angela Merkel made a call to this end, while *inter alia* describing German culture as a culture “in which we celebrate Christian holidays, not Muslim holidays.”³⁵⁸ The rhetoric of the Christian Democratic Party, which seemed to suggest that full cultural assimilation of those of foreign origin should be required, was criticized by other political parties and NGOs for agitating feelings and causing fear and frustration among Muslims.³⁵⁹

In a joint statement, two Muslim organizations and two Christian peace initiatives rejected the use of the term “Muslim parallel societies” as inappropriate and dangerous as it conveys the impression that Muslims live outside German society, although they work and pay taxes and go to school as other residents of the country. They noted that some Muslims of immigrant background lead a “secluded” private life, but pointed out that this also occurs among other immigrant groups. Moreover, they emphasized that integration is a two-way process, and that it is wrong only to demand that Muslims show greater willingness to integrate without acknowledging the need to reverse failed integration policies. The organizations concluded that comprehensive efforts to promote integration, which are based on respect for cultural and religious pluralism, are essential to ensure societal peace.³⁶⁰

Discrimination against Muslims in Different Areas of Society

There are no specific statistics available regarding the employment or housing situation of Muslims. However, as people of immigrant origin generally do, Muslims of immigrant background have a higher unemployment rate and a comparatively lower standard of housing than members of the majority population. Many former labor immigrants and their families are reportedly concentrated in inner-city districts, where they were offered accommodation when they first arrived in the 1960s-1970s for what was thought to be a temporary period of time. While Muslims of immigrant background also reportedly experience discrimination in gaining access to the labor market and

³⁵⁸ Honor Mahony, “Multiculturalism Is Failing, Says German Opposition Leader,” *EU Observer*, December 7, 2004, at <http://www.euobserver.com>; Tony Czuczka, “German Opposition: Immigrants Must Adapt,” *The Guardian*, December 7, 2004, at <http://www.guardian.co.uk>

³⁵⁹ “Operation ‘Leitkultur,’” *Stern*, November 21, 2004; Aktion Courage, “Erklärung an CDU-Bundesvorsitzende Frau Dr. Angela Merkel,” November 24, 2004, at <http://www.aktioncourage.org>; TGD, “Türkische Gemeinde kritisiert Debatte über Integration,” December 6, 2004.

³⁶⁰ Council of Islamic Communities in Hamburg, Central Council of Muslims, Action Community for Service for Peace, German Section of Pax Christi, “Der gesellschaftliche Friede gerät in Gefahr! Gemeinsame Stellungnahme zur Integration,” November 2004.

housing, it is not clear to what extent such discrimination is motivated by religious bias, as compared to national or ethnic bias.³⁶¹

In an example of discrimination on religious grounds, Muslims are reportedly sometimes subject to differentiated treatment by local authorities, e.g. with respect to issues such as opening of places of worship.³⁶²

Muslim Places of Worship and Burial Facilities

There are currently more than 2,500 Muslim places of worship in the country, most of which have not been built for that purpose, but are located inter alia in garages, factory buildings and warehouses. However, the number of classical mosques, with domes and minarets, has grown in the last few years and now amounts to about 140.³⁶³

In several cities, plans to construct mosques have met with strong protests, and citizens' movements have been established to oppose the realization of such plans.³⁶⁴ In some cases, protest movements have succeeded in influencing decisions made by local authorities to the detriment of Muslim associations seeking to build mosques. This is an example of such a case:

- In the small city of Schlüchtern in Hessen, an Ahmadiyya Muslim community was granted permission to build a mosque in 2000. However, this mosque is yet to be constructed because of lengthy controversies. A citizens' movement has persistently opposed construction and collected signatures and pressed for a referendum on the issue.³⁶⁵ In its rhetoric, the movement has depicted the Ahmadiyya community as an Islamic sect that represents a threat to the values and identity of the residents of Schlüchtern and that, ultimately, aims to take power in the city.³⁶⁶ While the citizens' movement has found support in the writings of a German social scientist who claims that the Ahmadiyya movement is bent on establishing an Islamic world order, other researchers as well as the Hessen authorities do not consider the movement extremist, albeit conservative and missionary.³⁶⁷ Throughout the period of controversies, no constructive discussions have reportedly been held between the citizens'

³⁶¹ Jochen Blaschke, "Tolerated but Marginalised – Muslims in Germany," in Muhammad Anwar, Jochen Blaschke, Ake Sander, *State Policies toward Muslim Minorities in Sweden, Great Britain and Germany* (European Migration Center: 2004), p. 122-126.

³⁶² ECRI, *Third Report on Germany*. See also the section on Muslim Places of Worship and Burial Facilities.

³⁶³ Jochen Blaschke, "Tolerated but Marginalised – Muslims in Germany," p. 184; Jochen Bittner, "Wer hat Angst vorm Muselman?," *Die Zeit*, Nr. 25/2004, at <http://www.zeit.de>

³⁶⁴ Jochen Bittner, "Wer hat Angst vorm Muselman?," *Die Zeit*, Nr. 25/2004.

³⁶⁵ Renate Holzapfel, "Keine Moschee in Zeiten des Terrors?" in Jürgen Micksch and Anja Schwier, *Islam in Europäischen Dörfern* (Otto Lembeck: 2002).

³⁶⁶ See Bürgerbewegung Pro-Schlüchtern, "Appell and die Mitbürger und Mitbürgerinnen," September 24, 2003, at <http://www.pro-schluechtern.de/>

³⁶⁷ Jochen Bittner, "Wer hat Angst vorm Muselman?," *Die Zeit*, Nr. 25/2004.

movement and the Ahmadiyya community, both of which have accused the other of unwillingness to engage in open dialogue.³⁶⁸ In September 2004, the local council of Schlüchtern adopted amendments to local building regulations, which will prevent the Ahmadiyya community from constructing a mosque both on the plot that it initially bought for the purpose as well as on another plot that it accepted as a compromise gesture in 2001. The Ahmadiyya community criticized this decision for violating the constitutionally guaranteed right to freedom of religion and announced that it intends to appeal the decision in court.³⁶⁹

A number of German cities have municipal cemeteries with separate Muslim sections, but only few of these allow for Muslims to be buried fully in accordance with Islamic traditions, including without a casket. Studies indicate that this is a major reason why about 80% of all deceased Muslims currently are transported back to their countries of origin for burial. In some cases, requests by Muslim associations to establish their own cemeteries have reportedly been rejected on grounds that they do not enjoy the status of publicly recognized corporations.³⁷⁰

The Islamic Headscarf

During the last few years, the possibility of Muslim teachers to wear the headscarf has become a disputed issue. In 2003, the Federal Constitutional Court ruled that it was wrong of the state of Baden-Württemberg to ban a Muslim teacher from wearing the headscarf. However, while arguing that legislation existing at the federal state level at the time did not allow for such a decision, the Court indicated that it would be within the rights of individual federal states to adopt legal provisions facilitating a ban.³⁷¹

A number of federal states have subsequently adopted legislation to ban teachers from wearing the headscarf and other religious attires, and in one federal state – Hessen – the ban was extended to all public officials.³⁷² While the new provisions apply to political, religious and ideological manifestations generally, they have in several cases been formulated so as to allow for exceptions for

³⁶⁸ Ibid.

³⁶⁹ “Wir werden das nicht hinnehmen,” *Kinzigal-Nachrichten*, September 7, 2004; “Verfahren ruht,” *Kinzigal-Nachrichten*, September 9, 2004; “Die Ahmadiyya werden Klage vor dem Verwaltungsgericht gegen die Stadt Schlüchtern erheben,” *Kinzigal-Nachrichten*, September 28, 2004, at <http://www.kinzigal-nachrichten.de>

³⁷⁰ Jochen Blaschke, “Tolerated but Marginalised – Muslims in Germany,” p. 158-159.

³⁷¹ Islamic Human Rights Commission, “Briefing: Good Practice on the Headscarf in Europe,” March 2004, at <http://www.ihrc.org>; *BBC News*, “Headscarves in the Headlines,” February 2004, at <http://bbc.co.uk>; Central Council of Muslims, “Zum Kopfurteil,” September 2003.

³⁷² “Hessen verbietet allen Beamtinnen das Kopftuch,” *T-Online Nachrichten*, October 2004, at <http://www.t-online.de>; “Hessen verbietet allen Beamtinnen das Kopftuch,” *Der Spiegel Online*, October 7, 2004, at <http://www.spiegel.de>; “Hessen beschließt Kopftuchverbot,” *Lehrer Online*, October 8, 2004, at <http://www.lehrer-online.de>

the expression of Christian and occidental values.³⁷³ As noted by legal experts, such formulations are problematic in the light of the principle of non-discrimination.³⁷⁴

- New legislation adopted in Baden-Württemberg in April 2004 prohibits teachers from expressing political, religious and ideological beliefs through clothing, which may be considered to threaten the peaceful atmosphere of the school or the neutrality of the country. The legislation makes an exception for “the manifestation of Christian and occidental cultural and educational values,” and although the exact scope of this exception is left unclear, the authorities of Baden-Württemberg have indicated that it is intended to cover the wearing of Christian crosses and nun's attire.³⁷⁵ In June 2004, the Federal Administrative Court expressed approval of the new provisions. However, in written arguments that were made public a few months after the ruling, the Court emphasized that the ban laid down by the Baden-Württemberg legislation must apply to all forms of religious clothing and that exceptions for certain forms of religious attire are not acceptable.³⁷⁶ When commenting on the issue, the minister of cultural affairs in Baden-Württemberg said that she thinks that teachers should still be allowed to wear nun's attire in public state schools since it can be considered a form of “professional” rather than “religious” clothing.³⁷⁷

Muslim organizations have criticized the efforts of various federal states to ban the headscarf in schools and other public institutions. The Central Council of Muslims has highlighted that even if there are cases where parents force their children to wear the headscarf, most Muslim women in Germany who wear the headscarf do so voluntarily because they feel it is a religious duty. Accordingly, the Council believes that the right to wear the headscarf should be protected under the constitutional guarantee of freedom of religion.³⁷⁸

The German Institute for Human Rights has observed that the freedom of religion of teachers who wear the headscarf may *potentially* be in conflict with several other fundamental values: the principle of equality of women and men, the right of students not to be exposed to religious influence against

³⁷³ See, for example, “Baden-Württemberg beschließt Kopftuchverbot,” *Süddeutsche Zeitung*, April 1, 2004, at <http://www.sueddeutsche.de>; “Saarland verbietet Lehrerinnen Kopftuch,” *SR Online*, June 23, 2004; “Hessen verbietet allen Beamtinnen das Kopftuch,” *T-Online Nachrichten*, October 2004; “Germany’s Bavaria Bans Teachers from Wearing Religious Symbols,” *Bloomberg*, November 11, 2004.

³⁷⁴ See, for example, “Hessen verbietet allen Beamtinnen das Kopftuch,” *T-Online Nachrichten*, October 2004.

³⁷⁵ “Kopftuchverbot bestätigt,” *Frankfurter Allgemeine Zeitung*, June 25, 2004, at <http://www.faz.net>; AFP, “Moslemische Lehrerin Ludin darf nicht mit Kopftuch unterrichten,” June 24, 2004, at http://123recht.net/article.asp?a=9490&f=nachrichten_vor-gericht_20040624-213533cb&p=1 (last visited September 6, 2004); Micheal Mielke, “Baden-Württemberg verteidigt Kopftuchverbot vor Gericht,” *Die Welt*, June 25, 2004, at <http://www.welt.de>

³⁷⁶ “Auch Nonnen müssen jetzt oben ohne,” *Der Spiegel*, October 9, 2004.

³⁷⁷ Jochen Leffers, “Nicht ohne meine Kutte,” *Der Spiegel*, October 12, 2004.

³⁷⁸ Central Council of Muslims, “Das Kopftuch,” October 20, 2003.

their will, the right of parents to educate their children and the principle of religious neutrality of the state. The Institute has, however, stressed that general bans on the use of the headscarf are highly problematic, and that it is only justified to restrict the freedom of religion of teachers if, in an actual case, the exercise of this right is found to be in conflict with other fundamental values.³⁷⁹

The UN Committee on the Rights of the Child has also expressed concern at laws imposing general bans on the headscarf for teachers, noting that such bans do not contribute to “the child’s understanding of the right to freedom of religion” or to “the development of an attitude of tolerance,” which is defined as a major aim of education under the Convention on the Rights of the Child.³⁸⁰

Moreover, the Central Council of Muslims has warned that decisions by federal state authorities to prohibit public officials such as teachers from wearing the headscarf set a bad example for private employers and counteract efforts to combat prejudices against Muslims.³⁸¹ Adding to such concerns, in the discussions surrounding the adoption of new legislation prohibiting the manifestation of religious and other values, the headscarf has often been portrayed primarily as an expression of the oppression of women as well as of religious fundamentalism.³⁸² Generalized statements of this kind reinforce prejudiced and negative attitudes toward women who wear the headscarf for religious reasons.

Religious Education and Muslim Schools

The German Constitution guarantees the right to receive denominational religious instruction in public schools. The instruction is to be provided by religious communities, with the authorities exercising a supervisory role. In principle, any religious community may request to provide instruction if there is a sufficient number of students who would be interested in participating in such classes.³⁸³ As regards Islamic classes, some German federal states have cooperated with the Turkish government to organize Turkish mother-tongue classes, which also involves instruction in Islam. However, this instruction has only been open to Turkish-speaking Muslims and has often had a more nationalist than religious character.³⁸⁴

³⁷⁹ German Institute for Human Rights (Deutsches Institut für Menschenrechte), *Zur Aktuellen Kopftuchdebatte in Deutschland* (written by Heiner Bielefeld) (2004), at <http://www.institut-fuer-menschenrechte.de>

³⁸⁰ UN Committee on the Rights of the Child, *Concluding Observations: Germany*, February 2004, at <http://www.unhcr.ch>

³⁸¹ Central Council of Muslims, “Das Kopftuch,” October 20, 2003.

³⁸² See, for example, speech by the chair of the Christian Democratic fraction in the Hessen parliament regarding new legislation proposed in this federal state (“Rede des CDU-Fraktionsvorsitzenden Dr. Franz Josef Jung zum Gesetz zur Sicherung der Staatlichen Neutralität”) (2004), at http://www.cdu-fraktion-hessen.de/php_2/perform_download.php?id=15918 (last visited February 15, 2005).

³⁸³ Mathias Rohe, “The Legal Treatment of Muslims in Germany,” p. 11.

³⁸⁴ Ibid.

In several federal states, requests made by non-governmental Muslim associations to start offering classes in Islam have been rejected inter alia with the argument that the associations in question do not constitute religious communities in a legal sense.³⁸⁵ However, in the last few years, trial classes in Islam have been introduced in a number of public schools in different parts of the country.³⁸⁶ For example, after 20 years of discussions and legal processes, the Berlin Islamic Federation was granted the right to provide instruction in Islam in the capital in 2000, and is offering courses in a total of 30 public schools as of the fall semester 2004. The instruction offered by the Federation is implemented within a framework plan, which has been approved by federal state authorities.³⁸⁷

One argument that has been used by those advocating the introduction of instruction in Islam in public schools is that the organization of such classes will reduce the risk that Muslim students are exposed to extremist teachings in so-called Quran schools. These schools, which offer Muslim students instruction in Arabic and the Quran outside regular school hours, are not subjected to any state control, and there are concerns that some of them communicate ideas that undermine the integration of Muslims into German society.³⁸⁸ According to the Central Institute of Islamic Archives in Germany, about 18% of all Muslim school children attended Quran schools in 2003.³⁸⁹

As the first of its kind, a program for training teachers in Islam will be launched at the University of Münster in 2005. The new program is seen as a measure that will help remedy the lack of competent teachers, and as an important step toward equal treatment of Muslim students with Christian students in terms of religious education in schools.³⁹⁰

Advocacy of Hatred and Violence in the Name of Islam³⁹¹

German legislation allows for the expulsion of foreigners whose presence in Germany is considered to impair public security and order or other important interests of the country.³⁹² For the first time, in late 2004, an imam was ordered expelled under this provision for engaging in hateful rhetoric:

³⁸⁵ See inter alia Central Council of Muslims, "Weitere Hürden für den islamischen Religionsunterricht in NRW", December 2004; Islamic Association of Germany, "Kein islamischer Religionsunterricht in Hessen," June 2004, at <http://www.i-g-d.com>; "Islamischer Religionsunterricht in Bayern lässt auf sich warten," *Religion-online Newsletter*, Nr. 3, December 11, 2002.

³⁸⁶ See *Religion-online Newsletter*, Nr. 4, May 22, 2003.

³⁸⁷ Islamic Federation in Berlin (Islamische Föderation in Berlin), "Die IFB wird ab Schuljahr 2003-2004 an weiteren 15 Schulen den Islamischen Religionsunterricht erteilen," August 2004, at <http://www.islamische-foederation.de/iru>.

³⁸⁸ Mathias Rohe, "The Legal Treatment of Muslims in Germany," p. 12-13, Andreas Tzortis, "The Battle for German Muslim Minds," *Deutsche Welle*, July 28, 2004, at <http://www.dw-world.de>

³⁸⁹ Ibid.

³⁹⁰ Die Landesregierung Nordrhein-Westfalen, "Zielvereinbarung mit der Universität Münster unterzeichnet/Minister Behler: Lehrerausbildung für Islamunterricht ist ein wichtiges Signal," May 21, 2002, at <http://www.presseservice.nrw.de>; "German University to Qualify Muslim Islam Teachers," *Islam Online*, July 5, 2004.

³⁹¹ See also the section on Religious Education and Muslim Schools.

- In December 2004, immigration authorities ordered the expulsion of an imam with Turkish citizenship who was deemed to have expressed himself in a way aimed at “disturbing the peaceful coexistence of people inside and outside of Germany.”³⁹³ The decision was made with reference to statements made by the imam on two different occasions. During a sermon delivered at a Berlin mosque in November 2004, which was secretly taped by journalists from the TV station ZDF, he said inter alia that all Germans are “destined to burn in hell” because they are unfaithful and that they are “of no use” and “stink.” At a public meeting in Berlin in June 2004, he depicted suicide assassins in Israel and Iraq as heroes.³⁹⁴ These statements were considered by immigration authorities to encourage terror activities and were found to be particularly grave since the imam held a position in which he served as a model for others. When the expulsion decision was announced, it was, however, emphasized that the case should not be viewed as anything other than an isolated case.³⁹⁵ The imam appealed the decision to court, and as of this writing, the decision was still pending.³⁹⁶

This case stimulated new discussions about ways to prevent imams from using hateful and violent rhetoric. Some politicians proposed controversial measures such as depriving those imams who advocate violence and hatred of their German citizenship and requiring that mosque sermons be given in German. Others argued that education of imams at German universities should be developed.³⁹⁷ Muslim organizations agreed that it is important to take measures to ensure that imams do not engage in hate and violent speech, noting that this is in the best interest of the Muslim community. While they rejected the idea of imposing an obligation to deliver sermons in German as ill-considered and as an undue intrusion into the private sphere that mosques constitute, they found it appropriate that mosques provide translations into German on a voluntary basis to facilitate transparency of the content of services. They also supported efforts to educate imams in Germany.³⁹⁸

Already in July 2004, as part of a new immigration law, new provisions were adopted to facilitate the expulsion of “hate mongers.” These provisions allow for the expulsion of foreigners who “incite hatred” against, “call for violence or arbitrary measures” against, or “insult” or “defame” certain segments of the population, if this is considered to disturb public security or order.³⁹⁹ Civil rights

³⁹² Article 45 of the Immigration Law in force until the end of 2004, and article 55 of the new Immigration Law that entered into force as of January 2005.

³⁹³ Berlin Senatsverwaltung für Inneres, “Imam der Mevlana-Moschee wird ausgewiesen,” December 16, 2004, at http://www.berlin.de/SenGesSozV/auslaender/top/top_januar05.pdf (last visited January 31, 2005).

³⁹⁴ “Imam soll gehen,” *Die Tageszeitung*, December 17, 2004.

³⁹⁵ Berlin Senatsverwaltung für Inneres, “Imam der Mevlana-Moschee wird ausgewiesen,” December 16, 2004.

³⁹⁶ “‘Hassprediger’ klagt gegen Ausweisung,” *Der Tagesspiegel*, January 13, 2005.

³⁹⁷ “Deutschen Pass entziehen? Schönbohm will Hassprediger stoppen,” *N24*, November 16, 2004, at <http://www.n24.de>

³⁹⁸ “Islamische Predigt in Deutsch erfordert Lehrstuhl,” *Muslimzeitung*, December 2004.

³⁹⁹ See information on the new legislation at http://www.bundesregierung.de/artikel-413.671622/Einzelheiten-des-Zuwanderungsg.htm#6_Sicherheitsaspekte (last visited January 31, 2005).

groups expressed concern that the new provisions are vaguely formulated and may allow for arbitrary interpretations as to what is considered “hate mongering.”⁴⁰⁰ The new immigration law entered into effect in January 2005.

Halal Slaughter

For many years, the practice of *halal* slaughter was the subject of a legal struggle in Germany. Putting an end to this struggle, the Federal Constitutional Court ruled in 2002 that Muslims have the right to exception under animal protection legislation for practicing ritual slaughter without pre-stunning animals.⁴⁰¹ This development was welcomed by Muslim groups as a decision confirming the right of Muslims to exercise their religion on an equal basis with other religious communities.⁴⁰² However, discussions as to whether ritual slaughter should be allowed reportedly continue.⁴⁰³

⁴⁰⁰ Aktion Courage, “Erklärung zum Zuwanderungskompromiß,” June 20, 2004, at <http://www.aktioncourage.de>; Humanistische Union and others, “Gemeinsame Presseerklärung zur Zuwanderungsgesetz,” March 30, 2004, at <http://www.aktioncourage.de>

⁴⁰¹ Jochen Blaschke, “Tolerated but Marginalized – Muslims in Germany,” p. 180.

⁴⁰² Central Council of Muslims, “Dieses Urteil bedeutet eine Gleichbehandlung der Muslime mit anderen Religionsgemeinschaften und festigt ihr Grundrecht auf Ausübung ihrer Religion,” January 2002.

⁴⁰³ Jochen Blaschke, “Tolerated but Marginalized – Muslims in Germany,” p. 180-181.

Greece⁴⁰⁴

Background Information

The Muslim minority in Western Thrace has been officially recognized as a religious minority by the Greek government.⁴⁰⁵ According to estimates, the minority comprises 50,000 Turkish-speakers, 30,000 Pomaks and 10,000 Roma. However, many members of the two latter two groups identify themselves as Turks.

As a result of immigration during the last three decades, and in particular since the late 1980s, there is also a growing community of Muslim immigrants in Greece. There is no exact figure as to the size of this group, but it is estimated that some 200,000 to 300,000 Muslims of Albanian, African and Arabic origins live in the country. These are primarily settled in larger cities, above all in Athens. The total number of immigrants in the country is estimated to be over 1 million, about two thirds of whom are documented or in the process of being documented. The total population of Greece is about 10.9 million.

Formal Relations between the State and the Muslim Community of the Country

About 80% of the population of Greece belongs to the Greek Orthodox Church, which is designated a “prevailing religion” by the Greek Constitution. The relations between the state and the Greek Orthodox Church are intimate, and the church is afforded preferential treatment in comparison with other religious communities.

In addition to the Greek Orthodox Church, the country’s Jewish and Muslim communities are recognized as legal subjects of public law. The Muslim community also enjoys special protection under the Lausanne Peace Treaty, which was signed by Greece and Turkey in 1923. Under this treaty, which is considered “fundamental” in relation to other relevant legislation, Muslims have inter alia the right to establish schools and charities, to enjoy protection of their places of worship, to receive instruction in their own language (Turkish) and to settle questions concerning family law or personal status in accordance with their own customs.

The Greek government asserts, however, that the Treaty of Lausanne does not apply to Muslims who live outside Western Thrace and, therefore, that these are not entitled to the rights provided by the

⁴⁰⁴ Unless otherwise noted, this chapter is based on Greek Helsinki Monitor (GHM, an IHF member committee), *Religious Freedom in Greece* (September 2002), at http://www.greekhelsinki.gr/bhr/english/organizations/ghm_mrgg_religious_freedom_2002.rtf, and additional information from GHM.

⁴⁰⁵ For more information about the status of this Muslim minority see the section on Discrimination against Muslims in Different Areas of Society.

treaty.⁴⁰⁶ Hence, Muslims who have migrated from Western Thrace to other areas of Greece, Muslims who live in the Dodecanese islands that were annexed by Greece in 1945 and recent Muslim immigrants who live outside Western Thrace do not enjoy the same rights as Muslims in that region.

Members of the Muslim minority in Western Thrace have expressed resentment that some provisions of the Lausanne Peace Treaty have not been fully respected by the government, such as a provision granting them the right to establish and manage private charities. The authorities have refused to allow members of the Muslim community in the region to elect the members of the boards of such charities and have instead appointed board members of their own choice. Members of the Muslim minority in Western Thrace have also criticized the policies of the government regarding the appointment of muftis with the right to issue verdicts with civil validity in the region.⁴⁰⁷

Negative Sentiments and Harassment against Muslims

Against the background of rapidly increasing immigration, anti-immigration sentiments have been on the rise in Greek society in recent years. Out of those interviewed for a survey commissioned by the EU in 2003, 83% had either very negative or quite negative attitudes towards immigrants. This was a higher percentage than in any other EU member state where a corresponding survey was conducted.⁴⁰⁸

Moreover, as Greek national identity is commonly linked to affiliation with the Greek Orthodox Church, and members of other religious communities are generally not considered “true” Greeks, followers of Islam and other minority religions are often faced with prejudiced attitudes. Such attitudes are sometimes encouraged by representatives of the Greek Orthodox Church, who are given wide coverage in media.⁴⁰⁹ Adding to the problem, public prosecutors are often reluctant to prosecute anti-Muslim speech by Greek Orthodox Church officials, and political leaders also typically do not condemn such statements. As a matter of fact, there has never been a prosecution under the country’s anti-racist criminal law.⁴¹⁰

According to Greek Helsinki Monitor (GHM, an IHF member committee), the widespread prevalence of intolerant attitudes is closely related to the facts that no effective measures have been taken to foster anti-racist attitudes among the public and that Greek students are taught to take excessive pride in their “ethnic Greek identity.”

⁴⁰⁶ US Department of State, *International Religious Freedom Report 2003: Greece*, at <http://www.state.gov>

⁴⁰⁷ See also the section on *Halal Slaughter and Other Matters of Islamic Law*.

⁴⁰⁸ European Network against Racism (ENAR), *ENAR Shadow Report 2003: Greece* (author: Samsideen Iddrisu), p. 5, at <http://www.enar-eu.org>.

⁴⁰⁹ *Ibid.*, p. 18.

⁴¹⁰ European Monitoring Centre on Racism and Xenophobia, *Annual Report 2003/2004*: Part 2, p. 13-14, at <http://www.eumc.at>

Media Coverage of Issues Related to Islam and Muslims

In the aftermath of September 11, anti-racist organizations reported that some media reports reflected a prejudiced approach toward Islam. For example, several reports were written in a way so as to suggest that a terrorist threat may emerge from within neighboring countries of Greece that are predominantly Muslim. It was, however, observed that mainstream media dealt with the developments related to the terrorist attacks on the United States in a more analytical manner.⁴¹¹

More generally, media have been criticized for frequently reporting on immigration issues in an unbalanced and sensational way, including by associating immigrants with social problems such as crime. Thus, although improvements in coverage of migration related issues have been observed in recent years, many reports continue to contribute to negative stereotypes against those of immigrant background.⁴¹²

The Role of Political Leaders and Official Policies

After being a country of emigration for most of the post-World War II period, Greece has increasingly been transformed into a country of immigration in recent decades. However, according to GHM, the authorities remain reluctant to acknowledge the multicultural character of contemporary Greek society, and continue to deny the presence of different ethnic and religious minorities in the country. This approach serves to reinforce popular perceptions that cultural and religious pluralism is something negative and undesirable rather than a source of richness.

There are also concerns that Greek immigration policies, which appear largely to be based on the notion that immigration is a problem, contribute to negative attitudes toward those of immigrant origin. Human rights groups and international monitoring bodies have repeatedly criticized the Greek government for implementing immigration policies that are in violation of international human rights standards. The Greek authorities reportedly frequently fail to inform immigrants who arrive in the country of their rights and sometimes deny immigrants the opportunity to apply for asylum and arbitrarily deport them.⁴¹³ Under a protocol on the reciprocal return of illegal immigrants that was

⁴¹¹ EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Attacks against the USA: Greece* (prepared by Information Centre for Racism, Ecology, Peace and Non-Violence) (May 2002), p. 10.

⁴¹² Kalliopi Lykovardi (investigator at the Office of the Greek Ombudsman), "General Overview of Discrimination in Greece," International Organization for Migration (IOM), December 2002, p. 4, at <http://www.iom.fi/anti-discrimination/pdf/Greece.PDF> (last visited February 17, 2005).

⁴¹³ GHM, *Violations of Asylum Seekers' Rights 2001-2003*, March 2003, at http://www.greekhelsinki.gr/bhr/english/organizations/ghm/ghm_08_03_03.doc; Appeal by 45 NGOs in connection with the General Assembly of the Euro-Mediterranean Human Rights Network in June 2002, at <http://www.hrw.org/campaigns/migrants/docs/greece-detainees.pdf>; UN Committee against Torture, *Conclusions and Recommendations: Greece*, November 2004, at <http://www.unhchr.ch>

agreed upon with Turkey after September 11, hundreds of persons fleeing persecution are believed to have been forcibly turned back in violation of the principle of *non-refoulement*.⁴¹⁴

In a positive development, a program to regularize the status of unregistered immigrants was introduced in 2001. However, its implementation has been marred by problems, and, as a result, only a small number of those 600,000 who had applied for registration under the program had actually been granted a residence permit by the end of 2004. At the same time, a comprehensive policy to facilitate the integration of immigrants beyond the simple legalization of their presence was yet lacking.

In the climate of fear and vulnerability that was created by the September 11 events, some ultra-nationalist movements engaged in fierce rhetoric against Muslims, e.g. arguing that Islam has an aggressive and violent nature and that the presence of Muslims in Greece constitutes a threat to national security. The Greek Front party issued posters calling for mass deportation of Muslim immigrants. However, government representatives and other high-profile politicians publicly emphasized the importance of making a distinction between those committing terrorist acts in the name of Islam and Muslims in general.⁴¹⁵

Discrimination against Muslims in Different Areas of Society

While the primarily Turkish-speaking Muslim community in Western Thrace is treated as a religious minority, it has not been recognized as a national minority and thus does not enjoy protection as such. This is resented by members of the Muslim community, many of whom would prefer to be recognized as belonging to an ethnic Turkish minority. The restrictive approach of the Greek authorities with respect to the recognition of ethnic and religious minorities has repeatedly been criticized by international monitoring bodies.⁴¹⁶

The Muslim community in Western Thrace is economically disadvantaged, and its members often have only limited access to qualified employment positions because of insufficient proficiency in Greek and lack of higher education. The latter is closely related to the fact that the level of education in the minority schools of the region is comparatively poor.⁴¹⁷

Muslim and other immigrants, in particular those who are not registered with the authorities, are vulnerable to exploitation in the labor market. Typically carrying out physically demanding and low-status jobs, immigrants are often paid less than the minimum salary, work overlong hours, and are not

⁴¹⁴ For more information, see the chapter on Asylum, Immigration and Border Control Policies in IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2002), at <http://www.ihf-hr.org>

⁴¹⁵ EUMC, *Anti-Islamic Reactions in the EU after the Terrorist Attacks against the USA: Greece*, p. 5, 7.

⁴¹⁶ See, for example, UN Committee on Economic, Social and Cultural Rights, *Concluding Observations: Greece*, May 2004, at <http://www.unhchr.ch>

⁴¹⁷ See also the section on Religious Education and Muslim Schools.

insured against accidents and illness. Because of inadequate measures to ensure workplace safety, there are a high number of work-related accidents among immigrant workers, including those resulting in death.⁴¹⁸ Immigrants also reportedly experience discrimination in access to public places and housing and are sometimes charged unduly high rents for substandard apartments.⁴¹⁹

Moreover, police misconduct against Muslim and other immigrants remains a serious problem because of widespread impunity. There are many reports of arbitrary police checks and arrests as well as ill-treatment and torture against immigrants. Among others, the UN Committee against Torture has expressed concern about the excessive use of force by police and border guards, which often target members of socially disadvantaged groups.⁴²⁰

During the last few months leading up to the August 2004 Olympic Games in Athens, Muslim neighborhoods in the capital were reportedly subjected to intensified scrutiny. With reference to the aim of preventing terrorist attacks during the games, police carried out mass raids to check identity documents and stepped up surveillance of Islamic places of worship.⁴²¹ According to GHM, these measures did not always appear to be proportionate, and in several cases they involved harassment against Muslims.

GHM has also voiced concern about indications of discriminatory police profiling targeting Muslims:

- In April 2004, Greek media reported that the Chief of the Hellenic Police had made a statement during a police seminar that seemed to suggest that Muslims generally should be considered terrorist suspects. GHM denounced the statement and asked the police chief to clarify what he had meant but did not receive any response. The organization also informed the Greek Ombudsman about the incident, but no action was taken by this office.⁴²²

Muslim Places of Worship and Burial Facilities

According to legislation dating back to the 1930's, all religious communities except those representing the Greek Orthodox Church must obtain permission from the Ministry of National Education and Religious Affairs in order to open houses of worship. The requirements for permission include that the religious community applying for permission does not endanger public order or morals through its

⁴¹⁸ ENAR Shadow Report 2003: Greece, p. 9-10; Stavros Skrinis, "Migration Policies in Greece," European Migration Center, 2003, at <http://www.emz-berlin.de>

⁴¹⁹ ENAR Shadow Report 2003: Greece, p. 11; Kalliopi Lykovardi, "General Overview of Discrimination in Greece," p. 4.

⁴²⁰ UN Committee against Torture, *Conclusions and Recommendations: Greece*, November 2004.

⁴²¹ "Athens Olympics under the Shadow of Anti-Muslim Racism," *Independent Race and Refugee News Network*, April 22, 2004, at <http://www.irr.org.uk>

⁴²² GHM, "Racial Profiling of Muslim Migrants by Hellenic Police," July 9, 2004.

worship practices and does not engage in proselytism. Until recently, the Greek Orthodox Church was always consulted before a decision was made, but this practice is reportedly no longer considered necessary.

According to official information, some 290 mosques operate in Western Thrace and on the islands of Rhodes and Kos,⁴²³ while there is no mosque to serve the estimated 200,000 Muslims in Athens. Following more than two decades of lobbying by Muslim representatives, the Greek government eventually granted permission to construct a mosque in the capital in 2000. However, because of lengthy controversies, this mosque is yet to be built.

Land for the mosque, which will be paid for by the Saudi Arabian government, has been made available in Peania, a suburb of Athens. It appears that the decision to locate the mosque outside downtown Athens was made under influence by the Greek Orthodox Church, which has opposed plans to construct a mosque in the city center, arguing that “the people are not ready for accepting the site of a minaret in the center of a Christian Orthodox country.”⁴²⁴

However, the choice of the site in Peania has also caused opposition. The local mayor and local residents have protested the decision to permit the establishment of a mosque in Peania and have received backing by the Greek Orthodox Church. They have inter alia objected to the fact that if the mosque is constructed where planned it will be one of the first buildings seen by foreign visitors who land at the Athens airport.⁴²⁵ The choice of the site in Peania has also been criticized by Muslim and human rights groups because the site is far from downtown Athens, where most of the capital’s Muslims reside. According to GHM, it will take about an hour to get to the site from downtown Athens during prayer time at midday on Fridays.

Because of the lack of a proper mosque in Athens, Muslims who reside in the capital typically pray in “underground” mosques which have not been authorized by the government. These mosques are make-shift facilities located in e.g. apartments, basements and garages and are often of a squalid character.⁴²⁶ GHM has cautioned against leaving these mosques to continue to operate in an unregulated manner, and therefore outside of any official control, since this may be exploited by those seeking to spread extremist ideas in the name of Islam. The organization has therefore called on the

⁴²³ Forum 18, “Religious Freedom, the Achilles’ Heel,” May 17, 2004, at <http://www.forum18.org>

⁴²⁴ Frank Bruni, “Muslims’ Unanswered Prayer: A Place to Worship,” *New York Times*, April 22, 2003, at <http://www.nytimes.com>; Richared Galpin, “Greek Mosque Plans Cause Friction,” *BBC*, July 29, 2003, at <http://www.bbc.co.uk>

⁴²⁵ “Athens Olympics under the Shadow of Anti-Muslim Racism,” *Independent Race and Refugee News Network*, April 22, 2004.

⁴²⁶ Richared Galpin, “Greek Mosque Plans Cause Friction,” *BBC*, July 29, 2003.

government to initiate legal recognition of “underground” mosques. Similar concerns have been echoed by researchers.⁴²⁷

The only Muslims cemeteries that exist in Greece are located in Western Thrace. Muslims also formally have the right to bury their loved ones in municipal cemeteries in other parts of the country, but this practice is reportedly discouraged, and only a handful of such burials are known to have taken place. As a result, Muslims who do not live in Western Thrace often have only two alternatives: either to arrange for transporting the bodies of their deceased family members back to their countries of origin or to organize for burial in Western Thrace, a region to which they may not have any ties. Both of these alternatives are costly.

The Islamic Headscarf

Unlike in several other countries covered by the report, the Islamic headscarf has so far not been the subject of any great controversy in Greece, and intolerance against veiled Muslim women does not appear to be any widespread problem. GHM believes that the major reasons for this situation include the facts that there are not very many Muslim women who wear the headscarf and that the use of religious clothing is generally accepted. However, GHM does not rule out that the headscarf may become more of an issue in the future, as the visibility of Muslim women in Greek society continues to increase.

Religious Education and Muslim Schools

In accordance with the Treaty of Lausanne, minority schools have been established for children belonging to the Muslim community in Western Thrace. The instruction in these schools is conducted in both Turkish and Greek. The educational standard of the minority schools is considered comparatively low, and the teachers who work there are often not adequately trained. As a result, students attending these schools do not have the same chances of succeeding in the education system, and subsequently in the labor market, as members of the majority population.⁴²⁸

In recent years, the Greek government has taken a number of measures aimed at enhancing the educational opportunities of the members of the Muslim minority in Western Thrace. A 1995 law offers economic and other incentives to members of the majority population who work in minority schools and grants Muslim high school graduates preferential terms of admission to universities and technical institutes through special quotas and entrance exams. However, problems remain, and many Muslim families reportedly send their children to public secondary schools, where there is no teaching

⁴²⁷ See, Daniel Howden, “Muslim in Athens: In Search of a Place to Pray,” *The Christian Science Monitor*, October 14, 2003, at <http://www.christiansciencemonitor.org>

⁴²⁸ European Commission against Racism and Intolerance (ECRI), *Third Report on Greece* (adopted December 5, 2003 and made public June 8, 2004), p. 24, at <http://www.coe.int>

of or in the Turkish language, in order to improve their chances in terms of higher education and employment.

Muslim students who attend minority schools in Western Thrace receive instruction in Islam. However, so far no measures have been taken to organize instruction in Islam in other areas of the country with compact Muslim settlements. Muslim and other non-Orthodox students have the right not to participate in Greek Orthodox classes. However, parents are reportedly sometimes reluctant to request that their children be exempted from such classes out of fear that this will involve disadvantages for them. There have also reportedly been cases where no alternative supervision has been organized for children who do not wish to participate in Greek Orthodox classes, thereby forcing them to attend these classes by default.

Textbooks that are used in general instruction in public schools have been criticized for focusing narrowly on the history and culture of the Greek ethnic nation and for conveying the impression that Greece was traditionally an ethnically and religiously homogeneous society. Parents of native Greek children reportedly sometimes express negative attitudes regarding the presence of immigrant children in the same classes as their children, alleging that this has a detrimental impact on the quality of instruction.⁴²⁹

There are two religious high schools in Western Thrace which prepare Muslim students for higher-level studies in Islamic theology.

Advocacy of Violence and Hatred in the Name of Islam

As discussed above, there are concerns that many mosques outside Western Thrace operate in an unregulated manner.⁴³⁰ The imams of these mosques also do not have official permission to work as imams, and there is therefore no control as to whether they are adequately qualified for their positions. The imams who work in Western Thrace do not always have formal training, and to the extent that they do, they have been educated abroad as there is no academic program for imams in Greece. GHM has called on the authorities to develop domestic programs for educating imams.

Halal Slaughter and Other Matters of Islamic Law

Greek legislation allows for ritual slaughter in accordance with Islamic traditions without stunning animals prior to slaughter. Moreover, the Lausanne Treaty grants muftis the power to pass binding judgments on certain civil matters in Western Thrace. Thus, in this region, muftis can rule on issues related to e.g. marriage, divorce, alimony, custody of minors and inheritance in accordance with

⁴²⁹ ENAR Shadow Report 2003: Greece, p. 18; ECRI, *Third Report on Greece*, p. 16.

⁴³⁰ See the section on Muslim Places of Worship and Burial Facilities.

Islamic law. The government appoints muftis, to the resentment of some members of the Muslim community of the region. All decisions made by muftis are at least formally reviewed by regular courts before they take effect. The Greek National Commission for Human Rights has criticized the retention of jurisdiction for muftis with reference to due process concerns.

Italy

Background Information

The number of Muslims in Italy is estimated to be between 700,000 and 1 million of a total population of 57 million. Some 30,000-60,000 Muslims are Italian citizens, out of which some 10,000 are converts to Islam. Another 500,000 Muslims possess residence and work permits, while the rest are not registered with the authorities.⁴³¹

Most Muslims have immigrated within the past ten to 20 years, during which time Italy has been transformed from an emigration into an immigration country. As the Muslims who reside in the country come from a large number of different countries and cultural backgrounds, the Muslim community is diverse.⁴³²

Formal Relations between the State and the Muslim Community of the Country

Catholicism was recognized as state religion in Italy until 1984, when a new concordat between the Vatican and the Italian government ended this status.⁴³³ The relations between the state and other major religious communities are regulated through bilateral agreements, so-called *intese*. These agreements grant individual communities a number of benefits, including tax advantages and advantages related to the practice of religious traditions e.g. in terms of marriage ceremonies and taking time off from work on religious holidays.⁴³⁴

The Muslim community has not yet obtained any agreement with the state, and it does not appear likely that an agreement will be negotiated within the near future. There are a number of Muslim organizations that seek to communicate the interests of Muslims, and divisions among these groups have prevented the adoption of a common approach to advocate for an agreement.⁴³⁵ However, the government has also reportedly not shown any initiative in promoting the conclusion of an agreement.⁴³⁶

⁴³¹ Roberta Aluffi, *The Situation of Muslims in Italy*, presented at the International and European Forum on Migration Research, Turin, June 19-21, 2003, at <http://www.fieri.it/>; Homer Bautdinov, "Islam in Italy," Russian Orthodox Church Representation to the European Union, March 2003, at <http://orthodoxeurope.org/>; Sofie Arie, "A rising tide of Muslims in Italy puts pressure on Catholic culture," *The Christian Science Monitor*, November 10, 2003, at <http://www.csmonitor.com>

⁴³² Open Society Institute (OSI), *Monitoring Minority Protection in EU Member States: The Situation of Muslims in Italy* (2003), p. 229, at <http://www.eumap.org>

⁴³³ Information about the Vatican at <http://www.tiscali.co.uk/reference/encyclopaedia/hutchinson/m0019884.html> (last visited December 3, 2004).

⁴³⁴ Roberta Aluffi, *The Situation of Muslims in Italy*; OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in Italy* (2003), p. 265.

⁴³⁵ OSI, *Monitoring Minority Protection in EU Member States: The Situation of Muslims in Italy*, p. 277-278.

⁴³⁶ Information provided by Omar Danilo Speranza, President of the Italian Muslim Association (AMI) to the IHF per email, December 2, 2004.

Negative Sentiments and Harassment against Muslims

In the aftermath of September 11, pre-existing prejudice toward Muslims has reportedly been reinforced in Italy. While Islam was already often seen as something “alien“ to Italian cultural and religious traditions, Muslims have increasingly been viewed with suspicion since September 11, when it has become increasingly commonplace in public debate to associate Islam with violence and terrorism.⁴³⁷ According to Muslim organizations, political developments in other parts of the world are reflected in domestic attitudes toward Muslims, who feel as if they are blamed for events over which they have no control, such as hostage takings carried out by militant groups in Iraq.⁴³⁸

Intolerant attitudes toward Muslims and other minorities appear to be particularly prevalent among young people. In a 2003 study commissioned by the Italian government and the Union of Italian Jewish Communities, a sample of 2,200 people aged 14-18 from across the country were asked about their attitudes toward immigrants, Muslims and Jews. More than 50% of those surveyed were of the opinion that Muslims “support terrorism” and “oppress women,” 47% considered Muslims “fanatic fundamentalists” and 33% felt that Muslims are “invading Italy.”⁴³⁹

In the first few months after September 11, an upsurge in verbal abuse, physical attacks and attacks on property motivated by anti-Muslim bias was reported. Most attacks occurred in the northern part of the country, where political leaders – primarily those representing the populist party Northern League – publicly engaged in anti-Muslim rhetoric.⁴⁴⁰ According to anti-racist activists, many Muslims who were subjected to abuse never reported their experiences to police because they feared that their complaints would not be dealt with effectively.⁴⁴¹ Among others, the UN Committee against Racial Discrimination has expressed concern that the authorities in Italy do not always take effective measures to prevent and punish racially motivated violence.⁴⁴²

Media Coverage of Issues Related to Islam and Muslims

Studies have shown that the representation of immigrants in Italian media is largely negative. The presence of immigrants in Italy is often related to social problems, such as crime, and the continued

⁴³⁷ Information from Luciano Scagliotti, Vice President of the European Network against Racism (ENAR), to the IHF per email August 23, 2004.

⁴³⁸ Tamsin Smith, “Italy’s Muslims under pressure,” *BBC*, September 28, 2004, at <http://www.bbc.co.uk>

⁴³⁹ Lisa Palmieri-Billig, “Survey shows xenophobia, anti-Semitism rising in Italy,” *Jerusalem Post*, July 1, 2003, at <http://www.jpost.com>

⁴⁴⁰ European Monitoring Center on Racism and Xenophobia (EUMC), *Anti-Islamic Reactions within the European Union after the Acts of Terror against the USA: Italy* (prepared by The Cooperation for the Development of Emerging Countries (COSPE)) (May 2004), at <http://www.eumc.at>. See also see the chapter on Hate Crimes and Discriminatory Policies in IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2003), at <http://www.ihf-hr.org>

⁴⁴¹ Information from Udo C. Enwereuzor, European Racism and Xenophobia Network (RAXEN), coordinator with the COSPE branch in Florence, to the IHF per email, March 2003.

⁴⁴² Committee on the Elimination of Racial Discrimination, *Concluding Observations: Italy*, August 8, 2002, at <http://www.unhchr.ch>

immigration into the country is often portrayed as an “invasion.”⁴⁴³ In the aftermath of September 11, it has reportedly become increasingly common in media to associate Muslims with fundamentalism, extremism and terrorism, which has contributed to reinforcing negative public prejudices against Muslims.⁴⁴⁴

The Role of Political Leaders and Official Policies

Among others, the European Commission against Racism and Intolerance (ECRI) has expressed concern about the exploitation of racism and xenophobia in Italian politics.⁴⁴⁵ In particular, the Northern League, which is included in the current coalition government led by Silvio Berlusconi, has routinely expressed negative sentiments toward those of immigrant background.⁴⁴⁶ In the aftermath of September 11, party members have publicly linked security concerns to the presence of Muslims in Italy, thereby exploiting the sense of vulnerability caused by these and subsequent terrorist attacks. As discussed elsewhere in this chapter, the Northern League has inter alia cited security considerations when advocating measures to control the construction of mosques and to criminalize the public wearing of certain types of veils used by Muslim women.⁴⁴⁷

Shortly after September 11, Prime Minister Berlusconi caused controversy by publicly suggesting that western civilization is “superior” to Islamic civilization. He later claimed that his words had been “twisted” and “taken out of context.”⁴⁴⁸ In a move welcomed by human rights groups, Berlusconi stated later at a January 2002 meeting with ambassadors from over 30 Muslim countries and a group of Muslim believers that Islam is a “great religion,” which must not be “criminalized” because of “the violent actions of certain groups that use criminal methods to promote a political agenda.”⁴⁴⁹

Discrimination of Muslims in Different Areas of Society

There is a lack of reliable and comprehensive data regarding discrimination against Muslims and members of other vulnerable groups in Italian society.⁴⁵⁰ However, available information indicates that people of immigrant background – a group to which many Muslims belong – are subjected to direct and indirect forms of discriminatory treatment in access to housing, employment and other

⁴⁴³ ENAR, *ENAR Shadow Report 2003: Italy* (written by Sara Cerretelli), p. 16-17, at <http://www.enar-eu.org>

⁴⁴⁴ Ibid.

⁴⁴⁵ European Commission against Racism and Intolerance (ECRI), *Second Report on Italy* (adopted on June 22, 2001 and made public on April 23, 2002), at <http://www.coe.int>

⁴⁴⁶ EUMC, *Anti-Islamic Reactions within the European Union after the Acts of Terror against the USA: Italy*; *ENAR Shadow Report 2003: Italy*, p. 26.

⁴⁴⁷ For more information see the sections on the Islamic Headscarf and Advocacy of Hatred and Violence in the Name of Islam.

⁴⁴⁸ John Hooper and Kate Connolly, “Berlusconi breaks ranks over Islam,” *The Guardian*, September 27, 2001, at <http://www.guardian.co.uk>; Philip Willan, “Italian PM says sorry for attacks on Islam,” *The Guardian*, September 29, 2001.

⁴⁴⁹ Information from the Italian Helsinki Committee to the IHF, January 2005.

⁴⁵⁰ OSI, *The Situation of Muslims in Italy*, p. 238.

areas. Studies have, for example, shown that people of immigrant origin are, on average, charged higher rents than native Italians. They are also clustered in low-skilled positions and reportedly experience difficulties in obtaining skilled positions despite sufficient professional and linguistic qualifications.⁴⁵¹ A so-called matched-pair discrimination test sponsored by the ILO, the results of which were made public in 2003, showed that people of Moroccan origin are systematically discriminated against on the grounds of their name and origin when they apply for job.⁴⁵²

As a result of a law adopted in 2002, the status of more than 600,000 undocumented immigrants was regularized.⁴⁵³ Despite this, it remains a concern that many immigrants continue to work in irregular employment conditions, as a result of which they fall outside normal social protection and are vulnerable to exploitation.⁴⁵⁴

No special legal provision has been made to accommodate the religious needs of Muslims in the workplace. However, there are cases where Muslim workers have concluded agreements with employers on a regional level to allow observance of Islamic holidays and Islamic prayers and other rituals.⁴⁵⁵

Muslim Places of Worship and Burial Facilities

There are currently about 350 Islamic places of worship in Italy, out of which about a third are proper mosques.⁴⁵⁶ Among the full-scale mosques is the Grand Mosque of Rome, which was opened in 1995 and reportedly is one of the biggest mosques in Europe.⁴⁵⁷ It is managed by the Italian Institute of Islamic Culture, which has close relations to the embassies of several Islamic countries.⁴⁵⁸ Most Muslims, however, meet for prayer in *ad hoc* locations such as basements, garages and private flats, which frequently has caused protests by neighbors.⁴⁵⁹

In some cases, decisions by local authorities to help fund the construction of mosques have met with opposition.⁴⁶⁰ A decision taken by regional authorities in 2001 to allocate €2 million for the construction of a mosque in Naples initially did not cause any stronger reactions. However, in the political climate that developed after the September 11 events, opposition mounted, with politicians,

⁴⁵¹ ENAR, *ENAR Shadow Report 2003: Italy*, p. 5, 14.

⁴⁵² EUMC, *Annual Report 2003/2004 – Part 2*, p. 16.

⁴⁵³ For more information about the regularization program, see the chapter on Italy in IHF, *Human Rights in the OSCE Region – Report 2004 (Events 2003)*, p. 216-217.

⁴⁵⁴ ENAR, *ENAR Shadow Report 2003: Italy*, p. 7; OSI, *The Situation of Muslims in Italy*, p. 248

⁴⁵⁵ OSI, *The Situation of Muslims in Italy*, p. 249; Roberta Aluffi, *The Situation of Muslims in Italy*.

⁴⁵⁶ Homer Bautdinov, “Islam in Italy.”

⁴⁵⁷ Information from the Italian Helsinki Committee to the IHF, September 8, 2004.

⁴⁵⁸ Homer Bautdinov, “Islam in Italy.”

⁴⁵⁹ OSI, *The Situation of Muslims in Italy*, p. 266.

⁴⁶⁰ *Ibid.*

local residents and representatives of the Catholic Church expressing objections.⁴⁶¹ The mosque in Naples is reportedly yet to be constructed.⁴⁶²

There are special sections for Muslim graves in municipal cemeteries, and some cities have separate Muslim cemeteries, where burial according to Islamic traditions is possible.⁴⁶³ However, deceased Muslims are reportedly often transported back to their countries of origin for burial.⁴⁶⁴

The Islamic Headscarf

Unlike in many other EU countries, there has not been any broader public debate about the use of the headscarf in public institutions in Italy. The following case, however, illustrates that the issue is not wholly uncontroversial:

- In March 2004, a day care center in Turin dismissed a Muslim woman from her job because she was wearing the headscarf. According to the other staff of the day care center, her headscarf “might scare the children.” In an unprecedented move, Interior Minister Giuseppe Pisanu intervened in the case and demanded that the woman be reinstated. According to him, “the Islamic veil, worn with dignity and without ostentation is an innocuous symbol of a cultural and religious identity and deserves all our respect.”⁴⁶⁵ A high-level member of the government party Northern League, however, said: “If someone comes from the jungle and is used to going around dressed like Tarzan, they can do it there, but not here.”⁴⁶⁶

During the latter half of 2004, the Northern League actively engaged in polemics against the *burqa*. This campaign began in September 2004, when a woman was fined twice for appearing publicly in a *burqa* in the small town of Drezzo, which is governed by the Northern League. The woman, who is an Italian convert to Islam, was fined under Fascist-era legislation banning the wearing of masks in public.⁴⁶⁷ The Northern League subsequently proposed that appearing masked in public be penalized with €2000 in fines and up to 6 months in prison, and started collecting signatures in support of its proposal.⁴⁶⁸

⁴⁶¹ Daniel Williams, “Public funding for new mosque splits Naples,” *International Herald Tribune*, May 13, 2002, at <http://www.iht.com>

⁴⁶² US Department of State, *International Religious Freedom Report 2004: Italy*, at <http://www.state.gov>

⁴⁶³ Roberta Aluffi, *The Situation of Muslims in Italy*; information provided by Omar Danilo Speranza, AMI, December 2, 2004.

⁴⁶⁴ Roberta Aluffi, *The Situation of Muslims in Italy*.

⁴⁶⁵ “Italian Minister Demands School Reinstates Veiled Teacher,” *Islam Online*, March 24, 2004, at <http://www.islamonline.net>

⁴⁶⁶ “Kopftuch-Debatte erfasst nun auch Italien,” *ORF*, March 26, 2004, at <http://www.religion.orf.at>

⁴⁶⁷ Ian Fisher, “Italian Woman’s Veil Stirs More than Fashion Feud,” *The New York Times*, October 15, 2004, at <http://www.nytimes.com>

⁴⁶⁸ “Lega Nord will Haftstrafen für Burkaträgerinnen,” *Der Standard*, September 23, 2004, at <http://www.dertsandard.at>; “Unterschriften gegen Burka,” *ORF*, October 10, 2004.

In their rhetoric, members of the Northern League inter alia depicted the burqa as a “security problem” and a “death symbol,” with reference to the fact that some Chechen women who have been involved in terrorist attacks in Russia have worn *burqas*.⁴⁶⁹ Anti-racist activists deemed the campaign against the *burqa* yet another attempt of the Northern League to profile itself as having a tough stance against Islam.⁴⁷⁰

Commenting on the developments in Drezzo, the Association of Muslim Women noted that Islam does not require the covering of the whole face, and that it may be advisable for Muslim women to choose a regular headscarf to avoid conflicts.⁴⁷¹ However, some Muslim leaders rhetorically asked why Muslim women should not be allowed to wear *burqas*, when Italian women can walk “half-naked” in the street.⁴⁷²

Most political parties represented in the Italian parliament have reportedly rejected the idea of any form of ban on the headscarf or other clothing worn by Muslim women.⁴⁷³ The Vatican has also expressed opposition to such restrictions.⁴⁷⁴

Religious Education and Muslim Schools

While confessional religious education in Catholicism is organized in Italian public schools, parents have the right to request that their children be exempted from such classes.⁴⁷⁵ Muslim organizations and parents have advocated that religious education in Islam also be introduced into the curricula of public schools, but so far these calls have not yielded any concrete results.⁴⁷⁶

As other groups, religious communities may establish private schools on condition that these schools guarantee equal access for all and meet standard curriculum requirements. Private schools that are accredited with the authorities may also receive public funding.⁴⁷⁷ There are, however, currently no accredited private schools with an Islamic orientation.⁴⁷⁸ So-called Quran schools, which offer extra-curricular instruction in Islam, are not subject to any state control.⁴⁷⁹

⁴⁶⁹ “Kopftuch-verbot in Italien bald realität?,” *ORF*, September 29, 2004.

⁴⁷⁰ Information from Luciano Scagliotti to the IHF, November 30, 2004.

⁴⁷¹ Ian Fisher, “Italian Woman's Veil Stirs More than Fashion Feud,” *The New York Times*, October 15, 2004.

⁴⁷² “Lega Nord will Haftstrafen für Burkaträgerinnen,” *Der Standard*, September 23, 2004.

⁴⁷³ Information provided by Omar Danilo Speranza, AMI, December 2, 2004.

⁴⁷⁴ Information from Luciano Scagliotti to the IHF, August 23, 2004.

⁴⁷⁵ Roberta Aluffi, *The Situation of Muslims in Italy*.

⁴⁷⁶ OSI, *The Situation of Muslims in Italy*, p. 268.

⁴⁷⁷ Ibid.

⁴⁷⁸ Information from Luciano Scagliotti, September 8, 2004.

⁴⁷⁹ Ibid.

Legislation from the 1920s sanctions the display of Catholic religious symbols in public schools, and although Catholicism lost its status as state religion in 1984, crucifixes are still often seen in classrooms.⁴⁸⁰

- A local court in L'Aquila in 2003 accepted a complaint by Adel Smith, a Muslim activist, and ordered a state-run kindergarten to remove the crucifixes hung in its classrooms. The court argued that the presence of crucifixes in public schools shows "the desire of the state, when it comes to public education, to place the Catholic religion at the centre of the universe." The ruling was welcomed by a teacher's union as reinforcing the secular character of the education system, but also resulted in a storm of angry protests, including from Catholic Church leaders and government members.⁴⁸¹ Other Muslim leaders distanced themselves from the case, and expressed fear that it would have a negative impact on relations between the Muslim and the majority population.⁴⁸² The ruling was reportedly later overruled.⁴⁸³

Advocacy of Hatred and Violence in the Name of Islam

As in other EU countries, there are concerns in Italy that some imams abuse their positions by advocating hateful and violent ideas. The following case substantiated such concerns:

- According to an article published by the daily *La Repubblica* in June 2003, the then imam of the Grand Mosque of Rome had in his Friday sermon inter alia called on Allah to "help us annihilate the enemies of Islam" and to "grant victory to the Muslim fighters in Palestine, Chechnya and every other part of the world." The article gave rise to widespread condemnation, including by mainstream Muslim organizations. Under pressure by the embassies of several Islamic countries, the institute managing the mosque made a decision to remove the Egyptian imam, who had been appointed in early 2003.⁴⁸⁴

In the context of this case, Interior Minister Giuseppe Pisanu declared that: "The mosques of Italy must be completely freed from preachers of violence, from those who enlist people for holy wars and from agents of foreign interests." Moderate Muslim organizations agreed that it was necessary to take

⁴⁸⁰ Estelle Shirbon, "Italian Court Ban on Crucifix in School Sparks Fury," *Reuters*, October 28, 2003, at <http://www.reuters.com>

⁴⁸¹ "Storm over Italy Crucifix Ruling," *BBC*, October 26, 2003; John Phillips, "Catholic Uproar at Italian Ban on School Crucifixes," *The Times*, October 27, 2003, at <http://www.timesonline.co.uk>; Estelle Shirbon, "Italian Court Ban on Crucifix in School Sparks Fury," *Reuters*, October 28, 2003.

⁴⁸² "Italian Muslims Fear Backlash from Crucifix Row," *Reuters*, October 30, 2003.

⁴⁸³ "New Crucifix Controversy Spurred by Militant Italian Muslim," *Catholic World News*, December 16, 2003, at <http://www.cwnews.com>.

⁴⁸⁴ "Verantwortungsvolle Geste: Römischer Imam nach Gewaltpredigt abgesetzt," *Die Tagespost*, June 21, 2003, at <http://www.die-tagespost.de>; "In Rome, a Muslim's Call for a 'Holy War' Raises Concern," *Zenit*, June 13, 2003, at <http://www.zenit.org>; Stella Prudente, "Italian Muslim Association: The Imam of Rome Must Either Be Fired or Expelled," June 8, 2003, at <http://www.notizir.apbiscom.it>.

effective measures to prevent the spread of extremist ideas through mosques. They also emphasized that it is important that imams who work in Italy understand the contemporary reality of the country and said that there was a need for “Italian imams” who are able to firmly distance themselves from ideas such as those preached by the imam in the Rome mosque.⁴⁸⁵ The Association of Italian Muslims (AMI) has also reportedly considered plans to start issuing certificates to imams who are deemed to be competent and committed to a peaceful form of Islam.⁴⁸⁶

With reference to the threat that mosques may be used to “propagate hatred against the West” and to “recruit terrorists,” the Northern League proposed in March 2004 that local referenda be organized to decide whether to allow the construction of worship places by Muslim and other religious communities that have not concluded bilateral agreements with the state. When introducing the bill, a leading party member stated: “The mosque is a political place and is a symbol of a civilization that has run a 1,400-year long path in antithesis of Western culture.”⁴⁸⁷ The proposal was reportedly never formally submitted to parliament, and anti-racist activists dismissed it as mere political propaganda.⁴⁸⁸

Halal Slaughter

As in most other countries covered by the report, ritual slaughter has been exempted from the general requirement to stun animals prior to slaughter in Italy.⁴⁸⁹ *Halal* slaughter is reportedly practiced in municipal slaughter houses.⁴⁹⁰

⁴⁸⁵ English translations of articles published in *La Repubblica*, June 8, 2003 and *L'Opinione Delle Liberta'*, June 10, 2003 provided by AMI at <http://www.amislam.com/rome.htm> (last visited March 1, 2005).

⁴⁸⁶ Elaine Sciolino, “Europeans Try to Create Modern Imams,” *The New York Times*, October 19, 2004.

⁴⁸⁷ Sophie Arie, “Italian MPs plan control of mosques,” *The Guardian*, March 25, 2004; “Berlusconi Allies Call for Referendums on Mosque Building,” *AP*, March 24, 2003; Ahmad Maher, “Italian Draft to Restrict Mosques Building,” *Islam Online*, March 27, 2004.

⁴⁸⁸ Information from Luciano Scagliotti to the IHF, November 30, 2004.

⁴⁸⁹ Roberta Aluffi, *The Situation of Muslims in Italy*.

⁴⁹⁰ Information provided by Omar Danilo Speranza, AMI, December 2, 2004.

The Netherlands

Background Information

According to the Dutch Central Bureau for Statistics, there were 945,000 Muslims out of a total population of 16.3 million in the Netherlands in January 2004.⁴⁹¹ Two thirds of all Muslims have origins in Turkey or Morocco, while the rest originate from, among other countries, Surinam, Iraq, Somalia, Iran, Pakistan and Afghanistan. In the 1960s many Muslims arrived as labor migrants from Turkey and Morocco, while in more recent decades most Muslim immigrants have arrived under family reunification schemes or as asylum seekers.⁴⁹²

Most Muslims are concentrated in and around Amsterdam, The Hague, Rotterdam and Utrecht.⁴⁹³ In Amsterdam, Islam now reportedly has a greater number of followers than any other religion. However, more than half of the citizens of the capital do not belong to any religious community.⁴⁹⁴ About 40% of Muslims are less than 20 years old, which shows that the Muslim population on average is considerably younger than the majority population. A growing number of Muslims have Dutch citizenship, and in the case of those with origins in Turkey and Morocco, this figure is over 50%.⁴⁹⁵

A recent study commissioned by the Ministry of Immigration concluded that the trend of secularization that characterizes the majority population in the Netherlands also applies to Muslims, although to a more limited extent. This conclusion was based on observations such as the fact that mosque attendance decreased among Muslims in 1998-2002. The report also found, however, that identification with Islam remains strong among Muslims in the country.⁴⁹⁶

Formal Relations between the State and the Muslim Community of the Country

According to the 1983 Dutch Constitution, church and state are separated in the Netherlands and all religious communities enjoy equal treatment. The state does not allocate direct financial support to any religious communities, but provides funding for certain social or cultural activities organized by religious groups, such as education, broadcasting and spiritual counsel in prisons and in the army. Religious communities also enjoy tax exempt status.⁴⁹⁷

⁴⁹¹ "Almost a Million Muslims in The Netherlands," *NIS News Bulletin*, September 21, 2004, at <http://www.nisnews.nl>; Statistics Netherlands, "Population: Key figures," at <http://www.cbs.nl/en/>

⁴⁹² "Almost a Million Muslims in The Netherlands," *NIS News Bulletin*; Nico Landman, *Country Profile: the Netherlands*, at <http://euro-islam.info/>

⁴⁹³ Ibid.

⁴⁹⁴ Khaled Shawkat, "Islam First Religion in Amsterdam," *Islam Online*, July 30, 2002, at <http://www.islamonline.net>

⁴⁹⁵ Nico Landman, *Country Profile: the Netherlands*.

⁴⁹⁶ "Muslims in the Netherlands," July 22, 2004, published at the website of the Dutch Ministry of Justice, <http://www.justitie.nl>

⁴⁹⁷ Ibid.

The Dutch government recently recognized two Muslim umbrella organizations as negotiation partners. These organizations are the Muslim Council for Relations with the Government (CMO), which has more than 500,000 members, and the Contact Group of Islam (CGI), which has some 115,000 members. The minister of immigration will reportedly meet regularly with these groups to discuss matters related to the integration of Muslims in the Netherlands.⁴⁹⁸ There are also organizations that function as spokespersons for the Christian, Jewish and Hindu communities in the country.⁴⁹⁹

Negative Sentiments and Harassment against Muslims

Following the September 11 events, an increase in anti-Muslim incidents was reported. By the end of 2001, the Dutch Monitoring Centre on Racism and Xenophobia (DUMC) had documented a total of 80 incidents, which either had been given coverage in media or reported to anti-discrimination offices in major cities. This number primarily included verbal abuse and hostile treatment, both of which appeared to particularly affect Muslim women wearing the headscarf. However, several cases of physical violence and attempted arson were also observed.⁵⁰⁰ The level of hostility against Muslims decreased after a few months, and in 2002 the DUMC registered a total of 68 anti-Muslim incidents for the whole year.⁵⁰¹ As the monitoring was discontinued, no figure is available for 2003.⁵⁰²

In late 2004, the murder of the film-maker Theo van Gogh was followed by a new upsurge in apparently religiously motivated violence. Van Gogh, who had repeatedly made offensive statements about Islam and who directed a provocative film about the treatment of women in Muslim communities (“Submission”) released in August 2004, was stabbed and shot dead when cycling on an Amsterdam street in the morning of November 2, 2004. A letter stuck to his body with a knife contained threats directed at several Dutch politicians, including Ayaan Hirsi Ali, a Somali-born politician who has vehemently criticized the status of women in Islam and who wrote the script for “Submission.” A man with dual Dutch-Moroccan citizenship who was described as having “radical

⁴⁹⁸ “CMO Recognized as Umbrella Organization for Negotiations with the Dutch Government,” November 3, 2004, and “CGI Recognized as Umbrella Organization for Negotiations with the Dutch Government,” January 13, 2005, at <http://www.justitie.nl>

⁴⁹⁹ Information from the Islam and Citizenship Foundation (Stichting Islam en Burgerschap) to the IHF, October 6, 2004.

⁵⁰⁰ European Monitoring Center on Racism and Intolerance (EUMC), *Anti-Islamic Reactions in the EU after the Terrorist Acts against the USA: The Netherlands* (prepared by Dutch Monitoring Center on Racism and Xenophobia) (May 2002), p. 17, at <http://www.eumc.at>; EUMC; *Summary Report on Islamophobia in the EU after 11 September 2001* (May 2002), p. 24.

⁵⁰¹ Information provided by Leyla Hamidi, Head of International Affairs at the National Bureau against Racial Discrimination (LBR), to the IHF during telephone conversation, October 15, 2004.

⁵⁰² Information provided by Leyla Hamidi, LBR, October 15, 2004.

Islamic fundamentalist convictions” was subsequently charged with the murder, and police opened investigations into the possible involvement of a broader network of militants in the killing.⁵⁰³

According to a report published by the Research and Documentation Centre of the Dutch Anne Frank Foundation and the University of Leiden, a total of 174 violent incidents occurred between November 2 and November 30, 2004, including cases of verbal abuse, intimidation, graffiti, physical violence, vandalism, bomb attacks and arson. Out of these incidents, 106 were targeted at Muslims or Muslim institutions or property.⁵⁰⁴ During roughly the same period, anti-discrimination bureaus across the country registered some 40-50 attacks on individual Muslims that appeared to be related to the murder. Most of these involved verbal abuse such as harassment in the street or in the workplace.⁵⁰⁵

Immigration experts expressed concern that the murder of van Gogh served to reinforce public prejudices of Islam as a “dangerous” religion and of Muslims as a “fifth column” in Dutch society. Substantiating such concerns, opinion polls indicated that attitudes toward Muslims deteriorated after the murder,⁵⁰⁶ and Muslim representatives witnessed a worsening social climate.⁵⁰⁷ While there was also an increase in expressions of intolerance against Muslims on many internet sites, messages expressing approval of the murder appeared on other sites.⁵⁰⁸ In this context, it should be emphasized that moderate Muslim leaders condemned the slaying of van Gogh, and made it clear that even if Muslims felt that the views on Islam voiced by van Gogh were “blasphemous,” any aggressive reaction was fully unacceptable.⁵⁰⁹

Media Coverage of Issues Related to Islam and Muslims

Among others, the National Bureau against Racial Discrimination (LBR) is concerned that media reports have increasingly reflected a narrow view of Islam and have increasingly served to associate

⁵⁰³ “Controversial Dutch Filmmaker Shot Dead,” *Reuters*, November 2, 2004; “Gunman Kills Dutch Film Director,” *BBC*, November 2, 2004, at <http://www.bbc.co.uk>; John Henley, “Controversial Dutch Film Director Shot Dead in Street,” *The Guardian*, November 3, 2004, at <http://www.guardian.co.uk>; “Islamist’ Held in Van Gogh Case,” *BBC*, November 3, 2004; “Letter Threat to Dutch Politician,” *BBC*, November 5, 2004; “Threats to Dutch Politicians after Killing,” *Reuters*, November 5, 2004, at <http://www.reuters.co.uk/>; “Dutch Say Murder Suspect Linked to Radical Muslims,” *Reuters*, November 11, 2004.

⁵⁰⁴ Research and Documentation Centre of the Anne Frank Foundation and Department of Public Administration at the University of Leiden, *Developments Following the Murder of Theo Van Gogh* (written by Jaap van Donselaar and Peter R. Rodrigues), December 2004, at www.annefrank.org/upload/downloads/ANNEXengels_dec04.doc (last visited January 24, 2004).

⁵⁰⁵ Information from Jessica Silversmith, Director of the Amsterdam Office of the National Federation of Anti-Discrimination Bureaus (NFAB) to the IHF, December 2, 2004.

⁵⁰⁶ “Week of Violence Leaves People Questioning Tradition of Tolerance,” *Radio Free Europe/Radio Liberty*, November 10, 2004, at <http://www.rferl.org>

⁵⁰⁷ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

⁵⁰⁸ Perro de Jong, “Dutch Fear Loss of Tolerance,” *BBC*, November 3, 2004.

⁵⁰⁹ “Muslim Held for Filmmaker’s Murder,” *The Muslim News*, November 3, 2004, at <http://www.muslimnews.co.uk>; Toby Sterling, “Attacks Leave Dutch Reeling,” *The Guardian*, November 10, 2004; Perro de Jong, “Dutch Fear Loss of Tolerance,” *BBC*, November 3, 2004.

Islam with violence in the aftermath of September 11.⁵¹⁰ This trend can be seen in the context of political developments since these events, with intensified efforts taken at the international and national level to counteract religious extremism and terrorism and prejudiced rhetoric being used in discussions surrounding such efforts. However, the LBR also points out that lack of knowledge about Islam on the part of many journalists compounds the problem.⁵¹¹

With the aim of promoting more balanced and informed coverage, the LBR is engaged in efforts to raise awareness among media producers about the importance of sound knowledge of Islam as the basis for fair portrayal of Muslims. These efforts include workshops for students at journalist schools. As examples of positive media coverage, the LBR mentions reports that depict Islam as part of Dutch society rather than as something “alien” and give “average” Muslims an opportunity to have a say.⁵¹²

The Role of Political Leaders and Official Policies

According to the LBR, decades of policies promoting a culturally diverse society was followed by a new trend in the late 1990s, in which the idea of a multicultural society was increasingly questioned and immigration was increasingly viewed as something problematic. The September 11 events further reinforced this trend.⁵¹³ Exploiting feelings of vulnerability and increased frustration with existing immigration policies, the populist politician Pim Fortuyn rapidly grew in popularity after the attacks on the United States.⁵¹⁴ Under intense media attention, Fortuyn called for a halt to immigration and repeatedly lashed out against Islam. For example, he described Islam as a “retarded culture” that “threatens Dutch values” and called for a “new Cold War” against Islam. Given his excellent rhetorical skills, Fortuyn played a central role in the campaign leading up to the May 2002 parliamentary elections, in which questions of immigration and security featured prominently.⁵¹⁵

Only a few days prior to the elections, Fortuyn was murdered by an animal-rights activist. On what appeared to be a wave of sympathy, the political party formed by him swept into parliament, winning 18% of the votes. As a result of its success, the party was included in a new right-wing coalition government, which set out as one of its major goals to radically tighten immigration policies.⁵¹⁶ However, only three months after taking office, the government resigned largely because of internal

⁵¹⁰ Information provided by Leyla Hamidi, LBR, October 15, 2004.

⁵¹¹ Information provided by Victor Joseph, Media Advisor at the LBR, to the IHF, February 3, 2005.

⁵¹² Ibid.

⁵¹³ LBR, *Racism in the Netherlands – Year in Perspective 2001* (July 2002), at <http://www.lbr.nl>

⁵¹⁴ Ibid.

⁵¹⁵ Liz Fekete, “The Dutch General Election and the Assassination of Pim Fortuyn,” *Independent Race and Refugee News Network*, August 1, 2002, at <http://www.irr.org.uk>

⁵¹⁶ Andre Osborn, “Dutch Minister Unveils Tough Measures against Illegal Immigrants,” *The Guardian*, August 17, 2002; *ORF*, “The Netherlands: Ongoing Debate about Immigration Minister,” August 24, 2002, at <http://www.orf.at>

conflicts within the party carrying Fortuyn's name, and in new elections held in early 2003, this party lost 18 out of 26 seats. As a result, it was excluded from the new coalition government formed.⁵¹⁷

However, in spite of the decline of the party established by Fortuyn, he has a strong legacy in the political arena as several other parties have adopted similar ideas with respect to immigration.⁵¹⁸

According to the LBR, the political climate of the country has developed in recent years so that the "political prudence" that previously characterized discussions about immigration has disappeared, and that it is now possible to say things publicly in a way that was not previously acceptable. While this has contributed to a more open debate about immigration, it has also meant that discussions now are often emotional rather than factual, and that their tone is often very harsh.⁵¹⁹

The current government, which is composed of the Christian Democratic Party, the Liberal Party and the Social Liberal Party, has initiated a number of restrictive immigration measures, several of which have been criticized by human rights groups for being ill-considered and in violation of international human rights standards.⁵²⁰ Among other measures, the government has raised fees for residence permits up to 1000%,⁵²¹ and has launched a program to expel rejected asylum seekers who have already resided in the country for years.⁵²² Implementation of the latter mentioned program has, however, been limited and only a small number of those 25,000 rejected asylum seekers who fall under its scope have actually been expelled.⁵²³

Moreover, the current government has considered implementing compulsory measures to ensure that immigrants learn the Dutch language and understand Dutch values and customs. Newly arrived immigrants, with the exception of EU citizens, diplomats, students and temporary workers, are presently required to undergo an integration course involving instruction in the Dutch language and Dutch culture.⁵²⁴ The current government has proposed that those who apply for a residence permit be required to pass an integration exam abroad prior to entering the Netherlands. The integration minister has also proposed that those who are already resident in the Netherlands but have attended school

⁵¹⁷ See "Rise and Fall of Fortuyn's Party," *BBC*, October 16, 2002; Andrew Osborn, "Infighting Leads to Collapse of Dutch Cabinet," *The Guardian*, October 17, 2002.

⁵¹⁸ "The Legacy of Pim Fortuyn," *Radio Netherlands*, May 6, 2004, at <http://www2.rnw.nl/rnw/>

⁵¹⁹ Information provided by Leyla Hamidi, LBR, October 15, 2004.

⁵²⁰ Compare Joanne van Selm, "The Netherlands: Tolerance under Pressure," Migration Policy Institute, September 2003, available at <http://www.migrationinformation.org>

⁵²¹ See the chapter on the Netherlands in IHF, *Human Rights in the OSCE Region: Report 2004 (Events of 2003)*, p. 281, at <http://www.ihf-hr.org>

⁵²² Human Rights Watch, "Netherlands: Safety of Failed Asylum Seekers at Risk," February 13, 2004, at <http://www.hrw.org>

⁵²³ Figures regarding the number of asylum seekers who were expelled from the Netherlands in 2004 are available at the website of the Dutch Ministry of Justice.

⁵²⁴ Information about this program is available at the website of the Dutch Ministry of Immigration, at <http://www.ind.nl>.

there for less than eight years – including citizens – be required to take an integration exam.⁵²⁵ In particular, the latter of these proposals met with strong opposition in parliament, and as of this writing, consideration of a new immigration scheme was still under way.⁵²⁶

The LBR is concerned that many of the immigration measures introduced by the current government have served to foster the impression that immigration is primarily something negative, and that integration is a one-way rather than a two-way process in which immigrants are merely expected to “adjust” to the Dutch way of life. The organization is also concerned that these policies, in combination with the often emotionally charged and hostile tone of the discussions surrounding immigration issues, have helped encourage prejudiced attitudes toward Muslims and other people of foreign origin.⁵²⁷

The November 2004 murder of van Gogh gave rise to concerns that the political climate facing Muslims and other immigrants may further deteriorate. In response to the wave of violent attacks that were reported across the country in the weeks after the murder,⁵²⁸ the prime minister made a plea for inter-religious tolerance and unity and the immigration minister met with Muslim representatives to discuss ways to de-escalate tensions.⁵²⁹ However, other representatives of government parties made statements of a different nature, including by suggesting that the murder of van Gogh amounted to a declaration of “holy war.” These statements appeared aimed at further inflaming sentiments rather than at calming them.⁵³⁰

In the weeks following the murder of van Gogh, opinion polls also suggested that the populist politician Geert Wilders, a former member of the Liberal Party, grew rapidly in popularity. As Fortuyn previously did, Wilders has claimed that Islam is “retarded” and “incompatible with democracy.” He has also warned against allowing Islam to become dominant in the Netherlands and has advocated tough measures against extremist groups and leaders who act in the name of Islam.

⁵²⁵ “New Integration System,” December 7, 2004, at <http://www.justitie.nl>. A first proposal outlining an integration scheme of this kind, which primarily applied to non-EU citizens and naturalized Dutch citizens, was found to be in violation of international standards prohibiting discrimination by the Advisory Committee for Aliens Affairs (AVCZ). See AVCZ, Van Contourennota naar Inburgeringswet (summary in English included), December 3, 2004, at http://www.acvz.com/N3_1.html.

⁵²⁶ Information from the Netherlands Helsinki Committee (an IHF member committee) to the IHF, January 2005.

⁵²⁷ Information provided by Leyla Hamidi, LBR, October 15, 2004.

⁵²⁸ See the section on Negative Sentiments and Harassment against Muslims.

⁵²⁹ “Dutch PM Urges Dialogue After Sectarian Violence,” *Daily Times*, 18 November 2004, at <http://www.dailytimes.com>; Daisy Sindelar, “Week of Violence Leaves People Questioning Tradition of Tolerance,” *Radio Free Europe/Radio Liberty*, November 10, 2004.

⁵³⁰ A statement depicting the murder of van Gogh as a declaration of holy war was made by Jozias van Aartsen, parliamentary speaker of the Liberal Party, on 5 November, 2004, and later supported by inter alia Deputy Prime Minister Gerrit Zalm, also from the Liberal Party. See Thomas Fuller, “Murder Fuels Fear among Dutch,” *International Herald Tribune*, 8 November 2004, at <http://www.iht.com>; Anthony Deutsch, “Netherlands Braces for 'Jihad',” *The Washington Times*, 6 November 2004, at <http://www.washingtontimes.com>

Because of his outspoken views, he has received numerous death threats and has been under around the clock protection by body guards since late 2004.⁵³¹

After the murder of van Gogh, the government also proposed a number of new security measures, some of which appeared problematic in light of international human rights standards. The government inter alia proposed to empower law enforcement authorities to arrest terrorist suspects on the basis of a mere “indication” that they are involved in terrorist activities, rather than as previously on the basis of a “reasonable suspicion,” and to extend the maximum period that terrorist suspects can be remanded in custody prior to trial from 90 days to 2 years.⁵³² These measures gave rise to concern that people who are considered terrorist suspects may be arrested on arbitrary grounds and that they may be deprived of their right to be brought promptly before a judge following detention.

Discrimination against Muslims in Different Areas of Society⁵³³

The National Federation of Anti-Discrimination Bureaus (NFAB), which has local offices across the country, registered in 2003 a total of 270 complaints of alleged discrimination on the basis of religion. The complaints concerned discriminatory treatment in fields such as the labor market, access to public and private services, housing and education.⁵³⁴ Most of the complaints about religiously motivated discrimination that the NFAB receives are filed by or on behalf of Muslims, and it is estimated at the office in Amsterdam that some 40% of all complaints involving Muslims allege discrimination against Muslim women who wear the headscarf.⁵³⁵

The number of complaints about religiously motivated discrimination filed with the NFAB has increased over the last few years. It is not fully clear to what extent this increase is attributable to an actual rise in discrimination faced by Muslims and members of other religious minorities, and to what extent other factors are at play, such as growing awareness of the network of anti-discrimination bureaus. However, the NFAB has concluded that the number of cases of discrimination that are

⁵³¹ Mark Baker, “Dutch Immigration Policies: Holland's New Fortuyn?,” *Radio Free Europe/Radio Liberty*, November 29, 2004; Garteh Harding, “Interview with Geert Wilders,” United Press International, December 2, 2004; Anthony Browne, “Death Threats Force Controversial Dutch MP Underground,” *The Times*, November 20, 2004, at <http://www.timesonline.co.uk>

⁵³² *Wijziging van het Wetboek van Strafvordering, het Wetboek van Strafrecht en enige andere wetten ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven* (bill proposing new anti-terrorism powers), November 10, 2004. These measures will be discussed at greater length in the chapter on the Netherlands in the forthcoming IHF annual report on human rights developments in the OSCE region in 2004 (expected to be published in June 2005).

⁵³³ See also the section on the Islamic Headscarf.

⁵³⁴ See NFAB, *Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten 2003*, at <http://www.lvadb.nl/>

⁵³⁵ Information from Jessica Silversmith, Director of the Amsterdam Office of the NFAB, to the IHF, December 2, 2004.

brought to its knowledge is likely to constitute only a fraction of the total number of cases of discrimination that take place in the country.⁵³⁶

The Dutch Equal Treatment Commission, which has been charged with considering complaints about discrimination under equal treatment legislation, issued opinions concerning 75 cases of alleged discrimination on grounds of religion in the period 2000-2004.⁵³⁷ Out of these, 33 involved complaints that had been filed by Muslims or groups representing Muslims.⁵³⁸ The opinions issued by the Equal Treatment Commission are not legally binding, but they are largely complied with.⁵³⁹

Muslim Places of Worship and Burial Facilities

There are currently some 400-500 Muslim places of worship in the Netherlands.⁵⁴⁰ According to the Islam and Citizenship Foundation, the conditions of mosques have improved considerably in the past decade, and an increasing number of new mosques have been built. In the major cities of the country, classical mosques with domes and minarets can be found. However, in recent years, there has reportedly been growing opposition to the opening of mosques. Local residents have protested plans to establish mosques in their neighborhoods by alleging that this will result in various problems ranging from parking problems to drug dealing, while some local politicians have argued that classical mosques do not fit into the “Dutch cultural and architectural landscape.” The process for obtaining permission to establish a mosque is also reportedly sometimes complicated, in particular if the planned location is in a central area.⁵⁴¹

While deceased Muslim immigrants of older generations often were transported to their countries of origin for burial, the demand for burial facilities is increasing with younger generations of Muslims.⁵⁴² Dutch law allows for burial according to Islamic traditions, with the exception that at least 36 hours must elapse between the time of death and burial.⁵⁴³ Despite this legal limitation, it is common that public cemeteries facilitate burial within 24 hours, as Islamic traditions require. Many public cemeteries also have special sections for Muslim grave sites.⁵⁴⁴

⁵³⁶ NFAB, Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten 2003; information; information from Jessica Silversmith, Director of the Amsterdam Office of the NFAB, December 2, 2004.

⁵³⁷ This was the situation on December 10, 2004.

⁵³⁸ Information from Keirsten de Jongh, Policy Officer at the Equal Treatment Commission, to the IHF per email, December 13, 2004.

⁵³⁹ For example, The Equal Treatment Commission calculated that 71% of the opinions it issued in 2004 were complied with. Information from Keirsten de Jongh, Policy Officer at the Equal Treatment Commission, to the IHF per email, February 21, 2005.

⁵⁴⁰ Nico Landman, *Country Profile: the Netherlands*.

⁵⁴¹ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

⁵⁴² Ibid.

⁵⁴³ Nico Landman, *Country Profile: the Netherlands*.

⁵⁴⁴ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

The Islamic Headscarf

In the context of the changing political climate that has developed in the Netherlands in recent years, where it is no longer taboo to question the idea of a multi-cultural society, a debate about the Islamic headscarf has evolved. While this debate has not reached the same level of intensity as in some other EU countries, it has involved similar considerations. Accordingly, some have argued that the use of the headscarf in public institutions such as schools and courts is contrary to the principle of separation of church and state, and others have objected to the use of the headscarf because they believe that many women are forced to wear it and that it undermines equality of women and men.⁵⁴⁵

The participation of Muslim women in these discussions has been limited, but some Muslim women's organizations have defended the right to wear the headscarf by emphasizing that it is a voluntary and conscious religious choice. These organizations have also expressed concern that the politicization of the headscarf issue has contributed to increased intolerance and discrimination against veiled Muslim women.⁵⁴⁶

During the period 1995-2004, the Dutch Equal Treatment Commission dealt with 35 cases involving alleged discrimination against Muslim women wearing the headscarf.⁵⁴⁷ Most of these cases concerned access to employment and employment conditions, but there were also some cases regarding alleged discrimination in other areas, such as education and access to public places.⁵⁴⁸ The following case attracted much attention at the time:

- In a case considered in 2001, the Equal Treatment Commission concluded that a district court had acted in violation of non-discrimination legislation by rejecting a Muslim woman for the position as registrar because she had indicated that she intended to wear the headscarf when exercising her duties. The district court management argued that the wearing of the headscarf would conflict with the dress code for the Dutch judiciary, the purpose of which is to safeguard the image of this branch as independent and impartial. However, the Equal Treatment Commission found that such an interpretation of the dress code prejudiced women who wear the headscarf for religious reasons and therefore amounted to indirect discrimination on the basis of religion. As noted above, the opinions of the Equal Treatment

⁵⁴⁵ Anass Bendrif and Matthew Haney, "The Politicization of the Headscarf in the Netherlands," *Humanity in Action*, 2004, at <http://www.humanityinaction.org/publications/2004/bendrif.pdf> (last visited January 24, 2005).

⁵⁴⁶ *Ibid.*

⁵⁴⁷ Information from Keirsten de Jongh, Policy Officer at the Equal Treatment Commission, to the IHF per email, December 13, 2004.

⁵⁴⁸ Information provided by Jenny Goldschmidt, professor of human rights law at the University of Utrecht and former president of the Equal Treatment Commission, to the IHF, December 6, 2004.

Commission are not legally binding, and the district court reportedly did not change its policy as a result of the decision.⁵⁴⁹

In April 2003, the Equal Treatment Commission published a general recommendation regarding the use of the headscarf in schools, which was aimed at clarifying the admissibility of restrictions in this respect. Two comprehensive schools have subsequently asked the Commission to review their dress codes in order to determine their lawfulness, and it is hoped that such revisions may help prevent future conflicts about the use of the headscarf.⁵⁵⁰

As of late 2004, the Equal Treatment Commission had considered two cases regarding alleged discrimination against Muslim women who wear veils that cover the face.⁵⁵¹ In a case considered in 2003, the Commission concluded that a decision by a comprehensive school to prohibit students from wearing the *niqab* did not constitute discrimination since it served the purpose of ensuring identification of and communication with students. A similar decision was made in an earlier case in 2000.⁵⁵²

Religious Education and Muslim Schools

The Dutch Constitution guarantees freedom of education, including freedom to found schools and to determine the principles on the basis of which education is organized. In accordance with this provision, individuals and groups may establish schools with a certain religious, ideological or educational orientation, which are funded by the state on condition that they meet certain minimum criteria. These criteria concern subjects in which instruction must be organized, achievement targets, qualifications of teachers and planning and reporting obligations. About 70% of all students at primary and secondary level currently attend privately run schools, most of which are Roman Catholic or Protestant schools. The Dutch Education Inspectorate monitors that schools comply with legislation and regulations in force.⁵⁵³

There are currently 41 private primary Muslim schools, which are attended by 8,400 children,⁵⁵⁴ or 5% of all Muslim primary schoolchildren.⁵⁵⁵ In addition, there are 2 private secondary Muslim schools,

⁵⁴⁹ See the chapter on the Netherlands in IHF, *Human Rights in the OSCE Region: Report 2002 (Events of 2001)*, p. 243.

⁵⁵⁰ Information from Keirsten de Jongh, Policy Officer at the Equal Treatment Commission, to the IHF per email, December 13, 2004.

⁵⁵¹ Ibid.

⁵⁵² Dutch Equal Treatment Commission, *Fact Sheet 2003*.

⁵⁵³ Dutch Ministry of Education, Culture and Science, *The Dutch Education System 2004*, at www.minocw.nl/onderwijs/doc/2004/eurvdice_en.pdf (last visited February 9, 2005).

⁵⁵⁴ Dutch Central Bureau of Statistics (CBS), *Jaarboek Onderwijs in Cijfers 2005*, at <http://www.cbs.nl/nl/publicaties/recent-verschenen/jaarboek-onderwijs-cijfers/jaarboek-onderwijs-cijfers2005.htm> (last visited February 9, 2005).

which are attended by 1,300 children.⁵⁵⁶ There is also an Islamic University, which has not been officially recognized by the Ministry of Education.⁵⁵⁷ Studies have indicated that there is a demand for more Muslim schools, as many Muslim parents would prefer to send their children to a Muslim school if possible. One researcher concluded in 2004 that another 120 Muslim primary schools would be needed to satisfy existing demand.⁵⁵⁸

All primary schools are obliged to teach their students about religious and ideological movements, and public primary schools must provide particular religious or ethical education classes if requested by parents. Other primary and secondary schools may choose to organize religious education classes in addition to classes required by law.⁵⁵⁹

Muslim schools have been a controversial issue ever since the first one was opened in 1988, and opposition has further increased after September 11 and subsequent events involving violence committed in the name of Islam.⁵⁶⁰ While the primary goals of existing Muslim schools are to strengthen the religious and cultural identity of Muslim students and to improve their educational opportunities, those opposing the establishment of Muslim schools have expressed concern that they do not do justice to norms and values embraced in Dutch society and that they promote segregation rather than integration of Muslim students into Dutch society.⁵⁶¹ Much of the discussion that has taken place has not been based on facts, and a number of studies have shown that the concerns commonly expressed regarding Muslim schools are largely unfounded.⁵⁶²

When investigating the situation at Muslim schools, the national security service (AIVD) found in 2002 that some Muslim schools receive funding from or have board members with ties to extremist organizations, and that some teachers of religious education at such schools hold ideas that run counter to integration efforts. However, while the AIVD concluded that these findings were worrying, it emphasized that their impact on the education in Muslim schools should not be overestimated.⁵⁶³

⁵⁵⁵ Nico Landman, *Country Profile: the Netherlands*; Jan Rath, *Making Space for Islam in the Netherlands*, presented at the International and European Forum on Migration Research, Turin, June 19-21, 2003, at <http://www.fieri.it/>

⁵⁵⁶ CBS, *Jaarboek Onderwijs in Cijfers 2005*.

⁵⁵⁷ Information by Geert Driessen, Researcher at ITS, Radboud University at Nijmegen, to the IHF, February 8, 2005.

⁵⁵⁸ Geert Driessen and Michael S. Merry, "Islamic Schools in the Netherlands: Expansion or Marginalization?," ITS, Radboud University at Nijmegen (2004), p. 7.

⁵⁵⁹ Dutch Ministry of Education, Culture and Science, *Primary School: A Guide for Parents, Carers and Pupils 2001-2002*; *Secondary School: A Guide for Parents, Carers and Pupils 2001-2002*.

⁵⁶⁰ Compare Dutch Monitoring Center on Racism and Xenophobia, *Analytical Report on Education* (October 2002), p. 22, at <http://www-lbr.nl>

⁵⁶¹ Geert Driessen and Michael S. Merry, "Islamic Schools in the Netherlands: Expansion or Marginalization?," ITS, Radboud University at Nijmegen (2004), p. 7-8.

⁵⁶² *Ibid.*, p. 8, 13.

⁵⁶³ Ministry of Interior, "Closer Monitoring of Islamic Primary Schools," January 20, 2002, at <http://www.minbzk.nl>

Several studies undertaken by the Dutch Education Inspectorate have documented that most Muslim schools have an open attitude toward Dutch society and actively promote integration. While identifying room for improvement in terms of the content of the religious education in a few Muslim schools, the inspectorate has generally commended Muslim schools for adopting an instructional approach that is culturally sensitive, giving Dutch language instruction a central role, and encouraging parental participation. The findings of the inspectorate have been confirmed by other research.⁵⁶⁴

The controversy around Muslim schools should also be seen in context of a broader debate about ethnically segregated schools, or so-called “white” and “black” schools. The fact that some schools have a high proportion of students of immigrant background is widely considered to have a negative impact on the integration of non-native students as well as on the standard of education of these schools. However, several studies have rejected such concerns by concluding that there is no evidence that a high concentration of students of immigrant background impedes integration or, in itself, contributes to poor academic performance of students.⁵⁶⁵ According to a report published by a parliamentary inquiry committee on integration in 2004, ethnically segregated schools can be found among schools of all denominations, and while it may appear that there is a correlation between the ethnic composition of a school and the educational performance of its students, the crucial factor is the socio-economic background of the students.⁵⁶⁶

With particular reference to concerns about Muslim schools, the Liberal Party has advocated measures to restrict the establishment of new independent schools, while its coalition partner the Christian Democratic Party has defended the constitutionally protected right to found such schools.⁵⁶⁷ However, in a move portrayed as being aimed at promoting the integration of students of minority background, the government announced plans in 2004 to require that new schools have a board consisting only of Dutch citizens, that they adopt an integration plan and that no more than 80% of the students they admit be from socially disadvantaged homes.⁵⁶⁸ As of this writing, no concrete legislative proposal had been made to follow up on these suggestions, but they remained on the table. If implemented, the latter-most measure is likely to affect new Muslim schools particularly, as about 95% of the students at existing Muslim schools are from socially disadvantaged homes.⁵⁶⁹

⁵⁶⁴ Michael S. Merry and Geert Driessen, “Islamic Schools in Three Western Countries: Policy and Procedure,” ITS, Radboud University at Nijmegen and University of Wisconsin-Madison (2004), p. 21.

⁵⁶⁵ Dutch Monitoring Center on Racism and Xenophobia, *Analytical Report on Education*, p. 19.

⁵⁶⁶ Onderzoek Integratiebeleid, Tweede Kamer der Staten-Generaal, *Eindrapport* (2004).

⁵⁶⁷ See the chapter on the Netherlands in IHF, *Human Rights in the OSCE Region. Report 2004 (Events of 2003)*, p. 284.

⁵⁶⁸ Tweede Kamer der Staten-Generaal, *Onderwijs, Integratie en Burgerschap* (#29536) (2004).

⁵⁶⁹ Information by Geert Driessen, Researcher at ITS, Radboud University at Nijmegen, to the IHF, February 8, 2005.

Geert Driessen, an expert on Muslim schools from the Radboud University at Nijmegen, questioned whether this measure would have the intended effect of promoting integration. He pointed out that restricting the establishment of new Muslim schools would probably, in most cases, mean that Muslim students whose parents would like them to attend a Muslim school instead attend another school with a high concentration of students from socially disadvantaged backgrounds. He also warned that the proposed measure may result in Muslim parents sending their children to extra-curricular instruction in mosques to compensate for the fact that they are not able to attend Muslim schools. Religious instruction in mosques, which may amount to up to 10 hours per week, is not subject to any state control.⁵⁷⁰ Muslim representatives viewed the proposed measure as an indirect attempt at limiting the number of Muslim schools in the country.⁵⁷¹

Advocacy of Hatred and Violence in the Name of Islam

For more than a decade, it has been debated what role imams play and should play in the integration of Muslims into Dutch society. Many imams are recruited from the countries of origin of Muslim immigrants, in particular Turkey and Morocco, and work only temporarily in the Netherlands. As a result, they often lack familiarity with Dutch culture and society and have poor skills in the Dutch language. It has widely been questioned whether these “guest” imams can adequately function as leaders for Muslim communities in the Netherlands and, in particular, it has been claimed that they are bad role models for younger generations of Muslims who have grown up in the Netherlands.⁵⁷²

The concerns voiced have been fuelled by a number of highly publicized cases where imams have made controversial statements. For example, in one case in 2002, several imams working in Rotterdam, Amsterdam and The Hague were caught on tape making inflammatory statements during Friday prayers, e.g. calling for the “destruction of the enemies of Islam” and encouraging Muslims to “disobey” Dutch law.⁵⁷³ A criminal investigation was opened into these cases, but no charges were eventually brought.⁵⁷⁴

In the aftermath of the murder of Theo van Gogh, the debate about the role of imams reached a new level of intensity, and the populist politician Geert Wilders and others loudly demanded that tough

⁵⁷⁰ Yojana Sharma, “Murder Sparks Religious School Restrictions,” *Times Educational Supplement*, December 17, 2004; Information by Geert Driessen, Researcher at ITS, Radboud University at Nijmegen, to the IHF, February 8, 2005.

⁵⁷¹ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

⁵⁷² Compare Welmoet Boender, “Imams in the Netherlands: An Impression,” *CIE Newsletter*, vol.1, no.2, September 1999.

⁵⁷³ Joan Clements and Ambrose Evans-Pritchard, “Dutch Get Tough with Imams Urging Violence from Mosques,” *The Telegraph*, June 18, 2002.

⁵⁷⁴ Information provided by Leyla Hamidi, LBR, October 15, 2004.

measures be taken against hate-preaching imams.⁵⁷⁵ The government also vowed to crack down on the spread of hateful and violent ideas through mosques and proposed a number of measures to this end. Among other measures, the government proposed that it be made possible to impose sanctions against mosques and other associations that are considered to pose a “threat to public order” or to engage in activities that are “unacceptable in Dutch society.”⁵⁷⁶ Commenting on this proposal, human rights groups cautioned that it would be essential to put in place adequate safeguards against abuse of the new powers.⁵⁷⁷

In February 2005, the Ministry of Education declared that it would grant €1.5 million to the Amsterdam Free University for the purpose of developing a master's program for Muslim clergy.⁵⁷⁸ This program, which will be launched in September 2005, will reportedly also involve courses in Dutch culture and Christianity.⁵⁷⁹ Muslim organizations resented that the decision to fund the program at the Amsterdam Free University was taken without due consultation of representatives of the country's Muslim community. Also, the umbrella organizations CMO and the Shia Islamic Council (SRI) announced plans to establish an independent Islamic institute to offer courses in Islamic theology as of 2006. These courses will be implemented in cooperation with existing universities.⁵⁸⁰ As other newly arrived immigrants to the Netherlands, foreign religious leaders are already currently required to participate in instruction in the Dutch language and in Dutch culture,⁵⁸¹ and special courses reportedly exist for them.⁵⁸²

Moreover, in late February 2005, Immigration Minister Rita Verdonk announced that three imams would be deprived of their residence permits and deported from the country because they were considered to threaten public order and national security. The government said that reports from the AIVD had shown that the three imams, all of whom worked in the same mosque in Eindhoven, had tolerated recruitment of Muslims for “holy war” and had used their sermons to encourage Muslims to “isolate” themselves from Dutch society. It also stated that they adhered to the Salafist philosophy, which is deemed to be a fundamentalist form of Islam characterized by strong opposition to Western

⁵⁷⁵ See, for example, Garteh Hardin, “Interview with Geert Wilders,” United Press International, December 2, 2004.

⁵⁷⁶ *Wijziging van het Wetboek van Strafvordering, het Wetboek van Strafrecht en enige andere wetten ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven* (bill proposing new anti-terrorism powers), November 10, 2004.

⁵⁷⁷ For more information see the chapter on the Netherlands in the forthcoming IHF annual report on human rights developments in the OSCE region in 2004 (expected to be published in June 2005).

⁵⁷⁸ Dutch government, “Initial Grant for Training Imams,” February 2, 2005, at <http://www.government.nl>

⁵⁷⁹ “Dutch Government Funds Training for Home-grown Imams,” *Radio Netherlands*, February 22, 2005; “VU University Can Set up Imam School,” *Simply Amsterdam News*, February 2, 2005, at <http://www.simplyamsterdam.nl/news/>

⁵⁸⁰ “Start met imamopleiding,” *Planet Internet*, February 21, 2005; “Moslims starten eigen imamschool,” *GPD-bladen*, February 21, 2005.

⁵⁸¹ See the section on The Role of Political Leaders and Official Policies.

⁵⁸² Information from the NHC to the IHF, December 2004.

society. As a result of these circumstances, the three imams were held to “willingly and knowingly contribute to the radicalization of Muslims in the Netherlands.”⁵⁸³ The three imams appealed the decision and as of this writing their cases were yet to be heard in court.⁵⁸⁴

While moderate Muslim representatives agreed that imams who act contrary to the democratic and legal norms of the country should be brought to justice, they emphasized that any imams who are accused of abusing their positions should be given a fair process in accordance with rule of law principles. They were concerned that the allegations against the three imams were vague and that no concrete evidence was disclosed to support the allegations, which made it very difficult for the imams to challenge them. They believed that the government was using the case to gain a precedent-setting ruling as to whether classified information produced by the AIVD can be used to justify expulsion decisions. The concerns voiced by Muslim organizations were echoed by legal experts.⁵⁸⁵

Moderate Muslim representatives also criticized the fact that the three imams were labeled “radicals” by the government and in the media although they had not yet been tried in a court of law. Likewise, they expressed resentment that the turmoil surrounding this case served to reinforce public perceptions of Muslims as an “alien” and “dangerous” element in Dutch society.⁵⁸⁶

Halal Slaughter

Under Dutch law, legal exemption has been granted for Jewish and Muslim ritual slaughter to be practiced without stunning animals prior to slaughter.⁵⁸⁷ In most cities with a high concentration of Muslims, there are slaughter houses that produce meat in accordance with *halal* requirements.⁵⁸⁸ Until now there has not been any broad public debate about ritual slaughter. However, as in other EU countries, animal rights activists and others have called for abolishing the legal exemption currently made for ritual slaughter with reference to animal welfare concerns. This suggests that issue could become more controversial in the future.⁵⁸⁹

⁵⁸³ “Residence Permits of Radical Imams Cancelled,” February 22, 2005, at <http://justitie.nl>

⁵⁸⁴ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, March 1, 2005.

⁵⁸⁵ Ibid.

⁵⁸⁶ Ibid.

⁵⁸⁷ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

⁵⁸⁸ Nico Landman, *Country Profile: the Netherlands*.

⁵⁸⁹ Information from Yassin Hartog, Coordinator of the Islam and Citizenship Foundation, to the IHF, February 3, 2005.

Spain

Background Information

According to estimates, there are up to 1 million Muslims out of a total population of 41 million in Spain. This number includes both those legally resident and those who lack legal status.⁵⁹⁰ Most Muslims have origins in Morocco, with other countries of origin including Syria, Lebanon, Jordan and Iraq. Muslim laborers started arriving in the 1960s, and since the 1980s the Muslim population has grown primarily as a result of family reunification. There are some 6,000 Spanish converts to Islam.⁵⁹¹

There is no other EU country where Islam has played such an important role in history as in Spain. The conquest of a major part of the Iberian Peninsula by Muslim forces in the 8th century was followed by several centuries of Muslim reign. The power of the Muslim rulers started declining in the 11th century, and the last Muslim stronghold in Granada eventually fell in 1492. This period has left a great legacy in Spain, for example in the fields of science, architecture and art.⁵⁹²

Formal Relations between the State and the Muslim Community of the Country

The 1978 Constitution establishes Spain as a secular state but also obliges the state to maintain cooperative relations with faith communities. The relations between the government and the major religious communities of the country are regulated through bilateral agreements.⁵⁹³

In 1992, the government concluded an agreement with the Islamic Commission of Spain (hereafter “Islamic Commission”), which is composed of two umbrella organizations called the Spanish Federation of Islamic Religious Entities (FEERI) and the Union of Islamic Communities in Spain (UCIDE). The cooperation agreement grants the Muslim population of Spain several benefits, including the right to receive instruction in Islam in public and private schools, the right to take time off from school and work to celebrate Muslim holidays, and the right to have Muslim marriages recognized under civil law.⁵⁹⁴

So far, only few provisions of the cooperation agreement have effectively been implemented. The secretary general of the Islamic Commission, Mansur Escudero, attributes this situation primarily to a

⁵⁹⁰ Information provided by Mansur Escudero, Secretary General of the Islamic Commission of Spain, to the IHF per telephone, December 13, 2004.

⁵⁹¹ *Country Profiles: Spain*, Euro-Islam Info, at <http://www.euro-islam.info>

⁵⁹² “Islamic Spain (711-1492),” *BBC*, at <http://www.bbc.co.uk>; “Muslim Spain and European Culture,” at <http://www.xmission.com:8000/~dderhak/index/moors.htm> (last visited October 7, 2004).

⁵⁹³ *Country Profiles: Spain*, Euro-Islam Info.

⁵⁹⁴ *Cooperation Agreement Between the Spanish State and the Islamic Commission of Spain*, Law 26 of November 10, 1992.

lack of political will during the eight years in power of the previous conservative government. However, according to him, the socialist government that took office after the March 2004 elections has showed greater willingness to move ahead with the implementation of the agreement.⁵⁹⁵

While the Jewish and Protestant communities have been granted similar benefits as the Muslim community, the Catholic Church enjoys a number of additional privileges, including the right to direct state funding. This difference in treatment has been criticized by the Islamic Commission, which believes that all major religious communities should be treated equally.⁵⁹⁶

In the summer of 2004, media sources reported that the Spanish government was considering plans to extend state funding to religious communities other than the Catholic Church. The plans were subsequently abandoned, and the government decided instead to create a special foundation to support projects aimed at promoting the integration of the Muslim, Jewish and Protestant communities into Spanish society. The Islamic Commission welcomed this measure as a first, positive step toward accommodating the financial needs of the Muslim community.⁵⁹⁷

Negative Sentiments and Harassment against Muslims

After the September 11 events, anti-racist organizations reported an upsurge in hostility against Muslims. While there was a growing demand for information about Islam, negative attitudes toward Muslims also became more widespread and people with Muslim “appearance” increasingly experienced that they were treated with distrust and suspicion. Most attacks that occurred were verbal assaults, but some attacks on Muslim property also took place. The brunt of hostility targeted people with origins in Morocco and other Maghreb countries and drew upon pre-existing and deeply embedded prejudice against these groups.⁵⁹⁸

The March 2004 terrorist attack in Madrid, in which a series of commuter trains were bombed by a network of militants acting in the name of Islam, gave rise to fears of a new backlash. In response to the attack, more than 50 anti-racist groups and other non-governmental organizations launched a campaign to counteract racist and xenophobic reactions. In a joint statement, these organizations warned against allowing the bombings to result in a similar increase in hostility against Muslims as the September 11 events and called on the authorities and the media to avoid generalized and simplified

⁵⁹⁵ Information provided by Mansur Escudero, Secretary General of the Islamic Commission of Spain, to the IHF, December 13, 2004.

⁵⁹⁶ Ibid.

⁵⁹⁷ Marlise Simons, “Seville’s Islamic Echo,” *The New York Times*, October 26, 2004, at <http://www.nytimes.com>

⁵⁹⁸ European Monitoring Center on Racism and Xenophobia (EUMC), *Anti-Islamic Reactions in the EU after 11 September 2001: Spain* (prepared by Movement for Peace, Disarmament and Liberty) (May 2004), at <http://www.eumc.at>.

analyses and statements and to unequivocally condemn any manifestations of racism and xenophobia that may follow the attack.⁵⁹⁹ This campaign was undoubtedly an important initiative in a difficult situation. However, it appears that the fears about deteriorating attitudes toward Muslims were at least partly realized, with an increase in expressions of intolerance and harassment against Muslims being observed in the period after the Madrid attack.⁶⁰⁰ Human rights groups also expressed concern regarding cases of police racism and abuse against people of North African origin following the bombings.⁶⁰¹

Media Coverage of Issues Related to Islam and Muslims

Following the September 11 events, many media reports reflected a balanced approach toward Islam, and many opinion leaders contributed commentaries that defended Islam as a tolerant religion. However, anti-racist organizations also observed a growing trend in which the media used stereotypical language and images toward Muslims, thereby encouraging negative sentiments against this group.⁶⁰² A year after September 11, Muslim representatives published a declaration expressing concern that Islam is often associated with terrorism in the media, which they feel contributes to enhancing the vulnerability of Muslims in Spanish society.⁶⁰³

The Role of Political Leaders and Official Policies

In the aftermath of September 11, immigration policies increasingly have been linked to security concerns in Spain. While depicting tougher immigration policies as an element of the campaign against terrorism, the authorities have adopted new measures to enhance border control, combat illegal immigration and further restrict immigration legislation. Many of the measures adopted have been criticized by human rights groups for further curtailing the rights of immigrants and asylum seekers.⁶⁰⁴ Anti-racist organizations have also expressed concern that the political rhetoric surrounding immigration issues is often prejudiced and therefore contributes to fuelling popular fears against those of foreign background.⁶⁰⁵

⁵⁹⁹ The statement, “Per una lluita activa contra el racisme i la xenofòbia,” from March 16, 2004 can be found at <http://www.sosracisme.org/sosracisme/atjoweb/contra.htm#>. (last visited February 18, 2005).

⁶⁰⁰ Information from SOS Racismo to the IHF per telephone, February 18, 2005.

⁶⁰¹ See the section on Discrimination against Muslims in Different Areas of Society.

⁶⁰² EUMC, *Anti-Islamic Reactions in the EU after 11 September 2001: Spain*, p. 7, 15.

⁶⁰³ See the chapter on Spain in IHF, *Human Rights in the OSCE Region: Report 2003 (Events of 2002)*, p. 345.

⁶⁰⁴ See Human Rights Watch, “In the Name of Counter-terrorism: Human Rights Abuses Worldwide: Spain,” presented to the 59th session of the UN Commission on Human Rights, March 25, 2003, at <http://www.hrw.org>; and the chapter on Asylum, Immigration and Border Control Policies in IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2004), at <http://www.ihf-hr.org>

⁶⁰⁵ SOS Racismo, *Informe Anual 2002 sobre el racismo en el Estado Español*, at <http://www.sosracisme.org/sosracisme/dossier/Dossier%20de%20premsadib.pdf> (last visited February 18, 2005). An English summary is provided by Statewatch at <http://www.statewatch.org/news/2004/may/03spain-racism.htm> (last visited February 18, 2005).

The new government that took office shortly after the March 2004 terrorist attack in Madrid has set out to liberalize some aspects of immigration policies, for example by facilitating the regularization of immigrants without legal status. In a program that took effect in early 2005, immigrants without legal status will be granted amnesty if they can show that they have valid work contracts.⁶⁰⁶ However, major instruments of restrictive immigration legislation remain in force, and rights groups deem that the immigration policies of the new government in essence remain the same as previously.⁶⁰⁷ The current government has also continued to link immigration policies to security concerns, including in the following case:

- In an unprecedented move, two legally resident foreigners were reportedly expelled under the Aliens Law in May 2004 because they were considered a “threat to national security.” Under the Aliens Law, non-citizens may be expelled because of involvement in activities that “threaten the external security of Spain,” “undermine relations with other countries” or “are in breach of public order,” although they have not been charged with any criminal offence. Interior Ministry and police sources were quoted as saying that they believed that these provisions could prove an effective tool in the continued combat against terrorism in the wake of the March 11 bombings in Madrid. Two leftist parties supporting the government cautioned against the danger of using the Aliens Law arbitrarily and expressed concern that a habitual practice of expelling immigrants under the relevant provisions may encourage citizens to associate migrants with terrorism and result in growing feelings of insecurity among the Muslim community in the country.⁶⁰⁸

Discrimination against Muslims in Different Areas of Society

There are reports indicating that those of foreign origin are discriminated against inter alia in employment, housing and access to public places.⁶⁰⁹ Those lacking legal status are particularly vulnerable to exploitation in employment and often work in harsh conditions, which results in a high rate of accidents.⁶¹⁰

⁶⁰⁶ Honor Mahony, “Spain offers immigration amnesty,” *EU Observer*, August 28, 2004, at <http://www.euobserver.com>; Ben Sills, “Spain promises amnesty to immigrants,” *The Guardian*, August 23, 2004; “Spain gives papers to illegal immigrants,” *AFP*; “Spain launches immigrant amnesty,” *BBC*, February 7, 2005.

⁶⁰⁷ Information from Virginia Alvarez Salinas, officer responsible for home affairs and human rights at Amnesty International Spain, to the IHF, December 15, 2004.

⁶⁰⁸ Statewatch, “Terror suspects expelled using immigration legislation,” May 2004, at <http://www.statewatch.org>

⁶⁰⁹ European Commission against Racism and Xenophobia (ECRI), *Second Report on Spain* (adopted on December 13, 2002 and made public on July 8, 2003), at <http://www.coe.int>

⁶¹⁰ European Network against Racism and Xenophobia (ENAR), *ENAR Rapport Alternatif 2003: Espagne* (prepared by Diego Lorente Pérez de Eulate), p. 14, at <http://www.enar-eu.org>, p. 10.

Human rights organizations and international monitoring bodies have repeatedly expressed concern about police misconduct against people of foreign origin in Spain.⁶¹¹ In a report released in 2002, Amnesty International claimed that torture and ill-treatment of ethnic minority members and foreigners are frequent and widespread. According to the organization, problems are aggravated by the fact that discriminatory treatment, such as identity controls based on racial profiling, is tolerated by the authorities.⁶¹² In the post-September 11 period, as efforts to counter terrorism have been stepped up, Muslims and Arabs have reportedly been increasingly affected by police harassment.⁶¹³ The situation appears to have worsened after the March 2004 bombings in Madrid, with rights groups receiving an increasing number of complaints from people of Moroccan and Algerian origin about racist treatment and abusive arrests and identity checks by law enforcement authorities.⁶¹⁴

Muslim Places of Worship and Burial Facilities

There are about a dozen mosques that have been built for this purpose and hundreds of other buildings that are used as mosques.⁶¹⁵ The process of obtaining permission for constructing a new mosque reportedly can be very difficult and lengthy, especially if the desired site is located in a central city area. In some cases, strong opposition by local communities has had a decisive impact on the decisions made by the authorities with respect to building permits.⁶¹⁶

- After about a year of heated discussions and controversy, the local authorities in Premià de Mar in February 2002 authorized the construction of a mosque on a privately owned land plot in the city center.⁶¹⁷ This decision was met with protests by neighborhood communities, which gathered hundreds of signatures against the construction plans and asked the municipality to organize a referendum on the subject. During a demonstration organized as part of this movement, protests took on an explicitly racist tone, with a far-right party among the participants. In September 2002, a new agreement was reached between the Muslim community and the local authorities of Premià. According to this agreement, the local authorities pledged to lease a plot of land located outside the city center to the Muslim

⁶¹¹ See, for example, UN Committee on the Elimination of Racial Discrimination, *Concluding Observations on Spain*, April 28, 2004, at <http://www.unhchr.ch>

⁶¹² Amnesty International, "The deadly consequences of racism – torture and ill-treatment," April 16, 2002, at <http://www.amnesty.org>

⁶¹³ Human Rights Watch, "In the Name of Counter-terrorism: Human Rights Abuses Worldwide: Spain," at <http://www.hrw.org>

⁶¹⁴ Information from Virginia Alvarez Salinas, officer responsible for home affairs and human rights at Amnesty International Spain, to the IHF, December 15, 2004.

⁶¹⁵ US Department of State, *International Religious Freedom Report 2003: Spain*.

⁶¹⁶ ENAR, *ENAR Rapport Alternatif 2003: Espagne*, p. 14; chapter on Spain in IHF, *Human Rights in the OSCE Region. Report 2003 (Events of 2002)*, p. 345-346.

⁶¹⁷ SOS Racismo, *Informe Anual 2002 sobre el racismo en el Estado Español*.

community for a period of 15 years, on condition that the Muslim community waived its claim to the piece of land in the city center.⁶¹⁸

Opposition from local communities also delayed the project of constructing a new, grand mosque in Granada, which was opened under much fanfare in July 2003. This mosque, which was the first mosque to be constructed in the region since the end of the Muslim rule in the 15th century, was opened 20 years after the request to build it initially was made.⁶¹⁹

While special grave sites are reserved for Muslims in public cemeteries, Muslim communities are also allowed to establish private cemeteries.⁶²⁰ Some Muslim communities have reportedly experienced difficulties in obtaining sites in public cemeteries.⁶²¹

The Islamic Headscarf

In Spain, the use of the Islamic headscarf in schools and other public institutions has not been as controversial an issue as in several other EU countries. In those regions of the country that have a high proportion of Muslim immigrants, Muslim students reportedly often wear the headscarf to school without any problems.⁶²² The following case, however, illustrates that attitudes toward the use of the headscarf are not always tolerant:

- In February 2002, a state school in the town of San Lorenzo de El Escorial refused to allow a Muslim student to attend if she insisted on wearing the headscarf. The principal of the school justified the decision by stating that the headscarf is a “symbol of submission,” the wearing of which “violates civil rights.” The case sparked a public debate, with several leading politicians expressing support for the decision of the school. For example, the then education minister defended the decision by arguing that the headscarf “is not a religious symbol but a sign of discrimination against women.” The father of the girl said that he had not forced his daughter to wear the headscarf but that she had chosen to do so. Muslim organizations criticized the decision, and expressed concern that the negative attitudes brought to light by the case signified a change in social climate after September 11. In the end, regional

⁶¹⁸ See the chapter on Spain in IHF, *Human Rights in the OSCE Region. Report 2003 (Events of 2002)*, p. 345-346.

⁶¹⁹ Isambard Wilkinson, “After 500 years, Granada’s Muslims get their mosque,” *The Telegraph*, July 8, 2003; Giles Tremlett, “Granada rediscovers its Muslim roots,” *The Guardian*, December 6, 2003.

⁶²⁰ *Cooperation Agreement Between the Spanish State and the Islamic Commission of Spain*.

⁶²¹ Chapter on Spain in IHF, *Human Rights in the OSCE Region. Report 2003 (Events of 2002)*, p. 346.

⁶²² Information provided by Mansur Escudero, Secretary General of the Islamic Commission of Spain, to the IHF, December 13, 2004.

education authorities decided that the girl had the right to wear the headscarf since there were no legal grounds for prohibiting the wearing of the headscarf in schools.⁶²³

As a result of complaints filed by the Islamic Commission, Muslim women have been granted the right to wear the headscarf for passport and identity card pictures.⁶²⁴

Religious Education and Muslim Schools

The cooperation agreement between the government and the Islamic Commission grants Muslim students the right to receive religious education based on Islam in public schools if their parents so request.⁶²⁵ However, this right has so far existed merely in writing, except for in the Spanish enclaves of Ceuta and Melilla in Northern Africa.⁶²⁶ The current government has set out to change this situation and has announced plans to support the development of religious education classes taught by representatives of Islam and other minority religions to complement the non-compulsory religious education based on Catholicism that is typically organized in public schools.⁶²⁷

In accordance with the new approach of the government, as of the beginning of 2005, religious education classes with an Islamic orientation will be organized in public schools on the Spanish mainland. In a pilot scheme, 20 teachers will be charged with offering such classes at public schools in cities with a considerable presence of Muslims, such as Madrid, Barcelona, Valencia and Alicante. The teachers will be appointed by the Islamic Commission and local Muslim communities.⁶²⁸ This development has been welcomed by the Islamic Commission. At the same time, it has pointed out that 20 teachers will not sufficiently meet the existing demand for religious education from an Islamic perspective in those cities that are covered by the pilot scheme, and that to do so at least 100 teachers would be needed. The Islamic Commission hopes that, in the long term, religious education based on Islam will be offered in public schools throughout Spain.⁶²⁹

The cooperation agreement also grants the Islamic Commission and its member communities the right to establish private schools.⁶³⁰

⁶²³ Emma Daly, "Spain split in row over girl's veil," *The Observer*, February 17, 2002; "Veiled Muslim Girl Back to School in Spain," *Islam Online*, February 18, 2004, at <http://www.islamonline.net>

⁶²⁴ Emma Daly, "Spain split in row over girl's veil," *The Observer*, February 17, 2002.

⁶²⁵ *Cooperation Agreement Between the Spanish State and the Islamic Commission of Spain*.

⁶²⁶ A principios de 2005 se iniciarán las clases de religión islámica en varias ciudades de la Península," *Redacción Webislam*, November 20, 2004, at <http://www.webislam.com/>

⁶²⁷ Emma Ross-Thomas, "Spain's liberal plans spark church counterattack," *Reuters*, September 1, 2004.

⁶²⁸ A principios de 2005 se iniciarán las clases de religión islámica en varias ciudades de la Península," *Redacción Webislam*, November 20, 2004.

⁶²⁹ *Ibid.*

⁶³⁰ *Cooperation Agreement between the Spanish State and the Islamic Commission of Spain*.

Advocacy of Hatred and Violence in the Name of Islam

As in several other EU countries, there are concerns in Spain that some imams advocate interpretations of Islam that conflict with legal and social norms of the EU societies. The following case received wide media attention at the time:

- In a book published in 2001, an imam working in the southern Spanish town of Fuengirola advised Muslim men not to hit “disobedient” wives on “sensitive parts of the body,” but to “concentrate blows” on hands and feet, and to use “a rod that is thin so that it does not leave scars or bruises.” He was subsequently criminally charged for his statements. During the trial, the imam claimed that he had only interpreted Islamic writings from previous centuries in his book and that he did not express personal views. The judge, however, found that the book was “infused with a tone of obsolete machismo” and that it was incompatible with “reigning social mores.” The imam was sentenced to 15 months in prison and fined €2,160 under a legal provision prohibiting incitement to violence on the basis of gender. Other Muslim leaders denounced the statements made by the imam and a number of Muslim women who testified at the trial emphasized that the Quran condemns violence against women.⁶³¹

In an attempt to prevent imams from spreading hateful and violent ideas, the government proposed in May 2004 that mosque sermons be monitored and censored. The proposal gave rise to strong protests by Muslim and civil liberties groups, who charged that such a scheme would violate freedom of religion.⁶³² Apparently as a result of the criticism, the government retracted the proposal.⁶³³

While the Association of Moroccan Workers and Immigrants objected to the way the government’s proposal was formulated, it said that it welcomed the debate it had sparked because “the fact that a place is holy does not mean that it is impermeable to the introduction of elements, messages or people that can try to [...] spread certain values that are [just] not compatible with democratic values.” As an alternative to the scheme put forward by the government, the association proposed a system of self-control of mosques led by local and national Muslim councils.⁶³⁴ In November 2004, the general director of religious affairs of the Spanish government confirmed that the government will not seek to control what is preached in the country’s mosques. She also said that it is preferable that the Muslim

⁶³¹ Dale Fuchs, “Spain jails Imam for book on wife-beating,” *New York Times*, January 15, 2004; “Imam rapped for wife-beating book,” *BBC News*, January 14, 2004.

⁶³² Renwick McLean, “Spain Considers Financing for Major Religions,” *New York Times*, August 2, 2004; Jeffrey Donovan, “Striking a Balance Between Terror Fights and Respect for Civil Rights,” *Radio Free Europe/Radio Liberty*, May 24, 2004, at <http://www.rferl.org>

⁶³³ Jeffrey Donovan, “Striking a Balance Between Terror Fights and Respect for Civil Rights,” *Radio Free Europe/Radio Liberty*, May 24, 2004.

⁶³⁴ *Ibid.*

community itself engages in efforts to prevent the spread of hatred and violence in the name of Islam.⁶³⁵

As noted above, the current government has considered plans to allocate state funding also to major religious communities other than the Catholic Church, including the Muslim community. While the stated purpose of these plans was to place other religious communities on an equal footing with the Catholic Church, they also appeared motivated by a wish to reduce the influx of outside funding to the country's mosques, including from allegedly extremist sources. According to the Association of Moroccan Workers and Immigrants, many Muslim associations suffer from a lack of resources and are therefore vulnerable to offers of funding made by Saudi Arabian groups that try to promote an extremist version of Islam.⁶³⁶ As mentioned above, the plans outlined by the government were not realized, but the government decided instead to establish a foundation to promote the integration of minority religious communities into Spanish society.⁶³⁷

Halal Slaughter

The 1992 cooperation agreement permits *halal* slaughter on condition that it meets valid health standards and grants the Islamic Commission the right to certify meat products that have been prepared according to *halal* methods for marketing and sales purposes.⁶³⁸ This is one of the few provisions of the cooperation agreement that has been effectively implemented.⁶³⁹

⁶³⁵ "A principios de 2005 se iniciarán las clases de religión islámica en varias ciudades de la Península," *Redacción Webislam*, November 20, 2004.

⁶³⁶ Bettina Ambach, "Spain's Muslims: Living on Society's Edge," *Deutsche Welle*, March 18, 2004.

⁶³⁷ See the section on Formal Relations between the State and the Muslim Community of the Country.

⁶³⁸ *Cooperation Agreement Between the Spanish State and the Islamic Commission of Spain*, Law 26 of November 10, 1992.

⁶³⁹ Information provided by Mansur Escudero, Secretary General of the Islamic Commission of Spain, to the IHF per telephone, December 13, 2004.

Sweden

Background Information

Out of a total Swedish population of 8.9 million, there are an estimated 300,000 to 350,000 people who identify with or consider themselves as belonging to the Muslim tradition. About 150,000 Muslims are believed to actively practice their faith.⁶⁴⁰

The Muslim minority is very heterogeneous since its members have origins in 40 different countries, including Iraq, Iran, Turkey, the former Yugoslavia, Afghanistan and Somalia. In the 1960s, some ten thousand Muslims immigrated as laborers, while from the 1970s onward Muslims have mainly arrived under family reunification programs and as refugees.⁶⁴¹ There are currently about 100,000 second-generation Muslims who were born in Sweden.⁶⁴² Most Muslims are concentrated in bigger cities, such as Stockholm, Malmö and Gothenburg.⁶⁴³

Formal Relations between the State and the Muslim Community of the Country

Until 2000, the Evangelic Lutheran Church was the state church of Sweden. Since the abolishment of the special status of this church, all religious communities are formally treated equally. Religious communities are entitled to receive financial assistance by the state if they meet a number of conditions, including a certain number of members and a certain organizational structure.⁶⁴⁴ There are three Muslim umbrella organizations that receive financial support by the state. According to official information, the local communities that belong to these umbrella organizations involve 100,000 Muslims. The financial support is reportedly used by local Muslim communities to cover for example rental costs and the salaries of imams.⁶⁴⁵

Negative Sentiments and Harassment against Muslims

Immediately after the September 11 events, there was an upsurge in attacks on Muslims. Most attacks involved verbal abuse, but some cases of physical assaults and vandalism and arson targeting Muslim institutions and property were also reported.⁶⁴⁶ In a study that was undertaken shortly after the attacks

⁶⁴⁰ Åke Sander, "Muslims in Sweden," in Muhammad Anwar, Jochen Blaschke, Åke Sander, *State Policies toward Muslim Minorities in Sweden, Great Britain and Germany* (European Migration Center: 2004), p. 213, 216, 218; Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, presented at International and European Forum on Migration Research, Turin, June 19-21, 2003, p. 5, at <http://www.fieri.it>

⁶⁴¹ Swedish Muslim Council (Sveriges Muslimska Råd), "Islam i Sverige – kort historik," at <http://www.sverigesmuslimskarad.se>; Immigrantinstitutet, "Muslimer i Sverige," at <http://www.immi.se>

⁶⁴² Åke Sander, "Muslims in Sweden," p. 218-224.

⁶⁴³ Jonas Otterbeck, "Country Profile: Sweden," at <http://euro-islam.info/>

⁶⁴⁴ Åke Sander, "Muslims in Sweden," p. 235.

⁶⁴⁵ Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 5.

⁶⁴⁶ European Monitoring Center on Racism and Xenophobia (EUMC), *Anti-Islamic Reactions in the EU after the Terror Attacks against the USA: Sweden* (prepared by the EXPO Foundation) (May 2004), at <http://www.eumc.at>

on the United States, a majority of Muslims surveyed said that they had experienced discriminatory treatment or threats since the attacks.⁶⁴⁷ Subsequent interviews showed that Muslim women wearing the headscarf and men with “Arabic appearance” had been particularly frequent victims of harassment.⁶⁴⁸

Muslim representatives have also reported that the social climate facing Muslims has deteriorated in the aftermath of September 11.⁶⁴⁹ According to Sweden’s Young Muslims (SUM), an NGO seeking to increase knowledge of Islam and strengthen the Islamic identity of Muslim youth,⁶⁵⁰ attitudes toward Muslims have become more categorical, with prejudiced and judgmental positions toward Muslims being expressed more often than previously. While stressing that there are many positive exceptions of individuals and organizations who have advocated a balanced approach to Islam, SUM is concerned that public discussions about issues such as the use of the headscarf and Muslim schools have increasingly reflected a narrow view of Islam and have been used to express underlying frustrations about Muslims. As part of this trend, persons claiming to be “experts” on Islam have sometimes communicated an understanding of Islam that most Muslims do not subscribe to.⁶⁵¹

SUM also feels that Muslims have experienced growing pressure to justify their beliefs and to condemn and distance themselves from subsequent events involving violence committed in the name of Islam, such as the March 2004 bombings in Madrid.⁶⁵²

Only a few months after the September 11 events, the so-called Fadime case caused a public outcry in Sweden. Fadime Sahindal, a 26-year-old woman of Kurdish origin, was murdered by her father in January 2002 because he felt that she had undermined the honor of her family by choosing a Swedish lifestyle and having a Swedish boyfriend.⁶⁵³ Although the family of Fadime does not consider itself to be Muslim,⁶⁵⁴ and Islam does not sanction “honor murders,” the debate that ensued largely described

⁶⁴⁷ Göran Larsson, *Muslimar i Sverige ett år efter 11 september 2001* (Institutionen för Religionsvetenskap, Göteborgs Universitet), p. 28.

⁶⁴⁸ Ibid., p. 60.

⁶⁴⁹ Swedish Integration Board (Integrationsverket), *Samtal med svenska muslimer – situationen för svenska muslimer efter terroristattaken i USA den 11 september* (2003), p. 8, at <http://www.integrationsverket.se>

⁶⁵⁰ For information about Sweden’s Young Muslims (Sveriges Unga Muslimer), see its website at <http://www.ungamuslimer.nu>

⁶⁵¹ Information from SUM to the IHF per email, November 1, 2004.

⁶⁵² Ibid.

⁶⁵³ EUMC, *Anti-Islamic Reactions in the EU after the Terror Attacks against the USA: Sweden*, p. 47.

⁶⁵⁴ The family are Alevites, and thus members of a syncretistic religious community with a strong holding in Turkish Anatolia. There is no clear definition of what Alevism is, and scholars argue about its origins and content and whether or not it should be considered a form of Islam. See Jean-Christian Peuch, “Court Ruling Shows Authorities’ Refusal to See Alevism as a Religious Community,” *Radio Free Europe/Radio Liberty*, February 18, 2002, at <http://www.rferl.org>.

this practice as a “Muslim problem.” As a result, SUM finds that it helped fuel intolerant and hostile attitudes toward Muslims.⁶⁵⁵

In this context, the Swedish Helsinki Committee for Human Rights (SHC, an IHF member committee) has noted that for a long time no effective measures to prevent honor murders and other forms of honor crimes were taken in Sweden because of a fear on the part of authorities and NGOs to be accused of racism. However, more recently, it has been widely recognized that honor crimes are a human rights problem that should be dealt with in light of international human rights standards, and discussions surrounding these issues have moved beyond a narrow focus on cultural and religious factors.⁶⁵⁶

Media Coverage of Issues Related to Islam and Muslims

According to Muslim representatives, there has been a growing tendency in the media since September 11 to portray Islam as something negative and threatening when compared to Swedish values and ideals.⁶⁵⁷ As noted above, Muslims feel that public discussions about issues related to Islam often are unbalanced and uninformed and tend to reach simplified conclusions that only serve to reinforce popular prejudices.⁶⁵⁸ Some Muslims representatives have, however, noted that Swedish media have generally been more neutral and objective in their reports on foreign political developments since September 11 than many international media.⁶⁵⁹

The Role of Political Leaders and Official Policies

While representatives of the Swedish government and most major political parties publicly condemned intolerance against Muslims after the September 11 events, some far-right movements exploited the situation to engage in anti-Muslim rhetoric.⁶⁶⁰ The Swedish Democrats, which received over 70,000 votes (1.4% of all votes) in the parliamentary elections in 2002 and won 49 seats in 29 municipalities in the local elections the same year, have also subsequently used negative rhetoric against Muslims. The party has, for example, warned of a “Muslim invasion,” accused Muslim organizations of being “terrorist” organizations and demanded that no mosques be allowed in Sweden.⁶⁶¹

SUM is concerned that the Swedish Democrats have helped create a debate climate in which issues related to the integration of Muslims are considered in a generalized and ignorant way. The

⁶⁵⁵ Information from SUM to the IHF, November 1, 2004.

⁶⁵⁶ Information from the Swedish Helsinki Committee for Human Rights (SHC) to the IHF, January 2005.

⁶⁵⁷ Swedish Integration Board, *Samtal med svenska muslimer...*, p. 7; Göran Larsson, *Muslimer i Sverige ett år efter 11 september 2001*, p. 63.

⁶⁵⁸ See the section on Negative Sentiments and Harassment against Muslims.

⁶⁵⁹ Göran Larsson, *Muslimer i Sverige ett år efter 11 september 2001*, p. 61.

⁶⁶⁰ EUMC, *Anti-Islamic Reactions in the EU after the Terror Attacks against the USA: Sweden*, p. 18, 43-44.

⁶⁶¹ *Ibid.*, p. 44; Johan Karlsson. “Rätten att be är också helig,” *Göteborgsposten*, February 24, 2003.

organization thinks it is important that these kinds of issues are openly discussed, but it calls for calm and thorough discussions which are carried out on the basis of facts.⁶⁶²

SUM also feels that the authorities have not been sufficiently active in counteracting intolerance against Muslims since September 11. As the organization sees it, much has been said and promised, but little concrete has been done. SUM believes that the lack of concrete initiatives is related to the fact that the authorities often do not have access to objective and nuanced information and that cooperation between the authorities and representatives of the Muslim community has been limited. While the organization acknowledges that part of the problem is that Muslims do not have any strong group to lobby on their behalf as some other minority groups in Sweden do, it questions whether there has been sufficient political will to take determined action in support of the Muslim community.⁶⁶³

Moreover, Muslim and human rights organizations are concerned that some of the counter-terrorism measures taken by the Swedish government since September 11 may have had the effect of encouraging negative attitudes toward Muslims.⁶⁶⁴ Shortly after the September 11 events, the Swedish government froze the bank accounts of three citizens of Somali origin who had been listed as “terrorist suspects” by the UN Security Council although no concrete evidence was presented to support the allegations against the men and they were not granted any opportunity to defend themselves. After living for months with their funds frozen and under the pressure of being accused of ties to the Al Qaeda network, two of the three men were removed from the UN list of terrorist suspects in late 2002, while the third remained on it.⁶⁶⁵

In December 2001, the Swedish government forcibly returned to their home country two Egyptian asylum seekers who allegedly were associated with “terrorist” groups. Acknowledging that there were well-founded fears that the men would be subjected to persecution in Egypt, the government obtained diplomatic assurances from the Egyptian government that it would respect the rights of the men. However, these assurances were a woefully inadequate means of protecting the two men, and subsequent reports have indicated that the men were tortured in Egyptian detention upon their return.⁶⁶⁶

⁶⁶² Information from SUM to the IHF, November 1, 2004.

⁶⁶³ Ibid.

⁶⁶⁴ Ibid.; and information from SHC to the IHF, January 2005.

⁶⁶⁵ For more information, see the chapters on Sweden in the IHF 2002 and 2003 reports on Human Rights in the OSCE Region, at <http://www.jhfhr.org>; and Swedish NGO Foundation for Human Rights and SHC, *Alternative Report to “Comments by the Government of Sweden on the Concluding Observations of the Human Rights Committee”* (July 2003).

⁶⁶⁶ Ibid. See also the chapter on Extraditions, Expulsions and Deportations in IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2003).

The measures adopted by the Swedish government in these two cases have been criticized by human rights NGOs and international monitoring bodies for violating international human rights standards, including due process rights and the right to non-refoulement. Most worrisome, they have created the impression that the Swedish government is willing to allow security considerations to outweigh human rights considerations in context of the US-led “war on terrorism” that was launched after September 11. As these and other problematic anti-terrorism measures have been portrayed as necessary to counteract the global threat of militant Islam,⁶⁶⁷ they have also conveyed the impression that the danger of terrorism committed in the name of Islam is considered to justify extraordinary measures that go beyond previous practice. In other words, the message appears to have been that Muslim “terrorist” suspects are more dangerous than other “terrorist” suspects.⁶⁶⁸

Discrimination against Muslims in Different Areas of Society

The office of the Swedish Ombudsman against Ethnic Discrimination, which has been charged with monitoring ethnic and religious discrimination, received a total of 741 complaints of discrimination in 2003. Out of these, 393 were related to employment and the labor market, 57 to housing, 63 to the law enforcement system, and 55 to service generally. The number of complaints registered by the ombudsman has increased notably in the last few years, from 418 in 2000 to 741 in 2003.⁶⁶⁹ At the same time, the number of complaints that is reported to the ombudsman is believed to constitute only a small percentage of the total number of cases of discrimination.⁶⁷⁰

Discrimination in employment is a major concern. The number of complaints related to employment and labor participation that was filed with the office of the Ombudsman against Ethnic Discrimination increased six times between 1997 and 2003.⁶⁷¹ There are also studies showing that those of foreign origin who have a job often hold a position that does not correspond to their level of education or skills.⁶⁷²

While there are no studies detailing how discrimination affects Muslims – whether of foreign origin or not – anecdotal evidence suggests that Muslims often are discriminated against when applying for jobs.⁶⁷³ According to SUM, Muslims who wear the headscarf or otherwise openly show that they are Muslims are particularly vulnerable to discrimination in the labor market. Also Muslims who are not

⁶⁶⁷ For more information about other recent anti-terrorism measures, including new legislation, see the chapter on Sweden in IHF, *Human Rights in the OSCE Region – Report 2003 (Developments 2002)*; and Swedish NGO Foundation for Human Rights and SHC, *Alternative Report to “Comments by the Government of Sweden on the Concluding Observations of the Human Rights Committee”*.

⁶⁶⁸ Information from the SHC to the IHF, January 2005.

⁶⁶⁹ Statistics obtained at the website of the Ombudsman against Ethnic Discrimination (ombudsmannen mot etnisk diskriminering), at <http://www.do.se>

⁶⁷⁰ ECRI, *Second Report on Sweden*, p. 18.

⁶⁷¹ Information from the website of the Ombudsman Against Ethnic Discrimination.

⁶⁷² Åke Sander, “Muslims in Sweden,” p. 298.

⁶⁷³ *Ibid.*, p. 297; Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 13.

of immigrant background but who dress in an Islamic manner or otherwise make it clear that they are practicing Muslims reportedly experience discrimination.⁶⁷⁴

A study undertaken by the Swedish newspaper *Dagens Nyheter* in September 2004 documented that people with Arabic names often are rejected by employers despite sufficient professional and linguistic qualifications. Two so-called matched pairs, composed of two young men with Swedish-sounding names and two young men with Arabic-sounding names who had similar qualifications, were asked to apply for the same jobs. In a total of 244 out of 366 cases either or both of those in one of the two pairs were invited to an interview. While those with Swedish-sounding names were invited in 98% of these cases, those with Arabic-sounding names were invited only in 85% of them. On the basis of the results of similar studies undertaken in other EU countries, a researcher who analyzed the findings concluded that the difference in positive response was likely to have grown if the study had continued beyond the initial stage of the job seeking process, resulting in that the two men with Arabic names would have been rejected in every fifth case because of their names.⁶⁷⁵

As a result of the existence of these kinds of discriminatory practices, employment offices reportedly sometimes advise Muslims and other people with foreign-sounding names to change names to “something more Swedish-sounding” as a way of improving their chances of securing a job.⁶⁷⁶

The office of the Swedish Ombudsman against Ethnic Discrimination has dealt with a number of cases of alleged discrimination against Muslim women who wear the headscarf in the labor market.⁶⁷⁷

Muslim Places of Worship and Burial Facilities

There are some 150 Muslim prayer rooms in Sweden, and five mosques that have been built or renovated to serve that particular purpose.⁶⁷⁸ In a case that is yet to be solved, the oldest of the “proper” mosques was targeted by arson in 2003:

- In April 2003, the mosque of Malmo was almost completely destroyed by fire. An ensuing police investigation showed that the fire was a result of arson. The mosque, which was opened in 1984 and served a community of approximately 55,000 Muslims, had previously received several threats. The fire caused damages that were estimated to amount to a total of

⁶⁷⁴ Information from SUM to the IHF, November 1, 2004.

⁶⁷⁵ Eva Stenberg, “Vårt femte jobb stängt för invandrare,” *Dagens Nyheter*, September 5, 2004; and “Rebin? Nej, tack. Fredrik? Ja, välkommen!,” *Dagens Nyheter*, September 5, 2004, at <http://www.dn.se>;

⁶⁷⁶ Eva Stenberg, “Arbetsförmedlingarnas tips: Välj något mer svenskklingande,” *Dagens Nyheter*, September 6, 2004.

⁶⁷⁷ Information from the website of the Ombudsman against Ethnic Discrimination, at <http://www.do.se>

⁶⁷⁸ Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 7.

40 million Kroner (€4.5 million), only half of which was covered by insurance.⁶⁷⁹ The mosque is currently being reconstructed, while no perpetrator has reportedly been identified.⁶⁸⁰

There are about 10 Muslim cemeteries in the larger cities of Sweden, and some of these have been in use for several decades. With younger generations of Muslims, the demand for Muslim burial sites is growing as a decreasing number of deceased Muslims are transported to their countries of origin for burial.⁶⁸¹

The Islamic Headscarf

According to Muslim organizations, Muslim women wearing the headscarf are often faced with prejudiced attitudes because of widespread public perceptions associating the headscarf with oppression of women and religious fundamentalism.⁶⁸² As noted above, veiled Muslim women are also vulnerable to harassment and discrimination.⁶⁸³

As in other EU countries, the use of the headscarf in public institutions has been debated in Sweden. The wide attention given to the following case contributed to intensifying discussions on the topic:

- In 2002, Nadia Gabriel, a Swedish woman of Palestinian origin, was offered to host a program broadcasted on Swedish public TV. The program, called “Mosaic” dealt with multicultural matters. However, the administration of Swedish public TV intervened in the case and blocked Gabriel’s appointment because she wears the headscarf. The TV direction eventually reversed its decision, but shortly thereafter it was announced that Mosaic, which had been on for several seasons, would be taken off the air.⁶⁸⁴

Among the major arguments used by those advocating restrictions on the use of the headscarf is that restrictions are needed to ensure religious neutrality of public space and to promote equality between women and men. Arguments such as these have been countered by Muslim organizations and others. In a joint statement released in July 2004, the chair of the Swedish Council of Muslims together with

⁶⁷⁹ Haneefah bint Stefan, “Mosque in Swedish Southern City Set on Fire,” *Islam Online*, April 28, 2003, at <http://www.islamonline.net>; “Moskén i Malmö brändes ner,” *Aftonbladet*, June 25, 2003, at <http://www.aftonbladet.se>; “Moskébranden var anlagd,” *Sydsvenskan*, June 24, 2003, at <http://www.sydsvenskan.se>.

⁶⁸⁰ Pia Rehnqvist, “Moskéområdet reser sig ur askan,” *Sydsvenskan*, April 26, 2004.

⁶⁸¹ Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 7-9.

⁶⁸² Swedish Muslim Council, “Konsekvenserna av Islam-debatten i Sverige,” 2004.

⁶⁸³ See the sections on Negative Sentiments and Harassment against Muslims and Discrimination against Muslims in Different Areas of society.

⁶⁸⁴ Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 11; Yehia Abu Zakariya, “First Veiled Muslim Woman in Swedish TV,” *Islam Online*, September 1, 2003; “Slöja tillåts i SVT,” *Aftonbladet*, September 17, 2004.

the archbishop of the Swedish Evangelic Lutheran Church and the chair of the major trade union TCO emphasized that freedom of religion, as it is protected by international standards, entails the right of individuals – if they wish – to show that they belong to a particular religious community, and to make their own choices as to what they wear, how they pray and what they eat on the basis of their beliefs.⁶⁸⁵ Also opposing restrictions on the use of the headscarf, anti-discrimination organizations have pointed out that oppression against women is manifested in different ways across cultures and religions and is not tied to any particular traditions or symbols.⁶⁸⁶

In 2003, the National Agency of Education decided that schools are allowed to prohibit their students from wearing veils that cover the face – such as the *burqa* – if there are objective reasons for doing so, e.g. a need to ensure smooth interaction between teachers and students.⁶⁸⁷ The minister of integration commented on the decision by saying that it is essential in an open society to be able “see each other’s faces” and that the decision should not be seen as a first step toward prohibiting students from wearing the regular headscarf, which she considers a legitimate way of exercising one’s religious beliefs.⁶⁸⁸ According to SUM, many Muslims would probably agree that it may be preferable to choose a regular headscarf instead of a veil that covers the face in order to avoid conflicts. The organization also believes that it is highly preferable that schools together with students work out a solution in individual cases rather than that the use of veils such as the *burqa* is prohibited by law.⁶⁸⁹

Religious Education and Muslim Schools

While religious education that deals with different religions from a non-denominational perspective is part of the curriculum in public schools, independent schools with a religious orientation can be established on condition that they have been approved by the National Agency for Education. The education offered at independent schools should have the same basic objectives as public schools. As a result of a 1992 reform, independent schools are funded by state grants that are distributed through the home municipalities of the students. Since this reform was implemented, the number of independent schools has increased considerably.⁶⁹⁰ There are currently about 20 Islamic and Arabic schools in the country.⁶⁹¹

The existence of Muslim schools is a subject of controversy. While those establishing schools with a Muslim or Arabic character have stated that their primary motives are to enhance the educational

⁶⁸⁵ “Ge islam större utrymme,” *Dagens Nyheter*, July 3, 2004.

⁶⁸⁶ Ledningsgruppen för det Nationella Nätverket av Antidiskrimineringsbyråer, “Slöjdebatt,” March 22, 2004, at <http://malmo.antidiskriminering.net/sloja.htm>

⁶⁸⁷ National Agency of Education (Skolverket), “Skolor har rätt att förbjuda burqa,” October 24, 2003, at <http://www.skolverket.se>

⁶⁸⁸ “Slöjförbud väcker starka känslor,” *Svenska Dagbladet*, October 24, 2003, at <http://www.svd.se>

⁶⁸⁹ Information from SUM to the IHF, November 1, 2004.

⁶⁹⁰ National Agency for Education, “Vad är fristående skolor?”

⁶⁹¹ Information from the National Association of Independent Schools (Friskolornas Riksförbund).

opportunities of Muslim students and to protect and promote their cultural and religious identity, those opposing such schools have inter alia expressed concern that they may contribute to segregation of Muslim students and may not adequately transmit certain values that Swedish schools are expected to transmit, e.g. equality between sexes.⁶⁹²

A documentary aired on Swedish TV in the spring of 2003, which attracted extensive attention, resulted in renewed discussions about the desirability of Muslim schools. This documentary alleged that conditions in some Islamic and Arabic schools are deplorable, and that students are subjected to both physical and mental forms of ill-treatment.⁶⁹³ The National Agency for Education made investigations into the situations at the schools covered by the documentary, but did not find anything to support the allegations about ill-treatment of students. One of the schools had, however, already been closed prior to the airing of the documentary because of shortcomings in the quality of the education it offered as well as other aspects of its activities.⁶⁹⁴ Three other schools received warnings because of management problems.⁶⁹⁵ The National Agency for Education also responded to the documentary by strengthening its practice of controlling independent schools so as to regularly scrutinize their activities rather than only when it is informed about problems.⁶⁹⁶

After a new TV documentary was shown in 2004, the National Agency for Education investigated the conditions at one Arabic school and found that teachers had repeatedly treated students in an unacceptable manner, e.g. by holding their heads under water and hitting them on the neck. The school was warned that unless it effectively dealt with these problems it would lose its permit to operate.⁶⁹⁷

In the context of these developments, Muslim representatives and others cautioned against using problems discovered at some Islamic and Arabic schools to advance narrow and biased positions about all such schools, thereby reinforcing negative stereotypes against Muslims.⁶⁹⁸ The National Association of Independent Schools emphasized that the standard of most schools with a confessional character is high, and that they should not be categorically judged because a few have failed to live up

⁶⁹² For a background to such discussions see Guadalupe Francia, "Islamiska skolor – En väg till likvärdig utbildning?," *Pedagogisk Forskning i Sverige*, No. 3/3/1998, p. 191-210; Elisabeth Gerle, "Muslimska friskolor i Sverige," *Pedagogisk Forskning i Sverige*, No. 2/3/1997, p. 182-204.

⁶⁹³ "Dokument Inifrån: I skolans våld" aired on Swedish Public TV, May 8, 2003.

⁶⁹⁴ National Agency for Education, "Återkallande av godkännandet för El Dagveskolan i Jönköpings kommun," May 14, 2003.

⁶⁹⁵ National Agency for Education, "Skolverket: Muslimska friskolor kränker inte sina elever," September 9, 2003.

⁶⁹⁶ Olle Lönnaeus, "Kontrollen av friskolor skärps," *Sydsvenskan*, May 9, 2003.

⁶⁹⁷ National Agency for Education, "Manar Al-Houda skolan uppfyller inte kraven för godkännande," June 10, 2004.

⁶⁹⁸ Evin Khaffaf and Anna Johansson, "Dokumentär om friskolor är missvisande," November 14, 2003, at <http://www.beyan.net/article.asp?id=280> (last visited February 2, 2005).

to their responsibilities.⁶⁹⁹ As noted above, Muslim organizations have called for more thorough and factual discussions about issues such as the role of Muslim schools.⁷⁰⁰

Advocacy of Hatred and Violence in the Name of Islam

As in other countries covered in this report, it is a concern in Sweden that imams working in the country are not always adequately qualified for their positions. While courses in Islam are offered at a number of universities in the country, there is no comprehensive program for training imams. Some imams have obtained relevant education in other countries, but others do not have any formal theological education.⁷⁰¹

In cooperation with a Christian college in Stockholm, an organization called the Swedish Islamic Academy started offering courses for educating imams in 2002.⁷⁰² Some politicians have also advocated that programs to educate imams be introduced at universities throughout the country.⁷⁰³ As mentioned above, many local Muslim communities receive financial support from the state, and use such funds inter alia to pay imams.⁷⁰⁴

Halal Slaughter

Because of animal welfare concerns *halal* slaughter is only permitted on condition that animals are pre-stunned in Sweden. Muslim organizations have criticized this limitation, and have expressed resentment that the issue of ritual slaughter has been dealt with from a narrow animal protection perspective without due consideration of religious freedom.⁷⁰⁵ Muslim representatives have also pointed out that some studies show that animals, in particular poultry, often die because of the pre-stunning and therefore are not slaughtered in accordance with the requirements of Islamic law when *halal* slaughter is practiced under valid legal standards. At the same time, they have emphasized that *halal* slaughter involves treating animals gently and sparing them from unnecessary pain and suffering, while questioning how humane pre-stunning really is since it typically is implemented through the use of electric shock.⁷⁰⁶

⁶⁹⁹ National Association of Independent Schools, "Låt inte Dokument Inifråns granskning leda till ökad hets mot alla religiösa friskolor," April 13, 2003.

⁷⁰⁰ See the section on The Role of Political Leaders and Official Policies.

⁷⁰¹ Jonas Otterbeck, *The Legal Status of Islamic Minorities: The Case of Sweden*, p. 9.

⁷⁰² Ibid.

⁷⁰³ Vänsterpartiet, "Starta imamutbildning vid svenska högskolor!," January 21, 2005, at <http://www.vansterpartiet.se>

⁷⁰⁴ See the section on Formal Relations Between the State and the Muslim Community of the Country.

⁷⁰⁵ Dokument om halalslakt överlämnat av Islamiska Samarbetsrådet, Förenade Islamiska Församlingar i Sverige och Sveriges Muslimska Förbund till Jordbruksverket, September 29, 2003.

⁷⁰⁶ Ibid.; Information from SUM to the IHF, November 1, 2004.

United Kingdom

Background Information

According to census information from 2001, there are about 1.6 million Muslims in the United Kingdom out of a population of 55 million.⁷⁰⁷ Around 70% of all Muslims have origins in Pakistan, Bangladesh and India, while smaller groups originate from a broad range of regions, including Turkey, the Middle East and North Africa. From the 1950s to the 1970s Muslims came primarily as labor immigrants, and in later decades Muslims arrived predominantly under family reunification programs and as refugees.⁷⁰⁸

The Muslim community is composed of members who come from a number of different ethnical and cultural backgrounds and is therefore highly diverse. Most Muslims are Sunni, but a number of other Islamic traditions are also represented in the country, including different Shia and Sufi traditions.⁷⁰⁹ According to some reports, about half of all Muslims actively practice their faith.⁷¹⁰

A majority of Muslims were born in the United Kingdom and have British citizenship, including some 5,000 to 10,000 converts. Muslims are mainly concentrated in and around London and other large cities, such as Birmingham, Manchester and Bradford.⁷¹¹ Recent statistics show that 34% of the country's Muslims are younger than 16 years of age, while the corresponding rate for the population of the country as a whole is 20%.⁷¹²

Formal Relations between the State and the Muslim Community of the Country

There are two so-called established churches in the United Kingdom, the Church of England (Anglican) and the Church of Scotland (Presbyterian), both of which have a special relationship to the state. No religious communities are, however, granted direct financial support by the state or any other extensive privileges. Most religious groups operate as charities and thereby enjoy tax-exempt

⁷⁰⁷ This figure indicates the number of persons who identified themselves as being Muslim. National Statistics, "Religion in Britain: Census Show 72% Identify as Christians," at <http://www.statistics.gov.uk>

⁷⁰⁸ Muslim Council of Britain (MCB), "Islam in the British Isles – Some Key Events and Dates," at <http://www.mcb.org.uk>; MCB, "Muslim Statistics"; Forum Against Islamophobia and Racism (FAIR), "Muslims in the UK," at <http://www.fairuk.org>

⁷⁰⁹ FAIR, "Muslims in the UK"; Minority Rights Group (MRG), *Muslims in Britain* (prepared by Humayun Ansari) (2002), p. 7, at <http://www.minorityrights.org>; Open Society Institute (OSI), *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK* (2002), p. 367-368, at <http://www.eumap.org>

⁷¹⁰ "Muslim Britain: The Statistics," *The Guardian*, June 17, 2002.

⁷¹¹ FAIR, "Muslims in the UK"; MRG, *Muslims in Britain*, p. 7-8; OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 368.

⁷¹² MCB, "Muslim statistics."

status. The state also provides some funding for the maintenance and repair of worship places as well as for faith-based schools.⁷¹³

Since the end of the 1980s Muslim organizations have become more visible in public life and have stepped up their efforts to defend Muslim interests. The largest national umbrella organization is the Muslim Council of Britain (MCB), which has over 400 affiliated national, regional and local organizations.⁷¹⁴ The MCB was established in 1997 and has been widely recognized as a representative body by the authorities, although it has not made any claim that it speaks on behalf of all Muslims in the country.⁷¹⁵

Negative Sentiments and Harassment against Muslims⁷¹⁶

While intolerance against Muslims was a concern prior to September 11, Muslims have repeatedly witnessed that the situation has further deteriorated since these events. As the fight against terrorism has become a major priority of the government and extensive media coverage has been given to the threat of militant activities in the name of Islam, Muslims have experienced a significant worsening of attitudes toward them.⁷¹⁷

Since September 11, Muslim organizations have recorded unprecedented numbers of anti-Muslim incidents, including verbal and written abuse, harassment, physical assaults and attacks on property. During the first year following the attacks on the United States, the Islamic Human Rights Commission (IHRC) registered a total of 670 anti-Muslim incidents, including 344 cases of physical assaults and attacks on property, 188 cases of verbal and written abuse and 108 cases of psychological pressure and harassment. Among the attacks were cases in which Muslims were intimidated, insulted, pushed, shoved, spat at and hit with umbrellas. There were also cases where Muslims were beaten, sometimes resulting in serious injuries, and where mosques, Muslim cemeteries and Muslim property were subjected to vandalism, bomb threats and arson.⁷¹⁸

⁷¹³ See, for example, International Centre for Migration Policy Development, *Comparative Study on the Admission of Clergy* (2005), at http://www.icmpd.org/uploading/Comparative%20Study%20on%20the%20Admission%20of%20Clergy_2005-01-24_final.pdf (last visited February 14, 2005), p. 107

⁷¹⁴ A list of the affiliates of the MCB can be found at <http://www.mcb.org.uk/>.

⁷¹⁵ MRG, *Muslims in Britain*, p. 20-21.

⁷¹⁶ See also the sections on Media Coverage of Issues Related to Islam and Muslims and The Role of Political Leaders and Official Policies.

⁷¹⁷ Islamic Human Rights Commission (IHRC), *Submission to the Home Office in Response to Discussion Paper, 'Counter-terrorism Powers: Reconciling Security and Liberty in an Open Society'* (August 2004), p. 45, at <http://www.ihrc.org.uk>; FAIR, "Islamophobia in the UK and the EU since Sept 11."

⁷¹⁸ IHRC, *The Hidden Victims of September 11: The Backlash against Muslims in the UK* (September 2002). See also the chapter on Hate Crimes and Discriminatory Policies in IHF, *Anti-terrorism Measures, Security and Human Rights* (April 2003), at <http://www.ihf-hr.org>

In subsequent years, the number of anti-Muslim incidents registered by the IHRC has remained high, although it has not been as high as during the first year after the September 11 events. While reports of physical abuse have decreased over time, reports of harassment in public places such as schools and workplaces have increased. New surges in hostility have been observed following international events involving violence committed in the name of Islam, such as the killing of the British hostage Ken Bigley in Iraq in October 2004.⁷¹⁹

According to the IHRC, in recent years, hate attacks against Muslims have increasingly been characterized by an open targeting on the basis of religion rather than on the basis of a mixture of race and religion. While public perceptions of what a Muslim supposedly is have been influenced by developments and discussions related to terrorism since September 11, Muslims of all ethnicities and skin colors are now vulnerable to attacks when they are dressed in an Islamic manner.⁷²⁰

A survey carried out by the ICM research institute shortly before the terrorist attack in Madrid provides a picture of how widespread experiences of harassment are among Muslims. Out of 500 Muslims interviewed for this survey, 33% said that they or their family members had experienced hostility and abuse because of their religion.⁷²¹

The IHRC has expressed concern that a considerable number of abuses targeted at Muslims are never reported to police because victims lack confidence that police will deal effectively with their cases. This problem predated September 11, but has since worsened as Muslims have experienced that they are unfairly targeted by counter-terrorism measures.⁷²² Adding to such experiences, there reportedly have been cases where Muslims who have turned to police to report crimes have been treated as terrorist suspects.⁷²³ The following is an example of such a case:

- In June 2004, a 22-year-old Muslim graduate student was brutally attacked while on his way to attend Friday prayers in north-west London. Three teenagers who saw him boarding a bus dressed in traditional Arabic clothes started taunting and spitting at him, and after they all had left the bus, he was repeatedly punched, kicked and struck in the head with a heavy road sweeper's broom, even as he was lying motionless on the ground. When the attack eventually came to an end, the group of teenagers was seen leaving the scene laughing. As a result of the attack, the student was in a coma for three months, and he is now paralyzed on the left side of his body, intellectually impaired and virtually blind. Doctors fear that he will never recover

⁷¹⁹ Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷²⁰ Ibid.

⁷²¹ ICM Research, *Muslim Poll – March 2004*, at <http://www.icmresearch.co.uk/>

⁷²² IHRC, *The Hidden Victims of September 11: The Backlash against Muslims in the UK*; IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 50.

⁷²³ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 35.

and that he will need nursing care for the rest of his life.⁷²⁴ In December 2004, one of the teenagers was sentenced to five and a half years in prison for causing grievous bodily harm with intent, but the court did not find any evidence of racial or religious aggravation.⁷²⁵ The two other boys were acquitted after denying any wrongdoing.⁷²⁶ According to the IHRC, police have investigated the case in a way so as to create the impression that the victim is a terrorist suspect. On the evening of the attack police reportedly confiscated belongings from the student's apartment, and his family and friends have repeatedly been asked about his religious and political beliefs, the frequency with which he visited mosques, the types of books he read and other things irrelevant to the case.⁷²⁷

Among others, the Commission on British Muslims and Islamophobia (CBMI), an independent think tank, has warned that the current social climate facing Muslims has resulted in a growing sense of alienation within the country's Muslim community. The CBMI has concluded that widespread anti-Muslim sentiments, together with other forms of Islamophobia such as negative stereotypes in media, discrimination in various areas of society, prejudiced remarks by political leaders and counter-terrorism legislation disproportionately affecting Muslims,⁷²⁸ have created an atmosphere in which Muslims do not feel that they truly belong to or are accepted as full members of British society. Instead they feel that they are viewed as an "enemy within" or as a "fifth column." As the CBMI sees it, this widening division between Muslims and non-Muslims is highly detrimental not only for the Muslim community but also for society as a whole.⁷²⁹

Media Coverage of Issues Related to Islam and Muslims⁷³⁰

Muslim and minority rights organizations have criticized media for reinforcing prejudice and mistrust toward Muslims through irresponsible and unbalanced reporting. According to these organizations, the internal diversity of Islam is often overlooked in media, and Islam is depicted as a monolithic and

⁷²⁴ Hugh Muir, "Boy, 14, Beat Muslim Student in Racist Attack," *The Guardian*, November 30, 2004, at <http://www.guardian.co.uk>; Melvyn Howe, "Schoolboy Maimed Muslim Student in Street Attack," *The Scotsman*, November 29, 2004, at <http://www.scotsman.com>; "Student Left Blinded in Attack," *The Times Online*, November 3, 2004, at <http://www.timesonline.co.uk>; IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 35; information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷²⁵ Nicole Martin, "Five and a Half Years for Boy who Blinded Muslim," *The Telegraph*, December 21, 2004.

⁷²⁶ Melvyn Howe, "Schoolboy Maimed Muslim Student in Street Attack," *The Scotsman*, November 29, 2004.

⁷²⁷ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 35-36; information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷²⁸ For a discussion on these concerns see the sections on Media Coverage of Issues related to Islam and Muslims; The Role of Political Leaders and Official Policies; and Discrimination against Muslims in Different Areas of Society.

⁷²⁹ Commission on British Muslims and Islamophobia (CBMI), "Islamophobia and Race Relations" (adapted and abbreviated from *Islamophobia – Issues, Challenges and Action* (2004)), at

<http://www.insted.co.uk/relations.html>; Nigel Morris, "Muslims Made to Feel Like an Enemy within by Islamophobic Attitudes, Report Concludes," *The Independent*, June 3, 2004.

⁷³⁰ See also the section on The Role of Political Leaders and Official Policies.

one-dimensional religion that is fundamentalist and threatens “western democratic values.” In accordance with this trend, Muslims with extremist opinions are given intense coverage, while few efforts are typically made to relate such views to the views of moderate Muslims. Above all, it is felt that sensationalist tabloids have contributed to creating the image that all Muslims endorse violent means and sympathize with terrorists, thereby fueling popular perceptions of a distinction between “us” and “them.”⁷³¹

The Role of Political Leaders and Official Policies

In the aftermath of September 11, the far-right British National Party (BNP), which won 5% of the votes in the 2004 elections to the European Parliament and in the same year secured 21 local council seats,⁷³² has increasingly embraced anti-Muslim attitudes instead of the broader racist message it previously communicated.⁷³³

In a secretly filmed TV documentary that was aired in the summer of 2004, BNP members inter alia depicted Islam as a “vicious wicked faith” that “has expanded through a handful of cranky lunatics” and expressed wishes to “blow up” mosques and “machine-gun” Muslims.⁷³⁴ When commenting on the documentary, the MCB expressed concern that the BNP has been able to exploit a loophole in British legislation which prohibits incitement of racial but not of religious hatred,⁷³⁵ and that the language used by the party may encourage acts of violence against Muslims. The MCB also noted that there has been a tendency in society since September 11 toward growing acceptance of abuse and hatred directed at Muslims.⁷³⁶

Shortly after the September 11 events, the British government publicly condemned any form of intolerance against Muslims.⁷³⁷ However, undermining this call for tolerance, several government

⁷³¹ Liberty, “A New ‘Suspect Community,’” October 2001; MCB, “The Demonizing of Islam,” October 17, 2002; MRG, *Muslims in Britain*, p. 24-25; Jan Jun, “British Muslims Blame Media for Fostering Hostile Attitudes,” *Radio Free Europe/Radio Liberty*, August 27, 2004, at <http://www.rferl.org>.

⁷³² Adam Mellows-Facer and Jessica Yonwin, *Local Elections 2004 – Research Paper 04/49* (Library of the House of Commons: June 2004); “European Parliamentary Election, 2004,” at <http://www.brainyencyclopedia.com>

⁷³³ OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK* (2002), p. 377.

⁷³⁴ Jeremy Seabrook, “Religion as A Fig Leaf for Racism,” *The Guardian*, July 23, 2004; “BNP Activists Admit to Race Crime,” *BBC*, July 15, 2004; “Film Exposes Political Islamophobia,” *Aljazeera Net*, July 15, 2004.

⁷³⁵ In a development welcomed by the MCB and other Muslim organizations, the Home Secretary in July 2004 announced plans to outlaw incitement of religious hatred. Such a change of law was proposed shortly after September 11, but was not approved by parliament because of concerns about freedom of expression. Instead, religious hatred was established as an aggravating factor for a number of crimes with the adoption of the *Anti-terrorism, Crime and Security Act 2001*. As of this writing, the new proposal was yet to be considered in parliament.

⁷³⁶ MCB, “BNP Documentary Underlines Urgent Need For Incitement Legislation,” July 15, 2004.

⁷³⁷ See the chapter on Hate Crimes and Discriminatory Policies in IHF, *Anti-terrorism Measures, Security and Human Rights* (April 2003).

members have subsequently made comments implying that Muslims generally are less committed to democracy and non-violence than other members of society.⁷³⁸ For example, in late 2003, media sources reported that Denis MacShane, minister on European affairs, had called on Muslims to choose between the “British way” and the “terrorist way.”⁷³⁹

Moreover, Muslim and rights groups have criticized the British government for engaging in a campaign against terrorism that has primarily targeted Muslims and that has thereby served to place the country's Muslim community collectively under suspicion. In the aftermath of September 11, more than 600 people have been arrested under anti-terrorism legislation, a vast majority of whom are Muslims. However, less than 100 of those arrested have been charged with terrorism offenses, and only 15 people have been convicted of such crimes, with no more than three of these known to be Muslims.⁷⁴⁰ Some 200 of those arrested have been charged with offenses unrelated to terrorism, and more than half have been released without charge.⁷⁴¹

As of late 2004, nine men, all of whom are Muslim, remained in detention under the Anti-terrorism, Crime and Security Act 2001 (ATCSA), which allows for indefinite detention without charge of foreigners who are suspected of involvement in terrorism but who cannot be deported from the country.⁷⁴² However, on December 16, 2004, a panel of law lords of the House of Lords – as the highest appeal instance – ruled in favor of an appeal by those detained under the ATCSA, concluding that the law is incompatible with the European Convention on Human Rights because it allows for “detention of suspected international terrorists in a way that discriminates on the ground of nationality or immigration status.”⁷⁴³

Among others, the Institute of Race Relations (IRR) has emphasized that the discrepancy between the rate of arrests and convictions under anti-terrorism laws, together with the discrepancy between the

⁷³⁸ CBMI, “Islamophobia and Race Relations.”

⁷³⁹ A statement to this end was included in a speech the minister had prepared for a meeting with constituents, which was leaked to media. As a result of strong objections, he reportedly toned down his language somewhat when actually delivering the speech. Matthew Taylor, “Minister's Call to Choose Outrages British Muslims,” *The Guardian*, November 22, 2003; “Minister's Warning Angers Muslims,” *BBC*, November 22, 2003.

⁷⁴⁰ Rohit Jaggi, “Police Gain Extra Time to Question Suspects,” *The Financial Times*, August 9, 2004, at <http://www.ft.com>; Institute of Race Relations (IRR), “Terror Policing Brings Many Arrests but Few Charges,” March 5, 2003, at <http://www.irr.org.uk>; Liberty, *The Impact of Anti Terrorism Powers on the British Population* (June 2004); Liberty, “Anti-terrorism Legislation – A Handbook on How to Alienate Muslim Communities,” Spring 2003; Hamed Chapman, “Most Terrorist Convictions Are Non-Muslim,” *The Muslim News*, August 27, 2004, at <http://www.muslimnews.co.uk>

⁷⁴¹ Rohit Jaggi, “Police Gain Extra Time to Question Suspects,” *Financial Times*, August 9, 2004; IRR, “Terror Policing Brings Many Arrests but Few Charges,” March 5, 2003; “Anti-terrorism Legislation – A Handbook on How to Alienate Muslim Communities,” Spring 2003.

⁷⁴² Liberty, “Internment – Detention without Trial,” August 2004.

⁷⁴³ “Terror Detainees Win Lord Appeal,” *BBC*, December 16, 2004.

religious background of those arrested and those convicted, raise serious concerns about excessive and discriminatory use of arrest powers against Muslims.⁷⁴⁴

Muslim and civil liberties organizations have also expressed concern that there is often extensive media attention when police raids result in arrests under anti-terrorism laws, while there is typically only minimal coverage when those arrested subsequently are released. As a result, the public is left with the impression that the British criminal justice system is successfully prosecuting “Muslim terrorists,” although in reality most of those Muslims who are arrested on terrorism allegations are never charged with any terrorism offence.⁷⁴⁵ At the same time, those who are falsely arrested on terrorist suspicions typically face irreparable damage to their reputations, and they and their family members continue to suffer from stigmatization in employment and social life long after charges have been dropped and media attention has waned.⁷⁴⁶

The following is only one case out of hundreds in which Muslims who have been arrested under anti-terrorism legislation eventually have been released without charge:

- In April 2004, dramatically worded newspaper articles reported that police had thwarted a terrorist attack on the stadium of the soccer club Manchester United by arresting ten people suspected of planning a collective suicide bombing.⁷⁴⁷ All of those arrested were Muslims. The story was never directly challenged by police, and rumors about a possible terrorist attack were further fuelled as police took measures to tighten security at subsequent Manchester United home games. Police claimed that the arrests were made “after a great deal of deliberation” and because of “credible intelligence,” but the only evidence that was presented to support the arrests consisted of Manchester United t-shirts, posters, old ticket stubs and a match fixture list, which were found in the possession of those arrested. After being held for ten days, all ten arrested were released without charge. When interviewed a few months after being released, two of those arrested summarized the impact that the event had had on their lives by saying: “We have lost our jobs, our girlfriends, [and] our friends. Nobody believes us that we are not terrorists.”⁷⁴⁸

Moreover, there is a growing feeling among Muslims that they are stopped and searched by police solely because of their affiliation with Islam. Lawyers and organizations representing Muslims have

⁷⁴⁴ IRR, “New Study Highlights Discrimination in Use of Anti-terror Laws,” September 2, 2004.

⁷⁴⁵ Ibid.; IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 39.

⁷⁴⁶ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 45.

⁷⁴⁷ For example, Sun ran a story under the headline “Man U Suicide Bomb Plot” on April 20, 2004.

⁷⁴⁸ Guy Raz, “Freed ‘Man Utd 10’ Seek Apology,” CNN, May 20, 2004; Harmit Athwal, “Wrongly Accused Man Utd. Fans Call for Apology,” IRR, June 3, 2004; Rachel Shabi, “Guantanamo in Our Back Yard,” *The Guardian*, September 11, 2004; IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 15-16.

reportedly received an increasing number of complaints from people who have never previously been in trouble with the law but who have now been stopped by police on the street or in their cars or who have had their homes searched for no apparent reason other than that they are Muslim.⁷⁴⁹

The Terrorism Act 2000 introduced wider stop and search powers in the context of anti-terrorism efforts. Under the Act, police may stop and search vehicles and pedestrians without reasonable suspicion that they are about to commit a crime in areas that have been specifically designated for the use of such powers.⁷⁵⁰ The metropolitan area of London has been under the authorization for the use of extended stop and search powers for more than two years.⁷⁵¹ According to official statistics made available in mid-2004, there was a 300% rise in the number of Asians stopped and searched by police under the Terrorism Act 2000 between 2001-2002 and 2002-2003.⁷⁵² The religious affiliation of those stopped was not registered, but it appears likely that most Asians targeted have been from the sizeable Pakistani and Bangladeshi communities, most of whose members are of Muslim faith.⁷⁵³ While 13% of stops and searches undertaken under normal police powers in 2002-2003 resulted in arrest, the arrest rate for stops and searches based on terrorist suspicion was only 1.7%.⁷⁵⁴

Abusive police conduct toward Muslims in the context of counter-terrorism efforts has also been reported, including the use of offensive language and unnecessary force.⁷⁵⁵ In one case a police officer reportedly threatened to “blow the brains out” of the child of a Muslim man who was stopped, and in other incidents Muslims have been held at gunpoint by police.⁷⁵⁶ The following is a widely reported case from late 2003:

- In December 2003, six or seven police officers reportedly burst into the home of a 29-year-old Muslim man and his wife in London as they were asleep. According to the man, the police officers beat him repeatedly before they pulled him down to the floor and informed him that he was being arrested under anti-terrorism legislation. The police officers subsequently made him kneel with his face down and mocked him for being Muslim, laughing at him and scornfully asking him, “Where is your God now?” The abuse reportedly continued in the police vehicle as the man was taken to a local police station. A doctor who examined the man

⁷⁴⁹ Rosie Cowan and Alan Travis, “Muslims: We Are The New Victims of Stop and Search,” *The Guardian*, March 29, 2004, at <http://www.guardian.co.uk>

⁷⁵⁰ See section 44 of the *Terrorism Act 2000*, at <http://www.legislation.hmso.gov.uk/acts/acts2000/00011--f.htm#44> (last visited February 9, 2005).

⁷⁵¹ Liberty, *Reconciling Security and Liberty in an Open Society – Liberty Response* (August 2004), p. 10.

⁷⁵² “Muslim Anger over Stop and Search,” *BBC*, July 2, 2004.

⁷⁵³ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 26.

⁷⁵⁴ Arun Kundanin, “Analysis: The War on Terror Leads to Racial Profiling,” *Independent Race and Refugee News Network*, July 7, 2004, at <http://www.irr.org.uk>

⁷⁵⁵ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 32; Jennifer Carlile, “Britain's Muslims Fear 'Islamophobia',” *MSNBC*, April 20, 2004, at <http://www.msnbc.com>

⁷⁵⁶ Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

after his arrest found that he had severe bruises on his whole body, including on his face, scalp, chest, back, abdomen and legs, and that there was blood in his ears and in his urine. After seven days the man was released without charge.⁷⁵⁷ Following an investigation by the Independent Police Complaints Commission into a complaint filed by the man, the Crown Prosecution Service announced in early September 2004 that there was not sufficient evidence to bring charges against any police officer involved in the alleged abuse.⁷⁵⁸ While disciplinary measures would be considered, no such measures had been taken as of the time of writing.⁷⁵⁹ In August 2004, the man was re-arrested on an extradition warrant issued by the United States, which alleged that he had been involved in efforts to recruit “terrorists” and raise money for “terrorist purposes” in Afghanistan and Chechnya.⁷⁶⁰ As of this writing, extradition had not been granted.⁷⁶¹

There are clear signs that the counter-terrorism policies pursued by the current government have resulted in widespread discontent among the country’s Muslims. In a survey carried out in March 2004, 64% of Muslims interviewed found that anti-terrorism laws have been used unfairly against the Muslim community, and 68% did not agree with assurances made by political leaders that the ongoing “war against terrorism” is not a “war against Islam.”⁷⁶²

Muslim groups have also warned that current counter-terrorism policies are eroding Muslims’ confidence in police practice and impartiality and are reducing Muslims’ willingness to cooperate with police. According to the IHRC, counter-terrorism measures targeting Muslims who have nothing to do with terrorism are “extremely counterproductive” because they alienate “the very community that police need to help and support the fight against terror.”⁷⁶³ As the organization has put it, the family of a Muslim “who has been stopped and searched for no apparent reason, who has been verbally abused and humiliated, may not alert the police if they notice anything suspicious happening within the community.”⁷⁶⁴ While the MCB has actively engaged in efforts to promote cooperation by Muslims with police for the purpose of preventing terrorism,⁷⁶⁵ its secretary general has testified to the

⁷⁵⁷ “Arrested Muslim Says He Was Terrorized by Police,” *The Muslim News*, December 12, 2003; Hugh Muir, “Mosques Launch Protests over ‘Terror’ Arrests,” *The Guardian*, December 13, 2003.

⁷⁵⁸ Vijram Dodd, “Muslim Held in Terror Raid ‘Suffered 50 Injuries,’” *The Guardian*, September 11, 2004.

⁷⁵⁹ Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷⁶⁰ Christine Hauser, “US Says Suspect Held in Britain Used Web to Raise Funds for Terror,” *International Herald Tribune*, August 7, 2004, at <http://www.iht.com>

⁷⁶¹ Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷⁶² ICM Research, *Muslim Poll – March 2004*, at <http://www.icmresearch.co.uk/>

⁷⁶³ “Rise in Police Searches of UK Asians,” *Daily Times*, August 24, 2004, at <http://www.dailytimes.com.pk/>

⁷⁶⁴ IHRC, *Submission to the Home Office in Response to Discussion Paper...*, p. 51.

⁷⁶⁵ For example, in March 2004, the MCB sent a letter to imams and Muslim leaders across the United Kingdom calling on them to remind community members of their obligation to “maintain peace and security,” to be vigilant against “mischievous and criminal elements” that seek to infiltrate their communities and to cooperate with police “in dealing with any criminal activity including terrorist threat.” MCB, “MCB Guidelines to Imams and British Muslim Organizations,” March 31, 2004.

challenges the organization faces in its efforts by saying: “we have been urging Muslims to work in partnership with police, to help combat a common threat facing us all, but this is made difficult when these very same people or members of their family may well have been stopped and searched just last week, for no justifiable reason.”⁷⁶⁶

Moreover, Muslim groups have warned that current policies may eventually backfire and drive moderate Muslims into the hands of extremist groups, which attempt to exploit feelings of frustration within the Muslim community.⁷⁶⁷

In an encouraging development, there has been some acknowledgement by authorities that current counter-terrorism policies may be counter-productive. The Metropolitan Police Authority, which scrutinizes the activities of the London-based Metropolitan Police Service, stated in a report published in May 2004 that “the compelling statistical evidence of stop and search practice in London shows that minorities are disproportionately targeted by police.” It also concluded that the disproportionate use of stop and search powers “creates mistrust in our institutions, impedes communities’ sense of belonging and level of civic participation and impacts on human dignity.” It therefore called for “swift and effective action” to improve stop and search processes.⁷⁶⁸

Two months later, the government announced plans to review the use of stop and search powers and to take measures aimed at building confidence in the police among groups perceived to be unfairly treated by them. On this occasion, a leading Home Office representative was quoted as saying: “I am concerned about the undermining of confidence in the criminal justice system by stop and search, and that is why I am saying that we need a change in the way that we deal with these issues.”⁷⁶⁹

Discrimination against Muslims in Different Areas of Society⁷⁷⁰

According to census statistics, Muslims are the most disadvantaged religious group in the UK labor market. Muslims have the lowest employment rate of any religious group, and their unemployment rate is three times the national average and twice the level of other minority religious communities. In addition, Muslims are disproportionately represented among low-income segments in the country.

⁷⁶⁶ MCB, “MET Police’s Stop and Search Powers Used Unfairly Against Muslims,” May 20, 2004.

⁷⁶⁷ Jason Bennetto, “Crackdown by Police is ‘Driving Muslims to Extremists,’” *The Independent*, February 2, 2004.

⁷⁶⁸ Metropolitan Police Authority (MPA), Report of the MPA Scrutiny on MPS Stop and Search Practice (May 2004), at <http://www.mpa.gov.uk/downloads/stopandsearchreport04.pdf> (last visited February 9, 2004), p. 129-130.

⁷⁶⁹ “Islamophobic Policing Alienating Young Muslims: UK Government,” *Rediff.com*, July 3, 2004, at <http://www.rediff.com/news/>

⁷⁷⁰ See also the section on The Role of Political Leaders and Official Policies.

The reasons for the disadvantages experienced by Muslims in employment are complex, but include inter alia unsatisfactory labor policies and discriminatory hiring practices.⁷⁷¹

Reinforcing concerns about discrimination, an investigation undertaken by the *BBC* in 2003-2004 indicated that people with typical Muslim names are up to three times less likely than those with English-sounding names to get an interview when applying for a job. Fictitious job applications were sent out in response to 50 job openings. While candidates with English-sounding names were invited to an interview in 23% of the cases, the corresponding rate was only 9% for candidates with names suggesting that may be Muslim.⁷⁷²

Analyses of census data and other relevant statistics have shown that the country's Muslim community has the poorest health, the highest rate of disability and the lowest level of education of all religious groups in the country.⁷⁷³ Studies also show that Muslims are disadvantaged in terms of housing and often live in substandard and overcrowded dwellings. In some places, Muslim communities live highly segregated from majority communities, a phenomenon which is at least partly a result of discriminatory practices in providing access to housing.⁷⁷⁴

Housing patterns together with school admission policies and parental choices have reportedly created a situation in which Muslim students often attend schools that in practice are segregated. Such segregation reduces interaction between Muslims and members of the majority population and contributes to fostering mistrust and misunderstanding between the two communities.⁷⁷⁵

Muslim groups have reported that feelings of discrimination have become more widespread among Muslims in recent years. Out of those Muslims interviewed for a 2004 survey conducted by the IHRC, 80% said that they have experienced discrimination because of their faith, while the corresponding figure was 45% in 2000 and 35% in 1999. In the first two surveys, women and young people more frequently reported experiences of discrimination than other groups of Muslims, but in 2004 the level was about the same for all groups. The IHRC believes that the reasons behind this trend include growing awareness among Muslims of what constitutes discrimination as well as the impact that the rise in police stops and searches has had on Muslims, particularly on Muslim men.⁷⁷⁶

⁷⁷¹ OSI, *Aspirations and Reality: British Muslims and the Labor Market* (2004), p. 8-9.

⁷⁷² Hugh Muir, "Muslim Names Harm Job Chances," *The Guardian*, July 12, 2004.

⁷⁷³ John Carvel, "Census Show Muslim's Plight," *The Guardian*, October 12, 2004.

⁷⁷⁴ MRG, *Muslims in Britain*, p. 8-9; OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 397.

⁷⁷⁵ MRG, *Muslims in Britain*, p. 9; OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 364, 392-393.

⁷⁷⁶ Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004. For more information, see IHRC, *Social Discrimination: Across the Muslim Divide*, December 16, 2004. A summary of the report is available at: <http://www.ihrc.org.uk/show.php?id=1335> (last visited February 17, 2005).

Muslim Places of Worship and Burial Facilities

It is not necessary to obtain state permission to establish a place of worship in the United Kingdom, but official registration ensures tax benefits and the right to perform recognized marriage ceremonies.⁷⁷⁷ More than 500 mosques are registered with the authorities, while the total number of mosques is at least twice as high.⁷⁷⁸ Some cemeteries managed by local authorities provide separate areas where burial according to Islamic traditions is possible. There are also private Muslim cemeteries.⁷⁷⁹

In the aftermath of September 11, an increasing number of cases of vandalism and desecration targeted at mosques and Muslim graves have been reported.⁷⁸⁰

The Islamic Headscarf

As discussed above, Muslim women who wear the headscarf and Muslims who otherwise are dressed in a way that shows their affiliation with Islam are particularly vulnerable to verbal and other forms of abuse.⁷⁸¹ In a case noted with great concern by the IHRC, a Muslim woman who had been attacked during a visit to a shop was advised to remove her headscarf by the emergency ward nurse treating her wounds, who said, "We are getting 3 or 4 cases of this sort every month."⁷⁸²

While the headscarf is generally accepted in schools, there have been a few cases where Muslim students who wear the headscarf have experienced problems because of restrictive school policies regarding the use of headgear. With reference to such cases, the Commission for Racial Equality concluded in March 2004 that school policies prohibiting the use of the headscarf, along with other forms of headgear, amount to "indirect racism."⁷⁸³ The Commission for Racial Equality is a publicly funded NGO that monitors implementation of legislation prohibiting racial discrimination, for example by undertaking formal investigations into cases of alleged discrimination. It may also make recommendations, which, however, are not binding.⁷⁸⁴

In a new development, a high court in Luton in June 2004 dismissed a complaint from a Muslim girl who had not been allowed to attend her school wearing the *jilbab*, a full-length dress that covers all of the body except the face and the hands. The judge found that the school's uniform policy, which

⁷⁷⁷ OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 410.

⁷⁷⁸ MCB, "Muslim Statistics."

⁷⁷⁹ "Funerals of Different Religions," BBC, at

http://www.bbc.co.uk/health/bereavement/practical_diff_religions.shtml#different (last visited November 15, 2004).

⁷⁸⁰ See the section on Negative Sentiments and Harassment against Muslims.

⁷⁸¹ Ibid.

⁷⁸² Information from Arzu Merali, director of research of the IHRC, to the IHF, November 25, 2004.

⁷⁸³ IHRC, "Briefing: Good Practice on the Headscarf in Europe," March 9, 2004.

⁷⁸⁴ For more information about the Commission for Racial Equality, see <http://www.cre.gov.uk/about/about.html>

allows girls to choose between a standard uniform and a uniform of trousers and a tunic that has been specifically designed to accommodate the religious and cultural needs of minority members, was "reasoned, balanced [and] proportionate." He also pointed out that the school's uniform policy is aimed at protecting the rights of Muslim students who do not wish to wear the *jilbab* but who may feel pressured to do so.⁷⁸⁵ The MCB found the decision "very worrying and objectionable" and said that it thinks that those Muslims who consider that they have a religious duty to wear the *jilbab* "should be respected."⁷⁸⁶

In February 2005, the decision by the Luton court was overturned on appeal. According to the Appeal Court, the school concerned had failed to justify the interference with the right to freedom of religion that its policies constituted. Lawyers representing the defendant described the ruling as a "landmark victory" and the MCB welcomed it as a "common-sense approach."⁷⁸⁷

Discussions about dress codes ensued again in November 2004, when a ban on wearing the *jilbab* was introduced in state schools in the London borough of Hamlet. Muslim students and parents protested against the measure, which was said to be based on safety considerations, and Muslim organizations responded to it by calling for national guidelines as to appropriate school uniforms for Muslims.⁷⁸⁸ According to government guidelines from 2002, schools should accommodate the needs of students representing different cultures, races and religions within their general uniform policies and refrain from disciplining students who have to adhere to particular cultural, race or religious dress codes.⁷⁸⁹

Home office guidelines from 2000 permit the wearing of religious head coverings on passport pictures provided that the full face is visible. The Metropolitan Police Force allows officers to wear uniforms that correspond to their beliefs, and since 2003 Muslim policewomen can wear the headscarf.⁷⁹⁰

Religious Education and Muslim Schools

By law, publicly maintained schools are required to offer religious education, the content of which is decided at a local level but should "reflect the fact that the principal religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principle religions represented in Great Britain." All students are required to attend such classes, but if

⁷⁸⁵ John Aston and Jan Colley, "Court Rejects Muslim Schoolgirl's Dress Claim," *The Scotsman*, June 15, 2004; Sam Jones, "Muslim Pupil Loses Legal Battle to Wear *Jilbah*," *The Guardian*, June 16, 2004; "Schoolgirls Lose Muslim Gown Case," *BBC*, June 15, 2004.

⁷⁸⁶ MCB, "The Right to Wear the *Jilbah* Should Be Respected," June 15, 2004.

⁷⁸⁷ "Schoolgirl Wins Muslim Gown Case," *BBC*, March 2, 2005.

⁷⁸⁸ Cahal Milmo, "Muslim Anger at Ramadan Dress Code," *The Independent*, November 9, 2004; Abul Taher, "Stay-at-home protest as school ban Islamic dress," *The Times*, November 7, 2004; "Muslim Dress Code Stirs Controversy in Britain," *Islam Online*, November 10, 2004.

⁷⁸⁹ Department for Education and Skills, *School Uniform Guidance* (2002), at <http://www.teachernet.gov.uk/management/atoz/u/uniform/> (last visited November 11, 2004).

⁷⁹⁰ IHRC, "Briefing: Good Practice on the Headscarf in Europe," March 9, 2004.

they wish, parents can withdraw their children from them. The same regulation applies to daily acts of collective worship, which are to be “wholly or mainly of a broadly Christian character.”⁷⁹¹

Some Muslim parents have expressed discontent about the heavy emphasis on Christianity of religious education classes and collective worship and have advocated that education about Islam and contributions by Muslims be more effectively integrated into the curricula of public schools.⁷⁹² It has also been argued that this would help Muslim students develop a more comprehensive understanding of Islam and its history and traditions than they typically develop when participating in extra-curricular Quran classes organized in mosques.⁷⁹³

Religious communities have the right to establish independent schools on condition that these schools meet certain minimum standards. While state funding has been granted to Anglican, Roman Catholic and Jewish schools for a long time, state funding has only in recent years been allocated to schools established by other religious communities, including Muslim communities.⁷⁹⁴ Muslim representatives have expressed resentment that not all religious communities are treated equally in the provision of state funding to faith-based schools and have called on the government to change its policies accordingly.⁷⁹⁵ Currently, only a few Muslim schools receive state funding, while some 7,000 Anglican, Roman Catholic and Jewish schools are supported.⁷⁹⁶

In addition to those Muslim schools that benefit from state funding, there are close to 100 Muslim schools that are privately funded. Currently about 5% of all Muslim students attend Muslim schools.⁷⁹⁷ A recent study indicated that there is great potential for setting up new Muslim schools, as 45% of Muslims interviewed said that they would prefer to send their children to a Muslim school rather than to a regular state school if they had the choice.⁷⁹⁸

⁷⁹¹ John M Hull, “Religious Education and Islam in English Religious Education: Developments and Principles,” *Muslim Education Quarterly*, Vol. 15, No. 4, 1998, at <http://www.johnmhull.biz/muslim.htm> (last visited January 24, 2005).

⁷⁹² Ibid; OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, 417.

⁷⁹³ OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 419-420.

⁷⁹⁴ Ibid. p. 415.

⁷⁹⁵ Ibid., p. 416.

⁷⁹⁶ Muhammad Anwar and Qadir Bakhsh, “State Policies Towards Muslims in Britain,” in Muhammad Anwar, Jochen Blaschke, Ake Sander, *State Policies toward Muslim Minorities in Sweden, Great Britain and Germany* (European Migration Center: 2004), p. 384.

⁷⁹⁷ Rebecca Smithers, “Anger at Muslim Schools Attack,” *The Guardian*, January 18, 2005.

⁷⁹⁸ ICM Research, *Muslim Poll – March 2004*.

The role of faith-based schools within the educational system is a subject of controversy, and it has been argued that such schools may undermine efforts to promote integration of minority communities.⁷⁹⁹

In early 2005, the Chief Inspector of Schools attracted broad public attention when he, as part of a speech to an educational charity, expressed concern that many faith-based schools do not adequately educate their students about their “wider responsibilities and obligations to British society.” He further said that the forthcoming annual report of his office⁸⁰⁰ will conclude that many Muslim schools “must adapt their curriculum to ensure that it provides pupils with a broad general knowledge of public institutions and services in England and helps them to acquire an appreciation of and respect for other cultures in a way that promotes harmony and tolerance.”⁸⁰¹

Responding to media reports about the speech, Muslim representatives criticized the Chief Inspector for making irresponsible statements aimed at encouraging negative attitudes toward Muslims. They argued inter alia that difficulties in meeting educational objectives are common to all poorly resourced schools and should not be traced back to the Muslim character of schools.⁸⁰²

It was later disclosed that the remarks made by the Chief Inspector concerned Muslim schools that are in a so-called transitional phase. These schools have not yet achieved full independent status but remain under supervision until they obtain an acceptable standard in a number of respects, including teaching about British institutions and services and different cultural traditions. Out of 50 Muslim schools that were in the transitional phase in 2003-2004, 36% were found not to have met the first of these requirements, and 54% fell short of the second. In comparison, 43% of Evangelical Christian schools that were in the transitional phase did not reach the required level in terms of the first requirement.⁸⁰³

Advocacy of Hatred and Violence in the Name of Islam

There are concerns that not all imams who work in the country have sufficient linguistic ability and other qualifications necessary for their positions. Against the background of such concerns, the government introduced new regulations in August 2004 to ensure that foreign imams who work in the

⁷⁹⁹ OSI, *Monitoring the EU Accession Process: Minority Protection. The Situation of Muslims in the UK*, p. 415-416.

⁸⁰⁰ This report was published on February 2, 2005. See Annual Report of Her Majesty's Chief Inspector of Schools 2003/04, at <http://www.ofsted.gov.uk/publications/index.cfm?fuseaction=pubs.summary&id=3829>

⁸⁰¹ The text of the speech made by Chief Inspector of Schools David Bell to the Hansard Society on January 17, 2005, can be found at <http://education.guardian.co.uk/ofsted/story/0,7348,1392282,00.html> (last visited February 6, 2005).

⁸⁰² Richard Garner, “Muslim Schools Fail to Teach Tolerance, Ofsted Chief Says,” *The Independent*, January 18, 2005; Rebecca Smithers, “Anger at Muslim Schools Attack,” *The Guardian*, January 18, 2005

⁸⁰³ Katherine Demopoulous, “Christian Schools 'Failing' to Meet Tolerance Target,” *The Guardian*, January 21, 2005; “Ofsted Muslim Schools Row Goes On,” *BBC*, February 7, 2005.

country are proficient in English. Under the new regulations, imams and clergy of other religions will have to demonstrate that they have a basic command of English before being granted entry into the United Kingdom, and within two years of entry they will have to prove that they have obtained a higher standard of language competence. The government is also reportedly considering a requirement for clergy who have worked in the country for a year to demonstrate “knowledge of, and engagement with, British civic life.”⁸⁰⁴

Muslim representatives, who were consulted on the new regulations, broadly agreed that it is important that imams are able to communicate with younger generations of Muslims in the language that they speak and that imams understand the realities of contemporary British society.⁸⁰⁵

In another measure, which was largely motivated by concerns about Muslim leaders who advocate hateful ideas, new legislation was introduced in early 2003 to empower the home secretary to deprive persons with dual citizenship of their UK citizenship because of national security interests. Civil liberties and Muslim groups criticized this legislation for creating an avenue for arbitrary decisions and emphasized that all citizens, whether dual-citizens or not, should have the right to be tried in a court of law. The ICHC also feared that implementation of the law would unduly target and victimize Muslims.⁸⁰⁶

Shortly after taking effect, the law was used to revoke the UK citizenship of Abu Hamza-al Masri, a Muslim cleric who has caused dismay among Muslim and non-Muslim leaders alike because of his rhetoric, e.g. praising Osama bin Laden and justifying the September 11 events.⁸⁰⁷ Hamza-al Masri appealed the decision to a special immigration tribunal, and a final decision on the withdrawal of his citizenship was still pending when he was arrested on a US extradition warrant in May 2004, as well as when he was subsequently criminally charged under British law in October 2004. The British charges against the cleric include several counts of encouraging murder against believers of other faiths and inciting racial hatred, and they carry a maximum sentence of life imprisonment upon conviction.⁸⁰⁸

⁸⁰⁴ John Steels, “Imams Face English Entrance Test,” *The Telegraph*, July 23, 2004; “Imams to Sit for 'English Test' Before UK Entry,” *Islam Online*, July 23, 2004.

⁸⁰⁵ “Imams to Sit for 'English Test' Before UK Entry,” *Islam Online*, July 23, 2004; Jan Jun, “Authorities Impose English-Language Proficiency Test on Foreign Imams,” *Radio Free Europe/Radio Liberty*, August 9, 2004.

⁸⁰⁶ IHRC, “IHRC Condemns the New Powers under the Asylum, Immigration and Nationality Act 2002 to Revoke British Citizenship from Holders of Dual Nationality,” April 2, 2003; “Radical Cleric Stripped of British Citizenship,” April 7, 2004.

⁸⁰⁷ “Profile: Abu Hamza,” *BBC*, May 27, 2004.

⁸⁰⁸ “UK Muslim Cleric Indicted in US,” *CNN*, May 27, 2004; Stewart Tendler, “Abu Hamza Accused of Inciting Hate and Murder,” *Times Online*, October 20, 2004; “Hamza Charged with 16 Offences,” *The Guardian*, October 19, 2004.

Halal Slaughter

Existing British legislation permits Muslims and Jews to practice ritual slaughter without pre-stunning animals, which is generally a requirement for slaughter in the country. The Farm Animal Welfare Council (FAWC), an independent advisory body, concluded in a report published in 2003 that slaughter without pre-stunning animals causes “severe suffering” to animals. It therefore recommended that the government abolish the exemption from pre-stunning currently made for Islamic and Jewish slaughter methods. As a temporary measure, the FAWC recommended that ritual slaughter only be allowed on condition that animals are stunned immediately after the slaughter cut.⁸⁰⁹

The recommendations made by FAWC caused strong objections from Muslim and Jewish communities, which stressed that stunning animals prior to slaughter contravenes their religious traditions and that prohibiting ritual slaughter in the form it is currently practiced would interfere with their freedom of religion. Muslim representatives also pointed out that some research has shown that pre-stunning animals prior to slaughter results in more pain for them than mere slaughter and that post-stunning is unnecessary since the *halal* method achieves bleeding and stunning in one step.⁸¹⁰

In its response to the FAWC report, the government accepted the conclusion that slaughter without pre-stunning, on balance, is likely to cause significant pain for animals. It nevertheless rejected the recommendation to prohibit ritual slaughter without pre-stunning animals, arguing inter alia that such a ban would be in conflict with the European Convention on Human Rights. While the government saw merit in the recommendation to require post-stunning of animals, it concluded that “we are mindful of likely opposition to this from some religious groups and would intend to seek progress on a voluntary basis.”⁸¹¹

⁸⁰⁹ The Farm Animal Welfare Council Report (FAWC), *On the Welfare of Farmed Animals at Slaughter or Killing, Part 1: Red Meat Animals*, June 10, 2003.

⁸¹⁰ MCB, “British Muslims Oppose FAWC Recommendation,” June 10, 2003; MCB, “Minister to Review DEFRA’s Response on Halal Slaughter and Stunning,” June 30, 2004.

⁸¹¹ UK Department for Environment, Food and Rural Affairs (DEFRA), *On the Welfare of Farmed Animals at Slaughter or Killing, Part 1: Red Meat Animals – DEFRA Response to Recommendations*, April 1, 2004.

Annex: Relevant International Standards

This chapter offers a brief and general overview of international human rights standards that are relevant to the topics addressed in the report.

The Right to Equal and Non-Discriminatory Treatment

The Universal Declaration of Human Rights (UDHR) establishes that “[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law.”⁸¹² The second articles of the International Covenant on Civil and Political Rights (ICCPR) and of the International Covenant on Economic, Social and Cultural Rights (ICESCR) oblige state parties to respect the rights set forth in these documents “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁸¹³ Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) contains a comparable clause.⁸¹⁴

Article 26 of the ICCPR grants everyone “the equal protection of the law” and provides that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁸¹⁵ The UN Human Rights Committee has pointed out that Article 26 prohibits both discrimination in law and in fact and, in the case of the latter, both actions by public authorities and by private persons and bodies. The Committee has also noted that the application of the principle of non-discrimination contained in this article is not limited to those rights which are laid down in the ICCPR.⁸¹⁶ Like the ICCPR, the EU Charter of Fundamental Rights, which will become legally binding for the EU member states when the new EU Constitution enters into force, contains a general ban on discrimination.⁸¹⁷

Article 4 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (hereafter “Declaration on Religious Intolerance and Discrimination”), which was adopted by the UN General Assembly in 1981, calls on states to “take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political,

⁸¹² UDHR, Article 7.

⁸¹³ ICCPR, Article 2; ICESCR, Article 2.

⁸¹⁴ ECHR, Article 14.

⁸¹⁵ ICCPR, Article 26.

⁸¹⁶ UN Human Rights Committee, *General Comment No. 18: Non-discrimination*, November 10, 1989.

⁸¹⁷ EU Charter of Fundamental Rights, Article 21. Similarly, Protocol 12 to the ECHR, which was opened for signature in 2000, provides for a general prohibition of discrimination. Having received 10 ratifications, the protocol will enter into force as of January 4, 2005. Out of the countries covered by the report, only the Netherlands had ratified the protocol by the end of 2004.

social and cultural life.” Moreover, states are urged to “make all efforts to enact or rescind legislation where necessary to prohibit such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or belief in this matter.”

The OSCE member states have repeatedly committed themselves to respecting the human rights and fundamental freedoms of all without any distinction as well as to ensuring protection against discrimination.⁸¹⁸

In 2000, the European Commission against Racism and Intolerance (ECRI) adopted a policy recommendation on combating intolerance and discrimination against Muslims.⁸¹⁹ This recommendation inter alia calls on the member states of the Council of Europe to take the necessary measures to combat discrimination on religious grounds in employment and other areas, including by encouraging employers to adopt “codes of conduct” and by imposing appropriate sanctions. It also urges the member states to “ensure that public institutions are made aware of the need to make provision in everyday practice for legitimate cultural and other requirements arising from the multi-faith nature of society.”

According to guidelines on counter-terrorism and human rights that were adopted by the Committee of Ministers of the Council of Europe in 2002, all measures taken to combat terrorism “must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment.”⁸²⁰

Protection against Intolerance and Racially/Religiously Motivated Violence

According to Article 20 of the ICCPR, “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

The OSCE member states have committed themselves to taking “appropriate and proportionate measures to protect persons or groups who may be threatened or subjected to discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect

⁸¹⁸ See, for example, Helsinki 1975, principle VII, par. 1; Vienna 1989, par. 13.7; Copenhagen 1990, par. 5.9.

⁸¹⁹ ECRI, *General Policy Recommendation No 5: Combating Intolerance and Discrimination against Muslims*, April 2000.

⁸²⁰ *Guidelines of the Committee of Ministers of the Council of Europe on human rights and the fight against terrorism*, adopted July 15, 2002, at http://www.coe.int/T/E/Com/Files/Themes/terrorism/CM_Guidelines_20020628.asp (last visited September 6, 2004).

their property.”⁸²¹ On several occasions, they have also agreed to take effective measures to promote tolerance and understanding, particularly in the fields of education, culture and information.⁸²²

In July 2004, the OSCE Permanent Council adopted Decision No. 621 on Tolerance and the Fight against Racism, Xenophobia and Discrimination, in which the participating states inter alia committed themselves to taking steps to combat discrimination and violence against Muslims.⁸²³

The ECRI policy recommendation on combating intolerance and discrimination against Muslims highlights the need to counteract various forms of prejudice suffered by Muslims, including negative attitudes, discriminatory acts and violence and harassment. The recommendation also calls on the member states of the Council of Europe to support dialogue for the purpose of raising community awareness in areas where particular care is needed to avoid social and cultural conflict. Furthermore, member states are called to encourage the media to act responsibly and avoid perpetuation of prejudice and biased information when reporting on Islam and Muslim communities.

The Right to Freedom of Religious Practice

Article 18.1 of the ICCPR protects the right to freedom of thought, conscience and religion, which includes the freedom of everyone, “either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Article 9.1 of the ECHR, Article 10.1 of the EU Charter of Fundamental Rights and Article 1.1 of the UN Declaration on Religious Intolerance and Discrimination are similar in wording.

The UN Human Rights Committee has emphasized that the right to manifest one’s religion covers a broad scope of activities, including the construction of houses of worship, the observance of religious holidays, the wearing of distinctive clothing or head coverings, and the observance of dietary regulations.⁸²⁴ In addition to these activities, the UN Declaration on Religious Intolerance and Discrimination mentions inter alia that the right to freedom of religion includes the freedom to solicit and receive voluntary financial and other contributions from individuals and institutions and the freedom to train, appoint, elect or designate by succession appropriate leaders.⁸²⁵

According to Article 18.2 of the ICCPR, the right to manifest one’s religion may be subject only to such restrictions that “are prescribed by law and are necessary to protect public safety, order, health, or

⁸²¹ OSCE Copenhagen, par. 40.2.

⁸²² For example, OSCE Copenhagen, par. 40.3.

⁸²³ OSCE Permanent Council, *Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination*, July 29, 2004.

⁸²⁴ UN Human Rights Committee, *General Comment 22 – The right to freedom of thought, conscience and religion* (Art.18), July 30, 1993.

⁸²⁵ Article 6.

morals or the fundamental rights and freedoms of others.” The UN Human Rights Committee has emphasized that any restrictions must be non-discriminatory in character, must relate directly and be proportionate to the aim for which they were introduced and must not be applied in a manner that would vitiate the right to freedom of religion. The Committee has further pointed out that the grounds listed as permissible grounds for limitations in Article 18.2 must be strictly interpreted, and that restrictions on grounds other than those specified, such as national security reasons, are not allowed – even if they would be allowed as restrictions to other rights guaranteed in the ICCPR.⁸²⁶ It should also be noted that restrictions are an exceptional measure which should be strictly interpreted.⁸²⁷

Article 9.2 of the ECHR lists the same conditions to acceptable limitations of the right to freedom of religion as Article 18.3 of the ICCPR, with the addition that all restrictions must be “necessary in a democratic society.” According to the European Court of Human Rights, in order to meet this requirement, any restriction must correspond to a “pressing social need” and must be “proportionate to the legitimate aim pursued.”⁸²⁸ The Court has also concluded that the right to freedom of religion as guaranteed by the ECHR “excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate.”⁸²⁹

In a case from 2004, the European Court of Human Rights held that regulations prohibiting the wearing of the headscarf on university premises in Turkey constituted an acceptable limitation of the right to freedom of religion. The Court argued inter alia that the university regulations were justified by and proportionate to the aim of safeguarding values such as secularity and equality between the sexes since the headscarf has taken on political significance in Turkey in recent years and since extremist political movements in the country forcefully advocate their religious symbols and conceptions of a society founded on religious precepts.⁸³⁰ The ruling was widely criticized by human rights lawyers and others, who found that the Court did not identify any compelling evidence to show that the restrictive university regulations served to protect the values they were said to protect. They also pointed out that the Court seemed to suggest that the headscarf can be understood as an expression of religious fundamentalism, and that the mere use of it threatens the rights and freedoms of others.⁸³¹

⁸²⁶ Ibid.

⁸²⁷ For a lengthier discussion of the permissibility of derogations and restrictions under international human rights law, see IHF, *Anti-Terrorism Measures, Security and Human Rights* (April 2003), at <http://www.ihf-hr.org>

⁸²⁸ European Court of Human Rights, *Serif v. Greece*, December 12, 1999 (00038178/97).

⁸²⁹ European Court of Human Rights, *Manoussakis and others v. Greece*, September 26, 1999 (00018748/91).

⁸³⁰ European Court of Human Rights, *Leyla Sahin v. Turkey*, June 29, 2004 (Application Nr. 44774/98).

⁸³¹ For example, in §99 of the decision, the Court argues: “In a country like Turkey, where the great majority of the population belong to a particular religion, measures taken in universities to prevent certain religious fundamentalist movements from exerting pressure on students who do not practice that religion or those who belong to another religion may be justified under article 9 § 2 of the Convention.” See Krassimir Kanev, “Muslim Religious Freedom in the OSCE Area after September 11,” *Helsinki Monitor*, No. 4/2004, p. 204-205.

Article 18.4 of the ICCPR and Article 13.3 of the ICESCR safeguard the rights of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions. Similarly, Protocol I to the European Convention on Human Rights, which has been ratified by all countries covered by the report, protects this right. The UN Committee on Economic, Social and Cultural Rights has noted that Article 13.3 of the ICESCR permits instruction in public schools in subjects such as the general history of religions and ethics if the instruction is provided in an unbiased and objective way that respects freedoms of opinion, conscience and expression. The Committee has also stated that education in a particular religion in public schools is consistent with Article 13.3 of the ICESCR on condition that “provision is made for non-discriminatory exemptions or alternatives that accommodate the wishes of parents or guardians.”⁸³²

Additionally, Article 13.3 of the ICESCR obliges states to respect the right of parents “to choose for their children schools, other than those established by the public authorities, which conform to such minimum standards as may be laid down or approved by the State.” This article should be read in conjunction with Article 13.4, which recognizes the right of individuals and organizations to establish and direct educational institutions. According to the UN Committee on Economic, Social and Cultural Rights, private schools may be required to conform to certain minimum standards regarding issues such as admission, curricula and the recognition of certificates, which in their turn must be consistent with the educational objectives laid down in Article 13.1 of the ICESCR.⁸³³ These objectives include promoting understanding, tolerance and friendship among different racial, ethnic and religious groups.

The OSCE states have repeatedly committed themselves to respecting the freedom of individuals to profess and practice their religion, either alone or in community with others,⁸³⁴ and to ensuring that any limitations of this right are consistent with their international obligations.⁸³⁵ The OSCE states have also resolved to consider favorably requests by religious communities to obtain the status provided for in their respective countries for religious associations, to facilitate the opportunities of religious communities to participate in public dialogue and to engage in consultations with religious communities for the purpose of safeguarding religious freedom.⁸³⁶ They have likewise recognized the right of all persons to receive religious education.⁸³⁷

The ECRI policy recommendations on combating intolerance and discrimination against Muslims call on states to “ensure that curricula in schools and higher education do not present distorted

⁸³² UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13 – The Right to Education* (1999).

⁸³³ Ibid.

⁸³⁴ See, for example, Helsinki, principle VII, Art. 3

⁸³⁵ Vienna 1989, Art. 17.

⁸³⁶ Vienna 1989, Art. 16.

⁸³⁷ Vienna 1989, Art. 16.6.

interpretations of religious and cultural history and do not base their portrayal of Islam on perceptions of hostility and menace.” It also encourages states to “exchange views with local Muslim communities about ways to facilitate their selection and training of imams with knowledge of, and if possible experience in, the society in which they will work.”