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## I. FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

### 1. FREEDOM TO ADOPT, CHANGE OR RENOUNCE A RELIGION OR BELIEF

#### 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.

### 2. FREEDOM OF THOUGHT

#### 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.

### 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.

### 4. THE RIGHT TO MANIFEST ONE’S 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 [...] 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**

**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 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.

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

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 [...].

**Human Rights Council resolution 6/37 (2007)**

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.

**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 worship, assemble or teach in connection with a 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.

**C) RELIGIOUS SYMBOLS**

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

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.

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

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 [...].

**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 [...] symbols are fully respected and protected [...].

**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.

**E) APPOINTING LEADERS AS APPROPRIATE TO THE RELIGION OR BELIEF**

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

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.

**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, such as the freedom to choose their religious leaders, priests and teachers.

**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.

**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.

**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.

**I) COMMUNICATE WITH INDIVIDUALS AND COMMUNITIES ON RELIGIOUS MATTERS AT THE NATIONAL AND INTERNATIONAL LEVEL**

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

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.

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

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.

## **J) ESTABLISH AND MAINTAIN CHARITABLE AND HUMANITARIAN INSTITUTIONS/ SOLICIT AND RECEIVE FUNDING**

### **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: (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.

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

Art. 2 (4): Persons belonging to minorities have the right to establish and maintain their own associations.

### **Human Rights Council resolution 6/37 (2007)**

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.

### **General Assembly resolution 77/221 (2022)**

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.

## **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.

## 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.

## **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.

### 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.

## **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.

### 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.

### 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.

## 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 own;
- (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.

### 18 Commitments on "Faith for Rights" (2017)

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.

## 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.

## 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.

## **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).

## 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).]

## **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.



### **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.

## 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.

### 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.

### 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.

#### **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.

## 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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