



Article 18: an orphaned right



**A report of the All Party Parliamentary Group on
International Religious Freedom**



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This is a report of the All Party Parliamentary Group on International Religious Freedom. It is not been produced by a Select Committee or any other Committee appointed by the House.

This report has been written by the following authors: the Chair and officers of the All Party Parliamentary Group on International Religious Freedom, Professor Malcolm Evans, Professor Javaid Rehman, Ziya Meral, Dr Nazila Ghanea-Hercock, Katherine Cash and Dr Sean Oliver-Dee.

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Letter from the chairman and officers



As officers, it is a great privilege to be able to introduce the first report of the All Party Parliamentary Group on International Religious Freedom. We are hopeful that this will be the first of many such reports, which serve to highlight the situation of millions of people around the world who face persecution or discrimination because of their religion or beliefs. In holding this first inquiry, our aim is to nail our colours to the mast about what we mean by freedom of religion and belief, and outline our aspiration that every human would one day enjoy this freedom.

The Arab Uprisings highlighted the global downward trend in religious tolerance and this backdrop, combined with the growing concern of the UK public and media, provided the impetus for the formation of the group. The All Party Parliamentary Group comprises Parliamentarians from across the range of religious traditions, and we have come together to pledge our help to all those who suffer on account of their beliefs.

The firm position of this all-party group is that the essence of freedom of religion and belief is summed up in the words of Article 18 of the Universal Declaration of Human Rights (UDHR):

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”

In particular we assert that freedom of religion or belief requires the protection of the rights of individuals, not the protection of religions themselves. The view of this all-party group is that there is nothing in Article 18 that permits action by states or organisations against individuals because they behave in ways that are contrary to the dominant religious tradition. The freedom of religion or belief is a freedom to reject any or all religions, just as much as it is a freedom to embrace any or all religions.

This report is intended to create a foundation for the group’s future work by exploring, explaining, upholding and advocating for Article 18. In so doing it provides information about the ways in which religious freedom is being violated around the world, including real-life examples, but it is decisively not a survey of violations or an attempt to provide a global picture of who is being persecuted, by whom, or where. This is a task to which we hope to return in future reports that focus on geographical areas of particular concern, where work can be done in surveying the scale of persecution and discrimination, and specific recommendations given. Rather than attempt to quantify the scale of persecution for particular groups or in particular areas in detail, this report draws illustrative examples from a wide range of sources to include a number of different situations.

The group received evidence of persecution and discrimination from across the religion and belief spectrum, but notes that a particularly heavy price is being paid by Christians. As vice-chair of the group, Baroness Cox, outlined in a recent House of Lords debate: “The faith tradition now suffering the most widespread and systematic violations of religious freedom is Christianity. It is estimated that there are at least 250m Christians suffering persecution today, from harassment, intimidation and imprisonment to torture and execution.” However, as the evidence demonstrates, persecution is determinedly not confined to any particular tradition, but common to all the major

faiths, as well as many newer and less well-known beliefs, and those people who eschew religion entirely.

Within this report mention is made of the particular problems that women can face in fighting to secure their freedom of religion or belief. Many women around the world suffer lower social status, or even reduced legal rights, and this can exacerbate the problems they encounter in trying to exercise their freedom of religion or belief. In his submission to the inquiry, His Grace Bishop Angaelos of the Coptic Orthodox Church explains the mounting hardships for women in Egypt: “Socially, women are increasingly pressured to adhere to certain expectations and requirements as to what is perceived (and portrayed) as an appropriate way for a pious and self-respecting woman to dress. In many rural areas, unveiled women are perceived to be Christians just by their appearance, simply because they deviate from the norm — the veiled Muslim woman. During several waves of uprisings in Egypt in the past two years, the authorities have continuously targeted female protesters. One of the most shocking images echoing throughout Egypt and the rest of the world was that of a veiled woman being stripped, beaten and stamped on by police officers after she had been demonstrating in Cairo.” We are aware that this report does little more than touch upon this important issue, but it is a subject to which the group will return in subsequent reports.

In writing this first report we are indebted to the support of our stakeholders from across the faith spectrum and among the diaspora, who provide the resources for the group to operate: namely Hindu Forum of Britain, The Archbishop of Canterbury’s Charitable Foundation, Aid to the Church in Need, Network of Sikh Organisations, Christian Solidarity Worldwide, UK Copts, United Copts of Great Britain, Open Doors UK, United Action for Egyptian Christians, Coptic Orthodox Church Centre, Release International and Redeemed Christian Church of God.

The reader will note that the authors are eminent academics who generously gave their time and the enormous task of editing was ably done by Professor Malcolm Evans and Kay Carter. I am also grateful to the volunteer proof-readers Margaret McVeigh, Julia Capps and Alexandra Wilkinson and the advice of Francis Davis.

We hope that this report will achieve its aim of raising awareness of the urgent need to promote “Religious Freedom for All”.

Baroness Berridge of the Vale of Catmose
Lord Singh of Wimbledon
Lord Alton of Liverpool
Baroness Cox of Queensbury
Jim Dobbin MP
Angie Bray MP

Foreword

by Lord Singh of Wimbledon

For the vast majority of people around the world today, religion is a central part of life. It motivates our actions and reactions to the world about us. It is central to the very rhythm of human existence across the globe. Religion affects the whole of life, from profound philosophical beliefs about our responsibilities in society, to simple everyday choices about attitudes to the food we eat. So it is surprising to consider how fashionable it has become to declare that religion is on the wane, almost like a phase that humankind is growing out of. Much has been written about the rise of secularisation and the retreat of faith, and there has been a significant expectation in academic circles that religion would become less and less important over time.

However, a glance at the world as it is in 2013 reveals that precisely the opposite has happened. As the sociologist Peter Berger, of Boston University, explains¹: "I think what I and most other sociologists of religion wrote in the 1960s about secularisation was a mistake. Our underlying argument was that secularisation and modernity go hand in hand. With more modernisation comes more secularisation. It wasn't a crazy theory. There was some evidence for it. But I think it's basically wrong. Most of the world today is certainly not secular. Religion continues to be important to people in many countries. The one exception to this is Western Europe. One of the most interesting questions in the sociology of religion today is not 'How do you explain fundamentalism in Iran?' but, 'Why is Western Europe different?' "

So we in Western Europe need to learn to approach questions of religion and belief with humility, recognising that, globally speaking, secularism is a minority view, and that Western ways of operating will not necessarily be applicable in other parts of the world.

We can be enormously proud that Britain is one of the most tolerant societies on earth, and because of this I believe we have a great deal to contribute to the international debate on freedom of religion and belief. But in so doing, we must never fall into the danger of "cultural colonialism", whereby we assume that our culture is superior to other world cultures. We must never allow ourselves to believe that religion is somehow backward; it can be a positive force for good. Equally the bigotry and intolerance that sometimes attaches itself to religion will not just go away if we ignore it. We have a responsibility to expose and combat intolerant attitudes that attach themselves to and distort underlying ethical teachings.

Unfortunately, Britain's deserved reputation of tolerance and respect for other ways of life in its own way makes the job of the Foreign and Commonwealth Office all the more difficult, because its staff need to be able to see the world as others see it. For those of us used to living in a society where the practice of religion is a minority activity, it can be hard to appreciate how often the true roots of conflict, persecution or discrimination overseas lie in the manipulation of complex religious sentiment. Our foreign policy will be severely hampered if we do not develop the understanding of distinctions and nuances between and within different faiths.

For this reason I applaud the work the FCO has done in raising the importance of freedom of religion and belief in human rights issues, through training, restructuring and creating the FCO Toolkit on Freedom of Religion or Belief for embassies. However, this is just a beginning, and there is much still to be done to make sure that all FCO and embassy staff are fully equipped to discern where freedom of religion or belief is under threat. This report lays down several recommendations for building on the positive foundations that the FCO has already laid, and I urge the government to give serious consideration to implementing them.

¹ The Christian Century, October 29, 1997, pp. 972-978

Executive summary

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance

Article 18 of the Universal Declaration of Human Rights

Centrality of Article 18

Article 18 UDHR remains the benchmark against which the enjoyment of the freedom of religion or belief should be measured. Although there is also a considerable range of normative and institutional activity focussing on freedom of religion or belief, as well as unilateral and multilateral state initiatives which parallel or supplement this activity, the primary contention of this report is that when considered against the standard set by Article 18, freedom of religion or belief is not currently being protected internationally as it ought.

No treaty

Unlike many other human rights, there is as yet no focussed United Nations (UN) Convention directly addressing the subject of freedom of religion or belief. In consequence, freedom of religion or belief has for many years been something of a “residual” right, only protected to the extent that it does not stand in the way of achieving some other goal or ambition. While the UN Vienna Declaration of 1993 asserts that all human rights are universal, indivisible, interdependent and inter-related, in practice within the family of human rights this freedom remains on the margins. It is in this respect an orphaned right, and the purpose of this report is to commence a process of reuniting this right with its family.

What Article 18 promises

Article 18 states that freedom of religion or belief is a fundamental right which may not be derogated from, even in times of public emergency. It protects traditional, non-traditional and new religious beliefs and practices, as well as numerous beliefs not associated with divine or transcendent powers, or not of a religious nature. Everyone has the freedom to manifest their religion or belief, either alone or together with others, publicly or privately. Nobody is to be subject to coercion that would impair the individual’s freedom to have or adopt a religion or belief of their choice, nor is discrimination on the grounds of religion or belief permissible.

The reality

However, as this report explains, almost 75% of the world’s population live in countries with high levels of government restrictions on freedom of religion or belief, or where they face high-level hostility due to their religious affiliations, and this figure is rising. Across the globe there is widespread denial of freedom of worship, and of freedom to teach, promote and publicly express one’s religion or belief.

This report instances examples of state intimidation, discrimination and violence towards people on account of their religion or belief, as well as situations where states do not offer adequate protection from persecution by non-state actors. This is not limited to any one region, or any one form of religion. Through evidence submissions and other means, the group is aware of a deeply troubling scale of violation of freedom of religion or belief worldwide. This catalogue of abuse covers Shia Muslims in Bahrain, Baha’is and Zoroastrians in Iran, Christians across large swathes of the Middle East, Sufi Muslims from the Sunni tradition in Somalia, atheists in Indonesia, Falun Gong practitioners in China, Buddhists in Tibet, Jewish people in Europe and Hindus in Pakistan — truly a global concern that affects the full range of religious and non-religious belief.

Defamation of religions

While the UN has declared that everyone has the right to freedom of religion or belief, it has done relatively little to make this a reality. Much of the work at the UN is focussed on a very different question, the so-called “defamation of religions” debate, which focuses on protecting religions — not believers — from criticism, and becomes a means of restricting rights and freedoms, rather than safeguarding them. The firm position of this report is that the focus of the UN ought to be less on when it might be appropriate to restrain rights in the name of religion, and more on encouraging and supporting international action to champion the freedom of religion or belief for all. At the same time as pursuing this goal, it is necessary to identify effective UK policy and action, and this report makes a number of recommendations in this regard.

Response of the FCO

In the Foreign and Commonwealth Office’s (FCO) report Human Rights and Democracy 2012, freedom of religion or belief is described as “one of the Government’s key human rights priorities”, and it outlines a strategy for promoting this freedom. The recognition that it is not only the *promotion* but also the *protection* of freedom of religion or belief that is a key priority is to be greatly welcomed — but what is now needed is further effective action. This report seeks to identify a number of practical strategies that can be adopted.

This report goes on to outline five overarching prerequisites for the construction and implementation of any successful policy on international freedom of religion or belief:

- Clear commitment from across the domestic political spectrum, based on the recognition of the central significance of the freedom of religion or belief as an essential freedom for all
- Broad-based consultation across the spectrum of religion and belief
- International action that is reflective of, and grounded in, a full respect for freedom of religion and belief in domestic policy
- International action that is focused on freedom for all people, irrespective of the nature of their religion or belief
- Grounding for all action in freedom of religion or belief as set out in the UDHR Article 18, which includes freedom for everyone to adhere to a religion or belief of their choice, including the right not to have, or to be associated with, a religion or belief, the right to change religion or belief and the right to manifest religion or belief in accordance with the Universal Declaration and as subsequently developed under international law, in a manner that is respectful of the human rights of other individuals

Against that background, this report makes a number of detailed recommendations, but has identified the following as a matter of priority:

Recommendation One

We ask that the British Government consider the appointment of an Ambassadorial-level focal point on freedom of religion or belief, to spearhead the implementation of mainstreaming, country and thematic work within the FCO and across relevant departments, and to assist the FCO in projection and implementation of its strategies.

Recommendation Two

We call on the British Government to become a state party to the First Optional Protocol of the ICPPR. This would allow individuals in the UK to raise questions about potential violations of their rights directly with the UN Human Rights Committee (HRC), and in addition show leadership to encourage other states to follow suit.

Recommendation Three

We ask the Foreign Secretary to establish a sub-group of the Human Rights Advisory Group to focus on freedom of religion and belief.

Recommendation Four

We call on the FCO to undertake a baseline evaluation of the extent, quality and impact of mainstreaming issues concerning freedom of religion or belief into the work of the office, and undertake further evaluations at fixed intervals to determine progress.

Recommendation Five

We call on the Department for International Development (DfID) to ensure that where aid is provided or contracts are awarded overseas, it is channelled to civil-society organisations and government programmes that can demonstrate a sophisticated understanding of freedom of religion or belief, and can show how their work will have a positive rather than negative impact in this area.

Recommendation Six

We ask the FCO to consider revising the Human Rights and Democracy Programme (HRDP) to enable support of longer-term projects than the one-year cycle currently permits.

Recommendation Seven

We ask the British Government to make representations to the UN to ensure that there is sufficient funding to support a paid, full-time Special Rapporteur on Freedom of Religion or Belief and resource their office.

Recommendation Eight

We call on DfID to identify freedom of religion or belief as a new priority in its work.

Recommendation Nine

We ask the British Government to make representations to the UN nations to ensure that the Rabat Plan of Action is woven into continued engagement with HRC Resolution 16/18 and the Istanbul Process, making sure that the international focus remains the duties of states to protect the freedom of religion or belief of those subject to its jurisdiction, rather than deviating from the rights laid down in Article 18 to address issues around "incitement to religious hatred".

Recommendation Ten

We urge the FCO to convene an expert group to scope the issues involved in initiating a process to consider a convention on freedom of religion or belief at the international level.



CSW

A church in Alexandria, Egypt, is attacked

CHAPTER ONE

Introductory overview

Professor Malcolm Evans

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance’.

Article 18 of the Universal Declaration of Human Rights

Article 18 of the Universal Declaration of Human Rights (UDHR) remains the single most significant statement of the international community’s commitment to freedom of religion or belief. As a resolution adopted by the UN General Assembly, it is not itself subject to limitations or reservations flowing from the law of treaties, and embodies the highest ideal, one that subsequent instruments have sought to capture in legal form. It therefore remains the benchmark against which the enjoyment of freedom of religion or belief is to be measured, and it is for this reason that this report has chosen it as its focus.

There is, of course, much more to the international protection of freedom of religion or belief than the UDHR, and many more institutional channels for doing so than that provided by the UN. It is not the intention of this report to marginalise the significance of, for example, the regional human rights systems in Africa, America and Europe, and the normative standards, institutions,

mechanisms and approaches developed under the auspices of bodies such as the Association of Southeast Asian Nations (ASEAN), the EU, the Organisation on Security and Co-operation in Europe (OSCE) or the Organisation of Islamic Cooperation (OIC). As will be seen, at the broader international level of the UN there is also a considerable range of normative and institutional activity focussing on freedom of religion or belief, as well as unilateral and multilateral state initiatives which parallel or supplement this activity. Beyond this lie the activities of many civil-society stakeholders, interest groups and religious and belief communities.

Neither is it the purpose of this report to provide a generalised “mapping” of international action. Indeed, this might actually defeat its purpose, since it might suggest that there are ample means through which concerns relating to the enjoyment of freedom of religion or belief might be addressed. The primary contention of this report is that freedom of religion or belief is not currently being protected internationally as it ought.

Unlike other matters of human rights concern — such as the rights of women, children, persons with disabilities, migrant workers, or those subjected to enforced disappearance, torture or racial discrimination — which are all the subject of a focussed UN Convention, the process for directly addressing the subject of freedom of religion or belief has never been concluded. While there is evidence of the intention of creating a convention to protect freedom of religion and belief, in practice this has never been achieved, and the endeavour has been officially “on hold” for some 45 years. As a result, this fundamental freedom has not had the attention it deserves; and the attention it has received has been largely in the context of the enjoyment of other rights and freedoms. For many years, freedom of religion or belief has been something of a residual right, a right to be respected and protected, but only to the extent that it does not stand in the way of achieving some other goal or ambition. While the UN Vienna Declaration of 1993 asserts that all human rights are universal, indivisible, interdependent and inter-related, in practice within the family of human rights this freedom remains on the margins. To use the title of this document, it is an orphaned right, and the purpose of this report is to commence a process of reuniting this right with its family.

The report’s focus is primarily on Article 18 of the UDHR, which captures the essence of the internationally agreed approach to freedom of religion or belief. It first sets out in simple terms what that article does and does not mean (as this is often misunderstood or misrepresented). Then, having seen what ought to be, the report presents a snapshot of “what is”: what the day-to-day reality for many people actually looks like. What one finds is that in many parts of the world there are limitations and restrictions on — even persecution of — those whose beliefs are not welcomed by their governments or their neighbours. In the face of this mismatch between the ideals of the UDHR and the realities of experience, the rest of the report turns to possible responses. Focussing on the UN, the next section gives an overview of the formal (and rather limited) mechanisms that have been put in place to address the resulting situation. Though the UN may have declared the right, it has not yet crafted effective means of pursuing a remedy for violations of those rights — nor, indeed, is there much by way of effective international action to prevent the violations of such rights in the first place.

Inevitably, this means that focus must switch back to the domestic level, and so the report turns to an exploration of the United Kingdom’s current approaches to the protection of religion or belief internationally. Here there is good news, as after some years of hesitancy this is now a policy priority. The report looks in detail at the opportunities for constructing a robust approach to the international protection of religion or belief, and compares this with current practice. This report finds that there is significant scope for further development even within the existing policy approach.

In conclusion, it is necessary to “pan back” to the bigger picture of freedom of religion or belief. While we heartily commend the suggested short- and medium-term actions contained in this report, we recognise that they are merely a starting point on the journey towards the broader aspirational vision — that of a world of freedom of religion and belief for all.



Destruction of a Baha'i cemetery

CHAPTER TWO

What is Article 18 and what is it not?

Professor Javaid Rehman

1. **Background and history of Article 18**

Free exercise of religion or belief for all human beings represents one of the oldest concerns of humanity. Recognition of a universal right to freedom of religion, conscience and belief within the matrix of international human rights law is now generally attributed to developments that took place in the aftermath of the Second World War (1939–1945). Freedom of religion was advocated by US President Franklin D Roosevelt as one of the four essential freedoms, and became a foundational principle of the UN and a central tenet of the UDHR. The UDHR was adopted not as a legally binding instrument but as an aspirational document outlining essential guidelines on fundamental human rights, and with the stated objective of realising “a common standard of achievement for all peoples of all nations”.

Although initially not envisaged as creating binding legal obligations, Article 18 has over time acquired a normative character within general international law, arguably binding all states. It established the platform for articulating and elaborating the provisions on freedom of religion and religious non-discrimination in the (1966) International Covenant on Civil and Political

Rights (ICCPR) and the (1966) International Covenant on Economic, Social and Cultural Rights (ICESCR), which together are known as the “International Bill of Rights”. Article 18 has influenced similar freedoms in international instruments — including the (1965) International Convention on the Elimination of All forms of Racial Discrimination (Article 5), the (1989) Convention on the Rights of the Child (Article 14(1)), and more recently the (2007) United Nations Declaration on the Rights of the Indigenous Peoples (Article 12) — and the General Assembly Resolution which adopted the (1981) United Nations Declaration on the Elimination of All forms of Intolerance and of Discrimination based on Religion or Belief.²

Freedom of religion or belief is also recognised and protected by regional human rights instruments. The provisions of Article 18 were elaborated and adopted with minimal adjustments in the European Convention on Human Rights (1950), and influenced the language of Article 12 of the American Convention on Human Rights (1969), Article 8 of the African [Banjul] Charter on Human and People’s Rights and Duties (1981), Article 30 of the Arab Charter on Human Rights (2004) and most recently Article 22 of the ASEAN Human Rights Declaration (2012). The authoritative nature of Article 18 is evident in the replication of its provisions in national constitutions of states and the consistent references to Article 18 within various constitutional and legislative documents. As an integral part of the UDHR, Article 18 has been translated into more languages and dialects than any other international document in the world. National and international tribunals have also relied upon provisions stemming from Article 18, treating such provisions with considerable authority and weight.

The normative influence of Article 18 of the UDHR is most directly reflected in Article 18 of the ICCPR, an internationally binding agreement to which currently 167 states are a party. The ICCPR also establishes an implementation and supervisory mechanism — the UN Human Rights Committee (HRC) — and a compulsory reporting procedure, whereby all states parties are obliged to present reports indicating how they are complying with the ICCPR’s provisions. The HRC has further published a General Comment, setting out its understanding of Article 18, and can take Article 18 into account when considering individual cases under the optional individual communications procedure. (This is a system that allows individuals who believe that their rights have been violated to submit their case directly to the HRC, but it is only open to individuals who are subject to the jurisdiction of a states party to the First Optional Protocol.)

Article 18 ICCPR is not only legally binding but “non derogable”, meaning that its provisions relating to freedom of religion or belief cannot be denied under any circumstances, including during a “public emergency which threatens the life of the nation”.³ However, by entering a “reservation”, a state party may attempt to exclude or modify its legal obligations under a treaty, and several states parties to the ICCPR have, unfortunately, attempted to make wide-ranging reservations to Article 18. In addition, Article 18 ICCPR allows the possibility of limiting the “manifestation” of religion or belief, provided that these restrictions are prescribed by law and are necessary to protect public safety, public order, health or morals or the fundamental rights and freedoms of others. These restrictions will be considered further below.

From the adoption of the UDHR onwards, the human rights movement has principally been concerned to protect individuals from excesses of power by state or governmental authorities. However, it is now increasingly recognised that human rights are not only violated by states, and there are serious issues concerning the threat to the right to freedom of thought, conscience and religion that arise from non-state actors, including religious organisations and political groups, such as paramilitary and guerrilla organisations. Such threats have been particularly serious in societies where the writ of the state is limited or non-existent, and terrorist groups and organisations present a substantial challenge to freedom of religion or belief in the 21st century.

² UN Doc. A/36/55 25 November 1981.

³ ICCPR, Article 4

2. What are the core components of Article 18?

In the following sections three core components of Article 18 UDHR will be looked at, these being:

- Right to freedom of thought, conscience and religion
- Freedom to change religion or belief
- Freedom, either alone or in community with others and in public or private, to manifest religion or belief in teaching, practice, worship and observance

(a) Right to freedom of thought, conscience and religion

Article 18 guarantees everyone “the right to freedom of thought, conscience and religion”. Its drafting history — the *travaux préparatoires* — confirms that there was a general understanding among state representatives of the universal applicability and entitlement of the right to freedom of thought, conscience and religion, although the terms “freedom” and “thought, conscience and religion” remain undefined and the debates during the drafting of Article 18 reveal significant differences in interpretation of terminology. There were also differing perceptions of the relationship between freedom of thought, conscience and religion vis-à-vis freedom of belief, with some delegates raising the concern that inadequate recognition was being accorded to non-religious beliefs.

The discussions also reveal a lack of consensus over the boundaries between the *forum internum* and *forum externum* of the right to freedom of thought, conscience and religion. The *forum internum* constitutes the private and internal realm of the person, in which everyone has freedom of thought, conscience, religion or belief, as well as freedom of choice in having, maintaining or adopting another religion or belief. Under Article 18, this is an absolute right and must be protected unconditionally from state interferences. By contrast, the *forum externum* relates to the outward manifestations of one’s religion or belief, which may be made subject to legitimate restriction. The discussions reveal tensions when treading the fine dividing line between the private realm of absolute freedoms and the outwards acts of manifestation, where some restraints might be permissible. Notwithstanding the conceptual challenges and uncertainties, in adopting Article 18 of the UDHR the UN General Assembly forcefully asserted the existence of a fundamental human right to freedom of thought, conscience and religion, including the freedom to change religion or belief.

In affirming the provisions of Article 18 UDHR, Article 18(1) of the ICCPR provides that: “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

Furthermore, in accordance with Article 18(2) of the ICCPR:

“No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”

In its General Comment 22, the HRC notes that the right to freedom of thought, conscience and religion (which also includes freedom to hold beliefs) extends to all aspects of freedom of thought as well as personal convictions and commitments to religion or belief, and is manifested either individually or in community with others. In the committee’s opinion, the right to freedom of thought, conscience and religion protects non-theistic and atheistic beliefs and includes the right not to profess any religion or belief. Furthermore, the committee recommends that the right to freedom of thought, conscience and religion is to be constructed broadly and is not necessarily tied up with any requirement that religions and beliefs must possess institutional characteristics or practices that are analogous to those of the mainstream traditional world religions. Although this approach allows for flexibility and inclusivity, it also leads to uncertainty, since it is not always clear whether some forms of belief are of this nature. In reiterating the distinction between the *forum internum* and *forum externum*, the HRC confirms that no limitations whatsoever are permissible on freedom of

thought, conscience and religion or upon freedom of choice in having or maintaining a religion or belief.

(b) Freedom to change religion or belief

Efforts to expressly incorporate a right to change religion or belief have not proved straightforward and are perhaps the most contentious. A number of delegates — led by the Saudi Arabian representative, Jamal Baroody (himself a Lebanese Christian) — expressed serious reservations at the inclusion of this right within the article, ostensibly because of fears that freedom to change religion might trigger aggressive and dominant forms of missionary activities by powerful states, which might ultimately lead to forced conversions or political intervention in the domestic affairs of states. No doubt there were additional overarching constitutional and religious limitations facing some Muslim-majority states in recognising an expressly incorporated right to change religion or belief. That said, some Muslim-majority state representatives adopted a positive approach towards the inclusion of the explicit provision of freedom to change religion or belief within Article 18. The Pakistani representative, Sir Mohammed Zafar-ullah Khan, an Ahmadi minority Muslim, championed the incorporation of an explicit right to change religion or belief; he found no discord between the right to change religion or belief and the ordinances of the Muslim faith. With considerable strength of opinion in favour of incorporating the right to change religion or belief, a Saudi proposal to remove any explicit references to the change of religion or belief was defeated by 22 to 12 with 8 abstentions.

This broad general consensus was subsequently confirmed in Article 18 of the ICCPR, though without resolving fully the inherent disagreements on the validity and precise contents of this aspect of the right. Again, many delegates from Muslim-majority states foresaw constitutional and legislative hurdles in the recognition and implementation of any such right. The final form of Article 18 of the ICCPR differs from Article 18 UDHR in that the right to “freedom to change religion or belief” is replaced by “freedom to have or to adopt a religion or belief”. It also includes Article 18(2) which states that “No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice”, thereby alleviating fears of those state representatives who were concerned about aggressive and overzealous proselytising. The HRC has confirmed that the provisions on the “right to change religion or belief” in Article 18 UDHR are fully embraced by the ICCPR, noting in its General Comment 22 that freedom to:

“ ‘Have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief. Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by Article 25 and other provisions of the Covenant, are similarly inconsistent with Article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature.”

General Comment 22, Paragraph 5

The right to change religion or belief nevertheless remains uncomfortably placed within international human rights law. Some Muslim-majority states that objected to this right have refused to become parties to the ICCPR, and several made explicit reservations to Article 18 on the basis of, inter alia, incompatibility with constitutional provisions or with the application of *Sharia* with provisions on freedom to change religion. Within some states the continued application of classical punishments for apostasy, including the death penalty, and the imposition of draconian criminal sanctions for blasphemy, makes the free exercise of the right to renounce Islam or to convert to another religion virtually impossible. While acknowledging the deep-rooted colonial legacies of many of the current blasphemy laws, it unfortunately

remains the case that the threat posed by the presence of such draconian laws does not permit a rational religious or ideological debate that would allow for free informed choices to be made on converting to another religion.

These tensions resurfaced during the drafting of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The final text of this non-binding General Assembly resolution fails to make any reference to the right to change religion or belief, although Article 8 of the resolution acts as a “saving clause” and affirms that “Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights”, thereby aiming to safeguard the right to change religion or belief as set out in those instruments.

The past 65 years have thus witnessed considerable disagreements over the precise parameters of a right to change religion or belief, and positive affirmation of the right as found in Article 18 UDHR has been difficult to replicate, as evidenced in the use of less robust or more ambiguous terminology in subsequent international instruments. Significant potential hurdles to the enjoyment of the right to freedom of religion or belief as set out in the UDHR are generated by practices within some individual states, and in particular states that apply systems of religious law.

Having said that, since the adoption of Article 18 UDHR there has been a growing recognition — at least on an ideological level if not always operational in practice — that everyone has the freedom to change his or her religion or belief. This recognition extends even to those states or societies that have not favoured the explicit reflection of such a right within international instruments or domestic legislation.

(c) Freedom (either alone or in community) and in public or private to manifest religion or belief in teaching, practice, worship and observance

A religion or belief tends to be a conglomeration of values, claims and rights that invoke their manifestation in a variety of teaching, practice, worship and observance. Such manifestations affect many aspects of human life, including matrimonial and family affairs, family planning, education and care of children, inheritance, prayer, public order, food and diet, burial and ritual ceremonies, and freedom of expression and association.

In Article 18, while freedom to manifest is explicitly recognised for forms of “religion or belief” this is not the case for patterns of “thought” and “conscience”, manifestations of which are, arguably, better addressed under the umbrella of protection accorded by the right to freedom of opinion and expression under Article 19 UDHR. The provisions of ICCPR, and the work of HRC, focus on four forms of manifestation — “worship, observance, practice and teaching”. While these appear to form an exhaustive list, there does not appear to be any hierarchy or relative importance between them, and all are to be broadly construed. According to the HRC:

“The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.”

General Comment 22, para 4

In its earlier Declaration on the Elimination of All forms of Intolerance and of Discrimination based on Religion or Belief (1981), the UN General Assembly has given greater specificity to what might be embraced by the manifestation of a religion or belief. Thus, for example, freedom of worship encompasses: acts of prayer and of religious assembly; the establishing and maintaining of places of worship as well as related charitable and humanitarian institutions; the acquisition and use of the objects, materials and articles necessary for observance of the religion or belief; the writing and dissemination of appropriate literature; the teaching, propagation and preaching of the religion or belief; the seeking of voluntary funds and contributions to advance the values of the religion or belief; the training, appointment and designation of appropriate leadership; the observance of holidays and ceremonies; and freedom to be able to establish and maintain contacts with members of the religious community within the national or international boundaries.

Although the UN Declaration and HRC General Comment point to an expansive approach, the precise parameters of these forms of manifestation remain uncertain, and establishing whether there is in fact a sufficient nexus between a certain form of activity and a form of manifestation of religion or belief can be a source of difficulty. Controversial issues arise when determining the motivation for undertaking certain activities — thus while pacifism and conscientious objection to compulsory military service may qualify as a form of belief (irrespective of whether that belief is religious or not), it is unlikely that distributing anti-government leaflets advocating the general avoidance of armed service or the refusal to pay taxes as a consequence of such beliefs would be considered a legitimate form of manifesting that belief. Similarly, there may be controversy over whether certain items of jewellery, forms of clothing or other issues related to personal appearance are or are not manifestations of a religion or belief.

3. Permissible restrictions and limitations upon Article 18

Article 18 UDHR constitutes an absolute right, and nobody can be denied this right through pressure, intimidation or coercion. That said, if unrestrained, religious ideologies or belief systems can be misused and manifested in ways that generate hatred, intolerance and violence, and undermine fundamental human rights of other members of society. Accordingly the UDHR does contain a general limitation, which provides that “[i]n the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”⁴

The ICCPR does permit limitations on the manifestation of religion or belief and the HRC has elaborated on what this means in its General Comment:

“Article 18.3 permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. The freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted ... Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in Article 18. The committee observes that paragraph 3 of Article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner ... Consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.”

⁴ Article 29(2) UDHR.

Thus the HRC has emphasised that state authorities must act strictly in accordance with the limitations set out by law and any prescribed restrictions or limitations must not be applied in an arbitrary or discriminatory manner. Any such legal provisions must meet the standards of fairness, clarity and objectivity and must not provide an unfettered discretion to executive authorities in imposing conditions, limitations or restrictions. An essential precondition is that limitations must be necessary to protect one of the finite list of legitimate purposes, these being the protection of public safety, public order, health or morals, or the fundamental rights and freedoms of others. Finally, the nature of the restriction must not be disproportionate to the specific need.

It must be stressed that neither the UDHR nor any of the subsequent international human rights articles permit the manifestation of religion or belief to be curtailed on grounds of national security. Indeed, as the HRC points out in its General Comment 22, the omission of national security from Article 18(3) ICCPR was intentional. The concept of “national security” is inherently vague and invites the risk of abusive application by unscrupulous governments. Such fears of abuse have been shown to be real enough when, for example, public authorities have pointed to potential threats from terrorist organisations, or the risk of serious public disorder, in order to restrict legitimate expressions of belief.

But state authorities retain substantial discretion to restrict the manifestations of religion or belief. For example, restrictions might be justified in cases where specific dangers threaten the public or public property (for example banning particular public marches or parades, or disbanding extremist religious organisations) or where manifestations are considered to be contrary to public morals or run counter to the social or cultural values of the society. It is, then, clear that freedom of religion or belief under Article 18 UDHR does not mean that people are free to do as they wish in pursuit of their religion or beliefs without regard to the interests of those around them. What it does mean is that restrictions on the freedom of people to act in accordance with the tenets of their faith or systems of belief must really be “necessary”. The formulation “necessary” is restrictive, and limitations must be directly related and proportionate to the specific need for which they were designed and not imposed for discriminatory purposes or applied in a discriminatory manner.

Religions or beliefs are frequently manifested through expression or association and therefore heavily interact with the right to freedom of opinion and expression (Article 19 UDHR) and freedom of assembly and association (Article 20 UDHR). According to the HRC, freedom of expression is such an important right that it carries with it “special duties and responsibilities” (Article 19(3) ICCPR). In this context, it is accepted that individuals have the right to express themselves and advance opinions about religions or beliefs, including criticisms of religions, beliefs and their associated practices. However, while freedom of expression includes the right to make adverse comments and criticism, and even to ridicule religions or beliefs, such acts of expression must not cross the threshold of advocacy of national, racial or religious hatred constituting incitement to hostility or violence.⁵

4. Manifestations and special considerations

There are also areas of international law where religion and belief are recognised to have special applicability:

(a) Parents and children

According to Article 14 of the Convention on the Rights of the Child, states must respect the right of the child to freedom of thought, conscience and religion, and parental direction should be given in a manner which is consistent with the evolving capacities of the child. In addition,

⁵ See Article 29 UDHR and Article 20(2) ICCPR. The relationship between the freedom of expression and hate speech has recently been considered by the HRC in its recent General Comment No 34, adopted in 2011 and through a series of seminars held by the Office of the High Commissioner for Human Rights held between 2008 and 2012, see: <http://www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/Index.aspx>

ICCPR Article 18(4) provides that parents and legal guardians have the right to give their children education in accordance with their religion and morals. The practice of a religion or belief may not injure the physical or mental health or development of a child.⁶

(b) Conscientious objection

The HRC has stated that a right to refuse military service “can be derived from Article 18, inasmuch as the obligation to use lethal force may seriously conflict with freedom of conscience and the right to manifest one’s religion or belief”.⁷

5. Conclusion

Article 18 envisions a world in which everyone is free to believe what they wish to believe; where no one is subject to coercion or disadvantage because of what they believe or do not believe. It foresees a world in which everyone is able to seek to follow the dictates of their conscience by being able to live out the consequences of their beliefs in worship, teaching, practice and observance — provided always that in doing so they remain respectful of the rights of others to do likewise, all under the protection of the state striving to achieve this positive vision under the rule of law. It is a noble vision of religious freedom for all. But as the next chapter shows, for many — for most — it is a far cry from reality.

⁶ United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981, Article 5 §4

⁷ General Comment 22 §11. The European Court of Human Rights recognises the right to conscientious objection to military service as integral to the right to freedom of religion or belief ECHR, *Bayatyan v. Armenia* (Application no. 23459/03, 1/6/2011)



STEVE EVANS

Observance of Ramadan

CHAPTER THREE

What are the current trends in practice regarding Article 18?









Ziya Meral

1. Introduction

Denial of freedom of religion or belief takes on two different but intrinsically linked dimensions in its day-to-day expression: direct state denial and state failures in protecting freedom of religion or belief. Direct state denials include incidents where the state either actively persecutes individuals and communities on the basis of their beliefs, or denies them the possibility to freely choose what they believe and express that belief alone or as a community.

Number of Countries Where Religious Groups Were Harassed, Across All Years

Any time between mid-2006 and mid-2010

Christians		139
Muslims		121
Jews		85
Others*		72
Folk religionists**		43
Hindus		30
Buddhists		21
Any of the above		184

* Includes Sikhs, members of ancient faiths such as Zoroastrianism, members of newer faiths such as Baha'is and other religious groups.

** Includes a variety of groups that practice traditional or folk religions.

This measure does not assess the severity of the harassment. Numbers do not add to total because multiple religious groups can be harassed in a single country.

Pew Research Center's Forum on Religion & Public Life
Rising Tide of Restrictions on Religion, September 2012

However, the responsibility and failures of states in upholding the provisions of the UDHR do not end there. Increasingly, most serious concerns over the freedom of religion or belief involve social hostilities and actions of non-state actors. States have clear duties to protect their citizens from such communal pressure and to enable them to fully and freely exercise their rights. When they fail to uphold these duties, humans suffer significantly as, for the vast majority of the world, religious faith is not simply a matter of personal belief but has serious social, political and cultural implications.

Therefore, it is not surprising to see that denial of freedom of religion or belief is one of the most widespread human rights abuses in the world. According to the Pew Research Foundation, almost 75% of the world's roughly 7 billion people live in countries with high levels of government restrictions on freedom of religion or belief or where they face high-level hostility due to their religious affiliations.⁸

This chapter draws on submissions made to the APPG on International Religious Freedom by organisations, experts and faith communities across the world, revealing in practice the failure of the international community to create robust protection for freedom of religion or belief. Its aim is to give a sense of the scale of religious persecution and discrimination across the globe, and what it means for those who are affected.

2. State violations: eradication policies

In the most extreme cases of state denial, governments create policy structures aimed at eradicating a religion or belief system from the country. Pew Foundation's research shows that in 39 countries, governments are formally banning religious groups and their activities. In 26 countries, there were instances when the government attempted to eliminate an entire religious group's presence in the country.

⁸ The findings of the 2012 report by Pew, *Rising Tide of Restrictions on Religion*, were submitted to the APPG by the project principal researcher Dr Brian Grimm. Unless otherwise stated, whenever this section cites a data attributed to Pre Research Foundation, it is a citation from the 2012 Pew report.

CASE STUDY: Ahmadi Muslims in Pakistan

According to the US Commission on International Religious Freedom (USCIRF), the number of Ahmadi Muslims in Pakistan is estimated to be between 3m and 4m. An amendment to the 1973 constitution declared Ahmadis to be non-Muslims, and Article 298 of the Pakistani Penal Code prohibits Ahmadis calling themselves Muslims, or their beliefs Islamic. They are forbidden to preach their faith or proselytise, with possible sanctions of up to three years' imprisonment for those who break this law. Ahmadi religious literature is banned from sale outside of the Ahmadi community, and Ahmadis are banned from holding public gatherings, such as conferences, as well as being denied access to a wide range of social and economic opportunities. They are unable to secure places at schools, and are refused issuance of passports unless they sign statements contrary to their beliefs. Since 1984, at least 207 Ahmadis have been killed in Pakistan on religious grounds. In a single incident in May 2010, an armed group attacked two Ahmadi congregations in Lahore, killing 86 people and injuring 124.⁹ Violence and discrimination against Ahmadis continue with impunity. Ahmadis also face official state persecution in Saudi Arabia, Malaysia and Indonesia.

CASE STUDY: Falun Gong practitioners in China

Chinese followers of Falun Gong have faced a decade-long eradication campaign. Through specially designated security forces and "re-education centres", Falun Gong practitioners are subjected to gross human rights abuses, including extrajudicial and judicial killings, torture, forced labour, prolonged detentions and forced denial of their faith. According to USCIRF, there have been credible reports of deaths in custody as well as use of Falun Gong members in psychiatric experiments. They are detained under Article 300 of the Criminal Procedure Code, which criminalises membership of "evil cults" as part of the Chinese government's overall policy of controlling religious activities. The 2012 USCIRF report and the US State Department in 2011 both noted that Falun Gong adherents constituted half of the officially recorded 250,000 inmates in Re-education Through Labour (RTL) camps; and the UN Special Rapporteur on Torture reported that two-thirds of cases submitted to his office on torture incidents in China involved Falun Gong practitioners.

CASE STUDY: Christians in Saudi Arabia

In Saudi Arabia, Christians and other non-Muslims continue to be systematically persecuted. Public display of crosses and other symbols is strictly forbidden, as is public Christian or other non-Islamic worship. Despite an apparent increase in official Saudi statements permitting non-Islamic worship in private, religious police have reportedly continued to raid people's homes, and Saudi Arabia is now the only country in the Middle East without a recognised church despite having an estimated one million Christians. The country's religious police, which enforce strict observance of Islamic practices, follow a zero-tolerance policy as regards Christian proselytism of any form. Hence, there are repeated reports of Christians receiving harsh penalties, including incarceration, whipping and other abuse for activities described as evangelisation and blasphemy. Non-Muslims are not allowed to be buried in the country.

CASE STUDY: Baha'is in Iran

The Baha'i faith and associated activities are officially banned in Iran, and its estimated 300,000 adherents have been subjected to a state policy of extinction. According to evidence submitted to the APPG by the Baha'i Community of the UK, more than 200 Baha'is have been executed or murdered in Iran since 1970, and thousands have been arrested and interrogated, while tens of thousands have been deprived of employment and access to education. Their places of worship, schools, cemeteries, properties and businesses have been destroyed or confiscated by the Iranian regime. Currently, the entire national leadership of the Baha'i community is imprisoned, facing charges of "espionage" and "threatening national security" that potentially carry the death sentence. From late 2004 to January 2013 there have been more than 670 arrests of Baha'is, with 177 reported in 2012 alone.

⁹ Al Jazeera, "Lahore tense after mosques' attacks", 29 May 2010

3. State violations: intimidation, discrimination and violence

Pew Forum reports widespread harassment and intimidation of religious minorities by governments in 86 states. This can include physical violence, including death, detention, abuse, displacement or damage to personal or religious property.

CASE STUDY: Christians in Eritrea

Aid to the Church in Need (ACN) notes that up to 3,000 Christians are believed to have been imprisoned in Eritrea, many in inhumane conditions, with large numbers placed together in shipping and other metal containers exposed to the sun, or in underground bunkers. It is not only Christians who suffer indiscriminately. Christian Solidarity Worldwide (CSW), which regularly gathers first-hand accounts of persecution in Eritrea, states that “tens of thousands of Eritreans languish without charge or trial in the country’s maze of detention centres without having received — and with no hope of receiving — due process.” However, CSW Africa Team Leader Dr Khataza Gondwe notes that Christians have faced gross human rights abuses, particularly Evangelicals and Pentecostals, following the regime’s harsh application of a law officially recognizing only some religious groups. The dire situation in Eritrea was summarised by Dr Gondwe by stating that “the forceful, systematic attempt to eliminate non-sanctioned denominations, the severe mistreatment of detainees held in life-threatening conditions, the torture and the extra-judicial executions, may possibly amount to a crime against humanity in the international legal sense.”

CASE STUDY: North Korea

In North Korea, thousands of people are kept in dire conditions in labour camps and subject to arbitrary killings. Religious communities seem to be especially targeted due to the incompatibility of their beliefs with the all-encompassing state ideology. In its submission to the APPG, Open Doors states that North Korea remains the most difficult country in the world in which to be a Christian, and that between 50,000 and 70,000 Christians suffer in horrific prison camps.

CASE STUDY: Muslims in Burma

Throughout 2012, reports of state violence against non-Buddhist minority ethno-religious communities in Burma continued. Members of Muslim as well as Christian tribes have continued to experience discrimination, displacement and violence. Throughout 2012 and 2013, there were incidents of massacres, attacks and rapes of Rohingya and Kaman Muslims by Burmese military forces and Buddhist groups in the Arakan state, causing displacement of more than 120,000 people in 2012 alone. Human Rights Watch (HRW) states that “the Burmese government is systematically restricting humanitarian aid and imposing discriminatory policies on Rohingya Muslims in Arakan State”. HRW also notes that a Citizenship Law passed in 1982 denies citizenship to around a million Rohingyas in Burma. The government does not allow Rohingyas to travel outside of their towns without permission, and severely restricts marriage and the number of children Rohingyas can have.

CASE STUDY: Hindus in Pakistan

In 1947 the population of Pakistan was 25% Hindu; this has now declined to less than 1.6%. According to Dr G L Bhan of the the World Council of Hindus (UK): “Hindus are officially designated as second-class citizens and there is routine oppression of Hindus through discriminatory laws. Enslavement through bonded labour is widespread. Hindus are not able to carry out religious practices in public.” There have also been reported cases of violence against Hindus, particularly young girls.

Denial of religious freedom can also take the form of discrimination by local authorities, including denial of access to public resources, employment, housing, business opportunities, protection and due legal process.

CASE STUDY: Buddhists in India

The Network of Buddhist Organisations in the UK (NBO) reports denials of socio-economic rights to Buddhist tribes across India. NBO particularly draws attention to the treatment of Chakma people in various states in India, including the Mizoram and Arunachal Pradesh states, where they are denied access to education and health services and exposed to violence and arbitrary use of force by local authorities, as they are not a recognised tribe and some are either stateless or have refugee status. NBO states that the Chakma and Jumma tribes also face persecution in Bangladesh and are forced off their land by community groups or military forces. NBO states that the Chakma and Jumma tribes also face persecution in Bangladesh and are forced off their land by community groups or military forces. NBO points out that Dalits, formerly known as “untouchables” in India, suffer serious abuses though with certain protections granted through their legal status as a “scheduled caste”. It further notes that certain religions (including Buddhist, Muslim and Christian Dalits) cannot access the legal benefits ascribed to Hindu and Sikh Dalits.

4. Denial of freedom to choose or reject religions

According to Pew Forum, 39 state governments hinder individuals from converting from one religion or belief to another.

CASE STUDY: Religious Conversion in India

In its submission to the APPG, CSW draws attention to legislation that criminalises conversion in several states in India. CSW notes that such anti-conversion laws are in force in Orissa, Madhya Pradesh, Chhattisgarh, Himachal Pradesh and Gujarat states. Similar laws reportedly also exist in Arunachal Pradesh and Rajasthan, although they are not being enforced. Gujarat law requires prior permission for any ceremony for conversion, and the law in Himachal Pradesh requires a person to notify the district magistrate of intention to convert and the magistrate to enquire into the matter. News of a conversion can result in mob violence against individuals and intimidation — especially of those who leave the Hindu faith for Islam, Buddhism or Christianity. In its submission to the APPG, Release International states that the organisation has recently visited Christian pastors from Andhra Pradesh and Karnataka. Many had suffered physical assaults, or had had their property attacked and had been accused of converting people by force. One pastor, John Lazarus, who is a Hindu convert to the Christian faith, saw his daughter kidnapped, never to be seen again; his son was stabbed to death by Hindu radicals.

In many Muslim-majority states, conversion from Islam to another religion or to atheism continues to attract a severe state response. While incidents of official executions are rare, individuals who leave Islam for another religion can face intimidation, imprisonment, physical abuse, or denial of access to education, jobs and civil rights.

In Jordan, there are regular cases of Muslim converts to Christianity being taken to civil court and having their marriages annulled and identity cards and civil registry records cancelled. In its submission to the APPG, Middle East Concern (MEC) cites the case of Muhammad Abbad Abd al-Qader Abbad, a confirmed apostate who had his marriage annulled, custody of his children removed, his property seized, and his legal contracts declared void. He has also been disinherited.

In its submission to the APPG, the group Article 18: Iranian Christians for Religious Freedom, reports more than 300 Christian arrests in Iran since 2010. According to submissions by Article 18 and Elam Ministries, the vast majority of these come from a Muslim background and were accused of apostasy, facing coercion to return to Islam and threatened with severe punishment, including the death penalty. Most were released following payment of hefty bail sums and, in some cases, turning over the deeds of their houses.

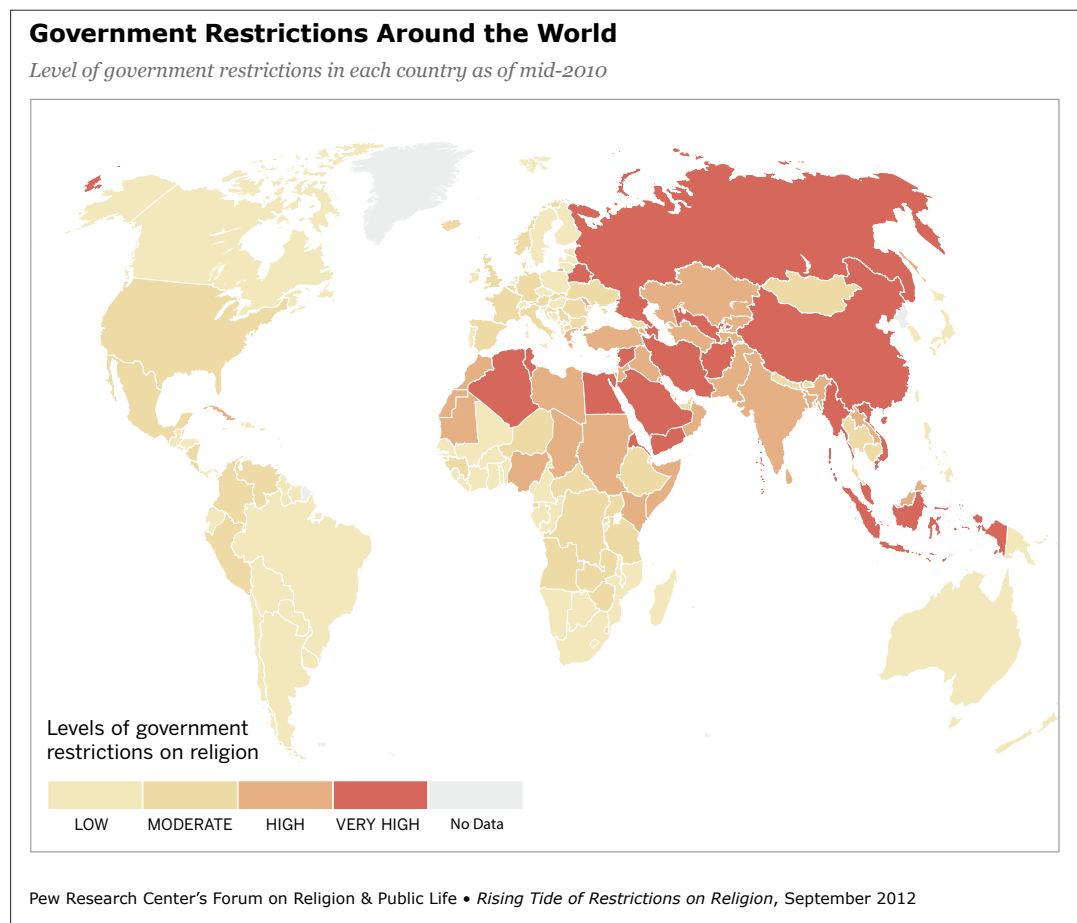
In almost all countries across Muslim-majority states, with the exception of Turkey and Lebanon in the Middle East, converts to other religions are denied permission to change the

religion section in their civil-registry documents, which makes it very difficult for them and their children to attend the religious services and religious education classes of their new faith. In Egypt, it takes only 24 hours for a convert to Islam to change their records, but it is almost impossible to have records changed from Islam to a different faith. In practice this means that converts are denied the right to worship in a church and, in cases of female converts, denial of the right to marry a non-Muslim. Converts also routinely face denial of custody and inheritance rights. Open Doors cites a recent case of conversion in a Middle Eastern state: "A grandmother reported her son as an apostate to the security police. Her grandson, aged three, saw his father dragged away and return, traumatised, three months later. The family lived secretly as Christians, and publicly as Muslims. The boy's friends guessed he was a Christian and bullied him at school and in the street. Now a teenager, he is still a secret believer."

CASE STUDY: Atheists in Indonesia and Egypt

In Indonesia, Alexander An was sentenced to two and a half years in prison in 2012 for allegations of blasphemy against Islam and declaring himself to be an atheist. This followed posts on a Facebook group page set up by atheists in Indonesia. He was charged under the blasphemy provisions of Article 156 of the Indonesian Criminal Code. A similar case occurred in Egypt in October 2012 when a young Egyptian, Alber Saber, was accused of sharing a film clip that was insulting to Islam. Eventually, he was accused of publicly declaring himself an atheist under Egypt's "contempt of religion" law (98F in the penal code).

5. Denial of freedom to worship, alone or in community with others



The right to exercise freedom of religion or belief should never be made conditional upon receiving state permission, and compulsory registration requirements and the banning of unregistered religious activity violate this premise.

In its submission to the APPG, the World Uyghur Council reports that on 8 August 2012, seven Uyghur Muslims were detained for “illegal religious practices” and in 2012 a further 100 were subjected to fines for “unauthorised” study of the Qur’an throughout the month of Ramadan. In his oral submission to the APPG, Dr Usama Hassan of the Qulliam Foundation highlighted the restrictions Muslims face around the world in opening mosques. In particular he drew attention to the severe obstacles faced by Muslims in Serb- or Croat-controlled areas, and in Russia, which is home to between 16m and 20m Muslims. Muslims have also been denied the right to establish places of worship in Greece. To date, there has not been a single official mosque in Athens, where a substantial number of Muslims live, forcing them to worship in homes, coffee shops and business places. In 2013, the Greek government announced plans to build the first mosque in Athens.

The Bishop of Wakefield has noted: “In Batumi in southwest Georgia, Muslims form a 70% majority, but still in a city of 180,000 there is only one mosque; certain elements within the Georgian Orthodox Church have kept pressure on the semi-autonomous government there to restrict the possibility of Muslims building new mosques — the Muslims are particularly open and flexible in this part of Georgia.”

In its submission to the APPG, Forum 18 reports examples of how states, particularly in Central Asia, use bureaucratic red tape to hinder freedom of religion or belief, and punish religious believers for not upholding unrealistic and inconsistent requirements even in cases when official permissions have been granted. For example in 2011, Kazakhstan passed laws to regulate places of worship by introducing a coercive process requiring official approval for religious publications, teaching sessions and activities. It has also banned congregations with fewer than 50 adult members, even if they are willing to register with the state. Forum 18 has documented a number of violations of freedom of religion or belief by Kazakh authorities, most recently in April 2013, when Kazakh police raided a prayer gathering of Baptist Christians in the town of Ayagoz, and fined seven church members, including two women in their seventies, for unregistered worship.

Similar laws and practices in Azerbaijan, Uzbekistan and Belarus deny freedom of religion or belief to Muslim groups that are not officially accepted or endorsed, as well as non-Muslim groups such as Christians and Jehovah’s Witnesses. In Russia, Forum 18 documents regular and arbitrary use of the 2002 Extremism Law to stop activities of religious communities. This particularly affects Jehovah’s Witnesses, and Muslims who follow the Turkish Sunni preacher Said Nursi, who have been subject to prolonged imprisonment, detention and intimidation.

CASE STUDY: Christians in Egypt

In Egypt, Coptic Christians (estimated to number between 8m and 10m) have been denied permission to open new churches for decades, and even basic repairs to current churches require permissions from state officials, the vast majority of which are never granted. In his statement before the APPG, His Grace Bishop Angaelos, of the Coptic Orthodox Church, drew attention to the difficulties this creates for congregations. ACN explains that the official stand of the Egyptian state in not allowing church buildings or repair often leads to harsh social hostilities within local communities, and new structures being erected by Christians are attacked on suspicion that a church is being built. On 4 March 2012 two nuns were injured when a 1,500-strong mob attacked the Notre Dame Language School in Abu Al Reesh, Aswan Province, after rumours that a church was being constructed on the site.

MEC notes that unlawful confiscation or even destruction of places of worship by state authorities occurs regularly in the Middle East. On 18 June 2012, St John’s Episcopal Church in Khartoum, Sudan, was demolished by local government officials on the basis that it had no

official permit. However, the church authorities argued that this was due to unjust delays by the government since the building first opened in 1989. MEC also reports cases of Sufi adherents in Iran, such as the Gonabadi Nematollahi order of Dervishes, who have suffered attacks, including the demolition of places of worship in Qom, Isfahan and other areas. Zoroastrians have faced similar discrimination in Iran since the 1979 revolution. They have seen their places of worship destroyed and many Zoroastrians have left the country.

6. Denial of freedom to teach, promote and publicly express religion or belief

For there to be any meaningful freedom to change religion or belief, there must also be freedom to publicly debate, discuss and proselytise. This includes freedom to produce and distribute literature related to religion and belief, and to broadcast information of a religious nature.

Despite this, many states closely control their citizens' activities in this area. The World Uyghur Congress cites the case of Hebibullah Ibrahim, an Uyghur Muslim who was sentenced to 10 years in prison in China on 19 June 2012 for "selling illegal religious materials". According to news reports, dozens of foreigners have been arrested, detained and mistreated in Libya in 2013 on "suspicion of being missionaries and distributing Christian literature". The initial arrests of a Swedish-American, South African, South Korean and Egyptian were followed by raids and mass arrests of Egyptian Coptic Christians working in Libya. There were reports of torture and physical mistreatment, particularly of Egyptians, causing one Copt to die in custody. Observers noted the arbitrary nature of arrests of Copts.¹⁰

The US State Department reports that in Uzbekistan, a government agency must approve all religious literature and there are severe legal penalties for "illegal production, storage, import or distribution of materials of religious content" with fines of up to 100 times the minimum monthly salary, as well as corrective labour of up to three years.¹¹ While the government claims to pursue such restrictions as a security measure against jihadist threats, it is actually used to curb the activities of a wide range of Muslim and Christian groups. The US State Department reports that there have been no developments regarding the imprisonment of 40 civilians and 25 military personnel suspected of being members of Sunni Muslim Nur movements, and of eight women for distributing books allegedly promoting religious extremism in May 2010.

Pew Forum's research shows a steady increase in the number of states that regulate the wearing of religious symbols, such as headscarves for women and facial hair for men. The International Center for Advocates Against Discrimination (ICAAD) highlights restrictions on freedom of religion or belief in France following the passing of Law No. 2004-22 in March 2004, which bans state school students from "ostensibly manifesting a religious affiliation". Three particular faith communities — Sikhs, Muslims and Jews — have faced serious difficulties due to the 2004 law, with Sikh students being forced to remove their turbans. ICAAD cites a 2010 survey of 42 Sikh students in Paris, which finds that 39 were forced to remove their turbans to receive education. Of these, 50% reported feeling humiliated and singled out, and 33% felt a complete loss of identity. One Sikh child was told by a school administration that "he would get nowhere in life with his uncut hair". Both wearing turbans and unshorn hair are integral expressions of Sikh faith traditions.

7. Denial of freedom of conscience and religious belief

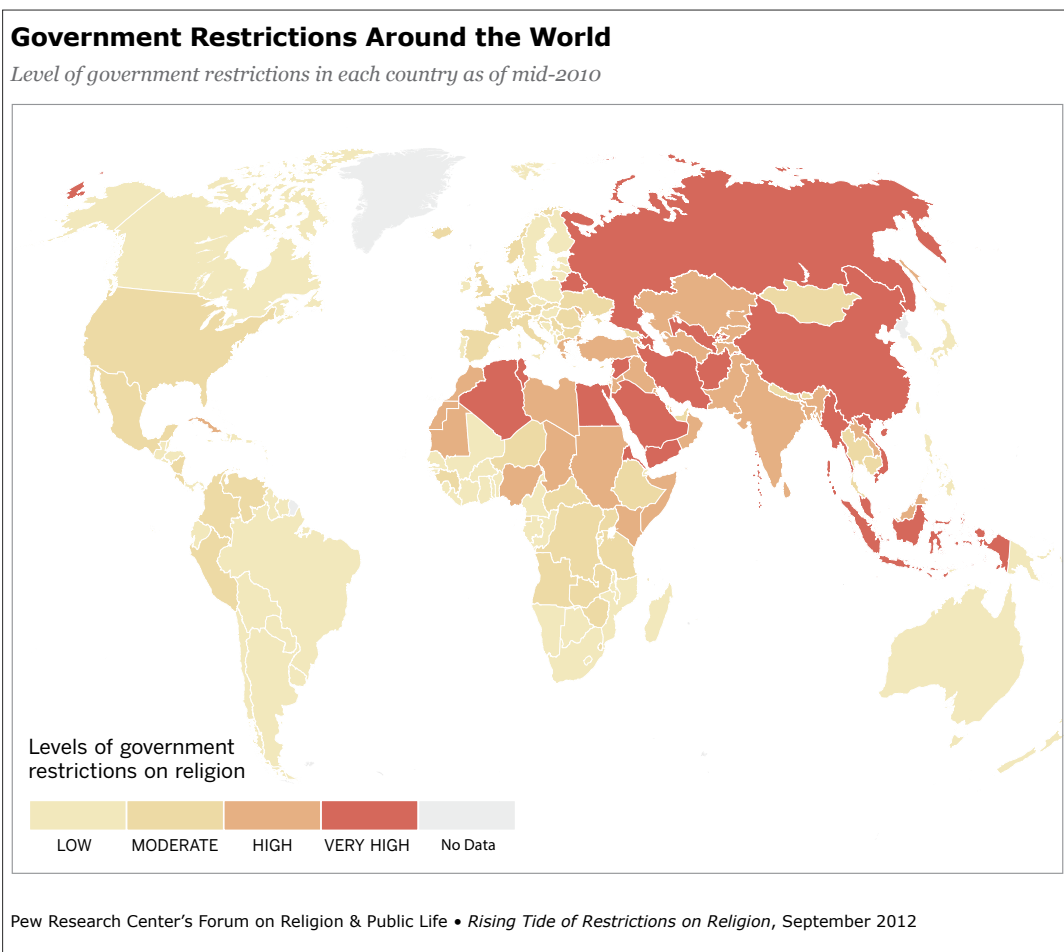
The intrinsic connection between freedom of religion or belief and freedom of conscience regularly shows itself in harsh state responses to personal political and social decisions taken by members of particular communities. For example, some faith communities refuse to take arms and partake in military service, which is compulsory in many countries. While this is easily addressed in countries that offer civilian service options for citizens alongside armed service, in some countries conscientious objectors find themselves facing long-term and often indefinite imprisonment and strong state pressure to conform.

¹⁰ France 24, "Libyan militia accused of torturing Christian Copts" 18 March 2013

¹¹ US Department of State, *International Religious Freedom report 2011*, Uzbekistan country section

CASE STUDY: Conscientious objection by Jehovah's Witnesses

In Armenia, more than 200 Jehovah's Witnesses have been jailed for refusing to take arms, with some accepting imprisonment rather than forms of alternative service that clearly contradict their beliefs.¹² The US-based civil-society organisation Freedom Now states that at least 22 Jehovah's Witnesses have been imprisoned in Turkmenistan in the past five years, 8 of whom are still serving prison terms. In 2012, Turkish courts officially acquitted a Jehovah's Witness, Ahmet Yorulmaz, who had been kept in prison for four years for refusing military service. Yorulmaz reported being subjected to physical mistreatment before his imprisonment by military officials.¹³



8. Failure of states to protect freedom of religion or belief and religious minorities from discrimination and violence

In their study *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century*, Brian Grim and Roger Finke demonstrate the link between high levels of restrictions on freedom of religion or belief and levels of communal violence and societal unrest.

The study echoes the evidence submitted to this inquiry, that high levels of state restriction on freedom of religion or belief go hand-in-hand with significant xenophobic attitudes towards religious groups and high levels of violence against them. This demonstrates both direct and

¹² Eurasianet, "Armenia: will alternative service reform keep Jehovah's Witnesses out of Jail?", 19 March 2013

¹³ Source in Turkish; Bianet, 'Yehova Şahidine Vidani Red Hakkı', 13 Mart 2012

indirect outcomes of state policies on freedom of religion or belief. By restricting particular religious groups, states fuel their marginalisation from the rest of society; and by showing passivity in addressing abuses faced by religious groups, states make continuation of violence, discrimination and social ostracism possible.

Pew Forum's 2012 report outlines crimes, serious malicious acts, and violence motivated by religious hatred and bias, in 146 states around the world. This is sometimes manifested as mob violence or acts of communal violence between religious groups. Pew reports that in 69 states there were cases of use of force or coercion by groups organised to dominate public life with their own perspective on religion, which includes some that attempt to prevent other religious groups from operating in the country at all. In 59 states, individuals were assaulted or displaced from their homes because of religious activities that were considered offensive to the majority. While all of these countries present unique contexts, the importance of state negligence and connivance in abuse is clear. Pew states that in 51 countries there were instances when the government did not interfere in social discrimination and abuses of religious groups.

CASE STUDY: Jewish community

Michael Whine, of the Community Security Trust (CST), presented evidence to the inquiry of an increase in anti-semitic harassment and attacks on Jewish communities around the world, particularly across Europe. Whine drew attention to the link between the rise of far-right political movements across Europe and dangerous public discourses on Jews. CST expressed particular concern about the situations in Hungary and France, where Jews have been attacked and properties, cemeteries and places of worship have been vandalised. Anti-Semitic incidents have also been reported in Greece since the start of the economic crisis. CST notes that the historic Jewish presence across the Middle East and North Africa has diminished, and in places where small Jewish communities still exist, such as in Iran, Jews find themselves vulnerable to communal and state pressure and often live discreet lives.

CASE STUDY: Shiites in Pakistan

During 2012 and 2013 there were sharp increases in attacks and violence against Shiites in Pakistan. In March 2013, a bomb attack on a Shiite mosque in Karachi killed at least 45 people.¹⁴ In February, a bomb attack on a Shiite neighbourhood in the city of Quetta left 89 people dead. It was preceded by an attack by the Lashkar-e-Jangvi on Shiites in January, killing more than 90 people.¹⁵ These attacks continue with impunity, and Shiites face day-to-day discrimination, frequently finding themselves victims of unchallenged hate speech and incitement to violence by Sunni preachers.

CASE STUDY: Nigeria

Nigeria continues to be a country of particular concern for religiously motivated communal violence. In its statement to the APPG, Open Doors notes that "Between November 2011 and October 2012, we recorded 1,201 killings of Christians worldwide (which gives an average of 100 killings a month), of which 791 happened in Nigeria, making this arguably the most dangerous country for a Christian to live, with outright slaughters in places like Jos, Abuja, Kaduna and Bauchi." The recent wave of attacks across Nigeria by the militant cult Boko Haram (denoted as an Islamist terror group by the FCO) has resulted in large numbers of deaths of Christian and Muslim Nigerians, with estimates of around 2,000 dead.¹⁶ Hausa-Fulani tribesmen continue to raid, loot and attack particularly Christian villages across the Plateau state, often killing scores of villagers. Political groups across central Nigeria continue to exploit increasing ethno-religious violence and grievances. Christians in Northern Nigeria

¹⁴ The New York Times, "Blast kills at least 45 Pakistanis in Shiite District of Karachi", 3 March 2013 http://www.nytimes.com/2013/03/04/world/asia/bombing-in-shiite-district-of-karachi.html?_r=0

¹⁵ The Washington Post, "'Shiites in Pakistan vow to continue protests of rising attacks by Sunni extremists'", 19 February 2013

¹⁶ BBC News, "Nigeria's Boko Haram rejects Jonathan's amnesty idea", 11 April 2013 <http://www.bbc.co.uk/news/world-africa-22105476>

face serious human rights abuses and discrimination. Impunity and a weak federal state response continue to enable unprecedented levels of ongoing ethno-religious violence in Nigeria.

9. Conclusion

The reality of freedom of religion or belief around the world today demonstrates a worrying trend of increasing state restrictions and hostilities from non-state actors. Millions of people face a wide range of human rights abuses simply because of their personal beliefs or the faith community they are affiliated with.

While most of these abuses continue without much attention, their accumulation reaches a breaking point in sudden political shifts. This was most visible throughout the historic changes across the Middle East and North Africa over the past 10 years, starting with the fall of Saddam Hussein's regime in Iraq and continuing today with the so-called Arab Spring. Over the past 10 years, we have seen how religious freedom concerns that were never addressed resulted in ethnic cleansing, widespread violence and discrimination as soon a power vacuum was created. In extreme cases, such as in Iraq, this has resulted in eradication of historic Christian communities, and concerns are now being raised that a similar situation is about to unfold in Syria. Radical religious groups who have consistently and with impunity attacked religious minorities and advocated for discrimination against them, are finding an opportunity to pursue their agendas at a national level. The ongoing deterioration of religious freedom in Egypt is an important example of this.

That is why if religious freedom concerns are not addressed while they are predominantly issues of state acts and poor governance, they will escalate into larger national and international problems with significant global implications. Countries that see high levels of religious restrictions and persecution are breeding grounds for terrorism and political instability, and result in large numbers refugees fleeing violence and discrimination. Therefore, the UK government must not see religious freedom only as a human rights concern that needs to be addressed under its obligations under international law, but as a domestic and foreign-policy priority.



Procession of Buddhist monks

CHAPTER FOUR

Mechanisms for the pursuit of religion or belief claims at the UN level

Dr Nazila Ghanea-Hercock

In the light of the stark disjuncture between the vision promised by Article 18 UDHR and the realities portrayed in Chapter 3, this chapter turns to the question of “what is being done about it”.

As mentioned in the Introductory Overview, the main thing that the UN has *not* done is continue the process of developing a legally binding international convention on freedom of religion or belief. This is perhaps unsurprising given the deep-seated sensitivities that addressing the question provokes, and the risk that the very attempt might unsettle the precarious consensus that currently exists in relation to Article 18 UDHR. While this report is not the place to review in detail the pros and cons of embarking on such an exercise, it is a debate that needs to happen. What can be said at this stage, is that the status quo does not seem to be delivering the Article 18 UDHR vision, and this chapter now turns to the tools that are currently at the disposal of the UN to engage with freedom of religion or belief.

1. Introduction

The means of pursuing complaints at the international level must be found within the UN's general processes, procedures and mechanisms. As previously noted, the range and diversity of potential violations of freedom of religion and belief is enormous, and it is helpful to distinguish between those that violate freedom of religion or belief itself and those that arise from discrimination on the grounds of religion or belief. For clarity this chapter will refer to these different forms of violations as being (a) violations *of* religion or belief or (b) violations based *on* religion or belief affiliation.

When considering violations of either type, it is important to note that such issues are often coloured by broader political, legal and societal contexts in a sharper way than most other human rights questions. Understanding these contexts— which might include the majority religion or belief, the nature of the relationship between the state and religious communities, whether there is an officially established religion or ideology, the impact of this on state-regulated educational curricula, and the impact on equal protection and equality before the law — is key to shaping appropriate short-term remedies and long-term solutions. However, the sheer complexity of this task is daunting and may serve to discourage the generalised mechanisms that are available from engaging as fully or as effectively as they ought in such an intricate and specialised exercise.

2. Mechanisms based on the UN Charter

The preamble to the UN Charter states the determination to “reaffirm faith in fundamental human rights”, and Article 1(3) provides that one of the purposes of the UN is to be the achievement of international cooperation “in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”.

Within this context, the role of the HRC extends to both normative development of human rights standards and devising means to further the implementation of such standards. As has already been mentioned, its work relating to violations *of* religion or belief has been disappointing. The key achievements are the inclusion of Article 18 in the ICCPR, relevant echoes in treaties focussed on other human rights concerns, and the adoption in 1981 of UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981 Declaration). The 1981 declaration condemns “all manifestations and practices of racial, religious, and national hatred in the political, economic, social, educational and cultural spheres of the life of society”, therefore addressing both violations *of* and violations based *on* religion or belief. While on the one hand it is non-legally-binding and in some key aspects more ambiguous than Article 18 UDHR, on the other it remains the only UN instrument exclusively focussed on these matters and provides the basis for the work of the UN Special Rapporteur on Freedom of Religion and Belief. Therefore, the overall contribution of the UN Charter-based institutions to the development of the normative framework of freedom of religion or belief is best described as incomplete.

Perhaps more effective have been the Charter-based institutions' use of Special Procedures, through which independent experts can be mandated to focus either on thematic or country-focused human rights and report regularly to sessions of the UN Human Rights Council and General Assembly. This work involves receiving and responding to individual complaints and pursuing matters through communication with the state concerned, including use of an “urgent action” procedure. With the consent of the state concerned, mandate-holders may visit a country in order to produce more detailed reports. In 1986, the UN agreed to appoint a Special Rapporteur in relation to the 1981 Declaration, and the Special Rapporteur remains the only mechanism within the UN system to be focussed specifically on this freedom.

(a) Special Rapporteur — detailed public reporting and press releases

Since 1986, successive Special Rapporteurs have advanced understanding regarding issues such as conversion and religious minorities, and have reported on patterns of discrimination and violations of freedom of religion or belief. In the course of their work, they have visited countries ranging from Cyprus and the UK to Iran and India, and intervened through communications and urgent actions in regard to complaints received from individuals around the world. The Rapporteurs have also contributed to expert consultations, and engaged in raising awareness of and advocating for freedom of religion or belief. Their work has served to continuously emphasise the importance of these freedoms as matters of international human rights concern, and to engage with states in advancing towards the realisation of their legal obligations.

(b) Special Rapporteur — receive and respond to individual complaints within the scope of their work

Nevertheless, the nature of the “weapons” at the disposal of the Special Rapporteur are best described as “soft”. They are: exposure, recommendation, reminding states of their duties and calling for human rights approaches to be adopted. It is possible for the plights of individual victims to be publicised through their inclusion in the public reports of the Special Rapporteur, which are tabled at HRC and UN General Assembly (recent reports have, for example, addressed religious minorities and conversion), and even more exposure may result from cases being referred to in the oral statements of the Rapporteur (sometimes subsequently becoming the subject of discussion in these fora). This, however, will be a rare occurrence and can hardly be seen as a route to an effective remedy for the violation of freedom of religion or belief or, indeed, as a particularly effective means through which the UN can take action to prevent such violations from occurring.

(c) Special Rapporteur — communication and urgent action with concerned states

Public exposure by the UN may, however, trigger or give additional weight to actions of others, such as civil-society organisations and/or faith communities who might be drawing attention to the situation. Recognition by the Rapporteur gives credibility to allegations that might otherwise be trivialised or dismissed. The mere fact of such exposure may result in some states mitigating the excesses being referred to, and contribute to de-escalating the scale of violations. This is so irrespective of whether the violations are primarily the responsibility of state or non-state actors.

In addition to the Special Rapporteurs, within the UN there are other Special Procedure mandates engaged with issues arising out of discrimination based on religion or belief. For example, the Special Rapporteur on the Right to Education has raised the importance of integrated educational provision across religious divides in schools in Northern Ireland subsequent to a 2003 visit to Northern Ireland. More recently, the Special Rapporteur on the Situation of Human Rights in Burma has expressed serious concerns over the spread of violence between Muslim and Buddhist communities, and impressed on the government the importance of taking urgent steps to address this situation. Rapporteurs tasked with country-focussed mandates regularly raise concerns regarding religion or belief matters, for example in the case of the Special Rapporteur on Human Rights in Iran. In addition, religion and belief matters are raised by bodies such as the Working Group on Discrimination Against Women in Law and Practice, which has drawn attention to the importance of a role for women imams in national campaigns to raise awareness of women’s rights and to disseminate a culture of equality.

Such interventions by UN mandate-holders only occur because they are in receipt of information which alerts them to issues of concern. States, civil-society organisations and faith communities can all greatly assist the work of the Special Procedures by providing well-substantiated and timely information and studies.

However, there still remain a number of substantial barriers to the success of the system of UN Special Rapporteurs. Although they are independent, they report to political bodies — the Human Rights Council and the General Assembly — which do not rank freedom of religion or belief high on their lists of priorities. Moreover, their work lacks legal force and is limited by a chronic shortage of resources. The Rapporteurs are unpaid, part-time appointments who, though supported by the Office of the High Commissioner for Human Rights, have to find the time to undertake the role as best they can within their existing workloads. It seems that the sum total of focussed international institutional means to promote and protect the freedom of religion or belief, as set out in Art 18 UDHR, through the United Nations Charter mechanisms, comes down to a solitary, unpaid, part-time appointment. This hardly seems an appropriate response in the light of the evidence of so many serious violations of the declaration .

3. The work of the UN human rights treaty bodies

The UN has 10 core human rights treaties, which are multilateral treaties negotiated, drafted, signed and ratified by states and which, once having entered into force, entail legal obligations for the states parties concerned. Signatory states become subject to the supervisory mechanism, which are known as the UN Human Rights Treaty Bodies and are comprised of independent experts, elected by the states parties.

Although there is no treaty devoted to freedom of religion or belief, other treaties do have related provisions — most particularly the ICCPR.

(a) Treaty interpretation

Treaty bodies are bound by the text of their respective treaties, but can seek to advance treaty objectives, by issuing General Comments or General Recommendations. While these are not legally binding, they do constitute an authoritative interpretation of the treaty obligation by the body set up by that treaty to oversee its application. The HRC has issued three General Comments which are of particular relevance to freedom of religion or belief: General Comments 22, 18 and 34.

HRC General Comment 22 of 1993 remains the most important statement by the HRC concerning freedom of religion or belief. It emphasises that this freedom embraces more than just the historically established religious traditions, and reiterates the absolute nature of having or maintaining a religious belief, including freedom to choose one's religion or belief, or replace it with another. Considering the pressure by some states to narrow the scope of application of these freedoms, the rigorous policing of its boundaries by a treaty body is not only significant in itself but also lends vital support to the work of the UN Special Rapporteur on Freedom of Religion or Belief.

HRC General Comment 18 dates back to 1989 and concerns non-discrimination, including on the grounds of religion or belief. It is defined as "any distinction, exclusion, restriction or preference which is based on any ground such as ... religion ... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms". As such, it emphasises that non-discrimination, equality before the law and equal protection of the law constitute basic and general principles relating to the protection of all human rights, and points to the need for positive measures to fulfil these obligations. Although the 1981 declaration also upholds non-discrimination, this reiteration allows for it to be monitored by the HRC.

Finally, HRC General Comment 34 of 2011 looks at ICCPR Article 19 on freedom of opinion and expression, including its relationship with Article 20. This General Comment contains important clarifications regarding freedom of religion or belief and non-discrimination on grounds of religion or belief. It recognises that Article 18 of the ICCPR contains "guarantees for freedom of opinion and/or expression" and that freedom of expression is integral to the full enjoyment of Article 18. The General Comment also applies the principle of "non coercion" found in Article 18 to the broader setting of freedom of expression, saying that "any form of

effort to coerce the holding or not holding of any opinion is prohibited". The guarantee of the right to seek, receive and impart information and ideas of all kinds regardless of frontiers — including in relation to religious discourse — is emphasised, embracing "even expression that may be regarded as deeply offensive, although such expression may be restricted in accordance to the provisions of article 19, paragraph 3 and article 20". There is, then, no hierarchy between Articles 18 and 19 of the ICCPR, or no necessary "clash" between them. As the General Comment suggests, they are complementary and mutually reinforcing.

The significance of this approach becomes clear when considering the series of resolutions adopted by the Human Rights Council since 1999 concerning "defamation of religions". This is, in essence, a claim that a state is permitted under human rights law to take action against those who act in ways which it considers to be inimical to the tenets or mores of the dominant religious tradition within the state concerned. This claim is also raised under other banners, such as "denegation of religions" or "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief". This attempts to turn the protection of freedom of religion or belief into a means of stifling the expression of views or beliefs that differ from the majority, or officially supported, religious tradition within a given country. In this context, General Comment 34 also emphasises that:

"Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith."

This guidance merits careful reflection in order to see how it might be built upon to address pressing issues facing the international community relating to the enjoyment of freedom of religion or belief.

(b) Constructive state dialogue

A second means through which treaty bodies can raise religion or belief matters is during their "constructive dialogues" with states parties concerning the implementation of their human rights obligations. The treaties require each state party to report at regular intervals on their achievements in this regard, and on challenges they may face in this area. State representatives then meet with the treaty body to engage in a "constructive dialogue" with committee members, at the end of which the committee produces what are generally known as Concluding Observations, in which it sets out its thoughts. This session of a few hours entails a presentation of the report by the delegation, the welcoming of positive steps by the treaty body members, and questioning by the treaty body members regarding weaknesses gleaned. This will be based on the national report itself and information from other sources, including civil-society organisations' submissions and research by the committee members themselves. The Concluding Observations mirror this approach, welcoming positive developments, raising weaknesses and challenges and ending with observations on how the states party might better advance towards the realisation of treaty objectives.

The work of the HRC in relation to Article 18 ICCPR provides some insight into how this system can function in practice, as the following examples show:

(i) Turkey

The Committee, while recognizing the secular character of the Turkish State and welcoming amendments made to the Law on Foundations, No.5737, in 2011 and their implementation allowing non-Muslim religious communities to have their property registered, is concerned about the restrictions imposed on Muslim communities, as well as non-Muslim religious communities, that are not covered by the 1935 Law on Foundations (arts. 18 and 26).

The states party should guarantee the right of all persons to manifest their religion or belief in community with others through the recognition of their right to organize themselves in the form of associations or foundations, as provided, for example, by the Turkish Civil Code.

The Committee is concerned about reports of hate crimes against non-Muslim religious communities and other minorities, and about the ongoing and unpunished hate speech in the media, including in TV series and films (arts. 18, 20 and 27).

The states party should intensify its efforts to effectively prohibit hate speech violating article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented.¹⁷

(ii) Maldives

The Human Rights Committee announced that it regarded its reservation to Article 18 as incompatible with the object and purpose of the ICCPR.¹⁸ The Committee also recommended that the Constitution be revised in order to ensure that religion is not a basis for citizenship.¹⁹ It went on to say that:

The Committee is concerned at the fact that non-Muslims can only practise their religion in private and do not have public places of worship. It is also concerned that it is prohibited for Maldivian citizens to adopt a religion other than Islam (arts. 2 and 18).

The states party should revise its legislation to authorize non-Muslims to practise and manifest their religion, including in places of public worship. The state party should abolish the crime of apostasy in its legislation and allow Maldivians to fully enjoy their freedom of religion.²⁰

(iii) Islamic Republic of Iran

The Committee is concerned about discrimination against members of the Christian minority, including arrests based on charges of proselytizing and a ban on conducting Christian services in Farsi. The Committee also notes with concern that individuals who have converted from Islam have been arrested, and that article 225 of the draft Penal Code is aimed at making the death penalty mandatory for convicted male apostates (art. 18).

The states party should take steps to ensure full respect for the right to freedom of religion or belief, including ensuring that legislation and practices fully conform to article 18 of the Covenant. This also entails that the right of everyone to change his or her religion, if he or she so chooses, is unconditionally and fully guaranteed. The Committee also urges the state party to revoke article 225 of the draft Penal Code. The Committee recalls its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.

¹⁷ UN Doc CCPR/C/TUR/CO/1, Human Rights Committee, 14 November 2012, Concluding Observations on the initial report of Turkey. [Bold both here and below are from the original].

¹⁸ UN Doc CCPR/C/MDV/CO/1, Human Rights Committee, 31 August 2012, Concluding Observations adopted by the Human Rights Committee, Maldives, para. 5.

¹⁹ UN Doc CCPR/C/MDV/CO/1, Human Rights Committee, 31 August 2012, Concluding Observations adopted by the Human Rights Committee, Maldives, para. 9.

²⁰ UN Doc CCPR/C/MDV/CO/1, Human Rights Committee, 31 August 2012, Concluding Observations adopted by the Human Rights Committee, Maldives, para. 24.

The Committee is concerned that Sunni Muslims continue to face discrimination in law and in practice, and are prevented from fully exercising their right to freedom to manifest their religion (arts. 18 and 19).

The states party should guarantee the freedom to manifest a religion or belief and that it can be exercised either individually or in community with others and in public or private. The Committee reminds the states party that this right also entails the building of places of worship.²¹

The focussed nature of these questions and Concluding Observations often derive from information that has been brought to the attention of the Committee by civil-society organisations and/or faith communities. The fact that these concerns find their way into the constructive state dialogue, and into publicly accessible UN documents, should continue to encourage civil-society organisations and faith communities to engage with these UN human rights bodies. This can, in turn, lend credibility to their other efforts at the local, national and international level to counter discrimination and religion or belief violations. If these critical UN observations are reflected in the media, this can also heighten their significance in advancing human rights.

However, as there is no treaty dedicated to freedom of religion or belief, the protection of this freedom will only arise as an element of the protection of other rights or, in the context of the ICCPR, as one freedom among many. Inevitably, the extent to which it forms a focus for consideration will depend on the willingness of the treaty body members to prioritise this issue within their overall work. This does mean that the most egregious situations may indeed be considered, but many others may not. Moreover, the entire system is in crisis. As the recent report *Strengthening the Human Rights Treaty System*, issued by the UN High Commissioner for Human Rights, has made clear, the system would be completely unworkable if a majority of states co-operated, as intended, by filing reports. As it is, the only reason the treaty bodies are not swamped is because so many states fail to submit reports at all. For those states which do fulfil their obligation in this area, there is a long time lag between submitting a written report and its being considered by the relevant committee. To that extent it runs the risk of being effectively a voluntary system of oversight, in which the most egregious violators can avoid scrutiny by not being a part of the system at all. It is difficult to see how this amounts to an adequate response to the challenges posed by the violations of freedom of religion or belief which are witnessed around the world today.

(c) Communication procedures

Finally, mention should be made of the system under which individuals can raise questions about potential violations of their rights with the treaty bodies themselves. Although they are not judicial bodies, most of the treaty bodies now have the power to receive Communications from individuals and to issue Views upon them. The most longstanding of these procedures is that established under the Optional Protocol to the ICCPR, and the HRC has had occasion to consider alleged violations of ICCPR Article 18 under this mechanism on a number of occasions – examples include the Canadian cases *Waldman v. Canada* (5 November 1999), which addressed public funding for Roman Catholic but not other religious schools, and *Karnel Singh Binderv. Canada* (9 November 1989), which concerned a Sikh railway worker who wanted to wear his turban but was restricted due to health and safety. In theory, this should provide an important route through which individuals can raise their concerns; in practice it is only open to those within states that have agreed to accept this additional and optional process (under the ICCPR) and many – including the UK – have not. This lack of leadership by example on the part of the UK is regrettable and blunts the effectiveness of UK advocacy on this issue.

Even aside from this weakness, however, the Communications procedure is hardly a panacea. Once submitted, it may be several years before a Communication is considered (although

²¹ UN Doc CCPR/C/IRN/CO/3, Human Rights Committee, 29 November 2011, Concluding Observations of the Human Rights Committee, Islamic Republic, paras. 23-25.

requests for interim measures pending the outcome are frequently granted). Rates of compliance with views of the committees, to the extent that this is known, are also disappointing. So while there is some potential for working towards a fuller realisation of the right to freedom of religion or belief, this remains limited by the nature of the available mechanisms. Even if these were able to function at maximum efficiency, it is doubtful whether such tools have the edge to craft the outcome that needs to be achieved.

(d) Prevention

Some treaty bodies have the capacity to take the initiative by launching inquiries into situations where there are well-grounded reasons to suspect that systematic violations are occurring.²² However, such procedures have not been used in relation to discrimination based on, or violations of, freedom of religion or belief. The ultimate aim of all human rights actions should be the *prevention* of human rights violations. The treaty bodies that are most likely to confront systemic issues concerning freedom of religion or belief — the HRC, Committee on the Elimination of Racial Discrimination, Committee on Economic, Cultural and Social Rights — unfortunately do not have the most advanced tools of prevention at their disposal.

For example, the Optional Protocol on the Prevention of Torture establishes a very different means of addressing human rights concerns by establishing a two-pillar approach that draws on both an international body — the Subcommittee for the Prevention of Torture (SPT) — and on domestic bodies established at the national level — National Preventive Mechanisms — which, together, form a common system for preventing violations. This is based on confidential visits to places of detention, with free and immediate access being guaranteed by the treaty. There is, then, something of an emergent trend that goes beyond the existing means of response and it would be interesting to reflect on what the equivalent of a preventive approach might look like as regards international protection of religion or belief. It might, for example, involve independent collaborative bodies at the national level dedicated to advancing freedom of religion or belief for all, with the capacity to meet with all who consider that their freedoms have been violated or are at risk, and to engage with domestic and international bodies about how best to address their concerns. It may seem fantastical to envisage a partnership between the national and international, and between those of different faith and belief communities, in common pursuit of realising freedom of religion or belief. But this vision of a shared space to explore ways to respond to, and prevent, violations should serve to inspire us.

4. Conclusion

This chapter has outlined in general terms the variety of UN bodies and mechanisms that have been brought to bear on the international situation regarding freedom of religion or belief. If it is somewhat threadbare, this reflects the reality that the response of the UN has been minimal. The focus has been on the normative standards and mechanisms to assist in their realisation. What dominates is not what there is, but what there is not. There is not, nor does it appear likely that there will be, a focussed international process leading to a legally binding convention protecting freedom of religion or belief produced by the UN. Although the basic contours of this freedom are reflected in the ICCPR and aspects of it addressed through other instruments, this absence speaks loudly of the lack of commitment within the international community to this foundational right. The mandate of the UN Special Rapporteur stands as a singular exception in this otherwise largely barren field. The complexity is not in understanding the meaning and impact of international human rights law as encapsulated in UDHR Article 18, but in the political, legal and societal contexts that lead to and sustain violations. Therefore, an approach based more on prevention than response may, over time, yield the most positive benefits, particularly if it is based on the active engagement of national as well as international groups, who share common ownership of the agenda of securing freedom of religion and belief for all. It is against this background that this report moves to explore what the domestic response to the international protection of freedom of religion or belief has been, and how it might be developed as a first stage in this journey.

²² E.g. UN Convention against Torture, Article 20.



JORGE ROYAN

A Sikh man studies in Delhi

CHAPTER FIVE

Prioritising freedom of religion or belief in foreign policy: reasons and guiding principles

Katherine Cash and Dr Sean Oliver-Dee

1. Introduction

Prioritising the advancement of freedom of religion or belief internationally not only protects the right itself but also promotes other foreign policy objectives. Above all, it contributes to the enjoyment of peace and security, promoting internal and regional stability, as well as addressing poverty and social exclusion and limiting discrimination in the enjoyment of other human rights. This chapter explores in broad terms the principles and practical approaches around which appropriate policy can be framed, and aims to outline a sound basis on which to construct an effective model for advancing the international freedom of religion or belief.

2. Why prioritise freedom of religion or belief in UK foreign policy and development assistance?

The arguments in favour of prioritising freedom of religion or belief in UK foreign policy are twofold. Freedom of religion or belief is important in its own right, but it is also vital to achieving a wide range of foreign policy goals, such as the prevention of conflict. Violations of freedom of religion or belief often involve the violent persecution of both individuals and groups, but can also take the form of discrimination in access to education, employment and health services, limitations in the ability of individuals to marry or retain custody of children, limitations in the right to publish literature or participate in the media, or limitations on the right to preserve cultural and religious heritage. It is a key dynamic of freedom of religion or belief that it is interconnected with a wide range of other political, social, economic and cultural rights, including freedoms of expression and association. Violations of freedom of religion or belief normally involve the violation of other rights — or put in more positive terms, the advancement of freedom of religion or belief contributes to enabling the advancement of many other rights.

Violations of freedom of religion or belief not only affect individuals and communities but the development of society as a whole, and there is an intimate link with security, peace-building and democratisation. A lack of freedom of religion or belief increases polarisation between religious groups and increases the risk of conflict. State discrimination based on religion or belief bolsters extremist voices, while reducing the ability of moderate religious groups to participate in public debate. It also provides a legitimising framework for discrimination by other actors in society.

Indeed, freedom of religion or belief has been described as “a critical enabler of peace” by ensuring the presence of institutions autonomous from the state, and through being embodied in the doctrines of the religious and political actors whose behaviour influences peace or violence.²³ Freedom of religion or belief creates and protects the space which enables religious actors to perform the work of peace-building. In contrast, civil wars with religious dimensions commonly occur in settings where states deny freedom of religion or belief for minorities.²⁴ Similarly, religiously motivated terror groups are energized by political settings where their members are denied religious freedom.²⁵

The strong connections between freedom of religion or belief, security and peace are recognised by the Foreign and Commonwealth Office:

“In countries around the world, religious freedom is often crucial to ensuring conflict prevention and post-conflict peace-building. Indeed, many conflicts have their roots in the tensions between different religious communities. Violence against a religious group can be a forewarning of wider conflict. Freedom of religion or belief is therefore important to achieving the UK’s wider security agenda.”²⁶

Freedom of religion or belief also plays an important role in poverty reduction. Even in the absence of violent conflict, violations of this freedom create barriers to economic growth and development. If the structural causes of discrimination on the basis of religion or belief are not

²³ Daniel Philpott, “Religious freedom and peacebuilding: May I introduce you two?” in *The Review of Faith and International Affairs*, Volume II, Number 1 (Spring 2013), p.. In order to reach this conclusion Philpott analyses the contributions of religious actors to forty eight democratization processes concluding that “those religious leaders and groups that had adopted religious freedom into their political theology were generally the ones to fight hardest for democracy”. By contrast “religious actors who did not exert influence for democracy generally did not hold a political theology of religious freedom and were closely tied to dictators” (ibid, p 34).

²⁴ E.g. in 72% of religious civil wars studied at least one combatant had the denial of the religious freedom of the other as a goal (ibid).

²⁵ Ninety three percent of religiously motivated terror groups analysed held a political theology that called for a regime with little independence between religion and state and the denial of religious freedoms to faiths other than their own (ibid, p 35).

²⁶ Human Rights and Democracy: The 2011 Foreign and Commonwealth Office report, p54

tackled within the framework of development efforts, it is unlikely that the desired development results will be achieved over the long term. Limitations upon the exercise of freedom of religion or belief frequently involve limiting the ability of religious communities to assemble and organise. Religious gatherings are perhaps the most common form of meeting place in the world, and faith-based organisation and mobilisation are important components of civil society in most countries. Faith-based organisations are often heavily involved in economic and social development work, for example as providers of education, health care and rural development services. Freedom of religion or belief should therefore be an integral component of the UK's international development agenda in countries affected by violations, through integration in the work of DfID.

3. A sound basis — principles and practical approaches for foreign policy

There is no doubt that over the past few years, freedom of religion or belief has gained increasing recognition as a foreign policy priority within the FCO. The next chapter will examine in more detail the increasing priority afforded to freedom of religion and belief, both centrally and through our embassies and high commissions. However, the new strategies that are beginning to emerge are still in their infancy. What follows are suggested principles that form a sound basis for the further development of UK policy, recognising that the FCO already embraces some of these points:

(a) A practical, convention-based definition of freedom of religion or belief and an ability to reason on the legitimacy of limitations

The FCO's and DfID's understanding of freedom of religion or belief must be grounded in the UDHR and the conventions, easily comprehended and practical. The FCO has made some efforts to create such an understanding, for example by the creation of the FCO Toolkit on Freedom of Religion or Belief for embassies. There is, however, a long way to go before it can be said that all FCO staff share this understanding. FCO personnel also need to be equipped to reason on the legitimacy of limitations upon the manifestation of freedom of religion or belief, as staff will encounter widespread conceptual confusion around what freedom of religion or belief involves when in dialogue with both states and civil society actors. Many assume it to involve protection for religions, rather than for the religion or belief rights of individuals, which may be being expressed communally. It is thus very important that those responsible for the formulation of policy ascertain how the right is understood by dialogue partners and make clear their own understanding of what freedom of religion or belief entails, in order that common action is based on a secure foundation.

(b) The ultimate goal

The ultimate goal of foreign policy action on freedom of religion or belief should be the promotion of universal compliance with all aspects of Article 18 UDHR, as understood in the light of the HRC's General Comment 22. To work towards this ultimate goal, all dimensions of freedom of religion or belief should receive emphasis, prioritised according to the contexts concerned.

(c) A focus on freedom of religion or belief for all

It is rarely the case that only one religious or belief group faces repression in a country. Commonly members of all religious minorities, together with dissenting schools of thought within the majority religion and people who reject all religion, face repression of varying forms and degrees. If human rights violations affecting followers of one belief are reported, inquiries should be made to ascertain the wider dimensions of the violation and who else is affected. In countries where politics and religion are closely linked, there can be no free political debate without free religious debate. It is, then, vital that freedom of religion or belief is not just seen as a protection for the persecuted: it is a vital freedom for everyone, irrespective of their beliefs, and should be approached and addressed in that spirit, as a right for all.

Focusing on freedom of religion and belief for all does not mean that specific actions cannot focus on specific groups, but it does mean that this is done in the context of wider analysis and

action. The alternative, a minorities approach, risks promoting a patchwork of protections for particular groups, rather than a comprehensive framework. This freedom-for-all approach is firmly grounded in the human rights framework, helps avoid the instrumentalisation of freedom of religion or belief for political ends, and maximises the potential for effective action.

(d) A focus on the duties of states

In relation to freedom of religion or belief, there is sometimes a tendency for states both at the international and national level to transfer the focus from the duties of states onto the responsibility of faith communities to promote dialogue and tolerance. While inter-faith dialogue and co-operation are of great importance, and faith communities have key contributions to make, this can never substitute for a clear focus on the state's duty to respect, protect and promote freedom of religion and belief. Foreign policy should therefore have a primary focus on the duties of states, while also engaging with and supporting relevant initiatives in civil society (including faith and belief communities).

(e) A long-term proactive approach coupled with a vigorous response to acute situations

Co-ordinated action across states can be more efficient and effective than states acting alone, and it is beneficial to have standing means through which to consider swift and vigorous responses to human rights denials with partner states. There should, therefore, be robust and predictable mechanisms for such responses, which are applied regardless of the religion or belief concerned.

However, in many contexts religious-freedom violations are deeply rooted not only in legal but in societal structures and norms. Promoting a sustainable social and legal culture of freedom of religion or belief is a complex and long-term process. Such long-term efforts must be grounded in building relationships with, enabling dialogue between, and supporting knowledge and capacity development for local authorities, academia, civil society and faith communities. This means that the promotion and protection of freedom of religion or belief needs to be understood as a long-term policy priority, conducted in a consistent fashion over time.

(f) Knowledge-based approaches

Issues surrounding freedom of religion or belief have, until recently, been relatively neglected by political, academic and civil-society actors, and as a result there is a significant knowledge deficit. In any given country the relationship between religion, religious freedom, politics and development is likely to be complex with a high degree of contextual specificity. Effective action is dependent upon a thorough understanding of the context. A successful strategy should therefore prioritise the development of knowledge through, inter alia:

- Providing education and training for relevant personnel
- Funding practical, contextual policy research
- Developing methodologies for work to monitor and promote freedom of religion or belief through early warning systems
- Developing appropriate baselines, benchmarks, evaluation methods

(g) Involve a wide range of local actors

Consultation and co-operation with civil-society organisations and religious actors is vital both as a basis for analysis of the situation in country and for developing and implementing strategies to promote freedom of religion or belief. Such communities and bodies hold important knowledge and are likely to be key actors in promoting (or undermining) the freedom of religion or belief in society.

The choice of whom to enter into dialogue with, and the dynamics of dialogue, are complex in relation to religious actors for a number of reasons which are worth highlighting at this point. They include the following factors:

- Religious groups are not internally homogenous but encompass differing schools of thought. Differing traditions within religions often co-operate closely, but in some contexts represent competing social, political or religious agendas
- Smaller and non-traditional groupings are often neglected in consultations and excluded from inter-religious dialogues, despite being particularly vulnerable
- In some contexts religious groupings are co-opted by the state, or are too afraid of reprisals to dare to highlight violations. This may lead to information gained being unreliable or incomplete, or to increasing the risks faced by groups
- Although some religious communities have historically been at the forefront of the struggle for freedom of religion or belief for all, there is no guarantee that religious communities accept the rights of others. Neither is there any guarantee that freedom of religion or belief of individual members will be respected by the community to which they belong, which may be a particular issue as regards women

As a result, an effective approach to policy would involve consultation with as wide a range of religious and non-religious actors as possible, including domestic and international human rights and women's organisations. This may include the creation of "safe spaces" for individuals and groups to give information concerning alleged violations without risk of being subjected to reprisal. It is also important to be aware that some actors holding important information, including belief communities, are not able to express themselves in the language of rights and may express negative attitudes towards actors or communities from which they experience hostility. Their input is nonetheless important.

(h) A multi-disciplinary, multi-actor approach based on partnership

Given the multi-dimensional nature of the issues posed by securing freedom of religion or belief, no single approach and no single actor can be effective in meeting these challenges. Human-rights based approaches are needed to influence law and administrative practice. Conflict-transformation approaches, development approaches, educational approaches, inter-religious dialogue approaches and security approaches are also necessary. And in relation to each of these approaches a combination of actors need to work together to strategically combine diplomacy, a wide range of civil-society- and faith and belief-based initiatives, and research.

An effective policy should therefore have a broad focus, including not only political dialogue or demarches, but the promotion of freedom of religion or belief through other means such as development co-operation, research and training.

(i) Highlighting the positive contribution of freedom of religion or belief to other societal goals

Although freedom of religion or belief is of enormous worth in itself, this worth often remains unrecognised by both states and citizens. Presenting the positive contribution freedom of religion or belief can make to achieving other societal goals, such as the prevention of conflict, should be an integral element of a strategy for the effective promotion and protection of freedom of religion or belief, in order to create a shift in public understanding.

(j) Highlighting gender dimensions of freedom of religion or belief, and issues concerning vulnerable groups

Women and men can be affected differently by violations of freedom of religion or belief, and women may be particularly vulnerable to discrimination, harassment and gender-based violence on the basis of religion or belief. Dialogue with religious leaders is widely used to assess the situation regarding freedom of religion or belief within a country as well as being a means through which to work to effect change. Religious leaders, as leaders of the collective life of their religious communities, may (quite naturally) focus primary attention upon violations of the collective dimensions of freedom of religion or belief, such as registration issues and places of worship. These issues are also important to women, but other issues which particularly affect women may become invisible unless specific efforts are made to identify gender-specific dimensions, particularly as religious leaders are often male. Nor can it always be assumed that religious leaders or communities respect the rights of women as individuals to freedom of religion or belief as provided for in Article 18 UDHR.

As a consequence, effective policy approaches should ensure that gender analysis and gender-aware approaches to promoting freedom of religion or belief are integrated into both tools for analysis and resultant strategies, and groups consulted should include religious and secular women's organisations and female religious leaders.

(k) Asserting the primacy of the rights of the individual, while defending collective dimensions

Freedom of religion or belief is a distinctive human right, having both individual and collective dimensions. Violations of its collective dimensions, such as the destruction of places of worship, occur in many countries and it is important that these rights be defended. At the same time, collective and individual dimensions of freedom of religion or belief can stand in tension with each other. Indeed, the relationship between the collective and individual dimensions of the right lies at the heart of many disputes concerning its interpretation and relationship to other rights.

All law develops in a social context. However, freedom of religion or belief does not give states (or religious groups to whom such power is devolved) the right to enforce religious laws or laws influenced by religions or beliefs, if such laws violate human rights. The purpose of all human-rights law is to place constraints on society's ability to pursue collective goals, including religious goals, at the expense of the individual. For states or organised religions to have the unfettered right to impose the will of the collective upon the unwilling individual is to undermine the very nature of human rights. It is therefore important that policy approaches reflect a proper understanding of the nature of the collective dimension of freedom of religion or belief, and its grounding in the right of the individual.

4. Conclusion

This chapter has outlined the principles that should guide UK policy formation in the area of freedom of religion or belief. Its central argument is that freedom of religion or belief is not only important in its own right, but is vital to achieving a wide range of human-rights and foreign-policy goals including, crucially, the prevention of conflict and reduction of poverty. Moreover, religious organisations are key civil-society bodies in most cultures across the world, and can play a major part in promoting security and prosperity.



JORGEROYAN

Reciting in the mosque

CHAPTER SIX

Current policy approaches

Katherine Cash and Dr Sean Oliver-Dee

1. An overview of UK policy approaches to freedom of religion or belief

The UK can trace a long history of action on freedom of religion or belief, and in recent years this has been substantially strengthened, particularly in the aftermath of the events of 11 September 2001. However, although the UK has a record of engagement with religious freedom that substantially predates the current focus it is receiving internationally, it has not thus far taken as visible a stance as other states.²⁷ Before the events of 11 September 2001, its approach seems to have been one of observation, commitment to international conventions and treaties, and cautious advocacy in relation to persecution. Moreover, there does not seem to have been any co-ordinated approach to the use of multi-lateral institutions such as the UN in pursuit of these objects. The overall impression is that, while there has historically been concern about freedom of religion or belief, this was generally only raised on a sporadic basis.

Since 11 September 2001, however, international freedom of religion or belief has evolved into an important, and increasingly co-ordinated, element of FCO policy work. In 2003, the then Foreign Secretary, Jack Straw, offered an apology that the international protection of freedom of religion or belief had not received the attention it required and went on to focus on Britain's

²⁷ For example, cf. the establishment by the US in 1998 of the 'International Religious Freedom Act', establishing the 'United States Commission on International Religious Freedom' (USCIRF), considered in the previous chapter

relationship with all religions. His key message was one of encouraging Britain's faith communities to back British engagements with international issues that have a religious dimension — such as Israel-Palestine and Kashmir. This approach to freedom of religion or belief was reflected in the establishment of a Panel on the Freedom of Religion or Belief, which was to meet every six months, and through which civil-society organisations and religious or belief communities were invited to input into the FCO's monitoring and advocacy.

However, despite the establishment of this panel, the UK did not make many visible attempts to engage with international protection of freedom of religion or belief as a stand-alone human-rights issue until 2007, when the FCO Human Rights and Democracy annual report included a specific condemnation of persecution on the grounds of religion or belief. This became the foundation for the development of FCO Toolkit on Freedom of Religion or Belief, which was produced in 2009. In paragraph 10 of the notes that accompany this resource, the FCO cites the prevention of conflict as the primary motivator for the development of its religious freedom work. Furthermore, it argues that since much conflict and persecution "[f]inds its roots in, or is exacerbated by, religious differences" there is a necessity to promote religious freedom in order to negate that problem.²⁸ Thus some of the more notable engagements have been with countries that have related security concerns.²⁹ Given the multi-lateral nature of modern diplomatic engagement, the FCO has sought to partner with the EU and UN in bringing pressure for change to the states of concern. The FCO is to be commended in this work, and for the fact that freedom of religion or belief is in the process of becoming an established element of the broader human-rights agenda.

The change of government in 2010 ushered in a restructuring of FCO engagement with external actors regarding human-rights strategies. The previous system of panels was replaced by a new overarching body, the Foreign Secretary's Human Rights Advisory Group, and at its first meeting in December 2010, freedom of religion or belief was identified as an area to be prioritised.

This heightened awareness of freedom of religion or belief was reflected in the development of a new programme that saw the Rev Canon Dr Gary Wilton (Archbishop of Canterbury's Representative at the EU) appointed as visiting programme director for faith and religion within the FCO's Human Rights, Democracy and Faith (HRDF) workstream. There followed a Wilton Park conference in July 2011 on "Promoting Religious Freedom around the World", and a second in December 2012, entitled "Combating intolerance and promoting freedom of religion or belief for all", focussing on HRC Resolution 16/18. This lays out the HRC's "Commitment to combatting intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against, persons based on religion or belief".³⁰

A new Equalities and Non-Discrimination Team of the Human Rights and Democracy Department has been established within the FCO, with a thematic focus on freedom of religion or belief. It organised side events at the OSCE annual Human Dimension Implementation Meetings in Warsaw in September 2011 and 2012 and a high-level ministerial meeting aimed at building political support for HRC Resolution 16/18. The establishment of this team is a welcome development; its work should be supported and its capacity strengthened.

²⁸ FCO, Freedom of Religion or Belief - how the FCO can help promote respect for this human right. 2009.

²⁹ Thus the FCO has been engaging diplomatically in states of concern like Pakistan and Nigeria to advocate on behalf of persecuted minorities and to raise specific issues such as the murder of Shabaz Bhatti and the attempt to get the Iranian Pastor Yousef Nadarkhani to recant his faith. Since the 'Arab Spring' a number of states have become growing areas of concern as regards freedom of religion or belief and the FCO has raised those concerns with the relevant governments.

³⁰ Full text of Resolution 16/18 can be found at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4db960f92> accessed 23rd May 2013.

As evidence of the increasing importance attached to freedom of religion or belief, it is to the credit of the FCO that in the 2012 annual report on Human Rights and Democracy, freedom of religion or belief is identified as one of the thematic human rights priorities.³¹ However, whereas the 2007 report had drawn a causal connection between religion and violence, the 2012 report points to religious persecution as being a forewarning of broader human-rights violations, stating: "Freedom of thought, conscience and belief underpin many other fundamental freedoms. Often where they are under attack we find that other freedoms are under attack too." This subtle but significant shift in language suggests a deepening perception of the interplay of issues, which this report wholeheartedly welcomes. At the same time, there is evidence of a greater recognition of the value in seeking to further international freedom of religion or belief as a good in its own right, shorn of its instrumental attributes.³²

A further significant change of relevance to the development of policy on the international freedom of religion or belief was the appointment in September 2012 of Baroness Warsi as the Senior Minister of State at the Foreign and Commonwealth Office and Minister for Faith and Communities. As a senior minister in the FCO, and with both an international- and domestic-facing portfolio on faith and communities, this opens up an opportunity for an approach in which international and domestic concerns cohere and inform each other, avoiding artificial divisions and facilitating a holistic and co-ordinated overall strategy.³³

Alongside this diplomatic activity, steps have also been taken to deepen the understanding of issues related to the freedom of religion or belief within the FCO, including a training programme and seminar series. While still anchored in the interface of religion and foreign affairs, rather than as a discrete standalone subject, the move towards an increasing engagement with religion in global affairs is both positive and significant. There can be little doubt that there has been a noticeable increase in the FCO's engagement in freedom of religion or belief over the past six years. This is both laudable and, for the reasons previously given, this shift in focus should be encouraged, maintained and developed.

At the same time as international religious freedom has developed an increased policy traction, so the debate about aid conditionality has gained momentum. Using the promise of aid as a means to encourage the development of free-market economies and wider civil participation has long been an area for discussion, and the entrance of religious freedom into policy consciousness has added a further dimension to that discussion. There has been some open advocacy for the use of aid in this way, but both the FCO and DfID have been wary of conditionality. Yet with the commitment of the current government to use 0.7% of the UK's GDP for overseas aid, debate concerning the ethics of conditionality in relation to aid is set to continue.

Mention needs to be made of the Faith Partnership Principles (FPP) launched by DfID, through which Government has sought to recognise the contribution that faith communities are already making in the aid field and which seeks to achieve an increasing level of partnership with them. Annex A to the FPP sets out a number of deadlines for taking the work forward but, as yet, there is no evidence of them having been met. In a sense this is not unlike the situation as

³¹ FCO, *Human Rights and Democracy: The 2012 Foreign and Commonwealth Office Report*. HMSO, April 2013. p53.

³² See eg the joint communique issued following the visit of a delegation to the Holy See in February 2012 in which both parties stressed 'the urgent need for action to strengthen the universal commitment to religious freedom as a fundamental human right, and to its practical application with a view to promoting respect for all religions in all countries'. reported in Catholic Culture, 15th February 2012: <http://www.catholicculture.org/news/headlines/index.cfm?storyid=13347> accessed 6th March 2013.

³³ Several of respondents noted that this joined-up approach to policy work was a general lack, not simply in the FCO, but within the whole of Government and expressed the hope that there would be an increase of these multi-faceted portfolios across all ministries. Others, however, added a note of caution against the risk of being excluded from a policy loop as a result: 'Governments do have a particular legal responsibility with respect to their citizens and are the most important international actors when it comes to protecting and promoting human rights and freedom of religion or belief, and therefore this is not an unhelpful approach, so long as the FCO continues to consult with civil society as part of any strategy.'

regards the FCO's own work on freedom of religion or belief in general. Although there is a new policy focus, and activity around that focus, it remains unclear quite what this means in terms of concrete, discernible, tangible actions.

2. Learning from the experience of others

(a) The United States of America — institutions mandated by law

The US has the world's most developed institutional structures for promoting freedom of religion or belief. In 1998, the International Religious Freedom Act established the protection and promotion of freedom of religion or belief as a foreign policy priority. The act also established:

- An ambassador-at-large position within the State Department
- An Office of International Religious Freedom within the State Department, responsible for issuing an annual report on the situation regarding freedom of religion or belief in every state
- An independent watchdog to monitor US engagement and offer policy recommendations in the form of USCIRF
- A list of worst offenders called Countries of Particular Concern — countries found to commit or permit systematic, ongoing and egregious violations of freedom of religion or belief. Designation as a Country of Particular Concern may be linked to the breaking of diplomatic relations or sanctions³⁴

State Department annual reports (although sometimes criticised for a weak critique of US strategic allies), together with the country reports of USCIRF, form important sources of information on the state of freedom of religion or belief in the world for both other governments and civil society internationally. After 15 years of operation many have reflected on the strengths and weaknesses of the American approach and some working methods are changing. USCIRF has been criticised for adopting a "name, blame, shame" methodology which some consider ineffective in stimulating processes of positive change. It is now exploring more constructive forms of engagement, rather than "punishing" violators.

Another critique is that freedom of religion or belief has been dealt with as a niche human-rights concern rather than a critical element necessary to effective foreign policy, and has not been integrated across the work of the State Department and beyond, for example in the work of the United States Agency for International Development (USAID) and the defence department. In some quarters work in this area is even seen as missiological, and this perception has negatively impacted its reputation among government departments. As Katherine Marshall, formerly senior advisor on issues of faith and development to the World Bank, has highlighted, "The distinctive elements that apply to religious freedom deserve more focus than they have received. The stakes both for successful development and for peace are often high — and, as such, if distinctive consideration of these issues were incorporated into development analyses, dialogues, education and policy development processes, important benefits could be achieved."

It therefore seems that freedom of religion or belief is only just beginning to be integrated into the broader nexus of foreign policy, including development co-operation. Some commentators who have reflected on US approaches and experiences have already offered advice to others (including to Canada, the EU and EU member states) who are embarking on more developed approaches, policies and programmes to promote freedom of religion or belief. For example, Knox Thomas, director of policy and research at USCIRF, has offered the following advice:³⁵

³⁴ Knox Thomas, "Making freedom of religion or belief a true EU priority", EUI Working Papers, Robert Schuman Centre for Advanced Studies, Religiowest

³⁵ Knox Thomas, "Making freedom of religion or belief a true EU priority", EUI Working Papers, Robert Schuman Centre for Advanced Studies, Religiowest

- *Appoint and empower*
There should be a point person of Ambassadorial rank with dedicated staff, enabling the individual to liaise with allies and raise concerns with violators
- *A clear strategy*
This strategy should be practically focused and go beyond freedom to worship, including broader elements of freedom of religion or belief
- *Fund non-governmental projects to promote freedom of religion or belief*
Major aid donors, active in supporting human rights, should ensure that a specific funding priority is created within the framework of existing mechanisms for development financing, to fund non-governmental projects promoting freedom of religion or belief
- *Engage government and society*
Effective strategies involve a co-ordinated top-down and bottom-up approach that engages both governments and societies. Often inter-faith dialogue becomes an end in itself, and the burden of sorting out repressive governments and deep differences between faiths is placed on faith communities. Work should be focussed on influencing governments as well as working with religious communities and other civil-society actors
- *Keep your own house in order*
It is necessary to address limitations to freedom of religion or belief within one's own borders, both because one has the duty to do so and in order to be effective in promoting this right internationally

The Canadian academic Robert Joustra, reflecting on the US experience, has provided the following advice to Canada's new Office of International Religious Freedom: "The most important lesson the American Office can pass on is how important and difficult sustained, long-term relationship building with Foreign Service, development and defence staff is for the integration of religion into the foreign policy framework" and "Canada, like Europe, lacks America's more comfortable civil-religious culture, making religious freedom and religious literacy in diplomacy a far harder sell. The new Canadian Office should slowly begin to cultivate religious literacy training, at the disposal of the Department of Foreign Affairs and International Trade and the department of Defence."³⁶

Joustra also argues that the mirroring of US structures by the creation of a Canadian Office for International Religious Freedom around an Ambassador, and the wide-scale consultation of "religious people" have been public relations stumbling blocks, leading to accusations of the Canadian Office being missiological, Evangelical or an unnatural co-mingling of church and state. He argues for the need to distinguish Canadian efforts from "American-style" diplomacy and religion, and states that "the same will be true in many other states around the world".³⁷ He also points out that developing structures to promote freedom of religion or belief without cross-party support risks those structures being disbanded with a change of government.

Joustra makes the important practical point that it is not necessary for others to replicate the work done in the US to document in detail and report on alleged violations, since international data on freedom of religion or belief is now available in a way in which it was not when the American office was established. It is preferable that other states focus their attention more distinctively on complementary rather than duplicatory agendas.

(b) Norway — the Minorities Project

In 2012 the Norwegian government announced the development of a Minorities Project and, from September 2012, the appointment of a Special Envoy for Minorities at Ambassador level. These initiatives were motivated by two factors: domestic political considerations, coupled with parliamentary pressure from across the political spectrum, and international events, not least the Arab Spring.

³⁶ Robert Joustra, 'Religious Freedom Beyond Rights: Retrospective lessons for Canada from America's Office of Religious Freedom', *The Review of Faith and International Affairs*, March 2013

³⁷ Ibid

The Minorities Project addresses a broad range of minority issues, but focuses particularly on minorities of religion or belief. It aims to strengthen the integration of issues related to minorities of religion or belief across human-rights work as a whole, and to increase competence on the issues. The intention is that freedom of religion or belief issues should become an important and integral part of the “normal” Norwegian human-rights agenda.

The project has a number of elements relating to minorities of faith and belief:

- Putting these issues on the bilateral political agenda during political visits
- Encouraging and enabling more desk officers and embassies to focus on the rights of minorities of religion or belief.
- Providing training and tools for embassies. Using all available opportunities to highlight the issues in multilateral fora
- Earmarking funding within the budget of the Human Rights and Democracy Section. This is being used to:
 - organise conferences and partner with international civil-society organisations on medium-term projects
 - provide support to masters students’ research
 - launch a funding programme managed by the Norwegian Agency for Development Co-operation.

Instead of establishing and resourcing a separate office, the Ambassador is part of the Human Rights and Democracy Section of the Foreign Ministry. This unit works on norms and has a supportive role. The primary work of promoting the rights of minorities of faith and belief in specific country contexts has to be done by country desks and embassies.

The role of the Ambassador is to be a focal point and resource both within the ministry and externally, to push the issue onto the agenda of everyone in the foreign ministry, to co-ordinate actions, ensure quality control and ensure that the foreign ministry delivers on the political mandate.

Internationally, the status of Ambassador provides profile and position when travelling, which helps to open doors and enables dialogue. Domestically, the post provides a focal point for Norwegian civil society to engage with, which also enables a more co-ordinated approach to foreign ministry engagement with civil society on the issue.

(c) The Netherlands — pilot project to promote freedom of religion or belief in 10 countries

In 2009 the Netherlands’ foreign ministry initiated a pilot project on the promotion of freedom of religion or belief. Five countries (China, Egypt, India, Kazakhstan and Eritrea) were selected, inter alia, on the basis of diversity in the nature and severity of problems to be addressed, geographic distribution and the presence of civil-society organisations. Embassies conducted an analysis of the local situation including national legislation, ratified treaties and the state of freedom of religion or belief in practice. Country-specific action plans were formulated, including strategic deployment of the Human Rights Fund, co-operation with the EU and other multilateral organisations, lobbying and advocacy, seminars and academic co-operation.

An interim report to parliament highlighted that freedom of religion or belief was a sensitive issue in all of the project countries and that promoting freedom of religion or belief was by nature a long-term process. A thorough understanding of socio-economic, historic and anthropological aspects had proved essential, and the potential risks for individuals and groups merited a cautious approach. Embassies were able to support a wide range of activities such as a civil-society organisation providing legal assistance to women who were victims of discriminatory laws, funding for research projects and projects to preserve cultural heritage, and providing training in human rights for police officers.

The pilot project contributed to increased knowledge and expertise at the embassies involved, and to widening the embassies' networks. However the interim report also highlights major difficulties in operating the project in Eritrea, as it was increasingly complicated to develop relationships with church leaders, and because local organisations and international civil-society organisations could not operate. In 2011 the project was extended to include an additional five countries (Pakistan, Sudan, Nigeria, Armenia and North Korea).

When asked about the comparative advantages of running a project focusing on specified countries in comparison with mainstreaming freedom of religion or belief in the work of the ministry, Maurice Paulussen of the Netherlands' foreign ministry, responded that the project form ensured that a number of embassies prioritised the issue within their broader human-rights programmes, while others remained free to take up the issues as well. He also stressed that the ministry does a great deal more on freedom of religion or belief outside of the project context, taking the lead on this within the EU context and maintaining a strong human-rights approach at the human-rights fora of the UN.

The Netherlands does not have an Ambassador for freedom of religion or belief, or for minorities, but it does have an Ambassador for Human Rights, for whom freedom of religion or belief is an important theme, among several others.

3. Conclusion

Taken together these three examples provide a range of lessons and good practice from which the UK can learn. These include matters of politics, approach and institutional structure.

(a) Politics and public relations

Key lessons here include:

- Political pressure was, in all three cases, important in stimulating government and foreign ministry action
- Cross-party support is important in creating sustainable action on freedom of religion or belief
- Broad political and public support for action on freedom of religion or belief will depend upon efforts being focused on protecting freedom of religion or belief of all, and on them being perceived as such

(b) Approaches, methods and activities

A clear and practical strategy is important. This strategy should involve:

- The broad integration of freedom of religion or belief issues in the breadth of foreign-policy action, including development assistance, to avoid freedom of religion or belief becoming a niche issue
- A focus on knowledge development and learning
- Engagement with civil society, academia and government in a multi-disciplinary, multi-actor approach
- Support for non-governmental projects
- The development of products to support action, such as training modules for embassy staff

It is important to condemn violations and clearly stand up for all dimensions of freedom of religion or belief. Public diplomacy has an important role to play and can result in pressure that makes a difference in specific cases and ongoing violations. However, experience from both the US and the Netherlands pilot project indicate that discreet approaches and quiet diplomacy also have important roles to play in opening up space for constructive engagement and may in some cases be necessary to avoid increasing the risk faced by vulnerable groups.

(c) Institutional structures

There are a number of important lessons to be reflected on as regards the design of institutional structures through which to implement an effective strategy:

- An Ambassadorial-level appointment can be helpful by generating momentum, co-ordinating actions, opening doors internationally and sending a clear signal that an issue is a priority, as in Norway. In some contexts it can, however, have the unintended consequence that ministers and other ambassadors do not integrate the issue in their work as they believe it to be somebody else's responsibility
- The creation of a project on freedom of religion or belief can be useful to kick start mainstreaming across the foreign ministry, and generate learning
- There is a need to recruit/develop specialist staff competence that can provide appropriate support to staff. Funds should also be available for collaboration with experienced consultants in developing specific pieces of work
- The creation of a separate office is not a necessary feature and can risk distancing staff engaged in the promotion of freedom of religion or belief from other staff working with human-rights issues. Placing any Ambassador and all relevant desk officers within existing departmental structures can help ensure strong relationships between work on freedom of religion or belief and other human-rights work
- Earmarked funding for the promotion of freedom of religion or belief both through ministry activities (at head office and embassy level), funding for civil-society organisation projects and for research is important
- An advisory group of governmental and non-governmental practitioners and experts on freedom of religion or belief is useful in providing a practically oriented interface between government bodies, civil society and academia



Lighting the Menorah

CHAPTER SEVEN

UK engagement: current approaches and future directions

Katherine Cash and Dr Sean Oliver-Dee

1. Introduction

Freedom of religion or belief can be promoted through foreign policy using three complementary methodologies — mainstreaming, country focus and thematic focus — in combination with additional measures at the multilateral level. The following sections will explore each of these methodologies in turn, considering what they mean, how they are reflected in current practice and how the current approach may be strengthened and taken forwards. The information in this chapter is based on conversations and correspondence with FCO officials, ministerial speeches and statements, and FCO annual Human Rights and

Democracy reports.

2. Mainstreaming

Mainstreaming involves ensuring that freedom of religion or belief concerns are integrated in the work of all relevant FCO/DfID staff in all relevant countries. The UK should make use of all available bilateral and multilateral diplomatic channels and tools, including the Commonwealth, bilateral dialogue, EU human-rights dialogues, HRC Universal Periodic Review (UPR) processes, negotiations concerning human-rights clauses in trade agreements, dialogue with regional bodies, and travel bans for persons responsible for extensive violence. In some cases quiet diplomacy will be most effective, to avoid increasing risk for vulnerable groups; in others public diplomacy will be appropriate. Short-term responses to specific situations (for example demarches, attending the trial of human-rights defenders, or raising specific cases) might be combined with medium-term activities, such as building relationships with civil society, supporting relevant local civil-society organisations or partnering with government development programmes.

(a) Mainstreaming in the work of country desks and posts

The annual FCO Human Rights and Democracy reports highlight issues concerning freedom of religion or belief in some countries, but because as a general rule country human-rights strategies are not public documents, it is difficult to know what the experience of this mainstreaming is in practice. The 2011 report included sections on freedom of religion or belief in 21 of the 28 countries of concern, these covering what FCO officials described as “all relevant” situations. However it is unclear what the threshold of relevancy was, given that issues relating to freedom of religion or belief were not raised in relation to countries such as Russia, Israel and the Occupied Palestinian Territories, Colombia or Yemen. Encouragingly the 2012 report takes up the issue of religious freedom in relation to both Russia and Israel and the Occupied Palestinian Territories, although unfortunately it is no longer raised in relation to Fiji.

Non-inclusion in the report does not indicate that mainstreaming has not taken place, nor that issues in relation to countries not listed are not being actively pursued. However, the quality and detail of references varies considerably between countries of concern. Some references reflect an in-depth understanding of issues and highlight proactive action, others are more passive, highlighting problems but lacking information concerning responses taken, while others are more cursory.

On this evidence, the overall impression is that mainstreaming may still have some way to go. While a comparison of FCO reports from 2009 to 2012 indicates increasing visibility for freedom of religion or belief, and Foreign Office officials give an encouraging account of improvements to mainstreaming, they also make clear that there is still much to be done. For example, posts could be required to ask for input on each of the UK’s five human-rights priorities to include in the briefing for visiting ministers, and information about projects funded by embassies could be more accessible, to enable staff members in the Human department and other departments to easily identify projects of relevance.

(b) Mainstreaming in the work of the Human Rights and Democracy Department

The role of the newly restructured Equalities and Non-Discrimination Team of the Human Rights and Democracy Department is to strengthen and facilitate the bilateral work of embassies and high commissions and play a leading role in the FCO’s work at the multilateral level. The team works on a range of equality issues, but freedom of religion or belief is one of two main priorities, together with women’s rights. Over the past two years, the team has strengthened its policy approaches, including piloting staff training on religion and foreign policy and arranging a number of activities related to freedom of religion or belief. The FCO is to be commended for these initiatives, which represent a considerably higher level of activity than could be seen hitherto. However, care must be taken that the nature of these activities is

not too dominated by legal approaches to the issue.

(c) Mainstreaming in FCO funding for human-rights work

The Human Rights and Democracy Programme (HRDP) is the FCO's fund supporting human rights and democracy work overseas. The programme aims "to make a difference to people's lives, helping to build the capacity of governments and civil society to promote and protect human rights".³⁸ It is enormously welcome news that freedom of religion or belief is one of seven thematic target areas identified in the HRDP strategy for 2013-14.

Projects are assessed on the basis of impact and on whether they fit in with the HRDP strategy and with the UK's human-rights strategy for the state concerned. Projects must have the approval of the British Embassy, although the funds are managed by a central team in London. Funds are given for a one-year period, but may be applied for several years in a row.

It is very encouraging to see freedom of religion or belief being mainstreamed in the HRDP. However, problems concerning this freedom are often deeply ingrained in society and therefore likely to require long-term processes of change. The provision of funding for one-year periods risks hampering the ability of civil-society organisations to plan and build long-term change, as well as creating unnecessary administrative burdens. The FCO should consider changing the terms of the HRDP to enable projects to be supported for longer periods (perhaps three years). Learning from the experience of DfID regarding the benefits of long-term projects would also be of value.

(d) Mainstreaming in development co-operation

Issues related to freedom of religion or belief need to be integrated more generally into international development work. There appears to be a disconnect between the work done by the FCO and the work of DfID in this area, as evidenced by the fact that although DfID has focused on the issue of religion and development, with a particular emphasis on the role of faith-based organisations, for the past few years DfID had neither chosen to, nor been encouraged by the FCO, to incorporate issues relating to freedom of religion or belief in this work, despite freedom of religion or belief being an FCO priority. The extent to which freedom of religion or belief is enjoyed within a state has an enormous impact on the roles faith-based organisations can play in development. Promoting this freedom should therefore also form part of the agenda in bilateral development programmes, for example to strengthen institutions and the rule of law, and educational reform. Where Britain contracts with civil-society organisations to provide aid or assistance, steps should be taken to ensure that such organisations have a sophisticated understanding of freedom of religion or belief and are able to demonstrate how their work will have a positive rather than negative impact in this area. Even when providing budget support to governments directly, DfID should be aware of the freedom of religion or belief consequences of the programmes on offer, and this knowledge should shape the choices Britain makes regarding aid.

The FCO and DfID should be encouraged to share their experiences, and DfID be encouraged to explore ways of integrating considerations relating to freedom of religion or belief into its tools of analysis and its development programmes.

3. Country-focussed approaches

When a previously neglected issue is mainstreamed there is always a significant risk that the issue will disappear into the larger whole and remain neglected, and that the necessary methodological development will not take place. Impetus can be given to the development of mainstreaming in a larger number of countries by combining it with the identification of a small number of pilot countries in which more intensive action and learning is prioritised.

³⁸ FCO Human Rights and Democracy Programme Strategy 2013-14, FCO, February 2013, page 2

These countries can also provide a testing ground for the development of benchmarks, targets and indicators. Two ambition levels are possible for what can be termed “priority countries”:

- Pilots for mainstreaming: countries can be chosen as a means to initiate the process of mainstreaming, with the aim of extending this to a widening number of countries over time
- Intensive engagement: one or two countries could be chosen in which collaboration is sought with other local partners (the state, local academia and civil society) to develop medium-term programmes that form part of a road map for the development of freedom of religion or belief in the countries concerned

It may be that the former option is a necessary precursor to the identification of those countries in which the latter is a realistic proposition. In both cases, the purpose of choosing countries is not to highlight and condemn worst offenders, but to identify countries in which there is an opportunity to make a difference through dialogue and constructive engagement.

In furtherance of such an approach, actions can include:

- The adoption and publication of clear criteria for the choice of priority countries:
- Significant concerns relating to the enjoyment of freedom of religion or belief, or a need for action to prevent a significant worsening of a current situation (for example where there is a high risk of negative legislative change)
- The potential for the UK to be effective in achieving results
- The need to burden share with other states in implementing agreed strategies relating to freedom of religion or belief and to avoid duplication with other activities

Including the following elements in activities conducted in priority countries:

- In-depth analysis, with the identification of key issues and messages
- Development and testing of benchmarks, targets and indicators
- Intensification of diplomacy at bilateral, regional and multilateral levels, in particular engaging in and following up on the recommendations of Universal Periodic Reviews
- Building contacts with local civil society and belief communities
- Financing relevant bilateral development programmes
- Financing relevant civil-society initiatives (for example conflict transformation initiatives, legal support for pursuing discrimination cases and inter-religious dialogue)
- Funding for local, policy-oriented research

The list of priority countries should be reviewed and updated every three to five years, with the agreed cycle being used to create a structure and timetable for the process of analysis, diplomacy and support, reporting and evaluation.

As a result of work to strengthen policy during 2011, the FCO has taken steps towards implementing a “pilots for mainstreaming” approach. Six pilot countries were identified by the FCO for intensified action on freedom of religion or belief, with a view to increasing the number of countries focused upon in the future in the light of the experience of working in these pilots. The aim of having pilot projects was to kick-start the mainstreaming of freedom of religion or belief. The process of selecting pilot countries involved the Foreign Secretary’s Human Rights Advisory Group, the FCO Equalities and Non-Discrimination Team and embassies/high commissions.

In line with the approach recommended above, countries were not chosen on the basis of being worst offenders, but were drawn from the FCO’s list of states of concern on the basis of three criteria: the existence of significant concerns relating to freedom of religion or belief; the nature of bilateral relations with the state; and the extent to which it is thought that the UK “can make a difference”. Consideration was also given to the need for geographical spread,

and ensuring that a range of different concerns were being engaged with. It is unclear whether consideration was also given to which countries were being focused on by other states, in order to avoid duplication and to enable burden sharing. In order to be accepted as a pilot country the relevant embassy or high commission had to agree to include freedom of religion or belief as an objective in their human-rights country strategy.

In pilot countries the UK has sought to:

- Strengthen diplomacy as part of the embassy's business plan, for example highlighting cases, following trends, speaking to civil-society organisations, looking at legislation with distortionary effects
- Raise issues relating to freedom of religion or belief when the country comes up for review in the UN Universal Periodic Review process, both bilaterally and through the EU
- Finance projects related to freedom of religion or belief through the HRDP
- Ensure that the EU raises issues relating to freedom of religion or belief in third-country dialogues

One difficulty encountered in implementing the project has been the ability to find sufficient and suitable projects and partners to work with, as too few applications were attracted. In some countries formal or informal restrictions on foreign funding or civil society organisations made it difficult for them to receive UK government funding, in others project applications were so focused on one particular religious group that embassies and high commissions were reluctant to fund them. Many civil-society organisations, including both faith-based and secular civil-society organisations, have neglected this issue in the past, and there appears to be a need to increase levels of civil-society activity on issues concerning freedom of religion or belief and to improve collaboration. This process is underway and will be encouraged by the continued availability of funding, but it takes time. There is a need for care when choosing partner organisations: in one case civil-society organisations have been openly critical of the FCO's choice of local civil-society partner, considering this partner to be a GONGO (Government Organised NGO).³⁹

Another issue of concern is that, in contrast to the Netherlands, the UK has not published the names of the pilot countries it has identified. This reduces the likelihood that civil-society organisations will either apply for funding or actively seek to engage with the embassy or high commission concerned, providing them with information and analysis and encouraging them to act. It also renders the FCO's more targeted work on the international protection of freedom of religion or belief relatively invisible and reduces the ability of civil-society organisations and Parliamentarians to follow and engage in critical reflection on the work being undertaken.

The reason given for not making the names of the pilot countries public is the sensitive nature of the decision, coupled with a concern that the countries chosen might consider themselves to have been unfairly targeted. There is also concern that releasing the names would trigger an unhelpful debate concerning the choices made. While these are valid points, the pilot countries are not chosen on the basis of their being the "worst offenders" but on the basis of their being the first in a growing list of countries where the UK is seeking to proactively engage. Understood in these terms, the problems flowing from publicity need not be insurmountable and might be more than offset by the benefits flowing from greater knowledge and transparency.

A different, though related, issue concerns information regarding the particular projects funded. It seems that the majority of embassies have requested that these not be publicised for fear that this could endanger the project. There does, however, seem to be a desire to increase levels of publicity concerning projects funded, and in the current round applicants

³⁹ Something which appeared to be confirmed when the organisation spoke at an FCO organised event, arguing that there were no significant violations of the freedom of religion or belief in the country concerned – which, if true, raises the question of why the project was being funded at all within the framework of the programme. It might be advantageous for there to be greater dialogue with civil society about partners chosen and projects supported.

have been asked to indicate whether funding arrangements can be made public.

Although the FCO has taken steps towards developing country focus using a “pilots for mainstreaming” approach, this should continue to be widened to include more countries. There needs to be further development in terms of both transparency and depth of the UK’s engagement (for example ensuring bilateral development co-operation programmes contribute to the focus), with a view to identifying one or two countries in which intensive medium- to long-term engagement is possible.

4. Thematically focussed work on cross-cutting priority issues

A comprehensive strategy on the international protection of freedom of religion or belief should involve the identification of priority thematic issues on which to take a lead, and key messages and strategies for taking them forward through research, learning, experience exchange and consensus-building at regional and global levels, including at the UN. Examples of potential thematic issues might include, inter alia:

- Religious civil and family law
- Legal personality and recognition issues for belief communities
- Legislation concerning conversion and apostasy
- Gender dimensions of freedom of religion or belief
- Human-rights education in relation to freedom of religion or belief
- Issues concerning the establishment, protection of and access to places of worship

However, since the late 1990s, the multilateral debate on freedom of religion or belief has focused almost exclusively on the extremely controversial issue of “defamation” of religions and this has been reflected in the work of the FCO.

For over a decade the Organisation of the Islamic Conference (OIC) consistently pushed for human rights to protect religion from “defamation” or insult. The Danish Mohammed cartoons are one example of expressions regarded as defamatory. This approach is considered dangerous by European states as it protects religions in themselves rather than people, and this undermines the basis of rights, and can be open to grave abuse. For example, in some countries blasphemy legislation is used to persecute minorities and free thinkers, including atheists who “insult” religion by denying religious truths held by the majority.

Non-binding OIC resolutions on defamation of religion were adopted in the UN Commission on Human Rights and its successor the HRC every year from 1999 until 2010. European states worked hard to reduce support for the resolutions and to prevent legally binding human rights norms being extended to include defamation of religion. Support for the OIC resolution gradually diminished which, coupled with the murder of Pakistani Minorities minister Shahbaz Bhatti over his opposition to Pakistan’s blasphemy legislation, made it politically difficult for the OIC to continue to present the resolution.

Instead the OIC proposed Resolution 16/18 “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against persons based on religion or belief”, a resolution supported by the United States. The Istanbul Process was then initiated by the United States as a means to follow up Resolution 16/18 in a practical fashion, through the sharing of best practice and further discursive engagement. Resolution 16/18 has been hailed as a breakthrough, moving away from the language of defamation of religions and focussing on combating intolerance, discrimination and violence on the basis of religion or belief.

There has recently been a significant focusing of the work of the Equalities and Non-

Discrimination Team within the FCO upon the Istanbul Process, and this can reasonably be considered a thematic focus for the team, although it is not formally labelled as such. The FCO aims to build political consensus around HRC Resolution 16/18, and to use the Istanbul process to support practical action to promote understanding between communities. This forms the background to the High Level Ministerial Meeting on “Building political support for UNHRC resolution 16/18 tackling religious intolerance, and fostering religious freedom and pluralism” arranged by the FCO in January 2013. The meeting sought to build political consensus by engaging domestic policy-makers (including ministers of the interior, justice or integration), in political dialogue with the UK. A further aim is to share best practice from the UK on combating intolerance, discrimination and violence, for example in relation to inter-faith networks and disaggregated data on hate crimes (data broken down by motivation, for example islamophobic, anti-semitic or homophobic).

HRC Resolution 16/18 and the Istanbul Process have been the subject of considerable criticism. Critics argue that Resolution 16/18 has given the defamation of religions agenda a lifeline and that the Istanbul Process is providing a forum within which to continue to develop that agenda. Others consider that the Istanbul Process offers a unique opportunity for constructive dialogue and engagement. Irrespective of the merits of either view, while Resolution 16/18 is an advance on what preceded it, it remains open to contestation and fails to provide a secure grounding for the international protection of freedom of religion or belief for all. For example, it does not explicitly affirm central elements of freedom of religion or belief as set out in the UDHR Article 18, such as the right to change one’s religion or belief. Resolution 16/18, therefore, is a step on the journey but it does not represent the journey’s end — nor should it be engaged with as if it were, as currently appears to be the case.⁴⁰

In 2011, the UN High Commissioner for Human Rights organised a series of expert workshops on incitement to national, racial or religious hatred which resulted in the Rabat Plan of Action. This plan underlines the dangers inherent in relying on the language of “incitement” to address freedom of religion or belief concerns, noting the following dichotomy: “(1) no prosecution of ‘real’ incitement cases and (2) persecution of minorities under the guise of domestic incitement laws seems to be pervasive.” The Plan of Action is a thorough document grounded in expertise from all parts of the world and provides a series of important recommendations for states, the UN and other stakeholders.

Thus, when the UK pursues its thematic focus of building on Resolution 16/18 through the Istanbul Process, it is important to ensure that it is the duties of states rather than the responsibilities of belief communities which take centre stage. It is also important that the UK’s thematic engagement on freedom of religion or belief is not limited to Resolution 16/18, and that the Rabat Plan of Action is not sidelined.

UK and EU action on defamation has been reactive, seeking to defend the existing standards and approaches based on UDHR Article 18. While it is vital to continue to do this, there is also a need for thematic engagement on other key practical issues common to many countries, such as issues concerning legal personality of religious bodies, education and employment, the protection of places of worship and holy sites, some of which are simply not being addressed as a result of the preoccupation with the defamation/incitement question and its siblings (such as denigration of religion) and close relations (such as incitement to religious hatred).

⁴⁰ As one respondent from Civil Society put it: ‘the thinking for having such a foundation is likely to be that given the text of the resolution is approved by both the OIC and the EU/US at the UN, then it is a good foundation for wider diplomatic efforts on freedom of religion or belief. This is a faulty approach for a couple of reasons. First, because Resolution 16/18 was never meant to expound complete international thinking on freedom of religion or belief— and is unlikely to in the future – but rather to compromise on the defamation of religion issue. It is a suitable “block” which suits a particular diplomatic purpose. The text itself is limited, and although it “recalls” the text of the ICCPR and narrowly fits within existing human-rights law and thinking, it nevertheless does not represent the scope and breadth of the right of Freedom of religion or belief itself. The second issue comes out of the first; if you use such a compromise text as the basis for diplomacy on freedom of religion or belief, you basically move the centre ground away from international standards (that have been very clearly set out in the UDHR, ICCPR, General Comment 22 of the Human Rights Committee, countless statements of the UN Special Procedures etc) and toward an OIC-inspired vision of freedom of religion or belief.’

5. Measures necessary to facilitate mainstreaming, country and thematic focuses

(a) Partnership and co-ordination

Partnership, co-ordination and sharing of information and learning with other states is important in order to avoid duplication and to maximise learning. The extent to which it is possible or advisable to partner with the governments of countries affected by violations varies enormously, but where appropriate this is an important strategy.

During 2012 the UK has focused on engagement with the EU, for example in relation to the development of guidelines, and in partnering with Canada in the follow up to HRC Resolution 16/18. Looking to the future, it would be helpful for the UK to share EU Public Guidelines on freedom of religion or belief, once adopted, with embassies and high commissions, and encourage them to initiate dialogue on how to implement the guidelines with EU partners with a presence in the country. The UK can also make use of the Commonwealth and the Commonwealth Charter to promote freedom of religion or belief.

(b) Staffing

Mainstreaming and country focus result in FCO staff being engaged in many different areas of work, but this still needs strong central support. Encouragement and expertise will need to be made available to develop and provide training, and to develop and use systems for monitoring and evaluation. Sufficient staff time and resources to support such programmes are essential.

There are currently only two staff members within the FCO Equalities and Non-Discrimination Team whose brief includes freedom of religion or belief, and those briefs contain very much else besides. It is encouraging to note that the department is currently being restructured and an additional staff member will join the team in order to increase the time available for staff to focus on freedom of religion or belief. While this is a welcome development, it is unlikely to be sufficient for the ambition levels that recent policy statements suggest. More staff resources will be required if the issue is to be successfully mainstreamed in bilateral and multilateral work, in addition to creating an active thematic agenda and developing systems for learning, monitoring and evaluation.

While there is ministerial-level commitment, a minister cannot be wholly devoted to freedom of religion or belief work. One approach is to appoint a Special Envoy or Ambassador post focused on freedom of religion or belief. A risk identified from the US's experience is that such an appointment might result in ministers with country portfolios being less inclined to highlight the issues, considering them someone else's responsibility, which would hamper mainstreaming. However the mandate of the Norwegian special envoy provides an interesting alternative, being focused on active support for mainstreaming. It is unclear to what extent ministers with country portfolios currently raise issues relating to freedom of religion or belief in a systematic fashion, though feedback from FCO officials regarding the level of requests for advance information prior to such visits indicates that there is room for development. The establishment of a Special Envoy- or Ambassadorial-level post focused on freedom of religion or belief could support current means of engagement, given that mainstreaming is still in its infancy.

(c) Training and knowledge development

Effective strategies to facilitate mainstreaming, country and thematic focuses must be knowledge-based. Since freedom of religion or belief is a complex, often misunderstood and misrepresented, human right there is a need to make sure that all relevant personnel receive training on freedom of religion or belief as a matter of priority. This might involve:

- Developing practical training materials on religious literacy/engagement in general, and freedom of religion or belief in particular

- Prioritising training for:
 - country desk officers and staff posted in countries where freedom of religion or belief is highlighted in the Human Rights Country Strategy
 - staff working on other cognate subject areas — for example the justice sector and policing reform
 - staff being deployed in highly sensitive areas

For many years there has been a tendency, including in the UK, to expect the role of religious belief to diminish as a force in both domestic and international society. This is no longer the case, but it has resulted in there being something of a knowledge deficit regarding issues related to religion or belief in official circles. This has been recognised and, as previously mentioned, a programme of training days and lunchtime seminars has been launched within the FCO which are designed to be practical in orientation, looking at how to engage with religious and belief communities. However it is not a major training focus and there is a need to incorporate a more in-depth consideration of freedom of religion or belief into general training and induction courses, including diplomatic training programmes and the induction course on human rights.

(d) Tools for undertaking country monitoring, analysis and evaluation

Monitoring, analysis and evaluation are necessary to ensure that a strategy is effective over time, and these require the identification of benchmarks, targets and indicators. Indicators should be both process- and result-oriented and easy to use, monitoring effects in the country concerned and within the context of the overarching strategy. Such country monitoring, analysis and evaluation should make use of existing reports from civil-society organisations, member states and other state and multilateral bodies, as well as involving consultation with government actors, belief communities and relevant civil-society organisations.

The FCO Toolkit on Freedom of Religion or Belief, which helps embassies and high commissions implement policy in this area, was published in 2009 and includes a tool for country analysis. This has been widely welcomed, not just for what it is, but for what it symbolises as regards the level of commitment to the international protection of freedom of religion or belief. In addition, the EU is currently producing public guidelines on freedom of religion or belief that are likely to draw on the FCO Toolkit, and this is generally seen as acknowledgement of its quality. It may be sensible to consider revising the FCO Toolkit to reflect the guidelines once they are adopted.

The FCO Toolkit on Freedom of Religion or Belief is regularly highlighted at bimonthly human-rights training courses for London and overseas staff. However, an evaluation of the manner and extent of use of this resource by embassies,⁴¹ or of the extent to which freedom of religion or belief is being mainstreamed and the quality of work being done, does not appear to have been conducted.⁴² It has been said by some that the FCO Toolkit was not really in wide circulation within the FCO and that it was not even widely known about. Charles Reed, Foreign Policy Advisor to the Church of England, praised the FCO Toolkit in an interview on 26 March 2013 as a “fine piece of work”, but he felt (in common with the other interviewees) unable to evaluate its impact. Such evaluations should be carried out in order to identify weaknesses and strengths, and better target future efforts.

General benchmarks, targets and indicators might usefully be developed in relation to work on freedom of religion or belief. This maps onto the more general observation made by the Foreign Affairs Committee which, in its assessment of the FCO’s Human Rights and Democracy report for 2011, commented that “Our only substantial criticism of the report itself

⁴¹ It has been said by some that the Toolkit was not really in wide circulation within the FCO and that it was not even widely known about.

⁴² Charles Reed, Foreign Policy Advisor to the Church of England in an interview on 26 March 2013 praised the Toolkit as a ‘Fine piece of work’, but he felt (in common with the other interviewees) unable to evaluate its impact.

is the absence of any systematic evaluation of the department's human-rights policies and initiatives, and we recommend that the FCO experiment in the next report with introducing accountability measures for some of its human-rights programmes, for instance by setting benchmarks, targets and indicators."

(e) Fora for consultation and information sharing with civil-society organisations

Alongside the existing channels of communication with civil society, belief communities and academia, it can be useful to establish reference groups whose members could become actively involved in the development of strategies, training and tools. It can be equally beneficial to share information with such groups. Therefore, country analyses, human-rights country strategies and the identity of priority countries of concern ought, as far as possible, to be made public in order to maximise potential stakeholder engagement.

Under the previous government, the FCO formally related to civil society through six expert panels established to help formulate policy on priority human-rights themes, including a panel on freedom of religion or belief. Reports from both FCO and civil-society sources indicate that the panel on freedom of religion or belief did not function particularly well, having grown too large. The new Human Rights Advisory Group, which includes experts from civil society, academia and the legal profession, meets with the Foreign Secretary twice per year. This is generally considered to work better than the previous panel system and has been widely praised, as has its focus on freedom of religion or belief.

However, it does mean that there is no natural sounding board with the FCO for more broadly based consideration of specific issues related to freedom of religion or belief from a policy perspective. Given the range and scale of the work to be done in addressing the international protection of freedom of religion or belief, it would be advisable to consider creating a sub group of the Foreign Secretary's Human Rights Advisory Group focussing on freedom of religion or belief (as has been done in other areas of thematic focus). This would provide the FCO with access to further expertise, as well as providing civil society with greater insight into the work of the FCO on freedom of religion or belief. The factors which feed situations of tension, hostility and conflict are many, varied and often difficult to identify and distinguish. As a result, it is sometimes the case that factors related to religion or belief are either not properly identified, or their significance not properly appreciated. It is therefore recommended that training be provided to FCO staff on how to best to determine the impact and extent of religious factors in conflict situations.

6. Further multilateral measures

(a) UN Observatory to monitor the denigration of religion

OIC nations have suggested the establishment of an observatory to monitor the denigration of religion. However, this is generally viewed with concern as it is neither focussed on freedom of religion or belief, nor is it clear what this would add to the work already being done by various Special Rapporteurs, the UN Committee on the Elimination of Racial Discrimination and others. Concerns have been raised about the wisdom of creating an observatory that is answerable to a political body such as the HRC, and that fact that it could encourage a tit-for-tat reportage of violations, becoming a vehicle to stifle effective action rather than a means of facilitating it.

(b) The Organisation for Security and Co-operation in Europe

The work of the OSCE is based on the Helsinki Accords and subsequent commitments that give significant emphasis to freedom of religion or belief. Its Panel of Advisors on Freedom of Religion or Belief has recently been reconstituted with a new focus and modus operandi. Its Office for Democratic Institutions and Human Rights (ODIHR) has also had parallel streams of work focusing on discrimination towards particular religious groups, for example arranging separate seminars focusing on intolerance against Jews, Muslims and Christians. The OSCE should be encouraged to facilitate the coming together of these groups in order to share and learn from each other's experiences of countering intolerance, and to focus on freedom of religion or belief from a human rights-based perspective.

(c) The Commonwealth

The Commonwealth provides a unique and largely untapped forum that the UK and other interested nations could use to build a consensus and act in relation to the situation in specific countries. The recently adopted Commonwealth Charter, although weakly worded on freedom of religion or belief, provides a basis for dialogue, and it should be noted that this is the first time a Commonwealth document has made reference to religion.



Lighting of a Hindu diyo lamp

CHAPTER EIGHT

Conclusions and recommendations

1. Key recommendations for UK policy and action

The purpose of this final section is to step back from the detail and distil a number of key recommendations that will enhance the further development of the current policy focus on the international protection of religion or belief, as set out in UDHR Article 18.

There are five prerequisites for the construction and implementation of any successful policy on international freedom of religion or belief:

- Clear commitment across the domestic political spectrum, based on the recognition of the central significance of freedom of religion or belief as an essential freedom for all.
- Broad-based consultation across the spectrum of religion and belief.
- International action that is reflective of, and grounded in, a full respect for freedom of religion and belief in domestic policy.
- International action that is focused on freedom for all, irrespective of the nature of their religion or belief.

- Grounding for all action in freedom of religion or belief as set out in UDHR Article 18, which includes freedom for everyone to adhere to a religion or belief of their choice, including the right not to have, or to be associated with, a religion or belief, the right to change religion or belief and the right to manifest religion or belief in accordance with the UDHR and as subsequently developed under international law, in a manner that is respectful of the human rights of other individuals.

In light of the above prerequisites, the All Party Parliamentary Group on International Religious Freedom makes the following priority recommendations:

Recommendation One

We ask that the British Government consider the appointment of an Ambassadorial-level focal point on freedom of religion or belief, to spearhead the implementation of mainstreaming, country and thematic work within the FCO and across relevant departments, and to assist the FCO in projection and implementation of its strategies.

Recommendation Two

We call on the British Government to become a state party to the First Optional Protocol of the ICPPR. This would allow individuals in the UK to raise questions about potential violations of their rights directly with the UN Human Rights Committee (HRC), and in addition show leadership to encourage other states to follow suit.

Recommendation Three

We ask the Foreign Secretary to establish a sub-group of the Human Rights Advisory Group to focus on freedom of religion and belief.

Recommendation Four

We call on the FCO to undertake a baseline evaluation of the extent, quality and impact of mainstreaming issues concerning freedom of religion or belief into the work of the office, and undertake further evaluations at fixed intervals to determine progress.

Recommendation Five

We call on DfID to ensure that where aid is provided or contracts are awarded overseas, it is channelled to civil-society organisations and government programmes that can demonstrate a sophisticated understanding of freedom of religion or belief, and can show how their work will have a positive rather than negative impact in this area.

Recommendation Six

We ask the FCO to consider revising the Human Rights and Democracy Programme (HRDP) to enable support of longer-term projects than the one-year cycle currently permits.

Recommendation Seven

We ask the British Government to make representations to the UN to ensure that there is sufficient funding to support a paid, full-time Special Rapporteur on Freedom of Religion or Belief and resource their office.

Recommendation Eight

We call on DfID to identify freedom of religion or belief as a new priority in its work.

Recommendation Nine

We ask the British Government to make representations to the UN nations to ensure that the Rabat Plan of Action is woven into continued engagement with HRC Resolution 16/18 and the Istanbul Process, making sure that the international focus remains the duties of states to protect the freedom of religion or belief of those subject to its jurisdiction, rather than deviating from the rights laid down in Article 18 to address issues around "incitement to religious hatred".

Recommendation Ten

We urge the FCO to convene an expert group to scope the issues involved in initiating a process to consider a convention on freedom of religion or belief at the international level.

2. Further recommendations

In addition to the above, the All Party Parliamentary Group would urge the Government to consider the following:

(a) At the international institutional level at the UN

- Consider the benefits of reactivating the process of negotiating a legally binding Convention on the Freedom of Religion or Belief, fully reflective of UDHR Article 18
- Consider the possibility of such a Convention having a preventive focus
- Take a robust approach to violations of freedom of religion or belief in Universal Periodic Review of States before the HRC, using the recommendations of the review as the basis for an ongoing bilateral diplomatic efforts
- Press for the establishment of country-focused Special Rapporteurs in those countries where there is well-established evidence of serious violations of freedom of religion or belief

(b) At the national policy level

This report is very supportive of the current priority being given to the international protection of freedom of religion or belief and of this being pursued by the FCO through mainstreaming, coupled with country- and thematically focussed work. There are a number of additional supporting measures that could be taken in order to facilitate this approach.

Prioritisation

- Retain freedom of religion or belief as one of the FCOs thematic human-rights priorities and a priority target area for the HRDP

Mainstreaming

- Integrate freedom of religion or belief issues into the country human-rights strategy for all relevant third countries, with key country issues, messages and actions to be identified
- Develop further criteria for identifying countries of concern as regards freedom of religion or belief
- Prior to all country visits, brief ministers on freedom of religion or belief issues
- Review DfID's Faith Partnership Programme and integrate freedom of religion or belief into its work on religion and development

(c) Country focussed work

- Continue to identify pilot countries to expand the scheme, taking due account of the work of others in order to avoid duplication and maximise overall cohesive impact
- Consider making the identity of pilot countries and projects public
- Develop a series of intensive engagement programmes with suitable priority countries

(d) Thematically focussed activities

- Identify and develop additional thematic areas that take as their starting point freedom of religion or belief for all as a positive value.

(e) Supporting measures

- Increase staff resources available to support work on freedom of religion or belief within the FCO Equalities and Non-Discrimination Team.
- Support mainstreaming by enhancing and prioritising training on freedom of religion or belief for FCO personnel.
- Develop additional practical guidance and working tools for embassies and high commissions, including a revision and broad dissemination of the FCO Toolkit on Freedom of Religion or Belief.
- Develop appropriate targets and indicators for the evaluation of the impact of activities undertaken — including, for example, how widely the FCO Toolkit on Freedom of Religion or Belief is being used.
- Ensure that when engaging with thematic work a broad and inclusive approach is taken, not limited to legal dimensions, and involve a range of relevant participants from diverse backgrounds, reflective of pluralistic equality.

Glossary

ACN	Aid to the Church in Need
ASEAN	Association of Southeast Asian Nations
CST	Community Security Trust
CSW	Christian Solidarity Worldwide
DfID	Department for International Development
FCO	Foreign and Commonwealth Office
HRC	UN Human Rights Committee
HRDP	FCO Human Rights and Democracy Programme
HRW	Human Rights Watch
ICAAD	The International Center for Advocates Against Discrimination
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MEC	Middle East Concern
NBO	Network of Buddhist Organisations in the UK
ODIHR	Office for Democratic Institutions and Human Rights of the OSCE
OIC	Organisation of the Islamic Conference
OSCE	Organisation on Security and Co-operation in Europe
RTL	Re-education Through Labour
SPT	Subcommittee for the Prevention of Torture
UDHR	Universal Declaration of Human Rights
UN	United Nations
USAID	United States Agency for International Development
USCIRF	United States Commission on International Religious Freedom

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Aid to the Church in Need
Archbishop of Canterbury's Charitable Foundation
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Coptic Orthodox Church Centre
Hindu Forum of Britain
Open Doors UK
Network of Sikh Organisations
Redeemed Christian Church of God
Release International
UK Copts
United Action for Egyptian Christians
United Copts of Great Britain



All written submissions made to the APPG for the purposes of this report can be viewed at www.anorphanedright.net