

A stylized graphic of a hand holding a globe. The hand is composed of various colored segments: green, yellow, red, and blue. The globe is also segmented with these colors. The background is dark blue with silhouettes of people.

Rapporteur's Digest on Freedom of Religion or Belief

Second edition (2023)

Excerpts of the Reports from 1986 to 2022 by the
UN Special Rapporteur on Freedom of Religion or Belief
Arranged by Topics of the Framework for Communications

Brief overview of the United Nations Special Rapporteur on freedom of religion or belief

The Special Rapporteur on freedom of religion or belief is an independent expert appointed by the United Nations Human Rights Council. The mandate holder has been invited 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.

Historical background

The United Nations Commission on Human Rights appointed in [resolution 1986/20](#) a “Special Rapporteur on religious intolerance”. In 2000, the Commission on Human Rights decided to change the mandate title to “Special Rapporteur on freedom of religion or belief”, which was subsequently endorsed by Economic and Social Council [decision 2000/261](#) and welcomed by General Assembly [resolution 55/97](#). On 31 March 2022, the Human Rights Council adopted [resolution 49/5](#), which extended the mandate of the Special Rapporteur for a further period of three years.

Mandate

The Special Rapporteur has been mandated through Human Rights Council [resolution 6/37](#):

- to promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;
- 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;
- to continue her/his efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;
- to continue to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

Working methods

In the discharge of the mandate, the Special Rapporteur:

- transmits [communications](#) to States with regard to cases that represent infringements of or impediments to the exercise of the right to freedom of religion and belief;
- undertakes fact-finding [country visits](#), prepares and presents the reports of the visit;
- submits and presents [annual reports](#) to the Human Rights Council, and General Assembly, on the activities, trends and methods of work.

Mandate holders

- [Ms. Nazila Ghanea](#) (Islamic Republic of Iran), since August 2022
- [Mr. Ahmed Shaheed](#) (Maldives), November 2016 - July 2022
- [Mr. Heiner Bielefeldt](#) (Germany), August 2010 - October 2016
- [Ms. Asma Jahangir](#) (Pakistan), August 2004 - July 2010
- [Mr. Abdelfattah Amor](#) (Tunisia), April 1993 - July 2004
- [Mr. Angelo d'Almeida Ribeiro](#) (Portugal), March 1986 - March 1993

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INTRODUCTION

On the occasion of the 25th anniversary of the adoption of [resolution 1986/20](#) of the Commission on Human Rights, the Special Rapporteur on freedom of religion or belief launched the first edition of this Digest with excerpts of the reports from 1986 to 2011. This is the second edition of the Digest, which provides updates on the mandate practice until 2022, clustered thematically according to the revised framework for communications.

The objective of the Rapporteur's Digest is to retrace the normative developments of the right to freedom of thought, conscience, religion or belief over the years. Country-specific situations are quoted when they have a universal aspect to them, or if a normative development could be applied to other contexts. Individual cases of alleged human rights violations can be directly found in the Special Rapporteurs' communications reports and related database, which is available at: <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>

Special Rapporteur's report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5>

The purpose of the framework

28. The right to freedom of religion or belief, as defined by international standards, is a wide-ranging right covering a large number of distinct yet interrelated issues. This diversity is very much reflected in the information and allegations received by the Special Rapporteur. In order to enable the Special Rapporteur to respond more effectively to the information she receives, she has developed a framework for communications. This framework sets out the different types of cases or situations that are submitted to her and are within the scope of her mandate, along with the corresponding international standards relevant to each issue. The framework can be found in the annex to this report. [...]

31. The framework is included in this report to give readers a clearer understanding of the issues that are covered by the mandate on freedom of religion or belief, and as a guide to the types of issues that are the subject of communications sent and received under the mandate. In this regard, the framework could be a useful tool for NGOs and other actors in their interactions with the Special Rapporteur.

International standards covered by the framework

32. [...] The primary instruments upon which the Special Rapporteur bases her activities are article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

33. Her interventions are also based on the relevant articles of the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention relating to the Status of Refugees.

34. She is also guided by relevant resolutions of the Commission on Human Rights and other organs of the United Nations including the General Assembly and the Economic and Social Council. She is further guided by relevant general comments and concluding observations and jurisprudence of the treaty bodies, and the relevant provisions of international humanitarian law. The Special Rapporteur also takes into account relevant human rights instruments and jurisprudence at the regional level.

The elements of freedom of religion or belief covered by the framework

35. The framework is divided into five different categories. The first category deals with elements of the right to freedom of religion or belief and the right to manifest one's religion or belief. The second category covers discrimination in relation to the freedom of religion or belief. The third category deals with vulnerable groups, including women, children, refugees, members of minorities and persons deprived of their liberty. The fourth covers situations where the right to freedom of religion intersects with violations of other human rights, such as the right to freedom of expression and the prohibition on torture and other cruel, inhuman or degrading treatment or punishment. The fifth category covers cross-cutting issues including international provisions on limitations and derogations.

Special Rapporteur's report to the Human Rights Council in 2007

<https://undocs.org/A/HRC/4/21>

33. Uploading the framework for communications on the OHCHR website will make the legal basis of freedom of religion or belief even more easily accessible for Governments and for civil society worldwide. Furthermore, the Special Rapporteur plans to develop the existing framework into an online digest, illustrating the international standards with pertinent excerpts of the mandate-holders' findings according to the categories of her framework for communications. [...]

51. The Special Rapporteur's envisaged online digest of the past 20 years of mandate experience might help in disseminating the international standards of freedom of religion or belief. In combining the categories of her framework for communications with pertinent excerpts from the Special Rapporteurs' reports, she hopes to make the applicable legal standards more easily accessible and understandable. On the preventive level, this may eventually lead to an improved knowledge of the required or prohibited governmental actions. With regard to the protection of victims, the online digest is intended to help in identifying the international human rights involved, thus facilitating the work of non-governmental organizations and their interactions with the Special Rapporteur.

Special Rapporteur's report to the Human Rights Council in 2007

<https://undocs.org/A/HRC/6/5>

The Human Rights Council, in its resolution 4/10 of 30 March 2007, recalls all resolutions on the elimination of all forms of intolerance and of discrimination based on religion or belief that have been adopted by the General Assembly and by the Commission on Human Rights and requests the Special Rapporteur on freedom of religion or belief to report on this issue to the Human Rights Council at its sixth session. In the present report, the Special Rapporteur gives an overview of the mandate's issues of concern according to the categories of her framework for communications.

Special Rapporteur's report to the General Assembly in 2011

<https://undocs.org/A/66/156>

14. On 10 March 2011, the twenty-fifth anniversary of the establishment of the mandate, the Special Rapporteur launched a reference e-book with observations and recommendations by the four mandate holders who have served as Special Rapporteur on freedom of religion or belief since 1986. The "Rapporteur's digest on freedom of religion or belief" is a 108-page downloadable compilation of relevant excerpts from thematic and country-specific reports produced by Angelo d'Almeida Ribeiro (serving from March 1986 to March 1993), Abdelfattah Amor (serving from April 1993 to July 2004), Asma Jahangir (serving from August 2004 to July 2010) and Heiner Bielefeldt (serving since August 2010). For ease of reference, the digest is arranged according to the five topics of the mandate's framework for communications, as outlined in the last thematic report submitted to the Commission on Human Rights: (a) freedom of religion or belief, (b) discrimination, (c) vulnerable groups, (d) intersection of freedom of religion or belief with other human rights, and (e) cross-cutting issues (see E/CN.4/2006/5, paras. 28-35 and annex).

Special Rapporteur's report to the Human Rights Council in 2023

<https://undocs.org/A/HRC/52/38>

37. The mandate has made some revisions to the underlying structure of the mandate's framework for communications. The Special Rapporteur will also publish a second edition of the Rapporteur's Digest on freedom of religion or belief, with new normative texts and pertinent thematic excerpts from reports issued under the mandate.

References to hard law norms and soft law standards

- International Covenant on Civil and Political Rights (ICCPR), Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force on 23 March 1976.
- International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force on 3 January 1976.

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 and entered into force on 4 January 1969.
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 and entered into force on 3 September 1981.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 and entered into force on 26 June 1987.
- Convention on the Rights of the Child (CRC), Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 and entered into force on 2 September 1990.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), Adopted by General Assembly resolution 45/158 of 18 December 1990 and entered into force on 1 July 2003.
- Convention Relating to the Status of Refugees, adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950 and entered into force on 22 April 1954.
- General Assembly Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Resolution 36/55 of 25 November 1981.
- General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Resolution 47/135 of 18 December 1992.
- General Assembly Declaration on the Elimination of Violence against Women, Resolution 48/104 of 20 December 1993.
- Commission on Human Rights Resolution on Elimination of all forms of intolerance and of discrimination based on religion or belief, Resolution 2005/40 of 19 April 2005.
- Commission on Human Rights Resolution on Torture and other cruel, inhuman or degrading treatment or punishment, Resolution 2003/32 of 23 April 2003.
- Commission on Human Rights Resolution on Torture and other cruel, inhuman or degrading treatment or punishment, Resolution 2005/39 of 19 April 2005.
- Human Rights Committee, General Comment No. 20 concerning Prohibition of torture and cruel treatment or punishment (Art. 7), 10 March 1992.
- Human Rights Committee, General Comment No. 22 on the right to freedom of thought, conscience and religion (Art. 18), 30 July 1993.
- Human Rights Committee, General Comment No. 28 on Equality of rights between men and women (Art. 3), 29 March 2000.
- Human Rights Committee, General Comment No. 34 on freedoms of opinion and expression (Art. 19), 12 September 2011.
- United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by General Assembly resolution 70/175 of 17 December 2015.
- Economic and Social Council Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Resolution 1984/50 of 25 May 1984. Endorsed by General Assembly resolution 39/118 on 14 December 1984.
- Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, A/HRC/22/17/Add.4, appendix, 4 October 2012.
- Beirut Declaration and its 18 commitments on "Faith for Rights", A/HRC/40/58, annexes I and II, 29 March 2017.



**I. Freedom
of thought,
conscience,
religion or
belief**

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

1. Freedom to adopt, change or renounce a religion or belief

(*forum internum*)

Universal Declaration of Human Rights (1948)

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief [...].

International Covenant on Civil and Political Rights (1976)

Art. 18 (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 [...].

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 1 (1): Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice [...].

Human Rights Committee, General Comment no. 22 (1993)

Para. 3: Article 18 does not permit any limitations whatsoever on [...] the freedom to have or adopt a religion or belief of one's choice.

Para. 5: The Committee observes that the 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.

18 Commitments on "Faith for Rights" (2017)

Commitment I: Our most fundamental responsibility is to stand up and act for everyone's right to free choices and particularly for everyone's freedom of thought, conscience, religion or belief. We affirm our commitment to the universal norms and standards, including Article 18 of the International Covenant on Civil and Political Rights which does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms, unconditionally protected by universal norms, are also sacred and inalienable entitlements according to religious teachings.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report to the Human Rights Council in 1997

<https://undocs.org/E/CN.4/1997/91>

70. The Universal Declaration of Human Rights sets forth, in article 18, the principle that "everyone has the right to freedom of thought, conscience and religion", and clearly states that such a 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, practise, worship and observance".

71. The 1966 International Covenant on Civil and Political Rights and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination follow in the direction set by the 1948 Declaration but do not explicitly restate the right to change religion.

72. Article 18 of the International Covenant on Civil and Political Rights offers general recognition of the right "to have or to adopt" a religion of one's choice.

73. The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief also makes general provision for the "freedom to have a religion or whatever belief of [one's] choice". Like the International Covenant on Civil and Political Rights, it contains no formal, explicit statement of the right to change religion, but the omission cannot be interpreted as betokening an intention to dilute the provisions of the 1948 Declaration.

74. The World Conference on Human Rights (Vienna, June 1993), while acknowledging concerns about specifics and invoking national legislation, strongly reaffirmed the universal nature of human rights.

75. The variety of formulations used to refer to the acknowledgement and development of religious freedom do not amount to a denial of the right to change religion.

76. Lastly, many formulations address a single point. They have cast doubt on the underpinnings of religious freedom and lent support to those who believe that religious freedom cannot extend to recognition of the right to change religion.

77. It is now established that religious freedom cannot be dissociated from the freedom to change religion. [...]

79. In its general comment 22 on article 18 of the International Covenant on Civil and Political Rights, the Human Rights Committee reached the same conclusion. It observes that the freedom to "have or to adopt" a religion or belief necessarily entails a 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.

The Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

45. The Special Rapporteur has addressed the issue of conversion in a number of communications, in which she used the term to include situations where there has been an alleged infringement on the freedom to change, maintain or adopt a religion or a belief. While these communications have not very often dealt with situations where people had been arrested, tried or otherwise challenged because they had converted to another religion, there were a number of cases of persons being arrested because of their beliefs, and where there had been an attempt to force them to renounce or abandon their faith. This has been the case in communications sent to the Governments of China, Saudi Arabia, the Lao People's Democratic Republic, Egypt, and Turkmenistan.

46. The Special Rapporteur considers such acts as unacceptable forms of violations of the right to freedom of religion or belief because, in essence, they limit or tend to limit the freedom of thought or conscience itself (or what is sometimes called the "forum internum"), which, according to the main international instruments, forms the part of the right to freedom of religion or belief that is not susceptible to any limitation.

47. In this regard, the Special Rapporteur emphasizes that, according to general comment No. 22 of the Human Rights Committee, 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, paragraph 2, of the Covenant 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 those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of ICCPR, are similarly inconsistent with this article. The same protection is enjoyed by holders of all beliefs of a non-religious nature. [general comment No. 22 on article 18 of the International Covenant on Civil and Political Rights, adopted by the Human Rights Committee at its forty-eighth session (1993), para. 5].

The Special Rapporteur's report to the General Assembly in 2005

<https://undocs.org/A/60/399>

40. The questions related to change of religion are at the very heart of the mandate on freedom of religion or belief. Violations and limitations of this aspect of the right to freedom of religion are unacceptable and still occur too often. In this section, the Special Rapporteur would like to give an overview of the problem as well as of the applicable standards. She wishes to emphasize that the complexity of the question, which includes many different situations, requires that it be examined further.

Types of situations reported under the mandate

41. The mandate of the Special Rapporteur on freedom of religion or belief has received numerous reports of situations related to the question of the right to have or adopt a religion of one's choice, including cases of alleged

forcible and so-called "unethical" conversions. On the basis of these reports, it is possible to identify four broad types of situations. It should be noted that certain cases may fall within more than one type of situation.

(a) Situations, where state agents try to convert, re-convert or prevent the conversion of persons

42. These reports describe situations where State officials at different levels, often municipal, and different institutions (police, army) tried to convert members of religious groups, often of minority religious communities, or to force them to renounce their beliefs. They did so by threatening to kill them or their relatives, depriving them of their liberty, torturing and ill-treating them or threatening to dismiss them from their jobs. In some instances State officials tried to make believers renounce their religion and join a State-approved religion.

(b) Situations, where religious conversion is prohibited by law and punished accordingly

43. The punishment for conversion can consist of arrest and trial for "apostasy", imprisonment, and sometimes the death penalty. In some countries other penalties can be imposed, such as the suspension of all contracts and inheritance rights, the annulment of marriages, loss of property or the removal of children. Administrative requirements can also make it difficult to change one's religion or belief: in a number of cases converts have found it impossible to obtain identity cards after having changed their religion. Where conversion is not actually prohibited by law, converts can be harassed or threatened by State and religious officials.

(c) Situations where members of majority religious groups seek to convert or reconvert members of religious minorities

44. This includes cases where local members of the clergy lead attempts to convert or groups of believers attack members of minority religious groups or their places of worship with the aim of converting them.

(d) Situations where so-called "unethical" conversions have been reported

45. These situations include cases where members of religious groups try to convert other people by "unethical" means such as the promise of material benefit or by taking advantage of the vulnerable situation of the person whose conversion is sought. Such conversions are sometimes prohibited by law and the acts facilitating such conversion may constitute a criminal offence. In some countries, legislation prohibits conversion without prior notification of the authorities or defines "forcible" conversion in broad terms.

Applicable standards

46. The Special Rapporteur notes that, according to universally accepted international standards, the right to freedom of religion or belief includes the right to adopt a religion of one's choice, the right to change religion and the right to maintain a religion. She also notes that these aspects of the right to freedom of religion or belief have an absolute character and are not subject to any limitation whatsoever.

47. Article 18 of the Universal Declaration of Human Rights states that the right to freedom of thought, conscience and religion "includes freedom to change [one's] religion or belief". Article 1 of the 1981 Declaration states that "[t]his right shall include freedom to have a religion or whatever belief of [one's] choice" and that "[n]o one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice".

48. The content of article 18, paragraph 1, of the International Covenant on Civil and Political Rights (ICCPR) is the result of a lengthy process of discussion in the Human Rights Commission and the third Committee of the General Assembly. The wording initially proposed was "Everyone should have the freedom to maintain or to change his religion", but, following opposition by some countries which feared that this formulation would lend encouragement to proselytism and anti-religious propaganda, it was changed to "have or to adopt a religion or belief of his choice", a wording that was adopted without dissent. This final version of the provision was undoubtedly intended to include the right to convert from one religion or belief to another. The Human Rights Committee, in paragraph 5 of its general comment No. 22 (1993) on article 18, observed that "the 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."

49. The fact that article 18, paragraph 3, of the Covenant to be imposed only on the manifestation of religion or belief clearly assigns the freedom to "have or to adopt a religion or belief" to the first part of paragraph 1, freedom of thought, conscience and religion, also called *forum internum*, which cannot be interfered with in any way. In its general comment No. 22 the Human Rights Committee states clearly that article 18 "does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice" (para. 3).

50. This prohibition of limitation is reinforced by paragraph 2 of the same article, which provides that "[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice." The fact that the prohibition of coercion was made explicit shows that the drafters of the Covenant found the freedom

provided by paragraph 1 to be so significant that any form of coercion by the State was impermissible, independently of whether the coercion was physical or in the form of State-sponsored incentives. According to the Human Rights Committee:

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 (general comment No. 22, para. 5).

51. The Special Rapporteur notes that there is a clear prohibition under international human rights law of coercion to change or maintain one's religion. She also draws attention to the fact that the term "coercion" in article 18, paragraph 21, is to be broadly interpreted and includes pressure applied by a State or policies aiming at facilitating religious conversions

52. The same is true, *mutatis mutandis*, for prohibition of conversions. Since the choice of religion or belief is part of the *forum internum*, which allows for no limitations, a general prohibition of conversion by a State necessarily enters into conflict with applicable international standards. A law prohibiting conversion would constitute a State policy aiming at influencing individual's desire to have or adopt a religion or belief and is therefore not acceptable under human rights law. A State also has the positive obligation of ensuring the freedom of religion or belief of the persons on its territory and under its jurisdiction.

53. In the cases where non-State actors interfere with the right to "have or adopt a religion or belief of [one's] choice", the requirements of article 18 of the Covenant and other relevant international instruments also entail a positive obligation for the State to protect persons from such interference. The Special Rapporteur wishes to re-iterate in this regard that States must ensure that the persons on their territory and under their jurisdiction, including members of religious minorities, can practise the religion or belief of their choice free of coercion and fear. If non-State actors interfere with this freedom, and especially the freedom to change or to maintain one's religion, the State is obliged to take appropriate measures to investigate, bring the perpetrators to justice and compensate the victims (see also E/CN.4/2005/61, para. 42).

54. Finally, the Special Rapporteur notes that with regard to children, the choice of religion is restricted by the parents' rights to determine their child's religion up to an age where the child is capable of doing so on his/her own, in accordance with article 18, paragraph 4, of the Covenant.

Missionary activities and the propagation of religion

55. In the context of several reports submitted to the Special Rapporteur, in particular after the period following the tsunami which occurred on 26 December 2004 in the Indian Ocean, numerous questions have arisen in relation to missionary activities as well as humanitarian efforts and development activities carried out by groups or organizations affiliated with particular religions. In many cases, it was reported that people, mainly from the poorest parts of the population, have been induced to convert by various means, including material benefits. In some places, the authorities have responded to these concerns by enacting legislation that prohibits or limits the right to propagate a religion, which includes missionary activities and other actions aimed at persuading others to adopt a new religion, or making the right to change religion subject to certain conditions, for example making a formal declaration of conversion to a designated authority.

56. In May 2005, the Special Rapporteur travelled to Sri Lanka where she had the opportunity to investigate in situ this type of question. In Sri Lanka, numerous persons told the Special Rapporteur that missionaries, religious groups and humanitarian organizations, often from foreign countries, used material or other incentives to convert people or to induce them to convert. In response to this situation, a number of initiatives had been made to enact special legislation to prohibit religious conversions or criminalize allegedly "unethical" conversions. Many of these initiatives were started well before the tragedy of the tsunami. The report of the Special Rapporteur on her visit to Sri Lanka, which contains conclusions and recommendations with respect to the question of "unethical" conversions, will be submitted to the Commission at its sixty-second session. The following observations are therefore of a general nature and should by no means be taken as pertaining exclusively to the situation prevailing in Sri Lanka.

57. The Special Rapporteur considers that these situations raise questions both with regard to the right to freedom of religion of those who take the decision to convert (freedom of conscience and the right to change one's religion) and the right to freedom of religion of persons who perform acts leading to the conversion of others (missionary activities and the propagation of one's religion). These are taken separately below.

(a) Freedom of conscience and the right to change one's religion

58. In this respect, the Special Rapporteur would mainly refer to the arguments made earlier in this report. The right to change religion is absolute and is not subject to any limitation whatsoever. Any legislation that would prohibit or limit the right to change one's religion would be contrary to international human rights standards and the provisions mentioned above.

(b) Missionary activities and propagation of one's religion

59. Article 1 of the 1981 Declaration and article 18, paragraph 1, of ICCPR explicitly provide for the right "*in public or private, to manifest [one's] religion or belief in worship, observance, practice and teaching*" (emphasis added). Many human rights instruments stipulate and the Human Rights Committee hold that the right to manifest one's religion includes carrying out actions to persuade others to believe in a certain religion. For example, article 6 (d) of the 1981 Declaration states that the practice of the freedom of religion includes the freedom, "to write, issue and disseminate relevant publications." Similarly, in resolution 2005/40, the Commission on Human Rights urged States "[t]o ensure, in particular, [...] the right of all persons to write, issue and disseminate relevant publications." In its general comment No. 22 (1993) the Human Rights Committee holds that "the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [... and] the freedom to prepare and distribute religious texts or publications" (para. 4).

60. The question of missionary activities and other forms of propagating one's religion has been at the centre of the mandate on freedom of religion since the beginning. In one of his reports, Special Rapporteur Amor considered "constitutional provisions prohibiting proselytism to be inconsistent with the 1981 Declaration and stresse[d] the need for greater respect for internationally recognized human rights norms, including freedom to convert and freedom to manifest one's religion or belief, either individually or in community with others, and in public or private, except where necessary restrictions are provided for by law (A/51/542/Add.1/para. 134).

61. Also, while not explicitly including religious rights, article 19 of ICCPR, which protects freedom of expression, is formulated in a way that also covers missionary activities: "[T]his right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of [one's] choice". The Human Rights Committee's constant jurisprudence has deemed the protection afforded by article 19 extremely strong.

62. Whereas the scope of freedom afforded to persons for the practice of their religion or belief by producing and distributing information about their religion or belief is wide, certain limitations can be imposed in accordance with article 18, paragraph 3, of the Covenant. However, it should be noted that this article allows for restrictions only in very exceptional cases. In particular the fact that it mentions the protection of "*fundamental rights and freedoms*" (emphasis added) of others as a ground for restriction indicates a stronger protection than for some other rights whose limitation clauses refer simply to the "rights and freedoms of others" (e.g. article 12, 21 and 22). It could indeed be argued that the freedom of religion or belief of others can be regarded as such a fundamental right and freedom and would justify limitations to missionary activities, but the freedom of religion and belief of adults basically is a question of individual choice, so any generalized State limitation (e.g. by law) conceived to protect "others'" freedom of religion and belief by limiting the right of individuals to conduct missionary activities should be avoided.

63. The test of legality of a prohibition of any act motivated by belief or religion is therefore extremely strict. In practice, the European Court of Human Rights has given some guidance concerning the distinction between permissible religious persuasion, on the one hand, and coercion on the other in *Larissis v. Greece*, [Larissis and Others v. Greece, European Court of Human Rights, Reports 1998-I, judgement of 24 February 1998.] the court decided that an officer of the Greek army had exploited his position of authority over his subordinates in trying to convert them. However, in *Kokkinakis v. Greece*, [Kokkinakis v. Greece, European Court of Human Rights, Series A. No. 260-A, judgement of 25 May 1995.] the Court did not find any violation when Jehovah's Witnesses called on their neighbour to discuss religious issues with her since that act, in the Court's view, fell under "bearing Christian witness" and was therefore protected by article 9 of the European Convention on Human Rights. Judge Pettiti, in his partly concurring opinion, made this particularly clear: "Freedom of religion and conscience certainly entails accepting proselytism, even where it is not respectable. Believers and agnostic philosophers have a right to expound their beliefs, to try to get other people to share them and even to try to convert those whom they are addressing."

64. There are, however, situations in which certain actions aimed at converting people go beyond conventional forms of missionary activities or propagation of religion. Some such actions cannot be considered as a "manifestation" of religion or belief and are therefore not protected by article 18.

65. The question that arises in this regard is how the State should address such actions. The Special Rapporteur is of the opinion that a distinction should be made between whether these actions raise a human rights concern or whether they could constitute criminal acts. Certain acts may constitute an offence under the criminal code of the State concerned and should therefore be prosecuted. In view of the Special Rapporteur, however, it would not be

advisable to criminalize non-violent acts performed in the context of manifestation of one's religion, in particular the propagation of religion, including because that might criminalize acts that would, in another context, not raise a concern of the criminal law and may pave the way for persecution of religious minorities. Moreover, since the right to change or maintain a religion is in essence a subjective right, any concern raised with regard to certain conversions or how they might be accomplished should primarily be raised by the alleged victim.

66. Apart from forcible and other conversions that are improper in the sense of human rights law, there are many cases which, while not constituting a human rights violation, nevertheless raise serious concern because they disturb a culture of religious tolerance or contribute to the deterioration of situations where religious tolerance is already being challenged. The Special Rapporteur has received numerous reports of cases where missionaries, religious groups and humanitarian NGOs have allegedly behaved in a very disrespectful manner vis-à-vis the populations of the places where they were operating. The Special Rapporteur deplores such behaviour and is of the opinion that it constitutes religious intolerance, and may even provoke further religious intolerance. She considers that religious groups, missionaries and humanitarian NGOs should carry out their activities in full respect of the culture and religion of the populations concerned and abide strictly by relevant codes of ethics, including the Code of Conduct for International Federation of Red Cross and Red Crescent Societies and NGOs in Disaster Relief, [Available at: www.ifrc.org/publicat/conduct/code.asp.] as well as guidelines adopted by religious organizations.

67. In conclusion, any form of coercion by State and non-State actors aimed at religious conversion is prohibited under international human rights law, and any such acts have to be dealt with within the remit of criminal and civil law. Missionary activity is accepted as a legitimate expression of religion or belief and therefore enjoys the protection afforded by article 18 of ICCPR and other relevant international instruments. Missionary activity cannot be considered a violation of the freedom of religion and belief of others if all involved parties are adults able to reason on their own and if there is no relation of dependency or hierarchy between the missionaries and the objects of the missionary activities.

68. The Special Rapporteur wishes to underline that certain forms of "unethical" conversion are not per se contrary to international standards. Moreover, while some of these acts may not enjoy protection under human rights law, they should not as a result necessarily be seen to constitute a criminal offence. She recommends that cases of alleged "unethical" conversion be addressed on a case-by-case basis, examining the context and circumstances in each individual situation and dealt with in accordance with the common criminal and civil legislation. The Special Rapporteur is therefore of the opinion that the adoption of laws criminalizing in abstracto certain acts leading to "unethical" conversion should be avoided, in particular where these laws could apply even in the absence of a complaint by the converted person.

76. Probably one of the main problems with the draft laws on "unethical" conversions will be in their implementation. In particular, they use wording that allows for too broad an interpretation. Moreover, it is very difficult to assess the genuineness of a conversion. While it may be easy to prove that a person has received a gift, it would not be easy to demonstrate that the person has converted because of the gift. Under international law, freedom of conscience is absolute and cannot be subject to any limitation. A mechanism designed to monitor conversions and thus the reasons and purposes behind them could constitute a limitation on freedom of conscience.

77. The wording of the draft laws is also too vague. It allows too great a margin of interpretation, which could be a source of possible abuse and could potentially transform the law into a tool of persecution by those who are genuinely opposed to religious tolerance. The Special Rapporteur is concerned that the adoption of these laws would provide legitimacy to those who want to promote religious intolerance and hatred vis-à-vis certain religious groups.

78. Criminalizing unethical conversions, as defined by the bills, in particular the Ministry Bill might pave the way for persecution of all religious communities, and particularly of religious minorities. The bills allow anyone to complain even if the victim may be unwilling to do so. It thus leaves the door wide open for overzealous people to create further polarisation and to generate an atmosphere of fear among religious minorities.

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

21. States therefore have a number of obligations vis-à-vis the right to conversion. First, States should respect everyone's right to conversion as a forum internum component within freedom of religion or belief, for example, by abolishing punishments against converts and removing administrative obstacles. Moreover, States are obliged to protect the right to conversion against possible third-party infringements, such as violence or harassment against converts by their previous communities or their social environment. In addition, States should promote a societal climate in which converts can generally live without fear and free from discrimination.

22. The right not to be forced to convert also falls within the ambit of the forum internum, which has the status of absolute protection. In a sense, it is already implied in the right to conversion itself which, as a right to freedom, necessarily means voluntary, namely, non-coerced conversion. However, the right not to be forced to convert entails specific obligations on the State and hence warrants a separate discussion.

25. States also have the responsibility to ensure that forced conversions do not occur in the context of marriage or marriage negotiations. The obligation to guarantee effective protection, especially for women and sometimes minors, in this sensitive field follows from the right to freedom of religion or belief as well as from the duty of States to combat all forms of violence and discrimination against women. According to article 16 (1) (b) of the Convention on the Elimination of All Forms of Discrimination against Women, States parties “shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on the basis of equality of men and women [...] the same right freely to choose a spouse and to enter into marriage only with their free and full consent”.

26. Freedom of religion or belief is not confined to the dimension of a person's forum internum but also includes the freedom to manifest one's religion or belief in external acts, such as “worship, observance, practice and teaching”. Such forum externum manifestations can be undertaken “either individually or in community with others and in public or private”. It cannot be denied that this covers non-coercive attempts to persuade others, sometimes also called “missionary work”. Communicative outreach activities aimed at persuading others, including religious discourse, can be further based on article 19 (2) of the International Covenant on Civil and Political Rights, which provides that the right to freedom of expression shall include “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

27. Similar to freedom of expression, freedom of religion or belief has a strong communicative dimension which includes, inter alia, the freedom to communicate within one's own religious or belief group, share one's conviction with others, broaden one's horizons by communicating with people of different convictions, cherish and develop contacts across State boundaries, receive and disseminate information about religious or belief issues and try to persuade others in a non-coercive manner. Indeed, freedom of religion or belief and freedom of expression are two mutually reinforcing human rights. In this spirit, article 6 of the 1981 Declaration confirms that the right to freedom of thought, conscience, religion or belief includes the freedoms “(d) to write, issue and disseminate relevant publications in these areas”, “(e) to teach a religion or belief in places suitable for these purposes”, and “(i) to establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels”.

28. Unlike the forum internum dimension as discussed above (namely, the right to conversion and the right not to be forced to convert), manifestations of one's religion or belief in the forum externum do not enjoy absolute protection. However, the decisive point in international human rights law is that the burden of proof always falls on those who argue on behalf of restrictions, not on those who defend a right to freedom. The relationship between freedom and its possible limitation is a relationship between rule and exception. In case of doubt, the rule prevails and exceptions always imply an extra burden of argumentation, including clear empirical evidence of their necessity and appropriateness. Moreover, any restrictions imposed must meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights, according to which “[f]reedom to manifest one's religion or belief 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”. Thus, limitations imposed on the right to try to convert others require a legal basis; they must pursue one of the legitimate aims exhaustively listed in article 18 (3); they should be clearly and narrowly defined; they must be proportionate; and they should not be implemented in a discriminatory manner. By contrast, general provisions against “proselytism”, a term that often remains undefined or merely vaguely circumscribed while typically carrying negative connotations would not suffice to meet the criteria prescribed in article 18 (3).

The Special Rapporteur's report to the General Assembly in 2017

<https://undocs.org/A/HRC/34/50>

27. There cannot be a meaningful right to freedom of religion or belief unless it includes the freedom to change one's religion or belief. Although the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief are less explicit than article 18 of the Universal Declaration of Human Rights in endorsing the right to change one's religion, the Human Rights Committee provided greater clarity in its general comment No. 22 (1993). In particular, it stressed that the right to “have or to adopt” a religion or belief necessarily entailed 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. This language – “including the right to change one's religion or belief” – is also consistently

reflected in resolutions on freedom of religion or belief adopted by consensus by the General Assembly and the Human Rights Council. The Special Rapporteur notes that this provision refers specifically to the internal dimension of freedom of thought, conscience, religion or belief (often referred to as *forum internum*), which enjoys unconditional and unqualified protection and cannot be restricted, limited, interfered with or derogated from under any circumstances, including during times of public emergency.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

2. Freedom of thought (*forum internum*)

Universal Declaration of Human Rights (1948)

Article 18: Everyone has the right to freedom of thought, conscience and religion.

International Covenant on Civil and Political Rights (1976)

Art. 4 (1): In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

Art. 4 (2): No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

Art. 18 (1): Everyone shall have the right to freedom of thought, conscience and religion.

Art. 18 (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.

Human Rights Committee, General Comment no. 22 (1993)

Para. 3: Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience [...]. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.

18 Commitments on "Faith for Rights" (2017)

Commitment II: We see the present declaration on "Faith for Rights" as a common minimum standard for believers (whether theistic, non-theistic, atheistic or other), based on our conviction that interpretations of religion or belief should add to the level of protection of human dignity that human-made laws provide for.

Commitment III: As religions are necessarily subject to human interpretations, we commit to promote constructive engagement on the understanding of religious texts. Consequently, critical thinking and debate on religious matters should not only be tolerated but rather encouraged as a requirement for enlightened religious interpretations in a globalized world composed of increasingly multi-cultural and multi-religious societies that are constantly facing evolving challenges.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

11. Freedom of religion or belief does not — and indeed cannot — protect religions or belief systems themselves, that is, their various truth claims, teachings, rituals or practices. Instead, it empowers human beings — as individuals, as well as in community with others — who profess religions or beliefs and may wish to shape their lives in conformity with their own convictions. The reason for this focus on "believers rather than beliefs" (as it has been summed up succinctly) is not that human rights reflect a certain "anthropocentric world view", as some observers have wrongly inferred. Instead, a main reason is that religions and beliefs are very different, often even irreconcilably so, in their messages and normative requirements. Religions and beliefs reflect an abundance of diverse teachings, doctrines, ideas of salvation, norms of conduct, liturgies, holidays, fasting periods, dietary customs, dress codes and other practices. Moreover, interpretations of what matters religiously may differ widely, not only between but also within religious communities. Hence, the only common denominator identifiable within such vast diversity seems to be the

human being, who is the one professing and practising his or her religion or belief, as an individual and/or in community with others. Accordingly, human rights can only do justice to the existing and emerging diversity by empowering human beings, who indeed are the right-holders of freedom of religion or belief. This consistent focus on human beings as right-holders is also fully in line with the human rights-based approach in general.

12. Human rights are universal rights in the sense of being intimately linked to the humanness of the human being and hence of all human beings equally. In the first sentence of article 1 of the Universal Declaration of Human Rights, it is stated that: “All human beings are born free and equal in dignity and rights”. Because of its nature as a universal human right, to which all human beings are entitled, freedom of religion or belief must be interpreted broadly. It cannot be confined to particular lists of religious or belief-related “options” predefined by States, within which people are supposed to remain. Instead, the starting point must be the self-definition of all human beings in the vast area of religions and beliefs, which includes identity-shaping existential convictions as well as various practices connected to such convictions. In paragraph 2 of its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, the Human Rights Committee corroborated such an open, inclusive understanding by clarifying that article 18 of the International Covenant on Civil and Political Rights protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief, and that the terms “belief” and “religion” are to be broadly construed. The Human Rights Committee also stressed that 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. One should add that freedom of religion or belief also covers the rights of members of large and small communities, minorities and minorities within minorities, traditionalists and liberals, converts and reconverts, dissenters and other critical voices and, last but not least, women, who sadly still occupy marginalized positions within many religious traditions.

13. Widely-used abbreviations such as “religious freedom” or “religious liberty” do not fully capture the scope of the human right at issue. Even the term “freedom of religion or belief”, which for ease of reference has generally been employed by the Special Rapporteur and his predecessors, remains a shorthand formulation. Hence, it may be useful from time to time to recall the full title of the right, which is “freedom of thought, conscience, religion or belief”. Legislation and jurisdiction in many States do not adequately reflect the full scope of this human right by often restricting its application to predefined types of religions while excluding non-traditional beliefs and practices. Limiting the enjoyment of freedom of religion or belief to members of “recognized” religions is also in violation of the spirit and letter of universal human rights.

Special Rapporteur’s report to the General Assembly in 2021

<https://undocs.org/A/76/380>

1. For many, the pronouncement by René Descartes, “I think, therefore I am”, speaks to the essentiality of “freedom of thought” for the dignity, agency and existence of the human being. As expressed in article 18 of the Universal Declaration of Human Rights, article 18 (1) of the International Covenant on Civil and Political Rights, and article 1 (1) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, freedom of thought is recognized as one of three distinct, but equal rights 2 within the right to freedom of “thought, conscience and religion” or belief.

2. Freedom of thought, along with one’s conscience and belief, is regarded as part of one’s *forum internum* – a person’s inner sanctum (mind) where mental faculties are developed, exercised and defined. The drafting history of the Universal Declaration of Human Rights suggests that some delegates, including the Lebanese delegate, Charles Malik, considered free exercise of these faculties as essential for protecting “the human person’s most sacred and inviolable possessions”, which enable people to “perceive the truth, to choose freely and to exist”. Purposely named as the first right in article 18 of the Declaration, freedom of thought was characterized by the French delegate, René Cassin, as “the origin of all other rights”.

3. Drawing on diverse philosophical and historical traditions, ranging from the Enlightenment to Chinese philosophy and the pro-science sentiments of the Union of Soviet Socialist Republics, several delegates emphasized that freedom of thought extends beyond religious matters, and also protects political, scientific and philosophical thought. Notably, drafters of the Universal Declaration highlighted the suppression of “free thinkers”, scientists and dissidents as paradigmatic violations of the freedom. Yet, although drafters briefly debated what “freedom of thought” encompasses, they did not expand upon it in the formulation of the Declaration.

4. Articles 4 and 18 of the International Covenant on Civil and Political Rights confirm the right’s significance, ascribing it absolute protection, even during public emergencies. Consequently, and unlike *forum externum* (external realm) freedoms that are subject to State limitations, if prescribed by law and necessary to protect public safety, order, health or morals, or the rights of others, States legally cannot ever interfere with freedom of thought. Despite its proclaimed importance and absolute nature, the right’s scope and content remain largely underdeveloped and poorly

understood. The right receives scant attention in jurisprudence, legislation and scholarship, international and otherwise. With one possible exception, the Human Rights Committee has not yet considered freedom of thought when claimants have alleged violations of the right, choosing instead to analyse cases under other human rights provisions. The European Court of Human Rights similarly sidesteps engagement with the freedom. While the freedom is recognized in more than 100 national constitutions, the formulation and regulation thereof are not consistent.

5. Increasingly, commentators and rights holders who are drawing attention to this “forgotten freedom” highlight significant pressures facing freedom of thought, both existing and emerging, the implications of which are not always understood. Stakeholders report, for example, that State and non-State actors use problematic practices to alter thoughts, including through re-education programmes, torture, coercive proselytism, anti-conversion measures and involuntary treatment for purported mental health conditions.

6. Others emphasize major developments in digital technology, neuroscience and cognitive psychology that could potentially enable access to the very content of our thoughts and affect how we think, feel and behave. Despite their nascent nature, commentators note that the advancing design and increasingly widespread use of these technologies raise pertinent questions for policymakers, among others, about how to protect *forum internum* rights, including freedom of thought. [...]

21. Thought and opinion are distinct freedoms, enshrined in Articles 18(1) and 19(1) ICCPR, respectively. Their precise delineation is difficult since both fall within the *forum internum*, and some courts and commentators consider that opinion is a type of “thought.” The ICCPR drafters spent little time elaborating why and to what extent they differ; they merely commented that “thought” and “opinion” were not identical, yet close in meaning and complementary. Notably, the Special Rapporteur on freedom of opinion and expression observes that freedom of opinion is “closely connected” to freedom of thought within *forum internum*, and this “internal process (thought and opinion)” interacts “with the external (expression)”. [...]

25. Beyond absolute protection, relatively little is clear about the right’s core elements or “attributes.” Below, the Special Rapporteur maps four possible attributes of the right based on international human rights jurisprudence and commentary: (a) not being forced to reveal one’s thoughts; (b) no punishment and/or sanctions for one’s thoughts; (c) no impermissible alteration of one’s thoughts; and (d) States fostering an enabling environment for freedom of thought.

26. In discussing freedom of thought in its general comment No. 22, the Human Rights Committee asserted that, “[i]n accordance with articles 18 (2) and 17[of the International Covenant], no one can be compelled to reveal his thoughts” implying that “mental privacy” is a core attribute of freedom of thought. The right not to reveal one’s thoughts against one’s will arguably includes “the right to remain silent”, without explaining such silence. Meanwhile, United States courts recognize that an individual’s right to privacy encompasses mental privacy. [...]

45. **The right to education.** The Committee on the Rights of the Child observes that the right to education “draws upon, reinforces, integrates and complements” freedom of thought, while others postulate that education enables children to develop the cognitive skills necessary to fully enjoy their freedom of thought, including how to protect themselves from thought manipulation and to think critically for themselves. Consequently, States must direct education to “development of the child’s personality, talents and mental [...] abilities to the fullest potential”, and the right to education can “only” be enjoyed “if accompanied by the academic freedom of staff and students”.⁸⁴ Moreover, the State may have obligations to facilitate child leisure and rest. Research indicates that playing “performs a significant role” in brain development, particularly in early years, and that without sufficient rest, children lack the “mental capacity for meaningful participation or learning”.

46. **The right to cultural life and science.** The United Nations Educational, Scientific and Cultural Organization (UNESCO) emphasizes that freedom of thought “enable[s] cultural expressions to flourish within societies”, and the Committee on Economic, Social and Cultural Rights emphasizes that the right to take part in cultural life is “intrinsically linked” to freedom of thought. In addition, the Committee outlines that the right to benefit from scientific progress includes “development of the critical mind and faculties associated with doing science”. Thus, States must take positive steps to advance science (development) and to protect and disseminate scientific knowledge and its applications (conservation and diffusion). States should also promote research on “biological, mental and social aspects of ageing” and on “ways of maintaining functional capacities and preventing and delaying the start of chronic illnesses and disabilities”, including neurodegenerative conditions.

47. **The right to health.** As mental health has many implications for an individual’s inner mind, State obligations – negative or positive – to ensure the highest attainable standard of mental health could affect freedom of thought in various ways. Under the right to health, positive obligations include providing “adequate treatment and rehabilitation for children with mental health and psychosocial disorders while abstaining from unnecessary medication.” States must also ensure against application of coercive medical treatments, barring “an exceptional basis” for treating

mental illness;" and simultaneously protect and assist persons with mental disabilities (e.g., enabling them to live with their families, if they wish). [...]

56. The Special Rapporteur has received reports that certain coercive forms of proselytism infringe upon freedom of thought. Although these stakeholders distinguish between "mild" and "aggressive" coercion, they consider both phenomena capable of impairing freedom of thought. In one reported case, it was alleged that some faith-based organizations use "mild forms of coercion," by making provision of humanitarian aid conditional on aid recipients' conversion to another religion. [...]

58. Some contend that anti-conversion measures infringe upon the forum internum, including freedom of thought and freedom to hold or change religious or belief convictions. Notably, Article 18(2)-(3) ICCPR protect both one's rights to have or to adopt a religion or belief of one's choosing without coercion; and to manifest one's religion or belief. Promoting acceptance of a community's specific religious doctrine or their moral vision, whilst avoiding use of coercive means, does not impinge upon others' rights and therefore does not constitute grounds for criminal sanctions.

59. Along with anti-apostasy laws, stakeholders express concern that anti-blasphemy laws often erode freedom of thought of religious or belief minorities, including atheists and dissenters. These laws reportedly criminalise and censor free expression of one's thoughts out of fear of reprisals and restrict their access and circulation of materials, including free and open Internet access, which can facilitate critical thinking. For instance, it is reported that Qatar criminalises "doubts" in Islamic teaching. The Special Rapporteur recalls that freedom of religion or belief protects individuals, not religions, and reiterates calls for all States to repeal anti-blasphemy and anti-apostasy laws since they undermine both freedom of religion or belief and the ability to have healthy dialogue and debates on a wide range of human concerns, including religion or belief. [...]

91. In the words of one scholar, "[t]o lose freedom of thought is to lose our dignity, our democracy, and our very selves." Many consider that the freedom is not only fundamental, but also foundational as the matrix of most freedoms, including conscience, religion or belief, opinion, and expression. Freedom of thought is simultaneously "profound and far-reaching." It protects thoughts on "all matters," whether about conscience, religion or belief or other topics, and results in one's beliefs, opinions, and expressions, whether vocalised or not. This includes thoughts within a religion, and thoughts that are non-religious. The Special Rapporteur notes that infringements on the right could have a chilling effect upon expression, and vice versa.

92. This important yet poorly understood right faces current and emerging pressures, the full implications of which are still unclear and that demand urgent attention from policymakers and beyond in protecting the right. Various State and non-State practices and policies - including "re-education" programmes, torture, coercive proselytism and anti-conversion efforts, forced administration of psychoactive and other drugs and forced treatment for mental health - may impermissibly alter or be used to sanction thoughts, including those of non-believers and dissenters. Some of those phenomena also may be used to force people to reveal their thoughts or physically modify their brains.

93. Ostensibly, modern technologies pose a global and multi-sectoral challenge for freedom of thought, given their increasingly ubiquitous and developing ability to infer one's thoughts, even if this ability is currently relatively inconsistent and inaccurate. As the Special Rapporteur on the right to privacy warns, "[developing] technologies may reveal [...] the very thoughts of individuals in ways that previously were not possible." [...]

96. The Special Rapporteur recognizes that the right to freedom of thought is relatively underdeveloped in theory and practice compared with the freedoms of conscience and religion or belief in article 18 (1) of the International Covenant on Civil and Political Rights. For States as duty bearers and individuals as rights holders, further clarity on the legal content and scope of freedom of thought is desirable in supporting efforts to respect, promote and fulfil this fundamental right. The present report contributes to this continuing conversation, rather than marking its conclusion. To that end, the United Nations human rights system is encouraged to further engage on this topic, including by adopting a general comment.

97. In order to address pressing concerns over alleged violations of freedom of thought, the Special Rapporteur also makes the following recommendations. States are encouraged to:

(a) Review their legal and policy frameworks to ensure compliance with international human rights law, including rights that may affect an individual's freedom of thought, such as the prohibition on torture and cruel, inhuman or degrading treatment or punishment; freedom of opinion and expression, including access to information and communication; the right to privacy; and the right to health;

(b) Invite relevant stakeholders – including national human rights institutions, civil society (including leaders of all faiths and none), mental health practitioners, digital technology companies and members of vulnerable groups (e.g.,

children, persons with psychosocial disabilities) – to participate in public consultations that canvass their views and concerns about protections for *forum internum* freedoms, including freedom of thought;

(c) Engage with the United Nations human rights system, where appropriate, in helping to clarify the legal content and scope of freedom of thought;

(d) Consider the capabilities of existing and emerging technologies to violate freedom of thought, and either adopt or update legal and policy safeguards to prevent such potential violations;

(e) Support national human rights institutions, civil society actors and human rights defenders in their efforts to monitor and report on purported violations of freedom of thought;

(f) Provide public education that facilitates the access of individuals to information and communication and that, consistent with the principles of freedom of enquiry and academic freedom, utilizes evidence-based reasoning, science, culture and an environment free from proselytism;

(g) Support a diverse and pluralistic media to provide access to different sources of information and means of communication, including by means of free and open Internet access.

98. Civil society should advocate that States review their legislation, practices and policies with the aim of increasing compliance with international human rights law, including existing obligations that could affect freedom of thought. Where possible, civil society could deliver trainings that develop individuals' critical thinking skills, especially for children, such as how to identify misinformation and/or disinformation.

99. Mental health professionals should firmly establish human rights as core values when prioritizing mental health interventions, including in relation to forced treatment.

100. Technology companies should:

(a) As part of their responsibilities under the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, consider how and to what extent their existing and emerging products, services or features might violate freedom of thought, including in the hands of third parties, assessing in particular any impact on vulnerable individuals and groups, such as children;

(b) Accordingly, adopt alternatives that are more compliant with international human rights law;

(c) Regularly publish transparency reports that outline the challenges faced in terms of compliance with freedom of thought, and subsequent action taken. For digital platforms, responses may encompass efforts to mitigate misinformation and/or disinformation, to provide detailed information to users on how and why content curation occurs and enable users to tailor their online experiences; and to develop and integrate "differential privacy" or other privacy minded systems into their algorithms;

(d) Ensure that digital platforms facilitate independent research on the compliance of their products and processes with international human rights law, such as by facilitating human rights impact assessments by independent actors;

(e) Neurotechnology companies should ensure a robust, privacy-focused and human rights-compliant framework for the collection, processing and storage of neurodata. Consistent with privacy, informed consent must lie at the heart of neurodata collection and the participant must be able to revoke and delete their stored data at any time. Where possible, raw data should be processed "on-device" and not uploaded to company or third-party servers.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

3. Freedom from coercion

Universal Declaration on Human Rights (1948)

Everyone has the right to freedom of thought, conscience and religion; this right includes 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 (1976)

Art. 18 (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.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

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

Human Rights Committee, General Comment no. 22 (1993)

Para. 5: 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.

18 Commitments on "Faith for Rights" (2017)

Commitment XV: We pledge neither to coerce people nor to exploit persons in vulnerable situations into converting from their religion or belief, while fully respecting everyone's freedom to have, adopt or change a religion or belief and the right to manifest it through teaching, practice, worship and observance, either individually or in community with others and in public or private.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report on his visit to the Islamic Republic of Iran in 1996

<https://undocs.org/E/CN.4/1996/95/Add.2>

97. In the socio-cultural field, the Special Rapporteur recommends that practical steps should be taken to ensure strict respect for the principle that religious laws should be applied in personal and community affairs, thereby excluding the application of the Shari'a to non-Muslims. With regard to the dress code, the Special Rapporteur emphasizes that the various community traditions and behaviour concerning dress should likewise be respected, but believes that dress should not be turned into a political instrument and that flexible and tolerant attitudes should be shown so that the richness and variety of Iranian dress can be manifested without coercion. In particular, in the field of education, and especially in minority schools, the Special Rapporteur recommends freedom of dress on the understanding that this should obviously not be exercised in a manner contrary to its purposes."

Special Rapporteur's report to the General Assembly in 2005

<https://undocs.org/A/60/399>

49. The fact that article 18, paragraph 3, of the Covenant is to be imposed only on the manifestation of religion or belief clearly assigns the freedom to "have or to adopt a religion or belief" to the first part of paragraph 1, freedom of thought, conscience and religion, also called *forum internum*, which cannot be interfered with in any way. In its general comment No. 22 the Human Rights Committee states clearly that article 18 "does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice" (para. 3).

50. This prohibition of limitation is reinforced by paragraph 2 of the same article, which provides that "[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice." The fact that the prohibition of coercion was made explicit shows that the drafters of the Covenant found the freedom provided by paragraph 1 to be so significant that any form of coercion by the State was impermissible, independently of whether the coercion was physical or in the form of State-sponsored incentives. According to the Human Rights Committee: "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" (general comment No. 22, para. 5).

53. In the cases where non-State actors interfere with the right to "have or adopt a religion or belief of [one's] choice", the requirements of article 18 of the Covenant and other relevant international instruments also entail a positive obligation for the State to protect persons from such interference. The Special Rapporteur wishes to reiterate in this regard that States must ensure that the persons on their territory and under their jurisdiction, including members of religious minorities, can practise the religion or belief of their choice free of coercion and fear. If non-State actors interfere with this freedom, and especially the freedom to change or to maintain one's religion, the State is obliged to take appropriate measures to investigate, bring the perpetrators to justice and compensate the victims (see also E/CN.4/2005/61, para. 42)."

Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

23. Above all, States must meticulously ensure that the specific authority of State agents and State institutions is not used to coerce people to convert or reconvert. One area that requires particular attention in this regard is the school which, besides being a place of learning and education, is also an institution that wields a high degree of authority over children, namely, young persons who may be particularly vulnerable to pressure from teachers or peers (see A/HRC/16/53, paras. 20-62). Other institutions that typically expose individuals to situations of increased vulnerability include the police force, the military and penal institutions. In all these and other State institutions, Governments have a special responsibility to guarantee everyone's protection against possible coercion to convert or reconvert to a religion or belief against their will. The Human Rights Committee has emphasized that policies or practices having the intention or effect of compelling believers or non-believers to convert, for example, by restricting access to education, medical care or employment, are inconsistent with article 18 (2) of the International Covenant on Civil and Political Rights.

24. The right not to be forced to convert is also relevant to non-State actors or to third parties, namely, private individuals or organizations. If individuals or organizations try to convert people by resorting to means of coercion or by directly exploiting situations of particular vulnerability, protection by States against such practices may prove necessary. This may amount to limiting the right to try to persuade others, which itself constitutes an important part of the *forum externum* dimension of freedom of religion or belief. As will be further discussed in section III.B.3 below, such restrictions can, however, only be justified if they strictly meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights.

25. States also have the responsibility to ensure that forced conversions do not occur in the context of marriage or marriage negotiations. The obligation to guarantee effective protection, especially for women and sometimes minors, in this sensitive field follows from the right to freedom of religion or belief as well as from the duty of States to combat all forms of violence and discrimination against women. According to article 16 (1) (b) of the Convention on the Elimination of All Forms of Discrimination against Women, States parties 'shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on the basis of equality of men and women [...] the same right freely to choose a spouse and to enter into marriage only with their free and full consent'."

Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/31/18>

17. Articles 18 and 19 of the Covenant show strikingly similar legal formulations, the most salient common feature being the conceptual distinction drawn in both articles between the *forum internum* and the *forum externum*. This conceptual distinction appears nowhere else in the text of the Covenant. While the wordings used to define the specific protection of the *forum internum* within article 18 and article 19 are slightly different, the basic content is

identical. In both articles the protection accorded to the inner dimension of a person's thoughts, opinions or convictions (religious or otherwise) is strictly unconditional.

18. Article 18 (2) of the Covenant demands that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”. Similarly, article 19 (1) of the Covenant provides for the “right to hold opinions without interference”. The Human Rights Committee has clarified that the non-coercion and non-interference provisions both have the status of unconditional normative requirements. In paragraph 3 of its general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, the Committee points out that article 18 does not permit any limitations whatsoever on the freedom of thought and conscience or the freedom to have or adopt a religion or belief of one's choice, and that those freedoms are protected unconditionally. In paragraph 9 of its general comment No. 34 (2011) on freedoms of opinion and expression, the Committee likewise states that article 19 (1) is a right to which the Covenant permits no exception or restriction. Such unconditional guarantees are rare in international human rights law.

19. A main function of both articles is to protect every individual's inner faculty of forming, holding or changing, *inter alia*, opinions, ideas, conscientious positions, religious and non-religious convictions against coercion and interference. Exposure to coercion in this inner nucleus, for example, by being forced to conceal one's true position or conviction or to feign a belief that is not authentic, can mean betraying oneself. If this happens repeatedly or over a long period, it can undermine the preconditions for developing a stable sense of self-respect. That experience warrants an interpretation of articles 18 (2) and 19 (1) of the Covenant in close analogy to the unconditional prohibition of slavery⁷ and the equally unconditional prohibition of torture. While legal restrictions against external manifestations originating from a person's conviction (i.e., the *forum externum*) may be justifiable in certain situations (provided those restrictions fulfil strict criteria), coercive means can never be legitimately employed to manipulate a person's inner conviction (i.e., the *forum internum*) itself.”

Special Rapporteur's report to the General Assembly in 2021

<https://undocs.org/A/76/380>

29. While article 18 (2) of the International Covenant on Civil and Political Rights protects against “coercion which would impair [the] freedom to have or to adopt a religion or belief [of choice]”, the drafting history of the Covenant suggests that this protection includes freedom from certain forms of “psychological” influence, which legal scholars interpret to include coercive alteration of thought. Scholars equally assert that because “thought” is part of the process through which individuals generate a belief or religious conviction, its coercive alteration could have derivative protections under article 18 (2) of the Covenant. Similarly, the Human Rights Committee has held that freedom from coercion protects freedom of conscience, which, like thought, is an absolute freedom not explicitly mentioned in article 18 (2).

30. There is no single definition of “coercion” within international human rights law. Across national jurisdictions, definitions vary but generally include: use of force, or an express or implied threat that puts the victim in immediate and reasonable fear of the consequences, thereby compelling the victim to act contrary to their will. In examining coercion claims, the Human Rights Committee has affirmatively considered that threats of violence or penal sanction, as well as restrictions on access to education, medical care, employment or participation in public life, are coercive acts that contravene article 18 (1) and (2) of the Covenant.

31. Importantly, architects of the Covenant reasoned that coercion “should not be construed as applying to moral or intellectual persuasion”. Similarly, drafters of the Universal Declaration of Human Rights and the Special Rapporteur on the right to freedom of opinion and expression do not consider that unavoidable ordinary social influences, such as persuasion, are impermissible interferences, with the latter observing that “in reality human beings are influenced constantly in their thought [...] by others”. Stakeholders further observe that the freedom does not “shield the individual from the thoughts of others”. Thus, the exact point at which persuasion becomes coercion requires a case-by-case assessment, with consideration of context and subject.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

4. The right to manifest one's religion or belief (forum externum)

International Covenant on Civil and Political Rights (1976)

Art. 18 (1): Everyone shall have the right to freedom of thought, conscience and religion. This right shall include 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.

Art. 18 (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.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 1 (1): Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever 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.

Art. 1 (3): Freedom to manifest one's religion or belief 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.

Human Rights Committee, General Comment no. 22 (1993)

Para. 4: 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 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.

Human Rights Committee, General Comment no. 24 (1994)

Para. 8: Reservations that offend peremptory norms would not be compatible with the object and purpose of the Covenant. Although treaties that are mere exchanges of obligations between States allow them to reserve inter se application of rules of general international law, it is otherwise in human rights treaties, which are for the benefit of persons within their jurisdiction. Accordingly, provisions in the Covenant that represent customary international law (and a fortiori when they have the character of peremptory norms) may not be the subject of reservations. Accordingly, a State may not reserve the right [...] to deny freedom of thought, conscience and religion, [...] to permit the advocacy of national, racial or religious hatred, [...] or to deny to minorities the right to enjoy their own culture, profess their own religion, or use their own language.

- a) Freedom to worship
- b) Places of worship
- c) Religious symbols
- d) Observance of holidays and days of rest

- e) Appointing leaders
- f) Teaching and disseminating materials
- g) The right of parents to ensure the religious and moral education of their children
- h) Registration
- i) Communicate with individuals and communities on religious matters at the national and international level
- j) Establish and maintain charitable and humanitarian institutions/solicit and receive funding
- k) Conscientious objection

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

a) Freedom to worship	<p>Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)</p> <p>Art. 6: The right to freedom of thought, conscience, religion or belief includes the freedoms: (a) to worship or assemble in connection with a religion or belief; [...] (c) to make, acquire and use the necessary articles and materials related to the rites or customs of a religion or belief.</p> <p>Human Rights Committee, General Comment no. 22 (1993)</p> <p>Para. 4: 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 use of ritual formulae, and objects [...].</p> <p>Human Rights Council resolution 6/37 (2007)</p> <p>Para. 9 (g): Urges States to ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief.</p> <p>General Assembly resolution 77/221 (2022)</p> <p>Para. 14: Urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to that end: [...] (h) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief.</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/19/60>

30. As a universal human right, the right to freedom of thought, conscience, religion or belief must be interpreted strictly in keeping with the opening sentence of the Universal Declaration of Human Rights and similar provisions. Hence it is not that the State could "grant" certain individuals or groups of individuals this right. Rather, it is the other way around: the State has to respect everyone's freedom of religion or belief as an inalienable – and thus non-negotiable – entitlement of human beings, all of whom have the status of right holders in international law by virtue of their inherent dignity.

31. Hence the starting point for defining the application of freedom of religion or belief must be the self-understanding of human beings – all of them – in the field of religion or belief. Such self-understandings obviously can be very diverse. As the Human Rights Committee has rightly pointed out, freedom of religion or belief should therefore be broadly construed so as to protect "theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief". Already in a study published in 1960, the then Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Arcot Krishnaswami, stated that "the term 'religion or belief' is used in this study to include, in addition to various theistic creeds, such other beliefs as agnosticism, free thought, atheism and rationalism".

32. The Special Rapporteur subscribes to this wide understanding, which appropriately reflects respect for the status of all human beings as rights holders by virtue of their human dignity. He furthermore would like to reiterate that freedom of religion or belief equally includes followers of traditional and non-traditional religions or beliefs, members of large or small communities, minorities and minorities within minorities, converts or re-converts and dissenters or other critical voices. One must also not forget the rights of women, who continue to have only marginalized positions within many religious traditions.

33. The Special Rapporteur has noted with concern, however, that some States seem to limit freedom of religion or belief to a given list of religious options. For instance, while in a number of States only the followers of monotheistic religions can fully enjoy their religious freedom, other States take concepts like "traditional religions", "patriotic religious associations" or "known religions" as the starting point, with the result that members of lesser known, new or alternative communities are officially excluded from the full and equal protection of their freedom of religion or belief or are discriminated against. In some countries, the enjoyment of freedom of religion or belief is limited to mainstream manifestations of religions, at the expense of members of so called "heterodox" currents within those

religions. Other States have resorted to a differentiation between “religions” and “sects” to exclude members of small communities from the protection of freedom of religion or belief. The Special Rapporteur also regrets that a few States still make citizenship dependent on affiliation with a particular religion or deny members of non-recognized religions access to official documents such as identity cards, passports, birth certificates and marriage licences. However, the Special Rapporteur has noted with appreciation that judgments of domestic courts in a State have ended a discriminatory policy of not issuing official documents to individuals who do not belong to the three religions officially recognized by that State.

The Special Rapporteur’s report to the General Assembly in 2018

<https://undocs.org/A/73/362>

39. Although States are obligated under international law to support the right of everyone to hold a religion or belief, difficulties often arise when individuals choose to express their convictions, whether by organizing themselves as a religious or belief group or acting in accordance with the precepts of their religion or belief. While it is established that any restriction of the manifestation of religion or belief must strictly meet the limitations regime prescribed by international law, the precise extent of such limitations in specific circumstances has become a salient topic in many countries.

40. Controversies following the debates about whether the construction of minarets could be banned and ongoing conversations in numerous countries about whether people should be allowed to wear religious symbols in their places of education or work, or indeed in public places, illustrate the complexities and pressing nature of questions regarding the scope and limitations of freedom of religion or belief. On the one hand, some secularists have strongly advocated that manifestations of religion should be restricted to the private sphere in order to maintain a “neutral” space in which all persons, of all origins and beliefs, can be treated equally. Others argue that everyone should be allowed to manifest their religion or belief freely, in accordance with their rights as enshrined in international human rights norms and standards, and highlight the uneven impacts that facially neutral laws have on different faith-based communities. The Special Rapporteur reiterates that any and all such restrictions on the manifestation of religion or belief must strictly comply with the limitations regime specified under international human rights law, and must be based on clear evidence.

41. The need to protect public safety and public order is of course clear. The danger, however, is that a State may use such an excuse to limit the rights of persons belonging to a religion or belief community that it finds inconvenient, and some have taken the public safety and order limitation to mean “public interest restrictions”. In many cases, such limitations in the public’s interest have been extended to promote a restrictive form of secularism.

The Special Rapporteur’s report to the General Assembly in 2022

<https://undocs.org/A/77/514>

16. Several experts have observed that article 18 of the Universal Declaration on Human Rights was shaped mainly by debates between Islamic and Protestant Christian groups. At the same time, the diplomatic push for expanding protections for both religion or belief foregrounded the rights of atheists in States of the former Union of Soviet Socialist Republics. The experts argue that indigenous spirituality was generally overlooked and poorly understood within this framework, and “primacy and relative longevity of the ‘freedom of religion or belief’ umbrella has all but sidelined competing rights conceptions regarding religion”.

17. Articles 18 and 27 of the International Covenant on Civil and Political Rights protect the right to manifest religion or belief “individually or in community with others”, as well as the right of minorities to practice their faith. Yet some experts wonder whether international human rights law fully protects indigenous peoples’ collective rights or spirituality when narrowly interpreted. As the Inter-American Court of Human Rights observes, the relationship of indigenous peoples with traditional land is not merely about “possession and production but [has] a material and spiritual element” that they must enjoy to preserve culture. Indigenous spirituality encompasses diverse beliefs and traditions. Many indigenous peoples describe their relationship with nature as balanced or cyclical, embracing places, phenomena, flora and fauna as sacred and emphasizing respect for nature and other humans. Others practice animism or ancestor worship, maintain ceremonial or burial sites and consider hunting and using other resources sustainably as part of their spiritual customs. [...]

86. States should:

(a) Establish legal and policy frameworks that recognize the right of indigenous peoples to their beliefs and comprehensively promote and protect their rights, drawing specifically on the United Nations Declaration on the Rights of Indigenous Peoples, including freedom of religion or belief. To this end, States should regularly review and

revise such frameworks to tackle discrimination, undue restrictions on spiritual manifestations, and impediments to access and use of indigenous peoples' lands;

(b) Establish collaborative, consultative mechanisms for indigenous peoples to effectively influence decision-making on issues that affect them, including developing holistic rights-based policies and matters affecting spiritual practices. Consider and seek to overcome intersectional barriers based on religion or belief identity, disability, sexual orientation and gender identity, and ethnicity; [...]

87. The United Nations and international and regional organizations should:

(a) Re-emphasize the importance of the United Nations Declaration on the Rights of Indigenous Peoples in elucidating the rights of indigenous persons and encourage States to fully respect and protect those rights, including provisions relating to indigenous spirituality; [...]

(d) Facilitate exchanges between UNESCO, the International Council of Museums and indigenous peoples on indigenous spirituality to develop international guidance on appropriate storage and display of indigenous objects, including repatriation; and support the development of international protections for the intellectual property rights of indigenous peoples. [...]

88. Civil society, including religious or belief actors should: [...]

(c) Continue undertaking and supporting advocacy, monitoring and reporting, effectively holding States and non-State actors to account for violations of the freedom of religion or belief of indigenous peoples; [...]

89. Media outlets should provide training to staff to address misinformation and stereotypes towards indigenous peoples and their spirituality, and combat speech inciting violence, discrimination and hostility in accordance with human rights standards and guidance, including the Rabat Plan of Action, the Fez Plan of Action and the United Nations Strategy and Plan of Action on Hate Speech.

90. Private enterprises should:

(a) Promote and respect the rights of indigenous peoples in line with the Guiding Principles on Business and Human Rights, even when domestic law fails to recognize or protect those rights. When seeking free, prior and informed consent, processes should respect the rights and customary decision-making processes of indigenous peoples. Those seeking to use or commercialize traditional indigenous iconography, art or other cultural practices, especially those related to indigenous spirituality, should also recognize the contributions of indigenous peoples appropriately and carefully consider who benefits from that cultural borrowing or appropriation; [...]

91. Museums and cultural centres should collaborate with traditional custodians and government officials to facilitate prompt and culturally sensitive repatriation of indigenous peoples' ceremonial objects and human remains, according to relevant international guidance, with attention paid to those with spiritual significance.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

b) Places of worship

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 6 (a): The right to freedom of thought, conscience, religion or belief includes the freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes.

Human Rights Committee, General Comment no. 22 (1993)

Para. 4: The concept of worship extends to [...] the building of places of worship.

General Assembly resolution 55/254 on protection of religious sites (2001)

Para. 1: Condemns all acts or threats of violence, destruction, damage or endangerment, directed against religious sites as such, that continue to occur in the world.

Para. 2: Calls upon all States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation and to adopt adequate measures aimed at preventing such acts or threats of violence, and invites relevant intergovernmental and non-governmental organizations to contribute to those efforts by developing appropriate initiatives in this field.

Human Rights Council resolution 6/37 (2007)

Para. 9 (e): Urges States to exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction.

Para. 9 (g): Urges States to ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes [...].

General Assembly resolution 75/258 on promoting a culture of peace and tolerance to safeguard religious sites (2021)

Para. 1: Calls for strengthened international efforts to foster a global dialogue on the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and for the diversity of religions and beliefs, and strongly deplores all acts of violence against persons on the basis of their religion or belief and such acts directed against their places of worship, as well as all attacks on and in religious places, sites and shrines that are in violation of international law.

General Assembly resolution 77/221 (2022)

Para. 13: Expresses deep concern at continued obstacles to the enjoyment of the right to freedom of religion or belief, as well as the increasing number of instances of intolerance, discrimination and violence based on religion or belief, including: [...] (d) Attacks on or the destruction of religious places, sites and shrines that violate international law, in particular international human rights law and international humanitarian law, as they have more than material significance for the dignity and lives of persons holding spiritual or religious beliefs.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report in his visit to India in 1997

<https://undocs.org/E/CN.4/1997/91/Add.1>

93. The Special Rapporteur also considers that places of worship should be used exclusively for religious, and not political, purposes. As places for prayer and meditation, they should be protected against tension and partisan struggle. The State should therefore ensure that places of worship remain neutral ground and are sheltered from political currents and ideological and partisan controversy.

The Special Rapporteur's report on his visit to Turkey in 2000

<https://undocs.org/A/55/280/Add.1>

160. The following recommendations are made to the Turkish authorities with respect to the Christian, Greek Orthodox and Armenian minorities: [...] (d) The Government should guarantee minorities the right to establish and maintain their own places of worship, and should allow them to build such facilities in places where new communities have taken root. Any limitations in this respect, for example urban development regulations, should be consistent with international jurisprudence (see General Comment of the Human Rights Committee), and this means that any non-conforming regulations should be repealed or revised.

Special Rapporteur's report to the General Assembly in 2001

<https://undocs.org/A/56/253>

27 [...] The Bamayan statues were destroyed. During this Year of Dialogue among Civilizations, the international community should react strongly and take steps to effectively protect religious sites and monuments, including those which are part of the cultural heritage of mankind. The Special Rapporteur notes with satisfaction that on 31 May 2001, the General Assembly adopted resolution 55/254 on the protection of religious sites, in which it condemns all acts or threats of violence, destruction, damage or endangerment, directed against religious sites as such; calls upon all States to adopt adequate measures aimed at preventing such acts or threats of violence, and invites relevant intergovernmental and non-governmental organizations to contribute to those efforts by developing appropriate initiatives in this field; encourages all States, relevant intergovernmental and non-governmental organizations and the media to promote, inter alia, through education, a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of mankind.

28. The Special Rapporteur draws attention to Commission on Human Rights resolution 2001/42, entitled "Elimination of all forms of religious intolerance", in which the Commission requests States to exert utmost efforts, in accordance with their national legislation and in conformity with international human rights standards, to ensure that religious places, sites and shrines are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction.

The Special Rapporteur's report on his visit to Romania in 2004

<https://undocs.org/E/CN.4/2004/63/Add.2>

100. With regard to the issue of returning religious property ... the Special Rapporteur makes a distinction between, on the one hand, the actual places of worship and the religious items used in acts of worship and, on the other, other property that belonged to religious communities.

101. The Special Rapporteur notes that it has taken a very long time to return the religious property that was confiscated during communist rule and then entered the possession of the State - this concerns most of the religions in Romania - and that most of the property in this category had not yet been returned at the time of the Special Rapporteur's visit. Consequently, while stressing that the failure to return property or the length of time taken to return it is not, at least for property in this category, necessarily a violation of the right to freedom of religion or belief of the members of the communities concerned, the Special Rapporteur requests the authorities to significantly speed up the process of returning property and to complete it as soon as possible.

102. With regard to the places of worship and the items used in acts of worship that were handed over to the Orthodox Church, the Special Rapporteur notes that this mainly concerns churches that had previously belonged to the Greek Catholic Church. The authorities expressly told the Special Rapporteur that they did not wish to become involved in the process of dispute settlement in these cases and that they preferred solutions to be found through dialogue between the two churches concerned. The regulations that have been adopted in this respect reflect the authorities' position.

103. In this connection, the Special Rapporteur takes note in particular of the comments by representatives of the Orthodox Church to the effect that, in the Orthodox tradition, churches are places of worship that belong to the community of believers who use them, not to the Church authorities. This form of ownership demonstrates how the link between the actual places of worship and the right to freedom of religion or belief is far closer than the link between this right and other types of property belonging to religious communities. The Special Rapporteur is of the

opinion that, in certain circumstances, the closeness of this link shows how the deprivation of the right to attend a place of worship may constitute a violation of the right to freedom of religion or belief.

104. International obligations in respect of freedom of religion or belief are primarily obligations incumbent upon the State, not upon religious communities of any kind. Consequently, in cases where members of the community are prevented from using a place of worship that belongs to them, this thereby constituting a violation of their right to freedom of religion or belief, the State cannot abdicate its responsibilities in favour of a process involving an amicable settlement between the two parties concerned. International law requires it to take positive steps to put an end to any situation in which the freedom of religion or belief is violated.

105. From this viewpoint, the Special Rapporteur requests the Romanian Government to end its policy of refusing to become involved in the complex process of returning religious property to the Greek Catholic Church and encourages it to take practical steps to rectify situations that constitute violations of the right to freedom of religion or belief. In this respect, he stresses that the sooner the questions of restitution are settled, the sooner the inter-faith dialogue, which has suffered greatly because of them, can be resumed between the Orthodox Church and the Greek Catholic Church.

106. As for the court cases brought by the Greek Catholic community, the Special Rapporteur is concerned by the attempts to dissuade this community from resorting to this procedure for settling disputes over real estate and by the position of certain authorities that reject court cases in such disputes. The Special Rapporteur believes that an appeal to an independent judiciary is, in a democratic State, the principal means of seeking a remedy for a human rights violation, particularly within the meaning of article 2, paragraph 3, of the International Covenant on Civil and Political Rights.

107. The Special Rapporteur is particularly concerned by reports that final decisions of the courts to grant restitution could not be implemented because of obstacles raised by the Orthodox Church, sometimes with the cooperation of the local authorities. Such actions are flagrant obstacles to the normal exercise of justice and to the independence of the judiciary and may amount to a serious failure by the Government to comply with its international obligation to provide effective remedies for the victims of human rights violations. The Special Rapporteur requests the Government to take appropriate measures to ensure the implementation of the final decisions of the courts in such matters, as well as future decisions on questions of restitution.

108. The Special Rapporteur also points out that international human rights law in matters of freedom of religion or belief, and particularly article 18 of the International Covenant on Civil and Political Rights, implies that the State has positive obligations, in cases where religious minorities are the victims of acts of intolerance or religious violence, including when these acts are perpetrated by non-State individuals or groups, to take the necessary steps to ensure that religious minorities can exercise their right to freedom of religion or belief in complete safety.

Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

48. During the period under review, an important number of communications related to situations or cases where either a place of worship or a religious building or property had been attacked or otherwise subjected to other forms of restriction. States to which such a communication has been transmitted are disparate and no region is spared this form of human rights violation. Moreover, the Special Rapporteur notes that in addition to places of worship, different types of buildings or properties that have more than a material signification for the religious community that is attached to it, such as cemeteries, monasteries or community headquarters, have been targeted. Finally, while attacks on such places have usually been committed by non-State actors, other forms of harm or restrictions were usually committed or imposed by State authorities.

49. Regarding, in particular, attacks on places of worship, the Special Rapporteur wishes to point out that in addition to the special protection that is granted to religious places, sites and shrines by resolution 2004/36, members of religious communities or communities of belief, whenever they find themselves in places of worship, are in a situation of special vulnerability given the nature of their activity. The Special Rapporteur is therefore of the opinion that States should pay increased attention to attacks on places of worship and ensure that all perpetrators of such attacks are properly prosecuted and tried.

50. More generally, as mentioned, inter alia, in paragraph 4 of the Human Rights Committee's general comment No. 22, the Special Rapporteur insists that places of worship are an essential element of the manifestation of the right to freedom of religion or belief to the extent that the great majority of religious communities or communities of belief need the existence of a place of worship where their members can manifest their faith.

51. Moreover, unlike other forms of violations of the right to freedom of religion or belief, attacks or other forms of restriction on places of worship or other religious sites and shrines in many cases violate the right not only of a single individual, but the rights of a group of individuals forming the community that is attached to the place in question.

52. Finally, the Special Rapporteur draws attention to article 53 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and article 16 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), which protect places of worship in times of armed conflict.

The Special Rapporteur's report on his visit to Bangladesh in 2015

<https://undocs.org/A/HRC/31/18/Add.2>

89. In addition to the problems mentioned above, indigenous peoples may also feel disadvantaged because of their broad concept of spirituality, which does not easily match the usual patterns of handling religious freedom. For instance, instead of entertaining spatially demarcated houses of worship, indigenous spirituality often venerates natural sites the spatial dimensions of which cannot easily, if at all, be defined.

The Special Rapporteur's report to the General Assembly in 2022

<https://undocs.org/A/77/514>

18. While "sacred sites" in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (i.e. freedom "to establish and maintain places of worship") seemingly apply to manufactured structures, experts argue that protections must also extend to traditional lands that are integral to indigenous spirituality. Several States, however, allegedly fail to protect believers of indigenous spirituality equally, often dismissing legal claims invoking the right to freedom of religion or belief as justification for protecting indigenous peoples' access and use of traditional lands. The Supreme Court of Canada, for example, authorized the building of a ski resort in the mountains considered sacred since the "state's duty ... is not to protect the object of beliefs". Some courts in the United States of America have ruled that commercial use of traditional lands would not "coerce" indigenous peoples to act contrary to their religious beliefs, and the State could use federal lands anyway "even if [it] makes [their] worship [...] 'impossible'".

19. While all human rights are interconnected and mutually reinforcing, the intersection between culture and freedom of religion or belief for indigenous peoples draws considerable attention. The Committee on Economic, Social, and Cultural Rights observes that maintaining and strengthening their "spiritual relationship" with ancestral lands is "indispensable to their cultural life". Incidentally, indigenous peoples primarily cite cultural rights in complaints to the Human Rights Committee regarding spiritual practices. This is not to say that freedom of religion or belief is less practical and/or applicable, but it is less commonly cited and understood with regard to indigenous peoples. Regional and domestic courts also invoke culture, property or intellectual property law to protect indigenous spiritual practices.

20. Several experts warn that analogizing "indigenous spirituality" for the non-indigenous world – often to gain public support – may decontextualize them. For instance, describing elders as their "priests" or indigenous lands as their (admittedly irreplaceable) "Church". The notion that religious groups may be rights holders without some formal institution, organization or other legal personality is unfamiliar to most modern, liberal legal systems. However, as one interlocutor opined, "[i]ndigenous religions should not have to be likened to Judeo-Christian practices and beliefs to make them acceptable [or deemed worthy of protection]". Nor does international human rights law demand it: freedom of religion or belief is protected regardless of whether the State recognizes its existence. [...]

86. States should: [...]

(f) Launch investigations against non-State actors, including private enterprises, that forcibly displace indigenous persons from their lands and violate freedom of religion or belief and other rights;

(h) Collaborate with indigenous spiritual leaders and influencers to support conservation efforts and the sustainable development of traditional lands through a human rights-based approach. States should also comply with Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments regarding Developments Proposed to Take Place on, or which are Likely to Impact On, Sacred Sites and On Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities;

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

<p>c) Religious symbols</p>	<p>Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)</p> <p>Art. 6 (c): The right to freedom of thought, conscience, religion or belief includes the freedom 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.</p> <p>Human Rights Committee, General Comment no. 22 (1993)</p> <p>Para. 4: The concept of worship extends to [...] the display of symbols. [...] The observance and practice of religion or belief may include not only ceremonial acts but also such customs as [...] the wearing of distinctive clothing or head coverings [...].</p> <p>Human Rights Council resolution 6/37 (2007)</p> <p>Para. 9 (e): Urges States to exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious [...] symbols are fully respected and protected [...].</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

65. From a human rights law perspective, the Special Rapporteur notes that most international judicial or quasi-judicial bodies have considered that the display of religious symbols is a “manifestation” of religion or belief falling within the purview of the second part of article 18, paragraph 1, of ICCPR and therefore susceptible of limitation rather than an element of the “*forum internum*”, which is protected by the first part of article 18, paragraph 1, of ICCPR and hence not susceptible of any limitation.

Special Rapporteur's report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5>

36. When dealing with the issue of religious symbols, two aspects of the question need to be taken into account. On the one hand, many individuals in various parts of the world are prevented from identifying themselves through the display of religious symbols, while on the other hand the reports and activities of the mandate have revealed the practice in some countries of requiring people to identify themselves through the display of religious symbols, including religious dress in public. The Special Rapporteur refers to the former as positive freedom of religion or belief, and to the latter as negative freedom of religion. The following paragraphs examine, from an international human rights perspective, both positive and negative freedom of religion or belief of individuals with regard to the wearing of religious symbols such as garments and ornaments. A different, albeit related, issue is the display of religious symbols in public locations such as courthouses, polling stations, classrooms, public squares, etc. Some aspects of these situations have been the subject of several national legal judgements at the highest level (...)

37. A comparative analysis of the factual aspects reveals a set of regulations or prohibitions on wearing religious symbols in more than 25 countries all over the world. Several religions are affected and religious symbols remain a subject of controversy in a number of countries. Examples of affected believers and their religious garments or ornaments include Muslims wearing headscarves, Jews wearing yarmulkes, Christians wearing crucifixes, collars and nuns' habits, Hindus displaying a bindi, Buddhists wearing saffron robes, Sikhs wearing turbans or kirpans as well as followers of Bhagwan (Osho) wearing reddish-coloured clothing. There are different levels of regulation or prohibition on the wearing of religious symbols including constitutional provisions, legislative acts at the national level, regulations and mandatory directives of regional or local authorities, rules in public or private organizations or institutions (e.g. school rules) and court judgements. The intensity of possible adverse effects for individuals who do not abide by the regulations or prohibitions also depends on the respective field of application. Pupils in primary and secondary schools run the risk of being expelled from the public school system, whereas teachers are in danger of reprimands, suspension and, ultimately, dismissal from their jobs. At the university level, students also run the risk of being expelled or of not being awarded their degrees unless they abide by prescriptions concerning religious symbols. University lecturers are likely not to be employed in the first place. In the work environment in general there is a risk

of reprimands, suspension and dismissal directly connected to the wearing of religious symbols. This may affect both employees in private enterprises and civil servants, as well as members of Parliament and military personnel. When certain dress codes are applicable for ID photographs, e.g. on permanent resident cards, visas, passports and driving licences, individuals run the risk of not receiving the official ID or of being forced to wear the required head covering on ID photographs for deportation purposes. In public, individuals may either be prevented (positive aspect of freedom of religion or belief) or coerced to wear religious symbols that they consider not essential to their convictions (negative freedom of religion or belief).

38. The obligation to wear religious dress in public in certain countries was particularly criticized by Special Rapporteur Amor, who stated that "women are among those who suffer most because of severe restrictions on their education and employment, and the obligation to wear what is described as Islamic dress" (E/CN.4/1998/6, para. 60). There were reports of punishment by whipping and/or a fine (A/51/542/Add.2, para. 51) and a growing number of women being attacked in the streets (E/CN.4/2003/66/Add.1, para. 59), or even killed after being threatened for failing to wear religious symbols (E/CN.4/1995/91, p. 36). After in situ visits, Special Rapporteur Amor addressed possible solutions by urging that dress should not be the subject of political regulation and by calling for flexible and tolerant attitudes in this regard. At the same time he emphasized that traditions and customs were worthy of respect (E/CN.4/1996/95/Add.2, para. 97 and A/51/542/Add.2, para. 140). In his thematic studies he also referred to the different possible meanings of religious symbols (E/CN.4/2002/73/Add.2, paras. 101-102) and in particular to the situation of pupils in the public school system (A/CONF.189/PC.2/22, paras. 56-59).

40. As mentioned in the Special Rapporteur's previous annual report (E/CN.4/2005/61, para. 65), most international judicial or quasi-judicial bodies consider the display of religious symbols as a manifestation of religion or belief (*forum externum*) rather than being part of internal conviction (*forum internum*), which is not subject to limitation. Several universal and regional human rights instruments refer to the freedom "to manifest his religion or belief in worship, observance, practice and teaching" [See the wording - with a slightly differing order of the list of possible manifestations of religion or belief - in article 18 Universal Declaration of Human Rights (UDHR), in article 18 (1) International Covenant on Civil and Political Rights (ICCPR), in article 12 (1) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), in article 1 (1) of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981 Declaration) and in article 9 (1) European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).] (emphasis added).-The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief more specifically enumerates the freedom to "make, acquire and use to an adequate extent the necessary articles and materials related to rites or customs of a religion or belief". [Article 6 (c) of the 1981 Declaration. Cf. also Principle 16 of the Concluding Document of the 1989 Vienna Meeting of Representatives of the Participating States of the CSCE Conference: "In order to ensure the freedom of the individual to profess and practice religion or belief, the participating State will, inter alia, [...] (16.9) respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief;".] According to the Human Rights Committee's general comment No. 22 on article 18 of the Covenant, "[t]he observance and practice of religion or belief may include not only ceremonial acts but also such customs as [...] the wearing of distinctive clothing or head coverings" (para. 4).

41. It is not clear whether the wearing of religious symbols falls under the category of "practice" or "observance". In listing the features that required protection, the Committee does not seem to distinguish clearly between these two categories...During the elaboration of general comment No. 22, Human Rights Committee member Rosalind Higgins stated that "[...] it was not the Committee's responsibility to decide what should constitute a manifestation of religion". She resolutely opposed the idea that "States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves". [See the Human Rights Committee discussion on 24 July 1992, Summary Records of the 1166th meeting of the forty-fifth session, para. 48.] A certain appearance or exhibition of a symbol may or may not be linked to any religious sentiment or belief. It would therefore be most inappropriate for the State to determine whether the symbol in question was indeed a manifestation of religious belief. The Special Rapporteur therefore shares the approach of the Human Rights Committee in dealing with the wearing of religious symbols under the headings of "practice and observance" together.

C. International case law

47. At the regional level, the European Court of Human Rights and, previously, the European Commission on Human Rights appear to be more inclined to allow States to limit individuals' positive freedom of religion or belief. The Court case *Sahin v. Turkey* concerned the refusal of admission to lectures and examinations at Istanbul University for students whose heads were covered. Both the Court Chamber and the recent Grand Chamber judgements held the notion of secularism to be consistent with the values underpinning the European Convention on Human Rights. With regard to article 9 of ECHR, "the Court considered that, when examining the question of the Islamic headscarf in the

Turkish context, there had to be borne in mind the impact which wearing such a symbol, which was presented or perceived as a compulsory religious duty, may have on those who chose not to wear it". [*Sahin v. Turkey*, application No. 44774/98, ECtHR Chamber judgement of 29 June 2004, para. 108 and ECtHR Grand Chamber judgement of 10 November 2005, para. 115.] In her dissenting opinion, however, Judge Tulkens disagreed with the manner in which the principles of secularism and equality were applied by the majority of the Grand Chamber. She underlined that not mere worries, but only "indisputable facts and reasons whose legitimacy is beyond doubt" were capable of justifying interference with a right guaranteed by the Convention.

48. In the case *Dahlab v. Switzerland*, the application of a teacher in a primary school who had been prohibited from wearing a headscarf in the performance of her professional duties was dismissed by the European Court of Human Rights at the admissibility stage. The Court held that a teacher, wearing a "powerful external symbol" such as the headscarf might have some kind of proselytizing effect on young children, who were in this case aged between 4 and 8 years. Thus, the Court concurred with the view of the Swiss Federal Court that the prohibition of wearing a headscarf in the context of the applicant's activities as a teacher was "justified by the potential interference with the religious beliefs of her pupils, other pupils at the school and the pupils' parents, and by the breach of the principle of denominational neutrality in schools". [*Dahlab v. Switzerland*, application No. 42393/98, ECtHR decision of 15 February 2001 (cf. ECHR 2001-V at p. 462).]

49. The protection of the beliefs of others and of public order was also stressed in the case *Refah Partisi (the Welfare Party) and Others v. Turkey*, where the Grand Chamber of the European Court stated that "measures taken in universities to prevent certain fundamentalist religious movements from exerting pressure on students who do not practise that religion or on those who belong to another religion may be justified under article 9 [paragraph] 2 of the Convention". [*Refah Partisi (the Welfare Party) and Others v. Turkey*, applications Nos. 41340/98, 41342/98, 41343/98 and 41344/98, ECtHR Grand Chamber judgement of 13 February 2003, para. 95. See also the ECtHR Chamber judgement of 31 July 2001, para. 51.]

50. The European Commission on Human Rights also dealt with two applications, *Karaduman v. Turkey* (No. 16278/90) and *Bulut v. Turkey* (No. 18783/91), concerning the university's refusal to issue a diploma because the photographs that the applicants had submitted for their identity documents portrayed them with their heads covered. In its decisions of 3 May 1993, the Commission did not regard the rejection to be an interference with the applicants' freedom of religion or belief as secular universities may regulate manifestation of religious rites and symbols with the aim of ensuring harmonious coexistence between students of various faiths and thus protecting public order and the beliefs of others.

Development of a set of general criteria to balance competing human rights

51. In general, contentious situations should be evaluated on a case-by-case basis, e.g. by weighing the right of a teacher to manifest his or her religion against the need to protect pupils by preserving religious harmony according to the circumstances of a given case. However, developing a set of general criteria to balance competing human rights seems to be desirable in order to give some guidance in terms of the applicable international human rights standards and their scope. In a manner similar to the guideline developed in 2004 by the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE, ["Guidelines for Review of Legislation Pertaining to Religion or Belief", prepared by the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief in consultation with the Council of Europe's Commission for Democracy Through Law (Venice Commission), 2004, available at http://www.osce.org/odihr/item_11_13600.html.] the aim of these general criteria is to assist national and international bodies in their analyses and reviews of laws and draft legislation pertaining to the freedom of religion or belief. The Special Rapporteur invites Governments that intend to regulate the wearing of religious symbols to consider seeking advisory services from the Office of the High Commissioner for Human Rights.

52. When developing such a set of general criteria, the competing human rights and public interests put forward in national and international forums need to be borne in mind. Freedom of religion or belief may be invoked both in terms of the positive freedom of persons who wish to wear or display a religious symbol and in terms of the negative freedom of persons who do not want to be confronted with or coerced into it. Another competing human right may be the equal right of men and women to the enjoyment of all civil and political rights, as well as the principle of the right to be protected from discrimination of any kind, including on the basis of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or other status. The right of everyone to education may be invoked by pupils who have been expelled for wearing religious symbols in accordance with their religion or belief. Furthermore, the rights of parents or legal guardians to organize life within the family in accordance with their religion or belief and bearing in mind the moral education which they believe should inform the child's upbringing (see article 5 (1) of the Declaration) may also be at stake.

54. With regard to the scope of permissible limitation clauses, the Human Rights Committee's general comment No. 22 emphasizes that article 18 (3) of the Covenant "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 (para. 8)".

55. On the basis of the above-mentioned factual aspects, the legal framework and international case law, the Special Rapporteur has endeavoured to develop a set of general criteria in order to evaluate - from a human rights law perspective - restrictions and prohibitions on wearing religious symbols. The following "aggravating indicators" show legislative and administrative actions which typically are incompatible with international human rights law whereas the subsequent "neutral indicators" by themselves do not tend to contravene these standards:

(a) Aggravating indicators:

- The limitation amounts to the nullification of the individual's freedom to manifest his or her religion or belief;
- The restriction is intended to or leads to either overt discrimination or camouflaged differentiation depending on the religion or belief involved;
- Limitations on the freedom to manifest a religion or belief for the purpose of protecting morals are based on principles deriving exclusively from a single tradition; [*Id.* For the *travaux préparatoires* see the Human Rights Committee discussion on 2 and 5 April 1993, Summary Records of the 1225th and 1226th meetings of the forty-seventh session.]
- Exceptions to the prohibition of wearing religious symbols are, either expressly or tacitly, tailored to the predominant or incumbent religion or belief;
- In practice, State agencies apply an imposed restriction in a discriminatory manner or with a discriminatory purpose, e.g. by arbitrarily targeting certain communities or groups, such as women;
- No due account is taken of specific features of religions or beliefs, e.g. a religion which prescribes wearing religious dress seems to be more deeply affected by a wholesale ban than a different religion or belief which places no particular emphasis on this issue;
- Use of coercive methods and sanctions applied to individuals who do not wish to wear a religious dress or a specific symbol seen as sanctioned by religion. This would include legal provisions or State policies allowing individuals, including parents, to use undue pressure, threats or violence to abide by such rules;

(b) Neutral indicators:

- The language of the restriction or prohibition clause is worded in a neutral and all-embracing way;
- The application of the ban does not reveal inconsistencies or biases vis-à-vis certain religious or other minorities or vulnerable groups;
- As photographs on ID cards require by definition that the wearer might properly be identified, proportionate restrictions on permitted headgear for ID photographs appear to be legitimate, if reasonable accommodation of the individual's religious manifestation are foreseen by the State;
- The interference is crucial to protect the rights of women, religious minorities or vulnerable groups;
- Accommodating different situations according to the perceived vulnerability of the persons involved might in certain situations also be considered legitimate, e.g. in order to protect underage schoolchildren and the liberty of parents or legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

56. In seeking to accommodate different categories of individuals details of permissible limitations will be controversial. In general schoolchildren are generally considered vulnerable in view of their age, immaturity and the compulsory nature of education. In addition, parental rights are also put forward as justification for limiting teachers' positive freedom to manifest their religion or belief. In all actions concerning children, the best interests of the child shall be the primary consideration. University students, however, have normally reached the age of majority and are generally considered to be less easily influenced than schoolchildren, and parental rights are usually no longer involved.

57. The above-mentioned controversy over the peculiarities of certain institutional settings was already alluded to in 1959 by Arcot Krishnaswami, then Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his seminal study of discrimination in the matter of religious rights and practices: "A prohibition of the wearing of religious apparel in certain institutions, such as public schools, may be motivated by the desire to preserve the non-denominational character of these institutions. It would therefore be difficult to formulate

a rule of general application as to the right to wear religious apparel, even though it is desirable that persons whose faith prescribes such apparel should not be unreasonably prevented from wearing it." [E/CN.4/Sub.2/200/Rev.1, p. 33.]

58. Where a policy decision has been taken at the national level to interfere with the freedom to manifest one's religion or belief with regard to wearing religious symbols issues of commensurability need to be thoroughly respected both by the administration and during possible legal review. For this purpose, the following questions should be answered in the affirmative:

- Was the interference, which must be capable of protecting the legitimate interest that has been put at risk, appropriate?
- Is the chosen measure the least restrictive of the right or freedom concerned?
- Was the measure proportionate, i.e. balancing of the competing interests?
- Would the chosen measure be likely to promote religious tolerance?
- Does the outcome of the measure avoid stigmatizing any particular religious community?

Prohibition of religious symbols

59. When dealing with the prohibition of religious symbols, two general questions should always be borne in mind: What is the significance of wearing a religious symbol and its relationship with competing public interests, and especially with the principles of secularism and equality? Who is to decide ultimately on these issues, e.g. should it be up to the individuals themselves, religious authorities, the national administration and courts, or international human rights mechanisms? While acknowledging that the doctrine of "margin of appreciation" may accommodate ethnic, cultural or religious peculiarities, this approach should not lead to questioning the international consensus that "[a]ll human rights are universal, indivisible and interdependent and interrelated", as proclaimed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993.

60. The fundamental objective should be to safeguard both the positive freedom of religion or belief as manifested in observance and practice by voluntarily wearing or displaying religious symbols, and also the negative freedom from being forced to wear or display religious symbols. At the same time, the competing human rights need to be balanced and public interest limitations should be applied restrictively.

Special Rapporteur's report to the General Assembly in 2010

<https://undocs.org/A/65/207>

34. The Special Rapporteur also follows closely the discussions in a number of countries on banning the wearing of specific religious dress and garments. Recently, most related domestic laws or bills were focusing on restrictions with regard to the display in public places of the full head-to-toe Islamic veil. She notes that this discussion on the burka or niqab is not limited to Western States [For example, on 19 May 2010, the Council of Ministers of France approved a bill to ban garments which cover the face in public and to punish those who force someone through threats, violence or misuse of a position of authority to cover her face because of her sex. On 4 May 2010, the Parliament of the Swiss canton of Aargau voted to introduce a motion in the Federal Assembly of Switzerland that would forbid people from wearing the niqab in public places. On 29 April 2010, the Lower House of Parliament of Belgium voted in favour of a bill which bans any clothing that conceals the face in public space, including on the street. Provincial legislation introduced in March 2010 in the Canadian province of Quebec stipulates that Muslim women would need to uncover their faces when dealing with Quebec government services or when they are employees of the province. See also the latest report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/15/53, paras. 46-60).] but that related decisions have also been issued in other regions.[The High Court of Bangladesh, for example, issued a verdict on 8 April 2010, ordering the Ministry of Education to ensure that women who are employed in public institutions are not required to wear the veil against their will. In January 2010, the Indian Supreme Court ordered that burka-clad women cannot be issued with voter identity cards, rejecting the argument that religion prohibits them from lifting their veils. According to a law passed in 2006 in Kuwait, women with covered faces are not allowed to drive cars in Kuwait.] In her 2006 report to the Commission on Human Rights, the Special Rapporteur already analysed some factual aspects, the legal framework and international case law with regard to religious symbols in general. In this regard, she developed a set of general criteria to balance competing human rights, to assist States in reviewing and drafting legislation on the right to freedom of religion or belief.[E/CN.4/2006/5, paras. 51-60.] The Special Rapporteur identified some "aggravating indicators", i.e. legislative and administrative actions which typically are incompatible with international human rights law, for example if exceptions to the prohibition of wearing religious symbols are tailored to the predominant or incumbent religion or belief. At the same time, the Special Rapporteur also referred to "neutral indicators", for

example if the interference is crucial to protect the rights of women, religious minorities and vulnerable groups or if the wearer must be properly identifiable, e.g. on an identity card photograph or at security checks. She would like to reiterate that the fundamental objective should be to safeguard both the positive freedom of religion or belief, as manifested by voluntarily displaying religious symbols, and also the negative freedom from being forced to display religious symbols. Special attention should be paid to the protection of women's rights, in particular in the context of wearing the full head-to-toe veil.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/16/53>

41. The role of religious symbols, including wearing religious garments in school and displaying religious symbols in classrooms, has been, and continues to be, a matter of controversy in a number of countries. Students or teachers observing religious dress codes, including Islamic headscarves and Sikh turbans, have in some countries been expelled from schools, denied access to higher education or suspended from their jobs. In addition, the compulsory display of religious symbols, such as the crucifix, in the exercise of public authority in relation to specific situations subject to governmental supervision, particularly in classrooms, has yielded numerous court decisions at national and regional levels. Furthermore, cases of imposition of religious dress codes are also of concern.

42. To do justice to the complexity of the topic, one has to bear in mind a number of important distinctions. For example, given the specific role and status of the teacher, it obviously makes a difference whether religious symbols are worn by teachers or by students, and there may be good reasons for such a difference to be reflected in respective legislation or court decisions. The age of pupils could possibly be a factor for having different regulations in primary schools and in institutions of higher education. It would again be different if the presence of a particular religious symbol in classrooms of public schools was prescribed by the authorities without any exceptions and if the State itself was perceived to express a religious belief. Moreover, an important factor to be taken into consideration is the general dynamics of majority and minority religious groupings in society at large or within a particular school situation. Thus, different constellations may require different solutions which should be precisely assessed on a case-by-case basis.

43. Without prejudice to contextual specificities, however, there are nevertheless good reasons to start with a general presumption of the students' right to wear religious symbols in the school. According to article 18, paragraph 1, of the International Covenant on Civil and Political Rights, the right to freedom of thought, conscience and religion includes freedom to manifest one's religion or belief in worship, observance, practice and teaching. There can be little doubt that observing and practicing one's religion or belief may also include the wearing of distinctive clothing or head coverings in conformity with the individual's faith. Moreover, freedom of religion or belief can be exercised either individually or in community with others and in public or private. The possibility to wear religious symbols in the public sphere, including in the school context, thus appears to be a natural result of the freedom to manifest one's religion or belief. In addition, religious symbols in the school may also reflect the religious diversity as it exists in society at large.

44. On the other hand, the freedom to manifest one's religion or belief is not without limitations. According to the criteria set out in article 18, paragraph 3, of the International Covenant on Civil and Political Rights, limitations must be "prescribed by law and [be] necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". The application of the criteria for possible limitations of the freedom to manifest one's religion or belief, at any rate, requires diligence, precision and precaution. Given the ambivalence of the school situation in which students, in particular members of minorities, might at times experience situations of personal or structural vulnerability, the general presumption in favour of the possibility to wear religious symbols must thus be connected with a number of caveats. For instance, in some constellations restrictions on the freedom to manifest religion or belief by wearing religious symbols may be justifiable in order to protect minority students from pressure exercised by schoolmates or their community. Moreover, a teacher wearing religious symbols in the class may have an undue impact on students, depending on the general behaviour of the teacher, the age of students and other factors. In addition, it may be difficult to reconcile the compulsory display of a religious symbol in all classrooms with the State's duty to uphold confessional neutrality in public education in order to include students of different religions or beliefs on the basis of equality and non-discrimination.

45. Obviously, finding appropriate solutions for conflicts over religious symbols in the school is not an easy task, and there exists no general blueprint simply applicable to all constellations or situations. At the same time, it is clear that the goal must always be to equally protect the positive and the negative aspects of freedom of religion or belief, i.e. the freedom positively to manifest one's belief, for instance by wearing religious clothing, and the freedom not to be exposed to any pressure, especially from the State or within State institutions, to perform religious activities. Furthermore, any restrictions on the freedom to observe religious dress codes deemed necessary in that context must

be formulated in a non-discriminatory manner. It would not be legitimate, for instance, if restrictions were linked to exception clauses in favour only of the dominant religion of the country concerned.

46. In this context, the Special Rapporteur would like to draw attention to the observations made by the previous mandate holder in her last report to the Commission on Human Rights (E/CN.4/2006/5, paras. 51-60). In that report, Ms. Jahangir developed a number of general criteria on the assessment of conflicts over religious symbols, especially in a school situation. Inter alia, she draws a distinction between regulations addressed to all religious symbols in a neutral manner and regulations which – de jure or de facto – privilege the symbolic presence of some religions, at the expense of other religions or beliefs, a practice which may be in breach of the principle of non-discrimination. She also indicated that accommodating different situations according to the perceived vulnerability of the persons involved might in certain situations be considered legitimate, e.g. in order to protect underage schoolchildren and the parents' liberty to ensure the religious and moral education of their children in conformity with their own convictions. Furthermore, women's rights, and in particular the principle of equality between men and women and the individual's freedom to wear or not to wear religious symbols, should be duly taken into account. [...]

59. With regard to religious symbols, especially in public schools, the Special Rapporteur would like to reiterate that each case has to be decided according to its own circumstances. If restrictions on the wearing of religious symbols are deemed necessary, these restrictions should not be applied in a discriminatory manner and they must be directly related and proportionate to the specific need on which the restrictions are predicated. At the same time, for example, the rights of the child and their parents or legal guardians may justify limiting the freedom of teachers who wish to manifest their religion or belief by wearing a religious symbol. In all actions concerning children, the "best interests" of the child shall be a primary consideration. With regard to the State-prescribed mandatory display of religious symbols in classrooms, States should uphold confessional neutrality in public education in order to include students of different religions or beliefs on the basis of equality and non-discrimination.

The Special Rapporteur's report to the Human Rights Council in 2021

<https://undocs.org/A/HRC/46/30>

26. Despite the fact that some women regard it as integral to their faith or identity, at least 11 States in Europe, Africa and South Asia impose public restrictions or bans on Muslim head coverings – predominantly worn by women – on the grounds that this type of religious dress is incompatible with a secular public space, violates the rights of Muslim women or poses a security risk. Other States reportedly permit certain institutions (e.g., schools, places of work or the courts) to exercise discretion on whether to permit Muslim dress. Although such laws apply to all religious symbols, Muslim women are often disproportionately affected. As the Human Rights Committee has noted, such prohibitions can violate Muslim women's rights to freedom of religion or belief and non-discrimination and exacerbate their social marginalization. The same may hold true for restrictions on expressions of Muslim traditions adopted by men, such as the cut of beards.

32. Muslim women are particularly affected. Legislative bans on religious dress and workplace dress codes can directly exclude women from certain employment contexts and/or lead to self-exclusion from particular careers and places of work. Additionally, the perception and fear of discrimination or hostility from colleagues is often heightened among Muslim women.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

d) Observance of holidays and days of rest

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 6 (h): The right to freedom of thought, conscience, religion or belief includes the freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief.

Human Rights Committee, General Comment no. 22 (1993)

Para. 4: The concept of worship extends to [...] the observance of holidays and days of rest.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report to the Commission on Human Rights in 1987

<https://undocs.org/E/CN.4/1987/35>

57. The freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief (art. 6 (h)) is particularly significant since it allows the faithful to perform a series of ceremonies and religious customs that often have cultural and traditional connotations. It is precisely this cultural aspect that is often viewed with suspicion by the authorities and combated by them. Thus, in one country, the religious practice of the circumcision of male children is not permitted; similarly, obstacles are placed in the way of religious traditions such as the celebration of marriage and funeral ceremonies according to the rites of a religion. In another country, certain rites and ceremonies peculiar to tribal religions have been banned. Elsewhere, it is extremely difficult in practice for the followers of a certain religion to bury their dead in accordance with religious ritual. Sometimes a conflict of interest is visible between religious requirements and health requirements, particularly in the case of children. Thus, in one country, the courts decided in certain cases against ritual practices when the latter were believed to constitute a direct danger to children's lives. On occasion, the conflict arises from the fact that the authorities fail to take account, in certain areas, of religious requirements concerning days of rest. In one country, a petition was presented to the authorities to enable the members of a sect to be exempted from sitting for examinations on a certain week-day considered by their faith as a complete day of rest, to which the authorities agreed.

Special Rapporteur's report on his visit to Australia in 1997

<https://undocs.org/E/CN.4/1998/6/Add.1>

37. One of the characteristics of Australian Muslims is the importance of religious practice on Fridays and religious holidays. The call to prayer is allowed, but without microphones, except at the end of Ramadan. The Muslim representatives said that they had requested official recognition of religious days so that believers, i.e. adults in the workplace and young people in school, who so wished did not have to work on those days. It was also stated that the authorities approached responded positively to such requests. One representative of the Department of Training and Education in the State of New South Wales said that, if the Muslims insisted, religious holidays could be observed in public schools, as was already the case for the Jewish community. In reply to the Special Rapporteur's question on how requests by minorities could be reconciled with the concerns of the majority, a representative of the Human Rights and Equal Opportunity Commission explained that, while the Australian democratic system was based on a general preference for the majority, flexibility, compromise and pragmatism had to be demonstrated, according to the context. [...]

47. Australia's community harmony and, in particular, the importance of inter-faith dialogue are two points that were stressed. In this connection, religious holidays are often an opportunity to invite the leaders of other communities and get to know them, their cultures and their religions, as well as to promote dialogue.

The Special Rapporteur's report on her visit to the former Yugoslav Republic of Macedonia in 2009

<https://undocs.org/A/HRC/13/40/Add.2>

16. The 2007 Public Holidays Act provides that the religious festivals of Orthodox Christmas and Easter as well as the Islamic Ramazan Bayram shall be public holidays for all citizens of the former Yugoslav Republic of Macedonia and that a number of other religious festivals [The additional religious holidays are stipulated in article 2 of the 2007 Public Holidays Act, indicating the religious festivals for Macedonian Orthodox Christians (five additional holidays), Muslims (one), Jews (one) and Catholics (three).] are holidays for a particular group of believers only. Similarly, the previous law on public holidays, dating back to 1998, stipulated that Ramazan Bayram and Kurban Bayram were holidays only for citizens of the Muslim faith. In a related judgement, the European Court of Human Rights emphasized that “while the notion of the State sitting in judgement on the state of a citizen’s inner and personal beliefs is abhorrent and may smack unhappily of past infamous persecutions, the Court observes that this is a case where the applicant sought to enjoy a special right bestowed by Macedonian law which provided that Muslims could take holiday on particular days”. [See judgement of the European Court of Human Rights of 13 April 2006, *Kosteski v. the former Yugoslav Republic of Macedonia*, application no. 55170/00, para. 39.] Since the applicant in the case of *Kosteski v. the former Yugoslav Republic of Macedonia* was not prepared to produce any evidence that could substantiate his claim to be a Muslim, the European Court of Human Rights concluded unanimously that there had been no violation of articles 9 and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Special Rapporteur’s report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/19/60>

49. In addition, if communities do not enjoy legal personality status, their members may encounter administrative problems with regard to making, acquiring and using to an adequate extent the necessary articles and materials related to the rites or customs of their religion or belief. This may also negatively affect their opportunities of celebrating holidays and ceremonies in accordance with the precepts of their religion or belief.

The Special Rapporteur’s report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/22/51>

29. Besides problems of direct and open discrimination, members of religious minorities may also suffer from hidden forms of discrimination, such as structural or indirect discrimination. For instance, seemingly neutral rules relating to dress codes in schools or other public institutions, although not openly targeting a specific community, can amount to discrimination against persons belonging to a religious minority who feel religiously obliged to obey a particular dress code. Similar problems can occur with regard to dietary rules, public holidays, labour regulations, public health norms and other issues. It may be the case that large parts of the population are not even aware of the possibly adverse implications that prima facie neutral rules may have on the rights of persons belonging to religious minorities. To prevent or rectify discriminatory consequences, States should generally consult with representatives of religious minorities before enacting legislation that may infringe on their religious or belief-related convictions and practices, and they should develop and promote policies of “reasonable accommodation” for individual members of minorities to enable them to live in conformity with their convictions. [...]

65. States should hold consultations with representatives of religious or belief minorities when drafting legislation that could impact on their convictions and practices such as observation of holy days, dietary provisions, dress codes in public institutions, labour laws, participation in public or cultural life, etc.

The Special Rapporteur’s report to the General Assembly in 2014

<https://undocs.org/A/69/261>

26. For most employees the workplace has a significance that goes far beyond its economic function. Besides providing an income, the workplace constitutes an important part of an employee’s everyday life, with high relevance for individual self-esteem, self-image, social connections and inclusion into community and society at large. The workplace is furthermore a place in which many people manifest their religious convictions — or wish to do so. For example, some employees wear religious garments and perform their prayers at work. Members of religious minorities may also ask for the possibility to abide by religiously prescribed dietary rules or holidays. And occasionally employees refuse to perform certain work-related activities which run contrary to their deeply held conscientious convictions.

46. Apart from straightforward expressions of religious intolerance and direct discrimination against religious minorities, intolerance and discrimination can also occur in more concealed or indirect forms which are not always easy to detect. They often remain hidden by seemingly “neutral” rules which, although on the surface applying to everyone equally, can have disproportionately negative effects on some people. For instance, the management of holidays at the workplace typically reflects the dominant religious and cultural tradition in a country. Whereas adherents of majority religions usually do not encounter great problems when trying to combine their work-related

obligations with the celebration of their religious holidays, the situation of religious or belief minorities may be much more complicated. Additional problems may arise for people who feel a religious obligation not to work on specific days during the week. For instance, some Jews or Seventh-Day-Adventists have lost their jobs as a result of their refusal to work on Saturdays, and the same has happened to both Muslims and Christians who objected to working on Fridays or Sundays, respectively. Another example of possible indirect discrimination concerns dress code regulations which, in the name of "corporate identity" or for other reasons, prohibit employees from wearing religious garments. While on the surface such regulations may appear to affect all staff members equally, in practice they can impose disproportionate burdens on members of religious or belief minorities who may be confronted with the dilemma of either living in accordance with their convictions or risking dismissal or other sanctions.

52. In many institutions, a more or less appropriate infrastructure already exists or is in the process of development. Accommodating religious or belief-related diversity in the workplace has become a standard practice in many public institutions and private companies. One example is respect for specific dietary needs originating from religious precepts or other conscience-based reasons. Workplace canteens frequently provide halal or kosher food and offer vegetarian meals, and in many cases this is appreciated even by employees who have not requested such options for religious reasons. Public and private employers have successfully negotiated pragmatic ways of accommodating diverse religious holidays, for instance, by permitting employees to use parts of their annual vacation for this purpose. Trade unions and staff representatives often participate in such negotiations. There are also examples of employees performing their prayer rituals in the workplace without any negative implications on professional operations. Moreover, the wearing of religious garments is considered part of normal life in many public institutions or private companies and is largely respected by colleagues and customers. In short: provided there is goodwill on all sides, practical solutions can be found in most cases. So before dealing with remaining challenges and objections, it may be useful to find encouragement from the broad spectrum of success stories in this area.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

<p>e) Appointing leaders as appropriate to the religion or belief</p>	<p>Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)</p> <p>Art. 6 (g): The right to freedom of thought, conscience, religion or belief includes the freedom to train, appoint, elect or designate by succession appropriate leaders.</p> <p>Human Rights Committee, General Comment no. 22 (1993)</p> <p>Para. 4: 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.</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report on his visit to Greece in 1996

<https://undocs.org/A/51/542/Add.1>

138. As for the special provisions concerning Muslims and, more particularly, muftis and waqfs, the Special Rapporteur recalls article 6, paragraph (g), of the 1981 Declaration, which guarantees freedom to "train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief".

The Special Rapporteur's report on his visit to Turkey in 2000

<https://undocs.org/A/55/280/Add.1>

160. [...] (e) The Government should guarantee minorities the right to teach their religion, in places suitable for this purpose, and to train their clergy. The Special Rapporteur believes it indispensable that minorities once again have their own religious seminaries, in accordance with article 6 of the 1981 Declaration and the General Comment No. 22 (48) of the Human Rights Committee ("the practice and teaching of religion and belief includes acts integral to the conduct by religious groups of their basic affairs, such as, inter alia, the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminars or religious schools.").

The Special Rapporteur's communications report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5/Add.1>

95. The Special Rapporteur wished to express her concern about the grave interference with the freedom of belief of the Tibetan Buddhists who have the right to determine their clergy in accordance with their own rites and who have been deprived of their religious leader.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/19/60>

56. For these reasons, the registration procedures must be accessible – on the basis of fairness, inclusiveness and non-discrimination – to all those who wish to achieve legal personality status for their communities. No religious community should have the possibility to exercise a "veto" or otherwise influence the decision to register or not to register another religious or belief group. All registration decisions must be based on clearly defined formal elements of law and in conformity with international law. Registration should neither depend on extensive formal requirements in terms of the number of members and the time a particular community has existed, nor should it depend on the review of the substantive content of the belief, the structure of the community and methods of appointment of the clergy. In addition, provisions which are vague or which grant excessive governmental discretion in giving registration approvals should be avoided. Members of religious or belief communities who have been denied registration must have access to remedies, including informal conflict management and formal legal measures to challenge a negative registration decision.

73. From the above considerations, the Special Rapporteur would like to make the following recommendations: [...] (e) All registration decisions must be based on clearly defined formal elements of law and in conformity with international law. Registration should neither depend on extensive formal requirements in terms of the number of members and the time a particular community has existed, nor should it depend on the review of the substantive content of the belief, the structure of the community and methods of appointment of the clergy;

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/68/290>

57. Freedom of religion or belief also covers the right of persons and groups of persons to establish religious institutions that function in conformity with their religious self-understanding. This is not just an external aspect of marginal significance. Religious communities, in particular minority communities, need an appropriate institutional infrastructure, without which their long-term survival options as a community might be in serious peril, a situation which at the same time would amount to a violation of freedom of religion or belief of individual members (see A/HRC/22/51, para. 25). Moreover, for many (not all) religious or belief communities, institutional questions, such as the appointment of religious leaders or the rules governing monastic life, directly or indirectly derive from the tenets of their faith. Hence, questions of how to institutionalize religious community life can have a significance that goes far beyond mere organizational or managerial aspects. Freedom of religion or belief therefore entails respect for the autonomy of religious institutions.

58. It is a well-known fact that in many (not all) denominations, positions of religious authority, such as bishop, imam, preacher, priest, rabbi or reverend, remain reserved to males, a state of affairs that collides with the principle of equality between men and women as established in international human rights law. Unsurprisingly, this has led to numerous conflicts. While the Special Rapporteur cannot provide a general recipe for handling such conflicts in practice, he would like to point to a number of relevant human rights principles and norms in this regard.

59. It cannot be the business of the State to shape or reshape religious traditions, nor can the State claim any binding authority in the interpretation of religious sources or in the definition of the tenets of faith. Freedom of religion or belief is a right of human beings, after all, not a right of the State. As mentioned above, questions of how to institutionalize community life may significantly affect the religious self-understanding of a community. From this it follows that the State must generally respect the autonomy of religious institutions, also in policies of promoting equality between men and women.

60. At the same time, one should bear in mind that freedom of religion or belief includes the right of internal dissidents, including women, to come up with alternative views, provide new readings of religious sources and try to exercise influence on a community's religious self-understanding, which may change over time. In situations in which internal dissidents or proponents of new religious understandings face coercion from within their religious communities, which sometimes happens, the State is obliged to provide protection. It should be noted in this regard that the autonomy of religious institutions falls within the forum externum dimension of freedom of religion or belief which, if the need arises, can be restricted in conformity with the criteria spelled out in article 18, paragraph 3, of the International Covenant, while threats or acts of coercion against a person may affect the forum internum dimension of freedom of religion or belief, which has an unconditional status. In other words, respect by the State for the autonomy of religious institutions can never supersede the responsibility of the State to prevent or prosecute threats or acts of coercion against persons (e.g., internal critics or dissidents), depending on the circumstances of the specific case.

61. In addition, freedom of religion or belief includes the right to establish new religious communities and institutions. The issue of equality between men and women has in fact led to splits in quite a number of religious communities, and meanwhile, in virtually all religious traditions, reform branches exist in which women may have better opportunities to achieve positions of religious authority. Again, it cannot be the business of the State directly or indirectly to initiate such internal developments, which must always be left to believers themselves, since they remain the relevant rights holders in this regard. What the State can and should do, however, is to provide an open framework in which religious pluralism, including pluralism in institutions, can unfold freely. An open framework facilitating the free expression of pluralism may also improve the opportunities for new gender-sensitive developments within different religious traditions, initiated by believers themselves.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

f) Teaching and disseminating materials

[Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief \(1981\)](#)

Art. 6: The right to freedom of thought, conscience, religion or belief includes the freedom (d) to write, issue and disseminate relevant publications in these areas; (e) to teach a religion or belief in places suitable for these purposes.

[Human Rights Committee, General Comment no. 22 \(1993\)](#)

Para. 4: In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [...] the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

[Human Rights Council resolution 6/37 \(2007\)](#)

Para. 9 (g): Urges States to ensure, in particular, [...] the right of all persons to write, issue and disseminate relevant publications in these areas.

[General Assembly resolution 77/221 \(2022\)](#)

Para. 14: Urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to that end: [...] (h) To ensure, in particular, the right of all persons to [...] teach in connection with a religion or belief, their right to establish and maintain places for these purposes and the right of all persons to seek, receive and impart information and ideas in these areas.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Special Rapporteur's report on his visit to Greece in 1996

<https://undocs.org/A/51/542/Add.1>

Proselytism

134. The Special Rapporteur considers the constitutional provisions prohibiting proselytism to be inconsistent with the 1981 Declaration and stresses the need for greater respect for internationally recognized human rights norms, including freedom to convert and freedom to manifest one's religion or belief, either individually or in community with others, and in public or private, except where necessary restrictions are provided for by law. These comments also apply to the Necessity Acts concerning proselytism. Removal of the legal prohibition against proselytism is very strongly recommended. Failing this, proselytism could be defined in such a way as to leave appropriate leeway for the exercise of religious freedom.

Special Rapporteur's report to the General Assembly in 2005

<https://undocs.org/A/60/399>

Missionary activities and propagation of one's religion

59. Article 1 of the 1981 Declaration and article 18, paragraph 1, of ICCPR explicitly provide for the right "in public or private, to manifest [one's] religion or belief in worship, observance, practice and teaching" (emphasis added). Many human rights instruments stipulate and the Human Rights Committee hold that the right to manifest one's religion includes carrying out actions to persuade others to believe in a certain religion. For example, article 6 (d) of the 1981 Declaration states that the practice of the freedom of religion includes the freedom, "to write, issue and disseminate relevant publications [...]." Similarly, in resolution 2005/40 of the Commission on Human Rights urged States "[t]o ensure, in particular, [...] the right of all persons to write, issue and disseminate relevant publications." In its general comment No. 22 (1993) the Human Rights Committee holds that "the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, [... and] the freedom to prepare and distribute religious texts or publications" (para. 4).

60. The question of missionary activities and other forms of propagating s religion has been at the centre of the mandate on freedom of religion since the beginning. In one of his reports, Special Rapporteur Amor considered

"constitutional provisions prohibiting proselytism to be inconsistent with the 1981 Declaration and stresse[d] the need for greater respect for internationally recognized human rights norms, including freedom to convert and freedom to manifest one's religion or belief, either individually or in community with others, and in public or private, except where necessary restrictions are provided for by law" (A/51/542/Add.1/para. 134).

61. Also, while not explicitly including religious rights, article 19 of ICCPR, which protects freedom of expression, is formulated in a way that also covers missionary activities: "[T]his right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of [one's] choice". The Human Rights Committee's constant jurisprudence has deemed the protection afforded by article 19 extremely strong.

62. Whereas the scope of freedom afforded to persons for the practice of their religion or belief by producing and distributing information about their religion or belief is wide, certain limitations can be imposed in accordance with article 18, paragraph 3, of the Covenant. However, it should be noted that this article allows for restrictions only in very exceptional cases. In particular the fact that it mentions the protection of "fundamental rights and freedoms" (emphasis added) of others as a ground for restriction indicates a stronger protection than for some other rights whose limitation clauses refer simply to the "rights and freedoms of others" (e.g. article 12, 21 and 22). It could indeed be argued that the freedom of religion or belief of others can be regarded as such a fundamental right and freedom and would justify limitations to missionary activities, but the freedom of religion and belief of adults basically is a question of individual choice, so any generalized State limitation (e.g. by law) conceived to protect "others'" freedom of religion and belief by limiting the right of individuals to conduct missionary activities should be avoided.

63. The test of legality of a prohibition of any act motivated by belief or religion is therefore extremely strict. In practice, the European Court of Human Rights has given some guidance concerning the distinction between permissible religious persuasion, on the one hand, and coercion on the other in *Larissis v. Greece*, [Larissis and Others v. Greece, European Court of Human Rights, Reports 1998-I, judgement of 24 February 1998.] the court decided that an officer of the Greek army had exploited his position of authority over his subordinates in trying to convert them. However, in *Kokkinakis v. Greece*, [Kokkinakis v. Greece, European Court of Human Rights, Series A. No. 260-A, judgement of 25 May 1995.] the Court did not find any violation when Jehovah's Witnesses called on their neighbour to discuss religious issues with her since that act, in the Court's view, fell under "bearing Christian witness" and was therefore protected by article 9 of the European Convention on Human Rights. Judge Pettiti, in his partly concurring opinion, made this particularly clear: "Freedom of religion and conscience certainly entails accepting proselytism, even where it is not respectable. Believers and agnostic philosophers have a right to expound their beliefs, to try to get other people to share them and even to try to convert those whom they are addressing."

64. There are, however, situations in which certain actions aimed at converting people go beyond conventional forms of missionary activities or propagation of religion. Some such actions cannot be considered as a "manifestation" of religion or belief and are therefore not protected by article 18.

65. The question that arises in this regard is how the State should address such actions. The Special Rapporteur is of the opinion that a distinction should be made between whether these actions raise a human rights concern or whether they could constitute criminal acts. Certain acts may constitute an offence under the criminal code of the State concerned and should therefore be prosecuted. In view of the Special Rapporteur, however, it would not be advisable to criminalize non-violent acts performed in the context of manifestation of one's religion, in particular the propagation of religion, including because that might criminalize acts that would, in another context, not raise a concern of the criminal law and may pave the way for persecution of religious minorities. Moreover, since the right to change or maintain a religion is in essence a subjective right, any concern raised with regard to certain conversions or how they might be accomplished should primarily be raised by the alleged victim.

67. In conclusion, any form of coercion by State and non-State actors aimed at religious conversion is prohibited under international human rights law, and any such acts have to be dealt with within the remit of criminal and civil law. Missionary activity is accepted as a legitimate expression of religion or belief and therefore enjoys the protection afforded by article 18 of ICCPR and other relevant international instruments. Missionary activity cannot be considered a violation of the freedom of religion and belief of others if all involved parties are adults able to reason on their own and if there is no relation of dependency or hierarchy between the missionaries and the objects of the missionary activities.

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

68. In general, the Special Rapporteur calls upon States to consistently respect, protect and promote the human right to freedom of religion or belief in the area of conversion. He reiterates that the right of conversion and its correlate,

the right not to be forced to convert or reconvert, belong to the *forum internum* dimension of freedom of religion or belief, which has the status of unconditional protection under international human rights law. Furthermore, freedom of religion or belief includes the right to try to persuade others in a non-coercive manner. Any restrictions on missionary activities deemed necessary by States must therefore meet all the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights. The rights of the child and of his or her parents must be effectively guaranteed, including in the context of conversion issues.

69. With regard to domestic legal provisions, including constitutions, legal statutes, by-laws and official interpretations of laws, the Special Rapporteur recommends that:

- (a) States should clarify that the human right to freedom of religion or belief includes the right to convert and the right not to be forced to convert, both of which are unconditionally protected;
- (b) States should repeal any criminal sanctions that directly or indirectly threaten punishment against converts;
- (c) States should reform any family law provisions that may amount to *de jure* or *de facto* sanctions against converts and their families. This concerns the various areas of family law, including custody of children and inheritance laws;
- (d) States should issue anti-discrimination legislation with a view to providing effective protection against discrimination on the grounds of religion or belief in various areas of society. Such legislation should also address the vulnerable situation of converts;
- (e) States should ensure that no individual is exposed to pressure to convert against her or his will in the context of marriage and marriage negotiations. In this regard, States should pay particular attention to the situation of women. Aligning family laws with article 16 (1) of the Universal Declaration of Human Rights, according to which religious difference should not be an obstacle to the right to marry a person of one's choice, could be one important way of protecting potential spouses from pressure to convert against their will;
- (f) States should further clarify that freedom of religion or belief includes the right to try to convert others by non-coercive means of communication and persuasion. This includes, *inter alia*, the dissemination of literature and other material relating to religion or belief;
- (g) States should repeal vague provisions against so-called "proselytism", "unethical conversion", "apostasy" and "blasphemy" and should reform respective legislation to align it with the provisions of article 18 (3) of the International Covenant on Civil and Political Rights.

70. With regard to different areas of administration, the Special Rapporteur recommends that:

- (a) States should ensure that converts are able to have their new religious or belief orientation registered or not registered in official documents as they wish. This should also include the religion or belief of their children, in keeping with the provisions of the Convention on the Rights of the Child. When issuing official documents, States should always ensure that no person is publicly exposed in her or his religion or belief against her or his will;
- (b) States should ensure that no person is exposed to situations in which she or he may experience pressure to convert or reconvert against her or his will, especially in State-controlled institutions, such as the police force, the military or penal institutions;
- (c) States should develop strategies on how to provide effective protection of converts from acts or threats of violence and other pressure from non-State actors;
- (d) States should give clear direction and training to law enforcement and similar agencies to ensure that they refrain from unduly infringing on the right to try to convert others by means of non-coercive persuasion;
- (e) States should not use visa rules to restrict non-coercive religious outreach activities;
- (f) States should ensure that when applying for asylum, converts are given a fair hearing of their claims, in conformity with international standards. Converts seeking refugee status must never be expelled or returned to the frontiers of territories where their life or freedom would be threatened on account of their religion or belief.

71. With regard to the area of school education, the Special Rapporteur recommends that:

- (a) States should ensure that when attending school, children are not exposed to religious instruction against their will or against the will of their parents or legal guardians, respectively. Moreover, no child should be at risk of being pressured to attend religious ceremonies or rituals in school against their will or against the will of their parents or guardians. In this regard, particular attention should be given to the situation of children of converts and members of religious or belief minorities;

(b) States should ensure that school curriculums, when providing information on religious or belief-related issues, contribute to the elimination of negative stereotypes and prejudices against converts and persons or groups engaged in non-coercive missionary activities. This should also be a guiding consideration for assessing the quality of textbooks used in schools;

(c) States should prescribe, organize and provide training for teachers to sensitize them about the particular needs and challenges of children of converts and children from religious minorities in the school situation.

72. With regard to non-State actors, the Special Rapporteur recommends that:

(a) Civil society organizations working on human rights should pay attention to the particularly vulnerable situation of converts and members of religious or belief minorities at risk of being forced to convert or reconvert against their will. They should develop strategies to empower such people based on the understanding that conversion constitutes an inextricable part of freedom of religion or belief;

(b) Public and private media should provide fair and accurate information about converts and persons or groups engaged in non-coercive missionary activities with a view to overcoming negative stereotypes and prejudices. Self-regulation mechanisms within the media can play an important role in this regard;

(c) Religious leaders and opinion formers should become aware and acknowledge that not only is conversion to their own religion or belief protected, but that any decision to replace one's current religion or belief with a different one or to adopt atheistic views is equally protected;

(d) Religious communities, interfaith groups and civil society and development aid organizations are encouraged to address issues of conversion and missionary activities in voluntary codes of conduct. They should use this as an opportunity to also promote more respectful attitudes towards converts and persons engaged in non-coercive missionary activities.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

g) The right of parents to ensure the religious and moral education of their children

Universal Declaration of Human Rights (1948)

Art. 26 (3): Parents have a prior right to choose the kind of education that shall be given to their children.

International Covenant on Civil and Political Rights (1976)

Art. 18 (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 and Social Rights (1976)

Art. 13 (3): 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.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 5 (1): The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

Art. 5 (2): Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle. [...]

Art. 5 (4): In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

Convention on the Rights of the Child (1990)

Art. 5: States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Art. 14 (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.

Art. 18 (1): States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

Art. 29 (1): States Parties agree that the education of the child shall be directed to: [...] (c): The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

Committee on Economic, Social and Cultural Rights, General Comment no. 13 on the right to education (1999)

Para. 28: Article 13 (3) has two elements, one of which is that States parties undertake to respect the liberty of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions. The Committee is of the view that this element of article 13 (3) permits public school instruction in subjects such as the general history of religions and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression. It notes that public education that includes instruction in a particular religion or belief is inconsistent with article 13 (3) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)

Art. 12 (4): States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Committee on the Rights of the Child, General Comment no. 12 (2009)

Para. 28: The views of the child must be “given due weight in accordance with the age and maturity of the child”. This clause refers to the capacity of the child, which has to be assessed in order to give due weight to her or his views, or to communicate to the child the way in which those views have influenced the outcome of the process. Article 12 stipulates that simply listening to the child is insufficient; the views of the child have to be seriously considered when the child is capable of forming her or his own views.

Para. 29: By requiring that due weight be given in accordance with age and maturity, article 12 makes it clear that age alone cannot determine the significance of a child's views. Children's levels of understanding are not uniformly linked to their biological age. Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child's capacities to form a view. For this reason, the views of the child have to be assessed on a case-by-case examination.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Human Rights Council in 2009

<https://undocs.org/A/HRC/10/8>

40. Religious education is another contentious issue which has sparked controversy in many societies. A number of countries have religious instruction in public schools in a particular religion, while other countries provide for school classes about the history of different religions. From a human rights perspective, the latter is less problematic provided that classes on the history of religions are given in a neutral and objective way. However, public education which includes instruction in a particular religion or belief is consistent with article 18, paragraph 4, of the International Covenant on Civil and Political Rights only if provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and legal guardians. In some countries, religious instruction is mandatory, a situation which poses the problem of how to provide the same level of teaching to children belonging to religious minority groups. They are, in some instances, given no option but to receive instruction in the religion of the majority community. Only in a few cases are schools able to provide religious instruction to students of all the different religious or belief communities. During her interaction with Governments and school authorities, the Special Rapporteur has been made aware of the fact that some parents, who demanded that religious instruction be given in schools, often queried the contents of such religious instruction. This has invariably placed school authorities in a difficult situation, particularly where a religious community is itself divided and has no official spokesperson. The Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools [Prepared by the Advisory Council of Experts on Freedom of Religion or Belief of the Office for Democratic Institutions and Human Rights (Organization for Security and Cooperation in Europe), www.osce.org/publications/odihr/2007/11/28314_993_en.pdf.] provide practical guidance for preparing curricula for teaching about religions and beliefs, as well as preferred procedures for ensuring fairness in the development of such curricula.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/16/53>

Religious instruction in schools

47. As elaborated above (see paras. 27-40), it is crucial to distinguish conceptually between information about religions or beliefs on the one hand and religious instruction on the other. On a practical level there are a number of overlaps which pose problems in the actual application of that distinction. [One example would be a school subject that “combines education on religious knowledge with practising a particular religious belief, e.g. learning by heart of prayers, singing religious hymns or attendance at religious services”. See Human Rights Committee, communication No. 1155/2003, *Leirvåg v. Norway*, Views adopted on 3 November 2004, para. 14.6.] In addition, different pedagogical approaches may add nuances, for example if teaching methods encourage pupils to “learn about religions” [“‘Learning about religion’ includes enquiry into, and investigation of, the nature of religions, their beliefs, teachings and ways of life, sources, practices and forms of expression. It covers students’ knowledge and understanding of individual religions and how they relate to each other as well as the study of the nature and characteristics of religion. It includes the skills of interpretation, analysis and explanation. Pupils learn to communicate their knowledge and understanding using specialist vocabulary.” (*Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools*, pp. 45-46, footnote 52).] or to “learn from religion” [“‘Learning from religion’ is concerned with developing students’ reflection on and response to their own and others’ experiences in the light of their learning about religion. It develops pupils’ skills of application, interpretation and evaluation of what they learn about religion.” (Ibid.)]. At any rate, on a normative level conceptual clarity remains of strategic importance to pursue a human rights approach and to do justice to the ambivalence of the school being a place of learning, social development and communicative interaction but also a place in which situations of particular vulnerability can occur.

48. Religious instruction, i.e. instruction in a particular religion or belief based on its tenets, can take place in different constellations. The following paragraphs will primarily focus on religious instruction given in the public school system, i.e. the system of public education provided by the State. While the role of private schools, including denominational schools, will also be mentioned, the Special Rapporteur will leave aside in this chapter those forms of religious instruction that are organized in religious institutions – such as churches, mosques, pagodas, synagogues or temples – and attended by students outside of school.

49. In many countries religious instruction in the above defined sense constitutes an integral part of public school teaching and maybe even of the mandatory school curriculum. Such practice may reflect the interests and demands of large parts of the population. Many parents may wish that their children be familiarized with the basic doctrines and rules of their own religion or belief and that the school take an active role in that endeavour. In the understanding of many parents, the development of knowledge and social skills of their children through school education would be incomplete unless it includes a sense of religious awareness and familiarity with their own religion or belief. Hence the provision of religious instruction in the public school system may be based on the explicit or implicit wishes of considerable currents within the country’s population.

50. However, given the ambivalence of the school situation – including possible situations of particular vulnerability for some persons or groups – religious instruction in the public school system must always go hand in hand with specific safeguards on behalf of members of religious or belief minorities. The Human Rights Committee has also emphasized that instruction in a religious context should “respect the convictions of parents and guardians who do not believe in any religion” A minimum requirement would be that members of minorities have the possibility of “opting out” of a religious instruction that goes against their own convictions. Such exemptions should also be available for persons adhering to the very same faith on which instruction is given, whenever they feel that their personal convictions – including maybe dissenting convictions – are not respected. Moreover, the possibility of opting out should not be linked to onerous bureaucratic procedures and must never carry with it de jure or de facto penalties. Finally, wherever possible, students not participating in religious instruction due to their different faith should have access to alternative courses provided by the school.

52. Unfortunately, however, reports from various countries indicate that the above mentioned principles – which constitute an integral part of freedom of religion or belief – are not always respected. In some countries students belonging to minorities allegedly experience formal or informal pressure to attend religious instruction given on the sole basis of the country’s dominant religious tradition. The same can happen to adherents of alternative interpretation of, or dissenting views on, the dominant religion on which school instruction is based. Even worse, incidents have been reported that in some schools members of minorities or persons with dissenting views have to express criticism of their own conviction as a precondition to take their school examinations. Exemptions for students adhering to religions or beliefs other than those instructed in school, if available at all, are sometimes linked to

onerous application procedures or stigmatizing practices, with the result that students and parents often refrain from making use of them.

53. In this context, it is worth emphasizing that practices which forcibly expose students to religious instruction against their own will violate article 18, paragraph 2, of the International Covenant on Civil and Political Rights 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”. This forum internum component of freedom of religion or belief enjoys particularly strong protection under international human rights law as no derogation from article 18 of the Covenant may be made, not even in a time of public emergency which threatens the life of the nation. [International Covenant on Civil and Political Rights, art. 4; see also Human Rights Committee, general comment No. 22, para. 1.] In addition, coercive practices may also violate the rights of parents “to ensure the religious and moral education of their children in conformity with their own convictions” (art. 18, para. 4, of the Covenant).

54. The situation of religious instruction in private schools warrants a distinct assessment. The reason is that private schools, depending on their particular rationale and curriculum, might accommodate the more specific educational interests or needs of parents and children, including in questions of religion or belief. Indeed, many private schools have a specific denominational profile which can make them particularly attractive to adherents of the respective denomination, but frequently also for parents and children of other religious or belief orientation. In this sense, private schools constitute a part of the institutionalized diversity within a modern pluralistic society. States are not obliged under international human rights law to fund schools which are established on a religious basis, however, if the State chooses to provide public funding to religious schools, it should make this funding available without any discrimination. [Human Rights Committee, communication No. 694/1996, *Waldman v. Canada*, Views adopted on 3 November 1999, para. 10.6.]

55. Furthermore, the existence of private denominational schools – or the possibility of their establishment – cannot serve as an excuse for the State not to pay sufficient attention to religious and belief diversity in public school education. Even though private denominational schools may be one way for parents to ensure a religious and moral education of their children in conformity with their own convictions, the public school system must also respect religious and belief diversity. In this context, the inaugural session of the Forum on Minority Issues, held in December 2008, recommended that “where separate educational institutions are established for minorities for linguistic, religious or cultural reasons, no barriers should be erected to prevent members of minority groups from studying at general educational institutions, should they or their families so wish”. [See the report of the independent expert on minority issues (A/HRC/10/11/Add.1), para. 27.]

56. Another caveat concerns situations in which private denominational schools have a de facto monopoly in a particular locality or region, with the result that students and parents have no option to avoid school education based on a denomination different from their own religious or belief conviction. In such situations it falls upon the State, as the guarantor of human rights, to ensure that freedom of religion or belief is effectively respected, including the right of students not to be exposed to religious instruction against their will as well the right of parents to ensure a religious and moral education of their children in conformity with their own convictions.

57. Freedom of religion or belief and school education is a multifaceted issue that entails significant opportunities and far-reaching challenges. The school is the most important formal institution for the realization of the right to education. It provides a place of learning, social development and social encounter. At the same time, the school is also a place in which authority is exercised and some persons, including members of religious or belief minorities, may find themselves in situations of vulnerability. Given this ambivalence of the school situation, safeguards to protect the individual's right to freedom of religion or belief are necessary. Special attention must be given to the forum internum component of freedom of religion or belief which enjoys the status of an absolute guarantee under international human rights law. With regard to the freedom to manifest one's religion or belief, both the positive and the negative aspects of that freedom must be equally ensured, i.e. the freedom to express one's conviction as well the freedom not to be exposed to any pressure, especially from State authorities or in the State institution, to practice religious or belief activities against one's will.

58. Schools may offer unique possibilities for constructive dialogue among all parts of society and human rights education in particular can contribute to the elimination of negative stereotypes that often adversely affect members of religious minorities. However, freedom of religion or belief and school education has also sparked controversy in many societies, particularly with regard to contentious issues such as religious symbols in the school context and religious instruction.

Religious symbols in public schools

59. With regard to religious symbols, especially in public schools, the Special Rapporteur would like to reiterate that each case has to be decided according to its own circumstances. If restrictions on the wearing of religious symbols are

deemed necessary, these restrictions should not be applied in a discriminatory manner and they must be directly related and proportionate to the specific need on which the restrictions are predicated. At the same time, for example, the rights of the child and their parents or legal guardians may justify limiting the freedom of teachers who wish to manifest their religion or belief by wearing a religious symbol. In all actions concerning children, the “best interests” of the child shall be a primary consideration. With regard to the State-prescribed mandatory display of religious symbols in classrooms, States should uphold confessional neutrality in public education in order to include students of different religions or beliefs on the basis of equality and non-discrimination.

60. In general, educational policies should aim to strengthen the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with freedom of religion or belief, and ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction inconsistent with one’s conviction. Efforts should be made to establish advisory bodies at different levels that take an inclusive approach to involving different stakeholders in the preparation and implementation of school curricula related to issues of religion or belief and in the training of teachers.

61. The Special Rapporteur would like to refer to his predecessors’ reports on these issues and to their involvement in the elaboration of the final document of the International Consultative Conference on School Education in relation to Freedom of Religion or Belief, Tolerance and Non-discrimination and the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools. In this context, the Special Rapporteur reiterates that States, at the appropriate level of Government and in accordance with their educational systems, should favourably consider:

- (a) Providing teachers and students with voluntary opportunities for meetings and exchanges with their counterparts of different religions or beliefs;
- (b) Encouraging exchanges of teachers and students and facilitating educational study abroad;
- (c) Strengthening a non-discriminatory perspective in education and of knowledge in relation to freedom of religion or belief at the appropriate levels;
- (d) Ensuring equal rights to women and men in the field of education and freedom of religion or belief, and in particular reinforcing the protection of the right of girls to education, especially for those coming from vulnerable groups;
- (e) Taking appropriate measures against all forms of intolerance and discrimination based on religion or belief which manifest themselves in school curricula, textbooks and teaching methods;
- (f) Evaluating existing curricula being used in public schools that touch upon teaching about religions and beliefs with a view to determining whether they promote respect for freedom of religion or belief and whether they are impartial, balanced, inclusive, age appropriate, free of bias and meet professional standards;
- (g) Assessing the process that leads to the development of curricula on teaching about religions and beliefs to make sure that this process is sensitive to the needs of various religious and belief communities and that all relevant stakeholders have an opportunity to have their voices heard;
- (h) Examining to what extent existing teacher-training institutions are capable of providing the necessary professional training for teaching about religions and beliefs in a way that promotes respect for human rights and, in particular, for freedom of religion or belief;
- (i) Determining the extent to which teacher-training institutions provide sufficient knowledge of human rights issues, an understanding of the diversity of religious and non-religious views in society, a firm grasp of various teaching methodologies (with particular attention to those founded on an intercultural approach) and significant insight into ways that one can teach about religions and beliefs in a respectful, impartial and professional way.

62. Finally, the Special Rapporteur would like to reiterate that the role of parents, families and legal guardians is an essential factor in the education of children in the field of religion or belief. Consequently, special attention should be paid to encouraging positive attitudes and, in view of the best interest of the child, to supporting parents to exercise their rights and fully play their role in education in the field of tolerance and non-discrimination, taking into account the relevant provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief and the Convention on the Rights of the Child.

The Special Rapporteur’s report to the General Assembly in 2015

<https://undocs.org/A/70/286>

28. Some critics of article 14 of the Convention on the Rights of the Child have voiced concerns that the explicit recognition of the child's freedom of religion or belief in the Convention might lead to an erosion of parental rights and undermine the specific responsibility that parents have in the religious socialization of their children. That has been among the reasons for some States entering reservations or explanatory declarations concerning article 14 when ratifying or acceding to the Convention. The Special Rapporteur is convinced that such anxieties cannot be sustained on the basis of an appropriate reading of the Convention, seen in conjunction with other relevant international standards.

31. Thus, there can be no doubt that the erosion of parental rights by undue State interference is a serious problem and a source of grave violations of freedom of religion or belief. That problem requires systematic attention. It is furthermore true that some States may use the rhetoric of superficial child rights in an attempt to "justify" such interference. However, based on an appropriate understanding of the Convention on the Rights of the Child, the fear that article 14 of the Convention could legitimize the erosion of parental rights seems unsubstantiated. Instead of being part of the problem, the Convention can and should be part of the solution. In conjunction with other human rights instruments, article 14 can help to tackle the problem of abusive State interventions. Rather than eroding parental rights in the sphere of freedom of religion or belief, article 14 corroborates, and at the same time further qualifies, those rights by acknowledging their significance from the specific perspective of the rights of the child. Moreover, the Convention gives the child, his or her parents and other family members a strong position in pursuing their human rights-based interests. When it comes to families belonging to religious minorities, article 30 of the Convention can be used in combination with article 14 in order to strengthen further the claims of persons belonging to minorities against unjustified interventions.

32. Earlier provisions of freedom of religion or belief remain fully valid. That includes article 18, paragraph 4, of the International Covenant on Civil and Political Rights which provides that the States parties "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." Whereas the International Covenant on Civil and Political Rights focuses on the rights of parents, the Convention on the Rights of the Child combines parental rights and the rights of the child to freedom of religion or belief. That reflects an increased awareness, manifested in the Convention, of the status of the child as a rights holder.

33. While article 18, paragraph 4, of the Covenant should be interpreted in the light of the Convention, with its explicit focus on the interrelatedness of parental and child rights, article 14, paragraph 2, of the Convention should, vice versa, be seen in continuity with article 18, paragraph 4, of the Covenant, which remains fully valid. Indeed, the liberty of parents or legal guardians to ensure the religious and moral education of their children in conformity with their own convictions continues to constitute a human-rights based claim which is far from redundant, since the parental right to provide "direction" to the child in his or her exercise of freedom of religion or belief includes the religious socialization of the child, albeit neither in an unchangeable way nor in a manner inconsistent with the evolving capacities of the child.

36. Freedom of religion or belief indeed facilitates an open development by guaranteeing everyone's freedom to "change" one's religion or belief⁷ and to "have or to adopt a religion or belief of his choice".⁸ In the course of their personal development, individuals, including children, can modify, change or even abandon their religion or belief. However, that does not presuppose a right of the child to grow up in a religiously "neutral" family environment, let alone a right possibly enforced by the State against parents. The principle of "neutrality" can meaningfully be invoked only against States in order to remind them of their obligation to exercise fairness, impartiality and inclusivity and in this specific sense "neutrality", when dealing with diversity of religion or belief. By contrast, parents cannot be obliged by the State to remain religiously "neutral" when raising their children.

37. Some parents may take a deliberate decision not to socialize their children in a religious manner. Of course, such a decision must be respected as falling within their parental rights, however, that cannot serve as the general model to be promoted, let alone enforced, by the State. Attempts made by the State to enforce a religiously "neutral" upbringing of children within their families would amount to a far-reaching violation of parental rights to freedom of religion or belief, as enshrined, inter alia, in article 14, paragraph 2, of the Convention on the Rights of the Child.

The Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

53. The school is an institution designed to fulfil human rights, in particular, the right to education, as enshrined in article 13 of the International Covenant on Economic, Social and Cultural Rights, article 28 of the Convention on the Rights of the Child and similar provisions. In order to ensure this right for every child, States have the obligation to render elementary school education mandatory. However, school is also an environment in which serious human rights problems may arise. In public schools, children regularly experience the authority of teachers, who, as public

officials, may also represent the authority of the State. Furthermore, children may suffer peer pressure and bullying, a problem that disproportionately affects children from minorities.

54. Parents belonging to religious minorities, or parents who have converted away from the predominant religion, sometimes fear that school education may be utilized to alienate their children from them. The Special Rapporteur heard reports about the disrespectful treatment of children during religious fasting seasons, when children were exposed to expectations clearly articulated by their teachers that they should eat the food served in school, thereby breaking the fasting rules of their religion.

55. Whenever religious ceremonies, such as public prayers or acts of collective worship, are performed in school, and in particular during regular school hours, safeguards are needed to ensure that no child feels compelled to participate in such ceremonies against his or her free will or the will of his or her parents. The same caveat applies to religious instruction in schools (see A/HRC/16/53). In paragraph 6 of its general comment No. 22, the Human Rights Committee noted that public education that includes instruction in a particular religion or belief is inconsistent with article 18 (4) of the International Covenant on Civil and Political Rights unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians. In practice, however, such provisions, if they exist at all, are often ignored, possibly as a result of ignorance or lack of systematic monitoring or even in a deliberate attempt to convert children belonging to religious minorities to the hegemonic religion of the country.

56. In view of the compulsory status of school education, attempts at converting children in the school context may amount to serious violations of the absolutely protected *forum internum* dimension of freedom of religion or belief. At the same time, such attempts may violate the rights of parents to ensure a religious and moral upbringing of their child — who has not yet reached religious maturity — in conformity with their own convictions, as enshrined in article 18 (4) of the International Covenant on Civil and Political Rights and article 14 (2) of the Convention on the Rights of the Child (see A/70/286).

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

h) Registration

International Covenant on Civil and Political Rights (1976)

Art. 16: Everyone shall have the right to recognition everywhere as a person before the law.

General Assembly resolution 77/221 (2022)

Para. 14 (f): Urges States to review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, either alone or in community with others and in public or private.

Para. 14 (i): Urges States to ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

56. The Special Rapporteur has noted in this regard, on the basis of information brought before her, that registration appeared often to be used as a means to limit the right of freedom of religion or belief of members of certain religious communities. [...]

58. Some main points to take into consideration with regard to registration are that:

- Registration should not be compulsory, i.e. it should not be a precondition for practising one's religion, but only for the acquisition of a legal personality and related benefits;
- In the latter case, registration procedures should be easy and quick and not depend on extensive formal requirements in terms of the number of members or the time a particular religious group has existed;
- Registration should not depend on reviews of the substantive content of the belief, the structure, the clergy, etc.;
- No religious group should be empowered to decide about the registration of another religious group.

The Special Rapporteur's communications report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5/Add.1>

51. The Special Rapporteur is grateful for the Government's response and draws its attention to Resolution 2005/40 of the Commission on Human Rights, in which the Commission urged States, "[t]o review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private" (Paragraph 4(c)). In this regard, the Special Rapporteur wishes to emphasize that the right to freedom of religion is not limited to members of registered religious communities. As she noted in her previous report to the Commission on Human Rights, referring to the OSCE/ODIHR Guidelines for Review of Legislation pertaining to Religion or Belief, "registration should not be compulsory, i.e. it should not be a precondition for practicing one's religion, but only for the acquisition of a legal personality and related benefits" (E/CN.4/2005/61, para. 58).

52. Moreover, the Special Rapporteur takes this opportunity to remind the Government of the views of the Human Rights Committee of 23 August 2005 on communication No. 1207/2003 (Malakhovsky and Pikul v. Belarus, CCPR/C/84/D/1207/2003) in which the Committee found a violation of Article 18 of the International Covenant on Civil and Political Rights, following the refusal to register Minsk Vaishnava community as a religious association. In its decision the Human Rights Committee made a distinction between the requirement for suitable premises for the purpose of carrying out religious rituals on the one hand and as a precondition for registration on the other hand (paragraphs 7.5 and 7.6). The Committee noted "that the State party has not advanced any argument as to why it is necessary for the purposes of article 18, paragraph 3 [ICCPR], for a religious association, in order to be registered, to have an approved legal address which not only meets the standards required for the administrative seat of the association but also those necessary for premises used for purposes of religious ceremonies, rituals, and other group

undertakings. Appropriate premises for such use could be obtained subsequent to registration. [...] Also taking into account the consequences of refusal of registration, namely the impossibility of carrying out such activities as establishing educational institutions and inviting foreign religious dignitaries to visit the country, the Committee concludes that the refusal to register amounts to a limitation of the authors' right to manifest their religion under article 18, paragraph 1 that is disproportionate and so does not meet the requirements of article 18, paragraph 3. The authors' rights under article 18, paragraph 1 have therefore been violated". [...]

445. The Special Rapporteur is grateful for the Government's response. She would like to point to the Concluding Observations of the Human Rights Committee, dated 26 April 2005, (CCPR/CO/83/UZB), paragraph 22: "The Committee notes that the provisions of the Freedom of Conscience and Religious Organizations Act require religious organizations and associations to be registered in order to be able to manifest their religion or belief. It is concerned about de facto limitations on the right to freedom of religion or belief, including the fact that proselytizing constitutes a criminal offence under the Criminal Code. The Committee is also concerned about the use of criminal law to penalize the apparently peaceful exercise of religious freedom and the fact that a large number of individuals have been charged, detained and sentenced and that, while a majority of them were subsequently released, several hundred remain in prison." The Special Rapporteur joins the Human Rights Committee in its recommendation that it should ensure that its legislation and practice are in full conformity with article 18 of the International Covenant on Civil and Political Rights.

446. Moreover, the Special Rapporteur wishes to emphasize that the right to freedom of religion is not limited to members of registered religious communities. As she reminded in her previous report to the Commission on human rights, referring to the OSCE/ODIHR Guidelines for Review of Legislation pertaining to Religion or Belief, "registration should not be compulsory, i.e. it should not be a precondition for practicing one's religion, but only for the acquisition of a legal personality and related benefits" (E/CN.4/2005/61, para. 58).

The Special Rapporteur's report on her visit to Turkmenistan in 2008

<https://undocs.org/A/HRC/10/8/Add.4>

23. As done previously in her report to the Commission on Human Rights (see E/CN.4/2005/61, paras. 55-58), the Special Rapporteur would like to refer to some points of the OSCE/ODIHR Guidelines for Review of Legislation pertaining to Religion or Belief which are of particular relevance when examining the registration issue in Turkmenistan. While it would be appropriate to require registration for the acquisition of a legal personality and similar benefits, registration should not be a mandatory precondition for practicing one's religion. Registration procedures should be easy and quick and should not depend on extensive formal requirements in terms of the number of members or the length of existence of a particular religious group. Registration should not depend on the review of the substantive content of the belief, the structure of the faith group and methods of appointment of the clergy. Additionally, provisions which are vague and which grant excessive governmental discretion in giving registration approvals should not be allowed. It is imperative that no religious group be empowered to decide about the registration of another religious group.

25. The Special Rapporteur wishes to reiterate that international human rights law recognizes freedom of religion or belief regardless of registration status. Those who cannot or do not want to register should therefore still be able to manifest their religion or belief both individually and collectively, in private or in public. Any limitations to the freedom to manifest one's religion or belief must not only be prescribed by law but must also be necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, according to article 18 paragraph 3 of the International Covenant on Civil and Political Rights. The Human Rights Committee in its general comment No. 22 (1993) emphasizes that paragraph 3 of article 18 is to be strictly interpreted and that restrictions are not permitted on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as "national security".

28. The Special Rapporteur would like to recall that registration procedures shall be applied in a non-discriminatory manner. Therefore, they shall make no distinction between large or small religious communities or between traditional religions and other religions or beliefs. As stated by the Human Rights Committee in its general comment No. 22 (1993), "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".

29. The case of the small community of Jehovah's Witnesses living in Turkmenistan is of particular concern to the Special Rapporteur. Although their members have sought to register their community for many years, the Council on Religious Affairs has invoked substantive reasons in order to deny legal status to the Jehovah's Witnesses. These

reasons relate, for instance, to the manner in which Jehovah's Witnesses disseminate their religious views, to their refusal to serve in the army or to allow any blood transfusions. The Special Rapporteur would like to recall that while limitations on freedom to manifest one's religion or belief are permissible under certain strict conditions no limitations may be made to the internal and private realm of the individual's belief (*forum internum*). This is a core element of religious freedom, where the State has no right to interfere. No substantive review of an application should therefore be allowed, since it might lead to a discriminatory and excessively intrusive practice from the authorities. In a secular State like Turkmenistan,⁷ the authorities should remain neutral with respect to religious matters and restrict themselves to a formal review of registration applications.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/19/60>

20. "Recognition" is one of the key terms regularly referred to in debates on freedom of religion or belief. On closer examination, however, it turns out that this concept harbours a variety of meanings which should be kept clearly distinct in order to avoid confusion. Striving for conceptual clarity on the different meanings of "recognition" in the field of freedom of religion or belief is not a purely academic enterprise. Indeed, in dealing with practical cases, the Special Rapporteur is often confronted with widespread misunderstanding about the concept of recognition and the role of the State in this regard. Such misunderstandings, however, can have a direct negative impact on the enjoyment of freedom of religion or belief, since they may seriously obscure the applicable international human rights obligations of States.

22. The first and most fundamental meaning is "recognition" in the sense of the due respect for the status of all human beings as rights holders in the area of freedom of religion or belief, a status finally deriving from the inherent dignity of all members of the human family.

23. The second meaning relates to the necessary provision by the State of a legal personality status, which religious or belief communities need in order to be able to take collective legal actions. Obtaining such a legal status typically requires undergoing some administrative "recognition procedures", which should be designed so as not to pose undue obstacles, either *de jure* or *de facto*, to the accessibility of the required legal personality status.

24. The third meaning concerns privileged status positions, often connected with practical advantages such as tax exemption and financial subsidies, which certain religious or belief communities enjoy in many States. In this context, the term "recognition" is also typically used.

25. All of the above three dimensions are relevant for the implementation of the right to freedom of religion or belief. However, they have different implications for the role of the State in the following regard. While the status of all human beings as rights holders cannot legitimately become a matter of administrative "recognition procedures", some procedures may indeed seem necessary to provide certain religious or belief communities with the status of a legal personality. However, given the practical significance of such a legal personality status for the full enjoyment of freedom of religion or belief, States should ensure that the respective procedures are quick, transparent, fair, inclusive and non-discriminatory. Lastly, unlike the general status of a legal personality, the granting by States of a more specific legal position connected with some practical advantages such as tax exemption or financial subsidies does not necessarily follow from the right to freedom of religion or belief. However, if States decide to offer such a position, they should do this in accordance with the principles of equality and non-discrimination.

Legal personality

40. The second dimension of "recognition" relevant in the field of freedom of religion or belief pertains to the status of a legal personality, which religious or belief communities may require to be able to exercise important collective functions. Many States have registration procedures to award legal personality status to religious or belief communities. However, some registration practices actually limit the right to freedom of religion or belief of certain communities thus leading to huge difficulties for organizing their community life with a long-term perspective. Consequently, it seems vital that the State implements any existing registration procedures in a fair and non-discriminatory manner and in the service of the human right to freedom of religion or belief.

Issues pertaining to registration procedures

41. Freedom of religion or belief is a right held by all human beings because of their inherent dignity. According to article 18, paragraph 1 of the International Covenant on Civil and Political Rights this includes the freedom, "either individually or in community with others and in public or private, to manifest [their] religion or belief in worship, observance, practice and teaching". The possibility of engaging in various forms of community activities thus clearly falls within the scope of freedom of religion or belief. Thus registration should not be compulsory, i.e. it should not be a precondition for practising one's religion, but only for the acquisition of a legal personality status. Some of the

collective activities of religious or belief communities typically require the status of a legal personality in the sense of becoming recognized as a legal entity with corporative legal responsibilities and corporative legal options.

42. While the axiomatic status position of human beings as rights holders in the area of freedom of religion or belief has a normative rank prior to, and independent of, any administrative procedures, some such procedures are generally required as a prerequisite for groups obtaining the status of a legal personality. For instance, those wishing to be registered as a legal personality typically have to provide some certified information about membership, organization, the purpose of the group or the structure of internal responsibility. This sort of information may be needed for the administration to take a decision on the attribution of legal personality status.

43. Such an administrative decision should not be misconceived as an act of mercy, however. Under international law, States are obliged to take an active role in facilitating the full enjoyment of human rights, including freedom of religion or belief. By not providing appropriate legal options that, de jure and de facto, are accessible to all religious or belief groups interested in obtaining a legal personality status, States would fail to honour their obligations under the human right to freedom of religion or belief.

44. Unfortunately, the Special Rapporteur has received numerous complaints that registration procedures have been used as a means to limit the right to freedom of religion or belief of members of certain religious or belief communities. In some States, certain communities are de facto or even de jure excluded from the possibility of obtaining the status of a legal person or suffer from discriminatory treatment in this regard. Once again, such discriminatory practices disproportionately affect small or non-traditional groups. Often the threshold defined for obtaining legal personality status – for example the provision of a minimum number of followers – does not appropriately take into account the needs of smaller communities. In some States, religious or belief communities are also required to document that they have long existed in the country. Other cases of obstruction relate to the requirement that the registration application be signed by all members of the religious organization and should contain their full names, dates of birth and places of residence. However, some members may legitimately wish to keep their religious affiliation confidential and those who were not included in the registration application might subsequently face difficulties when taking part in religious activities of their fellow believers. Furthermore, some States seem to require in practice not only registration at the national level, but also a separate registration of local branches of religious or belief communities, which in turn leaves local authorities with wide discretionary powers for approving or rejecting the local registration applications.

Difficulties encountered by unregistered religious or belief communities

45. As a result of such obstacles, members of unregistered religious or belief communities typically encounter huge difficulties when trying to organize their community life in a stable environment and with a long-term perspective.

46. For instance, without the status of a legal personality, religious or belief communities cannot open bank accounts or engage in financial transactions. As a result, the ownership of places of worship frequently remains precarious, in that real estate assets or other important property only belong to private individuals who informally operate in the service of the community. Whether in the case of death, their successors will continue such activities on behalf of the community or claim the inherited property for different purposes may be questionable. Furthermore, the construction of larger places of worship seems hardly conceivable under such insecure circumstances. In this context, the Special Rapporteur would like to recall that the right to freedom of thought, conscience, religion or belief includes, inter alia, freedom to establish and maintain places of worship and freedom to solicit and receive voluntary financial and other contributions from individuals and institutions.

47. Similarly, communities lacking legal personality status are faced with additional obstacles when trying to establish private denominational schools. This in turn may have negative repercussions for the rights of parents or legal guardians to ensure that their children receive religious and moral education in conformity with their own convictions – a right explicitly enshrined in international human rights law as an integral part of freedom of religion or belief.

48. It may be even more difficult to establish institutions of higher education, including theological training institutes, which are vital to intellectually further develop and convey the tenets of a faith to the next generation. This may seriously hamper the freedom to teach a religion or belief in places suitable for these purposes and the freedom to train appropriate leaders called for by the requirements and standards of any religion or belief. In some situations, the denial of legal personality status might jeopardize the long-term survival chances of a religious or belief community.

49. In addition, if communities do not enjoy legal personality status, their members may encounter administrative problems with regard to making, acquiring and using to an adequate extent the necessary articles and materials related to the rites or customs of their religion or belief. This may also negatively affect their opportunities of celebrating holidays and ceremonies in accordance with the precepts of their religion or belief.

50. Moreover, religious or belief communities lacking legal personality status are barred from employing staff in an official manner. People serving for the community either have to do this on a purely voluntary basis or conclude working contracts with a private employer, which again is a situation detrimental to any long-term planning. Yet, the right to freedom of thought, conscience, religion or belief includes, inter alia, freedom to establish and maintain appropriate charitable or humanitarian institutions.

51. Another problem concerns the establishment of radio stations or other media. In the absence of the status of a legal personality, it would again require individual members of the community to take all the financial responsibilities and risks in their private capacities. It seems clear that media work is extremely complicated under such conditions. This, however, will most likely have negative effects on the possibilities to reach out to parts of the community living in remote areas or in other countries and to participate in public debates. However, international human rights law also protects the freedom to write, issue and disseminate relevant publications and the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels. [...]

73. From the above considerations, the Special Rapporteur would like to make the following recommendations:

- (a) States should systematically ground any activities in the area of religion or belief in a clear understanding of the due respect for every person's freedom of religion or belief as a universal human right based on the inherent dignity of all members of the human family;
- (b) States should refrain from exercising pressure on religious or belief groups whose members prefer not to be registered as legal entities under domestic law;
- (c) States should instruct members of law enforcement and other State agencies that religious activities of non-registered religious or belief communities are not illegal, as the status of freedom of religion or belief prevails over any acts of State registration;
- (d) States should offer appropriate options and procedures for religious or belief communities to achieve a status of legal personality if they so wish. Administrative procedures for obtaining such a status should be enacted in a spirit of servicing the full enjoyment of freedom of religion or belief for everyone and should thus be quick, transparent, fair, inclusive and non-discriminatory;
- (e) All registration decisions must be based on clearly defined formal elements of law and in conformity with international law. Registration should neither depend on extensive formal requirements in terms of the number of members and the time a particular community has existed, nor should it depend on the review of the substantive content of the belief, the structure of the community and methods of appointment of the clergy;
- (f) States should ensure that no religious community has, de jure or de facto, the possibility to exercise a "veto" or otherwise influence the decision to register or not to register another religious or belief group;
- (g) States have to provide effective legal remedies for individuals or groups complaining about the denial or arbitrary delay of registration as a legal personality;
- (h) States should refrain from arbitrarily stripping certain religious or belief communities of legal status positions they had possessed before as an instrument of exercising control or marginalizing groups deemed not to fit into the cultural make-up of the country;
- (i) When offering a privileged legal status position for certain religious or belief communities or other groups, such a specific status should be accorded in strict conformity with the principle of non-discrimination and should fully respect the right to freedom of religion or belief of all human beings;
- (j) Any specific status positions given by the State to certain religious or belief communities or other groups should never be instrumentalized for purposes of national identity politics, as this may have detrimental effects on the situation of individuals from minority communities.

The Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

48. When wishing to build places of worship or religious schools or to repair existing religious buildings, minority communities often have to apply for special permissions, which may take decades to obtain. If the believers start to build or repair places of worship before receiving official permission, they may encounter hefty sanctions or even be forced to tear down a newly erected building. The Special Rapporteur heard reports that it seemed easier for some communities to build a chicken farm and subsequently convert it into a place of worship than to apply to establish the place of worship.

49. Some Governments request religious communities to register with the Administration before being allowed to exercise their group-related freedom of religion or belief. Registration status may be connected to a number of practical advantages, such as tax benefits or regular participation in municipal consultations. While registration thus can have beneficial effects for those communities wishing to obtain such a status, it is highly problematic if the Government renders registration compulsory by turning it into a sine qua non of any communitarian enjoyment of freedom of religion or belief (see A/HRC/28/66/Add.1). It cannot be reiterated enough that freedom of religion or belief, qua its nature as a universal human right, inheres in all human beings prior to any process of administrative approval. It thus must be possible for individuals and groups of individuals to also practise their religion or belief independently from any official status, if they prefer not to obtain any such status or if their application for registration has been unsuccessful. The situation can become even more complicated if Governments require the periodic renewal of registration, which thus may become a never-ending bureaucratic exercise for certain communities. The more detailed information the Administration demands in such procedures, the easier it will be to find “shortcomings” in the application that the Administration may use as a pretext to impose sanctions, thereby creating a climate of intimidation for any unwelcome religious activities.

50. For many (not all) religious communities, it is important to obtain the appropriate legal personality status to exercise certain community functions, such as purchasing real estate, which they may need to establish a lasting religious infrastructure, employing teaching professionals or other staff and running their own schools or media or charitable organizations (see A/HRC/22/51). The denial of appropriate legal personality status or unreasonable stipulations connected with such a status may thus amount to a violation of freedom of religion or belief.

The Special Rapporteur’s report to the General Assembly in 2018

<https://undocs.org/A/73/362>

15. Many Governments have become concerned about the possibility that groups viewed as “extremist”, or deemed to be threats to national identity or the public order, could acquire legal personality, thereby gaining benefits, exemptions and other entitlements. Some States have addressed these concerns by creating mandatory registration systems, denying or revoking the registration of certain communities, enacting more restrictive registration laws or requiring formerly registered communities to re-register (see A/HRC/22/51, paras. 42–43).

16. As a consequence of such measures, some religious or belief communities have been unable to gain access to or maintain legal personality status. Access to legal personality falls within the scope of the right to freedom of religion or belief. It is essential for the day-to-day operations of many religious or belief communities. However, under international human rights law, religious or belief communities are not obliged to seek legal personality if they do not wish to do so. Individual believers and non-believers and religious or belief communities still hold rights under international human rights law even if formal recognition for their faith is not provided for or not granted by a State or authority, or even if it is revoked.

17. Regardless, depriving a religious or belief community of legal status can have a tremendous impact on the collective aspects of the right to freedom of religion or belief, including the ability of adherents to practice their faith together with others — jeopardizing the viability of the community itself. Absence of legal personality also raises questions of property ownership for these communities, including those which function as places of worship and education. Again, that can directly affect the collective dimension of the human right to freedom of religion or belief. [For a rich discussion of the negative impact of this, see Organization for Security and Cooperation in Europe (OSCE), *Guidelines on the Legal Personality of Religious or Belief Communities* (Warsaw, OSCE Office for Democratic Institutions and Human Rights, 2014). Available at www.osce.org/odihr/139046.]

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

<p>i) Communicate with individuals and communities on religious matters at the national and international level</p>	<p>Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)</p> <p>Art. 6 (i): The right to freedom of thought, conscience, religion or belief includes the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.</p> <p>Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)</p> <p>Art. 2 (5): Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 1988

<https://undocs.org/E/CN.4/1988/45>

48. Lastly, the freedom to have communications in matters of religion and belief at the national and international levels also seems to be jeopardized in some cases, one illustration being the Czech priest whose contacts with members of religious orders and Polish Catholics formed the subject of charges against him by the authorities.

The Special Rapporteur's report on his mission to Pakistan in 1995

<https://undocs.org/E/CN.4/1996/95/Add.1>

23. All passports include a reference to the religion of the holder. According to the authorities, this formality is due in part to the pilgrimage to Mecca in Saudi Arabia giving rise to a need to identify applications by unauthorized Ahmadis, who are considered non-Muslims.

24. The passport application form also asks holders to identify their religion, while Muslims must state that they do not recognize Ahmadis or Mirza Ghulam Ahmad as Muslim. [...]

45. [...] Christians are also reported to be faced with administrative difficulties (such as visa formalities) on the occasion of the visits of Christian clergy and personalities from abroad. [...]

85. The Special Rapporteur also considers that no mention of religion should be included on passports, on identity card application forms or on any other administrative documents. Deletion of the statement required of Muslims regarding non-recognition of Ahmadis as Muslims in passport application forms is strongly recommended.

The Special Rapporteur's report on her mission to the Lao People's Democratic Republic in 2009

<https://undocs.org/A/HRC/13/40/Add.4>

46. Another issue of concern for religious minorities seems to be their restricted access to religious material. Decree No. 92/PM requires authorization for the printing of books related to religion (article 14) and for communication of believers with foreign organizations, religious agencies and individuals (article 17). In practice, the approval process is reportedly used to limit or prevent some Christian denominations from importing and printing Bibles. Representatives of the Lao Front for National Construction confirmed that they inspect all religious publications and do not allow any additions to original texts, seeking to protect the interests and traditional message of the religion concerned. In this regard, the Special Rapporteur would like to caution against undue state interference into religious autonomy and the interpretation of substantive religious beliefs. She also wishes to refer to the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which states that the right to freedom of thought, conscience, religion or belief includes, inter alia, the freedom 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 (article 6 c); the freedom to write, issue and disseminate relevant publications in these areas (article 6 d); and the freedom to establish

and maintain communications with individuals and communities in matters of religion and belief at the national and international levels (article 6 i).

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/64/159>

69. Members of religious minorities also remain vulnerable to violations of their right to freedom of religion or belief and other acts of religious intolerance. The Special Rapporteur would like to point out that a certain religion may be a minority in one part of the world and suffer as a result; however, it may constitute the religion of the majority of the population in another part of the world. Government officials and civil servants should be adequately trained in human rights standards and in this regard particular attention should be paid to freedom of religion or belief. More generally, States should take appropriate measures in the field of education in order to encourage a wider knowledge in the society at large of the history, traditions, language and culture of the various religious minorities existing within their territory. Furthermore, a public policy framework for pluralism and equality should ensure an equitable allocation of resources, including broadcasting frequencies, among public service, commercial and community media, so that together they represent the full range of cultures, communities and opinions in society. While mainstreaming religious minorities, affirmative action is important in some areas in order to empower these minorities and raise awareness about their situation.

The Special Rapporteur's report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/22/51>

81. States should support the development of community media which may help improve communication between members of a religious or belief minority within the country and/or across State borders. Such media can also enhance the prospects for minorities to effectively participate in general public debates within the society at large.

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

11. At the four regional workshops, the Special Rapporteur presented joint submissions together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteurs analysed a strategic response to hate speech, which should include efforts to educate people about cultural differences; promote diversity; and empower and give a voice to minorities, for example, through the support of community media and their representation in mainstream media. In this context, the Special Rapporteur refers to the Camden Principles on Freedom of Expression and Equality, which recommend the adoption of a public policy framework for the media that promotes pluralism and equality, by, for example, making an equitable allocation of resources, including broadcasting frequencies, among public service, commercial and community media, so that together they represent the full range of cultures, communities and opinions in society.

Report of the Independent Expert on minority issues to the General Assembly in 2013

<https://undocs.org/A/68/268>

72. In this context, the Rabat Plan of Action notes that States have the responsibility to ensure space for minorities to enjoy their fundamental rights and freedoms, for instance by facilitating registration and functioning of minority media organizations. States should strengthen the capacities of communities to access and express a range of views and information and embrace the healthy dialogue and debate that they can encompass.

The Special Rapporteur's report to the Human Rights Council in 2016

<https://undocs.org/A/HRC/31/18>

30. As mentioned earlier, the close interrelatedness of freedom of religion or belief and freedom of opinion and expression is not confined to mere parallelisms in normative formulations within the Covenant; the interrelatedness is also a practical one, as the two rights mutually reinforce each other in facilitating free and democratic societies. [...]

34. From the combined perspectives of the two rights at issue, individuals are entitled to all aspects of communicative interaction. For instance, they have the right to seek, receive and impart information, express opinions and ideas, voice personal and/or political concerns, share their religious or philosophical convictions with others, try to persuade others or let themselves be persuaded, bear witness to their belief in private or publicly, engage in communication across State boundaries etc. For these and other acts to be manifestations of freedom, however, individuals also need

to have the right not to participate in certain communicative acts, if they so wish. They are generally free to withdraw from unwanted communicative actions, remain disinterested in certain information, keep their political opinions or religious convictions for themselves, decline invitations to interreligious ceremonies or refrain from participating in public demonstrations.

35. Rights to freedom typically have their “positive” and “negative” sides: they entitle individuals to perform certain acts or not to do so. Both aspects are equally important. Indeed, for communicative acts to merit their qualification as “free and voluntary”, individuals should generally be respected in their freedom to decide for themselves whether, when and how to communicate, seek or impart information or speak out on certain issues. The right to withdraw or to remain reserved is the indispensable flipside of the right to engage in all aspects of free communication. This also applies to persons who belong to a group, such as members of religious or belief minorities.

36. In that context, it may be useful to recall that freedom of religion or belief includes the right not to have one’s religious or belief orientation involuntarily exposed, for instance in passports, identification or other official documents. Likewise, freedom of opinion and expression entitles individuals to protection of their political or other opinions against unwanted exposure. Such protection functions as a practical safeguard against discrimination, while at the same time contributing to overcome “religious profiling” and its stigmatizing effects, as required by Human Rights Council resolution 16/18. Policies of using communicative interaction with a view to combating intolerance, stereotyping, stigmatization, discrimination and incitement against individuals based on their religion or belief should therefore always accommodate the interest in non-exposure, which some individuals or groups of individuals may have.

37. To facilitate communication while at the same time accommodating the possible interest in non-exposure presupposes a broad variety of different communicative formats. For instance, while some communicative settings may operate on the express understanding that participants represent different faith communities, there should also be formats which allow people to communicate about religious intolerance and related problems without “outing” themselves in their personal religious or belief orientation. The different formats should mutually complement each other, thus facilitating a culture of open and frank communication with broad voluntary participation.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

j) Establish and maintain charitable and humanitarian institutions/solicit and receive funding	<p style="color: #000080; margin: 0;">Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)</p> <p>Art. 6: The right to freedom of thought, conscience, religion or belief includes the freedom: (b) to establish and maintain appropriate charitable or humanitarian institutions; and (f) to solicit and receive voluntary financial and other contributions from individuals and institutions.</p> <p style="color: #000080; margin: 0;">Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)</p> <p>Art. 2 (4): Persons belonging to minorities have the right to establish and maintain their own associations.</p> <p style="color: #000080; margin: 0;">Human Rights Council resolution 6/37 (2007)</p> <p>Para. 9 (h): Urges States to ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected.</p> <p style="color: #000080; margin: 0;">General Assembly resolution 77/221 (2022)</p> <p>Para. 14 (i): Urges States to ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected.</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur on his visit to Vietnam in 1998

<https://undocs.org/E/CN.4/1999/58/Add.2>

115. Lastly, the controlled areas of religious freedom described above are part of a general situation in which limitations, and even prohibitions, in the religious sphere continue. It is therefore essential for these areas of freedom gradually to be extended to the entire religious sphere and, at the same time, for most of the limitations which are illegal under international law to be eliminated and only those limitations retained which are admissible according to the International Covenant on Civil and Political Rights, the 1981 Declaration and the case law of the Human Rights Committee.

116. The current situation of the religious communities, in which circumscribed areas of freedom are emerging within a general framework of controls, limitations and even prohibitions, appears to be valid for all religious dominations (considered as a whole rather than each community group specifically), Buddhist, Catholic, Cao Dai, Hoa Hao, Protestant and Muslim (the representatives of the Muslim community said that they enjoyed freedom of religion and freedom to practise their religion, but also that their association was the only Muslim association approved by the authorities for all of Viet Nam).

117. These limitations are the following: [...] (h) The religious communities are not, generally speaking, authorized to extend their religious activities into social, health or educational matters. In addition, the cultural, educational, social and hospital functions removed from the religious communities after 1975 have generally not been restored by the authorities.

The Special Rapporteur's report to the General Assembly in 2010

<https://undocs.org/A/65/207>

35. The Special Rapporteur has also noted with concern that the freedom to establish and maintain religious, charitable or humanitarian institutions is not always fully respected and protected in accordance with appropriate national legislation and in conformity with international human rights law. On a domestic level, some religious

minorities are, for example, not authorized to extend their religious activities into social, health or educational matters.

36. While the right to establish religious, charitable or humanitarian institutions and to receive funding is not unlimited, any restrictions imposed must be prescribed by law and must be necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, for example in order to prevent such institutions being misused to advance their cause through violence. In addition, States must prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

The Special Rapporteur's report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/19/60>

45. As a result of such obstacles, members of unregistered religious or belief communities typically encounter huge difficulties when trying to organize their community life in a stable environment and with a long-term perspective.

46. For instance, without the status of a legal personality, religious or belief communities cannot open bank accounts or engage in financial transactions. As a result, the ownership of places of worship frequently remains precarious, in that real estate assets or other important property only belong to private individuals who informally operate in the service of the community. Whether in the case of death, their successors will continue such activities on behalf of the community or claim the inherited property for different purposes may be questionable. Furthermore, the construction of larger places of worship seems hardly conceivable under such insecure circumstances. In this context, the Special Rapporteur would like to recall that the right to freedom of thought, conscience, religion or belief includes, inter alia, freedom to establish and maintain places of worship and freedom to solicit and receive voluntary financial and other contributions from individuals and institutions. [...]

50. Moreover, religious or belief communities lacking legal personality status are barred from employing staff in an official manner. People serving for the community either have to do this on a purely voluntary basis or conclude working contracts with a private employer, which again is a situation detrimental to any long-term planning. Yet, the right to freedom of thought, conscience, religion or belief includes, inter alia, freedom to establish and maintain appropriate charitable or humanitarian institutions.

I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

k) Conscientious objection

Human Rights Committee, General Comment no. 22 (1993)

Para. 11: Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service.

Office of the High Commissioner for Human Rights, Analytical report on conscientious objection to military service (2022)

Para. 57: To bring them into line with international human rights norms and standards, national laws, policies and practices relating to conscientious objection to military service should be guided by the following points:

- (a) The right to conscientious objection to military service derives from the right to freedom of thought, conscience, religion or belief pursuant to article 18 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;
- (b) All persons affected by military service should have access to information about the right to conscientious objection and the means of acquiring objector status;
- (c) The process of applying for status as a conscientious objector should be free and there should be no charge for any part of the whole procedure;
- (d) The application procedure should be available to all persons affected by military service, including conscripts, professional members of the armed forces and reservists;
- (e) The right to object applies both to pacifists and to selective objectors who believe that the use of force is justified in some circumstances but not in others;
- (f) Alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of their religious or non-religious beliefs;
- (g) Conscripts and volunteers should be able to object before the commencement of military service, or at any stage during or after military service;
- (h) No inquiry process is required by international law and consideration should be given to accepting claims of conscientious objection to military service as valid without such a process;
- (i) States that do not accept claims of conscientious objection as valid without an inquiry should establish independent and impartial bodies under the full control of the civilian authorities;
- (j) Application procedures should be based on reasonable and relevant criteria and should avoid imposing any conditions that would result in automatically disqualifying applicants;
- (k) The process for consideration of any claim of conscientious objection should be

timely and all duties involving the bearing of arms should be suspended pending the decision;

(l) After any decision on conscientious objector status, there should always be a right to appeal to an independent civilian judicial body;

(m) Conscientious objectors should not be repeatedly punished for not having obeyed a renewed order to serve in the military;

(n) States should release individuals who are imprisoned or detained solely based on their conscientious objection to military service;

(o) Alternative service must be compatible with the reasons for conscientious objection, be of a non-combatant or civilian character, be in the public interest and not of a punitive character;

(p) Any longer duration of alternative service in comparison to military service is permissible only if additional time for alternative service is based on reasonable and objective criteria;

(q) The personal information of conscientious objectors should not be disclosed publicly by the State and their criminal records should be expunged;

(r) Those who support conscientious objectors or who promote the right to conscientious objection to military service should fully enjoy their freedom of expression.

Human Rights Council resolution 51/6 (2022)

Preambular para. 3: Recalls all previous relevant resolutions and decisions, including Human Rights Council resolutions 20/2 of 5 July 2012, 24/17 of 27 September 2013 and 36/18 of 29 September 2017, and Commission on Human Rights resolutions 1998/77 of 22 April 1998 and 2004/35 of 19 April 2004, in which the Commission recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and Human Rights Committee general comment No. 22 (1993) on the right to freedom of thought, conscience and religion.

Para. 2: Encourages States to consider implementing the recommendations of the above-mentioned reports [A/HRC/41/23 and A/HRC/50/43], where needed, in their efforts to bring or improve national laws, policies and practices, including with regard to application procedures, alternative service and non-discrimination of any kind, in line with States' obligations under international human rights law and applicable international human rights standards.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 1991

<https://undocs.org/E/CN.4/1992/52>

185. The Special Rapporteur has dealt with several cases of conscientious objection in the exercise of his mandate, in accordance with the provisions of the Declaration. He felt that it would be appropriate to establish a set of criteria regarding this issue. The responses to the questionnaire provided additional insight which helped him to formulate his views on the matter more precisely. Conscientious objectors should be exempted from combat but could be required to perform comparable alternative service of various kinds, which should be compatible with their reasons for conscientious objection, should such service exist in their country. To avoid opportunism, it would be acceptable if this service were at least as onerous as military service, but not so onerous as to constitute a punishment for the objector. They could also be asked to perform alternative service useful to the public interest, which may be aimed at social improvement, development or promotion of international peace and understanding. Conscientious objectors should be given full information about their rights and responsibilities and about the procedures to be followed when seeking recognition as conscientious objectors, bearing in mind that application for the status of conscientious objector has to

be made within a specific time frame. The decision concerning their status should be made, when possible, by an impartial tribunal set up for that purpose or a by regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities and the conscientious objector should be granted a hearing, and be entitled to legal representation and to call relevant witnesses.

The Special Rapporteur's report on his country visit to Greece in 1996

<https://undocs.org/A/51/542/Add.1>

40. The Special Rapporteur draws attention to resolution 1989/59 of 8 March 1989 of the Commission on Human Rights of the United Nations, reaffirmed *inter alia* in 1991 (resolution 1991/65 of 6 March 1991) and in 1993 (resolution 1993/84 of 10 March 1993), which recognizes "the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights" (para. 1) and which recommends to Member States "with a system of compulsory military service, where such provision has not already been made, that they introduce for conscientious objectors various forms of alternative service" (para. 3) which "should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature" (para. 4).

The Special Rapporteur's report to the General Assembly in 1997

<https://undocs.org/A/52/477>

77. With regard to the third category of violations, the Special Rapporteur wishes to stress that the right of conscientious objection is a right which is closely linked with freedom of religion.

78. The Special Rapporteur considers it necessary to remind States of Commission on Human Rights resolution 1989/59, reaffirmed several times, which recognizes the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights. The Commission therefore recommends to States with a system of compulsory military service, where such provision has not already been made, that they introduce for conscientious objectors various forms of alternative service which should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature. In its resolution 1984/93 on conscientious objection to military service, the Commission on Human Rights also called for minimum guarantees to ensure that conscientious objection status can be applied for at any time.

The Special Rapporteur's report on his country visit to Turkey in 2000

<https://undocs.org/A/55/280/Add.1>

139. Finally, in accordance with the resolutions of the Commission on Human Rights (for example Resolution 1998/77 recognizing the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion) and General Comment No. 22 (48) of 20 July 1993 of the Human Rights Committee, and on the basis of the Turkish Constitution, which enshrines freedom of belief, the Special Rapporteur believes that regional characteristics and tensions are not sufficient to justify, in Turkey or anywhere else, a categorical rejection of conscientious objections, and recommends that legislation be adopted to guarantee the right to conscientious objections, particularly for religious beliefs.

The Special Rapporteur's report to the UN Commission on Human Rights in 2000

<https://undocs.org/E/CN.4/2000/65>

87. The Special Rapporteur, while understanding the concerns of the Republic of Korea, wishes to recall that the United Nations Commission on Human Rights, in several resolutions, such as resolution 1998/77, recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the International Covenant on Civil and Political Rights and General Comment No. 22 (48) of the Human Rights Committee. It also reminded States with a system of compulsory military service, where such a provision has not already been made, of its recommendation that they provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of non-combatant or civilian character, in the public interest and of not punitive nature. Moreover, it should be pointed out pursuant to article 4 of the International Covenant on Civil and Political Rights,

freedom of belief cannot be subject to limitations, on the understanding that it is distinct from freedom to manifest a belief, which can be subject to limitations as provided for by international law.

The Special Rapporteur's report to the UN Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5/Add.1>

10. The Special Rapporteur is grateful for the Government's response. She would like to draw the Government's attention to Paragraph 5 of Resolution 1998/77 of the Commission on Human Rights, which emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment.

11. Moreover, she notes that the Human Rights Committee has encouraged States to ensure that the length of alternative service does not have a punitive character, in comparison to the duration of regular military service. (See inter alia CCPR/CO/83/GRC, paragraph 15). Noting Armenia's commitment regarding alternative service further to its accession to the Council of Europe, she encourages the Government to initiate a review of the law from the perspective of its compliance with international standards and best practices. [...]

25. The Special Rapporteur is grateful for the detailed response regarding Mr. Mahir Baghirov. However, she would like to refer the Government's attention to Article 1 of Resolution 1998/77 of the Commission on Human Rights, which draws attention to the right of everyone to have conscientious objections to military service. This right is not, and should not be, limited to clerics and students of religious schools. She encourages the Government to review its legislation on alternative service, in accordance with international standards and best practices.

26. She will address the question of conscientious objection as well as other situations raised by the above communication in the report that will be submitted further to the visit that she carried out in Azerbaijan from 26 February to 5 March 2006 at the invitation of the Government. [...]

138. The Special Rapporteur is grateful for the Government's detailed response to her communication. However, she notes with concern the strict time limits for applying for conscientious objector status. In this regard, she draws the Government's attention to Council of Europe Recommendation 1518(2001), which invites member states to introduce into their legislation "[t]he right to be registered as a conscientious objector at any time before, during or after conscription, or performance of military service". This acknowledges that conscientious objection may develop over time, and even after a person has already participated in military training or activities. [...]

305. The Special Rapporteur is grateful for the Government's detailed response. She has also taken note of the Government's position on conscientious objectors through the third periodic State Party Report, which it submitted to the Human Rights Committee in February 2005 (CCPR/C/KOR/2005/3). While she notes that military service may sometimes be necessary for purposes of national security she would like to draw the Government's attention to paragraph 11 of General Comment 22 of the Human Rights Committee which provides that although the International Covenant on Civil and Political Rights "does not explicitly refer to a right to conscientious objection, the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief".

The Special Rapporteur's report on her country visit to Tajikistan in 2007

<https://undocs.org/A/HRC/7/10/Add.2>

45. Neither the Constitution nor any other domestic legislation recognize the right to conscientious objection to compulsory military service. The draft law on freedom of conscience and religious association would even go further in prescribing that nobody be allowed to deviate from implementing obligations established by law on the grounds of personal religious beliefs. This would imply that conscientious religious practices must ultimately give way to general duties imposed by legislation. However, international human rights standards provide that freedom to manifest one's religion or belief 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. Furthermore, in a recent case, the Human Rights Committee observed that, while the right to manifest one's religion or belief did not as such imply the right to refuse all obligations imposed by law, it provided certain protection, consistent with article 18, paragraph 3, of the International Covenant on Civil and Political Rights, against being forced to act against a genuinely held religious belief. The Committee also recalled its general view, expressed in general comment No. 22, that to compel a person to use lethal force, although such use would seriously conflict with the requirements of his conscience or religious belief, fell within the ambit of article 18. [Views of the Human Rights Committee under art. 5, para. 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, communications Nos. 1321/2004 and 1322/2004, *Mr. Yeo-Bum Yoon and Mr. Myung-Jin Choi v. Republic of Korea* (CCPR/C/88/D/1321-1322/2004), para. 8.3.]

The Special Rapporteur's report on her country visit to Turkmenistan in 2008

<https://undocs.org/A/HRC/10/8/Add.4>

68. The Government should ensure that conscientious objectors in Turkmenistan, in particular Jehovah's Witnesses who refuse to serve in the army due to their religious beliefs, be offered an alternative civilian service which is compatible with the reasons for conscientious objection. As such, the Government should also revise the Conscription and Military Service Act which refers to the possibility of being sanctioned twice for the same offence. The Special Rapporteur would like to recall that according to the principle of "ne bis in idem", as enshrined in article 14 (7) of the International Covenant on Civil and Political Rights, no one shall be liable to be tried or punished again for an offence for which he or she has already been convicted or acquitted in accordance with the law and penal procedure of each country.

The Special Rapporteur's report on his country visit to the Republic of Moldova in 2011

<https://undocs.org/A/HRC/19/60/Add.2>

52. The 2007 law also established a right for exemption of any form of service for various categories of persons, including clergy, monks and students in theology (art. 4). In this context, the Special Rapporteur was informed of allegations that, in certain circumstances, authorities have been unwilling to recognize that the heads of Jehovah's Witness communities were "clergy" in the sense of the law because, in addition to their roles in the religious community, they hold other jobs. Although there is an increasing tendency to recognize that Jehovah's Witness heads are "clergy" for the purposes of the law, a non-discrimination approach would imply having this formally recognized at the national level.

53. The situation is markedly more troubling in the Transnistrian region of the Republic of Moldova, where regular military exercises are conducted and there is a general requirement to take part in them. If individuals do not show up for such exercises when summoned, they are punished. There is no provision for exemption from service or alternative service in the Transnistrian region. All young men who refuse military service are subject to criminal sanction. There are two possible penalties for refusing to serve: a fine, or deprivation of liberty. The Jehovah's Witness community raised several recent cases concerning persons refusing to serve in the military in the Transnistrian region on the grounds of conscientious objection. It also reported that men from the Transnistrian region who undertook alternative service in the other parts of the Republic of Moldova were forcibly conscripted into the military in the Transnistrian region or were otherwise arbitrarily detained.

54. The Transnistrian "authorities" told the Special Rapporteur that a compromise offered to conscientious objectors was to serve in the army without direct involvement in the use of weapons. The Special Rapporteur would like, however, to reiterate that everyone has the right to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, and that conscientious objectors should be provided with the option of an alternative service that is compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature. When the right to conscientious objection is recognized by law or in practice, there should neither be differentiation among conscientious objectors on the basis of the nature of their particular beliefs nor discrimination against conscientious objectors because they have failed to perform military service.

84. The Government should continue to recognize the right to conscientious objection in law and in practice, and ensure that the relevant legislation is implemented in a non-discriminatory manner. [...]

87. The "authorities" of the Transnistrian region of the Republic of Moldova are additionally urged: [...]
(c) To cease without delay practices of detaining persons objecting on grounds of religion or conscience to military service, as well as to develop rules for alternative service for such conscientious objectors;

The Special Rapporteur's report to the Human Rights Council in 2016

<https://undocs.org/A/HRC/31/18>

3. Another common feature of the rights to freedom of religion or belief and to freedom of opinion and expression is that they guarantee open communication, thus contributing to the flourishing of communities and a culture of free public discourse. At the same time, the two rights each have their specific applications concerning the forum externum. External "manifestations" of religion or belief, while in many cases also amounting to "expressions" in the understanding of article 19 of the Covenant, often reflect an existential desire to actually live in accordance with one's religious or other conviction, for instance by observing certain dress codes or dietary restrictions, thus exceeding mere communicative "expressions". One example illustrating the difference is conscientious objection to military service, which falls within the subcategories of "observance" or "practice" listed in article 18. Conscientious objectors would

most likely not be satisfied with having the mere option to publicly “express” their opposition to the use of military force. What counts for many of them is the possibility to actually shape their lives in accordance with their conscience-based moral and/or religious position. Generally speaking, while freedom of religion or belief has a strong communicative component, which it shares with freedom of opinion and expression, the protected dimensions of religious manifestations — worship, observance, practice and teaching — cannot be summed up under the heading of communicative freedom only because they also include other aspects of leading one’s life in conformity with one’s religion or belief.

The Special Rapporteur’s report to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

31. Conscientious objectors from religious or belief minorities, frequently those with pacifist tenets, have faced compulsory conscription, at times violating their right to conscientious objection to military service. Rights monitors report cases of prosecutions and arbitrary detentions of Druze by Israeli authorities and Jehovah’s Witnesses, including in Armenia, Azerbaijan, and Eritrea, when they rejected military service as conscientious objectors.



II. Equality and non-discrimination



II. EQUALITY AND NON-DISCRIMINATION

1. *Discrimination on the basis of religion or belief, inter-religious discrimination and tolerance*

International Convention on the Elimination of All Forms of Racial Discrimination (1969)

Art. 5: [...] States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (d) Other civil rights, in particular: [...] (vii) The right to freedom of thought, conscience and religion.

International Covenant on Civil and Political Rights (1976)

Art. 2 (1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as [...] religion [...].

Art. 5 (1): Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

Art. 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as [...] religion [...].

Art. 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

International Covenant on Economic, Social and Cultural Rights (1976)

Art. 2 (2): The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind such as [...] religion [...].

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 2 (1): No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.

Art. 2 (2): For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Art. 3: Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

Art. 4 (1): All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

Art. 4 (2): All States shall make all efforts to enact or rescind legislation where

necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Convention on the Rights of the Child (1990)

Art. 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

Art. 3 (1): Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.

Art. 4 (1): States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

Human Rights Committee, General Comment no. 22 (1993)

Para. 2: 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.

18 Commitments on “Faith for Rights” (2017)

Commitment XIV: We pledge to promote, within our respective spheres of influence, the imperative necessity of ensuring respect in all humanitarian assistance activities of the Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes, especially that aid is given regardless of the recipients’ creed and without adverse distinction of any kind and that aid will not be used to further a particular religious standpoint.

General Assembly resolution 77/221 (2022)

Para. 14: The General Assembly urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to that end: [...] (j) To ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that they receive all necessary and appropriate awareness-raising, education or training on respect for freedom of religion or belief;

(k): To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to persons belonging to religious minorities in all parts of the world;

(l): To promote, through education and other means, mutual understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging, in society at large, a wider knowledge of the diversity of religions and beliefs and of the history, traditions, languages and cultures of the various religious minorities existing within their jurisdiction.

The Special Rapporteur's report to the Commission in Human Rights in 1986

<https://undocs.org/E/CN.4/1987/35>

105. Victims of intolerance or of discrimination based on religion or belief should be able to avail themselves of effective legal remedies.

106. In order to promote ideals of tolerance and understanding in matters of religion and belief, instruction on international and national standards in respect of freedom of religion and belief should be included in school and university curricula and teaching staff must receive proper training in this regard. Similarly, education should be aimed at inculcating, from early childhood, a spirit of tolerance and respect for the spiritual values of others.

107. Non-governmental organizations in general, and groups representing specific religions or ideologies in particular, can play an active role in assuring respect for and promoting tolerance and freedom of religion and belief by initiating an inter-denominational dialogue at the national and international levels, in the form of meetings, conferences and seminars whose topics would be aimed at emphasizing the similarities among various religions and beliefs rather than their differences.

108. The media can also contribute, by disseminating information showing the importance of freedom of religion and belief as a fundamental human right, to educate society and public opinion in the direction of greater tolerance in matters of religion and belief.

The Special Rapporteur's report to the General Assembly in 1999

<https://undocs.org/A/55/280>

11. In it, he explains that when the right to freedom of religion and the right to belong to an ethnic group or to a minority are infringed in the case of a single person or group of persons, the violation is not just a superimposition or ordinary addition of offences or discriminations. It is not just a question of multiple offences. The combination of the two offences creates a new, more serious, offence - an aggravated discrimination - which, while of varying intensity, is by its very nature a separate concept.

112. On the basis of the legal and factual elements of the issue of religious discrimination aggravated by racial discrimination, the Special Rapporteur draws the following preliminary conclusions:

(a) None of the international instruments studied contains any special provisions establishing a specific legal regime or special treatment covering acts of aggravated discrimination, particularly those that affect minorities;

(b) Nevertheless, a study of the various provisions leads to the conclusion that there is a body of sufficiently well-established rules and a set of principles shared by all the nations and all the States members of the international community, which suggests an openness to theoretical acceptance of a right to freedom from aggravated discrimination;

(c) Minorities are sometimes granted specific rights under the internal legislation and even under the Constitution. Yet, many forms of discrimination, particularly those relating to religion, are directly or indirectly enshrined in those Constitutions and affect ethnic groups in particular;

(d) A study of the facts has shown that the overlap between racial and religious discrimination is a common phenomenon that is especially grave and often has very tragic consequences;

(e) The instruments studied would appear to be out of phase with reality. At any rate, they do not appear to accept the full consequences of their own recognition of the links between race and religion.

113. The Special Rapporteur therefore recommends:

Strengthening protection against aggravated discrimination

114. International protection. It seems clear that legislative provisions, whatever their nature or origin, should anticipate and take into account the possibility of aggravated discrimination. The first step in strengthening international protection is to consolidate existing means and mechanisms. The international community's work could be reinforced by adopting the following measures:

(a) Existing instruments should anticipate the possibility of aggravated discrimination. It might be useful to begin working within the framework of existing mechanisms towards, for example, the adoption of a resolution dealing specifically with aggravated discrimination;

(b) The Conference against discrimination could, within the context of its declaration and programme of action, devote some thought to aggravated discrimination;

(c) Protection against aggravated discrimination in the context of existing conventions and other instruments could be strengthened through review and follow-up procedures and through deadlines for consideration.

115. Internal protection. This will mean improving legal protection, in particular under criminal legislation:

(a) Each State should provide judicial guarantees to ensure that freedom of religion or belief and membership of an ethnic and religious group are protected in a concrete manner by explicit provisions. It would be desirable for some States to enact general legislation based on international standards;

(b) States must make efforts to enact legislation or to modify existing legislation, as appropriate, in order to prohibit all discrimination based on identification of individuals with multiple groups. Most importantly, positive criminal legislation should be enacted, not only imposing severe penalties on single forms of discrimination, but above all defining a new offence, that of aggravated racial and religious discrimination, which should carry a specific penalty, and naturally one that is heavier than that imposed for single forms of discrimination, whether religious or racial;

(c) Establishment of an independent equal opportunity authority to monitor racial and religious discrimination.

Prevention of aggravated discrimination

116. Education and training. States need to ensure that, whatever the ethnic and religious make-up of the society, their education system is capable of observing the following principles, which form the basis of a policy striking at the roots of aggravated discrimination: encouragement through education and teaching; prohibition against segregating classes according to membership of ethnic and religious groups; condemnation of racism in schools; appropriate prevention programmes; production of appropriate textbooks.

117. States could also use the following means: information and communication; dialogue between and within religious groups; town planning policies; democracy and development.

The Special Rapporteur's report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5>

19. The Special Rapporteur observed that one of the main challenges to human societies lies in organizing themselves along political lines without infringing on the beliefs or religious freedom of individuals and communities or focusing too heavily on religious considerations at the expense of other rights. There is a need to create better harmony between religious communities to enable them to live side by side and in mutual respect. Efforts to promote inter-religious dialogue at all levels should not only be praised, but also encouraged and actively supported by Governments. At the same time, such harmony can only be forged, and flourish, if Governments remain committed to the promotion of freedom of religion or belief in a neutral and balanced manner. [...]

62. While she notes that religious leaders regularly organize high-level meetings at the international level to promote inter-religious dialogue, she is concerned that Governments, which are primarily responsible for protecting people against violations of the right to freedom of religion or belief, rarely organize intergovernmental events to discuss the rise of religious intolerance, in particular at the regional level. The Special Rapporteur encourages more intergovernmental dialogue on the issues relating to her mandate, so as to increase the involvement of the relevant policymakers.

The Special Rapporteur's report to the Human Rights Council in 2009

<https://undocs.org/A/HRC/10/8>

29. In the implementation of her mandate, the Special Rapporteur has always strived to adopt a holistic approach and to examine all issues related to freedom of religion or belief in a non-selective manner. In doing so, she and her predecessors came across a great variety of issues of concern, including cases of discrimination based on religion or belief pertaining to civil and political rights, as well as to economic, social and cultural rights. In this section, the Special Rapporteur provides a preliminary analysis on discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights. While focusing on economic, social and cultural rights in the present report, the Special Rapporteur recalls that the 1993 Vienna Declaration and Programme of Action proclaimed that all human rights are universal, indivisible, and interdependent and interrelated. Therefore, the distinction made in this section between civil and political rights on the one hand, and economic, social and cultural rights on the other, should merely be seen as reflecting the terminology used by the two international covenants.

30. The principle of non-discrimination is generally perceived as one of the most important in the field of human rights; it is overarching and therefore applies to all human rights, including the right to freedom of religion or belief. It is crucial to prevent discrimination with regard to the enjoyment of economic, social and cultural rights, since

minorities and vulnerable groups are particularly affected when States do not abide by their obligations to respect, protect and fulfil these rights.

31. The enjoyment of rights and freedoms on an equal footing, however, does not mean identical treatment in every instance. Indeed, discrimination not only occurs when individuals or groups in the same situation are treated differently, but may also occur when individuals or groups are treated in the same way although their situation is different. The principle of non-discrimination thus prohibits both unjustified distinctions when similar situations are treated differently and unjustified comparisons when different situations are treated in the same manner.

32. The Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief extensively addresses the principle of non-discrimination in its articles 2, 3 and 4. In particular, article 2 (1) of the Declaration states that “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief”. Furthermore, article 2 (2) provides the following definition for the purposes of the Declaration: “‘intolerance and discrimination based on religion or belief’ means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis”. Article 4 provides that “[a]ll States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life” and that they “shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter”.

33. The International Covenant on Economic, Social and Cultural Rights addresses the principle of non-discrimination in its article 2 (2), which includes a reference to religion, as follows: “[t]he States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

34. In its general comment No. 22 (1993), the Human Rights Committee specifically referred to economic, social and cultural rights in relation to the prohibition of coercion. In paragraph 5, it stated that policies or practices having the same intention or effect, such as those restricting access to education, medical care or employment, are similarly inconsistent with article 18 (2) of the International Covenant on Civil and Political Rights. This approach was recently reinforced by the General Assembly in its resolution 63/181 on the elimination of all forms of intolerance and of discrimination based on religion or belief, in which it urged States to step up their efforts to ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits.

35. On the basis of articles 2 and 4 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, three issues need to be emphasized. First, the principle of non-discrimination, as enshrined in the Declaration, applies to States as much as to non-State actors as potential perpetrators. States have therefore the duty to refrain from discriminating individuals or groups of individuals because of their religion and belief and must also take necessary measures to prevent and eliminate discrimination between non-State actors. Incidents among non-State actors tend to be less clear-cut than discrimination perpetrated by States. For instance, it may be difficult to determine whether faith-based associations are allowed to disregard employment applications from believers belonging to a different community or if they are compelled to consider all applicants, regardless of their religious affiliation. Another example is when a religious or belief community wishes to exclude a certain community from using its premises if these are usually available for rent. In order to determine whether these actions amount to discrimination or not, a case-by-case analysis is necessary.

36. Second, it follows from the definition provided by article 2 (2) that “any distinction, exclusion, restriction or preference based on religion or belief having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis” constitutes discrimination. Hence, not all forms of distinction, exclusion, restriction or preference amount to discrimination; some may in fact be used in the context of special temporary measures or affirmative action, aiming at the elimination of conditions which cause or help to perpetuate discrimination, including on grounds of religion or belief. According to the Human Rights Committee, “in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time, to the part of the population concerned, certain preferential treatment in specific matters as compared with the rest of the population. However, as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the Covenant”. The Special Rapporteur stresses that affirmative actions may be essential to empower communities that suffered on account of historic discriminatory

practices. At the same time, she underlines that the effectiveness of affirmative action should be measured through various identifiable means and should be monitored for its progress.

37. Third, by referring to the “purpose” or “effect” of any distinction, exclusion, restriction or preference based on religion or belief, article 2 (2) of the Declaration provides protection against formal (de jure) and actual (de facto) discrimination. Both concepts are obviously closely linked. While de jure discrimination refers to discrimination enshrined in laws, de facto discrimination pertains to the effects of laws, policies or practices. It entails that de jure discrimination should be eradicated immediately, as this can be done by amending or repealing the discriminatory legislation. When faced with de facto discrimination, States should immediately adopt measures that are likely to lead to its elimination as soon as possible.

38. In addition to the above, reference should also be made to the concepts of direct and indirect discrimination based on religion or belief. A law, policy or practice creates direct discrimination when a difference in treatment, which cannot be justified objectively, is expressly based on a person’s religion or belief. Indirect discrimination stems from a law, policy or practice that does not appear at first sight to involve inequalities but which inevitably leads to inequalities when implemented. Since indirect discrimination may also exist without intention from the perpetrator, it may be more difficult to detect and prove than direct discrimination. However, once indirect discrimination has been identified, States should adopt appropriate measures in order to remedy the situation as soon as possible.

39. Even in cases where there is no intention on the part of the State to discriminate against members of a certain religious or belief community, or where there is no de jure discrimination in national legislation, there may yet exist religious differentials in the enjoyment of economic, social and cultural rights. Access to basic services like education and health care or access to employment may therefore differ when comparing various religious communities or, more generally, socio-economic groups of individuals that may be closely linked to certain religious or belief communities. Where there is discrimination, be it de jure or de facto and direct or indirect, States should address existing or emerging imbalances in line with article 4 of the Declaration on the Elimination of Intolerance and Discrimination. Consequently, in-depth studies and analyses on the socio-economic situation of particular religious communities are vital for States to take adequate measures.

The Special Rapporteur’s report to the General Assembly in 2009

<https://undocs.org/A/HRC/13/40>

33. The Special Rapporteur would also like to provide an overview of some general patterns and issues of concern related to her mandate. In this context, she wishes to distinguish between: (a) discrimination and violence “on the grounds of religion or belief”, i.e., based on the religious affiliation of the victim; and (b) discrimination and violence “in the name of religion or belief”, i.e., based on or arrogated to religious tenets of the perpetrator.

34. The most prominent example of a general, worrying pattern all over the world is the discrimination and violence suffered by members of religious minorities. Many religious minorities are in a vulnerable situation, which is further aggravated when States specifically target them by registering their members’ names and scrutinizing these individuals. Worse still are laws that openly discriminate against individuals on the basis of religion or belief or the perceived lack of religious fervour. Indeed, dissenting or dispassionate believers are being marginalized and face interreligious or intra-religious problems. Admission to schools and employment in Government and private enterprises are denied to people because of their religious or belief affiliations. Many violent acts or threats against members of religious minorities are also perpetrated by non-State actors, all too often with impunity.

35. Another worrying general pattern is the targeting of places of worship and other religious buildings or properties. The Special Rapporteur is seriously concerned about frequent attacks on places of worship and the desecration of cemeteries. Such attacks violate the rights of not only a single believer, but also the group of individuals forming the community attached to the place in question. In this regard, the General Assembly has adopted resolution 55/254 on protection of religious sites, calling upon all States to exert their utmost efforts to ensure that religious sites are fully respected and protected.

36. National policies, legislation and practices which are designed to combat terrorism have had and continue to have adverse effects on the enjoyment of freedom of religion or belief worldwide. The Special Rapporteur notes with concern the worsening situation of minority communities in the wake of the events of 11 September 2001 and the estrangement of communities who earlier lived together without suspicion. While States are obliged to take effective measures to counter terrorism, the Special Rapporteur would like to underline that States must also ensure that counter-terrorism measures comply with their obligations under international law, including international human rights, refugee and humanitarian law.

37. There are also further issues of concern in relation to her mandate, which seem to be more prevalent in particular regions or countries. For example, some domestic registration procedures for religious communities are applied in a

discriminatory manner by the authorities, often curbing the freedom of religion or belief of minority communities such as new religious movements or indigenous peoples. In addition, she is concerned about undue State interference in religious teaching and dissemination of related publications, for example when the authorities censor, monitor and write sermons or persecute religious leaders. Furthermore, the Special Rapporteur has noticed a number of restrictions imposed on different forms of religious expression, for example, on the wearing of distinctive clothing or head coverings. At the same time, she is concerned about reports of women who are forced to wear religious dress in public in certain countries.

38. A number of societies are facing obstacles to ending all forms of discrimination on religious grounds and creating informed public opinion that can effectively challenge religious bigotry. The Special Rapporteur has noticed with regret that, as far as her mandate is concerned, denunciation of human rights abuses is often selective; the religion of the victim and of the perpetrator, rather than the act itself, seems to be a determining factor as to who feels obliged to publicly condemn the incident. Where the victim belongs to one religion, but the perpetrator to another, public outrage from the victims' community unfortunately seems to be greater than if the perpetrator and the victim had the same religion or belief. However, in addition to interreligious conflicts, intra-religious violence also warrants close monitoring and condemnation. All perpetrators, regardless of their or the victims' religious affiliation, should be brought to justice.

The Special Rapporteur's report to the General Assembly in 2014

<https://undocs.org/A/69/261>

25. The report addresses both direct and indirect forms of religion or belief-related intolerance and discrimination in the workplace, examining existing gaps, efforts and approaches, highlighting ongoing challenges and promoting policy options to better protect religious manifestations in the workplace. It also assesses the role of reasonable accommodation, both as a legal strategy and as a tool for managing religion or belief-related diversity in the workplace.

49. "Reasonable accommodation" has become a recognized term in the international human rights debate, and its relevance in a comprehensive non-discrimination strategy has been formally enshrined in the Convention on the Rights of Persons with Disabilities, 2006 (General Assembly resolution 61/106). [The term "reasonable accommodation" has been used by the Committee on Economic, Social and Cultural Rights in its general comment No. 5 (E/1995/22, annex IV, para. 15). See also the Committee's general comment No. 20 (E/C.12/GC/20, para. 28).] Article 2 of the Convention defines: "Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment and exercise on an equal basis with others of all human rights and fundamental freedoms". Article 5, paragraph 3, of the Convention stipulates an obligation for State parties in this field: "In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided." It should be noted that article 5 of the Convention generally deals with equality and non-discrimination and that reasonable accommodation thus plays a systematic role in this specific context. In its concluding observations on reports of States parties, the Committee on the Rights of Persons with Disabilities has clarified that it treats failure to ensure reasonable accommodation as a violation of the principles of equality and non-discrimination.

The Special Rapporteur's report to the General Assembly in 2014

<https://undocs.org/A/69/261>

30. (...) While direct discrimination openly targets certain individuals, or groups, with the intention or effect of denying their claims to full equality, indirect discrimination usually starts with *prima facie* "neutral" general rules, policies or practices, which — although on the surface appearing to apply to everyone equally — nonetheless have a discriminatory impact on certain individuals or groups. Based on the assumption that indirect discrimination is usually more difficult to detect and combat than direct discrimination, the present report will accord specific attention to this problem as it relates to freedom of religion or belief in the workplace.

31. When discussing issues of religious intolerance and discrimination in the workplace, the Special Rapporteur often encounters two general misunderstandings. The first misunderstanding relates to the scope of freedom of religion or belief. It is sometimes assumed that religion should be a "private" affair which chiefly concerns the family and religious worship in a narrow sense, but has little to do with people's professional life. However, for many believers their religious conviction pervades all dimensions of human life: family relations, school education, etiquette, the general societal culture of communication, social and economic affairs, public and political life, and so on, and thus the workplace. Article 18 of the International Covenant on Civil and Political Rights supports such a comprehensive understanding. It covers everyone's 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". Whereas the terms "teaching" and "worship" relate to specific religious spaces and institutions, the terms "observance" and "practice" do not display any spatial or institutional specificities and must be broadly applied. The text also clearly states that the right to manifest one's religion or belief spans both private and public aspects of human life. In addition, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981 (General Assembly resolution 36/55) clarifies, in article 4, paragraph 1, that the responsibility of States to combat religious discrimination covers "all fields of civil, economic, political, social and cultural life". Thus, there can be no reasonable doubt that the right to freedom of thought, conscience, religion or belief also applies in the workplace.

The Special Rapporteur's report to the Human Rights Council in 2017

<https://undocs.org/A/HRC/34/50>

31. The right to freedom of religion or belief and the right to equality are intimately linked. It is not enough only to recognize equality as constituting an underlying principle of this right; it would be more appropriate to view the right to freedom of religion or belief as also constituting a right to equality. This right prohibits discrimination on the basis of religion or belief system, recognized as sacrosanct by a number of human rights instruments. It must be clear, however, that the right to freedom of religion or belief does not give the individual – as a right-holder – the power to marginalize, suppress or carry out violent acts against other individuals and those in vulnerable situations, such as women or members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, under the guise of manifesting their religion, or as constituting the "moral high-ground".

The Special Rapporteur's report to the General Assembly in 2017

<https://undocs.org/A/72/365>

60. The Special Rapporteur notes that the Beirut Declaration and its 18 commitments on "Faith for Rights", launched in March 2017, and the Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes (Fez Plan of Action), launched in July 2017, are also important opportunities for advancing respect for freedom of religion and societal tolerance. It is imperative, therefore, that States redouble their focus and efforts towards putting those tools to use in the face of the growing threat of religious intolerance.

78. The Special Rapporteur, therefore, encourages all stakeholders, including States, faith leaders and civil society, to fully utilize the recommendations outlined in resolution 16/18, the Rabat Plan of Action, the Fez Plan of Action and the Beirut Declaration. Religious literacy and interfaith dialogue can play a vital role in identifying the common good and promoting respect for pluralism. As stressed in the Beirut Declaration, all believers — whether theistic, non-theistic, atheistic or other — should join hands and hearts in articulating ways in which "faith" can stand up for "rights" more effectively, so that each enhances the other. Rejecting expressions of hatred within one's own community and extending solidarity and support across faith or belief boundaries are honourable and meaningful actions.

The Special Rapporteur's report to the Human Rights Council in 2018

<https://undocs.org/A/HRC/37/49>

29. The Human Rights Committee notes that this duty involves both negative obligations, like refraining from perpetuating discriminatory acts, and positive duties, such as the obligation to protect against third-party infringements, including incitement to religious hatred. States are also obliged to ensure that individuals belonging to minorities are able to practise their religions or beliefs or receive public support in the same manner as adherents to a State religion. Other positive duties include satisfying all obligations stipulated by article 27 of the Covenant and by the Declaration on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, which require States to "take measures to create favourable conditions" that enable persons belonging to religious, ethnic and linguistic minority communities, to "express their characteristics". Furthermore, the Beirut Declaration and its 18 commitments on "Faith for Rights" explicitly refer to preventing the use of the notion of "State religion" or "doctrinal secularism" to discriminate against individuals or groups, and to "reducing the space for religious or belief pluralism in practice".

The Special Rapporteur's report to the General Assembly in 2018

<https://undocs.org/A/73/362>

67. The "Faith for Rights" framework, which was launched in March 2017 through the Beirut Declaration on Faith for Rights and its 18 commitments, highlights that religious leaders are potentially very important human rights actors in view of their considerable influence on the hearts and minds of hundreds of millions of believers. The underlying rationale is expressed in the commitment to "leverage the spiritual and moral weight of religions and beliefs with the aim of strengthening the protection of universal human rights and developing preventative strategies".

68. The undertaking expressed in the Beirut Declaration to enhance cohesive, peaceful and respectful societies by mobilizing faith-based actors behind the human rights framework is particularly well illustrated by the commitments to: support and promote equal treatment in all areas and manifestations of religion or belief; ensure non-discrimination and gender equality; stand up for the rights of all persons, including those belonging to minorities; publicly denounce all instances of advocacy of hatred that incite violence; refrain from oppressing critical voices or giving credence to exclusionary interpretations on the basis of religious grounds; and condemn judgmental public determinations by any actor who in the name of religion aims to disqualify the religion or belief of another individual. The holistic human rights approach of the “Faith for Rights” framework is further expressed in the commitment to defend the freedom of expression, including academic freedom and the promotion of tolerance through formal education channels. It also emphasizes the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion.

The Special Rapporteur's report to the Human Rights Council in 2019

<https://undocs.org/A/HRC/40/58>

66. In this context, the Beirut Declaration on Faith for Rights provides important guidance and inspiration for action: “Speech is fundamental to individual and communal flourishing. It constitutes one of the most crucial mediums for good and evil sides of humanity. War starts in the minds and is cultivated by a reasoning fuelled by often hidden advocacy of hatred. Positive speech is also the healing tool of reconciliation and peacebuilding in the hearts and minds. Speech is one of the most strategic areas of the responsibilities we commit to assume, and we support each other for their implementation through this Faith for Rights declaration on the basis of the thresholds articulated by the Rabat Plan of Action.”

The Special Rapporteur's report to the General Assembly in 2021

<https://undocs.org/A/76/380>

24. The Special Rapporteur notes that religious and non-religious people alike may cherish freedom of thought as a vehicle for reason, the search for truth and individual agency, engaging both freedom of religious choice (namely, the right to have, adopt or change religion or belief, and to interpret one's religion or belief) and “freedom from religion” to think freely on all matters without the influence of religion or belief systems. In the Beirut Declaration on Faith for Rights, it is further stressed that freedom of religion or belief cannot exist without freedom of thought. Within religion, people may think critically about what religion calls for in how we live life and in giving full effect to religious practice, including worship, observance and teaching.

The Special Rapporteur's report to the General Assembly in 2020

<https://undocs.org/A/75/385>

12. Target 16.b of Sustainable Development Goal 16 outlines the need to “promote and enforce non-discriminatory laws for sustainable development” as a means of achieving Sustainable Development Goal 16, peaceful, just and inclusive societies. In target 10.3 States are called on to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard”, in an effort to reduce inequalities within and among countries.

The right to legal identity (Sustainable Development Goal 16)

25. The importance of the right to legal identity – the recognition of a person's existence before the law which facilitates the realization of specific rights and corresponding duties – is recognized in Sustainable Development Goal target 16.9.

Reduce all forms of violence and related death rates everywhere (Sustainable Development Goal 16.1)

30. Violence, in all its forms, impairs human rights and undermines sustainable development. Inadequate responses to discrimination and intolerance against religious and belief minorities drive insecurity and violence in two main ways. Firstly, widespread human rights abuses against religious and belief minorities foster permissive environments wherein respect for religious and belief minorities is diminished to the extent that hostility and violence towards such groups is legitimized. Violence in such contexts may be perpetrated by State and non-State actors, and, at times, with the implicit consent of States, especially where perpetrators enjoy impunity. Such violence can and has escalated – resulting in widespread atrocities against religious or belief minorities.

Education (Sustainable Development Goal 4)

39. As well as being a goal itself, ensuring access for all to a quality education underpins a range of fundamental development targets – “inclusion and equity in and through education is the cornerstone of a transformative

education agenda". It is asserted in reports received by the Special Rapporteur that religious and belief minorities face discrimination in access to all levels of education and vocational training. It continues to be emphasized in reports that women and girls often face multidimensional discrimination in the context of education. The number of women and girls deprived of their right to education on the basis of their religion or belief is unknown; however, of the millions of girls worldwide who do not go to school, three-quarters belong to minority groups. In Egypt, Muslim women who choose not to wear the veil have reported that that choice has led to harassment in education settings because the absence of the veil either (a) incorrectly signals that they are Christian or atheist or (b) defies stereotypes about the appropriate behaviour of Muslim women. The legal prohibition of the wearing of certain forms of religious dress in public places, in particular in Western Europe, also jeopardizes access to education for women and girls who choose to wear a veil as an expression of their religious, cultural or personal identity or beliefs.

II. EQUALITY AND NON-DISCRIMINATION

2. State religion(s)

Human Rights Committee, General Comment no. 22 (1993)

Para. 9: The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26. The measures contemplated by article 20, paragraph 2, of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups. The Committee wishes to be informed of measures taken by States parties concerned to protect the practices of all religions or beliefs from infringement and to protect their followers from discrimination. Similarly, information as to respect for the rights of religious minorities under article 27 is necessary for the Committee to assess the extent to which the right to freedom of thought, conscience, religion and belief has been implemented by States parties. States parties concerned should also include in their reports information relating to practices considered by their laws and jurisprudence to be punishable as blasphemous.

Para. 10: If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.

18 Commitments on "Faith for Rights" (2017)

Commitment IV: We pledge to support and promote equal treatment in all areas and manifestations of religion or belief and to denounce all forms of discriminatory practices. We commit to prevent the use of the notion of "State religion" to discriminate against any individual or group and we consider any such interpretation as contrary to the oneness of humanity and equal dignity of humankind. Similarly, we commit to prevent the use of "doctrinal secularism" from reducing the space for religious or belief pluralism in practice.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report on his visit to Pakistan in 1995

<https://undocs.org/E/CN.4/1996/95/Add.1>

81. With regard to legislation, the Special Rapporteur would like to point out that an official or State religion in itself is not opposed to human rights. The State should not, however, take control of religion by defining its content, concepts or limitations, apart from those which are strictly necessary, as provided in article 1, paragraph 3, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and in article 18, of the International Covenant on Civil and Political Rights. On 20 July 1993, the Committee on Human Rights adopted General Comment No. 22 concerning article 18 of the Covenant, in which it expressed the opinion that the right to freedom of thought, conscience and religion was far-reaching. The Committee also pointed out that limitations on the freedom to manifest a religion or belief are authorized only if prescribed and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, and are applied in such a manner that would vitiate the right to freedom of thought, conscience and religion.

The Special Rapporteur's report on his visit to the Islamic Republic of Iran in 1995

<https://undocs.org/E/CN.4/1996/95/Add.2>

88. With regard to the legislation, the Special Rapporteur has indicated that a State religion is not, in itself, in contradiction with human rights. However, this state of affairs - which is consecrated by the Iranian Constitution - should not be exploited at the expense of the rights of minorities and the rights associated with citizenship, which imply that citizens should not be discriminated against on grounds such as, inter alia, religion or belief. From this standpoint, the concept of Islamic criteria as set forth in article 4 of the Constitution should be precisely defined in regulations or legal texts without, however, giving rise to discrimination among citizens.

The Special Rapporteur's report on his visit to Greece in 1996

<https://undocs.org/A/51/542/Add.1>

132. With regard to legislation, the Special Rapporteur observes that the existence of a State religion is not in itself incompatible with human rights. However, this situation, which in the case of Greece is sanctioned by the Constitution, must not be exploited at the expense of the rights of minorities and the rights linked to citizenship, which imply prohibition of discrimination among citizens on the grounds, inter alia, of considerations relating to religion or belief.

The Special Rapporteur's report on his visit to Sudan in 1996

<https://undocs.org/A/51/542/Add.2>

134. On the subject of legislation, the Special Rapporteur stressed that the State religion, or the religion of the State, is not inherently incompatible with human rights. However, that fact - which is confirmed by Constitutional Decree No. 7 - should not be exploited to the detriment of the rights of non-Muslims and the rights derived from citizenship, which imply that there should be no discrimination between citizens based, inter alia, on considerations of belief or conviction.

The Special Rapporteur's study for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2000

<https://undocs.org/A/CONF.189/PC.1/7>

119. Moreover, aggravated discrimination tends to intensify or become more likely to occur when the State itself officially adopts the religion of the majority or of the ethnically dominant minority, or subscribes to a particular ideology. The State religion or the religion of the State is not, of course, a characteristic of the religion, but of the State. However, if in its Constitution the State professes its adherence to a particular faith, some will see the mere profession of that faith - whatever the good intentions of the State - as a form of discrimination against the ethnic or religious minority or minorities. In the area of legislation, moreover, some such States adopt clearly discriminatory provisions, as we have seen, in order to impose the constitutionally established religion or ideology, and therefore a particular vision of society and of the universe, on members of ethnic or religious minorities. [Thus, in national systems, de jure acts of discrimination are not racial, but religious, in nature. However, to the extent that they affect ethnic groups, they are also racial in nature (in the broad sense).] This is no doubt one of the most unacceptable violations of an individual's right to have and practice his religion and that of his ancestors. It is true, as the Special Rapporteur has noted, that "States which are or claim to be based on religion may be either exclusive - for the benefit of the predominant religion alone - or open and respectful vis-à-vis other religions" (E/CN.4/1998/6, para. 42). However, to the extent that everything ultimately depends on the goodwill of the State, the personality of those in office at any given moment, and other unpredictable or subjective factors, there is no serious guarantee in law that the State will at all times respect minority ethnic and religious rights.

120. In States with a range of religious and ethnic identities, the constitutional profession of an official religion, a State religion or a religion of the State, may be politically or historically justified, but by its very nature it carries the seed of aggravated discrimination....Therefore, when the State itself announces its religion in its Constitution, the law ceases to reflect the ethnic and religious variety of the society, and the way is opened to arbitrary action and intolerance.

The Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

61. Without addressing the question of whether a "State religion" is a system that is compatible with human rights, the Special Rapporteur has noted that in a few States, legislation has been adopted that recognizes certain religions and not others or that institutes a different status among certain categories of religions. While the Special Rapporteur

has not been provided with sufficient information suggesting that in any of these cases the legislation actually causes violations of the right to freedom of religion or belief, she is of the opinion that the legalization of a distinction between different categories of religion is liable to pave the way for future violations of the right to freedom of religion or for discrimination on the basis of religion or belief.

62. On this question, the Special Rapporteur would like to refer to a report on a country visit made by her predecessors and according to which "the principle of freedom of religion or belief, as enshrined in international human rights law, is difficult to reconcile with a formal or legal distinction between different kinds of religious or faith-based communities insofar as such a distinction in their status must imply a difference in rights or treatment, which may, in some cases, constitute discrimination that is incompatible with the exercise of human rights" [Report on the visit of the Special Rapporteur on freedom of religion or belief to Romania (E/CN.4/2004/63/Add.2), para. 94.]

The Special Rapporteur's report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/19/60>

65. The Special Rapporteur would also like to reiterate warnings against aggravated discrimination following the adoption of a State religion. While the mere existence of a State religion may not in itself be incompatible with human rights, this concept must neither be exploited at the expense of the rights of minorities nor lead to discrimination on the grounds of religion or belief. Formal or legal distinction between different kinds of religious or belief communities carries the seed of discrimination insofar as such a distinction in their status implies a difference in rights or treatment.

66. Indeed, it seems difficult, if not impossible, to conceive of an application of the concept of an official "State religion" that in practice does not have adverse effects on religious minorities, thus discriminating against their members. As an earlier mandate holder, Abdelfattah Amor, has rightly pointed out in this context, "to the extent that everything ultimately depends on the goodwill of the State, the personality of those in office at any given moment, and other unpredictable or subjective factors, there is no serious guarantee in law that the State will at all times respect minority ethnic and religious rights". When the State itself announces its religion in the Constitution, the law arguably ceases to reflect the ethnic and religious variety of the society, opening the floodgates to arbitrary action and religious intolerance. Furthermore, if one religion is recognized as a State religion, then women belonging to religious minorities, or those who do not follow the mainstream interpretation of the State religion, may face aggravated discrimination; for example when the State or society seeks to impose its view of women. Both with regard to State religions and other religious or belief communities, the State should never try to take control of religion by defining its content and concepts or by imposing limitations, apart from those which are strictly necessary pursuant to article 18, paragraph 3, of the International Covenant on Civil and Political Rights.

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

47. The Special Rapporteur has also noted with concern that restrictions are often conceptualized and implemented in violation of the principle of non-discrimination. In particular, States that have an official religion frequently seem to encourage missionary activities on behalf of the country's official religion, while at the same time prohibiting or restricting any attempts to convert people to another religion or belief. With regard to the concept of an official "State religion", the Special Rapporteur reiterates that it seems difficult, if not impossible, to conceive of an application of this concept that in practice does not have adverse effects on religious minorities, thus discriminating against their members (see A/HRC/19/60, para. 66). There are also some discriminatory domestic legal provisions that give preferential treatment to so-called "reconversions" to the forefathers' original religion (see A/HRC/10/8/Add.3, para. 48). Such policies and practices violate the principles of equality and non-discrimination on which the entire architecture of human rights, including the right to freedom of religion or belief, is based.

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/68/290>

63. Additional complications emerge in States that directly enforce religious norms in certain areas of society, particularly norms concerning issues of marriage, family life, child custody, divorce and inheritance. Denominational family laws and personal status laws enforced by the State are a reality in many countries. They mostly reflect traditional understandings of gender roles connected with unequal rights of men and women. Many such denominational family laws may restrict women's rights to choose a spouse according to their own wishes; they may reflect unequal rights of men and women in questions of divorce, sometimes even permitting the husband to repudiate his wife unilaterally; they may furthermore assume unequal rights concerning family property and

inheritance; they may give the husband a privileged legal position in issues of child custody; and some of these laws allow men to contract polygamous marriages.

The Special Rapporteur's report to the Human Rights Council in 2018

<https://undocs.org/A/HRC/37/49>

10. All States support, regulate or limit religion and belief to some extent. Some Governments declare official religions; other Governments give preferential treatment to one or more religions; Governments also control or restrict religious organizations and practices within their domain; and some Governments single out the manifestation of certain religions or beliefs for restrictions that are not placed on all adherents within their territory.

29. The Human Rights Committee notes that this duty involves both negative obligations, like refraining from perpetuating discriminatory acts, and positive duties, such as the obligation to protect against third-party infringements, including incitement to religious hatred. States are also obliged to ensure that individuals belonging to minorities are able to practise their religions or beliefs or receive public support in the same manner as adherents to a State religion. Other positive duties include satisfying all obligations stipulated by article 27 of the Covenant and by the Declaration on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, which require States to "take measures to create favourable conditions" that enable persons belonging to religious, ethnic and linguistic minority communities, to "express their characteristics". Furthermore, the Beirut Declaration and its 18 commitments on "Faith for Rights" explicitly refer to preventing the use of the notion of "State religion" or "doctrinal secularism" to discriminate against individuals or groups, and to "reducing the space for religious or belief pluralism in practice".

35. States must first impose sanctions for any discrimination on the basis of religion or belief when it comes to the exercise of enumerated rights enshrined in a number of human rights instruments in order to fully realize freedom of religion or belief. Moreover, Article 26 of the Covenant provides a freestanding right to equal protection under the law, which can be invoked regardless of whether the right (or benefit) in question is one that is enumerated. As already noted, in States where ethnic, religious or linguistic minorities exist, these persons "shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language" (see article 27 of the Covenant). While differential treatment between different groups by States (including based on religion or belief) may not always amount to unlawful discrimination if the criteria for such differentiation are reasonable and objective, the burden is always on the State to provide sufficient proof that the aim of such treatment is to achieve a purpose which is legitimate. [See, for example, Human Rights Committee general comment No. 18 (1989) on non-discrimination, para. 13; and Committee on Economic, Social and Cultural Rights general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.]

36. The full realization of equality, including with respect to the exercise of freedom of religion or belief, requires States to move beyond tackling "formal discrimination" to achieving "substantive equality". While eliminating formal discrimination requires removing barriers to ensure that a State's constitution, laws and policies do not discriminate on prohibited grounds, achieving substantive equality means, inter alia, "immediately adopt[ing] the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination". Furthermore, longer-term measures would be required, that should result in the State undertaking positive steps to ensure that individuals belonging to religious or belief minorities are able to enjoy religious freedoms and rights on a permanent basis and equal to members of the majority religion or belief. Thus, as previous mandate holders have stressed, equal treatment is not synonymous with identical treatment.

States with official or favoured religion(s)

"Religious states"

54. In some of these countries, members of non-favoured religions are prohibited from engaging in public acts of religious expression among members of the favoured religion, and places of worship used by the former are often placed under government surveillance in order to ensure that members of the favoured religion do not attend religious services held on those premises. Governments may also prohibit women from praying in public or impose dress codes on them. Moreover, the conversion of religious minorities to the State religion is encouraged, but conversions away from the predominant religion is antithetical to the State's interests and therefore strongly discouraged or even sanctioned. This also means that proselytism by minority religions or beliefs to members of the dominant religion is either strongly discouraged or prohibited.

55. Some religious States constitutionally reserve an important position and role for the religious precepts of the State religion, for example by requiring religious doctrine to be "a source" or "the source" of legislation or by prohibiting the adoption of laws that contravene religious doctrine. Such entanglements between the political organizations of the State and religious authority and governance often result in the mainstreaming of religious laws within the State's

legislative, executive and judicial activities. This includes laws that define the relationship religious States have with minority religions and those that govern personal status laws, including laws that govern matters such as sexual and reproductive rights, marriage, divorce, child custody and inheritance.

56. Members of a particular faith may enjoy privileged access to public office, including by reserving the office of the head of State or head of Government or other senior positions for members of that faith. Women may also be excluded from holding certain public posts, such as Head of State or certain positions in the judiciary. There can also be governmental control of clerical positions within the dominant religion.

57. Religious instruction may be compulsory in public schools or the authorities may in other ways interfere with the freedom of religion or belief of children or with parental rights regarding the education of their children. Religious minorities might face severe restrictions in the dissemination of knowledge about their traditions or in the training of their clerical order.

58. Several States with official or preferred religions restrict religion or belief by formally banning certain religious groups. Among those countries in the world that have this kind of ban in place, 44 per cent are countries with an official State religion, while 24 per cent are countries that have a preferred or favoured religion. Banning of religious groups is much less common among States that do not have an official or preferred religion, with only three countries in this category maintaining formal bans on particular groups in 2015. In addition to States criminalizing atheism, the use of anti-blasphemy and anti-apostasy laws amount to a de facto ban on the manifestation of humanism and non-religious beliefs.

Secular-like states with official or favoured religion(s)

61. Some of these States have much in common with the non-identification category. However, even in the absence of overt forms of discrimination, there may be hidden or indirect forms of discrimination. This may occur, for example, in the education sector, either through discriminatory funding or ineffective opt-out options from compulsory religious education in public schools, or in the observance of days of rest. Certain forms of religious manifestation may also be privileged over others in these States by interpreting such exhibitions to be reflections of cultural heritage or by assigning secular meanings to them, such as “national values” or “tradition”.

States that have no identification to religion

64. These States appear best positioned to respect a range of human rights, including the right to freedom of religion or belief. The separation between religion and politics in these States, for example, gives them a greater space to fulfil their role as impartial guarantors of freedom of religion or belief for all; authorities are more likely to confront hate crimes and incitement to religious hatred on equal grounds and to provide equal judicial assistance to all individuals regardless of their religious or belief communities. Secular schools are also more likely to equip their students with (neutrally taught) religious literacy, based on objective history, and the use of religious values and references can be part of the political discourse, competing with non-religious beliefs and other rationales to influence public policy, in the “marketplace of ideas”.

65. However, these States may also, in practice, face several challenges. For example, benefits provided on an equal basis may be more accessible to established religious communities than some newer or emerging groups who may struggle for recognition and continue to be perceived and/or stereotyped as “sects”. Furthermore, in some cases, where attempts to accommodate religious distinctions are rejected as signs of inappropriate State favouritism or differential treatment, the erosion of the freedom of religion or belief, frequently in the name of “others’ rights”, can occur. A string of judicial proceedings, debates in the media and political initiatives have contributed to this transformative process, putting into jeopardy certain religious rites and practices such as male circumcision, kosher slaughtering and the wearing of religious symbols. Such regulation of religious practice sometimes tends to “erect a barrier between one’s conscience and actions manifesting that conscience” and can be indifferent to the integral nature of some forms of practice to individual conscience and agency.

States with a negative view of religion

68. Ironically, such State behaviour is not unlike the polar opposite of this model: “religious States”, where religion is enforced upon individuals. The top eight recipients of communications by the mandate are from these two groups. In both cases, the State embodies a sacredness where no other religion or belief should rival the State ideology. As a result, the overall context of these States is repressive and contains elements of coercion. Restrictions on religious practices are often articulated in the name of ensuring “equality” for all citizens. However, equal opportunities for individuals to enjoy these rights may be non-existent. In fact, all forms of (individual) freedom are sacrificed in the name of (collective) equality.

69. These States tend to impose high levels of restrictions, resulting in a wide-range of documented violations of freedom of religion or belief. Moreover, other interdependent and mutually reinforcing rights are invariably violated

too, including the freedoms of opinion, expression, peaceful assembly and association, which are all interdependent and interrelated. Among the most notorious examples of this intersection of rights is the ability to express views, and to express, write, publish, disseminate or import religious publications — as well as to practise these rites in community with others. Censorship over press, media and publications restrain a whole range of these rights.

75. Although international law does not prescribe a particular type of relationship between State and religion, the communications issued by the mandate holder show that certain types of relationships are more frequently associated with violations of freedom of religion or belief than others. Such relationships are incredibly diverse and complex, but three broad types of relationships are discernible and provide a useful analytical basis to discuss the challenges that States face in promoting and protecting freedom of religion or belief. These three types of relationships are: (a) States with official or favoured religions; (b) States with no identification towards a religion; and (c) States that pursue policies to heavily restrict the role of religion.

76. All States, regardless of their relationship with religion, face challenges in the field of human rights. However, aspects of two such relationships discussed in the present report appear highly incompatible with the range of States' obligations to uphold freedom of religion or belief. These include those of "religious States" and those with a negative view of religion's role in public life. The extent to which States support an official religion, the degree to which they enforce that religion and the extent to which they control, regulate and restrict the religion pose significant implications for States' disposition to promote and protect freedom of religion or belief. On the other hand, States with a negative view of religion tend to impose restrictions on all religion, including those held by the majority of persons under their jurisdiction. Ironically, even though they represent polar opposite models in terms of support for the role of religion in public life, States that "heavenly enforce" and those that "heavily restrict" religion are both motivated to establish a monopoly for their ideologies and, as such, often require force and generally involve discrimination against those that do not share their views.

77. States that enforce its official religion have very high levels of restrictions on freedom of religion or belief and often discriminate against persons belonging to religious minorities, women, lesbian, gay, bisexual, transgender and intersex persons, converts or apostates and non-believers. States with a negative view of religion have equally high levels of restrictions on freedom of religion or belief for any individual manifesting another belief contrary to State atheism. In both cases, the nexus of other interdependent and mutually reinforcing rights is invariably violated too, such as freedoms of opinion, expression, peaceful assembly and association. Thus, in these models, even persons belonging to the numerically majority religion may be subject to repression and persecution.

88. Respect for freedom of religion or belief is closely related to the degree of tolerance and respect for diversity within a society. The Special Rapporteur would like to reiterate the recommendations made by his predecessors on encouraging States to facilitate interfaith communication and to invest in both religious literacy and religious freedom literacy.

89. Finally, the Special Rapporteur would like to reiterate commitment IV of the "Faith for Rights" framework, which warns against the use of the notion of "State religion" to discriminate against any individual or group as well as against the use of "doctrinal secularism", which risks reducing the space for religious or belief pluralism in practice. [See www.ohchr.org/Documents/Press/Faith4Rights.pdf.] He stresses that States must satisfy a range of obligations, including to adopt measures that guarantee structural equality and to fully realize freedom of religion or belief. In the light of these obligations, the Special Rapporteur echoes the importance of adopting a model for the relationship between State and religion that is in harmony with the concept of "respectful distancing" — i.e. political and legal, but not social, disentanglement from religion — which rests on a "deep grounding of secularity based on human rights". Such a model ensures "that the State does not resort to religious exclusivity or bias in culture, identity, schooling, or even symbolism for short-term ends and for vested interests, but will continually strive to create spaces of inclusiveness for all as an active and ongoing endeavour". [See Bielefeldt, Ghanaia and Wiener, *Freedom of Religion or Belief* (footnote 15), pp. 355–359.]

III. Groups/persons likely to find themselves in vulnerable situations



III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

1. Women

Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1950)

Art. 27: Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

International Covenant on Civil and Political Rights (1976)

Art. 3: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Art. 5 (1): Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

Art. 18 (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.

International Covenant on Economic, Social and Cultural Rights (1976)

Art. 2 (2): The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 8: Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the UDHR and the Covenants.

Convention on the Elimination of all forms of Discrimination against Women (1981)

Art. 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Art. 3: States Parties shall take in all fields, in particular in the political, social, economic and

cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Declaration on the Elimination of Violence Against Women (1993)

Art. 4: States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.

Human Rights Committee, General Comment no. 28 on the equality of rights between men and women (2000)

Para. 13: States parties should provide information on any specific regulation of clothing to be worn by women in public. The Committee stresses that such regulations may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.

Para. 21: States parties must take measures to ensure that freedom of thought, conscience and religion, and the freedom to adopt the religion or belief of one's choice - including the freedom to change religion or belief and to express one's religion or belief - will be guaranteed and protected in law and in practice for both men and women, on the same terms and without discrimination. These freedoms, protected by article 18, must not be subject to restrictions other than those authorized by the Covenant and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion; States parties should therefore provide information on the status of women as regards their freedom of thought, conscience and religion, and indicate what steps they have taken or intend to take both to eliminate and prevent infringements of these freedoms in respect of women and to protect their right not to be discriminated against.

Human Rights Council resolution 6/37 (2007)

Para. 9 (c): Urges States to ensure that appropriate measures are taken in order to adequately and effectively guarantee the freedom of religion or belief of women.

Para. 11: Invites all actors to address in the context of that dialogue, inter alia, the following issues within the framework of international human rights: [...] (b) The situations of violence and discrimination that affect many women as well as individuals from other vulnerable groups in the name of religion or belief or due to cultural and traditional practices.

Para. 12: Emphasizes the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with a broader participation including of women, to promote greater tolerance, respect and mutual understanding.

Para. 18 (d): Invites the Special Rapporteur on freedom of religion or belief to continue to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

Committee on the Elimination of Discrimination Against Women, General Recommendation no. 28 on the core obligation of State parties under article 2 of the Convention (2010)

Para. 18: Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women

concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25.

Joint General Recommendation no. 31 of the Committee on the Elimination of Discrimination against Women/ General Comment no. 18 of the Committee on the Rights of the Child on harmful practices (2014)

Para. 7: Harmful practices are therefore grounded in discrimination based on sex, gender and age, among other things, and have often been justified by invoking sociocultural and religious customs and values, in addition to misconceptions relating to some disadvantaged groups of women and children. Overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children. While the nature and prevalence of the practices vary by region and culture, the most prevalent and well documented are female genital mutilation, child and/or forced marriage, polygamy, crimes committed in the name of so-called honour and dowry-related violence. Given that those practices are frequently raised before both Committees, and in some cases have been demonstrably reduced through legislative and programmatic approaches, they are used herein as key illustrative examples.

Para. 27: Both women and girls find themselves in polygamous unions, with evidence showing that girls are much more likely to be married or betrothed to much older men, increasing the risk of violence and violations of their rights. The coexistence of statutory laws with religious, personal status and traditional customary laws and practices often contributes to the persistence of the practice. In some States parties, however, polygamy is authorized by civil law. Constitutional and other provisions that protect the right to culture and religion have also at times been used to justify laws and practices that allow for polygamous unions.

Para. 43: In States parties with plural legal systems, even where laws explicitly prohibit harmful practices, prohibition may not be enforced effectively because the existence of customary, traditional or religious laws may actually support those practices.

Para. 44: Prejudices and weak capacity to address the rights of women and children among judges in customary and religious courts or traditional adjudication mechanisms and the belief that matters falling within the purview of such customary systems should not be subjected to any review or scrutiny by the State or other judicial bodies deny or limit the access to justice of victims of harmful practices.

Para. 70: One of the primary challenges in the elimination of harmful practices relates to the lack of awareness or capacity of relevant professionals, including front-line professionals, to adequately understand, identify and respond to incidents or the risks of harmful practices. A comprehensive, holistic and effective approach to capacity-building should aim to engage influential leaders, such as traditional and religious leaders [...]

Committee on the Elimination of Discrimination against Women, General recommendation no. 36 on the right of girls and women to education (2017)

Para. 55: The Committee recommends that States parties take the following measures to mitigate the impact of cultural and religious practices on girls' and women's access to education:

- (a) Protect girls and women from being deprived of their right to education on the basis of patriarchal, religious or cultural norms and practices, in line with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices;
- (b) Facilitate dialogue with religious and traditional leaders on the value of educating girls and the importance of addressing practices and customs that act as barriers to their participation at all levels of education;
- (c) Ensure that the minimum age of marriage, with or without parental consent, is set at 18 for girls, in line with joint general recommendation No. 31/general comment No. 18;
- (d) Integrate the topic of female genital mutilation into formal and non-formal education, so that it is openly discussed, without stigma, to enable girls and women to receive accurate information on the detrimental and harmful effects of the practice, in line with the Committee's

general recommendation No. 14 (1990) on female circumcision;
 (e) Train teachers, facilitators and youth workers to equip them to educate girls about female genital mutilation and support those at risk of undergoing the procedure or who have already undergone the procedure;
 (f) Encourage religious and community leaders to oppose the practice of female genital mutilation and to inform and educate their communities on the dangers of the practice.

18 Commitments on "Faith for Rights" (2017)

Commitment V: We pledge to ensure non-discrimination and gender equality in implementing this declaration on "Faith for Rights". We specifically commit to revisit, each within our respective areas of competence, those religious understandings and interpretations that appear to perpetuate gender inequality and harmful stereotypes or even condone gender-based violence. We pledge to ensure justice and equal worth of everyone as well as to affirm the right of all women, girls and boys not to be subjected to any form of discrimination and violence, including harmful practices such as female genital mutilation, child and/or forced marriages and crimes committed in the name of so-called honour.

General Assembly resolution 77/221 (2022)

Para. 14: The General Assembly urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to that end: [...] (d) To end violations of the human rights of women and girls and to devote particular attention to appropriate measures modifying or abolishing existing laws, regulations, customs and practices that discriminate against them, including in the exercise of their right to freedom of thought, conscience and religion or belief, and to foster practical ways to ensure gender equality.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the General Assembly in 2001

<https://undocs.org/A/56/253>

146. Not all traditions are equally valid, and those which run counter to human rights must be combated. It is essential to distinguish between tolerance, which is necessary, and blind acceptance of customs which may involve degrading treatment or blatant violations of human rights. In order to ensure that freedom of religion does not undermine women's rights, it is vital that the right to difference which that freedom implies should not be interpreted as a right to indifference to the status of women. As Eleanor Roosevelt said, "Where, after all, do human rights begin? In small places, close to home".

147. Lastly, the Special Rapporteur reiterates his recommendation that all relevant United Nations mechanisms should formulate and adopt a plan of action to combat discrimination against women imputed to religions and traditions.

The Special Rapporteur's report to the Commission of Human Rights in 2002

<https://undocs.org/E/CN.4/2002/73/Add.2>

97. What different forms of extremism and religious fundamentalism in particular have in common, irrespective of the religion concerned, is the negation of gender equality, often by violent means. Extremism can be seen in the action of groups or, in some instances, of the State itself. In Afghanistan, for example, discrimination against women has become institutionalized by the Taliban with the introduction of what is in fact a system of apartheid against women based on the Taliban's own interpretation of Islam: the exclusion of women from society, employment and schools, the obligation for women to wear the *burqa* in public and restrictions on travel. Women are barred from society and consigned to an area where they enjoy neither citizenship nor rights and where their total submission to the all-powerful man in the name of Allah is the rule.

98. The distinctive feature of extremism, in particular when it involves the State, is the institutionalization of discrimination against women. In Iran, for example, especially in the first years of the Islamic revolution, women were reportedly barred from certain functions or activities, notably in schools but also outside the education system. In that country, according to one author, women are political pawns and often the main victims of failed reforms and extremist interpretation of religion.

99. In other countries, ruling parties, although committed to tolerance, play into the hands of extremists by employing women's status (the veil, etc.) in their electoral campaigns and are thereby ensnared by a purely electoral strategy of

incorporating religion into the political sphere. The State is thus rendered powerless or at least weakened in its efforts to combat religious extremism, to the detriment of women in particular. In other countries exposed to extremism, women appear to be one of the main targets of fatwas declared against them, threatening their security and lives or entailing punishments of flogging or social ostracism.

101. Many women across the world are subjected to particularly strict clothing requirements, as, for example, in countries where the State imposes a specific vision of society, ethics and public morality. The study “Racial discrimination and religious discrimination: identification and measures”, prepared by the Special Rapporteur on religious intolerance for the Preparatory Committee of the World Conference against Racism, shows that women in many countries are believed to experience serious restrictions in the areas of education and employment as well as outside those spheres and are apparently required to wear what is described as Islamic dress (A/CONF.189/PC.1/7, para. 110).

104. Of all practices harmful to the health of women, the most known and the most publicized in the media is female genital mutilation or female circumcision or excision. It has long received the attention of international human rights organizations and bodies and is one of the main focuses of the mandate of the Special Rapporteur on traditional practices affecting the health of women and children. It involves removal of all or part of the female genital organs. WHO figures quoted by the Special Rapporteur indicate that there are estimated to be between 85 and 115 million sexually mutilated women and girls in Africa and Asia.

105. As observed by the Special Rapporteur on traditional practices, female genital mutilation, which has been performed by peoples and societies across the ages and continents, is rooted more in a “set of beliefs, values and cultural and social behaviour patterns governing the lives of the societies concerned” (E/CN.4/Sub.2/1999/14, para. 8). That no doubt explains the emotional charge surrounding beliefs associated with this practice, the difficulty of speaking about it, including in the countries involved and in relevant international organizations, and hence the need for caution in relation to any measures aimed at its eradication.

106. Female genital mutilation is today practised by diverse communities belonging to different religious traditions. Its most extreme form, infibulation or Pharaonic circumcision, entails the removal of the clitoris and labia minora. This form, which is considered the most cruel and most harmful to the health of girls, is believed to be practised in Somalia, Djibouti, the Sudan, Mali, Egypt and Ethiopia. Partial excision or clitoridectomy or Sunna circumcision is reportedly practised in West, Central and East Africa. [Excision is wrongly called female “circumcision”. The clitoris is not a piece of skin but a vital part of the female genital organs. The only conceivable masculine equivalent would be the removal of the penis.] Asian countries such as Yemen, Indonesia and Malaysia practise female excision but certain communities follow a symbolic ritual and in some cases make a simple incision without carrying out any mutilation.

110. Female genital mutilation has serious effects on women’s health and lives. It carries a high risk of death or disability and often causes vaginal haemorrhage and many genito-urinary and obstetric complications as well as long-term psychological problems. Its practice and that of polygamy or marital rape also expose girls and women to an increased risk of contracting HIV/AIDS and other sexually transmitted diseases (A/54/38/Rev.1, para. 18).

114. Child marriage is the outcome of persistent traditional customs and practices which do not always have a direct basis in religion—including son preference and unequal access to education and training—but are detrimental to women and girls. In a number of cultures, early marriage is viewed as a guarantee of a long period of fertility in a woman, whose only usefulness is thus seen as that of a mother and wife. Also, several traditional practices are interrelated. As rightly stated by the Special Rapporteur on traditional practices affecting the health of women and children, “the economic benefits of a girl whose virginity was guaranteed, whether through genital mutilation or early marriage, were recognized as causes for these practices, since a virgin girl was considered a financial asset in terms of dowry” (E/CN.4/Sub.2/1995/6, para. 37). Several countries with different religious traditions are involved, such as, for example, many Asian and Central and Latin American countries. What these countries possibly have in common are very low male and female literacy levels, extreme poverty and continuing denigration of women in society. Early marriage and resulting early motherhood adversely affect, inter alia, women’s health, education and life expectancy.

149. Several cultural practices, whether religious or non-religious in origin, condone or at least tolerate a degree of violence against women. The violence is trivialized in many societies, including those where women enjoy adequate legal protection. Such violence can sometimes assume forms that are all the more cruel and morally unacceptable because they have their basis in religious practices. Its extreme manifestation is violation of the right to life, which can take several forms.

1. Infanticide

150. The practice of infanticide appears to exist in very diverse forms in some countries where male-child preference and patriarchal patterns take on criminal overtones. In India, for example, cultural traditions, extreme poverty and

ignorance may drive parents to suffocate or poison their female babies (E/CN.4/Sub.2/1998/11, para. 101). It has also been seen that, in many countries, son preference gives rise to the inhumane and morally unacceptable practice of sex-selective abortion.

151. Some religions have put an end to the practice of female infanticide and banned it under mandatory prescriptions. That applies in general to the Koran and Islam, which forbade this barbaric practice prevalent among the tribes of Arabia, and one can understand Islam's thinking as it attempted to play a forward-looking role in women's emancipation, often in conflict with the cultural traditions of the time. It can especially be appreciated that Islam could not go further if it was to avoid challenging habits and prevent discord in the face of the then priority of safeguarding the unity of the Muslims and complete the building of the State and religious apparatus. The Koran and Sunna simply showed the way forward and the method to be used, leaving it to those in power, i.e. individuals and States, to improve what the prophet and his companions could not accomplish in their lifetime. That difficult and ongoing effort should guide all action in the area of female emancipation in the light of religion and traditions.

2. Cruelty to widows

152. Generally speaking, denigration of widows is a cultural belief common to several countries with varying cultural traditions. In some States, widows and "witches" are subjected to inhuman rituals, which sometimes assume especially cruel forms. In India, for example, *sati* (widow burning), which was thought to have been beliefs Although officially banned as long ago as 1829 and again in 1987, the practice is tolerated by the State, which turns a blind eye to the many rituals and rites which glorify it in different regions of India (E/CN.4/1997/47, section III). The practice, which has survived with occasional instances of voluntary or forced self-immolation is believed to have its roots in a combination of harmful cultural traditions and economic interests. A woman's sole *raison d'être* is bound up with her deceased husband. By committing *sati*, a widow resolved two problems, the possibility of accusations of infidelity and the fact that her presence would be considered an evil omen. Still today, widows are viewed in some cultures as witches or sorceresse. Widows are shunned by the community and exposed to sexual exploitation by male members of their husband's family. They are in some instances forbidden to remarry. Such status clearly reflects the belief that women have no role outside marriage, a widow being defined by comparison with a wife. A widow's property—often land—is reportedly coveted by the parents-in-law and sometimes by her children (E/CN.4/Sub.2/1998/11, paras. 103 and 104). But the religious basis of the practice is not at all established and there appears to be some ambiguity regarding its cruel origins. It seems, for example, that, in ancient tradition, although a widow remained with her husband in his last moments, lying beside his body atop the funeral pyre, she climbed down just before it was lit and thereafter led a quiet life with her children.

153. As noted by the Special Rapporteur on violence against women, formal religions are not the only belief systems which are relevant in regard to the position of women, reference being made to still prevalent practices, including the killing of women suspected of witchcraft. Two hundred women are reportedly murdered each year in India. Most victims are landowning widows or women with unwanted pregnancies (E/CN.4/1997/47, section III).

3. Honour killings

155. The crime of honour is a long-standing practice which, to varying degrees, prevails in some countries of the Middle East, South America and South Asia and in the past existed also in Mediterranean countries (Italy, Greece, etc.). It recognizes a man's right to kill with impunity any woman of his family suspected of having violated family honour by, in particular, engaging in sexual practices before or outside marriage. A woman is thus more a symbol of honour and an item of property belonging to the male members of her family than an actual human being.

157. Crimes of honour are also part of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. According to the Special Rapporteur, honour crimes, rightly classed as extrajudicial executions, take many forms. It seems that, in some instances, women are driven to commit suicide following public denunciations and threats to their lives owing to their allegedly immoral behaviour. Others are disfigured by acid. In most cases, the victims are apparently killed by, or at the behest of, their own families and the perpetrators are rarely arrested or receive only token punishments.

165. Rape is an extreme violation of women's physical and mental integrity and dignity. The fact that certain customs allow the avoidance of appropriate penalties for such crimes makes them especially reprehensible. For example, by custom or statute in many countries with very different religious traditions, rape and sexual assault are simply unpunished if the offender marries his victim, whether or not she is a minor. Since marriage in all cases absolves the rapist of any wrongdoing, rape reduces the marriageable age of the victim [...]

The Special Rapporteur's report to the Human Rights Council in 2006

<https://undocs.org/A/HRC/4/21>

34. Since 1996, the Commission on Human Rights has persistently stressed in its resolutions the need for the Special Rapporteur to apply a gender perspective, inter alia, through the identification of gender-specific abuses in the reporting process, including in information collection and recommendations. Although some countries initially have been reluctant to see the nexus between the discrimination of women and the mandate of the Special Rapporteur on freedom of religion or belief, it is now accepted that the mandate-holder will raise cases or highlight situations that relate to the status of women. Furthermore, resolution 2005/40 of the Commission on Human Rights explicitly invited the Special Rapporteur to address "the situations of violations and discrimination that affect many women as a result of religion or belief.

35. The Special Rapporteur regularly sends joint urgent appeals and allegation letters on this issue together with other special procedures holders, such as the Special Rapporteur on violence against women, its causes and consequences as well as the Special Rapporteur on trafficking in persons, especially women and children. The above-mentioned framework for communications contains a subcategory devoted to the vulnerable situation of women. This subcategory details the applicable international human rights standards, e.g. articles 2 and 3 of the Convention on the Elimination of All Forms of Discrimination against Women and Human Rights Committee general comment No. 28 (2000) on the equality of rights between men and women.

36. In practice, intolerance and discrimination is often applied with regard to multiple identities of the victim or group of victims. Many of the Special Rapporteur's communications and urgent appeals concern cases where women suffer from aggravated discrimination with regard to their religious, ethnic and sexual identities. Women in many countries appear to be victims of double or triple forms of aggravated discrimination, owing to serious restrictions in the areas of education and employment. Citizenship laws in a number of countries discriminate against women and their children because these regulations stipulate that mothers have fewer rights than fathers to transmit nationality. Denying girls and women the right to wear religious symbols when they freely choose to do so may pose a problem in terms of international human rights law as well as does the forcible imposition of religious dress codes. Discrimination and practices that are harmful to the health of women and girls are also applied within their religious communities for reasons of religious traditions or those ascribed to religion. Furthermore, there have been reports of arrests, flogging, forced conversion and even murders targeted specifically at women in the context of intolerance based on religion or belief. Female members of minority religions also tend to be prone to become victims of rape and violence stirred up by organized groups.

37. The freedom of religion or belief is a fundamental human right of a non-derogable character which can be limited only under restricted conditions. Nevertheless, this right, like other human rights, cannot be used to justify the violation of other human rights and freedoms. That clause is, inter alia, provided by article 5 (1) of the International Covenant on Civil and Political Rights and may, in certain cases, address situations of abuses committed in the name of religion. The Human Rights Committee in its general comment No. 28 states that "Article 18 [of the ICCPR] may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion; States parties should therefore provide information on the status of women as regards their freedom of thought, conscience and religion, and indicate what steps they have taken or intend to take both to eliminate and prevent infringements of these freedoms in respect of women and to protect their right not to be discriminated against." (para. 21)

38. The States' capacity and willingness to guarantee and protect de jure and de facto freedom of religion of all individuals within its jurisdiction is often the key to developing an appropriate framework for the protection of all human rights, including women's rights. It ensures that individuals can express themselves fully and dissent, even within their own religion; or, indeed, that they can choose not to have any religion at all. No right should be protected at the expense of others. Measures adopted to protect women's rights, the right to freedom of religion or belief and other human rights should take into account all individuals in society. The Special Rapporteur would like to reiterate the importance of ensuring that the right to freedom of religion or belief adds to the values of human rights and does not unintentionally become an instrument for undermining freedoms. In this regard she welcomes recent statements and conference recommendations [See the recommendations of the international conference of scholars concerning a ban on abuse of the female body which was held 22-23 November 2006 at Al-Azhar University in Cairo, Egypt. For a discussion of female genital mutilation see Amor's thematic study on freedom of religion or belief and the status of women from the viewpoint of religion and traditions (E/CN.4/2002/73/Add.2, paras. 104-110).] which clarify religious views on female genital mutilation.

39. In 2002, the previous mandate-holder presented his thematic study entitled "Étude sur la liberté de religion ou de conviction et la condition de la femme au regard de la religion et des traditions" to the Commission on Human Rights (E/CN.4/2002/73/Add.2). It lists the different types of discrimination against women, such as practices that are harmful to the health of women, discrimination against women within the family, attacks on the right to life, honour killings, and attacks on their dignity, such as restrictions on the education of women or their exclusion from certain functions.

The Special Rapporteur's report to the General Assembly in 2010

<https://undocs.org/A/65/207>

14. There are a number of practices that discriminate against women or are harmful to their health, such as female genital mutilation, infanticide, cruelty to widows, honour killings and discriminatory personal status laws. Many of the practices are attributable mainly to cultural interpretations of religious precepts or even conflict with the prescriptions of religions. However, certain harmful practices are claimed by religious leaders, communities, or States as a religious duty by which they and their ancestors have been bound since time immemorial. All this makes it particularly difficult to challenge and adequately address such harmful practices.

15. [...] The Special Rapporteur has recommended enacting legislation to eliminate discriminatory or harmful practices and repealing laws that infringe the rights of women. With regard to female genital mutilation, for example, States should penalize those performing such harmful practices and provide assistance in securing alternative sources of income for practitioners, for example as birth attendants. In terms of preventive domestic measures, States should be encouraged to develop legal literacy and training strategies at all levels of society, with the aim of altering discriminatory cultural norms and attitudes. In this context, dialogue between the authorities and religious leaders and other members of society, including medical practitioners, political leaders, education authorities and the media, is an important prevention measure.

16. States should take effective and necessary steps to ensure enjoyment by women of their rights to equality before the law and equal protection of the law. States should adopt appropriate measures to provide criminal law protection for women against violence stemming from traditional cultural practices that pose a threat to their health and lives. With a view to achieving lasting improvements, action to eliminate violence against women should not only target the effects of the phenomenon but also its root causes. In addition, States should strengthen monitoring mechanisms, official bodies and civil society institutions which play a role in the protection and promotion of women's rights, in the light of harmful cultural practices. States should also be encouraged to withdraw reservations on religious grounds which may adversely affect or restrict international legal instruments concerning the protection of the status of women, in particular the Convention on the Elimination of All Forms of Discrimination against Women. [...]

69. The Special Rapporteur strongly believes that the mandate needs to continue highlighting discriminatory practices that women have had to suffer over the centuries and continue to do so, sometimes in the name of religion or within their religious community. It can no longer be taboo to demand that women's rights take priority over intolerant beliefs that are used to justify gender discrimination. During the Special Rapporteur's missions and interaction with religious leaders she has been repeatedly told that most religions recognize gender equality. Yet, religious zealots and their followers often launch campaigns to discriminate against women rather than support gender equality. Many women are denied basic rights of equality within the most fundamental social unit, the family. In a number of countries, such denial of their rights is supported by discriminatory legislation and justified in the name of religion or tradition. There can never be true gender equality in the public arena if women continue to be oppressed by the weight of discrimination within their homes, all too often in the name of divine sanction.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/16/53>

16. In his statement to the Third Committee of the General Assembly on 21 October 2010, the Special Rapporteur highlighted that gender-based discrimination has at least two distinct dimensions in the context of religion. On the one hand, women belonging to discriminated communities often suffer at the same time from gender-based discrimination, for example if a woman is discriminated against in the labour market because she has decided, from a religious conviction, to wear a religious symbol. On the other hand, religious traditions or interpretations of religious doctrine sometimes appear to justify, or even call for, discrimination against women. In this context, the Special Rapporteur would like to reiterate that it can no longer be taboo to demand that women's rights take priority over intolerant beliefs that are used to justify gender discrimination.

The Special Rapporteur's report on his visit to Paraguay in 2011

<https://undocs.org/A/HRC/19/60/Add.1>

44. It would seem that synergies between different human rights should always be sought, even in situations of seemingly or factually conflicting rights claims. Obviously, this is not an easy task and there can be no guarantee of a positive outcome. At any rate, it would be wrong to assume that there is an inherent contradiction between freedom of religion or belief on the one hand and gender-related rights on the other. Instead, the human right to freedom of religion or belief itself can serve as a form of empowerment, for instance for women, to participate actively in the (re-)interpretation of religious sources and tradition with a view to overcome traditional justifications of patriarchal

structures. On this occasion, the Special Rapporteur would like to quote the previous mandate holder, that “it can no longer be a taboo to demand that women’s rights take priority over intolerant beliefs that justify gender discrimination.”

The Special Rapporteur’s report to the General Assembly in 2013

<https://undocs.org/A/68/290>

30. Moreover, the Special Rapporteur notes with concern that such harmful practices as female genital mutilation, forced marriage, honour killings, enforced ritual prostitution or denying girls their rights to education are defended in the name of religious traditions. Such defence is frequently controversial within the various religious communities themselves, and many followers of the respective communities (possibly their overwhelming majority) may be heavily opposed to such practices and also voice their opposition publicly. If those still performing harmful practices try to invoke religious freedom for their actions, this must become a case for restricting the freedom to manifest one’s religion or belief. The Special Rapporteur would like to reiterate what his predecessor pointed out in her final report to the General Assembly: “The Special Rapporteur strongly believes that the mandate needs to continue highlighting discriminatory practices that women have had to suffer over centuries and continue to do so, sometimes in the name of religion or within their religious community. It can no longer be taboo to demand that women’s rights take priority over intolerant beliefs used to justify gender discrimination.” (see A/65/207, para. 69). The current mandate holder fully shares the assessment formulated by his predecessor. Indeed, as a human right, freedom of religion or belief can never serve as a justification for violations of the human rights of women and girls.

32. The reality of manifold and complicated conflicts in the field of freedom of religion or belief and equality between men and women has led some to the view that the two human rights norms themselves stand in opposition to one another. As a result, the relationship between these two norms may appear close to a simple zero-sum game: any progress concerning gender equality seems to indicate a defeat of religious freedom, and any insistence on freedom of religion or belief seems to hinder gender-related anti-discrimination policies, or so it is at times misperceived.

39. Deeply rooted cultural patterns of expected conduct of men and women are frequently interwoven with religious norms and practices. In many cases they even claim a direct religious justification. The previous mandate holder stressed that in many countries “gender discrimination is in fact founded on cultural and/or religious practices” and that a large number of reservations to the Convention on the Elimination of All Forms of Discrimination Against Women “have been made by States on exclusively religious grounds referring to a perception of society and the law in relation to women’s personal status” (see E/CN.4/2002/73/Add.2, para. 58).

The Special Rapporteur’s report to the General Assembly in 2014

<https://undocs.org/A/HRC/28/66>

10. Countless examples demonstrate that violence in the name of religion usually displays a pronounced gender dimension. Many women and girls are victims of “honour” killings, acid attacks, amputations or floggings, sometimes pursuant to penal codes that are based on religious laws. Women and girls also disproportionately suffer from sexual violence, such as rape, abduction, sexual enslavement, female genital mutilation, forced marriage, often in conjunction with forced conversion, or other cruelties.

Urgent appeal made by five Special Procedures mandate holders in 2014

<https://www.ohchr.org/en/press-releases/2014/08/iraq-immediate-action-needed-protect-human-rights-yazidis-grave-danger-un?LangID=E&NewsID=14936>

A group of United Nations human rights experts today expressed their grave concern at the imminent danger of massacre faced by the Yazidi population forced to flee Sinjar in northern Iraq and other minority communities currently exposed to attacks by members of the ‘Islamic State’ (IS, (formerly known as ISIS).

The experts on the rights of minorities, internal displacement, summary executions, freedom of religion, violence against women and discrimination against women called for immediate action to protect the human rights of Yazidis and other affected communities, including the fundamental right to life.

“All possible measures must be taken urgently to avoid a mass atrocity and potential genocide within days or hours – civilians need to be protected on the ground and escorted out of situations of extreme peril,” urged the Special Rapporteur on minority issues, Rita Izsák.

Ms. Izsák cautioned that “the responsibility to protect populations at risk of atrocity crimes falls both on the Iraqi Government and the international community.”

"We are witnessing a tragedy of huge proportions unfolding in which thousands of people are at immediate risk of death by violence or by hunger and thirst," warned the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani. "Humanitarian aid must be delivered quickly and no efforts should be spared to protect all groups forcefully displaced by this conflict," he added.

The UN has received verified reports that 'IS' is systematically hunting down members of minority groups who remain trapped in areas under their control and giving them the ultimatum, "convert or die," stated Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions. "We cannot stand by in the face of such atrocities. International actors must do all in their power to support those on the ground with the capacity to protect lives."

The situation has continued deteriorating rapidly and at present thousands of members of the Yazidi community are trapped on Mount Sinjar, threatened with death by the IS and without access to food and water.

"Freedom of religion and belief is being denied in the most gross and systematic way possible – through the attempted extermination of religious minorities." The Special Rapporteur on freedom of religion and belief, Heiner Bielefeldt," said.

"We have reports of women being executed and unverified reports that strongly suggest that hundreds of women and children have been kidnapped – many of the teenagers have been sexually assaulted, and women have been assigned or sold to 'IS' fighters as '*malak yamiin*' or slaves," said the Special Rapporteur on violence against women, Rashida Manjoo.

"Such violations are crimes against humanity that must be stopped and punished," Ms. Manjoo underscored.

Despite hundreds being helped to relative safety by Kurdish and Iraqi forces, around 40,000 Yazidis reportedly remain hiding in a mountainous region of Sinjar, in the northwest of Iraq, where they took refuge escaping from the Islamic State which has threatened them with death.

Forty Yazidi displaced children died last week due to dehydration, according to UNICEF. Over the past weeks an estimated 250,000 members of religious minorities have been forced to flee their homes escaping from the advance of 'IS' and associated armed groups, accused of gross human rights violations which could amount to war crimes and crimes against humanity.

The Special Rapporteur's report to the Human Rights Council in 2018

<https://undocs.org/A/HRC/37/49>

41. Of significant note is the frequency at which States' adherence to faith-based claims affect their capacity to protect the human rights of women. The voluminous religious-based reservations entered by States parties to the Convention on the Elimination of All Forms of Discrimination against Women are one case in point. The breadth of impositions on women's rights justified by States in the name of religion, including those which limit their full participation in political, social and economic life, perpetuate an environment that enables harmful practices against women²² and prevents society from achieving gender equality. This includes the denial of access to reproductive health services and refusals to provide adequate legal and policy safeguards against domestic violence manifested in the form of marital rape and so-called "honour crimes".

42. The Special Rapporteur would like to reiterate that freedom of religion or belief can never be used to justify violations of the rights of women and girls, and that it can no longer be taboo to demand that women's rights take priority over intolerant beliefs used to justify gender discrimination.²⁴ It would be contrary to both women's human rights as well as freedom of religion or belief provisions to allow one set of rights (i.e. women's rights) to be undermined on the basis of claims made in defence of the right to freedom of religion or belief.

The Special Rapporteur's report to the Human Rights Council in 2020

<https://undocs.org/A/HRC/43/48>

14. To date, much attention regarding gender-based discrimination in the name of religion or belief has focused on practices such as female genital mutilation, marital rape, early and forced marriage, and polygamy, all of which are rightly condemned as harmful traditional practices by the human rights community. At the same time, consultation participants across four regions also noted the increasing use of religion or belief to deny reproductive health and sexual rights, to criminalize protected conduct and deny the equal personhood of LGBT+ persons, or to undermine the right to freedom of religion or belief to women, girls and LGBT+ persons.

16. Many States have submitted reservations to provisions of international human rights treaties that protect rights that advance gender equality, often asserting that, in the event of a conflict between national laws that are informed by religious teachings and obligations under the human rights treaty, the legally protected religious norms prevail

(A/HRC/37/49, para. 41; and A/HRC/29/40). A significant number of such religiously grounded reservations are contrary to the object and purpose of the relevant treaties and invalid under international law. Among States that have adopted such reservations, many also impose significant restrictions on freedom of religion or belief and often discriminate against persons belonging to religious minorities, converts or apostates and non-believers, as well as women, girls and LGBT+ persons.

28. “The Special Rapporteur notes that, in a number of countries around the world, Governments continue to maintain partial or total bans on access to abortion, and religious figures have both encouraged those measures and advocated against efforts to reform the laws.”

33. The Special Rapporteur is deeply concerned by numerous reports he has received, and by information provided to other United Nations human rights mechanisms, alleging that religious interest groups are engaged in campaigns characterizing rights advocates working to combat gender-based discrimination as “immoral” actors, seeking to undermine society by espousing “a gender ideology” that is harmful to children, families, tradition and religion. Invoking religious tenets, as well as pseudoscience, such actors argue for the defence of traditional values rooted in interpretations of religious teachings about the social roles for men and women in accordance with their alleged naturally different physical and mental capacities, often calling upon Governments to enact discriminatory policies. Other special procedures and participants in consultations across regions have also documented the activities of increasingly well-coordinated groups that are reportedly misusing freedom of religion or belief across continents in the media, through litigation and political campaigns to counter human rights in the name of religion or belief (A/HRC/34/56; A/74/181, paras. 34–35; A/HRC/38/46, paras. 30–35; and A/HRC/21/42, para. 65).

40. Women, girls and LGBT+ persons endure myriad forms of violence perpetrated by non-State actors, which are often implicitly or explicitly sanctioned by influential religious laws and discourse (A/74/181, para. 27; and A/HRC/19/41, para. 21). The Special Rapporteur is alarmed by the persistence of harmful practices and the fact that those who engage in them “justify” such acts on the grounds that they are permitted or required by religious beliefs, including female genital mutilation, dowry killings, rape, polygyny, early and forced marriage, beatings, coercive gender reassignment surgery and so-called “honour” crimes. Governments have an obligation to prohibit such practices in law and to ensure that perpetrators of gender-based violence, including violence perpetrated by individuals claiming a religious “justification” for their actions, are held accountable and their victims provided with redress. For example, participants in the consultations in Tunisia identified practices that are directly or indirectly rooted in religion and often defended by reference to religion, including forced virginity tests, child and forced marriage, “honour” killings, domestic violence and female genital mutilation. [...]

50. Consultation participants working within religious communities noted that the ability of women, girls and LGBT+ persons to belong to a faith of their choice, or, more often, a faith into which they were born that comprises their social and cultural connections, without being discriminated against, was vital to realizing myriad human rights, including the right to freedom of religion or belief. As such, many individuals within religions and across traditions, they reported, were increasingly rejecting patriarchal interpretations of religious doctrine and demanding equal rights within their religious traditions. They further asserted that religion should not be “all or nothing” – either you choose to take part in a religion and must accept its inequalities, or you must cease to belong to that religion. However, as consultation participants across regions attested, women and LGBT+ persons often had little influence over the rules of the community in which they lived. They noted that those who pursued gender equality, including gender equal beliefs, could risk violence, shunning and stigma from their religious communities.

51. These consequences are particularly stark for those who often cannot leave, or do not want to leave, their religious community due to economic reasons. Furthermore, the response that one has the “option to leave”, they asserted, could fail to appreciate that many individuals were born into a religion and their religious community, and that membership in a religious community could become part of one’s identity, family, and social and economic structure before choice in beliefs was introduced and developed. Individuals further noted that the unequal treatment and social status of women and girls in many societies, including in education and assigned gender roles, meant that women were routinely less able than men to exercise their independence and exit their groups of origin. As such, leaving a faith community in many cases is impractical or impossible, particularly where a woman has little or no social, economic or personal independence from a religious group, or where she risks losing custody of her children or faces other forms of coercion. An effective right to exit is contingent on a form of unfettered autonomy and freedom from external control [Elizabeth O’Casey, “A theory of need in international political theory: autonomy, freedom and a global obligation”, PhD dissertation, London School of Economics, 2012, pp. 18–66] that rarely exist in such cases.

52. The Special Rapporteur asserts that this overlap between freedom of religion or belief and the right to non-discrimination needs to be addressed not by trade-offs or a hierarchy, but by producing the “practical concordance” of all human rights involved, to the maximum degree possible, [Heiner Bielefeldt and Michael Wiener, *Religious Freedom under Scrutiny* (University of Pennsylvania Press, 2020), p. 99.] based on reasons accessible to all. As duty bearers,

States must become more clear-eyed about the root causes of gender inequality and intentional about the multilevel, transformational approaches that are necessary to “solve” such a complex problem. Anchoring freedom of religion or belief in a principle that demands non-discrimination requires the legal protection of the equality of opportunity in the enjoyment by all of this right, as well as all the other rights on which freedom of religion or belief depends. This means that the rights of individuals should be protected even within groups, by creating an enabling environment where dissenters are protected against incitement to violence, and are able to assert their agency through the exercise of their fundamental human rights, including freedom of expression, right to information, freedom of religion or belief, the right to education, the right to work, freedom from coercion and equality before the law, among others. Equal liberties and protections in society, such as the right to equality and non-discrimination or the right to physical integrity, can be maintained only if individuals are never deemed as having waived said rights and liberties, even by voluntarily joining an organization.

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

2. Lesbian, gay, bisexual, transgender and intersex persons

Human Rights Council resolution 32/2 (2016)

Preambular para. 2: Recalls that the Vienna Declaration and Programme of Action affirms that all human rights are universal, indivisible and interdependent and interrelated, that the international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis, and that while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

Para. 1: Reaffirms that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

Para. 2: Strongly deplores acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation or gender identity.

Human Rights Council resolution 50/10 (2022)

Para. 3: Calls upon States to amend or repeal laws and policies that discriminate against persons on the basis of their sexual orientation and gender identity, and to take effective measures to prevent, investigate and, where applicable, to prosecute acts of violence and discrimination based on those grounds, both online and offline.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/68/290>

35. Being frequently caught between gender stereotypes and stereotypical perceptions of their religious identities, many women from religious minorities feel exposed to the expectation that they have to choose one of two seemingly contradictory options: allegedly, they can either emancipate themselves by more or less abandoning their religious tradition, or they can keep their religious heritage, thereby forfeiting their claims to freedom and equality. Such an artificial antagonism, however, fails to do justice to women's multifaceted realities, experiences, challenges and wishes. Any assessment of presumed or factual conflicts in this area should therefore take seriously the complexities of women's life-worlds and appreciate their creative potential. [One may assume that the same is true for individuals from the lesbian, gay, bisexual, transgender and intersex community, many of whom are religiously interested and practising, which is a reality so far largely unexplored.]

The Special Rapporteur's report to the Human Rights Council in 2014

<https://undocs.org/A/HRC/28/66>

11. [...] Homophobic and transphobic violence against lesbian, gay, bisexual and transgender (LGBT) persons may also be perpetrated in the name of religion. Those perceived as LGBT may be targets of organized abuse, including by religious extremists. Violence against LGBT persons includes brutal gang rapes, so-called "curative" rapes and family violence owing to their sexual orientation and gender identity. There is a strong connection between discrimination in law and practice, and incitement to violence in the name of religion and violence itself. Violence against women and against LGBT persons is often justified and given legitimacy by discriminatory laws based on religious laws or supported by religious authorities, such as laws criminalizing adultery, homosexuality or cross-dressing. The Human Rights Committee has noted with concern hate speech and manifestations of intolerance and prejudice by religious leaders against individuals on the basis of their sexual orientation, in a broader context of acts of violence, including killings of LGBT persons. There have also been reports of direct violence exercised by religious authorities against LGBT persons, although many of them are religiously interested in practising.

The Special Rapporteur's report on his visit to Bangladesh in 2015

<https://undocs.org/A/HRC/31/18/Add.2>

94. Freedom of religion or belief of persons belonging to sexual minorities is a very much underexplored issue that warrants more international attention. Diverse sexual orientations and gender identities are a reality in every society and not an invention imposed from abroad, as some may be inclined to think.

95. The only question is whether and how to recognize this reality. An opening-up in this regard helps to overcome prejudices and unsubstantiated anxieties, thus giving more breathing space to human beings who otherwise would be forced to conceal important aspects of their personal identity. The Special Rapporteur would like to stress that the right to freedom of religion or belief is guaranteed for every single human being, so no one should be deprived the right on the basis of sexuality, gender, ethnicity or caste. He has heard of encouraging initiatives by representatives of sexual minorities and religious community leaders in South Asia, including some from Bangladesh, who met to discuss and better understand these issues.

The Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/28/66>

11. Furthermore, homophobic and transphobic violence against lesbian, gay, bisexual and transgender (LGBT) persons may also be perpetrated in the name of religion. Those perceived as LGBT may be targets of organized abuse, including by religious extremists.⁵ Violence against LGBT persons includes brutal gang rapes, so-called "curative" rapes and family violence owing to their sexual orientation and gender identity. There is a strong connection between discrimination in law and practice, and incitement to violence in the name of religion and violence itself. Violence against women and against LGBT persons is often justified and given legitimacy by discriminatory laws based on religious laws or supported by religious authorities, such as laws criminalizing adultery, homosexuality or cross-dressing. The Human Rights Committee has noted with concern hate speech and manifestations of intolerance and prejudice by religious leaders against individuals on the basis of their sexual orientation, in a broader context of acts of violence, including killings of LGBT persons.⁷ There have also been reports of direct violence exercised by religious authorities against LGBT persons, although many of them are religiously interested in practising.

34. Policies of exclusion are often manifested in hostile public statements made by populist politicians, usually in conjunction with incitement to religious hatred in the media. Sometimes, even very small minorities are demonized as allegedly posing a dangerous threat to the long-term survival of the nation, or they are accused of being involved in clandestine conspiracies. The Special Rapporteur has often noted a pronounced gender dimension in hate speech, for example, the stoked fear of far-reaching demographic changes allegedly in a strategic attempt of minorities to get the upper hand in the long run, and as a result of a hyperbolic sexual drive ascribed to members of religious minorities, who thereby are depicted as "primitive". LGBT people have also been falsely portrayed in religious discourse as "threatening" the survival of a nation or being part of a "conspiracy" to control population growth.

42. For the context of the present discussion, the obligations to respect chiefly require that the State abandon all sorts of — formal or informal — policies of exclusion by which persons belonging to certain groups suffer discrimination. This has manifold consequences. In particular, Government representatives must clearly refrain from any statements that may be perceived as condoning or even encouraging acts of violence that target religious dissenters, religious minorities or other groups of people. Legislation that renders the existence of certain religious communities as such "illegal" in the country or prevents them from developing a sustainable infrastructure is incompatible with the universal right to freedom of religion or belief and should be revoked. Such legislation furthermore fuels resentments and may encourage acts of intimidation, including by law enforcement agencies. Moreover, the State should repeal anti-blasphemy laws, anti-conversion laws and criminal laws that discriminate against certain people according to their religious affiliations or beliefs or criminalize their "dissident" practices. Apart from further increasing the vulnerability of marginalized groups or individuals, these laws may give a pretext to vigilante groups and other perpetrators of hatred for intimidating people and committing acts of violence. Textbooks used for school education should not contain stereotypes and prejudices that may stoke hostile sentiments against the followers of certain religions or beliefs and groups that suffer systematic discrimination, including women and LGBT persons.

67. For interreligious communication to be productive, partners should meet on an equal footing and there should always be room for a meaningful exchange beyond mere ritualistic encounters. A broad representation, including gender balance and participation of different generations, can ensure that larger populations can take active ownership of such initiatives, thus enhancing their sustainability. There is much space for improvements in this regard, since women, including feminist theologians, are typically very underrepresented in interreligious dialogue initiatives. Their voices are sadly absent in many projects. The roles of women human rights defenders should also be promoted

as they can contribute to a less patriarchal interpretation of religions that disproportionately affect the rights of women, girls and LGBT persons.

The Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

64. (...) grave abuses of freedom of religion or belief can occur within homogeneous societal milieux that do not accommodate any interreligious or intrareligious diversity. Individuals not fitting into traditional patterns of "acceptable" belief and conduct may incur a variety of sanctions, such as social ostracism, systematic mobbing or even physical violence. Women and girls or persons with different sexual orientations and gender identities bear an increased risk of abuses when wishing to free themselves from narrow understandings of what is deemed "appropriate conduct", often on the basis of excessively restrictive interpretations of religious norms. This is another area in which freedom of religion or belief frequently intersects with issues of gender-based violence or discrimination (see A/68/290). Apart from failing to provide appropriate legal and political protection, Governments may even support such repressive practices, for instance, through laws that treat violent crimes committed in the name of "honour" in a particularly lenient manner or by sending messages that blame the victim of an attack for having infringed moral norms in the first place.

77. Governments are also obliged to prevent abuses of freedom of religion or belief committed by non-State actors, including terrorist groups or vigilante groups, or originating from authoritarian societal milieux that do not accommodate any religious diversity. In quite a number of countries, a prevailing atmosphere of impunity encourages militant groups to continue to stigmatize, harass and intimidate minorities, dissidents, critics, converts or people — often women and girls or persons with different sexual orientations and gender identities — whose conduct is deemed "inappropriate" from a certain narrow-minded interpretation of religious norms. Such abuses can even assume degrees of physical violence, sometimes perpetrated with the silent complicity of law enforcement agencies or other parts of the State apparatus. Even Governments that are not complicit in such acts may lack the awareness that they bear the full responsibility for any violation of freedom of religion or belief if they fail to take appropriate measures to protect persons under their jurisdiction from abuses by non-State actors, whether they are armed groups, business corporations or individuals.

The Special Rapporteur's report to the Human Rights Council in 2017

<https://undocs.org/A/HRC/34/50>

45. Nonetheless, a large percentage of discriminatory provisions imposed by States and actions taken by non-State actors are based on religion or belief, and disproportionately target religious minorities or, more generally, those deemed "non-believers". As already noted, while official status or recognition for a particular religion or belief does not per se violate a State's obligations under article 18 of the International Covenant on Civil and Political Rights, the right to freedom of religion or belief is most challenged when the State assumes the role of guardian or custodian of certain truth claims rooted in a majority religion (or in a few cases, minority religion). The Special Rapporteur notes that, in certain States where religion has been given "official" or privileged status, other fundamental rights of individuals — especially women, religious minorities and members of the LGBTI community — are disproportionately restricted or vitiated under threat of sanctions as a result of obligatory observation of State-imposed religious orthodoxy, such as wearing the hijab or the need to conceal sexual orientation or gender identity. The right to freedom of religion or belief is further challenged by attempts by States to impose a doctrinal secularism as noted above, to sanitize the public sphere of concepts associated with religious or belief systems. Therefore, it is reasonable to assume that State-religion relationships can, both directly and indirectly, lead to the unintended or deliberate perpetuation of discriminatory practices that undermine the right to freedom of religion or belief of minority communities.

The Special Rapporteur's report to the General Assembly in 2017

<https://undocs.org/A/72/365>

33. There have been increasing reports of vigilante mobs perpetrating acts of arson, acid attacks, lynchings, rapes and murders in the name of religion in cases involving allegations of apostasy, blasphemy, heresy, sorcery and homosexuality. The hallmark of many of these attacks is the degree to which "structural violence" and/or overt incitement to discrimination or violence are present as factors. "Structural violence" refers to political, economic and social arrangements that harm individuals or otherwise hinder their access to basic needs but that are often subtle, invisible and not attributable to one specific person or group of people. Such violence, in the form of discrimination and marginalization of minority communities, exposes such communities to victimization and predisposes law enforcement authorities to be capricious in their application of the rule of law.

34. State authorities have a duty to protect individuals and groups against discrimination and other acts that violate the rights of persons based on their religion or belief. There is an emerging consensus that non-State actors, especially in situations where armed and/or terrorist groups exercise effective control over a territory or a population, are also obligated to comply with human rights principles and standards. United Nations human rights bodies, agencies, mechanisms and offices, including commissions of inquiry and the Office of the United Nations High Commissioner for Human Rights (OHCHR), have addressed human rights violations committed in the name of religion by Al-Shabaab, Boko Haram, Hamas, Hizbullah, the Islamic State in Iraq and the Levant, the Lord's Resistance Army and the Taliban (see A/HRC/28/66, paras. 54 and 55). Groups targeted include atheists, Copts, Jews, Shia and Yazidi, as well as bloggers and dissenters, women and girls and lesbian, gay, bisexual, transgender and intersex persons. Where these violations occur in the context of armed conflict, they may also amount to war crimes and other breaches of international humanitarian law. Furthermore, certain acts committed by non-State actors may amount to "international crimes" and trigger individual responsibility under the principles of international criminal law.

36. Most violations carried out in the name of religion by family members are gender based. Examples include honour killings, female genital mutilation, corporal punishment, early and forced marriage, marital rape and other forms of domestic violence, sati and coercive practices related to sexual or gender identity, education, dress, employment, freedom of movement, freedom of association, freedom of assembly and recreation. Most of those crimes are likely to go unreported and undocumented. An environment characterized by intolerance and capricious rule of law often facilitates or enables the commission of such rights violations. Intolerant environments may be fed by religious privilege shaped by violent extremist interpretations of religious sources or by an ideological commitment to impose a particular world view. Such violations are most often aggravated in situations, including conflict situations, where the level of intolerance is at its highest, rule of law is at its weakest and fear is the common currency.

37. Non-State actors such as business entities are not immune to this trend. They can, and have, claimed a supposed "right" to discriminate by refusing to provide services to persons, including women, lesbian, gay, bisexual, transgender and intersex persons and members of minority religious communities, on the basis of religious objections. This discrimination can take many forms, including refusal to hire or promote individuals who do not adhere to a particular faith, requiring selective background checks for those suspected of belonging to a particular faith, refusal to provide insurance coverage for contraception for employees or refusal of services altogether.

46. Freedom of religion or belief is interwoven with the core principles of equality, non-discrimination and non-coercion and overlaps with other rights, including the rights to freedom of opinion and expression, peaceful assembly and association, and education. It must, therefore, be understood in the context of articles 18 to 20 and be read together with core principles enunciated by articles 2 and 5 of the International Covenant on Civil and Political Rights. An abuse of one right can be an obstacle to the enjoyment of all the others. It is also clear that the right to freedom of religion or belief does not give the individual — as a rights holder — the power to marginalize, suppress or carry out violent acts against other individuals. As stated in article 5 (1) of the Covenant, no State, group or person has the right "to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized" in the Covenant. This is especially applicable with regard to individuals in vulnerable situations, such as women and lesbian, gay, bisexual, transgender or intersex persons, under the guise of manifesting their religion or protecting the "moral high ground". Furthermore, criticism of religion, religious leaders or doctrine is not a violation of the right to freedom of religion or belief.

74. Furthermore, the gap between commitments to combat intolerant acts and practices and their implementation needs to be addressed through transparent, credible and accountable policies executed at the national and local levels. States must repeal all laws that discriminate on the basis of religion or belief or that undermine the exercise of the right to freedom of religion or belief. Particular attention must be paid to upholding the obligation to protect the rights of members of religious minorities, as well as those of women, children, members of the lesbian, gay, bisexual, transgender and intersex community and others in vulnerable situations, such as migrants, refugees and internally displaced persons.

The Special Rapporteur's report to the Human Rights Council in 2018

<https://undocs.org/A/HRC/37/49>

38. In certain States where religion has been given "official" or privileged status, other human rights of individuals — especially women, persons belonging to religious minorities and lesbian, gay, bisexual, transgender and intersex persons — are disproportionately restricted or vitiated under threat of sanctions as a result of the obligatory observation of State-imposed religious orthodoxy, such as regulation of women's attire (e.g. the hijab) or the need to conceal one's non-conforming sexual orientation or gender identity.

39. The Special Rapporteur also notes with concern the increasing trend by some States, groups and individuals, to invoke "religious liberty" concerns in order to justify differential treatment against particular individuals or groups,

including women and members of the lesbian, gay, bisexual, transgender and intersex community. This trend is most often seen within the context of conscientious objection, including of government officials, regarding the provision of certain goods or services to members of the public.

40. Such discrimination is most injurious where laws and policies are grounded in the imposition of certain theological prescriptions or worldviews, rather than on justifications accessible to all; especially where there are glaring democratic deficits and also social inequalities along ethnic or religious lines. It should be noted, however, that the jurisprudence of the Human Rights Committee and the regional human rights courts uphold that it is not permissible for individuals or groups to invoke “religious liberty” to perpetuate discrimination against groups in vulnerable situations, including lesbian, gay, bisexual, transgender and intersex persons, when it comes to the provision of goods or services in the public sphere.

47. Nevertheless, States that adopt more secular or neutral governance models may also run afoul of article 18 (3) of the Covenant if they intervene extensively, overzealously and aggressively in the manifestation of religion or belief alleging the attempt to protect other rights, for example the right to gender equality or sexual orientation. Such protection efforts need to be reconciled with the obligations to uphold freedom of religion or belief, although its manifestation can be limited if this leads to the violation of the rights and freedoms of others. When these rights ultimately clash, every effort must be made, through a careful case-by-case analysis, to ensure that all rights are brought in practical concordance or protected through reasonable accommodation.

77. States that enforce its official religion have very high levels of restrictions on freedom of religion or belief and often discriminate against persons belonging to religious minorities, women, lesbian, gay, bisexual, transgender and intersex persons, converts or apostates and non-believers. States with a negative view of religion have equally high levels of restrictions on freedom of religion or belief for any individual manifesting another belief contrary to State atheism. In both cases, the nexus of other interdependent and mutually reinforcing rights is invariably violated too, such as freedoms of opinion, expression, peaceful assembly and association. Thus, in these models, even persons belonging to the numerically majority religion may be subject to repression and persecution.

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

3. Persons deprived of their liberty

Human Rights Committee, General Comment no. 21 (1992)

Para. 4: Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. This rule must be applied without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human Rights Committee, General Comment no. 22 (1993)

Para. 8: Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. States parties' reports should provide information on the full scope and effects of limitations under article 18.3, both as a matter of law and of their application in specific circumstances.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (2015)

Rule 2 (1): The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.

Rule 2 (2): In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

Rule 65 (1): If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

Rule 65 (2): A qualified representative appointed or approved under paragraph 1 of this rule shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.

Rule 65 (3): Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his or her attitude shall be fully respected.

Rule 66: So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the General Assembly in 2005

<https://undocs.org/A/60/399>

69. Over the past few years, in addition to the alarming reports of persons being arrested and held in custody because of their religious beliefs, the Special Rapporteur has received a growing number of reports of alleged violations of the right to freedom of religion or belief of persons deprived of their liberty.

70. Among the cases that were brought to her attention were complaints about conditions of detention, in particular not being allowed to have a Bible or to receive communion (see A/58/296, para. 79), punishment of Muslims for observing the Ramadan fast, *ibid.*, para. 106) as well as reports of several Muslim women prisoners complaining of "violations of their right to freedom of worship, having been punished for praying, having copies of the Koran confiscated and being forbidden to wear the veil (*ibid.*, para. 107). There were reports of prisoners being subjected to

torture or ill-treatment in an attempt to force them to abandon their faith (see A/59/366, para. 30) and reports of individuals who because of their beliefs had been subjected to torture and other inhuman or degrading treatment while detained and who had not been provided with appropriate and effective remedies (ibid., para. 19). Finally, the Special Rapporteur was also informed of situations where clergy were denied access to death row prisoners (ibid., para. 83 (a)).

71. While these forms of violations of the right to freedom of religion or belief constitute per se a matter of great concern for the Special Rapporteur, this concern was heightened by further reports that, in certain circumstances, not only were the prisoners' rights to freedom of religion or belief violated, but their religious beliefs were used against them by prison authorities. For example, there have been reports of interrogation methods designed specifically to injure the religious feelings of persons in detention.

72. The Special Rapporteur considers that the cases reported disclose violations of the basic religious rights of prisoners and other persons in detention. In addition, they disclose acts of impermissible discrimination including torture or other forms of ill-treatment inflicted on detainees on the basis of their religion and other acts aimed at injuring the religious feelings of detainees. Such acts were committed by personnel of detention facilities as well as by other detainees.

73. Persons deprived of their liberty have the right to freedom of religion or belief. Articles 2 and 5 of the Universal Declaration of Human Rights provide, respectively, that the rights and freedoms contained in the Declaration apply to everyone without exception and that no one shall be subjected torture or to cruel, inhuman or degrading treatment or punishment. Article 10, paragraph 1 of ICCPR further provides that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

74. In its general comment No. 22 (1993) on Article 18 of the Covenant, which uses language similar to Article 18 of the Universal Declaration, the Human Rights Committee has stressed that "[p]ersons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. States parties' reports should provide information on the full scope and effects of limitations under article 18.3, both as a matter of law and of their application in specific circumstances" (para. 8).

75. The principle of non-discrimination, reaffirmed, inter alia, in article 2 of ICCPR, is a fundamental rule of international law. The Special Rapporteur notes that according to commentators,

"The dangers of discrimination become much greater in the closed conditions of a prison. Prison administrations have a responsibility to ensure that they prevent the development of sub-groups that discriminate against minorities, both within their staff and within the prison population. This may require additional vigilance on any occasion when tensions are heightened in the community outside the prison.

"Many of the prejudices which exist in society against minority groups are reflected in the world of the prison. This is no surprise since prisons to a great extent mirror the values of the society in which they exist. Prison authorities have a responsibility to ensure that there is no discrimination against any minority group of prisoners or staff. This includes institutional discrimination which is within the structure of the organisation as well as discrimination which is practised by individuals." It also means taking positive action to make sure that the special needs of minority groups are met. This can involve providing special diets for some prisoners on either religious or cultural grounds. Such a provision may not involve any additional cost; it may simply mean better organisation. Minority groups frequently have different religious needs.

80. Because the opportunity to practise one's religion, either in private or in public, might easily be restricted by the fact of detention, the Standard Minimum Rules for the Treatment of Prisoners make specific reference to the need for prison authorities to allow prisoners to observe their religion and to have access to a minister of that religion.

81. According to rule 41:

"(1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

"(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

"(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected." In addition, rule 42 provides "So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending

the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination".

82. In this regard, one has to take into account that "[t]he status of religious representatives within prison systems can vary from country to country. In some jurisdictions, such representatives may not be allowed any access to prisons. In other jurisdictions, the religious representative or chaplain is second in authority only to the director within the prison." The Special Rapporteur would also like to emphasize that "[t]he international instruments make it clear that all prisoners are entitled to have access to a qualified religious representative." Moreover, "[i]n some systems, only representatives of the main religion in the country are allowed access to prisons. Prisoners of minority religions are not allowed to observe the requirements of their faith." However, "[t]his is in breach of the international instruments. Prisoners should not be obliged to consult a minister of religion if they do not wish to do so." [Office of the United Nations High Commissioner for Human Rights, *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials* (United Nations publication, Sales No. E.04.XIV.I), Professional Training Series No. 11, 2004, chap. 20 - Religion, p. 122.]

Religious rights and persons deprived of their liberty in the context of an armed conflict

83. The Geneva Convention relative to the Treatment of Prisoners of War and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as Additional Protocols I and II to the Geneva Conventions provide for an obligation to respect the religion and religious practices of persons deprived of their liberty in the context of an armed conflict, including prisoners of war, interned persons and other types of detainees. This includes the freedom to practise one's religion, the access to clergy, and the prohibition of discrimination on the basis of religion. [See, inter alia, article 3 common to the four Geneva Conventions: articles 34 and 35 of the Third Geneva Convention; articles 76, 86 and 93 of the Fourth Geneva Convention; article 75, paragraph 1, of Additional Protocol I and articles 4 and 5 of Additional Protocol II.]

84. The Special Rapporteur also notes that "[S]tate practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts

Training of personnel of detention facilities and complaint mechanisms

85. A person in custody finds him or herself in a situation of enhanced vulnerability and can therefore be an easy target for persecution. Prison authorities are given total control over the most basic activities of the inmates, from the time they will sleep to what they will eat, and how they will be able to exercise their right to freedom of religion or belief.

86. The Special Rapporteur regrets that, in certain countries, the question of freedom of religion or belief is either neglected or simply not addressed during the training of persons in charge of prisoners. Therefore, she would like to emphasize that it is crucial need to provide the personnel of detention facilities with adequate training, raising awareness and enhancing their sensitivity about their duty to promote and respect international human rights standards for the treatment of prisoners, in particular the right to freedom of religion.

87. Moreover, because of the coercive nature of these institutions, States should ensure that detention facilities are the object of intense public scrutiny in order to prevent any potential abuse and put in place effective complaints mechanisms. [See ICCPR, art. 2; Convention against Torture and other Cruel Inhumane or Degrading Treatment or Punishment, art. 13; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 33.] Anyone whose rights and freedoms, including the freedom of religion or belief, have been violated has the right to an effective remedy, determined by a competent court. Every prisoner shall have the right to make a complaint regarding his or her treatment and to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family. [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 33; Standard Minimum Rules for the Treatment of Prisoners, rule 36.]

Conclusions

88. The Special Rapporteur reiterates that, as a principle, no one should be imprisoned because of his or her religious beliefs or the exercise of his or her right to freedom of religion or belief. Moreover, a person's deprivation of liberty may not include deprivation of his or her right to freedom of religion or belief. These standards must be applied to every prisoner regardless of his or her religion or belief and to all detention facilities.

89. The Special Rapporteur also recommends that the principles pertaining to the right to freedom of religion or belief be brought to the attention of the relevant authorities and that issue be heavily stressed during the training of the officers involved. In this regard, the Special Rapporteur recommends that particular attention be given to the publication *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials* as well as its three addenda, prepared by the Office of the High Commissioner for Human Rights. [*Human Rights and Prisons: A*

Compilation of Human Rights Instruments concerning the Administration of Justice (United Nations publication, Sales No. E.04.XIV.4), Professional Training Series No. 11, addendum 1, 2004; Human Rights and Prisons: Trainer's Guide on Human Rights Training for Prison Officials (United Nations publication, Sales No. E.04.XIV.6), Professional Training Series No. 11, addendum 2, 2004; Human Rights and Prisons: A Pocket Book of International Human Rights Standards for Prison Officials (United Nations publications, Sales No. E.04.XIV.5), Professional Training Series No. 11, addendum 3, 2004.]

90. The religious beliefs of a detainee should under no circumstances be used by the authorities against the detainee in order, for instance, to extract information from him or her.

91. Finally, the Special Rapporteur would like to stress that the respect of religious freedom has an impact that is not limited to the prison walls. Violations of the religious rights of inmates may also have an important impact outside the prison. This is illustrated by recent events that caused the death of several people following allegations of desecration of the Koran in detention facilities.

Joint report by five holders of mandates of special procedures of the Commission on Human Rights who have been jointly following the situation of detainees held at the United States of America Naval Base at Guantánamo Bay (2006)

<https://undocs.org/E/CN.4/2006/120>

57. The right to freedom of religion or belief is protected by article 18 of ICCPR and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. In its general comment No. 22, the Human Rights Committee interprets article 18 to the effect that "persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint". [Human Rights Committee, general comment No. 22 (1993), CCPR/C/21/Rev.1/Add.4, para. 8.] A person deprived of his or her liberty cannot be deprived of his or her right to freedom of religion or belief. These standards must be applied to every person, regardless of their religion or belief, and in all detention facilities. [In her previous report to the General Assembly (A/60/399), the Special Rapporteur analysed, in the context of her mandate, the international standards applicable to persons deprived of their liberty.]

58. Article 18 (3) of ICCPR provides that "[f]reedom 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". [ICCPR, art. 18 (3). See similarly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, art. 1 (3) (25 November 1981).] On these limitations, 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". [General comment No. 22, supra note 83, para. 8.] Moreover, under article 4 of ICCPR, the right to freedom of religion or belief may in no circumstances be subject to derogation.

59. Finally, the Third and Fourth Geneva Conventions oblige parties to respect the religion and religious practices of persons deprived of their liberty in the context of an armed conflict, including prisoners of war, interned persons and other types of detainees. This includes the freedom to practise one's religion, the access to clergy, and the prohibition of discrimination on the basis of religion. [See, inter alia, article 3 common to the four Geneva Conventions; articles 34 and 35 of the Third Geneva Convention; articles 76, 86 and 93 of the Fourth Geneva Convention; article 75, paragraph 1, of Additional Protocol I and articles 4 and 5 of Additional Protocol II.]

60. [...] Other treatments which may have been specifically designed to offend the religious sensitivities of the detainees, were repeatedly used by those involved in the custody, interrogation and treatment of detainees (e.g. use of female interrogators, who performed, inter alia, "lap dances during interrogations"). [A technique that the Schmidt Report, supra note 88, found to be authorized (FM 34-52) and approved by SECDEF as mild, non-injurious physical touching. The same report found the rubbing of perfume to have been authorized, as well as leaning over detainees and whispering in their ears that the situation was futile. In addition, the wiping of menstrual blood on a detainee in March 2003 was considered authorized to show the futility of the situation.] It was also reported that these techniques were used before prayer times and that in some cases, detainees were not allowed to wash themselves before and therefore were not able to pray.

61. The list of officially approved interrogation techniques in force today [Secretary of Defense memorandum for the commander, US Southern command of 16 April 2005 on "Counter Resistance Techniques in the War on Terror". See supra, para. 50.] allows for the removal of religious items (e.g. the Holy Koran). This constitutes an impermissible limitation on the right to freedom of religion or belief of detainees.

62. There was particular concern at reports of possible mishandling of religious objects, such as the Holy Koran. The Special Rapporteur on freedom of religion or belief sent a communication on this matter to the Government of the United States on 23 May 2005. The Government reply of 18 August 2005 provided detailed information on the investigations that were conducted following these allegations, as well as on the existing measures and guidelines for the personnel of the detention facilities. As a result of their investigations, the Government indicated that it had identified five confirmed cases of mishandling of the Holy Koran by guards and interrogators, either intentionally or unintentionally, including kicking and stepping on the Holy Koran. [Response of the United States of America, dated 21 October 2005 to the inquiry of the Special Rapporteurs dated 8 August 2005 pertaining to detainees at Guantánamo Bay, p. 21 et seq.]

63. A number of detainees have alleged that they were subjected to forced grooming, including shaving of beards, heads and eyebrows.

64. Further concerns were raised by the removal of a military Muslim cleric from his position at Guantánamo Bay. He later was arrested on suspicion of espionage and held in solitary confinement for 76 days. It has been alleged that he has not been replaced, leaving the Muslim detainees unattended, in violation of the Standard Minimum Rules for the Treatment of Prisoners. [Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.]

65. Finally, there are also concerns about reports that the United States Government has, either implicitly or explicitly, encouraged or tolerated the association of Islam and terrorism, for example, by interrogating detainees on the extent of their faith in Islamic teachings.

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/64/159>

19. In the past five years, the Special Rapporteur has received alarming reports about persons being arrested and detained because of their religious beliefs on the basis of discriminatory laws, denial of due process or a strong bias by law enforcement against religious minorities. She has also received worrying reports of alleged violations of the right to freedom of religion or belief of persons who are deprived of their liberty, who find themselves in a situation of enhanced vulnerability and can therefore be an easy target for harassment. The Special Rapporteur has detailed some situations reported under the mandate and the applicable international standards in her report to the General Assembly at its sixtieth session. [See A/60/399, paras. 69-91.]

20. The religious rights of persons deprived of their liberty must be fully respected and protected. There is a real risk that the circumstances of detention, as well as specific policies by prison authorities, may result in undue restrictions of the opportunity of detainees to practise their religion or belief in private or in public. The Human Rights Committee has stressed that persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint. [Ibid., para. 8.] Detainees should also be allowed access to qualified representatives of any religion, while they should not be obliged to consult a minister of religion if they do not wish to do so. Furthermore, the religious beliefs of a detainee should under no circumstances be used by the authorities against the detainee in order, for instance, to extract information from him or her.

21. Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule which must be applied without distinction of any kind, such as religion. The Special Rapporteur would like to emphasize that the dangers of discrimination, either in an institutionalized form or through discriminatory practices, become much greater in the closed conditions of a detention facility. The relevant authorities have a responsibility to ensure that there is no discrimination against any prisoner or staff member belonging to a minority group. In order to prevent any potential abuse, States should ensure that detention facilities are the object of intense public scrutiny and put in place effective complaints mechanisms. [...]

66. With regard to persons deprived of their liberty, the Special Rapporteur would like to emphasize that it is crucial to provide the personnel of detention facilities with adequate training and raise their awareness about the duty to promote and respect international human rights standards for the treatment of detainees, in particular with regard to their right to freedom of religion or belief. The State needs to bring the applicable standards to the attention of the relevant authorities and personnel of detention facilities and to enhance their sensitivity that the effects of violations of the religious rights of detainees may not be confined to the detention facilities but can also impinge on the overall climate of religious tolerance, even at the international level."

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

4. Refugees, asylum-seekers and internally displaced persons

Convention relating to the Status of Refugees (1951)

Art. 4: The Contracting State shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Art. 33: No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

General Assembly resolution 77/221 (2022)

Para. 11: Recognizes with concern the challenges that persons in vulnerable situations, including [...] refugees, asylum-seekers and internally displaced persons [...] are facing as regards their ability to freely exercise their right to freedom of religion or belief.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 2005

<https://undocs.org/E/CN.4/2005/61>

17. The legal framework includes principles specified in: [...] (g) The Convention relating to the Status of Refugees, in particular article 4, which provides that refugees will be given treatment at least as favourable as that of nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children and article 33, which prohibits the expulsion of a refugee to a country where his life or freedom would be threatened on account of his or her religion;

The Special Rapporteur's report to the General Assembly in 2007

<https://undocs.org/A/62/280>

52. Universal human rights set out in the Universal Declaration of Human Rights of 1948, including the right to freedom of religion or belief, apply to all human beings everywhere. In addition, refugees have specific rights and duties in their country of refuge according to international refugee law.

53. The term "refugee" as defined in article 1 A (2) of the 1951 Convention (as amended by the 1967 Protocol) means any person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". A person who is seeking to be recognized as a refugee is an asylum-seeker. Article 4 of the 1951 Convention provides: "The Contracting State shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children". Furthermore, article 33 of the 1951 Convention outlines the obligation of non-refoulement: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." No reservation is permitted to either article 4 or article 33 of the 1951 Convention.

54. The term "internally displaced persons" refers to persons or groups of persons who have been forced or obliged to flee or to leave their s or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border. The Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) set out a basic normative framework, applying the provisions of international human rights and humanitarian law, as well as refugee law by analogy, to victims of internal displacement. Principle 5 provides that "[a]ll authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons". The Principles "shall be applied without discrimination of any kind, such as ... religion or belief" (principle 4). Internally displaced persons, whether or not they are living in camps, shall not be

discriminated against, as a result of their displacement, in the enjoyment of “the rights to freedom of thought, conscience, religion or belief, opinion and expression” (principle 22). Furthermore, “[e]ducation should respect their cultural identity, language and religion” (principle 23).

Interpretative framework for refugee claims based on religion

55. In this section, the Special Rapporteur would like to highlight the existing interpretative framework for refugee claims based on religion. In 2004, the Office of the United Nations High Commissioner for Refugees (UNHCR) issued “Guidelines on international protection: religion-based refugee claims under article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees” (“the Guidelines”, HRC/GIP/04/06). The Guidelines note that although religion was not defined in the 1951 Convention, its use can be taken to encompass freedom of thought, conscience or belief by reference to the pertinent international human rights standards. Furthermore, the Guidelines explain that claims based on religion may involve one or more of the elements of “religion as a belief”, “religion as an identity” and “religion as a way of life” (paras. 5-8). The term “belief” is interpreted in the Guidelines to include theistic, non-theistic and atheistic beliefs. [A general discussion of theistic, atheistic and non-theistic beliefs can be found below in section III. B.] In the context of establishing an asylum-seeker’s “religion or belief”, the Guidelines provide that it may not be necessary for him or her to know or understand anything about religion if he or she has been identified by others as belonging to that group and fears persecution as a result.

56. The Guidelines distinguish between persecution and discrimination, since the latter may not necessarily rise to the level required for recognition as a refugee. A distinction is made between discrimination resulting merely in preferential treatment and discrimination amounting to persecution because, in aggregate or of itself, it seriously restricts the claimant’s enjoyment of fundamental human rights. They also provide that the existence of discriminatory laws will not normally in itself constitute persecution. Moreover, an assessment of the implementation of such laws (for example regarding apostasy or blasphemy) and their effect is in any case crucial to establishing persecution. An age, gender and diversity analysis of the impact of the human rights violation feared on the individual concerned is also necessary (paras. 17-19).

57. The Guidelines provide that persecution for reasons of religion may therefore take various forms. Depending on the particular circumstances of the case, including the effect on the individual concerned, examples could include prohibition of membership of a religious community, of worship in community with others in public or in private, of religious instruction, or serious measures of discrimination imposed on individuals because they practise their religion, belong to or are identified with a particular religious community, or have changed their faith. Equally, in communities in which a dominant religion exists or where there is a close correlation between the State and religious institutions, discrimination on account of one’s failure to adopt the dominant religion or to adhere to its practices, could amount to persecution in a particular case. Persecution may be inter-religious (directed against adherents or communities of different faiths), intra-religious (within the same religion, but between different sects, or among members of the same sect), or a combination of both. The claimant may belong to a religious minority or majority. Religion-based claims may also be made by individuals in marriages of mixed religions (para. 12).

58. The Special Rapporteur has referred to the right to conscientious objection to military service on numerous occasions when examining the application of domestic legislation vis-à-vis persons in their countries of origin seeking to exercise such a right. This right is also addressed by the Guidelines in the slightly different context of when a refusal to perform military service may give rise to a well-founded fear of persecution for the purposes of the 1951 Convention. Citing provisions of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, [See UNHCR Handbook, op. cit., para. 170.] the Guidelines provide that refugee status may be established if the refusal to serve is based on genuine political, religious, or moral convictions, or valid reasons of conscience. A law of general application may be persecutory where it impacts differently on particular groups, where it is applied in a discriminatory manner, or where the punishment is excessive or disproportionately severe or where it cannot reasonably be expected to be performed by the individual because of his or her genuine beliefs or religious convictions (para. 26). [See also *ibid.*, para. 169.] Alternatives to community service would not usually be the basis of a claim unless they are so excessively burdensome as to constitute a form of punishment (*ibid.*).

59. Under international human rights law the legal basis of the right to conscientiously object may derive from article 18 of the International Covenant on Civil and Political Rights. The Human Rights Committee affirmed that “the Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief”. [Human Rights Committee, general comment No. 22 (1993), reprinted in HRI/GEN/1/Rev.8, sect. II (para. 11). See also the views of the Human Rights Committee concerning communications Nos. 1321/2004 and 1322/2004 (Yeo-Bum Yoon and Myung-Jin Choi v. Republic of Korea) (CCPR/C/88/D/1321-1322/2004)]. In 1998, the Commission on Human Rights encouraged States, subject to individuals satisfying the requirements of the definition of a refugee as set out in the 1951 Convention, “to consider granting

asylum to those conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service when there is no provision, or no adequate provision, for conscientious objection to military service. [Official Records of the Economic and Social Council, 1998, Supplement No. 23 (E/1998/23), chap. II, sect. A, resolution 1998/77, para. 7.] Furthermore, international and regional organizations have pointed out that persons performing military service may develop conscientious objections over time. [Ibid., preamble. See also the Special Rapporteur's observations in E/CN.4/2006/5/Add.1, paras. 138-139 as well as Parliamentary Assembly of the Council of Europe recommendation 1518 (2001), para. 5 (i).]

60. A report by the Office of the United Nations High Commission for Human Rights on best practices in relation to conscientious objection (E/CN.4/2006/51, para. 58) states:

UNHCR has observed that a significant number of States are ready to provide international protection to conscientious objectors, draft evaders and deserters. States have recognized that conscientious objection, which may, inter alia, be expressed through draft evasion and desertion, can arise from a political opinion or a religious belief, that conscientious objection can in itself be regarded as a form of political opinion and, more rarely, that objectors or a particular class of them can constitute a particular social group.

61. Forced conversion to a religion is a serious violation of the fundamental human right to freedom of thought, conscience and religion. According to the Guidelines, forced conversions would often satisfy the objective component of persecution but the claimant would still need to demonstrate a subjective fear that the conversion would be persecutory to him or her personally, for example if he or she had a clear identity or way of life in relation to a different religion or had chosen to be disassociated from any religious denomination or community (para. 20).

62. Under the subheading "Forced compliance or conformity with religious practice" the Guidelines consider, for example, mandated religious education that is incompatible with the religious convictions, identity or way of life of the child or the child's parents, and an obligation to attend religious ceremonies or swear an oath of allegiance to a particular religious symbol. The Guidelines state that such examples of forced compliance could amount to persecution if it becomes an intolerable interference with an individual's own religious beliefs, identity or way of life and/or if non-compliance would result in disproportionate punishment (para. 21).

63. Individuals converting after their departure from their country of origin may have the effect of creating a refugee sur place claim. The Guidelines provide that in those circumstances particular credibility concerns tend to arise and a rigorous in-depth examination of the circumstances and genuineness of the conversion will be necessary. Self-serving activities do not create a well-founded fear of persecution on a Convention ground if the opportunistic nature of the activities will be apparent to all and serious adverse consequences would not result if the person were returned. The critical assessment is whether the claimant has a well-founded fear of persecution at the time of the examination of the claim and what the consequences of return to the country of origin would be (paras. 34-36). The Special Rapporteur has recently emphasized (see A/HRC/6/5, para. 31) that a post-departure conversion should not give rise to a presumption that the claim is fabricated and the immigration authorities should evaluate the genuineness of the conversion on a case-by-case basis taking into account the applicant's past and present circumstances.

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/64/159>

22. The mandate has also reported about the vulnerable situation in terms of freedom of religion or belief of refugees, asylum-seekers and internally displaced persons, who have fled their homes or have been expelled from their own country. [See A/62/280, paras. 38-63, A/62/280/Corr.1 and A/HRC/6/5, paras. 30-31.] The Special Rapporteur notes that whereas the refugee definition in the 1951 Convention relating to the Status of Refugees refers to "well-founded fear of being persecuted for reasons of [...] religion", the approaches taken seem to differ significantly in applying the term "religion" or when determining what constitutes "persecution" in this context. The Special Rapporteur has received reports indicating that some asylum adjudicators ask faith-testing questions with doubtful validity or limited justification. In this regard, the Special Rapporteur would like to remind that the risk of persecution is not necessarily dependent on detailed substantive knowledge of the applicant's religion because individuals may also find themselves persecuted for imputed religious beliefs.

23. The Special Rapporteur would like to emphasize that religion-based refugee claimants should not be expected by asylum adjudicators to hide their religion or to practise in secret in their countries of origin in order to avoid persecution. It is an integral part of the right to freedom of religion or belief to be able to manifest, publicly and in community with others, one's religion or belief in worship, observance, practice and teaching. The Special Rapporteur also shares the concerns that the concept of internal flight alternative can sometimes prove particularly problematic for religion-based asylum claims and might ultimately lead to undesirable segregation of religious groups in particular areas of the countries of origin.

24. Another particular problem in terms of freedom of religion or belief may arise for those persons who, after having arrived in the country where they are seeking asylum, convert to a religion which would make them prone to persecution in their country of origin if they were to be returned. In the assessment of such asylum applications, suspicions often arise regarding the sincerity and credibility of asylum claims. However, the Special Rapporteur would like to reiterate that such post-departure conversion should not give rise to a presumption that the claim is fabricated, and the immigration authorities should evaluate the genuineness of the conversion on a case-by-case basis taking into account the specific past and present circumstances of the applicant. [...]

67. Refugees, asylum-seekers and internally displaced persons also find themselves in a situation of particular vulnerability. The Special Rapporteur would like to refer to paragraph 80 of the outcome document of the Durban Review Conference which reiterates that the national, regional and international response and policies, including financial assistance, towards refugee and internal displacement situations in different parts of the world, should not be guided by any form of discrimination prohibited by international law. For the whole asylum determination process it seems crucial to have accurate, objective and up-to-date information on the countries of origin of asylum-seekers and on any past or present religious persecution. The Special Rapporteur would like to emphasize that asylum adjudicators should not exclusively base their decisions on preselected sources, especially when the situation in the country of origin or the region in question has allegedly changed since they were last updated. Furthermore, the Special Rapporteur would like to emphasize that well-trained, reliable and impartial interpreters are needed for asylum interviews in order to avoid serious disadvantages for the asylum-seekers."

Special Rapporteur's report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/22/51>

54. As a result of discrimination, repression and persecution, some members of religious minorities decide to leave their country of origin and try to find a new home elsewhere. When applying for asylum, however, they may again experience being unwelcome and may not even be granted a fair hearing of their asylum claims. There are also cases in which persons belonging to religious minorities may face deportation or extradition, even in the face of obvious risks of persecution in their country of origin. The Special Rapporteur would like to reiterate that extraditions or deportations which are likely to result in violations of freedom of religion or belief may themselves amount to a violation of human rights. In addition, such extraditions violate the principle of non-refoulement, as enshrined in article 33 of the 1951 Geneva Convention relating to the Status of Refugees.

Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

71. One issue on which the international community has obviously failed concerns the rights of refugees and internally displaced persons. Violations of freedom of religion or belief are among the manifold reasons for people to leave their home and flee their country, in particular where violent conflict has assumed a religious or sectarian dimension. However, when applying for asylum because of violations of their freedom of religion or belief, refugees have sometimes experienced that their claims are not taken seriously. Some of them have been given bizarre recommendations, such as to avoid public exposure and to keep their faith to themselves. Converts may face suspicion of having fabricated their conversion for the strategic purpose of gaining refugee status. In addition, many violations of freedom of religion or belief are inextricably interwoven with other social or political variables, for example, excessive control interests of authoritarian Governments. Given the complexity of such issues, some observers may dramatically underestimate the gravity of violations experienced by people on the basis of their religion or belief. This may have an impact on the treatment of refugees, whose experiences in this area fail to receive appropriate attention and recognition.

72. It is depressing to see that in the current refugee crisis, many States fail to honour the responsibility they have in accommodating refugees, including those who are fleeing massive violations of their freedom of religion or belief. Some Governments have opened their borders and demonstrated solidarity, often in conjunction with admirable commitment shown by civil society organizations and countless volunteers. By contrast, other States have been reluctant to even host a handful of refugees. Yet other Governments have indicated that they would be merely willing to accommodate refugees from religious backgrounds close to their own predominant religious traditions. However, this would amount to a (re)territorialization of religion and thus would clearly be at variance with the freedom of religion or belief, which protects human beings in their diverse convictions and practices instead of fostering religiously homogeneous territories. The Special Rapporteur can merely appeal to reluctant Governments to reconsider their position and honour their obligations under international law, including by respecting, protecting and fulfilling everyone's right to freedom of religion or belief.

78. While States remain the main duty bearers for the implementation of human rights obligations within their jurisdiction, the international community, too, has to live up to its obligations. Apart from regularly monitoring the worldwide human rights situation within United Nations forums, which would be impossible without the contributions of civil society organizations, there are situations in which the international community has to take direct action, for example, to ensure that terrorist organizations operating in the name of religion do not receive financial or logistical support. Unfortunately, serious shortcomings have been seen recently in the provision of international protection for refugees and in the prevention of massive violations of freedom of religion or belief, in particular in situations of armed conflict. The international community should remind Governments of their international obligation to provide protection to refugees, regardless of their specific religion or belief. The pretext that hosting certain refugees would erode the traditional religious make-up of a country amounts to a “territorialization” of religion or belief, which violates the spirit and the letter of the universal right to freedom of religion or belief.

Special Rapporteur’s report to the General Assembly in 2017

<https://undocs.org/A/72/365>

22. Other forms of discrimination may be indirect. Examples include laws that appear neutral but have a disproportionate impact on different faith groups, such as zoning laws that prevent the construction of certain types of houses of worship, registration requirements, State requirements for conducting religious services in a particular language or travel bans for immigrants or to resettle refugees from countries where a majority belong to a particular faith community, ostensibly for national security reasons.

25. The importance of religion as an identity marker has fanned intolerant attitudes towards various religions or beliefs, encouraging States to favour certain types of values or religious affiliations as essential to the assertion of national status or citizenship. In addition to perpetuating discrimination, such policies and practices politicize religion and have a negative impact on individuals in vulnerable situations, including those belonging to religious minorities and refugees, who already suffer from a high degree of legal, economic and social disenfranchisement.

Special Rapporteur’s report to the General Assembly in 2020

<https://undocs.org/A/75/385>

80. In the light of the preceding analysis, the Special Rapporteur recommends that States: (a) Repeal all laws that undermine the exercise of the human right to freedom of religion or belief, including the withdrawal of reservations to international human rights treaties that are inconsistent with freedom of religion or belief. Particular attention should be paid to upholding the obligation to protect the rights of members of religious or belief minorities, as well as those of women, children, members of the LGBT+ community and others in vulnerable situations, such as migrants, refugees and internally displaced persons;

Special Rapporteur’s report to the Human Rights Council in 2021

<https://undocs.org/A/HRC/46/30>

38. Access to adequate housing is particularly challenging for Muslims who – often due to religion-based discrimination – are internally displaced, refugees or migrants or who have been forcibly displaced with little or no compensation. The Human Rights Committee has expressed concern regarding the living conditions of largely Muslim internally displaced persons in Sri Lanka. Rohingya refugees in Bangladesh reportedly occupy temporary settlements without adequate shelter, water and sanitation and face the prospect of forced relocation to a remote, flood-prone island.

43. Relatedly, representatives of four European States have publicly rejected Muslim refugees or migrants in their societies, amid accusations of preferential treatment for Christian refugees. Hungary and Slovakia have challenged the European Union policy of mandatory reallocation of refugees and migrants of Middle Eastern and North African origin before the European Court of Justice, in the context of those States’ leaders publicly claiming that Muslims were “criminals” “who are impossible to integrate” and that the migrants were not refugees but rather “Muslim invaders”. In Australia, officials reportedly cherry-picked Christian refugees from the Syrian Arab Republic for resettlement over Muslims.

65. Six States have organized interfaith meetings covering discrimination against Muslims or have organized consultations with Muslim communities so that they may voice concerns and communicate their needs. Reportedly, OSCE and the European Union have organized high-level conferences, and five States have engaged in regional consultations with civil society on the subject. Recalling that Islamophobia may manifest itself as intersectional discrimination against Muslim refugees and migrants, the Office of the United Nations High Commissioner for

Refugees, OSCE and the European Union have developed good practice frameworks or resources for States on the integration of migrants.

Special Rapporteur's report to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

Barriers to effective resettlement, reintegration, and remedy

51. In 2021, UNHCR estimated that 1.4 million of over 30.5 million refugees and asylum seekers need resettlement, and an estimated 15.7 million are in a “protracted refugee situation.” Reportedly, some States have constructed their asylum seeker policy based on notions about which religious or belief communities will successfully “integrate;” characterizing some as a threat while depicting others as “good refugees,” with discriminatory consequences. Following the European Union’s pledge to resettle and relocate additional refugees in need of protection, several Member States, including Hungary, Slovakia, Cyprus, and Czech Republic, reportedly announced that they would favour admitting non-Muslim refugees, particularly Christians, citing concerns about cultural cohesion. In 2015, Australia announced that it would prioritize Christians in its Syrian refugee resettlement program. The U.S. Government made a similar pledge in 2017, with Christian refugees reportedly constituting most of those granted asylum in subsequent years.

52. Other host States may ignore the religious or belief identity of refugees when considering their requests for resettlement for the sake of neutrality, thereby overlooking contextual circumstances where individuals face increased risk of violence and persecution based on this identity. The Special Rapporteur warns that prioritizing religious identity as a factor in resettlement decisions may pose challenges, especially discrimination between minorities, blindness to those most at risk, and reliance on oversimplified understandings of conflict and persecution.

53. Rights monitors have raised concern about forced repatriations, including as part of measures in response to COVID-19, that put refugees, including religious or belief minorities, at increased risk of discrimination, harassment, and violence and can violate the principle of non-refoulement. Reportedly, some Syrian refugees forcibly returned from Turkey, Lebanon, and Jordan have faced arbitrary arrests, mistreatment, torture, and enforced disappearances from Syrian authorities upon their return. In 2019, the Danish Government officially reclassified Damascus as “safe” and proceeded to revoke residency and work permits of approximately 400 Syrian refugees from the capital. As of February 2022, those deportations have not commenced. In March 2019, U.N. experts raised alarm at reports of Rohingya refugees being forcibly deported from India to Myanmar, where they face potential violence and persecution from the military. Interlocutors also have reported that security forces in India are using arbitrary detention to deter Rohingyas from fleeing to India. In February 2021, Indian Coast Guards allegedly deliberately delayed the rescue of a drifting boat hosting 87 Rohingya refugees. Although eight people had died, Indian authorities prevented the survivors from even disembarking.

56. Religious or belief minorities also frequently face barriers when accessing effective remedies in conflict, transition, and post-conflict situations. Under international law, States are obliged to provide an effective remedy to victims of human rights violations. Remedies may differ depending on the victim's wishes and the local context. Some religious or belief minorities prioritize safe return to their homeland, rather than the prosecution of perpetrators. For example, the return of properties and businesses seized forcefully or appropriated in their absence were key to a sense of justice and future security for some Yazidi and Christian communities in Syria. Meanwhile, some minority communities in Iraq believe that effective reconciliation must prioritize truth-finding, searches for the missing (including exhumation of mass graves) and memorialization of the dead and disappeared over criminal justice proceedings. Yet, according to the United Nations Assistance Mission for Iraq, the Government has only made limited progress on respecting victims’ rights to truth and reparation, identifying the fate of the disappeared, and holding perpetrators criminally responsible.

78. States should: [...] g) Ensure that the repatriation of religious or belief minorities displaced by conflict and insecurity, either internally or internationally, is always voluntary, safe, and sustainable. States should pay particular attention to community integration of returnees or refugees and ensure that victims of violence have adequate financial and psychological assistance available.

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

5. Children

International Covenant on Civil and Political Rights (1976)

Art. 23 (4): States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Art. 24 (1): Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 5 (3): The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

Art. 5 (5): Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

Convention on the Rights of the Child (1990)

Art. 7 (1): The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Art. 9 (1): States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

Art. 12 (1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Art. 14 (1): States Parties shall respect the right of the child to freedom of thought, conscience and religion.

Art. 14 (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 [...] (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

Art. 20 (3): Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Art. 29 (1): States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her

<p>own;</p> <p>(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;</p> <p>Art. 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.</p> <p>18 Commitments on “Faith for Rights” (2017)</p> <p>Commitment XIII: We pledge to build on experiences and lessons learned in engaging with children and youth, who are either victims of or vulnerable to incitement to violence in the name of religion, in order to design methodologies and adapted tools and narratives to enable religious communities to deal with this phenomenon effectively, with particular attention to the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion.</p>
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Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur to the Human Rights Commission in 1986

<https://undocs.org/E/CN.4/1987/35>

67. As far as the organization of family life in accordance with the religion or belief chosen is concerned, and bearing in mind, as specified in article 5, paragraph 1, the moral education in which the parents or legal guardians believe the child should be brought up, several examples clearly show that this principle is not always respected. In a certain country, for instance, parents belonging to a particular ethnic and religious community are forcibly prevented, in spite of their beliefs, from performing certain rites on their children, such as the circumcision of male children, or from giving them names in keeping with their religious traditions. In another country, girls from families of a certain religious minority are sometimes forced, against the wishes of their families and their own will, to marry members of the majority religion and to adopt their faith. A further example is provided by a country where the members of an unrecognized religious community, unable to assert, in the eyes of the authorities, the legitimacy of the marriage ceremony performed in accordance with their religious rites, are in an irregular legal situation, their children being regarded as illegitimate. In the same country, several cases have been reported of the forcible abduction from their parents of children belonging to this religious community. In another country, it would appear that the authorities have separated children from parents belonging to a religious sect not officially registered, in order to prevent parents from bringing up their children in accordance with their religious beliefs.

68. The right of children to have access to education in the matter of religion or belief in accordance with the wishes of his parents or guardians is frequently infringed. Thus, in several countries, the State places certain restrictions on the enjoyment of this right. In one case, religious instruction for children is tolerated only in private within the family; restriction also occur in practice when, for instance, the teaching of the religious language of a minority is not tolerated officially for the members of this religious minority. In another case, religious instruction is strictly controlled by the authorities. Elsewhere, a ministerial decision stipulates that no religious school offering instruction in the precepts of a particular faith may function until it has been assigned a specific location and obtained ministerial permission, and that all such schools are subject to control by the authorities. In another country, the local publication or importation of holy writings forming the basis of religious instruction is forbidden. In yet another country, the ban on all administrative and community activities relating to a particular faith has brought about the dissolution of the classes in which the followers of this faith taught children the principles and precepts of their religion.

69. Sometimes, children are not only denied access to the religious education in accordance with the choice of their parents, but are also compelled to receive teaching on a religion or belief against their wishes. Thus, in several countries, an attempt is being made to inculcate in children, within the general framework of school programmes, values inherent in a particular ideology or belief, which may be incompatible with the religious beliefs of the parents. Religious indoctrination may at times be taken to an extreme degree. In one country, pupils belonging to a outlawed religious community were abducted by their religious education instructors in school, where instruction is given on the officially recognized faith, and forcibly converted to that faith. In another country, pupils belonging to a religious minority were compelled to attend religious instruction courses in a faith different from their own. Finally, there is the

case of a country where religious instruction was made compulsory in kindergarten, arousing protests from many educational organizations.

70. As far as the provisions of article 5, paragraph 3, of the Declaration are concerned, it has already been possible to conclude, when studying a number of examples of discriminatory treatment based on religion or belief, that the children of believers are subject to discrimination of various kinds, such as ill-treatment and humiliation at school, expulsion from school or a ban on embarking on higher education, pressure to deny their faith, and even in certain extreme cases imprisonment, torture and summary execution.

71. The tacit or explicit encouragement of the authorities of certain countries to denigrate the values and ideas embraced by certain religions or beliefs has already been mentioned. It is obvious that such conduct is hardly compatible with the provisions of article 5, paragraph 3, of the Declaration concerning education based on understanding, tolerance and respect for freedom of religion or belief of others.

The Special Rapporteur's report to the Commission on Human Rights in 2002

<https://undocs.org/E/CN.4/2002/73/Add.2>

104. Of all practices harmful to the health of women, the most known and the most publicized in the media is female genital mutilation or female circumcision or excision. It has long received the attention of international human rights organizations and bodies and is one of the main focuses of the mandate of the Special Rapporteur on traditional practices affecting the health of women and children. It involves removal of all or part of the female genital organs. WHO figures quoted by the Special Rapporteur indicate that there are estimated to be between 85 and 115 million sexually mutilated women and girls in Africa and Asia. According to the same sources, two million girls are at risk of undergoing genital mutilation each year (E/CN.4/Sub.2/1995/6, para. 21). This practice, whose forms vary from country to country, is reportedly prevalent in 26 African countries, in countries of Asia and among immigrant communities in Europe and America and also in Jewish Ethiopian and Bedouin communities in Israel. Yet the historical origins of female genital mutilation are shrouded in mystery. What seems certain is that the practice, which has stood the test of time, is not linked to any particular religion. It is thought to have been invented by the Pharaohs, who performed it to preserve their wife's chastity when they went to war. It appears to have been practised by the Phoenicians, the Hittites, the Ethiopians, pagan peoples in the tropical zones of Africa and in the Philippines, the Incas in Mexico and ethnic groups in Amazonia and Australia. Some peoples believe that humans are naturally born bisexual. The man's prepuce has to be removed to give him his masculinity and the woman's masculine organ, the clitoris, has to be excised to ensure her full femininity. It was apparently also practised by physicians in nineteenth-century Europe to treat mental disorders in women.

The Special Rapporteur's report to the General Assembly in 2005

<https://undocs.org/A/60/399>

54. (...) the Special Rapporteur notes that with regard to children, the choice of religion is restricted by the parents' rights to determine their child's religion up to an age where the child is capable of doing so on his/her own, in accordance with article 18, paragraph 4, of the Covenant.

The Special Rapporteur's report on her visit to France in 2005

<https://undocs.org/E/CN.4/2006/5/Add.4>

98. Law 2004-228 of 15 March 2004 on the wearing of conspicuous religious symbols in public schools is widely supported by the political apparatus as well as by the population. Although the law is intended to apply equally to all persons, the Special Rapporteur is of the opinion that it has mainly affected certain religious minorities, and notably, people of a Muslim background. The Special Rapporteur believes that the wide political support for the law has conveyed a demoralizing message to religious minorities in France.

99. The law is appropriate insofar as it is intended, in accordance with the principle of the best interests of the child, to protect the autonomy of minors who may be pressured or forced to wear a headscarf or other religious symbols. However, the law denies the right of those minors who have freely chosen to wear a religious symbol to school as part of their religious belief.

100. The Special Rapporteur is of the opinion that the direct and, in particular, the indirect consequences of this law may not have been thoroughly considered. Although many interlocutors at the governmental level are satisfied with the results of the implementation of the law, she noticed that the figures are often disputed, including because the criteria used for the assessment vary. Moreover, the Special Rapporteur considers that aside from statistics, the issue is one of principle.

101. The concerns of the Special Rapporteur are more serious with regard to the indirect consequences of Law 2004-228 in the longer term. The implementation of the law by educational institutions has led, in a number of cases, to abuses that have provoked humiliation, in particular amongst young Muslim women. According to many sources, such humiliation can only lead to the radicalization of the persons affected and those associated with them. Moreover, the stigmatization of the headscarf has provoked instances of religious intolerance when women wear it outside school, at university or in the workplace. Although the law was aimed at regulating symbols related to all religions, it appears to mainly target girls from a Muslim background wearing the headscarf.

102. The Special Rapporteur encourages the Government to closely monitor the way educational institutions are implementing the law, in order to avoid the feelings of humiliation that were reported to her during her visit. She also recommends a flexible implementation of the law which would accommodate the schoolchildren for whom the display of religious symbols constitutes an essential part of their faith.

103. In all circumstances, the Government should uphold the principle of the best interests of the child and guarantee the fundamental right of access to education, as has been recommended by several United Nations treaty-monitoring bodies.

104. Moreover, the Government should take appropriate measures to better inform school authorities, and more generally the French population, about the exact nature and purpose of the law. It should be made clear that the wearing or display of religious symbols is an essential part of the right to manifest one's religion or belief that can only be limited under restrictive conditions. The Government should also promptly provide redress in any situation where persons have been the victim of discrimination or other act of religious intolerance because of their religious symbols, including by prosecuting the perpetrators of such acts in the relevant cases.

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/64/159>

25. Children are also vulnerable with regard to their right to freedom of religion or belief. The mandate has reported on various forms of discriminatory treatment which derive both from governmental actions and from incidents provoked by non-State actors. The Special Rapporteur is concerned at the abuse and violence against children who are accused by their families of witchcraft. She has also been informed of a number of cases where children, especially girls, were allegedly abducted by members of a different religious community, forced into marriage and converted against their will to a different religion. In this regard, she would like to emphasize that no one shall be subject to coercion which would impair his or her freedom to have or to adopt a religion or belief of his or her choice, [International Covenant on Civil and Political Rights, article 18, para. 2.] and that the betrothal or marriage of a child shall have no legal effect.[Convention on the Elimination of All Forms of Discrimination against Women, article 16, para. 2.] As reaffirmed by article 3 of the Convention on the Rights of the Child, the best interests of the child shall be a primary consideration in all actions concerning children.

26. The rights of the child concerning freedom of religion or belief remain a complex issue, especially because they touch upon the position of the child but may also concern his or her parents or legal guardians as well as the religious communities involved. The right of the child to freedom of religion or belief is enshrined in article 14, paragraph 1, of the Convention on the Rights of the Child. The parental rights are immediately reaffirmed in article 14, paragraph 2, which requires States parties to 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 to freedom of thought, conscience and religion in a manner consistent with the evolving capacities of the child.

27. The Special Rapporteur would like to briefly analyse the concept of "evolving capacities" in the context of the child's right to freedom of religion or belief. Domestic legal provisions differ largely, for example with regard to the competency to decide when children can themselves be able to adopt a different religion or belief of their choice. In some countries, children who have not yet reached the age of 10 years may convert if both of their parents agree to conversion or if the competent court approves conversion upon the application of one of the parents. Some national laws feature staggered age limits, for example, that children who are older than 14 years may decide their religious affiliation for themselves and that a child from the age of 12 onwards cannot be educated under a different religion than previously against his or her will. Other laws set the age of 15 or 16 years as a legal threshold for reaching full religious maturity.

28. In this regard, the Special Rapporteur would like to caution against strict age limits which may not fully take into consideration the maturity and evolving capacities of the child in all cases. Such strict limits may lead to situations where a child is legally considered as mature while this is not yet the case, or where a truly mature child is denied his or her rights for some time. Consequently, the Special Rapporteur would advocate for a case-by-case approach according to the specific circumstances of each situation. This is also supported by article 12, paragraph 1, of the

Convention on the Rights of the Child, which requests States parties to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. [In this regard, see CRC/C/GC/12, paras. 17, 21, 29, 75 and 84.] [...]

68. The situation of children and their freedom of religion or belief also deserve specific mention. In line with the concept of “evolving capacities” of the child and in order to ensure free and informed choices about his or her freedom of religion or belief, the Special Rapporteur would like to highlight the following approaches. Special attention should be paid to encouraging positive attitudes and, in view of the best interests of the child, to supporting parents to exercise their rights and fully play their role in education in the field of tolerance and non-discrimination. [See E/CN.4/2002/73, appendix, para. 9.] Rather than leading to indoctrination, teaching about religions and beliefs should be carried out in a fair and balanced manner. In this regard, the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools [Prepared by the OSCE/ODIHR Advisory Council of Experts on Freedom of Religion or Belief; text available online at www.osce.org/publications/odihr/2007/11/28314_993_en.pdf.] provide practical guidance for preparing curricula for teaching about religions and beliefs as well as preferred procedures for assuring fairness in the development of such curricula. In addition, States should endeavour to eradicate prejudices and conceptions incompatible with freedom of religion or belief, and to ensure respect for and acceptance of pluralism and diversity in the field of religion or belief.

The Special Rapporteur’s report to the General Assembly in 2013

<https://undocs.org/A/68/290>

54. From a normative perspective, school education falls in the focus of a number of human rights, including the right to education, minority rights, equality between men and women, and freedom of religion or belief. As a subcategory to freedom of religion or belief, article 18, paragraph 4 of the International Covenant on Civil and Political Rights demands 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”. This provision should not be interpreted in isolation but should be read in conjunction with article 5 and article 14, paragraph 2, of the Convention on the Rights of the Child, which require parents and legal guardians to provide appropriate direction and guidance “in a manner consistent with the evolving capacities of the child”. With regard to adolescents, the Committee on the Rights of the Child emphasizes that States parties should provide them “with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases”. The Committee furthermore insists that adolescents should “have access to appropriate information, regardless of [...] whether their parents or guardians consent”.

The Special Rapporteur’s report to the General Assembly in 2015

<https://undocs.org/A/70/286>

36. Freedom of religion or belief indeed facilitates an open development by guaranteeing everyone’s freedom to “change” one’s religion or belief and to “have or to adopt a religion or belief of his choice”. In the course of their personal development, individuals, including children, can modify, change or even abandon their religion or belief. However, that does not presuppose a right of the child to grow up in a religiously “neutral” family environment, let alone a right possibly enforced by the State against parents. The principle of “neutrality” can meaningfully be invoked only against States in order to remind them of their obligation to exercise fairness, impartiality and inclusivity and in this specific sense “neutrality”, when dealing with diversity of religion or belief. By contrast, parents cannot be obliged by the State to remain religiously “neutral” when raising their children.

55. Some States have defined fixed age thresholds for the child’s exercise of certain elements of freedom of religion or belief, for example concerning opting out of religious instruction or converting to another faith with or without the agreement of the parents. However, given the dynamic nature of the child’s “evolving capacities”, it is preferable to avoid fixed definitions and instead take decisions on a case-by-case basis, with respect to each individual child’s personal situation and maturity. In its general comment No. 12 (2009) on the right of the child to be heard, the Committee on the Rights of the Child also opted for a flexible approach: “The more the child himself or herself knows, has experienced and understands, the more the parent, legal guardian or other persons legally responsible for the child have to transform direction and guidance into reminders and advice and later to an exchange on an equal footing. This transformation will not take place at a fixed point in a child’s development, but will steadily increase as the child is encouraged to contribute his or her views.”

58. The Convention on the Rights of the Child combines the recognition of the child as a genuine rights holder with respect for the rights and duties of parents or legal guardians in directing the child in the exercise of his or her human rights. However, situations can occur in which State interventions in the sphere of parental rights are necessary, for

instance to protect the child from neglect, domestic violence or harmful practices. According to article 19, paragraph 1, of the Convention, "States parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child." In the context of the right to health, article 24, paragraph 3, of the Convention obliges States to "take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children".

70. [...] Whatever their reasons may be, harmful practices can never be justified as legitimate manifestations of freedom of religion or belief. Being part of the broader human rights framework, freedom of religion or belief can never become a pretext for legitimizing cruel practices and violations of human rights. If necessary, the limitation clauses, as laid down in article 18, paragraph 3, of the International Covenant on Civil and Political Rights and article 14, paragraph 3, of the Convention on the Rights of the Child, must be applied. As already emphasized, they must always be applied with empirical and normative diligence and those affected by limitations must have access to effective legal remedies when claiming that their human rights have been violated.

71. A question which has caused some controversy is how to assess the ritual circumcision of male infants, which is widely practised in some religions. For many believers, it counts as a core element of their religious identities and as an integral part of religious initiation processes. At the same time, it obviously has irreversible physical consequences. Male circumcision has been particularly contested when carried out by untrained personnel in unhygienic settings and without adequate pain relief, which increases the risk of serious medical complications and may even have fatal consequences, including death. The Committee on the Rights of the Child has therefore recommended taking effective measures, including training for practitioners and awareness-raising, to ensure the health of boys and protect against unsafe medical conditions during the practice of male circumcision (CRC/C/15/Add.122, para. 33).

72. The issue has also been discussed within those religious communities in which ritual male circumcision is widely practised and seen as an essential element of their identity. Although some reformers have proposed postponing the practice to an age at which the child concerned can take his own decisions, the vast majority of parents continue to understand and practise circumcision as an indispensable element of religious initiation rituals performed on their children.

73. While some national legislators have specified certain conditions for the practice of circumcision, in the spirit of the recommendation of the Committee on the Rights of the Child, no State has outlawed the practice as such, which would be a far-reaching intervention into parental rights. The Special Rapporteur would argue that, if performed by trained practitioners, in sanitary conditions and with the clearly expressed consent of parents or guardians, male circumcision of children who have not yet reached religious maturity should generally be respected as falling within the freedom to manifest one's religion or belief, which includes the ritual initiation of children into religious life. At the same time, he would like to encourage further discussion, including within practising religious communities, about how to improve the conditions of male circumcision in order to avoid the risks of physical and psychological damage. [...]

78. When ritual male circumcision of a child is performed, appropriate sanitary conditions and professional performance should be ensured.

79. Against the background of the observations above, the Special Rapporteur formulates the following recommendations:

(a) In line with the Convention on the Rights of the Child and other relevant international human rights standards, States and other stakeholders, including religious communities and families, should recognize the status of the child as a rights holder;

(b) States should withdraw reservations concerning article 14 of the Convention on the Rights of the Child. When implementing the Convention, they should understand article 14 as an integral part of it, which stands in continuity with freedom of religion or belief, as enshrined in other international instruments, including article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

(c) Article 14 of the Convention on the Rights of the Child should be broadly interpreted as covering theistic, non-theistic and atheistic beliefs, including the right not to profess any religion or belief;

(d) States should respect, protect and promote parental rights and the rights of the child as, in general, positively interrelated rights, including in the area of freedom of religion or belief. Respect for the "evolving capacities of the child" should be understood as an integral part thereof. States should avoid fixed age limits when identifying religious maturity in order to do justice to the personal religious maturation of each individual child;

- (e) As part of the positive interrelatedness of parental rights and the right of the child to freedom of religion or belief, States should generally respect religious initiation rites, in which the small child is introduced into the family and community, if initiated by parents and/or carried out with their consent;
- (f) State interventions into parental rights in the area of freedom of religion or belief, for example if deemed necessary to prevent harmful practices and to safeguard the best interests of the child, must always be enacted with empirical and normative diligence, always bearing in mind the prescribed criteria for limitations;
- (g) States should repeal unduly restrictive regulations, wherever they exist, in order to facilitate the participation or non-participation of children in religious community life, in accordance with their wishes or the wishes of the parents, depending on the maturity of the child;
- (h) When providing religious instruction in public schools, States should ensure low-threshold options for the child and his or her parents to get exemptions, with the purpose of preventing children from being exposed to religious instruction against their own will or that of their parents;
- (i) When providing information about religions and beliefs as part of the regular school curriculum and with a view to broadening the child's knowledge, States should ensure that such information is of high quality, which should always be based on solid research and should furthermore do justice to the self-understanding of the followers of different religious communities, always taking into account internal diversity. The Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools can serve as a useful tool to ensure quality management in that area;
- (j) Religious instruction and/or information about religions, as given in schools or other educational settings, should always respect the evolving capacities of the child who, in the course of his or her maturation, should be able to assume a more active role in the exercise of his or her freedom of religion or belief;
- (k) States should reform unduly restrictive dress code regulations for students in schools in order to facilitate a school life in which students can experience free and voluntary manifestations of religious or belief-related diversity, as a normal aspect of living together in a modern society;
- (l) States should reform family laws which discriminate against parents or legal guardians belonging to religious minorities, or against parents who are converts, atheist or agnostics, with a view to upholding the best interests of the child and fully guaranteeing the right of the child to freedom of religion or belief without discrimination. Such reforms may also prove necessary in the interests of equality between men and women;
- (m) States should reform administrative practices which may lead to different religions being ascribed to converts and their children against their will. Such practices, apart from violating the freedom of religion or belief of parents who have converted, will in many cases also violate the rights of the child;
- (n) States should provide appropriate training for judges or other officials involved in the settlement of family conflicts, such as divorces, in order to ensure that the religious orientation of parents or legal guardians, including religious conversion, does not lead to discriminatory treatment;
- (o) States should provide effective anti-discrimination legislation and policies, to eliminate all forms of discrimination based on the religion or belief of the child and his or her parents or legal guardians. Special attention should be given to aggravated, multiple or intersectional discrimination, for instance discrimination based on religion or belief in combination with ethnicity, age and gender;
- (p) States should collect disaggregated statistical data, which may help in detecting concealed forms of discrimination based on the religion or belief of a child, or his or her parents;
- (q) States should take all appropriate measures to eliminate harmful practices. When tackling the issue of harmful practices, including practices allegedly based on certain cultural or religious traditions, States should avoid stereotypical overgeneralizations and should bear in mind the inter- and intrareligious diversity which usually exists with regard to such practices;
- (r) Religious communities should discuss the issue of how to better ensure respect for the freedom of religion or belief of children within their teaching and community practices, bearing in mind the status of the child as a rights holder and the need to respect the evolving capacities of each child;
- (s) Religious community leaders should support the elimination of harmful practices inflicted on children, including by publicly challenging problematic religious justifications for such practices whenever they occur.

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

6. Religious or belief minorities

International Covenant on Civil and Political Rights (1976)

Art. 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Convention on the Rights of the Child (1990)

Art. 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

Art. 1 (1): States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.

Art. 2 (1): Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

Art. 2 (2): Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

Art. 2 (3): Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

Art. 4 (2): States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

Art. 4 (3): States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

Art. 4 (4): States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

Human Rights Committee, General Comment no. 23 on article 27 (1994)

Para. 1: Article 27 of the Covenant provides that, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to these minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. The Committee observes that this article establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant.

18 Commitments on "Faith for Rights" (2017)

Commitment VI: We pledge to stand up for the rights of all persons belonging to minorities within our respective areas of action and to defend their freedom of religion or belief as well as their right to participate equally and effectively in cultural, religious, social, economic and public life, as recognized by international human rights law, as a minimum standard of solidarity among all believers.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the General Assembly in 2000

<https://undocs.org/A/55/280>

138. Concerning minorities, the Special Rapporteur wishes to emphasize that States have an obligation under international law and jurisprudence (inter alia, article 27 of the International Covenant on Civil and Political Rights, General Comment No. 23 of 6 April 1994 of the Human Rights Committee, article 30 of the Convention on the Rights of the Child, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities) to guarantee the right of minorities to freedom of religion and the practice of religion, within internationally agreed limits. The State remains responsible even when abuses are committed against minorities by non-State entities such as extremist groups. States are also required to create conditions for promoting the identity, including the religious identity, of minorities. Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities emphasizes the role of education in this regard. The 2001 conference on school education will also consider the special place to be given in primary and secondary education to respect for and promotion of the identity, including the religious identity, of minorities and will make recommendations in this regard.

Special Rapporteur's report to the Commission on Human Rights in 2001

<https://undocs.org/E/CN.4/2001/63>

181. First and foremost, such an analysis clearly highlights the situation of minorities in terms of the principles of tolerance and non-discrimination in the field of religion and belief. The concept of a minority, although not really defined in international law, which merely refers to categories such as national, ethnic, religious and linguistic minorities (see the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities), is interpreted in the widest sense in this report, whether in reference to minority groups within the same religion or in relation to other religions, society, non-State entities and the State. More attention should be paid to the situation of minorities in the light of the 1981 Declaration.

The Special Rapporteur's report to the Human Rights Council in 2006

<https://undocs.org/A/HRC/4/21>

43. As noted in previous reports, religious minorities and new religious movements face various forms of discrimination and intolerance, both from policies, legislation and State practice. Issues of concern relate to obstacles in the official registration procedures as well as inappropriate limitations when disseminating materials and displaying religious symbols. Furthermore, some religious minorities are adversely affected by manifestations of rejection or violence from non-State actors and by threats to their very existence as a specific community. When religious minorities are groups that are considered so-called non-traditional or new religious movements, the members of these communities may be the object of suspicion and suffer greater limitations to their right to freedom of religion or belief.

44. The first mandate-holder, d'Almeida Ribeiro, already in 1990 stated that "aspects having to do with the antiquity of a religion, its revealed character and the existence of a scripture, while important, are not sufficient to make a distinction [between religions, sects and religious associations]. Even belief in the existence of a Supreme Being, a particular ritual or a set of ethical and social rules are not exclusive to religions but can also be found in political ideologies. So far, a satisfactory and acceptable distinction has not been arrived at". (E/CN.4/1990/46, para. 110.) His successor in the mandate, Abdelfattah Amor, added that "[r]eligions cannot be distinguished from sects on the basis of quantitative considerations, saying that a sect, unlike a religion, has a small number of followers. This is not in fact always the case. It runs absolutely counter to the principle of respect and protection for minorities, which is upheld by both domestic and international law and morality. Besides, following this line of argument, what are the major religions if not successful sects?". (E/CN.4/1997/91, para. 95.) The second mandate holder further emphasized that the issue of sects or new religious movements is complicated by the fact that international human rights instruments provide no definition of the concepts of religion, sect or new religious movement: "Added to this legal dimension is the general confusion regarding the term 'sect' in particular. Although the idea of a sect was originally a neutral one and meant a community of individuals constituting a minority within a religion and having split from it, it often now has a pejorative connotation so that it is frequently regarded as synonymous with danger, and sometimes a non-religious dimension when it is identified as a commercial enterprise. The term 'sect' is therefore in need of further clarification, as are the terms 'religions', 'new religious movements' and 'commercial enterprise'. It is crucial to look at this phenomenon objectively so as to avoid the two pitfalls of either infringing the freedom of religion and belief or

exploiting freedom of religion and belief for purposes other than those for which it has been recognized and protected.” (E/CN.4/1998/6, paras. 116-117)

45. The Special Rapporteur would like to join her predecessors' analysis concerning the complexity of defining religion and belief. The pertinent international human rights standards seem to take the problem of finding a satisfactory definition of the “protected religion” into account by providing for a broad view of this concept. The Human Rights Committee in its general comment No. 22 (1993) rightly argued: “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.” Furthermore, the Human Rights Committee reiterated that article 18 of the ICCPR “protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief” (para. 2). This formula has already been quoted in various United Nations reports (E/CN.4/Sub.2/1987/26, para. 13; E/CN.4/1990/46, para. 110) and it is also used as a definition in the Madrid Final Document on School Education in relation with Freedom of Religion and Belief, Tolerance and Non-discrimination (E/CN.4/2002/73, Appendix).

46. In line with this reasoning, the Special Rapporteur follows the approach of interpreting the scope of application for freedom of religion or belief in a large sense, bearing in mind that manifestations of this freedom may be subject 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. Rosalyn Higgins, who is currently President of the International Court of Justice and was a member of the Human Rights Committee when its general comment No. 22 was drafted, “resolutely opposed the idea that States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves; as for manifestations, article 18, paragraph 3, existed to prevent them from violating the rights of others”. (CCPR/C/SR.1166, para. 48.) A similar statement was made by Abdelfattah Amor in his 1997 report to the Commission on Human Rights. There, the second mandate-holder emphasized that, apart from the legal courses available against harmful activities, “it is not the business of the State or any other group or community to act as the guardian of people’s consciences and encourage, impose or censure any religious belief or conviction”. (E/CN.4/1997/91, para. 99)

47. In this regard it seems to be particularly worrying when a religious community is empowered – either de jure or de facto – to decide about or to veto the registration of another religious or belief group. The Special Rapporteur would like to reiterate that registration should not be a precondition for practising one’s religion, but only for the acquisition of a legal personality and related benefits. Furthermore, registration procedures should be easy and quick and they should neither depend on reviews of the substantive content of the belief nor on extensive formal requirements. Thus, requiring high minimum membership levels or a lengthy existence in the country concerned are no appropriate criteria for registration.

The Special Rapporteur’s report to the General Assembly in 2006

<https://undocs.org/A/61/340>

49. Religious minorities remain, by and large, the main victims of violations of the right of freedom of religion or belief and other acts of religious intolerance. In this respect, one must take into account that while a certain religion may be a minority in one part of the world and suffer accordingly, it may constitute the religion of the majority of the population in another part of the world.

50. The problems related to the existence of religious minorities remain as important as ever and the rules pertaining to the principles of freedom of religion or belief have to be constantly re-emphasized. In addition to lack of respect, ignorance of these principles is often at the source of violations. The Special Rapporteur insists on the need to strengthen technical cooperation in order to train governmental officials in several parts of the world in the principles related to her mandate.

51. Moreover, when religious minorities are groups that follow a so-called non-traditional or newer religion, the members of these communities may be the object of suspicion and, consequently, suffer greater limitations to their right to freedom of religion or belief.

The Special Rapporteur’s report to the General Assembly in 2009

<https://undocs.org/A/64/159>

29. The mandate-holders’ reports illustrate that persons belonging to national or ethnic, religious and linguistic minorities are in a vulnerable situation with regard to their right to freedom of religion or belief. The identity of many minorities is defined by various aspects, and several instances of discrimination, for example when based both on

racial and on religious motives, are aggravated by the effects of these multiple identities. Religious minorities face various forms of discrimination, for example with regard to official registration procedures or undue limitations when disseminating materials and displaying religious symbols. Furthermore, some religious minorities are adversely affected by manifestations of intolerance, threats or acts of violence perpetrated by non-State actors, which are often tolerated or encouraged by the authorities.

30. The Special Rapporteur would like to remind that persons belonging to minorities have the right to profess and practise their own religion, in private and in public, freely and without interference or any form of discrimination, as well as the right to participate effectively in cultural, religious, social, economic and public life. When abuses against members of religious minorities are committed by non-State actors, the human rights obligations of States also consist in ensuring the free exercise of freedom of religion or belief and bringing the perpetrators of discriminatory or violent acts to justice. States should also take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. [See Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, article 4, para. 2.] The outcome document of the Durban Review Conference also affirms that the existence and the national or ethnic, cultural, religious and linguistic identity of minorities shall be protected, and that the persons belonging to these minorities should be treated equally and enjoy human rights and fundamental freedoms without discrimination of any kind. [A/CONF.211/L.1, para. 82.]

31. In many States in different regions of the world, members of so-called non-traditional or new religious movements are the object of suspicion, both on administrative and societal levels, and some of them are subjected to serious limitations of their right to freedom of religion or belief. The Special Rapporteur would like to reiterate that the terms “religion” and “belief” are to be interpreted in a broad sense and that human rights protection is not limited to members of traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The contents of a religion or belief should be defined by the worshippers themselves, while their freedom to manifest their 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. [...]

69. Members of religious minorities also remain vulnerable to violations of their right to freedom of religion or belief and other acts of religious intolerance. The Special Rapporteur would like to point out that a certain religion may be a minority in one part of the world and suffer as a result; however, it may constitute the religion of the majority of the population in another part of the world. Government officials and civil servants should be adequately trained in human rights standards and in this regard particular attention should be paid to freedom of religion or belief. More generally, States should take appropriate measures in the field of education in order to encourage a wider knowledge in the society at large of the history, traditions, language and culture of the various religious minorities existing within their territory. Furthermore, a public policy framework for pluralism and equality should ensure an equitable allocation of resources, including broadcasting frequencies, among public service, commercial and community media, so that together they represent the full range of cultures, communities and opinions in society. [See [Camden Principles on Freedom of Expression and Equality](#), Principle 5] While mainstreaming religious minorities, affirmative action is important in some areas in order to empower these minorities and raise awareness about their situation.

31. In many States in different regions of the world, members of so-called non-traditional or new religious movements are the object of suspicion, both on administrative and societal levels, and some of them are subjected to serious limitations of their right to freedom of religion or belief. The Special Rapporteur would like to reiterate that the terms “religion” and “belief” are to be interpreted in a broad sense and that human rights protection is not limited to members of traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The contents of a religion or belief should be defined by the worshippers themselves, while their freedom to manifest their 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. [...]

The Special Rapporteur to the Human Rights Council in 2012

<https://undocs.org/A/HRC/22/51>

33. Against a widespread misunderstanding, the Special Rapporteur would like to emphasize that the rights of persons belonging to religious minorities are not anti-universalistic privileges reserved to the members of certain predefined groups. Rather, all persons de facto living in the situation of a religious or belief minority should be able to fully enjoy their human rights on the basis of non-discrimination and benefit from measures which they may need to develop their individual and communitarian identities. The question of which individuals or groups of individuals fall under the

specific guarantees of article 27 of the International Covenant and similar minority rights provisions should be established on the basis of the self-understanding of the persons concerned in conjunction with a transparent empirical assessment of their actual need for promotional measures.

Unnecessary bureaucratic restrictions

42. Religious minorities are often confronted with disproportionate bureaucratic requirements which, instead of facilitating freedom of religion or belief, have the effect of imposing discriminatory burdens and unjustifiable restrictions. In some countries minority communities have to register on an annual basis to be recognized by the administration. Members of affected groups have complained about registration procedures becoming more and more costly and time-consuming. Failure to register, or re-register periodically, could lead to legal vulnerability that also exposes the religious minorities to political, economic and social insecurity. Furthermore, application procedures for being allowed to construct places of worship – churches, mosques, prayer halls, synagogues, temples etc. – can be extremely complicated; in some cases they have been delayed over decades.

Denial of appropriate legal status

43. Most religious communities – albeit not all of them – wish to have the status of a collective legal personality. Such a status position may be needed for them to be able to undertake important community functions, such as opening bank accounts, purchasing real estate, constructing houses of worship, employing professionals (including professional clergy), establishing denominational schools and running their own community media. Without an appropriate legal status, the development of a communitarian infrastructure and the long-term survival prospects of a religious minority may be in serious peril. Nevertheless, some States fail to facilitate appropriate legal status positions. For instance, certain States do not allow associations to pursue any religious or belief-related purposes, with the implication that religious groups per se cannot obtain any legal status under the law of association. Recognition procedures may also be lengthy and overly complicated, with the intentional or non-intentional effect of discouraging certain minorities from even applying. In some instances, religious organizations may be deprived of their status and de-registered, thus losing key rights and privileges afforded to registered religious organizations. (Re)-registration procedures may stipulate conditions such as a minimum number of followers or years of existence in a particular country that a priori exclude smaller or new groups. An administration may also arbitrarily use negative labels, such as “sect” or “cult”, to generally prevent certain groups from obtaining legal personality status. Non-recognized communities typically live in situations of increased legal insecurity and structural vulnerability. There are also examples of de facto authorities prohibiting and disrupting meetings of members of religious minorities on the mistaken assumption that such activities could not be undertaken by unregistered communities.

Structural discrimination and exclusion

44. Persons belonging to religious minorities often suffer from systematic discrimination in various sectors of society, such as educational institutions, the labour market, the housing market or the health-care system. Scores of examples account for structural discrimination in those and other important societal areas. Minorities are frequently underrepresented in the public sectors as well, including in the police force, the military, public media and high-level posts in public universities. Members of certain groups, once identified as such, may not have access to higher education or certain public positions, or may be expelled from previously held positions. Moreover, many members of religious minorities experience multiple, intersectional and otherwise aggravated forms of discrimination, for instance a discriminatory link between scheduled caste status and affiliation to specific religions, or a combination of religion and ethnicity-based violence. Women or girls often have to cope with gender-based and religious discrimination, for example dress code regulations that discriminate against persons belonging to religious minorities, in particular women.

Discriminatory implications of family laws

45. An issue warranting special attention concerns discriminatory family laws, especially if personal status matters are adjudicated by religious courts. Some countries continue to restrict marriages between individuals from different denominations, thus violating article 16 of the Universal Declaration on Human Rights, which provides that men and women of full age have the right to marry and to found a family, without any limitation due to religion. Members of religious minorities, in particular women, may feel compelled to change their religion or belief as a precondition for marrying a person with a different religious affiliation. Depending on the specific cases, this may amount to a violation of article 18(2) of the International Covenant on Civil and Political Rights, which prohibits subjecting anyone to coercion in questions of religion or belief. Furthermore, individuals belonging to religious minorities may also experience discriminatory treatment in divorce settlements, a problem that often affects women. It is reported that judgements of family courts and religious courts in child custody cases have been biased against the parent who belongs to a religious minority.

Alienation and indoctrination of children

46. Parents from religious minorities also face difficulties in exercising the right to educate their children in conformity with their own convictions, as enshrined in article 18(4) of the International Covenant. A particularly sensitive area in this regard is school education. In some States, children from religious or belief minorities are exposed to religious instruction against their will or the will of their parents or guardians. They may have no option to obtain an exemption from religious instruction, or exemptions may remain linked to a high threshold or humiliating circumstances. There are also reports about children from minorities facing pressure in public schools to participate in rituals and ceremonies of a religion other than their own or being baptized by a priest without the parents' prior consent. Reportedly, children have even been urged to distance themselves from their own religion as a precondition for passing their school exams. Students who refuse to follow certain religious instruction at school are also allegedly punished or assaulted by their teachers. In extreme cases, such pressure can amount to violations of the right not to be forced to convert. There are also cases where exemption from religious instruction is granted but due to the lack of resources in certain public schools, children exempted from religious instruction may have to remain in the classroom, which means that in practice they are still exposed to religious instruction that may go against their convictions.

Publicly stoked prejudices

47. Rather than combating existing prejudices against religious minorities, Governments and public officials at times even stoke and exploit prejudices for political purposes, such as fostering national homogeneity or blaming political failures on scapegoats. In this context, minorities have been negatively portrayed as undermining the moral fabric of society. For instance, minorities who tend to refuse military service on conscientious grounds have been held responsible for military defeats and other national traumas. Surprisingly often, stoked political paranoia targets small groups of people who are demonized as wielding some mysteriously "infectious" power by which they allegedly pose a fatal threat to societal cohesion. There are also examples of religious minorities being stigmatized by politicians or radio hosts as "a fifth column" who supposedly act in the interest of hostile foreign powers, thus violating the interest of the nation. The spread of negative stereotypes and prejudices obviously poisons the relationship between different communities and puts people belonging to religious minorities in a vulnerable situation. Unfortunately, stigmatizing prejudices also continue to exist in schoolbooks and teaching material for children who, given their tender age, can easily be impressed by anti-minority propaganda.

Acts of vandalism and desecration

48. There are many incidents of vandalism directed against symbols, sites or institutions of religious minorities, including the demolition of places of worship and the desecration of cemeteries or tombs of historical and cultural heritage value. Such attacks often constitute symbolic violence by which the perpetrators aim to send a message to members of religious minorities that they are not welcome in the community or country. This can become a trigger for physical violence, including expulsions and other extreme manifestations of hostility. There are also numerous incidents where development or construction plans end up destroying sacred sites of religious minorities or indigenous peoples.

Obstacles against religious rituals or ceremonies

49. Persons belonging to minorities may have difficulties when wishing to perform rituals that they consider as essentially belonging to their religious identities. This includes rituals of religious socialization of children, for example male circumcision. Members of religious minorities may also face administrative obstacles when holding processions or celebrating religious ceremonies in public. A number of governments pursue unduly restrictive policies in this regard, sometimes with reference to unspecified "public order" interests at variance with the criteria enshrined in article 18(3) of the International Covenant. It also happens that public ceremonies or gatherings are disrupted by the police or by non-State actors with the police merely standing by, thus conveying the impression that State authorities do not care or even implicitly approve of such acts. Furthermore, funerals have been disrupted by crowds of people who claim that the cemeteries, albeit owned by the municipality, should be reserved for the adherents of the predominant religion and not be used by "heretics". As a result, persons from religious minorities at times cannot bury their dead family members in a quiet, dignified way.

Threats and acts of violence against members of religious minorities

50. Acts of violence against members of religious minorities, perpetrated by States or non-State actors, have unfortunately included cases of torture, ill-treatment, abductions, involuntary disappearances and other atrocities. They can occur spontaneously or be orchestrated by political leaders who exploit and further stoke existing stereotypes, prejudices and paranoia for political gains. The motives may be manifold and include "taking revenge" for natural disasters, national traumas or political failures mysteriously blamed on minorities or alleged self-defence against foreign powers supposedly represented by some minority groups as their "fifth columns". Violence may also be used to preserve the hegemony of the predominant religion of the country against unwelcome competitors or immigrants. In addition, acts of violence are perpetrated with the purpose of expelling minorities from the country, or

of intimidating and blackmailing them, for instance to extract “protection money”. Reportedly there also have been cases of kidnapping and violence to force persons belonging to religious minorities to renounce their faith and convert to mainstream religions. Beside killing and injuring people, acts of violence may also cause serious damage to historical buildings of religious communities in order to further destroy any long-term survival prospects of such groups in the country.

Disrespect of internal autonomy

51. Some States unduly interfere in the internal affairs of religious communities, with the purpose of exercising tight political control. This can include the appointment by the Government of religious community leaders in ways which contradict the self-understanding of the respective group and their traditions, thereby violating their autonomy. In some cases this has led to splits within a community and poisoned the relationship between different sub-groups, as a result endangering the long-term development of the affected religious community at large. There have also been reports from members of minorities about State agents being implanted in religious institutions, including monasteries, in order to further tighten control over the religious life. Some leaders of religious groups are even arrested or detained over a long period of time.

Confiscation of property and unfair restitution policies

52. Religious minorities have suffered from confiscation of their community property, in some cases to such a degree that the infrastructure needed for ensuring the community's long-term development has been destroyed. Often only insufficient or no compensation at all has been paid. When trying to get back their property, religious minorities may face many obstacles, including bureaucratic stipulations. States that meanwhile have embarked on programmes of restitution for previously confiscated property to religious communities sometimes fail to include minority groups in a transparent, fair and non-discriminatory manner. This can create or exacerbate resentments between different religious communities.

Criminal sanctions

53. Persons belonging to religious minorities are frequently exposed to increased risks of criminalization. Some domestic criminal law provisions specifically target members of minorities or persons otherwise deviating from the predominant religious or belief tradition of the country. When manifesting their religious or belief convictions, persons belonging to minorities may run the risk of being accused of “blasphemy,” a charge which in some countries carries harsh sanctions, including even the death penalty. At times the mere possession of certain religious literature has given rise to criminal prosecution leading to long-term imprisonment. Furthermore, members of minorities have been tried for engaging in non-coercive communicative outreach activities which some Governments negatively brand as “proselytism”. There are even cases in which persons who had converted away from the dominant religion of the country were accused of “apostasy” and condemned to death, in disregard of, inter alia, the right to conversion, which constitutes an inextricable part of religion or belief. In general, the threat of criminal sanctions typically has far-reaching intimidating effects on members of religious minorities, many of whom may decide to hide their convictions or refrain from practising their religion or belief.

Denial of asylum

54. As a result of discrimination, repression and persecution, some members of religious minorities decide to leave their country of origin and try to find a new home elsewhere. When applying for asylum, however, they may again experience being unwelcome and may not even be granted a fair hearing of their asylum claims. There are also cases in which persons belonging to religious minorities may face deportation or extradition, even in the face of obvious risks of persecution in their country of origin. The Special Rapporteur would like to reiterate that extraditions or deportations which are likely to result in violations of freedom of religion or belief may themselves amount to a violation of human rights. In addition, such extraditions violate the principle of non-refoulement, as enshrined in article 33 of the 1951 Geneva Convention relating to the Status of Refugees.

The Special Rapporteur's report to the General Assembly in 2018

<https://undocs.org/A/73/362>

35. Violence in the name of religion or belief predominantly targets persons belonging to religious or belief minorities, including converts, humanists, atheists and agnostics who suffer from a climate of intimidation, repression or violence, globally (see A/67/303, para. 15). However, such violence can also affect the dissident followers of the very same religion or belief, which may also be the majority religion in whose name such acts are perpetrated. The victims of these violent acts could also include a variety of other groups, including adherents to different indigenous beliefs and the followers of small or new religious movements, which are often stigmatized as “sects” or “cults”. People suspected of undermining “national cohesion” are also frequent targets of violent manifestations of intolerance, and

unfortunately the voices of moderation who actively oppose the abuse of their religion to justify violence and bigotry bear an increased risk of being accused of betrayal or blasphemy, which frequently incurs retaliatory penalties. Moreover, a climate of impunity can further aggravate these situations.

Special Rapporteur's report to the General Assembly in 2020

<https://undocs.org/A/75/385>

Reduce all forms of violence and related death rates everywhere (Sustainable Development Goal 16.1)

33. The Special Rapporteur joins the Special Rapporteur on Minority Issues and other United Nations entities in raising an alarm that instability and fear engendered by the current health crisis is exacerbating discrimination, hostility, hate speech, xenophobia and violence against religious and belief minorities in some countries. In this context, the Secretary-General stressed that the health crisis “can provide a pretext to adopt repressive measures for purposes unrelated to the pandemic.” [...]

Health, hunger and clean water and sanitation (Sustainable Development Goals 3, 2 and 6)

42. Discriminatory laws, policies and practices routinely interfere with the access of marginalized populations to food security, to water resources for drinking and hygiene and to basic health care and environmental protections; invariably increasing their vulnerability to poor health outcomes. While health and well-being are closely linked with levels of income and education, information received by the Special Rapporteur indicates that the religious or belief identity of persons acts as an additional aggravating factor for health inequities in some countries. The 2030 Agenda Sustainable Development Goal to ensure healthy lives and promote well-being at all ages (Goal 3) and its related goals of zero hunger (Goal 2) and clean water and sanitation (Goal 6) requires the elimination of such inequalities. [...]

Indicators of impact in reducing inequalities, combating intolerance and tackling discrimination against religious and belief minorities

61. The 2030 Agenda offers a global indicator framework established by the Inter-Agency and Expert Group on Sustainable Development Goal Indicators. Among the existing Goal indicators, metrics to discern the level of protection for freedom of religion or belief are absent. Recognizing that no one will be left behind only when sustainable development efforts advance the political, social and economic inclusion of persons belonging to religious or belief minorities, the Special Rapporteur encourages States to employ specific indicators to identify the impact of interventions on reducing inequalities involving religion or belief.

62. Reinforcing States' existing international human rights obligations, and the duty to respect, protect and promote human rights, the Special Rapporteur's proposed indicators can assist States to (a) identify gaps in human rights protections in a State's legislative and institutional framework, (b) survey the State's performance in practically implementing existing human rights commitments, and (c) measure the outcome and effectiveness of relevant laws and practices on different segments of society.

The Special Rapporteur's report to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

18. The casting of religious or belief communities as “foreigners” or having foreign allegiances is a source of mobilization against them, entrenches suspicion, fear, and discrimination, and leaves religious or belief minorities more fearful and exposed to violence. [...]

23. State and non-State actors often seek to realize their goals through extinguishing, expelling, or otherwise displacing entire communities. They frequently target religious or belief identities to inflict harm on minorities, deploying tools (i.e., violence, intimidation, and discriminatory legislation) to restrict their human rights or uproot or eradicate a community. [...]

25. During conflict or insecurity, actors often destroy, desecrate, occupy or raid religious sites to destroy sacred objects and literature, conscious of their significance to minority religious communities and impeding their ability to manifest their religion or belief. Destruction of these sites is often part of a strategy to erase “whatever does not accord with their vision,” frequently affecting minorities and dissenters within majorities (A/71/317, paras. 35-36). [...]

27. Armed actors regularly inflict sexual and gender-based violence (“SGBV”) as a devastating tool to destroy the fabric of minority communities. [...]

32. Several State authorities have invoked situations of conflict or insecurity as either politically convenient justifications for their failure to fulfil their human rights obligations or to instrumentalize fragility of certain communities to further their political goals. In many cases, States use oppressive counterterrorism measures to infringe on the rights of religious or belief minorities in the name of combating “extremism” and insecurity.

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

7. Indigenous peoples

International Covenant on Civil and Political Rights (1976)

Art. 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Indigenous and Tribal Peoples Convention No. 169 (1989)

Art. 7: The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

Convention on the Rights of the Child (1990)

Art. 17: States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall [...] (d): Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

Art. 29: States Parties agree that the education of the child shall be directed to [...] (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

Art. 30: In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

UN Declaration on the Rights of Indigenous Peoples (2007)

Art. 11 (1): Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

Art. 11 (2): States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Art. 12 (1): Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

Art. 12 (2): States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Art. 17 (1): Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

Art. 17 (2): States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account

their special vulnerability and the importance of education for their empowerment.

Art. 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Art. 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Art. 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Art. 36 (1): Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

Art. 36 (2): States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Committee against Torture, general comment no. 2 on article 2 (2008)

Para. 21: The protection of certain minority or marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment. States parties must ensure that, insofar as the obligations arising under the Convention are concerned, their laws are in practice applied to all persons, regardless of race, colour, ethnicity, age, religious belief or affiliation, political or other opinion, national or social origin, gender, sexual orientation, transgender identity, mental or other disability, health status, economic or indigenous status, reason for which the person is detained, including persons accused of political offences or terrorist acts, asylum-seekers, refugees or others under international protection, or any other status or adverse distinction. States parties should, therefore, ensure the protection of members of groups especially at risk of being tortured, by fully prosecuting and punishing all acts of violence and abuse against these individuals and ensuring implementation of other positive measures of prevention and protection, including but not limited to those outlined above.

Committee on the Rights of the Child, general comment no. 11 on indigenous children and their rights under the Convention (2009)

2. Article 30 of the Convention states that “In those States in which ethnic, religious, or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own language.

16. The Committee recalls the close linkage between article 30 of the Convention on the Rights of the Child and article 27 of the International Covenant on Civil and Political Rights. Both articles specifically provide for the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own language. The right established is conceived as being both individual and collective and is an important recognition of the collective traditions and values in indigenous cultures. The Committee notes that the right to exercise cultural rights among indigenous peoples may be closely associated with the use of traditional territory and the use of its resources.

27. States parties should ensure that public information and educational measures are taken to address the discrimination of indigenous children. The obligation under article 2 in conjunction with articles 17, 29.1(d) and 30 of the Convention requires States to develop public campaigns, dissemination material and educational curricula, both in schools and for professionals, focused on the rights of indigenous children and the elimination of discriminatory attitudes and practices, including racism. Furthermore, States parties should provide meaningful opportunities for indigenous and non-indigenous children to understand and respect different cultures, religions,

and languages.

82. [...] the Committee urges States parties to adopt a rights-based approach to indigenous children based on the Convention and other relevant international standards, such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. In order to guarantee effective monitoring of the implementation of the rights of indigenous children, States parties are urged to strengthen direct cooperation with indigenous communities and, if required, seek technical cooperation from international agencies, including UN entities. Empowerment of indigenous children and the effective exercise of their rights to culture, religion and language provide an essential foundation of a culturally diverse State in harmony and compliance with its human rights obligations.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's on his visit to Argentina in 2002

<https://undocs.org/E/CN.4/2002/73/Add.1>

112. The principal problem regarding freedom of religion and freedom to manifest one's religion or belief relates to the question of land. Land is the sine qua non for the maintenance and development of an indigenous identity. A Mapuche tenet holds that "the land does not belong to the Mapuche, the Mapuche belongs to the land". The land, the source of identity, thus has a religious dimension and meaning for indigenous peoples. It constitutes the matrix for their beliefs and a support for the manifestation of those beliefs.

113. The claims of the indigenous communities regarding the restitution of property thus implicitly embody a religious dimension, namely, access to sacred sites and to graves. The situation varies widely in practice: some provinces have granted definitive community property title to land, others have recognized indigenous lands without granting property title; disputes involving private property have led to instances of expropriation or have yet to be resolved. Serious disputes remain, particularly involving companies (for example, in Patagonia, the expropriation by multinational companies, including Benetton, of land belonging to the Mapuche community), as well as State institutions (for example, the army). In this connection INAI has been criticized for a lack of consultation with indigenous groups, the meagre results obtained and, above all, in the view of some, a paternalistic approach to indigenous issues. [...]

150. [...] The process of returning land to indigenous people, as the touchstone of their identity, is thus a precondition for providing access to holy sites and burial grounds and hence for legitimate religious or spiritual activities.

The Special Rapporteur to the General Assembly in 2020

<https://undocs.org/A/75/385>

43. A high proportion of the Shia minority population in Saudi Arabia is reportedly underserved in terms of health-care facilities as compared with the Sunni majority. Hmong Christians in Viet Nam who fled their homes under pressure from authorities to renounce their religion or belief, disproportionately lack quality health care, clean water and basic necessities. In Ecuador, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health found that indigenous (and Afro-Ecuadorian) peoples show worse health indicators than the rest of the population, including higher rates of malnutrition and anaemia.

48. Indicator 1.4.2 of the goal of ending poverty in all its forms everywhere is the "proportion of total adult population with secure tenure rights to land". Security of tenure – the certainty that a person's rights to land will be recognized by others and protected in cases of challenges – is a serious issue for religious or belief minorities. Indigenous peoples – up to 2.5 billion women and men – hold and use more than 50 per cent of the world's land but have secure tenure to just 10 per cent. The situation of indigenous women can be especially dire as both national and customary laws frequently fail to protect their property rights, and they often bear disproportionate burdens related to poverty, food insecurity, climate change and conflict.

49. A disturbing trend exists whereby Governments open up the lands of indigenous, religious or belief minorities to investment without the communities' consent or in contravention of their customary and collective land ownership. Communications to and by special procedures reveal numerous troubling examples of communities being dispossessed of their traditional lands, including the Kaiowá and Guarani people in Brazil, the Standing Rock Sioux Tribe in the United States of America, Wangan and Jagalingou in Australia and Te Wai o Hua (Maori). The Special Rapporteur is also concerned about States encroaching on peaceful opposition against these developments and the high murder rate of indigenous leaders in the context of land disputes.

The Special Rapporteur to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

18. The casting of religious or belief communities as "foreigners" or having foreign allegiances is a source of mobilization against them, entrenches suspicion, fear, and discrimination, and leaves religious or belief minorities more fearful and exposed to violence. In Afghanistan, authority figures and some civilians have portrayed Sikhs and Hindus as loyal to India despite being Indigenous peoples. A Houthi leader in Yemen has described Baha'is as Israeli spies, effectively making the community targets for harm. In the Ukrainian regions of Donetsk and Luhansk, de facto authorities regularly accuse "non-traditional" Christian denominations like the Church of Latter-Day Saints and Jehovah Witnesses of being spies for Ukraine and "Western interests."

39. The Special Rapporteur is concerned at reports of States curtailing civic space by intimidating religious or belief minorities, including through surveillance — making individuals fear repercussions for expressing their faith. In West Papua, security forces have reportedly heightened their physical presence and surveillance of church meetings and services, instilling fear among attendees. Reportedly, the "space for democracy is being shut down" too, with Internet restrictions and strict limits on physical access to West Papua for human rights observers and humanitarian workers limiting the Indigenous population's ability to access advocacy and support. Other States have restricted Internet access, including blackouts, as tools to limit religious or belief minorities' ability to readily seek help within and beyond their community, contrary to freedom of expression.

The Special Rapporteur's report to the General Assembly in 2022

<https://undocs.org/A/77/514>

1. Indigenous peoples enjoy diverse and complex cultures and beliefs, with 476 million living in 90 countries, speaking over 4,000 languages and owning, occupying, or managing over one quarter of the world's land. Consistent with their right to self-determination, indigenous peoples are free to define and determine their spiritual identity for themselves. Many conceptualize spirituality as a "way of life": shaping distinctive emotions, habits, practices or virtues, fashioning distinct beliefs and ways of thinking, and a particular way of living together and communicating. Thus, spirituality concerns the transcendent and is intrinsic to indigenous peoples' daily experiences and practices. Regardless of their uniqueness, indigenous spirituality and culture are often grounded in community, identity and relationships with traditional lands.

2. Contemporary crises in human rights for indigenous peoples frequently stem and are inseparable from unremedied past policies and practices. Beyond State restrictions on spiritual ceremonies, symbols and leaders in the name of "assimilation", challenges to the right to freedom of religion or belief could include forced displacement, exploitation of indigenous territories without their free, prior and informed consent, environmental damage and destruction, as well as the impacts of climate change. Severe, systematic, and systemic discrimination and marginalization affect their ability to survive, let alone thrive – by exercising their innermost religious or belief convictions.

3. It is imperative to recall the position of the Secretary-General, who expressed the need to ensure equal and meaningful participation, full inclusion and empowerment with regard to realizing the human rights and opportunities for all indigenous peoples. While article 18 of the International Covenant on Civil and Political Rights safeguards followers of every faith or none, a frequently recurring question from rights holders and key stakeholders is whether its application has been adequate or appropriate for indigenous peoples. Recognizing the mandate holder's relatively limited engagement with indigenous peoples to date, the aim of the Special Rapporteur in the present report is to develop a framework for productive, sustained exchange, highlighting existing and emerging challenges to indigenous peoples' enjoyment of freedom of religion or belief.

Conceptual legal framework

10. International law has no universally accepted definition of "indigenous peoples". Nevertheless, community self-identification is widely regarded as a "fundamental criterion", with many considering themselves distinct by possessing "historical continuity" with pre-colonial societies on their land. Objective criteria could also be considered (e.g. distinct language); however, States often instrumentalize such criteria to deny recognition of the existence and rights of indigenous peoples, including the right to self-determination. For the same reasons, the Special Rapporteur notes that indigenous peoples resist being described as "minorities". In situations in which indigenous peoples may technically constitute a minority, based on objective proportional criteria, this status should not preclude their additional recognition and rights as indigenous peoples.

11. The term "spirituality" is preferred by many indigenous peoples as the way to characterize their religion or belief identity. Reasons include: (a) lack of an equivalent translation for "religion"; (b) delineation between their "religion" (e.g., Christianity, Islam) and indigenous beliefs; or (c) tainted legacy of "religions" being instrumentalized to inflict

gross rights violations against them. Some interlocutors seek to “decolonize” language framing the spirituality of indigenous peoples, including “ritual”, “witchcraft”, or “superstition”, as such rhetoric has been deployed to depict them as “lesser” and justify harmful practices.

14. Protecting persons of all faiths and none, the right to freedom of religion or belief is enshrined in articles 18 of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights and elaborated upon in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of 1981. Their protections extend beyond followers of “institutionalized” belief systems to encompass adherents to “theistic, non-theistic and atheistic beliefs”, including those of indigenous peoples.

15. In mapping obstacles and opportunities for indigenous peoples in the exercise of freedom of religion or belief, the Special Rapporteur was guided by the United Nations Declaration on the Rights of Indigenous Peoples, a universally accepted soft-law instrument developed in consultation with indigenous peoples to articulate their rights, including spiritual practices. Article 12 of the Declaration concern protected access to and maintenance of religious and cultural sites, ceremonial objects and repatriation, and article 25 provides for recognition of their spiritual relationship to traditional lands. Aspects of indigenous spirituality can be seen elsewhere in the Declaration, resulting in mutually reinforcing protection. Many actors worldwide, including States, regional and domestic courts, scholars and rights holders, employ the Declaration to interpret the International Covenant on Civil and Political Rights vis-à-vis indigenous peoples.

Forcibly assimilated and denied recognition

21. Harrowing historical experiences of colonization, forced assimilation and dispossession have shaped and are inseparable from indigenous peoples’ contemporary concerns for spiritual, cultural and physical survival. Several States invoked variations of the Doctrine of Discovery to justify forcibly removing indigenous peoples from their lands. The Doctrine – developed to support the ambitions of religious institutions to “invade, capture, vanquish, and subdue [...] all Saracens and pagans, and other enemies of Christ” – furnished a “discovering” sovereign with “exclusive right” to “extinguish” indigenous peoples’ pre-existing title and interests in their lands.⁴⁴ Experts further describe forced sedentarization – placing migratory, mobile or nomadic indigenous peoples into settlements – as causing loss of their spirituality by separating them from their lands.

22. Several reports of State efforts to further assimilation initiatives provide details on attempts to control indigenous women’s sexuality and reproductive capacities [...]

23. Other reports document the forced removal of indigenous children from their families and communities for distant, often religious institution-led schools, where they were “exclusively taught the dominant religion and culture” and prohibited from using their own languages, culture and spiritual practices under threat of punishment [...]

24. The loss of traditional language significantly affects indigenous spirituality since oral expression is the “bedrock” of ceremony and the transmission of knowledge. One interlocutor stated, “when you lose language, you lose everything” [...]

25. Article 18 of the International Covenant on Civil and Political Rights explicitly prohibits coercion in matters of religion or belief. According to interlocutors, however, many indigenous peoples today are still being forcibly converted to non-indigenous religions in order “to survive” amid threats of violence, hostility and discrimination by State and religious institutions [...]

31. Arbitrary designation of State borders encompassing indigenous lands may also undermine freedom of religion or belief in situations in which indigenous peoples cannot cross over a border, including to access a sacred site or engage tribal members in traditional ceremonies [...]

Restrictions on manifestations of indigenous spirituality

38. Countless indigenous communities have reported living with historical and ongoing violations of their freedom of religion or belief through State restrictions on ceremonial practices and spiritual leaders, often aimed at forced assimilation and conversion [...]

39. According to the Expert Mechanism on the Rights of Indigenous Peoples, improper acquisition, retention and use of ceremonial objects may violate indigenous peoples’ right to freedom of religion or belief. Many indigenous peoples regard these objects and human remains as physical representations of or homes to spirit or sentient beings. Removing these items from indigenous communities, land, and spiritual leaders may break their relationship with attached spirits or risk “spiritually caused illnesses” that persist through future generations. Plundered by colonizers, displayed as curiosities and even utilized to justify pseudo-scientific racist theories about indigenous peoples, it is reported that over one million indigenous ancestral remains and cultural items still reside in repositories worldwide. Interlocutors emphasize that public display of such objects may inflict spiritual and physical harm, damaging its

spiritual essence and relationship with indigenous peoples, in particular where there are inappropriate preservation methods, untrained staff and breaches of cultural secrecy.

40. States, museums, other cultural institutions and private collectors often express reluctance to repatriate ceremonial objects and remains, prioritizing proprietary “ownership” or scientific/historical value over indigenous rights. Interlocutors further report facing temporal, financial and legal hurdles for successful repatriation, such as many national laws “limit[ing] deaccessioning” and enabling State justifications to set aside repatriation claims. According to article 11 of the United Nations Declaration on the Rights of Indigenous Peoples indigenous peoples must enjoy effective redress and restitution for spiritual property taken without free, prior and informed consent.

Women, equality, sexual orientation and gender identity

47. Several experts have asserted that, traditionally, many indigenous belief systems were matriarchal or egalitarian, with women holding powerful and influential positions in spiritual, socioeconomic and political spheres. Across several regions, the Special Rapporteur has heard that indigenous women were key – even primary – carriers and custodians of indigenous spirituality, presiding over rituals and celebrations, healing, advising, controlling lands and transmitting knowledge to future generations [...]

48. Having imposed patriarchal structures and principles, some States and non-State actors have invalidated or undermined gender dynamics within indigenous communities, stripping women of their elevated status, agency and social mobility. Forced sedentarization has brought formerly migratory indigenous groups under State administrative procedures that recognized men as “heads of household”. The growing influence of religious institutions, which ban women from being spiritual leaders, was described as effectively sidelining indigenous women and shrinking their space to fulfil sacred roles and responsibilities [...]

54. In several indigenous communities worldwide, individuals that self-identify as “third gender” have held visible, recognizable and valued positions within indigenous communities. Such positions include healers, priests and keepers of spiritual knowledge (e.g. *māhū* in Native Hawaiian and Tahitian communities, “two-spirit persons” in certain Canadian indigenous tribes, and *muxes* among Zapotec in Mexico).

55. Colonial, non-indigenous actors regarded these gender-diverse views and practices as “immoral”, “perverse”, and “unnatural” and imposed draconian rules that criminalized and pathologized such practices. [...] Many consider *māhū* a derogatory term today, with negative connotations that ostensibly coincide with colonization. Such practices and policies have had a profound impact on the spiritual roles and status of indigenous LGBT+ persons, impairing their exercise of freedom of religion or belief and exacerbating their vulnerability to violence and discrimination in wider society. Studies indicate that indigenous LGBT+ persons often face a high risk of intimate violence, especially compared with non-indigenous LGBT+ persons or indigenous heterosexual persons [...]

85. The Special Rapporteur acknowledges the historic exclusion of many indigenous peoples from the development of international law instruments that affect them, including the right to freedom of religion or belief. In emphasizing that holistic and human rights-based solutions should integrate protection of the freedom of religion or belief of indigenous peoples, address systematic and systemic disadvantage and ensure free, prior and informed consent, and in acknowledging the concerns of indigenous peoples that there is “nothing about us, without us”, the Special Rapporteur proposes the recommendations below.

86. States should: (a) Establish legal and policy frameworks that recognize the right of indigenous peoples to their beliefs and comprehensively promote and protect their rights, drawing specifically on the United Nations Declaration on the Rights of Indigenous Peoples, including freedom of religion or belief. To this end, States should regularly review and revise such frameworks to tackle discrimination, undue restrictions on spiritual manifestations, and impediments to access and use of indigenous peoples’ lands; [...]

III. GROUPS/PERSONS LIKELY TO FIND THEMSELVES IN VULNERABLE SITUATIONS

8. *Migrant workers and members of their families*

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)

Art. 12 (1): Migrant workers and members of their families 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 their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

Art. 12 (2): Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

Art. 12 (4): States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, general comment no. 1 on migrant domestic workers (2011)

Para. 48: States parties should take effective measures to ensure that migrant domestic workers are free to practise the religion or belief of their choice, as well as their freedom of expression, individually or in community with others, in public and in private, in accordance with articles 12 and 13 of the Convention and other international human rights standards (articles 12 and 13).

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Human Rights Council in 2007

<https://undocs.org/A/HRC/6/5>

36. Article 12 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families mirrors the right to freedom of thought, conscience and religion as provided for in article 18 of ICCPR. The population of many countries features a considerable number of migrant workers and their vulnerable situation requires special attention. The Special Rapporteur is concerned by several limitations placed on the right of migrant workers and members of their families to manifest their religion or belief. For example, foreigners who do not belong to the major religion in one country, are not allowed to build places of worship or carry out prayers or religious rituals outside of their homes. The Special Rapporteur noted that many limitations are implemented as a matter of practice rather than a matter of law and consequently they may fail to comply with article 18 (3) of ICCPR which requires that any limitation on the right to manifest one's freedom of religion or belief must be prescribed by law. Furthermore, the Special Rapporteur questions to what extent these limitations are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. The Special Rapporteur would like to emphasize that all persons within a particular country, and not just the citizens of that country, have the right to freedom of religion or belief, including the right to manifest that belief.

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/64/159>

32. In many countries all over the world, migrants are vulnerable to discrimination based on their religion or belief and face related prejudices on a societal level. The Durban Declaration explains that the situation of vulnerability in which migrants frequently find themselves is owing, inter alia, to their departure from their countries of origin and to the difficulties they encounter because of differences in language, customs and culture, as well as economic and social difficulties and obstacles to the return of migrants who are undocumented or in an irregular situation. [A/CONF.189/12, chap. I, Declaration, para. 50.] Various Special Rapporteurs have pointed to the discrimination against the children of migrants, for example with regard to their right to education as well as the absence of the promotion of freedom of religion or belief which hampers their capacity of integration and personal development. [E/CN.4/2002/73, para. 28.]

33. The Special Rapporteur would like to emphasize that all persons within a particular country, and not just the citizens of that country, have the right to freedom of religion or belief, including the manifestation of their religion or

belief in worship, observance, practice and teaching. In her reports, the Special Rapporteur has pointed to practical limitations imposed on the freedom of migrants to manifest their religion or belief publicly, for example with regard to building places of worship, carrying out religious rituals openly or conducting missionary activities. She would like to recall that limitations on the right to manifest one's freedom of religion or belief must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

34. In her last report to the General Assembly, which focused on citizenship issues and religious discrimination in administrative procedures, [A/63/161, paras. 25-78.] the Special Rapporteur emphasized that immigration policies and citizenship tests must not discriminate on the basis of the applicant's religious background. Together with other mandate holders, she also expressed concerns about the contents of questionnaires and interview guidelines used by domestic naturalization authorities. Finally, the Special Rapporteur highlighted that it would be contrary to the principle of non-discrimination to restrict citizenship to people with certain religious beliefs or to deny official documents based on the applicant's religious affiliation. [...]

70. With regard to the situation of migrants, the Special Rapporteur is concerned at restrictions imposed on their freedom to manifest their religion or belief publicly and she recalls that according to international human rights law any such limitations must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. In addition, States should implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their accommodation into social, cultural, political and economic life.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/19/60>

63. [...] Providing some denominations with a privileged status position or establishing an official State religion is sometimes part and parcel of a State policy of fostering national identity. Ample experience shows, however, that this harbours serious risks of discrimination against minorities, for instance, against members of immigrant religious communities or new religious movements.

The Special Rapporteur's report to the Human Rights Council in 2012

<https://undocs.org/A/HRC/22/51>

50. Acts of violence against members of religious minorities, perpetrated by States or non-State actors, have unfortunately included cases of torture, ill-treatment, abductions, involuntary disappearances and other atrocities. They can occur spontaneously or be orchestrated by political leaders who exploit and further stoke existing stereotypes, prejudices and paranoia for political gains. The motives may be manifold and include "taking revenge" for natural disasters, national traumas or political failures mysteriously blamed on minorities or alleged self-defence against foreign powers supposedly represented by some minority groups as their "fifth columns". Violence may also be used to preserve the hegemony of the predominant religion of the country against unwelcome competitors or immigrants. In addition, acts of violence are perpetrated with the purpose of expelling minorities from the country, or of intimidating and blackmailing them, for instance to extract "protection money". Reportedly there also have been cases of kidnapping and violence to force persons belonging to religious minorities to renounce their faith and convert to mainstream religions. Beside killing and injuring people, acts of violence may also cause serious damage to historical buildings of religious communities in order to further destroy any long-term survival prospects of such groups in the country.

The Special Rapporteur's report to the General Assembly in 2017

<https://undocs.org/A/72/365>

19. State and non-State reactions to the phenomenon of globalization have rendered many societies more vulnerable to tribalism, xenophobia and nativism as individuals search for the visceral safety and comfort that shared national, racial, cultural, religious or nonreligious identities and beliefs ostensibly provide. Those anxieties are further exacerbated by concerns regarding job loss or wage competition and fear that immigrants will undermine the traditional language, religion or way of life of "native" populations, not to mention long-held class and power dynamics. As mentioned previously, such anxieties and hostilities are further exacerbated by governments, officials, politicians and agitators keen to seize on them, often by targeting religious minorities, migrants and others in order to advance their own agendas.

22. Other forms of discrimination may be indirect. Examples include laws that appear neutral but have a disproportionate impact on different faith groups, such as zoning laws that prevent the construction of certain types

of houses of worship, registration requirements, State requirements for conducting religious services in a particular language or travel bans for immigrants or to resettle refugees from countries where a majority belong to a particular faith community, ostensibly for national security reasons.

The Special Rapporteur's report to the General Assembly in 2020

<https://undocs.org/A/75/385>

27. Denial or deprivation of citizenship to a group of people on the basis of their religion or belief has a significant impact on their sense of identity and can be used by the State to attempt to sidestep its obligations to promote and protect the human rights of persons belonging to religious or belief minorities. [...]

80. In the light of the preceding analysis, the Special Rapporteur recommends that States: (a) Repeal all laws that undermine the exercise of the human right to freedom of religion or belief, including the withdrawal of reservations to international human rights treaties that are inconsistent with freedom of religion or belief. Particular attention should be paid to upholding the obligation to protect the rights of members of religious or belief minorities, as well as those of women, children, members of the LGBT+ community and others in vulnerable situations, such as migrants, refugees and internally displaced persons;

The Special Rapporteur to the Human Rights Council in 2021

<https://undocs.org/A/HRC/46/30>

33. Where Islamophobia erodes Muslims' socioeconomic prospects, poverty may affect them disproportionately. British Muslims are the most economically disadvantaged religious group in the United Kingdom, experiencing 32 per cent more household poverty than the national average. While migrants, refugees and asylum seekers often experience poverty given their insecure, low-paid or absent employment, the Special Rapporteur has received evidence that their status of economic deprivation may be exacerbated by discrimination based on their Muslim identity. The Special Rapporteur on extreme poverty and human rights has highlighted the lack of access to water, electricity, sanitation and adequate housing among predominantly Muslim migrant workers in Spain. Poor living conditions, inadequate respect for labour rights and fear of deportation may increase migrants' vulnerability to human rights violations, including sexual abuse.

38. Access to adequate housing is particularly challenging for Muslims who – often due to religion-based discrimination – are internally displaced, refugees or migrants or who have been forcibly displaced with little or no compensation. The Human Rights Committee has expressed concern regarding the living conditions of largely Muslim internally displaced persons in Sri Lanka. Rohingya refugees in Bangladesh reportedly occupy temporary settlements without adequate shelter, water and sanitation and face the prospect of forced relocation to a remote, flood-prone island.

IV. Intersection of freedom of religion or belief with other human rights



IV. INTERSECTION OF FREEDOM OF RELIGION OR BELIEF WITH OTHER HUMAN RIGHTS

1. Freedom of expression related to religious intolerance; violence, conflicts and extremism in the name of religion; engagement with faith-based or belief-based actors and promoting mutual understanding

Convention on the Prevention and Punishment of the Crime of Genocide (1951)

Art. 2: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Art. 3 The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

International Convention on the Elimination of All Forms of Racial Discrimination (1969)

Art. 4: States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination

International Covenant on Civil and Political Rights (1976)

Art. 19 (1): Everyone shall have the right to hold opinions without interference.

Art. 19 (2): Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Art. 19 (3): The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Art. 20 (1): Any propaganda for war shall be prohibited by law.

Art. 20 (2): Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Human Rights Committee, General Comment no. 22 (1993)

Para. 7: In accordance with article 20, no manifestation of religion or belief may amount to

propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. As stated by the Committee in its general comment 11 [19], States parties are under the obligation to enact laws to prohibit such acts.

Commission on Human Rights resolution 2005/40 (2005)

Para. 5 (a): In which the Commission on Human Rights invites the Special Rapporteur to address the rise of religious extremism affecting religions in all parts of the world.

Para. 5 (c): In which the Commission on Human Rights invites the Special Rapporteur to address the issue of the use of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments of the United Nations.

Para. 6: The Commission on Human Rights recognizes with deep concern the overall rise in instances of intolerance and violence directed against members of many religious communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia;

Para. 9: The Commission on Human Rights recognizes that the exercise of tolerance and non-discrimination by all actors in society is necessary for the full realization of the aims of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and invites Governments, religious bodies and civil society to continue to undertake dialogue at all levels to promote greater tolerance, respect and understanding;

Para. 10: The Commission on Human Rights emphasizes the importance of a continued and strengthened dialogue among and within religions or beliefs, encompassed by the dialogue among civilizations, to promote greater tolerance, respect and mutual understanding;

Para. 11: The Commission on Human Rights also emphasizes that equating any religion with terrorism should be avoided as this may have adverse consequences on the enjoyment of the right to freedom of religion or belief of all members of the religious communities concerned;

Human Rights Committee, General Comment no. 34 on freedoms of opinion and expression (2011)

Para. 48: 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. [...]

Para. 50: Articles 19 and 20 are compatible with and complement each other. The acts that are addressed in article 20 are all subject to restriction pursuant to article 19, paragraph 3. As such, a limitation that is justified on the basis of article 20 must also comply with article 19, paragraph 3.

Para. 51: What distinguishes the acts addressed in article 20 from other acts that may be subject to restriction under article 19, paragraph 3, is that for the acts addressed in article 20, the Covenant indicates the specific response required from the State: their prohibition by law. It is only to this extent that article 20 may be considered as *lex specialis* with regard to article 19.

Para. 52: It is only with regard to the specific forms of expression indicated in article 20 that States parties are obliged to have legal prohibitions. In every case in which the State restricts freedom of expression it is necessary to justify the prohibitions and their provisions in strict conformity with article 19.

Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (2012)

Para. 11: It is of concern that perpetrators of incidents, which indeed reach the threshold of

article 20 of the International Covenant on Civil and Political Rights, are not prosecuted and punished. At the same time members of minorities are de facto persecuted, with a chilling effect on others, through the abuse of vague domestic legislation, jurisprudence and policies. This dichotomy of (1) non-prosecution of "real" incitement cases and (2) persecution of minorities under the guise of domestic incitement laws seems to be pervasive. Anti-incitement laws in countries worldwide can be qualified as heterogeneous, at times excessively narrow or vague. Jurisprudence on incitement to hatred has been scarce and ad hoc, and while several States have adopted related policies, most of them are too general, not systematically followed up, lacking focus and deprived of proper impact assessments.

Para. 29: It was suggested that a high threshold be sought for defining restrictions on freedom of expression, incitement to hatred, and for the application of article 20 of the International Covenant on Civil and Political Rights. In order to establish severity as the underlying consideration of the thresholds, incitement to hatred must refer to the most severe and deeply felt form of opprobrium. To assess the severity of the hatred, possible elements may include the cruelty or intent of the statement or harm advocated, the frequency, quantity and extent of the communication. In this regard, a six-part threshold test was proposed for expressions considered as criminal offences:

(a) **Context:** Context is of great importance when assessing whether particular statements are likely to incite discrimination, hostility or violence against the target group, and it may have a direct bearing on both intent and/or causation. Analysis of the context should place the speech act within the social and political context prevalent at the time the speech was made and disseminated;

(b) **Speaker:** The speaker's position or status in the society should be considered, specifically the individual's or organization's standing in the context of the audience to whom the speech is directed;

(c) **Intent:** Article 20 of the International Covenant on Civil and Political Rights anticipates intent. Negligence and recklessness are not sufficient for an act to be an offence under article 20 of the Covenant, as this article provides for "advocacy" and "incitement" rather than the mere distribution or circulation of material. In this regard, it requires the activation of a triangular relationship between the object and subject of the speech act as well as the audience.

(d) **Content and form:** The content of the speech constitutes one of the key foci of the court's deliberations and is a critical element of incitement. Content analysis may include the degree to which the speech was provocative and direct, as well as the form, style, nature of arguments deployed in the speech or the balance struck between arguments deployed;

(e) **Extent of the speech act:** Extent includes such elements as the reach of the speech act, its public nature, its magnitude and size of its audience. Other elements to consider include whether the speech is public, what means of dissemination are used, for example by a single leaflet or broadcast in the mainstream media or via the Internet, the frequency, the quantity and the extent of the communications, whether the audience had the means to act on the incitement, whether the statement (or work) is circulated in a restricted environment or widely accessible to the general public;

(f) **Likelihood, including imminence:** Incitement, by definition, is an inchoate crime. The action advocated through incitement speech does not have to be committed for said speech to amount to a crime. Nevertheless, some degree of risk of harm must be identified. It means that the courts will have to determine that there was a reasonable probability that the speech would succeed in inciting actual action against the target group, recognizing that such causation should be rather direct.

Para. 36: Political and religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech. It should be made clear that violence can never be tolerated as a response to incitement to hatred.

Committee on the Elimination of Racial Discrimination, General Recommendation no. 35 on combating racist hate speech (2013)

Para. 6: Racist hate speech addressed in Committee practice has included all the specific speech forms referred to in article 4 directed against groups recognized in article 1 of the Convention — which forbids discrimination on grounds of race, colour, descent, or national or ethnic origin — such as indigenous peoples, descent-based groups, and immigrants or non-citizens, including migrant domestic workers, refugees and asylum seekers, as well as speech directed against women members of these and other vulnerable groups. In the light of the principle of intersectionality, and bearing in mind that “criticism of religious leaders or commentary on religious doctrine or tenets of faith” should not be prohibited or punished, the Committee’s attention has also been engaged by hate speech targeting persons belonging to certain ethnic groups who profess or practice a religion different from the majority, including expressions of Islamophobia, anti-Semitism and other similar manifestations of hatred against ethno-religious groups, as well as extreme manifestations of hatred such as incitement to genocide and to terrorism. Stereotyping and stigmatization of members of protected groups has also been the subject of expressions of concern and recommendations adopted by the Committee.

Para. 24: Article 5 of the Convention enshrines the obligation of States parties to prohibit and eliminate racial discrimination and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of civil, political, economic, social and cultural rights, including the rights to freedom of thought, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and association.

18 Commitments on “Faith for Rights” (2017)

Commitment VII: We pledge to publicly denounce all instances of advocacy of hatred that incites to violence, discrimination or hostility, including those that lead to atrocity crimes. We bear a direct responsibility to denounce such advocacy, particularly when it is conducted in the name of religion or belief.

Commitment VIII: We therefore pledge to establish, each within our respective spheres, policies and methodologies to monitor interpretations, determinations or other religious views that manifestly conflict with universal human rights norms and standards, regardless of whether they are pronounced by formal institutions or by self-appointed individuals. We intend to assume this responsibility in a disciplined objective manner only within our own respective areas of competence in an introspective manner, without judging the faith or beliefs of others.

Commitment IX: We pledge to refrain from, advocate against and jointly condemn any judgemental public determination by any actor who in the name of religion aims at disqualifying the religion or belief of another individual or community in a manner that would expose them to violence in the name of religion or deprivation of their human rights.

Commitment X: We pledge not to give credence to exclusionary interpretations claiming religious grounds in a manner that would instrumentalize religions, beliefs or their followers to incite hatred and violence, for example for electoral purposes or political gains.

Commitment XI: We equally commit not to oppress critical voices and views on matters of religion or belief, however wrong or offensive they may be perceived, in the name of the “sanctity” of the subject matter and we urge States that still have anti-blasphemy or anti-apostasy laws to repeal them, since such laws have a stifling impact on the enjoyment of freedom of thought, conscience, religion or belief as well as on healthy dialogue and debate about religious issues.

Commitment XII: We commit to further refine the curriculums, teaching materials and textbooks wherever some religious interpretations, or the way they are presented, may give rise to the perception of condoning violence or discrimination. In this context, we pledge to promote respect for pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction that is inconsistent with one’s conviction. We also commit to defend the academic freedom and freedom of expression, in line with Article 19 of the International Covenant on Civil and Political Rights, within the religious discourse in

order to promote that religious thinking is capable of confronting new challenges as well as facilitating free and creative thinking. We commit to support efforts in the area of religious reforms in educational and institutional areas.

Commitment XVI: We commit to leverage the spiritual and moral weight of religions and beliefs with the aim of strengthening the protection of universal human rights and developing preventative strategies that we adapt to our local contexts, benefitting from the potential support of relevant United Nations entities.

Human Rights Committee, General Comment no. 37 on the right of peaceful assembly (2020)

Para. 19: The conduct of specific participants in an assembly may be deemed violent if authorities can present credible evidence that, before or during the event, those participants are inciting others to use violence, and such actions are likely to cause violence; that the participants have violent intentions and plan to act on them; or that violence on their part is imminent.

Para. 25: States must ensure that laws and their interpretation and application do not result in discrimination in the enjoyment of the right of peaceful assembly, for example on the basis of race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status. Particular efforts must be made to ensure the equal and effective facilitation and protection of the right of peaceful assembly of individuals who are members of groups that are or have been subjected to discrimination, or that may face particular challenges in participating in assemblies. Moreover, States have a duty to protect participants from all forms of discriminatory abuse and attacks.

Para. 50: In accordance with article 20 of the Covenant, peaceful assemblies may not be used for propaganda for war (art. 20 (1)), or for advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (art. 20 (2)). As far as possible, action should be taken in such cases against the individual perpetrators, rather than against the assembly as a whole. Participation in assemblies whose dominant message falls within the scope of article 20 must be addressed in conformity with the requirements for restrictions set out in articles 19 and 21. [General comment No. 34, paras. 50–52; International Convention on the Elimination of All Forms of Racial Discrimination, art. 4; and Committee on the Elimination of Racial Discrimination, general recommendation No. 35 (2013) on combating racist hate speech. See also the Rabat Plan of Action, para. 29, and the Beirut Declaration on Faith for Rights (A/HRC/40/58, annexes I and II).]

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

Interrelatedness between freedom of religion or belief and freedom of opinion and expression

The Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/31/18>

7. Both articles [18 and 19 of the ICCPR] have in common the unconditional protection of the forum internum – a person's inner realm of thinking and believing, and the criteria for drawing limitations with regard to their external manifestations, that is, the forum externum, are very similar. Hence there are good reasons to conclude that the rights to freedom of religion or belief and to freedom of expression do not stand in opposition to each other, but are actually quite close in spirit and formulation. Yet, this positive interrelatedness does not preclude concrete conflicts, as controversial issues may at times emerge at the intersection of both rights.

12. As their titles indicate, the right to freedom of religion or belief and the right to freedom of opinion and expression are both rights to freedom, a quality that they also have in common with the right to freedom of peaceful assembly and association. All these rights play an indispensable role in shaping free and democratic societies, in which the diversity of, inter alia, thoughts, ideas, opinions, interests, convictions, conscientious positions, religions and beliefs can be manifested and defended freely, including by getting together with others and by establishing adequate institutions and infrastructures with that purpose.

13. Rights holders are human beings, who may exercise these freedoms as individuals and in community with others. While this may sound like a truism in the context of human rights in general, the right to freedom of religion or belief has sometimes been misperceived as protecting religions or belief systems in themselves. This misperception is the source of much confusion, as it obfuscates the nature of freedom of religion or belief as an empowering right. Ignoring that may lead to the wrong assumption of an antagonism between freedom of religion or belief and freedom of expression. Thus, it may warrant highlighting that freedom of religion or belief protects believers rather than religions or beliefs.

17. Articles 18 and 19 of the Covenant show strikingly similar legal formulations, the most salient common feature being the conceptual distinction drawn in both articles between the forum internum and the forum externum. This conceptual distinction appears nowhere else in the text of the Covenant. While the wordings used to define the specific protection of the forum internum within article 18 and article 19 are slightly different, the basic content is identical. In both articles the protection accorded to the inner dimension of a person's thoughts, opinions or convictions (religious or otherwise) is strictly unconditional.

19. A main function of both articles is to protect every individual's inner faculty of forming, holding or changing, *inter alia*, opinions, ideas, conscientious positions, religious and non-religious convictions against coercion and interference. Exposure to coercion in this inner nucleus, for example, by being forced to conceal one's true position or conviction or to feign a belief that is not authentic, can mean betraying oneself. If this happens repeatedly or over a long period, it can undermine the preconditions for developing a stable sense of self-respect. That experience warrants an interpretation of articles 18 (2) and 19 (1) of the Covenant in close analogy to the unconditional prohibition of slavery and the equally unconditional prohibition of torture. While legal restrictions against external manifestations originating from a person's conviction (i.e., the forum externum) may be justifiable in certain situations (provided those restrictions fulfil strict criteria), coercive means can never be legitimately employed to manipulate a person's inner conviction (i.e., the forum internum) itself.

22. Forum internum and forum externum should be generally seen as a continuum. Their conceptual distinction should not be misperceived as a clear-cut separation of different spheres of life. Just as freedom in the forum internum would be inconceivable without a person's free interaction with his or her social world, freedom within the forum externum presupposes respect for the faculty of every individual to come up with new thoughts and ideas and to develop personal convictions, including dissident and provocative positions. While providing unconditional protection to the inner nucleus of each individual against coercion and interference, the legally enhanced status of the forum internum at the same time improves the prospects of free communication and manifestation within the forum externum. In other words, it strengthens freedom of religion or belief and freedom of opinion and expression in all their dimensions, both internal and external.

Anti-blasphemy and anti-apostasy laws

The Special Rapporteur's report to the General Assembly in 2009

<https://undocs.org/A/HRC/13/40>

39. Similarly, the Special Rapporteur has noticed that, while criticism of major religions attracts a lot of attention at the national, regional and international levels, more attention should be focused on addressing the numerous cases of incitement to violence against smaller religions. Article 20, paragraph 2, of the International Covenant on Civil and Political Rights obliges States to prohibit by law any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. However, the right to freedom of religion or belief does not include the right to have a religion or belief that is free from criticism or ridicule. [See A/HRC/2/3, para. 36.] The Special Rapporteur would like to emphasize the important role of an independent judiciary, which needs to adjudicate in each particular case according to its own circumstances and taking into account the specific context. There also have been cases of mob violence as a reaction to expressions of perceived criticism of religions and religious personalities. In this context, several special rapporteurs urged all actors to refrain from any form of violence and avoid fuelling hatred. In addition, States should promote the interrelated and indivisible nature of human rights and freedoms and advocate the use of legal remedies and the pursuance of a peaceful dialogue on matters which go to the heart of all multicultural societies. [See A/HRC/6/5, paras. 38-39].

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/HRC/22/51>

53. Persons belonging to religious minorities are frequently exposed to increased risks of criminalization. Some domestic criminal law provisions specifically target members of minorities or persons otherwise deviating from the predominant religious or belief tradition of the country. When manifesting their religious or belief convictions,

persons belonging to minorities may run the risk of being accused of “blasphemy,” a charge which in some countries carries harsh sanctions, including even the death penalty. At times the mere possession of certain religious literature has given rise to criminal prosecution leading to long-term imprisonment. Furthermore, members of minorities have been tried for engaging in non-coercive communicative outreach activities which some Governments negatively brand as “proselytism”. There are even cases in which persons who had converted away from the dominant religion of the country were accused of “apostasy” and condemned to death, in disregard of, *inter alia*, the right to conversion, which constitutes an inextricable part of religion or belief. In general, the threat of criminal sanctions typically has far-reaching intimidating effects on members of religious minorities, many of whom may decide to hide their convictions or refrain from practising their religion or belief.

66. States should repeal any criminal law provisions that penalize apostasy, blasphemy and proselytism as they may prevent persons belonging to religious or belief minorities from fully enjoying their freedom of religion or belief.

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/HRC/25/58>

70. Against this background, the Special Rapporteur would like to formulate the following recommendations: [...] (e) Policies of preventing, or reacting to, incidents of incitement to acts of discrimination, hostility or violence, should include a broad range of measures. Restrictive measures, if deemed necessary, should be the last resort and must comply with all the criteria set out in the respective international human rights standards, including in articles 18, 19 and 20 of the International Covenant on Civil and Political Rights. States should repeal blasphemy laws, which typically have a stifling effect on open dialogue and public discourse, often particularly affecting persons belonging to religious minorities;

The Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/31/18>

59. In its general comment No. 34, the Human Rights Committee stresses 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” (para. 48). To exemplify this clarification, the Committee underlines that prohibitions cannot be permitted in order “to prevent or punish criticism of religious leaders or commentary on religious doctrines and tenets of faith”. The Rabat Plan of Actions likewise criticizes blasphemy laws and finds it counterproductive at the national level as they may result in *de facto* censure of all interreligious and intrareligious dialogue, debate and criticism, most of which could be constructive, healthy and needed.

60. As stated earlier, rights holders in the framework of human rights can only be human beings, as individuals and in community with others. This logic fully applies also to the right to freedom of religion or belief. While human beings — and indeed all of them — should receive recognition and legal protection in their freedom to believe and practise in the ways they see appropriate, blasphemy laws typically single out certain religions for special protection, thus not only encroaching on freedom of expression but also on freedom of religion or belief, in particular of members of religious minorities, converts, critics, atheists, agnostics, internal dissidents and others. Abundant experience in a number of countries demonstrates that blasphemy laws do not contribute to a climate of religious openness, tolerance, non-discrimination and respect. To the contrary, they often fuel stereotyping, stigmatization, discrimination and incitement to violence. As noted in the Rabat Plan of Action, “many blasphemy laws afford different levels of protection to different religions and have often proved to be applied in a discriminatory manner. There are numerous examples of persecution of religious minorities or dissenters, but also of atheists and non-theists, as a result of legislation on what constitutes religious offences or overzealous application of laws containing neutral language” (para. 19). Based on that assessment, it recommends that “States that have blasphemy laws should repeal them, as such laws have a stifling impact on the enjoyment of freedom of religion or belief, and healthy dialogue and debate about religion” (para. 25). Moreover, blasphemy provisions may encourage non-State actors to threaten and commit acts of violence against people expressing critical views.

The Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

45. Still broader is the scope of anti-blasphemy laws. What constitutes an offence of “blasphemy” frequently remains merely vaguely circumscribed, thus giving Governments *carte blanche* to apply such laws in an arbitrary and discriminatory manner. Not only verbal or other statements, but also certain acts of conduct, such as eating in public during the fasting season, may be deemed as “blasphemous” in some countries. In countries that do not have anti-apostasy or anti-proselytism laws, the criminalization of broad blasphemy offences can serve as a proxy that basically

fulfils the same function. Numerous reports have given clear evidence that members of religious minorities typically suffer disproportionately from such laws, which also target converts, dissidents, non-believers, critics within the majority religion and individuals engaging in unwelcome missionary activities.

46. While anti-apostasy, anti-proselytism and anti-blasphemy laws more or less openly carry “religion” in their titles, other criminal laws do not directly display an intention to curb religious dissidence or criticism and yet may have such consequences in practice, for example, overly broad anti-hatred laws (see [A/HRC/13/40/Add.2](#), paras. 46-48). While article 20 (2) of the International Covenant on Civil and Political Rights obliges States to prohibit “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”, anti-hatred provisions often lump together a wide range of different “offences”, thereby opening the floodgates for arbitrary applications. Penal law provisions sometimes even criminalize religious superiority claims, thus hypothetically threatening sanctions against all individuals or groups who publicly bear witness to their convictions. Countless examples have proven that such vague provisions are used mostly to intimidate unwelcome minorities, converts, atheists, agnostics or dissidents, including critics belonging to the country’s majority religion. Further examples of *prima facie* “neutral” criminal law provisions are laws that, by criminalizing alleged acts of eroding national security, may threaten punishments against conscientious objectors to military service.

The Special Rapporteur’s report to the General Assembly in 2018

<https://undocs.org/A/73/262>

48. The role that the Internet has played in the recruitment or radicalization of individuals has led many States to adopt a combination of repressive legislative measures to block, filter and ban specific content or entire websites. Security considerations are often claimed as the legal basis for the existence and implementation of such laws and actions. Despite the argument of some States that the intended goal of such laws is the improvement of “social harmony” as well as safeguarding security, in actual fact such measures often undermine the safety and equality of individuals adhering to different faiths (*ibid.*). In some cases, mechanisms have been set up to identify and refer content to Internet and social media companies for removal. In other cases, anti-blasphemy and anti-apostasy laws are used to prosecute opinions or beliefs expressed in online forums.

49. Since 2012, accusations of online blasphemy have risen, and new threats and patterns of violence have emerged. Individuals using the Internet to disseminate views considered blasphemous are increasingly facing arrest and prosecution. The arrests are often capricious, creating an atmosphere of fear in which Internet users are unsure of the boundaries within which their rights can be exercised. Alarming, online speech, usually expressed through social media websites, can also lead to offline mob violence (*ibid.*, para. 31). The securitization of online activity has provided a wide margin of operation for national authorities without proper scrutiny.

The Special Rapporteur’s report to the Human Rights Council in 2019

<https://undocs.org/A/HRC/40/58>

10. For many, equating an affront to religious sensibilities to a criminal offence stands in stark contrast to the fundamental role of freedom of expression, which can be limited only in exceptional circumstances regardless of its potential to offend, shock or disturb. Thus, the response of some States has been to eliminate restrictions on the expression of views relating to religion or belief, in particular anti-blasphemy laws. However, others stress that some views can be so egregiously offensive or hateful that they should not be protected. In that vein, some States have been inclined to enact laws that protect religious sensibilities or criminalize “hate speech”. The impact that such steps have had on freedom of religion or belief is manifold.

23. These initiatives underscore the growing consensus in the international human rights community that anti-blasphemy laws run counter to the promotion of human rights for all persons (*A/HRC/22/17/Add.4*, appendix, para. 19). As such, the international normative standard is clear: States may not impose punishment for insults, criticism or giving offence to religious ideas, icons or places, nor can laws be used to protect the feelings of religious communities. In that spirit, several countries, including Norway, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and, most recently, Denmark, Malta, Ireland and Canada have repealed anti-blasphemy laws. It is important to note, however, that anti-blasphemy laws remain in force in many countries, and that Governments throughout the world are resorting to laws to protect people’s feelings or indeed religious doctrine, or are attempting to legislate civility.

25. Individuals or States may advocate for restrictions on blasphemy based on the perception that free expression may cause an affront to the “sacred”, and thus an affront to the sensitivities of others. Restrictions on expression involving religion or belief, including anti-blasphemy laws and “defamation of religion” laws, have been promoted on such grounds. Such laws, some proponents argue, contribute to maintaining religious harmony or religious peace.

Their intention is to secure the religious sensibilities of adherents of majority or minority faiths against insult or offence and provide protection against ensuing hostility or violence that might arise in response to said affront.

28. The range of restrictions imposed on the expression of views relating to religion or belief can be divided into two broad categories. The first category encompasses laws aimed at protecting religion, belief, ideas or icons from criticism, rejection or insult. This includes laws against apostasy, blasphemy and defamation, and public order laws. The second category includes laws enacted in an attempt to protect persons against "hate speech" motivated by religion or belief.

33. As stated above, anti-blasphemy laws have increasingly fallen out of favour. Instead, States appear to be tending towards enacting laws on "hate speech". Those are undoubtedly important, especially for the protection of minorities and other vulnerable groups. In fact, article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 20 of the International Covenant on Civil and Political Rights require States to prohibit "hate speech". Nevertheless, an uncritical approach to the development and application of laws against "hate speech" can be problematic. If they are formulated in vague terms or focus on banning specific content, such laws can be an effective way to prohibit blasphemy. When laws against "hate speech" limit the subject matter of free speech, rather than contextual assessments to decide whether violence is imminent or whether there is intent to incite discrimination or hostility through free speech, the effects can be similar to that of a law against blasphemy. Laws formulated in this way are often applied to reinforce the dominant political, social and moral narrative and opinions of a given society. They are frequently used to target opposition voices and dissent, and to censor minorities. Thus, States use "hate speech" laws against the very minorities those laws have been designed to protect. In some cases, "hate speech" laws are even used to restrict minorities from promoting their culture and identity, or from expressing concern about discrimination against them by the majority.

34. States must recognize these distinctions to ensure better compliance with international human rights law. This is especially true given that religion and belief are closely related to identity and, in certain contexts, intersect with or are conflated with race. They function as characteristics people use to define themselves and by which they are identified by others. States may wish to review legislation prohibiting any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, so as to ensure that the legislation is explicit in its definitions, in particular of the terms: (a) "hatred" and "hostility", which should refer to "intense and irrational emotions of opprobrium, enmity and detestation towards the target group"; (b) "advocacy", which should be understood as requiring an intention to publicly promote hatred towards the target group; and (c) "incitement", which should refer to statements about national, racial or religious groups that create an imminent risk of discrimination, hostility or violence against persons belonging to those groups. Furthermore, States may wish to ensure (d) that the promotion, by different communities, of a positive sense of group identity does not constitute "hate speech".

The Special Rapporteur's report to the Human Rights Council in 2020

<https://undocs.org/A/43/48>

76. The Special Rapporteur recommends that States: [...] (h) Create a safe and enabling environment in which women, girls, LGBT+ persons, human rights defenders and all others are able to exercise the right to freedom of expression in defence of human rights, to manifest their religion or belief; and repeal laws criminalizing offences such as blasphemy or "offence to religious feelings";

Countering hatred and religious intolerance

Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance in 2006

<https://undocs.org/A/HRC/2/3>

44. According to article 20 of the Covenant, "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

45. In its general comment 11, the Human Rights Committee holds that the measures contemplated by article 20, paragraph 2, of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups. Unfortunately this general comment does not give much more guidance about the interpretation that should be given to article 20 of the Covenant and, in particular, with regard to its threshold of application.

46. Compared to the other provisions of the Covenant, this provision is unusual because it does not provide for a human right but establishes limitations on other rights and requires States parties to enact legislative restrictions. Interestingly, commentators have pointed out that the limitations provided for in article 20 were not included in the provision dealing with freedom of expression, but were made the object of a separate provision. This implies that article 20 contains limitations for other rights, including freedom of religion. The exercise of freedom of religion could therefore potentially give rise to instances of advocacy that are prohibited by article 20.

47. The Special Rapporteur notes that article 20 of the Covenant was drafted against the historical background of the horrors committed by the Nazi regime during the Second World War. The threshold of the acts that are referred to in article 20 is relatively high because they have to constitute advocacy of national, racial or religious hatred. Accordingly, the Special Rapporteur is of the opinion that expressions should only be prohibited under article 20 if they constitute incitement to imminent acts of violence or discrimination against a specific individual or group.

48. A link is often made between article 20 and the relevant provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, and in particular its article 4 which provides, inter alia, that States parties: "(a) [s]hall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, [...] against any race or group of persons of another colour or ethnic origin,".

49. However, the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief does not contain a prohibition of incitement to religious discrimination similar to article 4 above. The Special Rapporteur cautions against confusion between a racist statement and an act of defamation of religion. The elements that constitute a racist statement are not the same as those that constitute a statement defaming a religion. To this extent, the legal measures, and in particular the criminal measures, adopted by national legal systems to fight racism may not necessarily be applicable to defamation of religion.

50. Domestic and regional judicial bodies - where they exist - have often laboured to strike the delicate balance between competing rights, which is particularly demanding when beliefs and freedom of religion are involved. In situations where there are two competing rights, regional bodies have often extended a margin of appreciation to national authorities and in cases of religious sensitivities, they have generally left a slightly wider margin of appreciation, although any decision to limit a particular human right must comply with the criteria of proportionality. At the global level, there is not sufficient common ground to provide for a margin of appreciation. At the global level, any attempt to lower the threshold of article 20 of the Covenant would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself. Such an attempt could be counterproductive and may promote an atmosphere of religious intolerance.

Recommendations of Human Rights Council resolution 16/18 (2011)

<https://undocs.org/A/HRC/RES/16/18>

5. *Notes* the speech given by Secretary-General of the Organization of the Islamic Conference at the fifteenth session of the Human Rights Council, and draws on his call on States to take the following actions to foster a domestic environment of religious tolerance, peace and respect, by:

(a) Encouraging the creation of collaborative networks to build mutual understanding, promoting dialogue and inspiring constructive action towards shared policy goals and the pursuit of tangible outcomes, such as servicing projects in the fields of education, health, conflict prevention, employment, integration and media education;

(b) Creating an appropriate mechanism within Governments to, inter alia, identify and address potential areas of tension between members of different religious communities, and assisting with conflict prevention and mediation;

(c) Encouraging training of Government officials in effective outreach strategies; (d) Encouraging the efforts of leaders to discuss within their communities the causes of discrimination, and evolving strategies to counter these causes;

(e) Speaking out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;

(f) Adopting measures to criminalize incitement to imminent violence based on religion or belief;

(g) Understanding the need to combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, by strategizing and harmonizing actions at the local, national, regional and international levels through, inter alia, education and awareness-building;

(h) Recognizing that the open, constructive and respectful debate of ideas, as well as interfaith and intercultural dialogue at the local, national and international levels, can play a positive role in combating religious hatred, incitement and violence;

6. *Calls upon* all States:

- (a) To take effective measures to ensure that public functionaries in the conduct of their public duties do not discriminate against an individual on the basis of religion or belief;
- (b) To foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion, and to contribute openly and on an equal footing to society;
- (c) To encourage the representation and meaningful participation of individuals, irrespective of their religion, in all sectors of society;
- (d) To make a strong effort to counter religious profiling, which is understood to be the invidious use of religion as a criterion in conducting questionings, searches and other law enforcement investigative procedures; [...]

8. *Calls upon* States to adopt measures and policies to promote the full respect for and protection of places of worship and religious sites, cemeteries and shrines, and to take measures in cases where they are vulnerable to vandalism or destruction;

9. *Calls for* strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs, and decides to convene a panel discussion on this issue at its seventeenth session, within existing resources.

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/HRC/25/58>

58. The Rabat Plan of Action places great emphasis on the need to uphold a climate of free communication and public discourse based on freedom of expression, freedom of religion or belief and various other freedoms. It establishes a high threshold for imposing limitations on freedom of expression, for identifying incitement to hatred and for the application of article 20 of the International Covenant on Civil and Political Rights. It furthermore underlines that "freedom of expression is essential to creating an environment in which constructive discussion about religious matters could be held." The Rabat Plan of Action explicitly endorses what the Human Rights Committee has clarified in its general comment No. 34, namely that prohibitions enacted under article 20, paragraph 2, of the International Covenant on Civil and Political Rights must comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26 of the Covenant. Accordingly, the guarantees of freedom of expression as enshrined in article 19 of the Covenant can never be circumvented by invoking article 20. Prohibitions must be precisely defined and must be enacted without any discriminatory intention or effect. In addition, the Rabat Plan of Action presents a six-part test for assessing whether concrete acts of speech that are aggressive or antagonistic to certain religious or ethnic groups actually amount to "incitement to discrimination, hostility or violence" and are serious enough to warrant prohibitive measures. The six test questions concern: (a) the social and political context; (b) the speaker, for example his or her status and influence; (c) the intent of a speech act, as opposed to mere negligence; (d) its content or form, for example style or degree of provocation; (e) the extent of the speech, for example its public nature and the size of its audience; and (f) the likelihood and imminence of actually causing harm.

60. The Rabat Plan of Action certainly contributes to an understanding of article 20, paragraph 2, of the International Covenant on Civil and Political Rights, in full appreciation of the significance of freedom of expression and other freedoms. This implies that restrictive legal measures can play a necessary, but only limited, role in preventing or reacting to incidents of incitement. As a consequence, States and other stakeholders should develop more holistic policies that include non-restrictive and non-prohibitive activities: "To tackle the root causes of intolerance, a much broader set of policy measures is necessary, for example in the areas of intercultural dialogue — reciprocal knowledge and interaction —, education on pluralism and diversity, and policies empowering minorities and indigenous to exercise their right to freedom of expression.

Recommendations made by the 2020 Forum on Minority Issues

<https://undocs.org/A/HRC/46/58>

39. States and tech companies should implement and expressly reference the Rabat Plan of Action in addressing incitement to hostility, discrimination or violence as part of their strategies to deal with hate speech, including hate speech targeting minorities, at the global level. The Rabat six-part threshold test provides the criteria and conditions under which content that constitutes incitement should be criminalized in national law, and the standards specifying when content should be removed from social media platforms. These criteria are context, the speaker, intent, content and form, extent of the speech, and likelihood of the incitement.

40. States should ensure that hate speech laws or regulations are not used to suppress minorities, whether national or ethnic, religious or linguistic. Nor should those laws or regulations be used for censorship or to stifle freedom of

opinion and expression. The threshold for defining restrictions on freedom of expression and incitement to hatred, and for the application of article 20 of the International Covenant on Civil and Political Rights, must be very high. States should distinguish between what constitutes incitement to discrimination, hostility and violence as opposed to other forms of hate speech, in order to refrain from adopting measures that hinder the rights of minorities to dissent and to speak out. [...]

46. UN legal and political standards and mechanisms, including the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Guiding Principles on Business and Human Rights and the Rabat Plan of Action, should be consistently and concertedly deployed to counter hate speech online.

47. The implementation of recommendations contained in the Rabat Plan of Action should be monitored, and specific indicators should be developed for States in relation to their duty to address and counter hate speech and incitement to hostility, discrimination or violence against minorities and to protect them against hate crimes.

Antisemitism

Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, and the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Doudou Diène (2006)

<https://undocs.org/A/HRC/2/3>

19. Anti-Semitism, one of the oldest and most profound forms of discrimination, has cultural and religious roots and is a multifaceted phenomenon. However, in all of its manifestations, the same relationship between defamation of religions and discrimination can be observed. The demonization and dehumanization of Jews, which have culminated in the State-organized Holocaust, the annihilation of the Jews of Europe, has constituted a fertile ground for discrimination against Jewish individuals, religious and community organizations. All of this has led to a trivialization and growing occurrence of acts of discrimination, sometimes violent, against Jews and the Jewish community in many countries. Current manifestations of anti-Semitism can be found in the deep layers of many cultures, in the traditional platforms of extreme right-wing parties, in the statements and writings of political, intellectual and artistic figures, and in the increase in the number of attacks on places of worship and culture. The enduring conflict between Israel and the Palestinian people is generating forms of anti-Semitism in certain communities of migrants in Europe. New or old, anti-Semitism is real and deep in many societies.

The Special Rapporteur's report to the General Assembly (2019)

<https://undocs.org/A/74/358>

4. Amidst an apparent surge in hate motivated by religious animus worldwide, hostility, discrimination and violence motivated by antisemitism have received scant attention as a human rights issue. Overall, data collection worldwide is limited, and in many States antisemitic harassment is significantly underreported. Nevertheless, reports of hostility, discrimination and violence motivated by antisemitism have increased in many parts of the world. Official and non-governmental monitors worldwide recorded a significant rise in the number of antisemitic incidents in 2017 and 2018, and reports of violent manifestations of antisemitism (physical attacks with or without weapons) increased by 13 per cent globally in 2018. Studies also demonstrate that anxiety is high among Jewish communities in numerous jurisdictions. In one survey, it was found that 85 per cent of respondents felt that antisemitism was a serious problem in their respective countries, 34 per cent reported that they avoided visiting Jewish events or sites because of safety concerns, and 38 per cent had considered emigrating because they did not feel safe as Jews. Additionally, some States impose formal barriers to the enjoyment of freedom of religion or belief by Jewish persons, including measures that prohibit the donning of religious attire or impose, though not necessarily out of antisemitic motivations, limits on the religious rite of male circumcision and restrictions on kosher slaughter practices.

Historical narratives and tropes of antisemitism

13. Some of the oldest antisemitic narratives can be traced back to theologies that attributed collective guilt for the murder of Jesus to Jews, treating them as "malicious" and "evil". Such tropes, which identify Jews as descendants of Judas or Satan and depict them as "cunning, controlling and powerful", have been promoted through religious teachings and depicted in art, and they have sometimes motivated contemporary antisemitic acts. Other tropes reflect contempt for the Jewish religion, including the recurring false allegation that Jews engage in the ritual murder of non-Jews (the "blood libel"), and continue to pervade contemporary discourse.

14. Antisemitism is also often expressed in racialized terms, with Jewish people characterized as subhumans who must be excluded from "normal" human civilization. This pseudoscientific approach was used to justify the persecution of Jews in Nazi Germany and the subsequent acts of genocide committed by the Nazis and their accomplices against the

European Jewish population, while antisemitic expressions of Holocaust denial seek to repudiate or minimize the harrowing historical facts of that systematic murder of 6 million Jews.

15. Assertions that Jews are a “wandering” people without a land or nation, whose members conspire to advance their collective interests to the detriment of their “host” countries, or that Jews constitute a “powerful, global cabal” that manipulates governments, the media, banks, the entertainment industry and other institutions for malevolent purposes, are also expressions of antisemitic attitudes. Many of those negative stereotypes were promulgated in the Protocols of the Elders of Zion, a discredited forgery published in the early twentieth century and widely disseminated in the Middle East, alleging a secret Jewish plan for world domination. Those stereotypes often underpin modern conspiracy theories attributing responsibility to Jews for everything from immigration to terrorist attacks.

Antisemitic rhetoric

16. The Special Rapporteur is alarmed by the growing use of antisemitic tropes by white supremacists, including neo-Nazis and members of radical Islamist groups, in slogans, images, stereotypes and conspiracy theories meant to incite and justify hostility, discrimination and violence against Jews.

17. The Special Rapporteur also takes note of numerous reports of an increase in many countries of what is sometimes called “left-wing” antisemitism, in which individuals claiming to hold anti-racist and anti-imperialist views employ antisemitic narratives or tropes in the course of expressing anger at the policies or practices of the Government of Israel. In some cases, individuals expressing such views have engaged in Holocaust denial; in others, they have conflated Zionism, the self-determination movement of the Jewish people, with racism, claimed that Israel does not have a right to exist and accused those expressing concern about antisemitism of acting in bad faith. The Special Rapporteur emphasizes that it is never acceptable to render Jews as proxies for the Government of Israel. He further recalls that the Secretary-General has characterized “attempts to delegitimize the right of Israel to exist, including calls for its destruction” as a contemporary manifestation of antisemitism.

18. The Special Rapporteur further notes the claims that the objectives, activities and effects of the Boycott, Divestment and Sanctions movement are fundamentally antisemitic. The movement promotes boycotts and stockholder divestment initiatives against Israeli or international corporations and institutions that supporters of the movement maintain are “complicit” in violations of the human rights of Palestinians by the Government of Israel. Critics of the movement assert that its architects have indicated that one of its core aims is to bring about the end of the State of Israel, and they further allege that some individuals have employed antisemitic narratives, conspiracies and tropes in the course of expressing support for the campaign. The Special Rapporteur notes that those allegations are rejected by the Boycott, Divestment and Sanctions movement, including by one of its principal actors, who asserted that the movement was “inspired by the South African anti-apartheid and U.S. Civil Rights movements”; maintained that they opposed all forms of racism and that they took steps against those who used antisemitic tropes in the campaign; and stressed that they employed “nonviolent measures to bring about Israel’s compliance with its obligations under international law”. Concern about the adoption of laws that penalize support for the movement, including the negative impact of such laws on efforts to combat antisemitism, have also been communicated to the Special Rapporteur. He recalls that international law recognizes boycotts as legitimate forms of political expression and that non-violent expressions of support for boycotts are, as a general matter, legitimate speech that should be protected. However, he also stresses that expression that draws on antisemitic tropes or stereotypes, rejects the right of Israel to exist or advocates discrimination against Jewish individuals because of their religion, should be condemned.

24. The Special Rapporteur received numerous reports that in countries in the Middle East and North Africa, Jews are frequently conflated with Israel and Zionism, even in countries with a deep history of Jewish life. Literature demonizing Jews is prevalent in the media in the region. It was reported that school textbooks in Saudi Arabia contained antisemitic passages, with some even urging violence against Jews. In August, the Committee on the Elimination of Racial Discrimination expressed serious concern “about the existence of hate speech, in particular hate speech directed against Israelis, which at times fuels antisemitism towards this group, in certain media outlets, in particular those controlled by Hamas, as well as on social media, in public officials’ statements and in school curricula and textbooks, which also fuels hatred and may incite violence” (CERD/C/PSE/CO/1-2, para. 19 (c)).

Government measures that may infringe on manifestations of freedom of religion or belief

41. Governments in several countries have also adopted measures to prohibit non-stunned slaughter, which is the prescribed method of slaughtering an animal for food production purposes practised by the adherents of some religious traditions, including Jews and Muslims. Non-stunned slaughter is banned in Slovenia and is highly regulated in Austria, Cyprus, Estonia, Latvia, Lithuania, Poland and Slovakia. Poland is also considering restricting the export of kosher meat, which could affect Jewish communities across the continent. Denmark, Iceland, Norway and Sweden require prior stunning before slaughter. Finland requires concurrent sedation, and legislation is pending that would

require prior stunning. At the subnational level, two of the three regions of Belgium have recently enacted laws to require prior stunning, which will become effective in 2019 unless overturned by litigation pending in the country's Constitutional Court. There are currently no restrictions on the export or import of kosher meat to those countries. The Council of Europe Convention for the Protection of Animals for Slaughter and the European Council Regulation (EC) No. 1099/2009 provide that animals should be stunned before they are slaughtered, but they allow Member States to derogate from the stunning requirement to allow for religious slaughter. [...]

74. The Special Rapporteur urges States, civil society, the media and the United Nations to follow a human rights-based approach to combating antisemitism. Such an approach includes implementing measures that foster the development of democratic societies that are resilient to extremist ideologies, including antisemitic propaganda, by fostering critical thinking, empathy and human rights literacy among self-reflective citizens with the requisite proficiency and confidence to peacefully and collectively reject antisemitism and other forms of intolerance and discrimination. It also requires investments in education and training to enhance society-wide literacy with regard to the different ways in which antisemitism manifests itself.

Anti-Muslim hatred

The Special Rapporteur's report to the Commission on Human Rights (2003)

<https://undocs.org/E/CN.4/2003/66>

94. [The Special Rapporteur] voiced his fears about a rise of Islamophobia among public opinion in the West and, conversely, of feelings of coolness and mistrust towards the West, particularly the United States, in the Arab and Muslim world.

95. It is an unavoidable fact that the hyperbole and the implicit and explicit calls for a clash of cultures or civilizations heard at the time have continued without let-up, with indiscriminate abuse heaped on entire communities and religions.

96. This issue has acquired a particular immediacy as a result of the simplistic - and all too frequent - identification of the Muslim faith with religious extremism. Political leaders and the media continue to dwell on religious identity, using language that encourages the very generalizations they purport to avoid. Books have appeared whose purpose is to lend credence to the idea of a war of religion, describing Muslims as sympathizers with, or even parties to, Islamic terrorism, inciting hatred and presenting Islam as a dangerous and archaic religion, in clear violation of, inter alia, article 20 of the International Covenant on Civil and Political Rights.

97. The expression "holy war" has been regularly brandied about in the media in the crudest fashion and the haphazard use of the terms "Islam", "fanaticism", "terrorism", "fundamentalism", "integrationism" and "Islamism", as if they are interchangeable, has only added to the confusion, arousing anti-Muslim racism that could easily spread through a bewildered and fearful populace.

98. Generalizations such as these are the product of a combination of intellectual error and moral dishonesty, in the sense that they gloss over the fact that the Muslim world comprises a billion people and dozens of countries, societies, traditions, languages and, naturally, an infinite number of different experiences.

99. At the same time, the fact that Islam's highest authorities have unreservedly condemned the attacks and all forms of violence perpetrated in the name of religion has received scant attention, like the efforts made by the same authorities to explain Islam and dispel misunderstandings.

100. In this climate of widespread and at times, deliberately cultivated, mistrust - one might even say suspicion - acts of intolerance and discrimination have continued to be committed against Muslims or those assumed to be Muslims.

The Special Rapporteur's report to the Human Rights Council in 2021

<https://undocs.org/A/HRC/46/30>

2. Experts and human rights monitors report that widespread negative representations of Islam, fear of Muslims generally (not just "Muslim" extremists and terrorists) and the aforementioned security and counter-terrorism policies have served to perpetuate, validate and normalize discrimination, hostility and violence towards Muslim individuals and communities. Rights monitors assert that States directly restrict the right to freedom of religion or belief of Muslims; curtail enjoyment of this right by limiting Muslims' other fundamental rights; and securitize Muslim communities and/or their organizations. Members of Muslim communities themselves, especially those living as minorities, recount alarming tolerance or indifference to their experiences of anti-Muslim bias, discrimination and violence. Among the concerns they have raised are: violent attacks and impunity for such attacks, including those causing mass casualties; industrial-scale internment designed to coercively change beliefs; disproportionate

restrictions on the ability of Muslims to manifest their beliefs; limits on access to citizenship; and socioeconomic exclusion and pervasive stigmatization of Muslim communities.

3. In such climates of exclusion, fear and distrust, Muslims report that they often feel stigma, shame and a sense that they belong to “suspect communities” that are being forced to bear collective responsibility for the actions of a small minority. In India, for example, approximately half of police personnel reportedly believe that Muslims are “likely” to be prone to committing crimes, 36 per cent believe that Muslims are “somewhat” prone to committing crimes and 14 per cent believe that Muslims are “very much” prone to committing crimes. In surveys conducted in Europe in 2018 and 2019, an average of 37 per cent of the population reported that they held unfavourable views of Muslims. In 2017, some 30 per cent of respondents to a survey conducted in the United States of America viewed Muslims in a negative light. In Myanmar, unchecked Buddhist nationalists peddling the view that Islam threatens to “overrun” the country and that Buddhists must stand up and “save” their way of life have contributed to egregious atrocities against Rohingya Muslims.

4. Human rights monitors and affected communities stress that many Muslims feel under pressure to conceal or underplay their religious identity to make themselves less identifiable as Muslims or seem more “moderate” in an effort to reduce State and public suspicion, to avoid attacks and to exercise their agency and human rights. At the governmental level, policies that disproportionately limit freedom of religion of belief for Muslims or that infringe upon Muslims’ other fundamental rights based on their Muslim identity suppress the ability of Muslims to freely be Muslim. Moreover, such exceptional and exclusionary measures may serve to validate anti-Muslim sentiments within the wider population.

12. A preponderance of the views submitted for the present report characterize Islamophobia as a pool of ideas or ideologies that includes two overlapping processes whereby Islam and Muslims are essentialized and “othered”. While the precise character is context-specific, in its most prevalent form, the Islamophobic mindset treats Islam – a global religion with widely diverse interpretations and practices worldwide – as a monolithic and fundamentalist creed that advocates violence, sexism and homophobia. Denying Islam of its status as a religion, the Islamophobic mindset considers Islam a fixed political ideology that endangers “Western civilization”¹² and other nations where Muslims are a minority population.¹³ In parallel, as followers of Islam, Muslims are demonized as disloyal “others” who are intent upon imposing their values on non-believers through violence, “overbreeding” and the radicalization of “good” Muslims.

Securitization of religion

23. Securitization of religious or belief communities encompasses a complex process through which the “normal rule of law is suspended in favour of exceptional measures justified by extraordinary situations” that threaten the security or survival of a society. Over the past two decades, Muslim individuals and communities have borne the brunt of the use and abuse of counter-terrorism measures. The Special Rapporteur highlights reports, including of the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, indicating that national security and counter-terrorism measures have disproportionately and discriminatorily targeted Muslims in 15 States and that many such measures have been adopted with little transparency, contain sweeping definitions of “terrorism” and have been implemented with poor oversight.

Direct restrictions on manifestations of religion or belief

26. Despite the fact that some women regard it as integral to their faith or identity, at least 11 States in Europe, Africa and South Asia States impose public restrictions or bans on Muslim head coverings – predominantly worn by women – on the grounds that this type of religious dress is incompatible with a secular public space, violates the rights of Muslim women or poses a security risk. Other States reportedly permit certain institutions (e.g., schools, places of work or the courts) to exercise discretion on whether to permit Muslim dress. Although such laws apply to all religious symbols, Muslim women are often disproportionately affected. As the Human Rights Committee has noted, such prohibitions can violate Muslim women’s rights to freedom of religion or belief and non-discrimination and exacerbate their social marginalization. The same may hold true for restrictions on expressions of Muslim traditions adopted by men, such as the cut of beards.

Discrimination and gender

54. (...) The Committee on the Elimination of Racial Discrimination has held that the International Convention on the Elimination of All Forms of Racial Discrimination may apply in cases where discrimination on religious grounds intersects with forms of discrimination based on race, colour, descent, or national or ethnic origin. Relatedly, the Human Rights Committee has also found that measures banning the wearing of gender-specific religious dress constitutes intersectional discrimination based on gender and religion. And the Committee on the Elimination of Discrimination against Women has clarified that the Convention on the Elimination of All Forms of Discrimination

against Women necessarily applies to sex- and gender-based discrimination that disproportionately affects certain women on account of their race, ethnicity, religion or belief, caste or other status. [...]

75. Moreover, discrimination, hostility and violence against actual or perceived Muslims is often intersectional, with religion-based discrimination intersecting with or compounding discrimination based on nationality, gender or racial or ethnic background, among other protected characteristics. Muslims are frequently targeted for certain visible “Muslim” characteristics, such as their skin colour and religious attire, including headscarves, and because of their names. Muslim women may face a triple penalty for being women, belonging to a minority ethnic community and for being Muslim.

Violence, conflicts and extremism in the name of religion

The Special Rapporteur’s report to the General Assembly in 2010

<https://undocs.org/A/65/207>

41. In resolution 64/164, the General Assembly urged States to take all necessary and appropriate action, in conformity with international human rights standards, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world. The Special Rapporteur has addressed related issues and presented her conclusions and recommendations in various reports. In a mission report, for example, she voiced concerns at the extended time frame of investigations in cases involving communal riots, violence and massacres. [See the Special Rapporteur’s report on her mission to India (A/HRC/10/8/Add.3, paras. 30-41).] She would like to reiterate that communal violence is not merely a “law and order” problem but has serious socio-economic ramifications. It has been noted that sectarian riots are most likely to occur when the following elements are present: (a) severe long-standing antagonism on religious lines in particular villages and urban localities; (b) an emotional response of members of religious communities to a precipitating event; (c) a feeling in the minds of rioters and the larger religious group to which they belong that sectarian violence is justifiable; and (d) the assessment by the rioters that the reaction from the police to sectarian violence will be either absent or partisan or ineffective.

The Special Rapporteurs report to the Human Rights Council in 2014

<https://undocs.org/A/HRC/28/66>

Obligations to respect

43. In order to operate as a credible guarantor of freedom of religion or belief for everyone, the State should not identify itself exclusively with one particular religion or belief (or one particular type of religions) at the expense of equal treatment of the followers of other faiths. As ample experience demonstrates, the use of religion in the context of national identity politics always harbours aggravated risks of discrimination against minorities, for instance, against members of immigrant religious communities or new religious movements, thus creating divisiveness within the society. Any exclusivist settings should therefore be critically addressed and finally replaced by an inclusive institutional framework in which religious diversity can unfold without discrimination and without fear.

Obligations to protect

44. Violations of human rights do not only originate from the State; they are quite often carried out by non-State actors. Nonetheless, the State bears a responsibility for such acts inasmuch as they may reflect inadequate human rights protection.

45. A first step towards providing protection against violence in the name of religion is a quick and unequivocal condemnation of any such acts, whenever they occur, by high representatives of the State. State representatives should indeed take the lead in rejecting violence, expressing sympathy for victims and providing public support for targeted individuals or groups. Violent attacks targeting members of groups that face systematic discrimination in the name of religion should be understood as attacks on the entire society. Public messages to that effect, however, can only be credible if they openly address the root causes, including systemic political conditions, which may become enabling factors of violence. Unfortunately, some Governments display a tendency to resort to policies of trivializing violence by ascribing the incidents to just a few irresponsible individuals without acknowledging the broader political dimensions of the issue. Overcoming such trivialization is the sine qua non for designing effective preventative and coping strategies.

46. A major issue in the context of protection against violence in the name of religion is the fight against impunity, wherever it exists. Those who commit, or are complicit in, acts of violence must always be brought to justice. This requires training for law enforcement agencies and the establishment of an efficient and independent judiciary.

Moreover, anti-discrimination legislation plays an indispensable role in protecting the equality of all in their enjoyment of human rights, across religious or denominational divides, thus preventing or overcoming divisiveness within society.

47. While the States' obligation to protect human rights requires them to take effective measures to combat terrorism, the Special Rapporteur would like to reiterate that States must ensure that any measure taken to combat terrorism fully complies with their obligations under international law, particularly human rights, refugee and humanitarian law. In this context, the targeting of specific groups, including members of particular religious communities through so-called religious profiling, is of concern.

Obligations to promote

48. Beyond respecting and protecting human rights, States should also take a broad range of positive measures aimed at facilitating their effective implementation. This includes providing an appropriate framework in which other stakeholders, including religious communities, interreligious initiatives, civil society organizations, human rights defenders and media professionals, can unfold their specific potential.

49. Moreover, the State itself should use all available means — including formal and informal education and community outreach — in order to promote a culture of respect, non-discrimination and appreciation of diversity within society. In close consultation with all relevant stakeholders, the State should develop national action plans against violence in the name of religion. A useful document in this context is the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Rabat Plan of Action, elaborated with broad participation by experts, Member States and civil society organizations under the auspices of the Office of the United Nations High Commissioner for Human Rights, can provide guidance on how to build resilience in society against incitement to religious hatred and concomitant acts of violence. Building resilience requires a broad range of activities, including educational efforts, early warning capacities and policies on crisis preparedness, by establishing channels of communication that enable relevant actors to respond strategically and swiftly.

50. National human rights institutions are particularly suited for the promotion of human rights. Some of them have an explicit mandate for also promoting intergroup relationships. The Special Rapporteur would like to encourage them, including their International Coordinating Committee, to take an active ownership of the Rabat Plan of Action and develop strategies to eliminate the root causes of violence in the name of religion.

51. Furthermore, States should safeguard the memory of all population groups, and of religious communities in particular, including by developing and protecting national archives, memorial museums and monuments.

Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity

52. At the 2005 World Summit, Heads of State and Government committed to the responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This entails the responsibility of States to protect their own populations from atrocity crimes; the responsibility to help other States do so through the provision of international assistance; and the responsibility to take collective action when a State manifestly fails to protect its population. In particular, the word "populations" refers to all people living within a State's territory, whether citizens or not, and including religious groups. The principle builds on existing obligations under international law and embodies a political determination to prevent and respond to atrocity crimes, but does not itself have an independent legal character.

53. In his 2009 report on implementing the responsibility to protect (A/63/677), the Secretary-General established a framework for implementing the responsibility to protect principle on the basis of three equal, mutually reinforcing and non-sequential pillars. The first pillar encompasses the responsibility of each individual State to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The second pillar focuses on the provision of international assistance on the basis of paragraphs 138 and 139 of the 2005 World Summit Outcome, which asserts that the international community should, as appropriate, encourage and help States to exercise this responsibility, and that the international community should also support the United Nations in establishing an early warning capability and assist those which are under stress before crises and conflicts break out. The third pillar outlines options for taking collective action, in a timely and decisive manner and in accordance with the Charter of the United Nations, should peaceful means be inadequate and where national authorities are manifestly failing to protect their populations. [...]

Obligations of non-State armed groups

56. In the event that a non-State armed group is party to an armed conflict, international humanitarian law can also be invoked. Article 3 common to the four Geneva Conventions of 1949 defines certain minimum guarantees that all parties involved in a non-international armed conflict should observe, including to treat in all circumstances persons

who take no active part in the hostilities humanely, without any adverse distinction founded on religion or faith. Furthermore, a number of norms contained in the Geneva Conventions of 1949 and the Additional Protocols I and II of 1977 have reached the status of customary international law and, as such, are binding on all parties to the armed conflict.

57. Most notably, international humanitarian law requires that both the State and non-State armed groups take all measures to minimize the impact of violence on civilians, respect the principles of distinction and proportionality when carrying out military operations and ensure the safety and protection of civilians by enabling them to leave areas affected by violence in safety and dignity as well as to access basic humanitarian assistance at all times.

58. Certain conduct of members of non-State armed groups may also trigger individual responsibility under international criminal law. The Rome Statute of the International Criminal Court provides definitions of “genocide” in article 6, of “crimes against humanity” in article 7 and of “war crimes” in article 8. These provisions also include several references to the terms “religious” or “religion”, for example, in article 6 (“acts committed with intent to destroy, in whole or in part, a [...] religious group, as such”), article 7, paragraph 1 (h), (“persecution against any identifiable group or collectivity on [...] religious [...] grounds”) as well as article 8, paragraphs 2(b)(ix) and (e)(iv),

59. Individual criminal responsibility is essential to ensuring accountability for gross or serious violations of international human rights and humanitarian law. However, according to article 25, paragraph 3 (f), of the Rome Statute, “a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose”. Hence, this provision in combination with the threat of possible international prosecution may hopefully influence individual members of non-State armed groups to abandon their efforts to commit international crimes.

The Secretary-General’s Plan of Action to Prevent Violent Extremism (2015)

<https://undocs.org/A/70/674>

65. The Secretary-General outlined his Plan of Action to Prevent Violent Extremism in December 2015, calling on States to firmly anchor their strategies, policies and actions in the four pillars of the United Nations Global Counter-Terrorism Strategy. He noted the central importance of respecting human rights in preventing violent extremism and highlighted contextual and background factors such as the absence of the rule of law, poverty, deprivation, discrimination, unresolved conflicts and disregard for human rights as factors which can amplify the receptiveness of target audiences to violent extremist narratives. While the Secretary-General noted that definitions of “terrorism” and “violent extremism” are the prerogative of States, he stressed that such definitions must be consistent with States’ obligations under international law, in particular international human rights law (see A/70/674, para. 5). He identified a range of actions that the international community, States and non-State actors could take to prevent violent extremism.

66. One of the action points identified by the Secretary-General was to “engage religious leaders to provide a platform for intra- and interfaith dialogue and discussions through which to promote tolerance and understanding between communities, and voice their rejection of violent doctrines by emphasizing the peaceful and humanitarian values inherent in their theologies” (ibid., para. 49 (e)). He further recommended the use of the Rabat Plan of Action in support of a comprehensive approach to addressing issues of incitement and violent extremism (ibid., para. 50 (i)).

The Special Rapporteur’s report to the General Assembly in 2016

<https://undocs.org/A/71/269>

Terrorism, extremism, vigilantism and social ostracism

61. Some terrorist groups that pretend to operate in the name of religion try to wipe out any traces of religious diversity, not only in the present and for the future, but even traces of the past (see A/56/253, paras. 25-30). Atrocities committed by such groups include mass killings, extremely cruel forms of execution, mutilations, forcible deportations, ethnic cleansing, blackmailing, confiscation of property, kidnapping of women and children and their sale into slavery, the destruction of religious buildings, some of which had been recognized internationally as historical monuments, and other acts of brutality.

The Special Rapporteur’s report to the General Assembly in 2017

<https://undocs.org/A/HRC/34/50>

20. The Special Rapporteur also welcomes the Fez process initiated by the Special Adviser of the Secretary-General on the Prevention of Genocide at a meeting in Fez, Morocco, in April 2015. The initiative has the objective of preventing

incitement to violence that could lead to atrocity crimes. The Fez declaration and draft plan of action identify a number of activities that community leaders representing different religions or beliefs could undertake to prevent and counter incitement to violence in situations that risk leading to atrocity crimes. These options, linked to paragraph 36 of Rabat Plan of Action, include engaging in dialogue with those who express radical views, countering online and offline incitement speech through unequivocal messaging, and supporting interfaith dialogue, education and activities that uphold respect for religious pluralism. The workshops that have been planned to roll out the Fez plan of action could make a vital contribution to implementing the positive measures identified in the Rabat Plan of Action, especially in countries that have experienced, or are currently experiencing, hate speech and incitement to discrimination, hostility or violence. For the Fez process to be effective in activating religious leaders in implementing the Rabat Plan of Action, however, it is axiomatic that the planned activities must be inclusive of all faith or belief communities.

The Special Rapporteur's report to the General Assembly in 2018

<https://undocs.org/A/73/362>

3. The “war on terrorism” since the beginning of the twenty-first century has been marked by extraordinary national security measures which have resulted in myriad violations and abuses of fundamental human rights and principles, including the right to freedom of religion or belief. Amid legitimate demands to ensure public safety and national security, Governments have instituted stricter regulations on religious expression and the role of religion or belief in the public sphere, both online and off. Some States have instituted discriminatory practices that intentionally or unintentionally target individual adherents or groups of persons of a particular faith they perceive to be predisposed to terrorist or other violent acts. Others have adopted measures which violate the right to form and hold opinions based on conscience, especially those beliefs deemed objectionable or offensive to others or infringe on the *forum internum* of the right to freedom of religion or belief.

4. In less than a decade, stakeholders began to recognize the complexities of the challenges posed by this type of violence and acknowledged the need for a more comprehensive approach which encompasses not only ongoing, essential security-based counter-terrorism measures but also systematic preventive measures which directly address the drivers of violent extremism and terroristic acts (see [A/70/674](#)). The new approach recognized the importance of countering both the immediate triggers of terrorism and the root causes that foster conditions conducive to the spread of terrorism. The new strategy also stressed the importance of addressing the rights of the victims of violent extremism and terrorism as well as those whose rights have been violated by counter-terrorism law and practices (see [A/70/674](#) and [A/HRC/16/51](#)).

7. Shorn of direct links to acts of violence, the tendency to characterize certain manifestations of religion or belief as “extremist” or a “threat to public order” include the activities of missionaries or others who seek new converts to their faith. Laws on apostasy or blasphemy, which are often framed as “anti-incitement legislation”, exist in at least 69 States, and reflect the idea that the expression of certain views within a society may create “discontent”, subvert “national unity” or undermine public order and public safety (see [A/72/365](#), para. 27). In some jurisdictions, anti-terrorism legislation targets newer religious communities and is being used to generate cases of alleged blasphemy offenses in counter-terrorism courts.

48. The role that the Internet has played in the recruitment or radicalization of individuals has led many States to adopt a combination of repressive legislative measures to block, filter and ban specific content or entire websites. Security considerations are often claimed as the legal basis for the existence and implementation of such laws and actions. Despite the argument of some States that the intended goal of such laws is the improvement of “social harmony” as well as safeguarding security, in actual fact such measures often undermine the safety and equality of individuals adhering to different faiths (*ibid.*). In some cases, mechanisms have been set up to identify and refer content to Internet and social media companies for removal. In other cases, anti-blasphemy and anti-apostasy laws are used to prosecute opinions or beliefs expressed in online forums.

52. Governments have also focused on groups and individuals that exploit freedom of expression by spreading messages of intolerance that do not meet the threshold of incitement to discrimination or violence according to article 20, paragraph 2, of the International Covenant on Civil and Political Rights, but that do merit condemnation (see [A/HRC/22/17/Add.4](#), appendix, para. 20). This includes speech that is not a direct call for action but establishes the ideological basis for violent action. These States have sought to adopt new legislation to criminalize “extremist” speech that does not amount to incitement by creating offences that include “advocating” terrorism, the direct or indirect “inducement”, “encouragement” or “glorification” of terrorism, or lending material support to terrorism. Others have converted previously civil offences into criminal ones (see [A/HRC/31/65](#)). What these new offences have in common are their propensity to deem criminal liability on the basis of the content of a person’s speech, rather than the speaker’s intentions or contextual assessments of the likelihood or occurrence of violence. The Human Rights

Committee has highlighted that offences of “praising”, “glorifying” or “justifying” terrorism must be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.

69. Terrorism and violent extremism pose direct threats to the enjoyment of human rights, ranging from the right to life and the right to liberty and security of person to freedom of expression, association and thought, conscience and religion. States have an obligation to protect from violence all individuals within their territories and subject to their jurisdictions. However, the failure to uphold human rights obligations while pursuing these measures has also caused an alarming uptick in human rights violations, including undue restrictions on freedom of religion or belief.

76. The Special Rapporteur asserts that, where freedom of religion or belief and the range of rights on which it depends are respected, the space and scope for counternarratives to be effective against intolerant messages increases. Measures such as awareness-raising, education and interreligious communication and intra-faith dialogue can more broadly play a positive role in countering hateful narratives and ideologies and combating religious discrimination and hatred, thereby ensuring security. The above approach requires a larger methodological framework with a consistent human rights- based approach. The Special Rapporteur therefore intends to promote a discussion among interested stakeholders in order to develop a manual for faith- based actors that allows them, in their respective environments and in an adaptive manner, to counter hateful narratives and to illustrate how faith(s) can contribute to human rights.

Engagement with faith-based actors and promoting mutual understanding

Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes (Fez Plan of Action) (2017)

<https://www.un.org/en/genocideprevention/documents/Plan%20of%20Action%20Advanced%20Copy.pdf>

Prevent

1. Specific actions to prevent and counter incitement to violence
2. Prevent incitement to violent extremism
3. Prevent incitement to gender-based violence

Strengthen

4. Enhance education and capacity building
5. Foster interfaith and intra-faith dialogue
6. Strengthen collaboration with traditional and new media
7. Strengthen engagement with regional and international partners

Build

8. Build peaceful, inclusive and just societies through respecting, protecting and promoting human rights
9. Establish networks of religious leaders

The Special Rapporteur’s report to the General Assembly in 2017

<https://undocs.org/A/72/365>

60. The Special Rapporteur notes that the Beirut Declaration and its 18 commitments on “Faith for Rights”, launched in March 2017, and the Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes (Fez Plan of Action), launched in July 2017, are also important opportunities for advancing respect for freedom of religion and societal tolerance. It is imperative, therefore, that States redouble their focus and efforts towards putting those tools to use in the face of the growing threat of religious intolerance. [...]

78. The Special Rapporteur, therefore, encourages all stakeholders, including States, faith leaders and civil society, to fully utilize the recommendations outlined in resolution 16/18, the Rabat Plan of Action, the Fez Plan of Action and the Beirut Declaration. Religious literacy and interfaith dialogue can play a vital role in identifying the common good and promoting respect for pluralism. As stressed in the Beirut Declaration, all believers — whether theistic, non-theistic, atheistic or other — should join hands and hearts in articulating ways in which “faith” can stand up for “rights” more effectively, so that each enhances the other. Rejecting expressions of hatred within one’s own community and extending solidarity and support across faith or belief boundaries are honourable and meaningful actions. [...]

83. Member States should also consider taking steps to strengthen information-sharing and improve the transparency of the various United Nations processes and activities aimed at combating acts of hostility, discrimination and violence

for all stakeholders. This could include establishing an “Internet portal” designed to serve as a platform for all stakeholders (i.e. faith-based actors, human rights experts, government officials, national human rights institutions and other practitioners) to access legal, judicial and policy guidance, allow for the sharing of success stories and challenges and enhance the visibility of the work of the United Nations in combating the advocacy of national, racial or religious hatred constituting incitement to hostility, discrimination or violence for broader constituencies. Such a platform could bring together sources of information produced by activities organized in support of the implementation of resolution 16/18 and the Rabat Plan of Action. Information produced by complementary processes, such as those carried out under the Beirut Declaration and the Fez Plan of Action, could also be linked to such a website.”

The Special Rapporteur's report to the General Assembly in 2018

<https://undocs.org/A/73/362>

67. The “Faith for Rights” framework, which was launched in March 2017 through the Beirut Declaration on Faith for Rights and its 18 commitments, highlights that religious leaders are potentially very important human rights actors in view of their considerable influence on the hearts and minds of hundreds of millions of believers. The underlying rationale is expressed in the commitment to “leverage the spiritual and moral weight of religions and beliefs with the aim of strengthening the protection of universal human rights and developing preventative strategies”.

68. The undertaking expressed in the Beirut Declaration to enhance cohesive, peaceful and respectful societies by mobilizing faith-based actors behind the human rights framework is particularly well illustrated by the commitments to: support and promote equal treatment in all areas and manifestations of religion or belief; ensure non-discrimination and gender equality; stand up for the rights of all persons, including those belonging to minorities; publicly denounce all instances of advocacy of hatred that incite violence; refrain from oppressing critical voices or giving credence to exclusionary interpretations on the basis of religious grounds; and condemn judgmental public determinations by any actor who in the name of religion aims to disqualify the religion or belief of another individual. The holistic human rights approach of the “Faith for Rights” framework is further expressed in the commitment to defend the freedom of expression, including academic freedom and the promotion of tolerance through formal education channels. It also emphasizes the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion.

The Special Rapporteur's report to the Human Rights Council in 2019

<https://undocs.org/A/HRC/40/58>

21. The ‘Faith for Rights’ framework, launched in March 2017 under the auspices of OHCHR with the engagement of faith actors and international human rights experts, draws from insights gleaned under the Rabat Plan of Action into the positive role that faith actors can play in responding to incitement to violence. The aim of the Faith for Rights framework is to mobilize faith-based resources to promote the human rights framework, in particular by recognizing the interdependence of the freedom of expression and the freedom of religion or belief. The Beirut Declaration on Faith for Rights and its 18 commitments promote the resolve not to oppress critical voices and views on matters of religion or belief, however wrong or offensive they may be perceived, in the name of the “sanctity” of the subject matter (see [annexes I and II](#)). Echoing the Rabat Plan of Action, the 18 commitments also contain a call upon States that still have anti-blasphemy or anti-apostasy laws in force to repeal them, stressing that such laws stifle the freedom of thought, conscience, and religion or belief, as well as a healthy dialogue and debate about religious issues. [...]

66. In this context, the Beirut Declaration on Faith for Rights provides important guidance and inspiration for action: “Speech is fundamental to individual and communal flourishing. It constitutes one of the most crucial mediums for good and evil sides of humanity. War starts in the minds and is cultivated by a reasoning fuelled by often hidden advocacy of hatred. Positive speech is also the healing tool of reconciliation and peacebuilding in the hearts and minds. Speech is one of the most strategic areas of the responsibilities we commit to assume, and we support each other for their implementation through this Faith for Rights declaration on the basis of the thresholds articulated by the Rabat Plan of Action.”

The Special Rapporteur's report to the General Assembly in 2020

<https://undocs.org/A/75/385>

80. In the light of the preceding analysis, the Special Rapporteur recommends that States: [...] (i) Implement effective measures to promote mutual respect for the human rights of religious or belief minorities, including through peer-to-peer learning, practical outreach tools, capacity-building programmes and interdisciplinary research on questions related to faith and rights.

83. [...] the Special Rapporteur reiterates his recommendation that States, intergovernmental organizations and civil society actors, including religious leaders and faith actors, take targeted action to utilize tools developed by the United Nations system to promote social inclusion. In particular, he recommends Human Rights Council resolution 16/18, the United Nations Strategy and Plan of Action on Hate Speech, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, the #Faith4Rights toolkit, the Fez Plan of Action and UNESCO programme on preventing violent extremism through education.

The Special Rapporteur's report to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

80. Civil society actors (including faith-based actors) should: (a) Promote interfaith engagement (including through the #Faith4Rights framework), oppose essentializing narratives about religious or belief communities and refrain from and publicly denounce hatred and incites discrimination, hostility, or violence against persons based on religion or belief. Faith-based leaders and influencers should use their authority to promote inclusive, peaceful and just conflict resolutions and to prevent tensions arising, particularly where conducted in the name of religion or belief.

Recommendations made by the Forum on Minority Issues in 2021

<https://undocs.org/A/HRC/49/81>

3. Specifically, on the topic of preventing conflicts involving minorities, the following instruments are also a reference: the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, the Beirut Declaration on Faith for Rights and its 18 commitments and the Convention on the Prevention and Punishment of the Crime of Genocide. [...]

58. States, the United Nations, international and regional organizations and civil society are encouraged to work closely in supporting the positive contributions of faith-based actors, including through the promotion of the Beirut Declaration and the faith for rights toolkit.

IV. INTERSECTION OF FREEDOM OF RELIGION OR BELIEF WITH OTHER HUMAN RIGHTS

2. Right to life, right to liberty

International Covenant on Civil and Political Rights (1976)

Art. 6 (1): Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Art. 6 (2): In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

Art. 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Economic and Social Council resolution on the rights of those facing the death penalty 1984/50 (1984)

Para. 1: In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

Human Rights Council resolution 6/37 (2007)

Para. 9 (i): Urges states to ensure that, on account of religion or belief or the expression or manifestation of religion or belief, no one within their jurisdiction is deprived of the right to life, liberty or security of person, subjected to torture or arbitrary arrest or detention, or denied the rights to work, education or adequate housing, as well as the right to seek asylum, and to bring to justice all perpetrators of violations of these rights.

Human Rights Committee, General Comment no. 36 on the right to life (2019)

Para. 23: The duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. [...] They may also include [...] members of ethnic and religious minorities [...]. States parties must respond urgently and effectively in order to protect individuals who find themselves under a specific threat, by adopting special measures such as the assignment of around-the-clock police protection, the issuance of protection and restraining orders against potential aggressors and, in exceptional cases, and only with the free and informed consent of the threatened individual, protective custody.

Para. 44. The death penalty must not be imposed in a discriminatory manner contrary to the requirements of articles 2 (1) and 26 of the Covenant. Data suggesting that members of religious, racial or ethnic minorities, indigent persons or foreign nationals are disproportionately likely to face the death penalty may indicate an unequal application of the death penalty, which raises concerns under article 2 (1) read in conjunction with article 6, as well as under article 26.

General Assembly resolution 77/218 on extrajudicial, summary or arbitrary executions (2022)

Preamble: Deeply concerned about acts that can amount to extrajudicial, summary or arbitrary executions committed against persons exercising their rights to peaceful assembly, freedom of religion or belief and freedom of expression and against human rights defenders in all regions of the world.

7. Urges all States: [...] (b) To ensure the effective protection of the right to life of all persons, to conduct, when required by obligations under international law, prompt, exhaustive and impartial investigations into all killings, including those targeted at specific

groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities or because of their sexual orientation or gender identity, killings of persons affected by terrorism or hostage-taking or living under foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of Indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour and killings committed for discriminatory reasons on any basis, to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel.

General Assembly resolution 77/221 on freedom of religion or belief (2022)

Para. 14 (c): Urges States to ensure that no one within their territory and subject to their jurisdiction is deprived of the right to life, liberty and security of person because of religion or belief, to provide adequate protection to persons at risk of violent attack on the grounds of their religion or belief, to ensure that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights.

General Assembly resolution 77/222 on moratorium on the use of the death penalty (2022)

Preamble: Noting with deep concern that, as shown in recent reports of the Secretary-General, frequently, poor and economically vulnerable persons, foreign nationals, persons exercising their human rights and persons belonging to religious or ethnic minorities are disproportionately represented among those sentenced to the death penalty [...]; Welcoming the considerable movement towards the abolition of the death penalty globally and the fact that many States with different legal systems, traditions, cultures and religious backgrounds are applying a moratorium, including long-standing moratoriums, either in law or in practice, on the use of the death penalty.

7. Calls upon States: [...] (j) To ensure that the death penalty is not applied on the basis of discriminatory laws, including laws which target individuals for exercising their human rights, or as a result of discriminatory or arbitrary application of the law.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the General Assembly in 2010

<https://undocs.org/A/65/207>

11. As evidenced in the Special Rapporteur's reports on cases transmitted to Governments and replies received, [A/HRC/13/40/Add.1, A/HRC/10/8/Add.1, A/HRC/7/10/Add.1, A/HRC/4/21/Add.1, E/CN.4/2006/5/Add.1 and E/CN.4/2005/61/Add.1.] many individuals have been deprived of their right to life, liberty or security of person because of religion or belief and have been subjected to arbitrary arrest or detention and torture on that account. Those human rights violations seem to particularly affect members of religious minorities. Their vulnerable situation is aggravated when Governments target religious minorities by registering names and harassing those individuals. States are not only obliged to protect their own citizens; they also must ensure that no one within their jurisdiction suffers from human rights abuses and must bring to justice all perpetrators of violations of these rights.

13. Religious convictions are occasionally put forward to justify certain harmful practices and in some States these are incorporated in domestic legislation. For example, in a mission report the Special Rapporteur analysed certain forms of punishment contained in sharia penal codes. She came to the conclusion that the punishments of stoning or amputation constitute at least cruel, inhuman and degrading treatment that is prohibited in absolute terms by various international conventions. [See report on the Special Rapporteur's mission to Nigeria (E/CN.4/2006/5/Add.2, paras. 68 and 100) and her follow-up table (www2.ohchr.org/english/issues/religion/docs/followup/FUNigeria.pdf).]"

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

64. In addition to being exposed to manifestations of social pressure, public contempt and systematic discrimination, converts often face insurmountable administrative obstacles when trying to live in conformity with their convictions. Moreover, in a number of countries, they run the risk of losing jobs and educational opportunities, having their marriage nullified, being excluded from the right to inheritance or even losing custody of their children. In some States, converts may also face criminal prosecution, at times even including the death penalty, for such offences as “apostasy”, “heresy”, “blasphemy” or “insult” in respect of a religion or the country’s dominant tradition and values.

The Special Rapporteur’s report to the Human Rights Council in 2013

<https://undocs.org/A/HRC/22/51>

53. Persons belonging to religious minorities are frequently exposed to increased risks of criminalization. Some domestic criminal law provisions specifically target members of minorities or persons otherwise deviating from the predominant religious or belief tradition, of the country. When manifesting their religious or belief convictions, persons belonging to minorities may run the risk of being accused of “blasphemy,” a charge which in some countries carries harsh sanctions, including even the death penalty.

The Special Rapporteur’s report to the Human Rights Council in 2019

<https://undocs.org/A/HRC/40/58>

30. At least 20 countries throughout the world penalize apostasy. A person who renounces his or her religion may be regarded as an apostate and subjected to punishment that may even include the death penalty. The Human Rights Committee has stressed that under no circumstances could the death penalty ever be applied as a sanction against conduct that very criminalization violates the Covenant, including apostasy. In jurisdictions where anti-apostasy laws are used to enforce religious dogma, such laws are often justified on grounds of religious doctrine. Their aim is to prevent the rejection or corruption of orthodox doctrine. They are defended as being the divine obligation of adherents of the faith whose personal commitments are enforced through public policy. Laws against apostasy are used to enforce the monopoly of certain religious beliefs and to legislate social behaviour by restricting civil liberties. No Government has expressly supported *takfir*, the practice of accusing Muslims, especially those in positions of leadership, of being insufficiently committed to the religion, and some countries, such as Tunisia, criminalize it. However, the existence of anti-apostasy laws may encourage *takfir* by armed vigilante groups and mobs.

56. Freedom of religion or belief relies on verbal and non-verbal forms of expression for public manifestation of thought, conscience, religion or belief in worship, observance, practice and teaching. It is also important for the realization of the right of parents or legal guardians to raise their children in accordance with their religious or moral convictions. Nevertheless, it is not uncommon for arguments to be advanced to impose restrictions on freedom of expression in the name of religion. Nearly 70 States have anti-blasphemy laws, and 30 States also have anti-apostasy laws. In some jurisdictions, either or both of these laws may provide for the use of the death penalty. These laws cannot be justified under the international human rights framework as that framework is intended to protect human beings and does not protect religions or beliefs as such. Some anti-blasphemy laws no longer claim to protect religions per se but claim to protect individuals from offence to their religious feelings. These laws against the defamation of religion, however, also have no basis in international law, as such restrictions do not comply with the limitations regime established by international law.

57. Increasingly, limitations on freedom of expression related to religion or belief take the form of anti-“hate speech” laws. Article 20 (2) of the International Covenant on Civil and Political Rights provides that States must prohibit by law any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. At the same time, general comment No. 34 (2011) stresses that prohibitions under article 20 (2) must comply with the regime for limitations under article 19 (3). Moreover, advocacy of hatred requires a nuanced response that includes criminal sanctions as well as civil, administrative and policy measures. States must ensure that criminal sanctions are imposed only in the most serious cases and be, based on a number of contextual factors, including intent.

58. The initiatives and strategies that have been developed over the past decade, such as those contained in the Rabat Plan of Action, which seek to operationalize States’ obligations to respond to the advocacy of religious hatred as provided under article 20 of the Covenant, should continue to guide Governments and civil society actors in their ongoing efforts. At the same time, the Special Rapporteur recognizes the difficulties in making headway on implementation of such initiatives and strategies, given the complex and emotive nature of the views surrounding this issue, as well as the high stakes at hand, including protections for myriad human rights and freedoms, as well as peace and security. As such, it may be useful to assess the severity of the impact of such laws which render their application particularly problematic, as well as the conditions which make the repeal of these laws difficult. The adoption of a

triage-based approach by the international community may allow for actors to identify the most pressing priorities, which warrant more immediate responses, from among those which require redress but may allow for a less immediate response. Such an approach, however, is not a substitute for the repeal of all restrictions on the freedom of expression based on religion or belief that do not satisfy the requirements of the limitations regime under article 19 (3) of the Covenant. Rather, it must be pursued as a means to expedite full compliance with international human rights standards.

59. First, for example, in examining the impact of prohibitions on expression involving religion or belief, Governments may wish to take a victim-based approach in examining their penalties. In some jurisdictions, capital punishment is the penalty for violating such prohibitions, while in other jurisdictions the penalties are less draconian. Repealing those laws that put lives at risk must be given the highest priority. Moreover, where domestic laws provide for the death penalty for religious offence, it is more likely that the existence of such laws will encourage vigilante mobs or zealots to murder those alleged to have violated those laws.

60. Second, actors must consider increasing the safeguards against spurious charges or other forms of abuse of these measures in order to protect against widespread arbitrary detention of individuals who have exercised protected forms of expression under international law. In some jurisdictions, allegations can be made without demonstrating the veracity of the claim and decisions to press charges may be taken without due regard for the facts of the case.

61. Third, there is an urgent need to improve protections against discrimination in cases involving the politicization of religion, which often victimizes those who do not belong to the majority or established religion. The more closely that religion and State are intertwined, the more likely that dissenters and minorities will be a target for discrimination, hostility and violence. The absence of equal protection for minorities and dissenters, combined with policies and practices that undermine guarantees of equal citizenship and thus foster marginalization and exclusion, make those communities particularly vulnerable to those seeking to perpetrate offences against them.

62. Fourth, countries must assess existing laws and measures for any vagueness of formulation, for example, the use of terms such as “defile persons”, protecting “objects of veneration” and offending “by innuendo” or “indirectly”, and review and redress laws and measures which do not stress the importance of *mens rea* (the reasonably evident presence of intent) as a necessary element in assessing guilt and punishment. The absence of the element of intent in formulating the definition of an offence, whether in the case of blasphemy or incitement to violence, has often resulted in erroneous convictions.

63. A fifth factor is the lack of judicial independence and consequent violations of due process rights which often arise in cases involving persons who may have challenged the orthodox views of the State or whose expression of views involving religion or belief threatens the power of the authorities.

IV. INTERSECTION OF FREEDOM OF RELIGION OR BELIEF WITH OTHER HUMAN RIGHTS

3. Prohibition on torture and other cruel, inhuman or degrading treatment or punishment

International Covenant on Civil and Political Rights (1976)

Art. 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Convention on the Elimination of all forms of Discrimination against Women (1981)

Art. 5 (a): States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987)

Art. 1: For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as [...] punishing him for an act he or a third person has committed or is suspected of having committed, [...] or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Art. 16: Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Human Rights Committee, General Comment no. 20 on the prohibition of torture (1992)

Para. 5: In the Committee's view, moreover, the prohibition [of torture] must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure.

Declaration on the Elimination of Violence against Women (1993)

Art. 4 (c): States should exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

Commission on Human Rights resolution 2005/39 on torture and other cruel, inhuman or degrading treatment or punishment (2005)

Para. 7: The Commission on Human Rights reminds Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture.

General Assembly resolution 77/221 (2022)

Para. 14: Urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to that end [...] (c) to ensure that no one within their jurisdiction is subjected to torture or other cruel, inhuman or degrading treatment or punishment or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 2002

<https://undocs.org/E/CN.4/2002/73/Add.2>

168. Marital rape is still to some extent linked to patriarchal patterns and to a reactionary view of the image of women within the marital relationship. From that perspective, the deep-seated origins of such perception are, irrespective of a society's stage of development, rooted in ancient religious practices fostered by a culture that relegates women to a subservient position. Some States do not recognize marital rape and treat women's complaints against their husbands as void...Marital rape is a form of domestic violence or torture against women and should thus be dealt with accordingly. [...]

228. As rightly noted by the Office of the United Nations High Commissioner for Refugees (UNHCR) in a memorandum for its field staff, while cultural or religious traditions of refugee communities must be respected, victims of female genital mutilation in particular suffer a form of torture. UNHCR encourages States to consider that persecution faced by women because of perceived transgressions of social mores should be recognized as a ground for refugee status, which some States already do [...] This applies also to women who fear for their lives in cases of honour crimes or forced marriage. Such women should be entitled to the right of asylum and to the protection of other States.

The Special Rapporteur's report on her visit to Nigeria in 2005

<https://undocs.org/E/CN.4/2006/5/Add.2>

Torture and other cruel, inhuman or degrading treatment or punishment

67. Probably the most often addressed question is the compatibility of certain forms of punishment prescribed by sharia penal codes with international human rights law, in particular those provisions that prohibit torture or cruel, inhuman and degrading treatment or punishment.

68. In this regard, in addition to the Human Rights Committee which stated in its general comment No. 20 that the prohibition of torture and cruel, inhuman or degrading treatment or punishment contained in article 7 of the International Covenant on Civil and Political Rights extends to corporal punishment, other United Nations human rights mechanisms have, on numerous occasions, declared the incompatibility of such forms of punishment with human rights provisions prohibiting torture and other forms of ill treatment. [See for instance, the report of the Special Rapporteur on torture submitted to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/7, para. 6); concluding observations of the Committee against Torture on the initial periodic report of Saudi Arabia, 12 June 2002 (CAT/C/CR/28/5, para. 4 (b)); report of the Special Rapporteur on violence against women, its causes and consequences, submitted to the Commission on Human Rights at its fifty-ninth session (E/CN.4/2003/75, para. 68) and (E/CN.4/2003/75/Add.1, para. 460).] The Special Rapporteur is of the opinion that punishments such as stoning or amputation constitute, if not torture, at least cruel, inhuman and degrading treatment [The Special Rapporteur emphasizes in this regard that she does not wish to make a distinction between torture and other forms of ill treatment, including because such a consideration is outside the scope of her mandate. She would limit herself to consider these acts as contrary to article 7 of the ICCPR.] that is prohibited in absolute terms by various international conventions to which Nigeria is a party and which allow for no exception whatsoever. [...]

100. The Special Rapporteur considers that the legal systems such as have been adopted by a number of states in Nigeria contain provisions that raise concern in terms of human rights. Certain forms of punishment contained in the sharia penal codes, such as amputation or stoning, constitute treatment that is contrary to universally recognized norms prohibiting torture and other degrading, cruel and inhuman treatment or punishment, including international conventions to which Nigeria is a party. Moreover, it was underlined above that certain provisions as well as the practice of some sharia courts appeared to be in contravention of the principle of *nulla poena sine lege* and of equality before the law. Finally, the possibility, at least in theory, that Muslims could be convicted and sentenced to death because they converted to another religion would constitute a clear violation of the right to freedom of religion or belief.

The Special Rapporteur's report to the Human Rights Council in 2007

<https://undocs.org/A/HRC/6/5>

42. The Commission on Human Rights has repeatedly urged States to ensure that no one within their jurisdiction is subjected to torture and Governments were reminded that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. Religious convictions are occasionally put forward to justify certain harmful practices. Some parents, whose religious doctrine postulated physical punishment of children as legitimate and necessary, considered the prohibition of corporal punishment of schoolchildren as an infringement of their right to provide for their children's education according to their religious convictions; however, the international case law rejects this interpretation as incompatible with human rights standards, such as the Convention on the Rights of the Child. Furthermore, in a country visit report, the Special Rapporteur analysed certain forms of punishment contained in sharia penal codes and she came to the conclusion that stoning or amputation constitute, if

not torture, at least cruel, inhuman and degrading treatment that is prohibited in absolute terms by various international conventions.

The Special Rapporteur's report on her visit to the United Kingdom in 2007

<https://undocs.org/A/HRC/7/10/Add.3>

76. [...] The Special Rapporteur reiterates that the contents of a religion or belief should be defined by the worshippers themselves while manifestations may be limited according to article 18, paragraph 3, of the International Covenant on Civil and Political Rights, for example to prevent worshippers from violating the rights of others (A/HRC/4/21, paras. 43-47). She fully agrees with Lord Nicholls of Birkenhead who recently stated: "Everyone, therefore, is entitled to hold whatever beliefs he wishes. But when questions of 'manifestation' arise, as they usually do in this type of case, a belief must satisfy some modest, objective minimum requirements. These threshold requirements are implicit in article 9 of the European Convention and comparable guarantees in other human rights instruments." [*R. (Williamson) v. Secretary of State for Education and Employment* (2005) UKHL 15, para. 23.]

The Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/28/66>

3. Violence committed "in the name of religion", that is, on the basis of or arrogated to religious tenets of the perpetrator, is a complex phenomenon in different parts of the world. The brutality displayed in manifestations of such violence often renders observers speechless. While in some countries violence in the name of religion remains a local or regional phenomenon, acts of terrorism carried out intentionally to send global messages have been increasingly prominent in recent years. In that context, *prima facie* "archaic" acts of cruelty seem to be cynically "staged" in order to cater to modern media voyeurism, which adds yet another dimension of humiliation to the suffering of victims and their families.

4. Violence in the name of religion can be in the form of targeted attacks on individuals or communities, communal violence, suicide attacks, terrorism, State repression, discriminative policies or legislation and other types of violent behaviour. It can also be embedded and perpetuated in the status quo in various forms of structural violence justified in the name of religion. Perpetrators comprise different types of non-State actors, but also State agencies or — quite often — a combination of both. In some countries, armed groups invoke religion to justify atrocities such as targeted mass killings, extrajudicial and summary executions, enforced disappearances, torture, sexual violence, indiscriminate attacks against civilians, mass expulsions, enslavement or systematic destruction of certain communities. In other countries, vigilante groups harass religious minorities by vandalizing cemeteries and places of worship, grabbing lands or properties and threatening their security. [...]

54. While international human rights law traditionally focused only on the obligations of States, an evolving approach recognizes the importance and impact of certain non-State actors, arguing that some human rights obligations also apply to them, including non-State armed groups with (or arguably even without) effective control over a territory. In that regard, the Committee on the Elimination of Discrimination against Women stressed in its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, that "under certain circumstances, in particular where an armed group with an identifiable political structure exercises significant control over territory and population, non-State actors are obliged to respect international human rights".

55. Special procedures and commissions of Inquiry have also addressed human rights violations committed in the name of religion by armed groups with effective control over territory. "Effective control" means that the non-State armed group has consolidated its control and authority over a territory to such an extent that it can exclude the State from governing the territory on a more than temporary basis. Furthermore, armed groups without effective control over territory have been held to have committed human rights violations. In May 2014, a report by the United Nations Mission in the Republic of South Sudan stressed that the most basic human rights obligations, in particular those emanating from peremptory international law (*jus cogens*), bind both the State and armed opposition groups in times of peace and during armed conflict.

The Special Rapporteur's report to the Human Rights Council in 2017

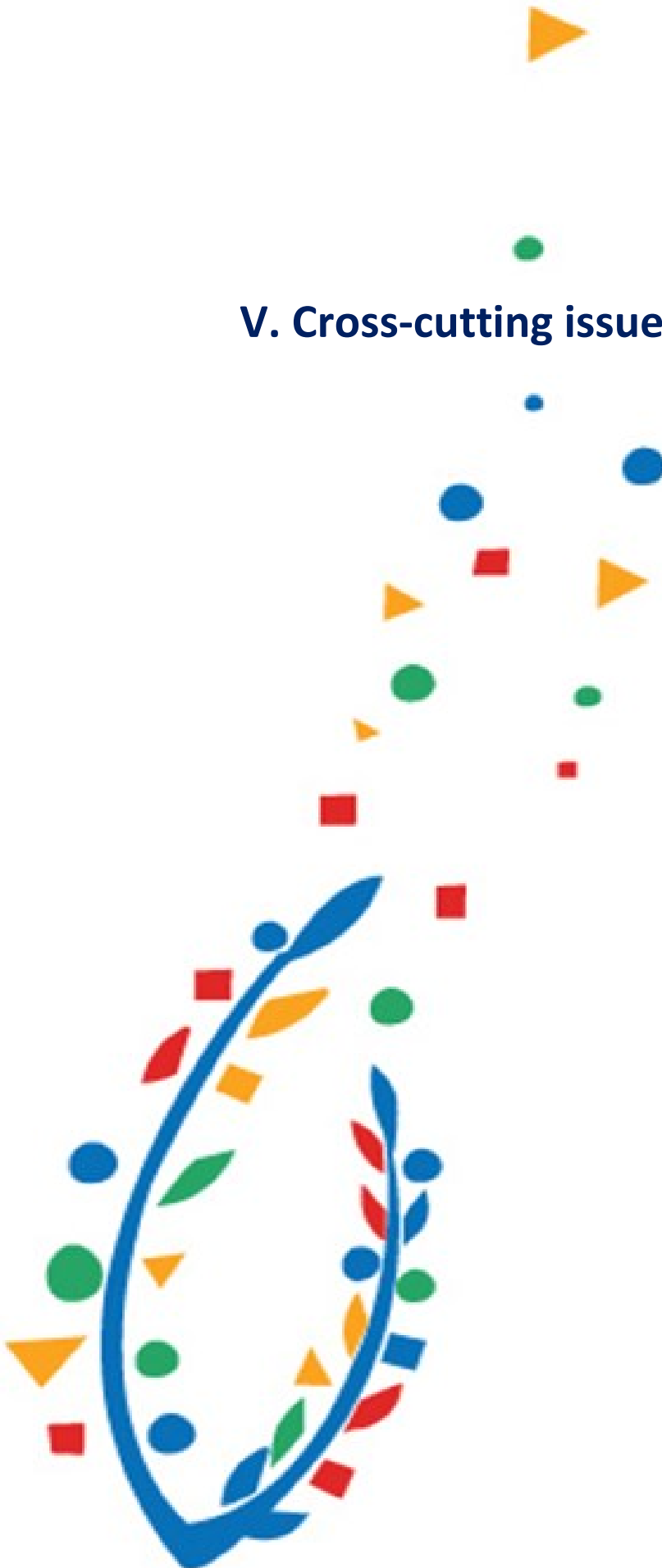
<https://undocs.org/A/HRC/34/50>

53. The Special Rapporteur notes with concern the increasing number of reports regarding the failure of States, including those who are party to the Convention relating to the Status of Refugees, to provide protections to asylum seekers who fear return to their country of origin because of fear of persecution based on religion or belief. This failure includes the practice of *refoulement*, or forcible return, of refugees who fear persecution for reasons of race, religion, nationality or membership of a particular social group or political opinion. As noted by various international

mechanisms, including the Human Rights Committee, the Committee against Torture and the European Court of Human Rights, there is a strict prohibition in international law on refoulement: article 7 of the International Covenant on Civil and Political Rights, article 3 of the Convention against Torture and article 3 of the European Convention on Human Rights are non-derogable. The aforementioned treaty bodies, as well as the European Court of Human Rights, have affirmed the *jus cogens* character of the non-refoulement principle where an asylum seeker faces serious risk of torture or related ill-treatment. [...]

54. The rise of violence in the name of religion, and its association with extremism, have necessitated the formulation of strategies and policies to counter violent extremism. The Special Rapporteur recognizes that it is essential for security agencies to be empowered to carry out their obligation to combat terrorism and to protect communities against violence and serious rights abuses. Indeed, terrorist groups have been responsible for some of the most egregious human rights violations. Non-State actors, such as Islamic State in Iraq and the Levant (ISIL, or Daesh), have been responsible for widespread and brutal attacks against Yazidis, Christians, Shia and other persons and groups in vulnerable situations in the territories they control, reportedly involving up to 10 million people in Iraq and the Syrian Arab Republic alone. Attacks have included killings, torture, enslavement and trafficking, rape and other sexual abuse. Similarly, Boko Haram has been responsible for, inter alia, killings, torture, abductions, violence against children and the use of children in hostilities.

V. Cross-cutting issues



V. CROSS-CUTTING ISSUES

1. Derogations

International Covenant on Civil and Political Rights (1976)

Art. 4 (1): In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

Art. 4 (2): No derogation from articles [...] 18 may be made under this provision.

Human Rights Committee, General Comment no. 29 (2001)

Para. 7: Article 4, paragraph 2, of the Covenant explicitly prescribes that no derogation from the following articles may be made: [...] article 18 (freedom of thought, conscience and religion). The rights enshrined in these provisions are non-derogable by the very fact that they are listed in article 4, paragraph 2. [...] The reference in article 4, paragraph 2, to article 18, a provision that includes a specific clause on restrictions in its paragraph 3, demonstrates that the permissibility of restrictions is independent of the issue of derogability. Even in times of most serious public emergencies, States that interfere with the freedom to manifest one's religion or belief must justify their actions by referring to the requirements specified in article 18, paragraph 3. On several occasions the Committee has expressed its concern about rights that are non-derogable according to article 4, paragraph 2, being either derogated from or under a risk of derogation owing to inadequacies in the legal regime of the State party.

Human Rights Committee, Statement on derogations from the Covenant in connection with the COVID-19 pandemic (2020)

Para. 2: [...] (d) States parties may not resort to emergency powers or implement derogating measures in a manner that is discriminatory, or that violates other obligations that they have undertaken under international law, including under other international human rights treaties from which no derogation is allowed. Nor can States parties deviate from the non-derogable provisions of the Covenant – [...] article 18 (freedom of thought, conscience and religion) [...]

(e) Furthermore, States parties may not derogate from their duty to treat all persons, including persons deprived of their liberty, with humanity and respect for their human dignity, and must pay special attention to the adequacy of health conditions and health services in places of incarceration, and also to the rights of individuals in situations of confinement, and to the aggravated threat of domestic violence arising in such situations. Nor can States parties tolerate, even in situations of emergency, the advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence, and they must take steps to ensure that public discourse in connection with the COVID-19 pandemic does not constitute advocacy or incitement against specific marginalized or vulnerable groups, including minorities and foreign nationals.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Commission on Human Rights in 1998

<https://undocs.org/E/CN.4/1998/6>

115. As the Special Rapporteur's reports, including mission reports, have shown, the issue of "sects" or "new religious movements", is complicated by the fact that international human rights instruments provide no definition of the concept of religion and do not mention the concepts of sect and new religious movement. The Special Rapporteur recalls that, in its general comment 22 of 20 July 1993 concerning article 18 of the International Covenant on Civil and Political Rights, the Human Rights Committee states that the right to freedom of thought, conscience and religion is far-reaching. It notes that freedom of thought and conscience are protected equally with freedom of religion and

belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4 (2) of the Covenant. The Committee also points out that restrictions on the freedom to manifest religion or belief are permitted 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 and are not applied in a manner that vitiates the rights of freedom of thought, conscience and religion. The Committee also states that "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.

The Special Rapporteur's report to the General Assembly in 2002

<https://undocs.org/A/58/296>

134. [...] many States have taken the simplistic view that, since religions are at the root of many terrorist acts, the most direct means of preventing such acts is to limit the existence of religion and have focused their genuinely or purportedly counter-terrorist activities on limiting the exercise of civil and political rights, including the right to freedom of religion or belief. By choosing that path, these States have clearly misinterpreted the non-derogable nature of the right to freedom of religion or belief under article 4 of the International Covenant on Civil and Political Rights, which states that even "in time of public emergency which threatens the life of the nation" no derogation is permitted from article 18 of the Covenant (see also General Comment 22 of the Human Rights Committee). Specifically, it appears that, by imposing restrictions which in practice were equivalent to actual derogations, at least in their effects, various State authorities have often failed to understand the essential difference between the restrictions that can be made under specific conditions and for specific purposes under article 18, paragraph 3, of the Covenant and the non-derogable nature of the right to freedom of religion or belief.

The Special Rapporteur's report to the Human Rights Commission in 2005

<https://undocs.org/E/CN.4/2005/61>

59. Over the last few years, many States have adopted legislation and other measures designed to fight against terrorism. Some of these laws and measures have, however, presented a simplistic link between terrorism and religion which, in turn, may have contributed to provoking even more acts of religious intolerance leading to violence.

60. The Special Rapporteur underlines that freedom of religion or belief is a fundamental right that is not susceptible of derogation, even in time of emergency or because of national security concerns, as is clearly stated in article 4 of ICCPR. This aspect of freedom of religion or belief not only implies that no individual can be deprived of this right even in time of emergency, but also that States should avoid equating certain religions with terrorism as this may have adverse consequences on the right to freedom of religion or belief of all members of the concerned religious communities or communities of belief.

The Special Rapporteur's report to the Human Rights Commission in 2006

<https://undocs.org/E/CN.4/2006/5>

42. The controversy under international human rights law [concerning religious symbols] tends to centre on possible limitations on the freedom to manifest one's religion or belief, e.g. according to article 29 (2) of the Universal Declaration on Human Rights, article 18 (3) of the International Covenant on Civil and Political Rights, article 1 (3) of the Declaration, article 9 (2) of the European Convention on Human Rights (ECHR) and article 12 (3) of the American Convention on Human Rights (AmCHR). Generally speaking, these clauses only accept such limitations as are prescribed or determined by law and are necessary - in a democratic society - to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The list of permissible reasons for intervention notably does not include additional grounds stipulated for different human rights, e.g. national security or the reputations of others. Furthermore, article 4 (2) of the Covenant and article 27 (2) of AmCHR prescribe that, even in time of public emergency or war, no derogation from the freedom of conscience and religion is permissible. That this right is non-derogable again underlines the importance of the freedom of religion or belief.

The Special Rapporteur's report to the Human Rights Council in 2011

<https://undocs.org/A/HRC/16/53>

53. In this context, it is worth emphasizing that practices which forcibly expose students to religious instruction against their own will violate article 18, paragraph 2, of the International Covenant on Civil and Political Rights 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". This *forum internum* component of freedom of religion or belief enjoys particularly strong protection

under international human rights law as no derogation from article 18 of the Covenant may be made, not even in a time of public emergency which threatens the life of the nation. In addition, coercive practices may also violate the rights of parents “to ensure the religious and moral education of their children in conformity with their own convictions” (art. 18, para. 4, of the Covenant).

The Special Rapporteur’s report to the General Assembly in 2017

<https://undocs.org/A/HRC/34/50>

27. [...] This language – “including the right to change one’s religion or belief” – is also consistently reflected in resolutions on freedom of religion or belief adopted by consensus by the General Assembly and the Human Rights Council. The Special Rapporteur notes that this provision refers specifically to the internal dimension of freedom of thought, conscience, religion or belief (often referred to as *forum internum*), which enjoys unconditional and unqualified protection and cannot be restricted, limited, interfered with or derogated from under any circumstances, including during times of public emergency.

The Special Rapporteur’s report to the Human Rights Council in 2022

<https://undocs.org/A/HRC/49/44>

78. States should [...] (b) Fulfil obligations to prohibit incitement (online and offline) to discrimination, hostility or violence based on religion or belief, consistent with international human rights law and standards,¹⁸⁰ [Human Rights Council resolution 16/18; the Rabat Plan of Action; and the Beirut Declaration and its 18 Commitments on Faith for Rights] and condemn and prosecute violations, including the weaponization of crises, such as the COVID-19 pandemic, against religious or belief minorities.

V. CROSS-CUTTING ISSUES

2. Limitations

International Covenant on Civil and Political Rights (1976)

Art. 18 (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.

Convention on the Rights of the Child (1990)

Art. 14 (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.

Human Rights Committee, General Comment no. 22 (1993)

Para. 8: 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. In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. 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. The Committee observes that the concept of morals derives from many social, philosophical and religious traditions; 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. [...].

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)

Art. 12 (3): Freedom to manifest one's religion or belief 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.

Human Rights Committee, General Comment no. 34 (2011)

Para. 32: The Committee observed in general comment No. 22, that "the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition". Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.

General Assembly resolution 77/221 (2022)

Para. 12: Emphasizes that, as underlined by the Human Rights Committee, restrictions on the freedom to manifest one's religion or belief are permitted only if limitations are prescribed by law, are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, are non-discriminatory and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion or belief.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report on his visit to Greece in 1996

<https://undocs.org/A/51/542/Add.1>

133. In that regard, from a constitutional point of view, although freedom of conscience is guaranteed, the Special Rapporteur notes that there are limitations on freedom of worship which are inconsistent with internationally established human rights norms. Article 13 of the Constitution limits freedom of worship to “known” religions, but the lack of any legal definition of the concept of “known religion” seems to be prejudicial; in particular, it does not seem to be in accord with the legal restrictions on religious freedom provided for in article 1, paragraph 3, of the 1981 Declaration. The Christian religious minorities are particularly affected by this situation; their legal recognition is often called in question, mainly in connection with matters relating to places of worship and conscientious objection. The Special Rapporteur recommends that the concept of a “known religion” should be defined precisely – either in the Constitution or, failing that, in legislation – in a manner consistent with the legal restrictions provided for in the 1981 Declaration; alternatively, if appropriate, the concept should be eliminated altogether.

The Special Rapporteur’s report on his visit to Vietnam in 1998

<https://undocs.org/E/CN.4/1999/58/Add.2>

102. However, whereas the two international instruments list the restrictions necessary for public safety, order, health or morals, or the fundamental rights and freedoms of others, article 70 of the Constitution also refers to “the policies of the State”. The concept of policy of the State appears, at first glance, to be quite vague and extendable: it may of course include State policies designed to guarantee public safety, order, health or morals, or the fundamental rights and freedoms of others, but it can also go further, to include restrictions not provided for under international law.

The Special Rapporteur on his visit to Turkey in 2000

<https://undocs.org/A/55/280/Add.1>

125. Some of these constitutional limitations contain vague expressions that lend themselves to very broad interpretation which, in turn, may lead to extensive intervention by the State and hence excessive restrictions on freedom of religion and belief. This applies to the expression “violating the indivisible integrity of the State with its territory and nation” as well as the phrase “destroying fundamental rights and freedoms”.

126. The Special Rapporteur recommends that precise terminology be devised and that legislation, including constitutional provisions, be interpreted in a manner consistent with international standards of human rights and with the jurisprudence and general comments of the United Nations Human Rights Committee. The Committee, in its General Comment No. 22 (48) of 20 July 1993, on article 18 of the International Covenant on Civil and Political Rights, declared that restrictions on the freedom to manifest religion or belief are permitted only if they are prescribed by law, are necessary to ensure public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion. The Committee has also stated that restrictions must only be applied for the purposes for which they were prescribed and they must relate directly to the specific objective they are to serve, and be proportional to that objective. Restrictions may not be imposed for discriminatory purposes or in a discriminatory manner.

The Special Rapporteur’s report to the General Assembly in 2005

<https://undocs.org/A/60/399>

62. Whereas the scope of freedom afforded to persons for the practice of their religion or belief by producing and distributing information about their religion or belief is wide, certain limitations can be imposed in accordance with article 18, paragraph 3, of the Covenant. However, it should be noted that this article allows for restrictions only in very exceptional cases. In particular the fact that it mentions the protection of “fundamental rights and freedoms” (emphasis added) of others as a ground for restriction indicates a stronger protection than for some other rights whose limitation clauses refer simply to the “rights and freedoms of others” (e.g. article 12, 21 and 22). It could indeed be argued that the freedom of religion or belief of others can be regarded as such a fundamental right and freedom and would justify limitations to missionary activities, but the freedom of religion and belief of adults basically is a question of individual choice, so any generalized State limitation (e.g. by law) conceived to protect “others” freedom of religion and belief by limiting the right of individuals to conduct missionary activities should be avoided.

Special Rapporteur’s report to the Commission on Human Rights in 2006

<https://undocs.org/E/CN.4/2006/5>

42. The controversy under international human rights law tends to centre on possible limitations on the freedom to manifest one’s religion or belief, e.g. according to article 29 (2) of the Universal Declaration on Human Rights, article

18 (3) of the International Covenant on Civil and Political Rights, article 1 (3) of the Declaration, article 9 (2) of the European Convention on Human Rights (ECHR) and article 12 (3) of the American Convention on Human Rights (AmCHR). Generally speaking, these clauses only accept such limitations as are prescribed or determined by law and are necessary - in a democratic society - to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The list of permissible reasons for intervention notably does not include additional grounds stipulated for different human rights, e.g. national security or the reputations of others. Furthermore, article 4 (2) of the Covenant and article 27 (2) of AmCHR prescribe that, even in time of public emergency or war, no derogation from the freedom of conscience and religion is permissible. That this right is non-derogable again underlines the importance of the freedom of religion or belief.

The Special Rapporteur's report to the General Assembly in 2012

<https://undocs.org/A/67/303>

57. In this context, it is important to bear in mind that the Human Rights Committee has argued for a pluralistic understanding of the concept of "morals", a concept listed among the possible grounds for limiting manifestations of freedom of religion or belief in article 18 (3) of the International Covenant on Civil and Political Rights. In its general comment No. 22, the Human Rights Committee clarifies that the concept of morals "derives from many social, philosophical and religious traditions; 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". In its recent general comment No. 34 on freedoms of opinion and expression, the Committee adds that "[a]ny such limitations must be understood in the light of the universality of human rights and the principle of non-discrimination" (see CCPR/C/GC/34, para. 32). The Special Rapporteur welcomes this clarification, which must also be applied to any restrictions imposed on manifestations of freedom of religion or belief.

58. Restrictions on manifestations of freedom of religion or belief, including non-coercive attempts to convert others, thus cannot be justified by the invocation of a closed understanding of a moral order based on one particular religious or philosophical tradition. Instead, any restrictions deemed necessary by States must meet all the specific criteria prescribed in article 18 (3) of the International Covenant on Civil and Political Rights. Moreover, the interest of protecting certain moral or religious values may never be invoked to restrict the freedom of conversion itself which, as part of the absolutely protected forum internum dimension of freedom of religion or belief, does not permit any limitations whatsoever. For the same reason, the notion of moral values cannot be used to legitimize pressure on converts or members of minorities, for example to make them reconvert to their previous religion or to follow mainstream religions or beliefs.

60. The concept of "choice" makes sense especially in the sphere of law, including human rights law. Obviously, the language of law cannot reflect the full range of human experiences. In this regard, law has insurmountable limitations that one should always bear in mind. It remains true that a person's existential experience, be it in the field of religion or belief or in relation to marriage and other important human life issues, may go far beyond the understanding of just making a "choice". The legal language of human rights is not supposed to replace such experience, and it is by no means intended to lead to a "commodified" understanding of religion or belief or other significant issues relating to human life and human communities. The opposite is true. By establishing legal safeguards against different forms of coercion, human rights norms can arguably even contribute to the achievement of higher degrees of sincerity, earnestness, authenticity, profoundness, loyalty and commitment in questions of religion or belief.

The Special Rapporteur's report to the General Assembly in 2013

<https://undocs.org/A/68/290>

47. Before resorting to restrictions on the freedom to manifest one's religion or belief, legislators or representatives of the judiciary should always analyse the respective cases with empirical and normative precision. However, States sometimes impose restrictive measures in a rather loose way, beyond the confines of article 18, paragraph 3, of the International Covenant. This may also happen in the context of gender-related anti-discrimination policies. Based on overly simplistic perceptions, according to which religions per se constitute obstacles to the development of societies free from discrimination, some States may even be tempted to turn the principle of *in dubio pro libertate* upside down by restricting in case of doubt manifestations of religion or belief without providing the required empirical and normative evidence.

48. The Special Rapporteur would like to reiterate in this context that when States wish to impose restrictions they always bear the burden of proof, both at the level of empirical evidence and at the level of normative reasoning. Furthermore, for limitations to be legitimate, they must meet all criteria set out in article 18, paragraph 3, of the International Covenant. Accordingly, limitations must be legally prescribed and they must be clearly needed to pursue a legitimate aim, the protection of "public safety, order, health, or morals or the fundamental rights and freedoms of

others". In addition, restrictions must remain within the realm of proportionality which, inter alia, means they must be limited to a minimum of interference. Finally, the *forum internum* dimension of freedom of religion or belief does not allow for any restrictions whatsoever, according to article 18, paragraph 2, of the International Covenant. [...]

50. Under the principle of proportionality, States have always to look for less far-reaching and less intrusive restrictions before issuing legislation that infringes on freedom of religion or belief. Another part of the proportionality test concerns the question of whether limitations are actually conducive to the legitimate purpose they are supposed to foster. It may happen that measures do not only fail to serve the said purpose; they may actually worsen the situation of many individuals, particularly women, for instance by further restricting their spaces of personal movement and infringing their rights to education and participation in public life.

The Special Rapporteur's report to the General Assembly in 2014

<https://undocs.org/A/69/261>

32. [...] It is true that there is an option for the employer to define certain work-related obligations which may actually limit an employee's freedom to manifest her/his religion or belief. The scope of such limitations, inter alia, depends on the (public, private, religious, secular, etc.) characteristics of the employing institution, as well as on the particular purpose of the employment. However, limitations of the right to manifest one's religion or belief, if defined in a labour contract, must always be specific, compatible with the nature of the task to be accomplished and proportionate to a legitimate purpose. They can never amount to a simple waiver of the employee's freedom of religion or belief, which after all, enjoys the elevated status of an "inalienable" human right. Moreover, one should take into consideration that some employees may, in reality, have little option to find alternative employment. Pointing to the "voluntary" nature of an employment contract and the hypothetical option of leaving the existing contract can thus be unrealistic, depending on the specific situation. Instead, the factual availability, or non-availability, of alternative employment can be an important empirical factor in assessing the proportionality of specific contract-based limitations on freedom of religion or belief.

34. According to the Committee, for limitations to be legitimate, they must satisfy a number of conditions. Moreover, one should bear in mind that the internal dimension of freedom of thought, conscience, religion or belief (traditionally termed *forum internum*) benefits from an unconditional protection, according to article 18, paragraph 2, of the Covenant, which states that "[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". The Committee stresses that policies or practices, such as "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)."¹²

35. With regard to manifestations in the *forum externum*, limitations are only permissible if they meet all the criteria set out in article 18, paragraph 3, of the Covenant. Accordingly, any limitations must be legally prescribed and must be "needed" to pursue a legitimate aim — the protection of "public safety, order, health, or morals or the fundamental rights and freedoms of others". In addition, such restrictions must remain within the realm of proportionality, which, inter alia, means that they must always be limited to the minimum degree of interference that is necessary to pursue a legitimate purpose. These criteria are prescribed with a view to safeguarding the essence of freedom of religion or belief, even in situations of conflict with the rights or freedoms of others or with important public interests.

36. The onus of proof therefore falls on those who argue in favour of the limitations, not on those who defend the full exercise of a right to freedom. Confirming this critical function, the Human Rights Committee insists "that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there [...]. 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".

49. "Reasonable accommodation" has become a recognized term in the international human rights debate, and its relevance in a comprehensive non-discrimination strategy has been formally enshrined in the Convention on the Rights of Persons with Disabilities, 2006 (General Assembly resolution 61/106). Article 2 of the Convention defines: "Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment and exercise on an equal basis with others of all human rights and fundamental freedoms". Article 5, paragraph 3, of the Convention stipulates an obligation for State parties in this field: "In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided." It should be noted that article 5 of the Convention generally deals with equality and non-discrimination and that reasonable accommodation thus plays a systematic role in this specific context. In its concluding observations on reports of States parties, the Committee on the Rights of Persons with Disabilities has clarified that it treats failure to ensure reasonable accommodation as a violation of the principles of equality and non-discrimination.

60. For all the significance and potential that reasonable accommodation holds to combat discrimination, legislators and courts have by and large been reluctant to apply the principle as a legal entitlement. The Special Rapporteur hopes that the Convention on the Rights of Persons with Disabilities may serve as a general door opener in this regard, including beyond the specific area of disability.

61. Those opposed to a legal approach on this issue argue that turning reasonable accommodation into a legally enforceable right could negatively backfire and reduce the readiness of public or private employers to experiment with creative measures. Instead of treating accommodation as a legal entitlement, they prefer pragmatic policies of encouraging employers to use reasonable accommodation as a managerial tool outside the realm of law. However, the flipside of this non-legal approach is that employees would remain unilaterally dependent on the willingness of employers to accommodate their specific religious or belief-related needs at the workplace. They would not have any legal recourse against employers who, from the outset, reject any form of accommodation, even if the religious concerns at stake are high and the economic or managerial costs of the accommodating measures are merely minor.

62. The Special Rapporteur advocates for combining the advantages of a legal approach to reasonable accommodation with those of a more pragmatic managerial approach. In the spirit of article 5 of the Convention on the Rights of Persons with Disabilities, as quoted in paragraph 49 above, the provision of reasonable accommodation should be understood as part of the legal responsibility of States, including as regards the guarantee of freedom of religion or belief. This also follows from article 4, paragraph 1, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which proclaims: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life". Denying a person accommodation in situations where such measures would not amount to a disproportionate or undue burden could accordingly qualify as discrimination, depending on the circumstances of the particular case. Moreover, individuals should have the option of resorting to legal remedies in order to challenge any denial of accommodating measures that could be reasonably enacted. The serious implications of indirect discrimination on the full enjoyment of freedom of religion or belief for all certainly call for a legal course, without which reasonable accommodation would remain a mere act of mercy.

The Special Rapporteur's report to the Human Rights Council in 2015

<https://undocs.org/A/HRC/31/18>

28. Concerning the concept of morals as one of the grounds for limitation, the Human Rights Committee calls for a cautious approach. In its general comment No. 22, it notes that "the concept of morals derives from many social, philosophical and religious traditions; 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" (para. 8). In reiterating this clarification in its general comment No. 34, it adds that "any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination" (para. 32). This is in line with the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, which require States to demonstrate that a limitation on grounds of public morals is essential to the maintenance of respect for the fundamental values of the community, "since public morality varies over time and from one culture to another" (See E/CN.4/1985/4, annex, para. 27.)

The Special Rapporteur's report to the General Assembly in 2016

<https://undocs.org/A/71/269>

17. The Special Rapporteur therefore would like to reiterate that the relationship between a human right to freedom and its limitations must remain a relationship between rule and exception. No one has to justify the exercise of his or her freedom of religion or belief, which, qua its nature as a universal human right, must be respected as inherent in all human beings. The burden of justification rather falls on those who deem limitations necessary. For limitations to be justifiable, they must meet all of the criteria set out in article 18 (3) of the International Covenant on Civil and Political Rights and other relevant norms of international human rights law. Accordingly, limitations must be prescribed by law and they must be necessary to pursue a legitimate aim: the protection of "public safety, order, health, or morals or the fundamental rights and freedoms of others". In addition, restrictions on manifestations of religion or belief (in the forum externum) must remain within the realm of proportionality, which means, inter alia, that they must be the least restrictive among all the adequate measures that could be applied. The internal dimension of freedom of thought, conscience, religion or belief (forum internum) even enjoys unconditional protection pursuant to article 18 (2) of the International Covenant on Civil and Political Rights, in which it is stated that: "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice".

The Special Rapporteur's to the General Assembly in 2018

<https://undocs.org/A/73/362>

8. [...] It should be noted that “national security” is not a permissible ground for restricting manifestations of religion or belief under article 18, paragraph 3, of the International Covenant on Civil and Political Rights. However, restrictions on a number of rights that are related to the enjoyment of the right to freedom of religion or belief, such as freedom of expression or association, are permissible to ensure national security if the further conditions of the related limitation clauses are also met. Regardless, the right to freely manifest religion or belief can only be limited if the following five conditions are strictly met: (a) the measure in question is prescribed by law (i.e., it is accessible, foreseeable and drafted with sufficient precision to enable a rational person to regulate his or her conduct); (b) it is necessary for the purposes of protecting public safety, order, health or morals, or the fundamental rights and freedoms of others; (c) it conforms to the principle of proportionality; (d) it is applied in a way that does not vitiate the rights guaranteed under freedom of religion or belief; and (e) it is not discriminatory in purpose or effect. [...]

45. While national security is not, as already noted, included in article 18, paragraph 3, of the International Covenant on Civil and Political Rights as a legitimate ground for limiting the manifestation of religion or belief, public safety is, and given the broad scope of activities that could be perceived to act as a threat to public safety, “there is a risk that States will cite them to justify restrictions on [freedom of religion or belief] imposed for reasons tantamount to national security interests, by arguing that a [religious or belief] group is engaged in political activities that endanger public safety and order”.

46. Moreover, specific limitations based on national security concerns are permissible in relation to freedom of expression, subject to their compliance with the limitations regime stipulated by international human rights law. Such restrictions have also been used to indirectly restrict freedom of religion or belief, trying to circumvent the safeguards that exist to protect it. For instance, the criminalization of vaguely defined types of speech such as “hate speech” risks the arbitrary application of such laws to issues related to religion or belief. The consequences of arbitrarily criminalizing some forms of speech with a religious element as “hate speech” can result in severe consequences, even potentially leading to imprisonment for non-violent acts. Application of the law in this way, therefore, results in an indirect discrimination against one’s right to freedom of religion or belief. This includes laws criminalizing apostasy and blasphemy, which may not only constitute restrictions to freedom of religion or belief, but also infringe on the right to freedom of expression.

V. CROSS-CUTTING ISSUES

3. Legislative issues

International Covenant on Civil and Political Rights (1976)

Art. 2 (2): Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

International Covenant on Economic, Social and Cultural Rights (1976)

Art. 2 (1): Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Convention on the Elimination of All Forms of Discrimination against Women (1981)

Art. 3: States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Art. 4 (2): All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination.

Art. 7: The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

Human Rights Council resolution 6/37 (2007)

Para. 9 (a): Urges States to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated.

General Assembly resolution 77/221 (2022)

Para. 13: Expresses deep concern at continued obstacles to the enjoyment of the right to freedom of religion or belief, as well as the increasing number of instances of intolerance, discrimination and violence based on religion or belief, including: [...] (f) Constitutional and legislative systems that fail to provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all without distinction.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's study for the World Conference Against Racism, racial discrimination, xenophobia and related intolerance, Prep Conference in 2000

<https://undocs.org/A/CONF.189/PC.1/7>

Improvement of legal protection, in particular under criminal legislation

140. With regard to States' attitude to legislation in this area, a number of the general recommendations formulated at the United Nations Seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief (Geneva, 3-14 December 1984) (ST/HR/SER.A/16, para. 102) are still of relevance today. They need, however, to be adapted very specifically to the potential discrimination situations with which this study is

concerned. For example, high priority should be given to action to implement international standards on the protection of freedom of religion or belief and against racial discrimination. Each State should provide, if necessary and in accordance with its constitutional system, constitutional and judicial guarantees to ensure that freedom of religion or belief and membership of a minority or an ethnic and religious group are protected in a concrete manner by explicit provisions. It would be highly desirable for some States to enact general legislation based on international standards (see, for example, E/CN.4/1999/58/Add.1, para. 72).

141. States must make efforts to enact legislation or to modify existing legislation, as appropriate, in order to prohibit all discrimination based on identification of individuals with multiple groups. Most importantly, positive criminal legislation should be enacted, not only imposing severe penalties on single forms of discrimination, but above all defining a new offence of concomitant racial and religious discrimination, which should carry a specific penalty, and naturally one that is heavier than that imposed for single forms of discrimination, whether religious or racial. [See, for example, article 20, paragraph 2 of the Covenant, which provides that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law". Note that this refers to measures that should be adopted by States in their domestic legislation. See likewise article 7 of the 1965 Convention on the Elimination of All Forms of Racial Discrimination.] United Nations bodies (General Assembly, Commission on Human Rights, etc.) could prepare model legislation for the guidance of States in enacting domestic legislation, as has already been done in the area of racial discrimination. [Model legislation was prepared in response to the call by the General Assembly in its resolution 40/22 of 29 November 1985.] A similar initiative in the area of aggravated discrimination is strongly recommended.]

142. These guarantees must be followed by the establishment of effective remedies for the victims of acts of aggravated discrimination. The effectiveness of remedies depends on a number of criteria that are very well known. [The independence of the body to which the victim appeals, the accessibility of the authority and the flexibility of the procedure, the extent to which the authority enjoys the confidence of the public and of the complainant, the competence and power of the body to restore the right, the appeal to a higher body if the complainant is not satisfied, the rapidity of the procedure and the results of the complaint. See Expert Seminar on remedies available to the victims of acts of racism, racial discrimination, xenophobia and related intolerance and on good national practices in this field (Geneva, 16-18 February 2000) (background paper prepared by the secretariat, HR/GVA/WCR/SEM.1/2000/2).]

Establishment of an independent authority to ensure equal opportunity and to monitor racial and religious discrimination

143. States should consider establishing, as several countries have already done (Australia, Belgium, India, Norway, United States), an independent authority to monitor racial and religious discrimination and, more particularly, aggravated discrimination, and to make proposals for legislative, economic and social reforms. This authority should have genuine autonomy, i.e. its members should be independent of Government, and it must be given guarantees of security and inviolability. Its task would be, inter alia, to receive and consider complaints relevant to its work. It may also initiate and pursue inquiries on its own motion, entrusting them to one of its members or independent specialists. Lastly, it would be responsible for conciliation or mediation, in cooperation with domestic judicial bodies, among the parties belonging to different ethnic and/or religious groups, and for dealing with disputes arising from acts of religious and racial intolerance.

The Special Rapporteur's report to the General Assembly in 2010

<https://undocs.org/A/65/207>

6. At the outset, the Special Rapporteur would like to emphasize that constitutions and domestic legislation must guarantee freedom of religion or belief and non-discrimination. In this context, she notes with regret that in recent years some States have adopted provisions that are openly discriminatory against religious minorities.

7. The new Constitution adopted in one State in 2008, for example, includes a clause which limits citizenship only to those who adhere to the State religion. [See A/HRC/10/8/Add.1, paras. 146-148, and the Special Rapporteur's report on her mission to Maldives (A/HRC/4/21/Add.3).] The Special Rapporteur is deeply concerned that the implementation of this constitutional clause could have a significant negative impact on human rights in the country, including for converts, who risk losing their citizenship and becoming stateless. Measures that discriminate on the basis of religion or belief, or lead to de facto discrimination on such grounds, violate human rights standards. Consequently, it is contrary to the principle of non-discrimination to restrict citizenship to people with certain religious beliefs.

8. In another State, subsequent to a referendum in 2009, the construction of minarets was banned and the national Constitution was amended accordingly. In a press statement, the Special Rapporteur voiced her deep concerns at the

negative consequences of the vote's outcome and she urged the State's authorities to abide by all its international obligations...The Special Rapporteur indicated that a ban on minarets amounted to an undue restriction of the freedom to manifest one's religion and constituted clear discrimination against members of the Muslim community. She would also like to highlight the need to continue raising awareness and educating people about religious diversity, thus eliminating the grounds for fears which are prone to be exploited for political purposes.

9. In addition, the Special Rapporteur is concerned that some domestic laws oblige those who wish to take up posts in the public service or become part of the judiciary to take an oath declaring their allegiance to a certain religion. [See A/63/161, para. 38.] Moreover, several constitutional provisions require the president, the prime minister or members of parliament to be affiliated with a certain religion and to publicly take an oath to that effect. The Special Rapporteur would like to reiterate that restricting public posts to members of certain religions or particular religious denominations may constitute de facto discrimination. Furthermore, States should in their personal status laws provide the possibility to have an interreligious marriage for individuals who have different religious affiliations or no religion at all.

10. In addition to non-discriminatory provisions in constitutions and other domestic laws, it is vital to put in place effective remedies for cases of human rights violations. The Special Rapporteur has sent numerous communications to Governments on individual cases in which freedom of religion or belief, including the right to change one's religion, was allegedly violated. In one case, for example, a convert to Christianity approached the national registration department, requesting that the religious status be changed on her identity card. However, the administration rejected her application and national courts held that the religious sharia court had complete jurisdiction on conversion to Islam and, by necessary implication, would have jurisdiction on apostasy and conversion out of Islam...The Special Rapporteur would like to reiterate that the 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. Article 18 of the International Covenant on Civil and Political Rights protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.

Special Rapporteurs' public statement of 7 December 2022

<https://www.ohchr.org/en/press-releases/2022/12/comprehensive-anti-discrimination-legislation-must-be-priority-say-un>

The Universal Declaration of Human Rights, the 'common standard of achievement for all peoples and all nations' begins with the proclamation that 'all human beings are born free and equal in dignity and rights'.

The Declaration recognises that all people are equal before the law and entitled without discrimination to equal protection of the law and provides that all human rights must be afforded to everyone without discrimination. The 2030 Agenda and Declaration for Sustainable Development, with its pledge that 'no one will be left behind', places equality at the heart of the global effort to eradicate poverty, secure human rights and protect the planet.

These declarations, published 65 years apart, demonstrate States' recognition that efforts to create just, inclusive and peaceful societies, to eliminate poverty and to ensure enjoyment of human rights for all, necessitate to focus on addressing inequality.

Yet in 2022, despite these repeated commitments, many United Nations member states lack effective and genuinely comprehensive legal frameworks for the prevention of discrimination and promotion of equality.

Comprehensive anti-discrimination laws translate international legal commitments to equality into actionable and enforceable rights under national law. In the absence of such frameworks, discrimination is likely to persist on myriad grounds and in all areas of life.

A wide range of grounds have been recognised under international law, including age; birth; civil, family or carer status; colour; descent, including caste; disability; economic status; ethnicity; gender and gender expression; gender identity; genetic or other predisposition towards illness; health status; indigenous origin; language; marital status; maternity or paternity status; migrant status; minority status; national origin; nationality; place of residence; political or other opinions; pregnancy; property; race; refugee or asylum status; religion or belief; sex; sex characteristics; sexual orientation; social origin; social situation; status as a victim of slavery or human trafficking; work or occupation, or any other status.

In a general context of the escalating global backlash against human rights and equality norms, as independent human rights experts mandated to work on diverse and wide-ranging themes, every area of our work is touched by questions of equality and non-discrimination. The ban on discrimination is a red line running through every part of the international human rights legal order. Cases and scenarios involving questions of inequality are the substance of our daily work.

One year remains before the 75th anniversary of the adoption of the Universal Declaration of Human Rights. We call on all United Nations Member States to take this opportunity to renew and reinforce their commitment to a society in which all are free and equal in rights and in which no one is left behind, including those affected by intersecting or multiple forms of discrimination. In this perspective, we invite all Member States that have not yet done so to ratify international human rights treaties and recognise their procedures and translate them into national laws and policies.

In calling on all United Nations Member States to adopt comprehensive anti-discrimination legislation, we direct them to new guidance issued by the Office of the High Commissioner for Human Rights: *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation*.

This guide provides clear and complete guidance for States on the laws which are required to meet their obligations to respect, protect and fulfil the rights to equality and non-discrimination and to deliver their ambitions to leave no one behind. It summarises international legal standards and provides accessible guidance on the necessary scope and content of these laws.

We urge States to use the Guide and relevant human rights standards as practical tools for the development and reform of their legal frameworks on equality and non-discrimination. With one year remaining before the 75th anniversary of the Universal Declaration:

- We call on all States which have yet to develop comprehensive anti-discrimination laws to make this a priority for the coming year.
- We urge States now developing, drafting or consulting on comprehensive anti-discrimination laws to accelerate the process; and
- We ask States which have enacted laws aiming to provide comprehensive protection to review these in order to ensure that they are effective and consistent with international law, and to ensure effective implementation and adequate remedies.

The *Practical Guide* provides an essential roadmap, detailing the necessary elements of anti-discrimination legislation which is comprehensive, effective and consistent with the requirements of international human rights law. We urge States to take the publication of this guidance as a catalyst to action.

V. CROSS-CUTTING ISSUES

4. Defenders of freedom of religion or belief and non-governmental organizations

Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (1998)

Art. 1: Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Art. 16: Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Human Rights Council resolution 6/37 (2006)

Para. 15: Recommends that the United Nations and other actors, including non-governmental organizations and bodies and groups based on religion or belief, in their efforts to promote freedom of religion or belief, ensure the widest possible dissemination of the text of the Declaration, in as many different languages as possible, and promote its implementation.

Beirut Declaration on "Faith for Rights" (2017)

Para. 8: Religious actors should be enabled, both nationally and internationally, to assume their responsibilities in defending our shared humanity against incitement to hatred, those who benefit from destabilising societies and the manipulators of fear to the detriment of equal and inalienable human dignity. With the present Faith for Rights Declaration, we aim to join hands and hearts in building on previous attempts to bring closer faith and rights by articulating the common grounds between all of us and define ways in which faith can stand for rights more effectively so that both enhance each other.

General Assembly resolution 76/174 (2021)

Para. 6: Condemns all acts of intimidation and reprisal, both online and offline, by State and non-State actors against individuals, groups and organs of society, including against human rights defenders and their legal representatives, associates and family members, who seek to cooperate, are cooperating or have cooperated with subregional, regional and international bodies, including the United Nations, its representatives and mechanisms, in the field of human rights, and strongly calls upon all States to give effect to the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, including the United Nations, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms.

General Assembly resolution 77/221 (2022)

Para. 17: Welcomes and encourages the continuing efforts of all actors in society, including national human rights institutions, non-governmental organizations and bodies and groups based on religion or belief to promote the implementation of the Declaration on the Elimination of All Forms of Discrimination Based on Religion or Belief, and further encourages their work in promoting freedom of religion or belief, in highlighting cases of religious intolerance, discrimination and persecution and in promoting religious tolerance.

Excerpts of relevant paragraphs of 36 years mandate reporting practice (1986-2022)

The Special Rapporteur's report to the Human Rights Commission in 1993

<https://undocs.org/E/CN.4/1993/62>

73. The Special Rapporteur was also very pleased and grateful to note the continued cooperation extended to him by non-governmental organizations during the period under review. The detailed information they have provided has

been of considerable assistance to him in carrying out his mandate. The information gathered by the Special Rapporteur attests to the continued interest on the part of the international community in problems of religious intolerance and discrimination and the genuine efforts of many Governments to restrict them. As the Special Rapporteur pointed out in his report to the Commission on Human Rights at its forty-seventh session, "My role is not to make accusations or value judgements, but to help arrive at a better understanding of the circumstances surrounding (religious) intolerance and discrimination ... to mobilize international public opinion and to establish a dialogue with the Governments and all other parties concerned."

The Special Rapporteur's report to the General Assembly in 2001

<https://undocs.org/A/56/253>

151. The Special Rapporteur wishes to emphasize the essential role of nongovernmental organizations, which have continued their efforts, devoted initially to the elaboration and adoption of the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief, to promote observance of that Declaration, making an invaluable contribution to the fulfilment of the mandate relating to freedom of religion and belief.

152. The General Assembly and the Commission on Human Rights have applauded this contribution in their respective resolutions (55/97 and 2001/42), and have welcomed and encouraged the continuing efforts of non-governmental organizations and religious bodies and groups to promote the implementation of the Declaration, to foster freedom of religion and belief and to highlight cases of religious intolerance, discrimination and persecution.

153. Those non-governmental organizations, some of which represent a religion or a belief, while others have a general mandate relating to human rights or a specific mandate relating to freedom of religion or belief, play a dynamic role both as regards day-to-day information management and as regards the preparation and realization of in situ visits and the progress made in the fulfilment of the mandate.

154. Their collaboration is both institutional, through the Committee on Non-Governmental Organizations at the United Nations in New York and Geneva, with regard specifically to the mandate relating to freedom of religion or belief, and informal, through ad hoc consultations.

155. The non-governmental organizations are also especially active in providing support for bolstering the human and financial resources allocated to the mandate. In August 1998, for example, the Oslo Conference on Freedom of Religion or Belief was organized on the initiative of non-governmental organizations for the specific purpose of supporting the cause of freedom of religion or belief.

156. They are thus serious partners in furthering the realization of the mandate; their enriching contribution must be emphasized and welcomed.

The Special Rapporteur's report on her visit to Nigeria in 2005

<https://undocs.org/E/CN.4/2006/5/Add.2>

7. The Special Rapporteur is particularly grateful for the very positive attitude that representatives of religious groups and non-governmental organizations (NGOs) demonstrated during the visit. In this regard, she was impressed by the level of analysis and research that is carried out by NGOs on human rights issues and, in particular, on those related to her mandate. She considers that the high quality and dynamism of Nigerian NGOs constitute an indisputable advantage, including for the Government, in the realization of the measures that will be needed to bring the country's religious communities to an acceptable level of harmony. Moreover, while she acknowledges that the analyses carried out by NGOs will help in addressing the root causes of religious tensions, she would encourage the civil society to provide the United Nations and other human rights mechanisms with more factual information on cases and situations of human rights violations.

The Special Rapporteur's report to the Human Rights Council in 2007

<https://undocs.org/A/HRC/6/5>

47. Members of non-governmental organizations (NGOs) and groups based on religion or belief play an essential and dynamic role in promoting freedom of religion or belief. The Special Rapporteur is particularly grateful for the information she receives from NGOs as well as for their input during country visits, highlighting cases of religious intolerance, discrimination and persecution. The Special Rapporteur's model questionnaire, which is available online, is designed to facilitate and tailor to the mandate the submission of information with regard to potential or actual violations of the right to freedom of religion or belief. Furthermore, NGOs may also help in ensuring an effective follow-up to the Special Rapporteur's observations in her communications reports and to the mandate holder's recommendations in country reports.

48. The terms of reference for fact-finding missions by Special Rapporteurs (see E/CN.4/1998/45, appendix V) provide, inter alia, for “assurance by the Government that no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings”. However, there have been cases of reprisals against persons cooperating with representatives of United Nations human rights bodies, including the Special Rapporteur on freedom of religion or belief. Since 1993, these cases as well as incidents where private individuals have been hampered in their efforts to avail themselves of United Nations human rights procedures have been documented in reports of the Secretary-General. [See the reports of the Secretary-General. It is imperative that Governments abide by their assurances and the Special Rapporteur will remain vigilant in order to protect individuals who try to cooperate with her mandate. Furthermore, she hopes that all incidents of intimidation or reprisals against human rights defenders will be scrutinized persistently by the judiciary, the media and civil society.

The Special Rapporteur's report on his mission to Viet Nam in 2014

<https://undocs.org/A/HRC/28/66/Add.2>

3. However, the Special Rapporteur is disappointed that the planned visits to An Giang, Gia Lai and Kon Tum provinces could not be completed from 28 to 30 July owing to various interruptions that undermined the terms of reference of a country visit, while the privacy and confidentiality of some meetings and sources of information had been seriously compromised. He experienced first-hand and received credible information that some individuals with whom he wanted to meet had been heavily surveilled, warned, intimidated, harassed or prevented from travelling by the police. Even those who successfully met with him were not free from different degrees of police surveillance or questioning.

4. Moreover, undeclared “security or police agents” closely monitored the whereabouts of the Special Rapporteur and his interlocutors. All such incidents were in clear violation of the terms of reference of country visits that had been agreed upon by the Government prior to the visit. The Special Rapporteur is deeply concerned and outraged by incidents of reprisals, including intimidation, harassment by way of police interrogations and even physical injuries of some of his interlocutors during and after his visit. The Special Rapporteur brought the instances to the attention of the Government, raised his concerns and sought clarifications and intervention to stop them. In one of the final meetings with the Government, the Vice Minister for Foreign Affairs reiterated the importance of the visit and indicated that the incidents of interruptions would be looked into and verified with the local authorities. [...]

83. Against this background, the Special Rapporteur would like to make the following recommendations to the Government of Viet Nam: [...] (s) The Special Rapporteur would like to reiterate his request that the Government reconfirm its guarantee that none of the persons with whom he met or intended to meet will be subject to any form of reprisals;

84. The Special Rapporteur would like to add some recommendations addressed to the international community: [...] (c) The Human Rights Council should act on allegations of intimidation and reprisals taken against persons who have cooperated with mandate holders during their visit; [...]

The Special Rapporteur's report to the Human Rights Council in 2019

<https://undocs.org/A/HRC/40/58>

21. The “Faith for Rights” framework, launched in March 2017 under the auspices of OHCHR with the engagement of faith actors and international human rights experts, draws from insights gleaned under the Rabat Plan of Action into the positive role that faith actors can play in responding to incitement to violence. The aim of the Faith for Rights framework is to mobilize faith-based resources to promote the human rights framework, in particular by recognizing the interdependence of the freedom of expression and the freedom of religion or belief. The Beirut Declaration on Faith for Rights and its 18 commitments promote the resolve not to oppress critical voices and views on matters of religion or belief, however wrong or offensive they may be perceived, in the name of the “sanctity” of the subject matter (see annexes I and II). Echoing the Rabat Plan of Action, the 18 commitments also contain a call upon States that still have anti-blasphemy or anti-apostasy laws in force to repeal them, stressing that such laws stifle the freedom of thought, conscience, and religion or belief, as well as a healthy dialogue and debate about religious issues.

22. In recognition of the importance of long-term measures, the 18 commitments include a further undertaking to refine the curriculums, teaching materials and textbooks wherever some religious interpretations, or the way they are presented, may give rise to the perception of condoning violence or discrimination. The 18 commitments also include a pledge to defend academic freedom and the freedom of expression in accordance with international human rights law, in particular for academics who study religion, which promotes the notion that religious belief can be subjected to new challenges and can be a source for facilitating free and creative thinking.

المقرر الخاص المعني بحرية الدين أو المعتقد

宗教或信仰自由特别报告员

Relator Especial sobre la libertad de religión o de creencias

Special Rapporteur on freedom of religion or belief

Rapporteur spécial sur la liberté de religion ou de conviction

Специальный докладчик по вопросу о свободе религии или убеждений



This Digest compiles excerpts from thematic and country-specific reports issued between 1986 and 2022 by the United Nations Special Rapporteur on freedom of religion or belief.

The Rapporteur's Digest is arranged according to the five main topics of the mandate's framework for communications:

1. Freedom of thought, conscience, religion or belief;
2. Equality and non-discrimination;
3. Groups likely to find themselves in vulnerable situations;
4. Intersection of freedom of religion or belief with other human rights; and
5. Cross-cutting issues.



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