
KNOW YOUR RIGHTS
WHAT IS FREEDOM OF RELIGION?



AN INFORMATION BOOKLET PRESENTED BY
INSTITUTE ON RELIGION AND PUBLIC POLICY

2014 EDITION

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COVER PHOTO: GIRLS AND BOYS FROM A YAZIDI RELIGIOUS SCHOOL SING HYMNS
AND PRAYERS AT LALESH TEMPLE (COURTESY AFP).

BOOKLET BY WILLIAM C. WALSH, CHAIR
INSTITUTE ON RELIGION AND PUBLIC POLICY LEGAL EXPERT COMMITTEE

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PURPOSE OF THIS PUBLICATION

From persecution of religious minorities to issues revolving around religious worship, beliefs, rites, expression, association, dress, symbols, education, registration and discrimination in the workplace, religious freedom issues have achieved a prominent place in global headlines.

Yet, many do not understand what rights fall under the ambit of freedom of religion or belief or what the term really means. This publication is designed to facilitate understanding of the right to freedom of religion or belief and its meaning under universal human rights principles and international human rights law.

INSTITUTE ON RELIGION AND PUBLIC POLICY

The Institute on Religion and Public Policy is a non-profit, non-partisan, inter-religious organization that encourages open dialogue and shapes public participation in policy by the global community of faith. The Institute works globally with government policymakers, religious leaders, community leaders, academics and NGOs in order to protect and promote fundamental rights, especially religious freedom.

With offices in Washington, DC and with partners across the globe, the Institute facilitates the expression of faith in the public interest through program activities and research on the public policymaking process. The Institute promotes cooperation and communication between policymakers and religious institutions, and strives to build and strengthen relationships among them on the domestic and international public policy stages.

UNIVERSAL DECLARATION OF HUMAN RIGHTS AND INTERNATIONAL BILL OF HUMAN RIGHTS

The struggle for religious freedom has been ongoing for thousands of years. However, the creation of legal international human rights obligations to define and protect this right did not occur until adoption of the 1948 Universal Declaration of Human Rights, which declared in Article 18: “Everyone shall have the right to freedom of thought, conscience and religion...”

The Universal Declaration was created in response to the horrors of the Holocaust in World War II. Prior to the Holocaust, most argued that human rights were a “domestic concern” to be supervised and enforced by the government within each country. This view evolved as the world learned of the scope of the atrocities, leading to a movement for internationally protected human rights that were “universal” and inalienable.

The importance of religious freedom as a core human right was embraced by the global community in the 1948 Universal Declaration. In the very first sentence of its preamble, the Universal Declaration states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world”. It is this recognition of the inherent dignity of humanity that has become the driving force for the protection and promotion of religious freedom and all human rights.

In 1966, the UN passed a legally enforceable treaty, the International Covenant on Civil and Political Rights (Covenant), which expanded the scope of the right to freedom of religion or belief and provided the Human Rights Committee, a body of independent human rights experts, with the power to monitor implementation of the Covenant. This treaty came into force in 1976. The Covenant, along with the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights, form the International Bill of Human Rights.

The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the UN General Assembly in 1981, is designed to articulate the strong position of the UN against religious discrimination and religious intolerance. It also details the far-ranging rights covered under the ambit of religious freedom through manifesting one’s religious beliefs.

A UNIVERSAL HUMAN RIGHT

Freedom of religion or belief is a fundamental right of every human being. It is a universal human right that applies to all persons equally everywhere, regardless of who they are, where they live, their age, gender, race or ethnicity, and what they believe or do not believe in.¹

Freedom of religion or belief is a wide-ranging bundle of rights covering a broad spectrum of distinct yet interconnected issues. The right to freedom of religion or belief encompasses freedom of conscience and the commitment to religion or belief on all matters.² *It is not a privilege provided by a government but an individual’s birth right.* As memorialized in the Universal Declaration of Human Rights, “all are endowed with dignity and conscience...”

The right to freedom of religion or belief is intrinsically and inextricably intertwined with other fundamental rights, including the right to freedom of expression and opinion, freedom of association and the universal principles of non-discrimination and equality for all.

¹ Article 18, Universal Declaration of Human Rights; Article 18 International Covenant on Civil and Political Rights; European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief, ¶ 16.

² United Nations Human Rights Committee General Comment 22, ¶ 1.

Freedom of religion or belief benefits everyone. It is a means, through faith-based actions, to achieve democratization, and security, and to reduce poverty through economic and social development. It is at the heart of democratic principles that contribute to a free and open society, morality, transparency, the rule of law, peace and promotion of other human rights.

In contrast, *restrictions* on the right to freedom of religion contribute to polarization and discrimination between communities, undermine democratization and security and encourage extremist groups.

RISING TIDE OF GLOBAL ASSAULT

Today, the right to freedom of religion or belief is under assault throughout the world. A global study by the Pew Research Center focusing on 197 countries and territories comprising 99.5% of the world's population finds that approximately 5 billion people, 75% of the world's population, live in countries with high government restrictions on religion or high social hostilities involving religion, which often target religious minorities.

Alarming, these severe restrictions against freedom of religion have increased throughout the world. The report provides substantial evidence of a rising level of restrictions on freedom of religion in each of the five major regions of the world.³

FAR-REACHING AND PROFOUND

The right to freedom of religion or belief is “far-reaching and profound”. It is a fundamental freedom that encompasses all religions and beliefs. It protects theistic and non-theistic beliefs, as well as the right not to profess any religion.⁴

As the UN Human Rights Committee noted in its definitive interpretation of the right to religious freedom under the UN Bill of Rights, the terms “belief” and “religion” are to be broadly construed. They are not limited to traditional religions, or to religions and beliefs with institutional characteristics, or to practices analogous to those of traditional religions. The right to freedom of belief encompasses newly established religions and religious minorities that are subject to hostility by a predominant religious community.⁵

A common definitional mistake is to require that a belief in God be necessary for something to be considered a religion. The most obvious counter-examples are classical Buddhism, which is not theistic, and Hinduism, which is polytheistic. Such a narrow definition would contravene fundamental human rights.⁶

³“Rising Tide of Restrictions on Religion”, September 2012, Pew Research Center.

⁴United Nations Human Rights Committee General Comment 22, ¶ 1.

⁵United Nations Human Rights Committee General Comment 22, ¶ 2.

⁶Guidelines for Review of Legislation Pertaining to Religion or Belief, Prepared by the OSCE/ODIHR Panel of Experts on Freedom of Religion in Consultation with the Venice Commission.

ABSOLUTE AND UNCONDITIONAL RIGHT OF BELIEF

An individual has an absolute and unconditional right to hold any religion or belief. Beliefs may not be limited under any circumstances.⁷

International human rights law does not permit any limitations whatsoever on the freedom to have or adopt a religion or belief of one's choice. This freedom is protected unconditionally, as is the right of everyone to hold opinions without interference. Consistent with these rights, no one may be compelled to reveal adherence to a religion or belief. Likewise, no one may be required to declare non-adherence to religious beliefs in order to obtain employment or other social or economic benefits.⁸

TWO DIMENSIONS

There are two dimensions to religious freedom. It includes the right of individuals and the right of religious communities to “practice” or “manifest” their religion in public or in private through “worship, observance, practice and teaching”.⁹

The first dimension covers the rights of individuals to freely manifest their religion or belief. The second dimension covers the rights of religious groups representing a community of fellow believers to manifest their religion through religious rites and community practices and to structure their internal religious affairs through legal entities and institutions.

FREEDOM TO MANIFEST A RELIGION OR BELIEF

The freedom to manifest religion or belief through worship, observance, practice and teaching encompasses a broad and diverse range of acts that are protected for both individuals and religious communities. The association of these acts with religion or belief must be looked at on a case-by case basis.¹⁰

The following manifestations of religion represent religious acts that have been internationally recognized as falling under the ambit and protection of religious freedom. Such acts include, but are not limited to, the freedom:

- To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;

⁷European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief, ¶ 12.

⁸United Nations Human Rights Committee General Comment 22, ¶ 3.

⁹Article 18, Universal Declaration of Human Rights; Article 18, International Covenant on Civil and Political Rights; Article 9, European Convention on Human Rights.

¹⁰United Nations Human Rights Committee General Comment 22, ¶ 4; European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief, ¶ 13.

- To establish and maintain religious, charitable or humanitarian institutions;
- To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- To write, issue and disseminate relevant publications;
- To teach a religion or belief in places suitable for these purposes;
- To solicit and receive voluntary financial and other contributions;
- To train, appoint or elect leaders, clergy and teachers called for by the requirements and standards of any religion or belief;
- To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- To freely communicate with individuals and communities in matters of religion and belief at the national and international levels.¹¹

The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices essential to such acts, including the building of places of worship, the use of ritual procedures, religious artifacts and objects and the display of symbols.

The observance and practice of religion or belief may include not only ceremonial acts but also such customs as following dietary requirements, wearing distinctive clothing or 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 essential to the conduct by religious groups of their basic affairs, such as the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.¹²

The freedom to manifest religion or belief also includes the right to peacefully share one's religion or belief with others, without being subject to the approval of the State or another religious community. Any limitation on the freedom to manifest religion or belief, must be exceptional and in compliance with international standards.¹³

RIGHTS OF RELIGIOUS MINORITIES

Every religion is a religious minority somewhere. Freedom of religion or belief also involves giving due consideration and respect to persons belonging to

¹¹ 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 6.

¹² United Nations Human Rights Committee General Comment 22, ¶ 4;

¹³ European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief, ¶ 40.

religious minorities. These persons have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without any interference or any form of discrimination. The States must therefore protect the existence and religious identity of the minorities within their territories and encourage conditions for the promotion of that identity.

RIGHTS OF PARENTS AND CHILDREN

The history and culture of civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring universal right.¹⁴

International human rights law is unequivocal on the right of parents to raise their children in accordance with their religion or belief. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights require States to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.¹⁵

Children enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of their parents or guardians. Conversely, they cannot be compelled to receive teaching on religion or belief against the wishes of their parents or guardians, the best interests of the child being the guiding principle.¹⁶

In exercising any functions which it assumes in relation to education and teaching, the State must respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.¹⁷ Forced participation of children of religious minorities in religious education of a majority faith or in courses that are designed to indoctrinate them against their particular religion or belief is prohibited.

Under international human rights law, States are obliged not merely to respect freedom of religion or belief but also to protect such freedom against undue interference from third parties. In addition, States should promote an

¹⁴ See, e.g., *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

¹⁵ Article 18(4), International Covenant on Civil and Political Rights; Art. 13(3), International Covenant on Economic, Social and Cultural Rights, form the International Bill of Human Rights
¹⁶ 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 5; Convention on the Rights of the Child, Article 14(2); Guidelines for Review of Legislation Pertaining to Religion or Belief, Prepared by the OSCE/ODIHR Panel of Experts on Freedom of Religion in Consultation with the Venice Commission at 13.

¹⁷ European Convention on Human Rights Protocol 1, Article 2; Handbook on European Non-Discrimination Law, European Union Agency for Fundamental Rights jointly with the European Court of Human Rights).

atmosphere of tolerance and appreciation of religious diversity in schools. School education can and should contribute to the elimination of negative stereotypes which frequently poison the relationship between different communities and have particularly detrimental effects on religious minorities.¹⁸

FREEDOM FROM COERCION

The freedom to “have or to adopt” a religion or belief includes the freedom to choose a religion or belief, 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 of the International Covenant on Civil and Political Rights bars coercion that would impair the right to have or adopt a religion or belief, including the use of threats, violence, penal or economic sanctions to compel believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices of coercion restricting access to education, medical care, employment, service contracts or public service through the use of mandatory declarations or statements denying association with a religion or belief similarly contravene human rights.¹⁹

The Second Vatican Council, after careful consultation with other faiths, summarized and restated many of these themes of religious freedom and tolerance in *Dignitatis Humanae*, including the teaching of this declaration regarding freedom from religious coercion:

The human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups or of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits. . . . This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right.²⁰

FREEDOM FROM DISCRIMINATION

Religious discrimination is prohibited under international human rights law. No individual or group may be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs. This includes any tendency to discriminate against any religion or belief for

¹⁸Report of the UN Special Rapporteur on Freedom of Religion or Belief, ¶ 27-29, HRC 16/53, (15 December 2010).

¹⁹United Nations Human Rights Committee General Comment 22, ¶ 5.

²⁰Declaration on Religious Freedom, *Dignitatis Humanae*, Promulgated by His Holiness Pope Paul VI (December 7, 1965).

any reason, including the fact that they are newly established, non-theistic, non-traditional or represent religious minorities.²¹

Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity and a disavowal the human rights and fundamental freedoms proclaimed in the UN Bill of Rights. It also constitutes an obstacle to friendly and peaceful relations between nations.²²

States have a duty to take effective measures to protect all persons within their jurisdiction from discrimination on grounds of religion or belief, whatever the reasons advanced for such discrimination. This includes the duty to rescind discriminatory legislation and implement legislation that protects freedom of religion or belief in all fields of civil, economic, political, social and cultural life. States should also eliminate official policies and practices that facilitate such discrimination.²³

As stated by the European Court of Human Rights in *Metropolitan Church of Bessarabia v. Moldova*, “in exercising its regulatory power ... in its relations with the various religions, denominations and beliefs, the State has a duty to remain neutral and impartial”.²⁴ This duty requires that the State refrain from taking part in religious disputes or favouring certain religious or secular groups over others.

RIGHTS OF EMPLOYERS, EMPLOYEES AND VOLUNTEERS

Human rights law prohibits discrimination based upon an employee’s religious belief. This discrimination applies not only to hiring and firing but to all terms, conditions, and privileges of employment.²⁵

Direct discrimination involves less favorable treatment on grounds of religion or belief. Factual examples are where an employer refuses to employ individuals associated with a particular religion or requires all prospective employees to attest that they are not part of a particular religion.

Indirect discrimination occurs where a seemingly neutral provision or practice would put members of a particular faith at a disadvantage unless the disadvantage can be justified. Factual examples are when male employees are required to be clean shaven, which could discriminate against Sikh men.

²¹ 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 2; United Nations Human Rights Committee General Comment 22, ¶ 2.

²² 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 3.

²³ 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Article 4; United Nations Human Rights Committee General Comment 22, ¶ 2.

²⁴ *Metropolitan Church of Bessarabia v. Moldova*, § 116 (2001).

²⁵ Article 18, Universal Declaration of Human Rights; Article 18, International Covenant on Civil and Political Rights; Article 9, European Convention on Human Rights; EU Employment Equality Directive; International Labor Organization Convention No. 111 .

Full respect for religious autonomy involves the recognition that individuals have the right to manifest their religion in their private lives by volunteering in their religious community by engaging in missionary activity or other services that advance the religious mission of their community.²⁶

FORMATION, REGISTRATION OR RECOGNITION OF LEGAL RELIGIOUS ENTITIES

The United Nations, the Organization on Security and Cooperation in Europe, the European Court of Human Rights and related regional bodies have long recognized the importance of legal personality and entity structure for religious organizations as part of their right to freedom of religion or belief.

When the right to freedom of religion or belief is discussed, one is more likely to think of the right of individuals to believe and to manifest their beliefs through worship, teaching, observance and practice. But, on reflection, individuals cannot fully exercise their right to religious freedom unless they are permitted to form legal structures to organize and operate their religious communities.

Laws governing the creation, operation, registration and recognition of religious communities are the lifeblood of religious communities. Without some form of legal entity status, a religious community cannot engage in the most elementary acts such as owning or renting a place of worship, operating a bank account, hiring staff, contracting for services, publishing and disseminating religious texts, and establishing educational and community outreach charitable services.

Laws governing access to legal personality should be structured in ways that facilitate freedom of religion or belief; at a minimum, access to the basic rights associated with legal personality should be available without difficulty.²⁷ States should ensure that legal personality and religious registration procedures are quick, transparent, fair, inclusive and non-discriminatory.²⁸

Denial of access to such status represents a grave and impermissible burden on the right to freedom of religion.²⁹ That is why laws governing incorporation and registration of religious organizations represent an important yardstick for assessing the shape of religious freedom in a given State.

²⁶ *Jehovah's Witnesses of Moscow v. Russia* ¶ 120-121 (App. 302/02) (10 June 2010).

²⁷ Guidelines for Review of Legislation Pertaining to Religion or Belief, Prepared by the OSCE/ODIHR Panel of Experts on Freedom of Religion in Consultation with the Venice Commission at 16.

²⁸ Report of the UN Special Rapporteur on Freedom of Religion or Belief, ¶ 25, HRC 19/60 (22 December 2011).

²⁹ Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities, OSCE Review Conference September 1999

In many instances, such laws have been used as a weapon by the State to restrict religious communities rather than facilitating religious freedom. Laws that mandate religious registration and impose criminal sanctions for non-registered religious activity are draconian methods used by States to repress religious freedom in violation of human rights.

Such methods have been uniformly condemned by the UN Human Rights Committee³⁰, the UN Rapporteur for Religious Freedom³¹, the OSCE Panel of Religious Experts in consultation with the Venice Commission³², the European Union³³ and the European Court of Human Rights³⁴.

The European Human Rights Court has determined that a refusal by a State to grant legal-entity status to an association of individuals, religious or otherwise, amounts to an interference with the exercise of the right to freedom of association. Where the organization of a religious community is at issue, a refusal to recognize it as a legal entity has also been found to constitute an interference with the right to freedom of religion as exercised by both the community itself and its individual members.³⁵

The OSCE Panel of Religious Experts and the Venice Commission have identified additional problem areas in the field of religious registration and formation of legal personality that must be addressed to facilitate freedom of religion or belief:

- Individuals and groups should be free to practise their religion without registration if they so desire;
- High minimum membership requirements should not be allowed with respect to obtaining legal personality;
- It is not appropriate to require lengthy existence in the State before registration is permitted;
- Other excessively burdensome constraints or time delays prior to obtaining legal personality should be questioned;
- Provisions that grant excessive governmental discretion in giving approvals should not be allowed;
- Official discretion in limiting religious freedom, whether as a result of vague provisions or otherwise, should be carefully limited;

³⁰Human Rights Committee List of Issues, Kazakhstan, CCPR/C/Kaz/Q/1 (2 September 2010).

³¹Report of the UN Special Rapporteur on Freedom of Religion or Belief, ¶ 25, HRC 19/60 (22 December 2011).

³²See, e.g., OSCE and Venice Commission Guidelines at 16.

³³EU Guidelines at ¶ 40-41.

³⁴See, e.g., *Metropolitan Church of Bessarabia v. Moldova*, (App. 45701/99) (2001); *Church of Scientology of Moscow v. Russia* (App. 18147/02) (2007).

³⁵*Jehovah's Witnesses of Moscow v. Russia* ¶ 101-102 (App. 302/02) (10 June 2010).

- Intervention in internal religious affairs by engaging in substantive review of ecclesiastical structures, imposing bureaucratic review or restraints with respect to religious appointments, and the like, should not be allowed;
- Provisions that operate retroactively or that fail to protect vested interests (for example, by requiring re-registration of religious entities under new criteria) should be questioned.
- Adequate transition rules should be provided when new rules are introduced; and
- Consistent with principles of autonomy, the State should not decide that any particular religious group should be subordinate to another religious group or that religions should be structured on a hierarchical pattern (a registered religious entity should not have veto power over the registration of any other religious entity).³⁶

LIMITATIONS STRICTLY INTERPRETED

Contrary to the unconditional and absolute right to hold a religion or belief, the freedom to manifest one's religion or belief through worship, observance, practice and teaching may be subject to limitations by the State, but "*only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.*"³⁷ Limitations for any other reason, such as national security, are prohibited.

These limitations are strictly interpreted under rigorous international standards. States must proceed from their obligation to protect the guaranteed right to religious freedom, including the right to equality and non-discrimination. Limitations imposed must be established by law and must not be applied in a manner that undermines the right to religious freedom.

The Human Rights Committee and the European Court of Human Rights have instructed officials "to remain neutral and impartial" on religious matters and have been loath to accept any restrictions on religion, viewing any contested measures with "strict scrutiny".³⁸ Limitations may be applied only for those purposes for which they were designed; they must be directly related and proportionate to the specific need they were designed to address. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner. Any restrictions 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.³⁹

³⁶See, OSCE and Venice Commission Guidelines at 16-17.

³⁷Article 18 (3), International Covenant on Civil and Political Rights; Article 9 (2), European Convention on Human Rights.

³⁸*Manoussakis Others v. Greece*, (59/1995/565/651) (26 September 1996), ¶ 44; United Nations Human Rights Committee General Comment 22, ¶ 8.

³⁹United Nations Human Rights Committee General Comment 22, ¶ 8; *Metropolitan Church of Bessarabia and Others v. Moldova* (App. 45701) (2001).

RELIGIOUS FREEDOM: A FUNDAMENTAL RIGHT

The right to freedom of religion or belief is a fundamental right of every human being everywhere. But, around the world, freedom of religion is under assault, with severe restrictions rising in all five major regions of the globe in the last decade.

Abuses of the right to religious freedom are widespread and impact people throughout the world. Religious organizations and individuals who associate in religious communities must overcome increasing repression when they express their beliefs or manifest their religion in public.

People of goodwill can do much to work together to reverse the rising tide of religious repression and strengthen the universal right to religious freedom for all. First, they can understand the nature of the right to religious freedom and take action against the ongoing threats to that right. Second, they can implement these principles of religious freedom by respecting the rights of all faiths and beliefs, with discrimination towards none. Finally, they can work together with people of all faiths to promote and protect freedom of religion and tolerance for all on the domestic and international level.

GLOSSARY

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) represents a milestone in the history of human rights. Drafted by representatives from countries from all regions of the world, the Declaration was publicly proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly Resolution 217 A (III)).⁴⁰

Article 18 UDHR

Article 18 of the Universal Declaration of Human Rights states that:

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.

International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 that has been in force since 23 March 1976. The ICCPR commits States to protect political and civil rights of individuals, including the rights to religious freedom, freedom of speech and freedom of association. As of 2013, 167 countries have committed to uphold the ICCPR.⁴¹

Article 18 ICCPR

Article 18 of the International Covenant on Civil and Political Rights states that:

1. 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.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

⁴⁰See, e.g., <http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx>.

⁴¹See, e.g., <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 that has been in force since 3 January 1976. The ICESCR commits States to protect economic, social, and cultural rights of individuals, including labor rights, the right to health, the right to education, and the right to an adequate standard of living. As of 2013, 160 countries have committed to uphold the ESCR.⁴²

International Bill of Human Rights

Together, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights form the International Bill of Human Rights. The International Bill of Human Rights contains a comprehensive protection of human rights for all. It has been hailed as “a veritable Magna Carta marking mankind's arrival at a vitally important phase: the conscious acquisition of human dignity and worth”.⁴³

UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

The Declaration on the Elimination of All Forms of Intolerance or Discrimination Based on Religion or Belief was adopted by the UN General Assembly on 25 November 1981. The Declaration is one of the most important international documents protecting freedom of religion. The Declaration articulates the strong position of the UN against religious discrimination and religious intolerance. It also details the far-ranging rights covered under the ambit of religious freedom through manifesting one's religious beliefs.

Articles 2 and 3 of the 1981 Declaration reaffirm the ICCPR's anti-discrimination norms. Paragraph 1 of Article 2 states that “No one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or other beliefs”.

⁴²See, e.g., <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁴³See, e.g., <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>

Articles 1 and 6 provide a comprehensive list of rights to freedom of thought, conscience, and religion. These include the right (1) “[t]o worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes”;(2) “[t]o establish and maintain appropriate charitable or humanitarian institutions”; (3) “[t]o make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief”; (4) “[t]o write, issue and disseminate relevant publications in these areas”; (5) “[t]o teach a religion or belief in places suitable for these purposes”; (6) “[t]o solicit and receive voluntary financial and other contributions from individuals and institutions”;(7) “[t]o observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one’s religion or belief”; and (8) “[t]o establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels”.⁴⁴

The United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (CRC) is a human rights treaty adopted by the United Nations General Assembly on 20 November 1989 that has been in force since 2 September 1990. The CRC sets out the religious, civil, political, economic, social, health and cultural rights of children. The Convention defines “child” as any human being under the age of eighteen, unless the age of majority is attained earlier under a state’s own domestic legislation.⁴⁵

Article 14 of the Convention on the Rights of the Child

Article 14 of the Convention on the Rights of the Child states that:

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.⁴⁶

United Nations Human Rights Committee

The United Nations Human Rights Committee is a body composed of 18 independent experts that are tasked with monitoring State compliance with

⁴⁴See, e.g., <http://www.un.org/documents/ga/res/36/a36r055.htm>.

⁴⁵See, e.g., <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁴⁶See, e.g., <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

the International Covenant on Civil and Political Rights, including the right to freedom of religion protected by Article 18 of the ICCPR. State parties are required to routinely provide the Human Rights Committee with reports demonstrating that they are complying with protecting the rights articulated in the ICCPR.

As part of its duties, the Human Rights Committee issues definitive interpretations of the rights articulated in the ICCPR to guide States in meeting their obligation to protect these rights. These definitive interpretations of rights are known as “General Comments”. The General Comment on the right to Freedom of Religion, issued in 1993, is referred to as General Comment 22. General Comment 22 consists of eleven comprehensive paragraphs that articulate the far-ranging and profound meaning of the right to religious freedom. Paragraph 2 of General Comment 22 states:

Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms “belief” and “religion” are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.⁴⁷

UN Human Rights Council

The UN Human Rights Council is an inter-governmental body within the United Nations system tasked with the promotion and protection of human rights throughout the world, addressing human rights violations, including violations of the right to religious freedom, in particular States and making recommendations and resolutions to defend and protect human rights. It meets at the UN Office at Geneva. The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly.

The UN Special Rapporteur on Freedom of Religion or Belief

The Special Rapporteur on Freedom of Religion or Belief is an independent expert appointed by the UN Human Rights Council to identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles.

The Rapporteur publishes an annual report on religious freedom and also publishes reports on countries that the Rapporteur has officially visited. Pursuant to report E/CN.4/2005/61, the Special Rapporteur undertakes

⁴⁷See, e.g., <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIntro.aspx>

country visits to get an in-depth understanding of specific contexts and practices and to provide constructive feedback to the given country and report to the Council or the General Assembly.⁴⁸

The European Convention on Human Rights

The European Convention on Human Rights (ECHR) is an international treaty signed and ratified by the 47 States in the Council of Europe to protect human rights and fundamental freedoms in Europe, including the right to religious freedom protected by Article 9 and the right to be free from religious discrimination protected by Article 14. The Convention was drafted in 1950 and entered into force on 3 September 1953. The Convention established the European Court of Human Rights.

Article 9 of the European Convention on Human Rights

Article 9 of the European Convention on Human Rights), which contains the Convention's key substantive provision on freedom of religion or belief, closely parallels the language of the religious freedom clause Universal Declaration and was drafted soon after the Universal Declaration; it also closely parallels the religious freedom language of Article 18 of the ICCPR:

1. 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 worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitation as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.⁴⁹

Article 14 of the European Convention on Human Rights

Article 14 of the European Convention on Human Rights states that:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.⁵⁰

⁴⁸See, e.g., <http://www.ohchr.org/en/issues/freedomreligion/pages/freedomreligionindex.aspx>.

⁴⁹See, e.g., http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁵⁰See, e.g., http://www.echr.coe.int/Documents/Convention_ENG.pdf

Protocol 1, Article 2 of the European Convention on Human Rights

Protocol 1, Article 2 of the European Convention on Human Rights states that:

Right to Education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

The European Court of Human Rights

The European Court of Human Rights is an international Court established in 1959 with jurisdiction over cases from the 47 countries that currently comprise the Council of Europe. It rules on applications from individuals or States alleging violations of the civil and political rights detailed in the European Convention on Human Rights, including the right to religious freedom protected by Article 9 and the right to be free from religious discrimination protected by Article 14. Since 1998 it has set as a full time Court and individuals can apply to it directly once they exhaust domestic remedies in their State. The Court is housed in Strasbourg, France where it monitors respect for the human rights of over 800 million Europeans.⁵¹

A growing number of cases from the European Court of Human rights have construed religious freedom issues protected by Articles 9 and 14 of the European Convention.

European Union Guidelines on the Promotion and Protection of Freedom of Religion or Belief

On 24 June 2013, the European Union Council of Ministers adopted new Guidelines on the Promotion and Protection of Freedom of Religion or Belief in EU external action and human rights policy. The guidelines are premised on the principles of religious freedom, equality, non-discrimination and universality. The guidelines reaffirm that each State must ensure that its legal system guarantees freedom of religion and that “effective measures” exist to prevent or sanction any violations. The Guidelines state that the EU and its Member States should focus on:

- Fighting against acts of violence on the ground of religion or belief;
- Promoting freedom of expression;
- Promoting respect for diversity and tolerance;

⁵¹See, e.g., http://www.echr.coe.int/Pages/home.aspx?p=court&c=#n1354801701084_pointer

- Fighting against direct and indirect discrimination; notably by implementing non-discriminatory legislation;
- Supporting freedom to change or leave one's religion or belief;
- Supporting the right to manifest religion or belief;
- Supporting and protecting human rights defenders including support for individual cases; and
- Supporting and engaging with civil society, including religious associations, non-confessional and philosophical organisations.

Organization for Security and Cooperation in Europe

The Organization for Security and Cooperation in Europe (OSCE) is an intergovernmental body composed of 57 States from Europe, Central Asia and North America. OSCE is the world's largest regional security organization. It addresses a wide range of issues, including religious freedom and human rights.

Numerous OSCE human rights commitments protect and promote religious freedom, articulated in Principle VII of the Helsinki Final Act:

VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

This fundamental commitment has been repeatedly reaffirmed. Beginning with the Madrid meeting in 1983, the Participating States indicated that they would “favorably consider applications by religious communities of believers practicing or prepared to practice their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations”.⁵² This language was reinforced in the Vienna Concluding Document (1989) to indicate that Participating States would not only “favorably consider

⁵²Concluding Document of the Madrid Meeting, paragraph 14 (Questions Relating to Security in Europe).

applications” but that they “*will ... grant* upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries”.⁵³

Office of Democratic Institutions and Human Rights

The Office of Democratic Institutions and Human Rights (ODIHR) of the OSCE is the human rights institution of the OSCE. ODIHR’s work in the area of freedom of religion focuses on assisting participating States and religious communities in protecting and promoting the right to freedom of religion.

ODIHR also is engaged in preventing and responding to intolerance and discrimination based on religious grounds. ODIHR is assisted in its work by a 12-member Advisory Panel of Experts on Freedom of Religion or Belief, which serves as an advisory and body that highlights religious freedom issues of concern and provides recommendations to assist participating States in meeting OSCE commitments related to religious freedom. The Panel of Religious Experts also reviews proposed legislation on religion matters when invited to do so by OSCE States to ensure that the legislation meets human rights standards.

The Panel published the book, *Guidelines for Review of Legislation Pertaining to Religion or Belief*. These Guidelines were prepared to assist the panel in detailing religious freedom standards used in reviewing State Religion Laws and to provide guidelines for States to follow in drafting such legislation. The Guidelines were welcomed by the OSCE Parliamentary Assembly at its Annual Session in July 2004. The Panel consists of experts from throughout the OSCE region.

⁵³Vienna Concluding Document (1989), Questions Relating to Security in Europe: Principles, principle 16.3.

INSTITUTE ON RELIGION AND PUBLIC POLICY

The Institute on Religion and Public Policy is a non-profit, non-partisan, inter-religious organization that encourages open dialogue and shapes public participation in policy by the global community of faith.

The Institute works globally with government policymakers, religious leaders, community leaders, academics and NGOs in order to protect and promote fundamental rights, especially religious freedom.

With offices in Washington, DC, and with partners across the globe, the Institute facilitates the expression of faith in the public interest through program activities and research on the public policymaking process.

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The Institute promotes cooperation and communication between policymakers and religious institutions, and strives to build and strengthen relationships among them on the domestic and international public policy stages.
