INTERRELIGIOUS RELATIONS

Freedom of Religion or Belief in International Relations: Basic Principles, Nagging Debates

Issue 18: JULY 2020

KATHERINE MARSHALL





INTERRELIGIOUS RELATIONS

Occasional Papers of The Studies in Inter-Religious Relations in Plural Societies Programme

Freedom of Religion or Belief in International Relations: Basic Principles, Nagging Debates

Katherine Marshall

ISSN: 2661345X

Editors:

Professor Abdullah Saeed, *University of Melbourne*, *Australia, and Advisor to the SRP Programme*, *RSIS, Nanyang Technological University, Singapore*

Dr Paul Hedges, SRP Programme, RSIS, Nanyang Technological University, Singapore

Editorial Assistants:

Nursheila Muez, SRP Programme, RSIS, Nanyang Technological University, Singapore Luca Farrow, SRP Programme, RSIS, Nanyang Technological University, Singapore

Advisory Board:

Ambassador Mohammad Alami Musa, *SRP Programme, RSIS, Nanyang Technological University, Singapore* Ambassador Barry Desker, *RSIS, Nanyang Technological University, Singapore*

Rt Rev Dr John Chew, Emeritus, Trinity Theological College, Singapore

Professor Lily Kong, Singapore Management University, Singapore

Professor Joseph Chinyong Liow, College of Humanities, Arts and Social Sciences (COHASS), and RSIS, Nanyang Technological University, Singapore

Professor Julius Lipner, Emeritus, University of Cambridge, UK

Editorial Board:

Dr Mohamed Ali, SRP Programme, RSIS, Nanyang Technological University, Singapore Professor Scott Appleby, Keough School of Global Affairs, University of Notre Dame, USA Professor Azyumardi Azra, Syarif Hidayatullah State Islamic University Jakarta, Indonesia

Dr Lang Chen, Hong Kong Polytechnic University, Hong Kong

Professor Catherine Cornille, Boston College, USA

Professor Gavin D'Costa, Bristol University, UK

Professor Farid Esack, University of Johannesburg, South Africa

Dr Julianne Funk, University of Zurich, Switzerland

Dr Marion Grau, Norwegian School of Theology, Norway

Dr Anne Hege Grung, University of Oslo, Norway

Dr Anna Halafoff, Deakin University, Australia

Professor Elizabeth Harris, University of Birmingham, UK

Dr Heidi Hadsell, Hartford Seminary, USA

Professor Jeanine Hill Fletcher, Fordham University, USA

Professor Manuela Kalsky, Vrije Universiteit, Amsterdam, Netherlands

Professor Paul Knitter, Emeritus, Union Theological Seminary, Columbia University, USA

Professor Lai Pan-Chiu, Chinese University of Hong Kong, Hong Kong

Professor Marianne Moyaert, Vrije Universiteit, Amsterdam, Netherlands

Professor Ebrahim Moosa, Kroc Institute, Notre Dame University, USA

Professor Vali Nasr, Johns Hopkins University, USA

Dr Nazirudin Mohd Nasir, Islamic Religious Council of Singapore (MUIS), Singapore

Dr Jennifer Howe Peace, USA

Professor Michelle Voss Roberts, University of Toronto, Canada

Dr Dicky Sofjan, Universitas Gadjah Mada, Yogyakarta, Indonesia

Abstract

Freedom of religion or belief (FoRB) is an increasingly prominent focus in international relations practice and study, and an ideal for inclusive and peaceful societies. However, the consensus as to reasons for violations and the significance of different forms of violations is weak. Both judgments and policies promoting FoRB can be divisive, with notable concerns about interference in domestic affairs and possible bias in application. Promoting FoRB is nonetheless a leading priority for some governments and communities, who view it as essential to understanding issues of peace, justice, and citizenship. Hot issues centre on the right of the individual to change religious affiliation, understanding limits of blasphemy and appropriate response, the definition of and approach to religious minorities, and gender rights. These in turn highlight the right to proselytise, and religious dimensions of family law. In several long-standing conflicts where religious identity is prominent, the rights, treatment, and aspirations of religious minorities are central issues. This has encouraged more active participation by religious actors and notably interreligious organisations in peacebuilding processes. The topic of FoRB overlaps with current approaches to engaging with religious communities in policy matters (including in the COVID-19 emergency), which in turn highlights limited religious literacy of many who occupy policy positions.

Introduction¹

The right to freedom of religion or belief (FoRB) has recently come into sharper focus in foreign policy agendas. Well-accepted as an integral part of human rights since the 1948 adoption of the Universal Declaration of Human Rights (UDHR)² by the United Nations General Assembly, FoRB as a distinct right has something of a life of its own, and significant controversies are associated with it. Promoting religious freedom has been an explicit aim of the United States' foreign policy since 1998, taking on new dimensions under the administration of Donald Trump. FoRB is also a focus in the United Kingdom's foreign policy. Meanwhile, several governments have established offices or ambassadors with missions dedicated to promoting FoRB, as well as a transnational Religious Freedom contact group³ which aims to link and coordinate religious policy among different countries. These appointments, the establishment of offices directly focused on FoRB in various multilateral organisations, academic reviews, and civil society and business activism reflect contemporary concerns in international affairs. While FoRB has not been emphasised in international development and humanitarian organisations, rising interreligious tensions that affect peacebuilding, especially involving religious minorities who are threatened, and political interests, are changing that picture.⁴

Why, then, are these shifts occurring, and why does the topic spark polarising debates? Different and intertwined factors are involved. Among them are links between religious identities and citizenship rights, understandings of the scope of pluralism and inclusion in modern societies, the rights of religious minorities, patterns of migration and rights of migrants, freedom of expression in an environment where blasphemy and hate speech are live concerns, individual versus collective perspectives, and gender roles and parity.

Human rights may be universally accepted in some settings, but quite significant fissures lie not far beneath the surface. These have several distinctive historic roots. The post-World War II negotiations and UN General Assembly debates leading to the adoption of the UDHR brought many varying perspectives to the surface, some pointing to lasting areas of tension. Saudi Arabia abstained from voting on the UDHR in 1948 with comments that focused on provisions that, in their view, conflicted with the nation's Islamic identity.⁵ During debates leading to the UDHR, rights to religious education were seen differently by several participants and the issue remains a live one to this day. During the Cold War, the topic of FoRB was embroiled in broader debates around human rights that often turned on the distinctions between economic and social versus civil and political rights. Then, and in relation to China and some other countries today, critiques of the treatment of religious communities (that includes minorities, religion overall, or non-believers) are commonly viewed as undue interference in domestic matters. Another continuing current in approaches to human rights centers on the relative importance accorded to rights (which some read as entitlement) versus responsibilities. Over the decades, the situation of specific persecuted groups (Jews in Russia, for example) has been a focus of attention

¹ The author appreciates the helpful comments of W. Cole Durham (BYU Law School), Marie Juul Petersen (Danish Human Rights Institute), and two anonymous reviewers.

² United Nations, *The Universal Declaration of Human Rights (UDHR)*, available at: https://www.un.org/en/universal-declaration-human-rights/.

The International Contact Group on Freedom of Religion or Belief was established by Canada in June 2015 "to encourage and deepen coordination between countries committed to advancing religious freedom for all." It is co-chaired by Canada and the United States. Participants promote freedom of religion or belief by: (i) initiating early warnings of a looming crisis; (ii) coordinating joint advocacy and programming activities; (iii) fostering exchanges of best practices; and creating *Friends of Freedom of Religion or Belief* groups in countries of engagement. Representatives of civil society and relevant subject-matter experts are regularly invited to present findings. See Government of Canada, *The International Contact Group on Freedom of Religion or Belief*, available at: https://www.international.gc.ca/world-monde/issues_development-enjeux_development/human_rights-droits_homme/freedom-religion-liberte-group_groupe.aspx?lang=eng.

⁴ In the United States, a Presidential Executive Order on International Religious Freedom focused explicitly on USAID: "the Secretary of State (Secretary) shall, in consultation with the Administrator of the United States Agency for International Development (USAID), develop a plan to prioritize international religious freedom in the planning and implementation of United States foreign policy and in the foreign assistance programs of the Department of State and USAID." Donald J. Trump, "Executive Order on Advancing International Religious Freedom," (2 June 2020), available at: https://www.whitehouse.gov/presidential-actions/executive-order-advancing-international-religious-freedom/.

⁵ While the claim of universality is often cited, several countries abstained from the initial signature process. Saudi Arabia's stated reservations to the Universal Declaration were that its call for freedom of religion violated the precepts of Islam, and that the human rights guaranteed by the Islamic-based law of Saudi Arabia surpassed those secured by the Universal Declaration. See Human Rights Watch, *Saudi Arabia Human Rights Development*, available at: https://www.hrw.org/reports/1992/WR92/MEW2-02.htm#P421 152266.

and advocacy, beneath the shadow of Holocaust memories. The activities of specific cults and some religious practices have driven attention to religious freedom issues, notably the right and responsibility of governments to intervene, at different times. The association of violence and terrorism with extremist religious groups certainly concentrated attention, with changing agendas and marked increases in attention after September 11, 2001 and other parallel violent incidents. Social disruptions linked to forced migration, and migration for economic reasons, have catapulted religious identities and practices onto different agendas, and permeated aspects of political framing of debates and contests for power.

Notwithstanding tensions and debates, FoRB is as important today as it was when John Stuart Mill argued for religious liberty in the nineteenth century. Freedom of belief, conscience, and worship are fundamental aspects of human rights, with many links to, for example, freedom to assemble, freedom of speech, and the right to dissent. It is an essential feature of democratic societies and the principles of governance. The gulfs that have often separated human rights and FoRB advocates thus need to be bridged. Religious communities and understandings of what religion involves are remarkably diverse, meaning that contexts vary widely and must be taken into account in considering both restrictions on FoRB by government authorities and societal patterns of discrimination. Social, economic, and political inclusion of diverse elements is understood as a vital need in modern and increasingly plural societies; exclusion or persecution of communities threatens peace and social cohesion. This highlights the importance of addressing how FoRB is understood as part of national identities and civic values, its benefits for society, political implications, and areas of tension that manifest themselves in discrimination and conflict. Assuring societal respect for religious practice as well as religious difference (including the right to eschew religious beliefs and practices) are vital to just, equitable, and harmonious societies.

This paper sets out to explore why FoRB is emerging as a specific focus, and the parameters of contested approaches and views, notably within a broad framework of human rights. It balances the negative aspects that are a concern, notably violations of FoRB and early warnings for conflict and genocide, against the positive aspirations involved, above all the merits and strengths of plural societies and of religious freedom. This paper provides background on both the framework of FoRB and on differing perspectives, as they link to diplomatic efforts to promote FoRB and to engage religious actors. The overall approach is at a global, international level, with some specific examples drawn from experience in the Southeast Asia and Asia Pacific regions. The paper explores several topics in considering FoRB, that, from an operational perspective, involve diplomacy, development, and peacebuilding: (a) how the human right to freedom of religion or belief (including its links to human rights more broadly) is understood and specific areas of debate and tension; (b) implications of efforts to enhance religious literacy in specific institutions as well as in societies more broadly; and (c) links to religious dimensions of conflicts that include therefore evolving understandings about, and practices of religious peacebuilding.

The COVID-19 emergency

The COVID-19 emergency has added further dimensions to ongoing debates, shining a spotlight especially on appropriate and legitimate (as opposed to inappropriate and illegitimate) government regulation of religious bodies and practice. This appears to be colouring government-religion interactions in some settings.⁷ The rights of governments to order closure of religious celebrations is tested in courts, for example, in South Africa and in the United States. In Sahelian countries of Africa, the interactions between governments and

⁶ The Network of Religious and Traditional Peacemakers and the World Faiths Development Dialogue (WFDD) prepared specific regional and country briefs as part of the EU-funded Southeast Asia Regional Project focused on FoRB and Peacebuilding. They are available at: https://www.peacemakersnetwork.org/research/.

⁷ For information on COVID-19 responses, see Georgetown University Berkley Center and Joint Learning Initiative repository on faith responses to COVID-19, available at: https://docs.google.com/document/d/1FLxwvN6ICTxWWYOwRiv9sBLgf7v0vstsSzV7_o_1-B8/edit and Katherine Marshall, "What Religion Can Offer in the Response to COVID-19," *World Politics Review* (26 May 2020), available at: https://www.worldpoliticsreview.com/articles/read/So41SRA4TtyxUflsV1Dyz6UHixRN5dz4TFHT7Js30SSoEqEIG1OmIrTwMpzS2cG1yN7Lc6Qw9w1Daok9E6u26f0suN4UeVaLq44HCZTO40QRgsXrzA52AbrUwEeEx-uH.

religious communities appear to have changed in a short period, in the direction both of more explicit engagement and a general tightening of proactive government directives.⁸

The COVID-19 emergency of 2020 highlights important aspects of FoRB debates. It has first shown the large reach and influence of some specific transnational religious movements, as early COVID-19 cases were linked to specific religious communities. This includes the Tablighi Jamat movement, whose meetings across South and Southeast Asia emerged as COVID-19 super-spreaders, and the role of outliers within several traditions that have not conformed either with public health norms set by governments or with majority trends within broader traditions. As the focus moved to spreading public health messages and enforcing public health guidelines, debates about how far and how distinctively government regulations apply to religious communities have emerged as an important focus.

The COVID-19 crisis has also made obvious that religious involvement has both strongly positive and strongly negative aspects. Who better to convey important messages in ways that communities can accept than trusted religious leaders? Yet in instances where those leaders mistrusted public health needs and opposed government bodies, or spread deliberately misleading information, serious damage resulted. The vital role of religious communities in direct and rapid mobilisation to help vulnerable communities brought home their often underappreciated capacity and commitment to food security and other forms of social protection. An unfortunate development during the emergency, however, has been tendencies to blame specific groups. These have in some instances been specific religious communities where prior unease or mistrust has flared into active discrimination and, in some instances, violence. Yet interreligious and religious leaders have also worked to promote the common good, underlining the importance of shared humanity. Sadly, there is little evidence as of writing that hopes for robust commitment to a global ceasefire (promoted by the United Nations Secretary General, among others) will be fulfilled, and many peacebuilding processes have suffered from COVID-19 linked restrictions on access and movement.

The FoRB journey and present status

There is an international consensus that FoRB is a central facet of human rights, and at least nominally most governments and popular opinion (where surveys are available) support the principle. However, the right is very often violated and there is significant evidence of worsening trends. The reasons for violation, however, are unclear. A 2019 Pew Research Center report indicated that the share of countries with "high" or "very high" levels of government restrictions on FoRB – that is, laws, policies, and actions by officials that restrict religious beliefs and practices – had risen from 20 percent in 2007 to 26 percent in 2017. Because some of the countries considered most restrictive have large populations (notably China), some 70 percent of the world's population were considered to live in countries with high restrictions on religion. The brunt of restrictions affects religious minorities, non-believers, and certain other vulnerable groups and individuals (for example, LGBTQ¹¹). The high estimates and observations that restrictions and violations are increasing in severity attracts attention. An example is President Trump's speech at the United Nations in September 2019 that highlighted the percentage: "Hard to believe, but 80 percent of the world's population lives in countries where religious liberty is in significant danger or even completely outlawed." While there are significant debates around the methodologies

⁸ See for example Timbuktu Institute, "Réponses des Acteurs religieux à la pandémie Covid-19 au Sahel," (5 June 2020), available at: https://timbuktu-institute.org/index.php/toutes-l-actualites/item/331-reponses-des-acteurs-religieux-a-la-pandemie-covid-19-au-sahel.

For a case study of the United States, see for example, Beckett Fund for Religious Liberty, *Religious Freedom Index:* American Perspectives on the First Amendment (November 2019) available at: https://s3.amazonaws.com/becketnewsite/2019-Religious-Freedom-Index.pdf.

¹⁰ Pew Research Center, "A Closer Look at How Religious Restrictions Have Risen Around the World," (15 July 2019), available at: https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/.

¹¹ LGBTQ is the acronym for lesbian, gay, bisexual, transgender, and queer.

¹² Donald J. Trump, "Remarks by President Trump at the United Nations Event on Religious Freedom| New York, NY", (23 September 2019), available at: https://www.whitehouse.gov/briefings-statements/remarks-president-trump-united-nations-event-religious-freedom-new-york-ny/.

underlying differing estimates¹³, the quantitative estimates are used in many settings to highlight that the situation is worrying.

Situations and debates about FoRB differ significantly by country and region. Understandings of what constitutes FoRB, the reasons for and nature of violations, and how best to promote FoRB in different settings, vary markedly. The type of governmental regime, the population's religious demography, and the constitutional and institutional roles of religious institutions and practices at the national level complicate understandings of religious, social, and ethnic relations and, thus, specifically what religious freedoms might be protected or violated, why, and to what degree. Marked differences separate countries with an official religion from those with none, and countries where a single religion is clearly dominant from others with more diverse and dynamic religious landscapes. The diverse understandings of whether there is a problem and why a problem occurs create challenges for different actors, including those charged with promoting FoRB. Those involved in peace processes are particularly affected, since FoRB violations are frequently linked to conflicts where religious tensions are part of the problem.

A further complication is that several distinctive communities and organisations have tended to focus specifically on religious dimensions of rights and thus on FoRB. The right to FoRB is integrally part of human rights including in international law, but in practice FoRB is often treated separately. In contrast, most human rights advocacy organisations have tended not to focus explicitly and directly on issues around FoRB.¹⁴

The South and Southeast Asia regions are marked by religious, cultural, and ethnic diversity. This diversity has regional as well as national and local repercussions. They can be a factor in transnational tensions as well as in efforts to build peace. Some nations have clearly framed understandings of citizen rights within diverse, inclusive communities that explicitly include religious identities (Thailand and Indonesia, for example), while others less so. There are traditional foundations in both the major religious traditions and in national historical narratives that support interreligious harmony and tolerance, on which positive, respectful interreligious relationships can be built. However, various forces including disruptions linked to social and economic change, security threats, and changing ideas about religious politics and social norms challenge social and political stability and inclusive approaches in a significant number of settings. Links between religious identity and nationalism have historical roots but have become more prominent in recent years. This combination of factors contributes to regional tensions that range from violent conflict to patterns of discrimination and exclusion of certain individuals and communities.

Religious literacy, religious engagement, and FoRB

Many facets of international relations, including diplomacy, international development, peacebuilding, and business, were largely blind to or deliberately ignored religious forces, especially during the Cold War years. However, several recent jolts have brought marked change. These include prominently the 1979 Iranian Revolution, the rise of religious extremism, and terrorist attacks, especially 9/11. This has prompted reflections that include Madeleine Albright's 2007 book *The Mighty and the Almighty: Reflections on America, God, and World Affairs*, and "confessions" by other global leaders that they had ignored religious factors with negative consequences. This awakening has prompted processes of dialogue and analysis aimed at what many term "religious engagement". Engagement requires understanding and continuing relationships, and looks to filling gaps in basic knowledge and appreciation among policy makers. Better "religious literacy" is called for, though translating this into clearly expected standards lags behind. On both fronts (engagement and literacy), ongoing efforts aim both to define specifically what is involved and how to practically apply them in ways that respect positive secular principles (that in turn vary widely among situations) and avoid the traps of

¹³ Judd Birdsall and Lori Beaman, "Faith in Numbers: Can we Trust Quantitative Data on Religious Affiliation and Religious Freedom?" *Transatlantic Partnership on Religion and Diplomacy* (22 June 2020), available at: https://religionanddiplomacy.org.uk/2020/06/23/tpnrd-releases-new-report-on-faith-in-numbers/.

¹⁴ See Katherine Marshall, "Towards enriching understandings and assessments of freedom of religion or belief: politics, debates, methodologies, and practices," *Coalition for Religious Equality and Inclusive Development* (forthcoming).

"instrumentalisation". The latter refers to frequently expressed perceptions that religious entities are simply "used" by national and international bodies to support already agreed upon policies and programs. The field is thus very much a work in progress.

FoRB in international and national law¹⁶

The Preamble to the Universal Declaration on Human Rights proclaims the "advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want [...] as the highest aspiration of the common people." Understanding FoRB needs to be set in the historical and legal contexts that have led to this aspiration. Ancient traditions and leadership on religious tolerance and free exercise of conscience are important sources of contemporary human rights, but so are efforts to restrict religious practice. Both these aspects are addressed in the UDHR and other instruments of international and national law. The right to FoRB is elaborated in the Declaration's Article 18, and the right to non-discrimination on the grounds of religion or belief in Articles 2, 26, and 27.

The legally binding International Covenant on Civil and Political Rights (ICCPR) which was adopted in December 1966 reaffirmed these rights, and added a right of persons belonging to religious minorities to profess and practice their own religion. The ICCPR is quite explicit in its provisions, and includes wording on matters that have been the topic of controversies over the years, including "without distinction of any kind", the right of every individual to have, adopt, or leave a religion or belief; to manifest and practice this religion or belief; to be free from coercion and discrimination on the grounds of this religion or belief; and to ensure the religious and moral education of their children. It provides both the basis for restrictions on FoRB and sets out responsibilities:

- "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.
- 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
- 4. The states parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."¹⁹

Article 26 of the same Appendix provides: "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 race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."²⁰

The right to freedom of religion or belief articulated in international law is recognised and affirmed in the overwhelming majority of the world's constitution, including virtually every European constitution and the

_

¹⁵ Two examples are the planned USAID October 2020 Evidence Summit on Strategic Religious Engagement and the Transatlantic Partnership on Religion and Diplomacy. More information is available at: https://religionanddiplomacy.org.uk/.

¹⁶ This section draws on the analysis in Marie Juul Petersen and Katherine Marshall, "The International Promotion of Freedom of Religion or Belief: Sketching the Contours of a Common Framework," *The Danish Institute for Human Rights* (April 2019), available at:

https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/research/2019/rapport_internationalpromotion_12.pdf.

¹⁷ Preamble, UDHR.

¹⁸ United Nations, Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights (ICCPR)*, available at: https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

¹⁹ U.S. Department of State, *Appendix B: International Covenant on Civil and Political Rights and The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, available at: https://2009-2017.state.gov/j/drl/rls/irf/2005/51659.htm.

²⁰ Article 26, ICCPR.

constitution of every independent country in the Western hemisphere. Governments' stated commitment to protection of religious freedom have been significantly expanded over the past three decades both in formerly communist countries and in many other countries where the collapse of communist has tilted the balance of power in more democratic directions.²¹

To take just one example from the Southeast Asia region, the Singapore constitution provides, under Article 15 on freedom of religion, that "Every person has the right to profess and practise his religion and to propogate it"; that "No person shall be compelled to pay any tax the proceedes which are specially allocated in whole or in part of the purposes of a religion other than his own"; and that "Every religious group has the right to manage its own religious affairs, to establish and maintain institutions for religious or charitable purposes; and to acquire and own property and administer it in accordance with law." The article states that it "does not authorise any act contrary to any general law relating to public order, public health or morality".²² The word "religion" appears fifteen times, with provisos that there will be no discrimination based on religion. Article 153 states: "The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion".²³

These provisions make clear that, with only a few exceptions, at a theoretical level FoRB is an integral, indivisible part of the broader human rights framework. Human rights concerns about discrimination more broadly reflect the growing awareness that religious institutions and beliefs play large roles in political, economic, and social affairs in most world regions. When it comes to applying the principles in practice, however, the consensus is far less apparent, and application takes very different forms, subject, for example, to national interpretations of FoRB and what might be termed political realism.

Overseeing and applying the right to FoRB

States are the ultimate duty bearers for FoRB, and various other institutions have broad responsibilities. These include international organisations, notably within the United Nations (UN), the Council of Europe (with the very influential European Court of Human Rights) and the European Union (EU). At the national level, ministries of foreign affairs (and, where relevant, ministries responsible for religious matters), work with nongovernment organizations, parliamentary networks, religious leaders, and businesses. The EU has had a Special Envoy for the Promotion of Freedom of Religion or Belief outside the EU,²⁴ and several countries, including Norway, UK, Denmark, Germany, and the Netherlands, have established similar offices or functions. In the United States, 1998 legislation established various obligatory reporting mechanisms including the requirement that the office of the Ambassador for Religious Freedom in the Department of State report annually on the status of religious freedom for all countries.²⁵ Several international and regional organisations, for example the Office for Democratic Institutions and Human Rights – ODIHR of the Organization for Security Cooperation in Europe (OSCE), focus explicitly on FoRB. In Southeast Asia, ASEAN (Association of Southeast Asian Nations) has supported a major 2015 review of FoRB issues and AICHR (the ASEAN Intergovernmental

²⁴ The position lapsed in 2019 and has not yet been filled.

²¹ W. Cole Durham, Jr., Matthew K. Richards, and Donlu D. Thayer, "The Status of and Threats to International Law on Freedom of Religion or Belief," in *The Future of Religious Freedom: Global Challenges* ed. Allen D. Hertzke, New York, NY: Oxford University Press, 2013, 31-66, see text and note 30 for citations to the countries of the world.

²² Singapore Statutes Online, *Constitution of the Republic of Singapore*, available at: https://sso.agc.gov.sg/Act/CONS1963?ProvIds=P1IV-#pr15-.

²³ Ibid.

²⁵ The law "directs the Ambassador at Large to assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from religious discrimination. Directs the Secretary of State to submit to the Congress, in conjunction with the Human Rights Reports, an Annual Report on International Religious Freedom describing: (1) the status of religious freedom in each foreign country, including trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right; (2) violations of religious freedom (including particularly severe ones) engaged in or tolerated by the government of that country; (3) the nature and extent of violations of religious freedom in each foreign country; (4) U.S. actions and policies in support of religious freedom in each such country engaging in or tolerating violations of religious freedom; (5) any binding agreement between the United States and a foreign government calling for such government to cease violations of religious freedom; (6) training on violations of religious freedom given to immigration judges and consular, refugee, immigration, and asylum officers; and (7) (in an Executive Summary) the status of religious freedom in certain foreign countries.

Commission on Human Rights) devoted a major seminar to the topic in 2019. Overall, however, ASEAN has had less direct involvement in religious issues including FoRB than some other regional bodies, notably the European Union.

In 1986, the United Nations Human Rights Council appointed a Special Rapporteur on Religious Intolerance, later renamed Special Rapporteur on Freedom of Religion or Belief. The Special Rapporteur is mandated to: (a) 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; (b) 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; (c) 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 Belief²⁶ and to recommend remedial measures as appropriate; and (d) apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

The Special Rapporteur contributes to monitoring the state of FoRB and to the continuous development and clarification of the contents of this right through fact-finding country visits, annual reports to the Human Rights Council and the UN General Assembly, as well as communications to states on cases that represent infringements or impediments to FoRB rights.²⁷ Southeast Asia visits have included Vietnam and Laos.

The US Department of State and the United States Commission on International Religious Freedom (USCIRF) issue regular reports on religious freedom, the former covering all countries in the world each year. This work is mandated by 1988 legislation. It is linked to the practice of issuing specific designations of countries as Countries of Particular Concern (CPCs), that can carry sanctions as well as policy approaches and engagement. The US State Department's focus is the office of the Ambassador for Religious Freedom, which oversees the preparation of country reports, in collaboration with embassies in the respective country. These are published annually and stand out in part because there is nothing comparable prepared by other countries²⁸ or, in the breadth of coverage and continuity over time, by any policy or academic body. The reports vary widely in coverage and level of detail, drawing on quite wide-ranging sources; they are not data driven and include, now, no quantitative assessments or overall judgment. These reports come alongside a separate set of reports issued by USCIRF.

USCIRF, an independent, bipartisan US federal government commission, monitors "the universal right to freedom of religion or belief abroad", using "international standards to monitor religious freedom violations globally."²⁹ It makes policy recommendations to the President, the Secretary of State, and Congress. USCIRF Commissioners are appointed by the President and Congressional leaders of both political parties, with work supported by a professional, nonpartisan staff. USCIRF is separate from the State Department, although the Department's Ambassador-at-Large for International Religious Freedom is a non-voting *ex officio* Commissioner. USCIRF's 2020 report (covering 2019) focuses on countries of special concern which, for Southeast and East Asia, include China, Vietnam, Myanmar, Indonesia, and North Korea. This means that they are covered in considerable detail in the reports, and are a continuing focus for the Commission. Nine countries are again designated as CPCs: China, Eritrea, Iran, Myanmar, North Korea, Pakistan, Saudi Arabia, Tajikistan, and Turkmenistan. Five additional countries were added to the list in 2020: India, Nigeria, Russia, Syria, and Vietnam.³⁰ Action (including sanctions) is taken by the Secretary of State on behalf of the US President.

-

²⁶ United Nations, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based in Religion or Belief*, available at: https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx.

²⁷ See International Justice Resource Centre, "Special Rapporteur on Freedom of Religion or Belief," available at: https://ijrcenter.org/un-special-procedures/special-rapporteur-on-freedom-of-religion-or-belief/.

²⁸ The 2019 reports were issued in June 2020, and are available at: https://www.state.gov/reports/2019-report-on-international-religious-freedom/.

²⁹ United States Commission on International Religious Freedom (USCIRF), *About Us*, available at: https://www.uscirf.gov/about-uscirf/about-us.

³⁰ USCIRF reports typically recommend a larger number of CPCs than the State Department, and in 2020 replaced its "Tier 2" category with a Special Watch List that included an additional 15 countries.

New focus on FoRB in international relations

Growing interest in FoRB reflects empirical evidence that human rights violations linked to religion or belief are rising globally.31 Various reports including by the US-based Pew Research Center focus on violations of FoRB. Respected academic centers are headed by Roger Finke (Association of Religion Data Archives) and by Jonathan Fox, who maintains a significant data resource center at Bar-Ilan University.³² The situation of Christians in parts of the Middle East region has attracted particular attention in Europe and North America. The UK 2019 "Truro Report" is a focus of policy discussions including a February 2020 conference on its implications for Nigeria, held at the UK Foreign and Commonwealth facility at Wilton Park. The UK development agency (DfID) (now the Foreign, Commonwealth, and Development Office) supports a consortium to promote religious equality, the Coalition for Religious Equality and Inclusive Development (CREID), whose aim is to provide "research evidence and delivers practical programmes which aim to redress the impact of discrimination on the grounds of religion or belief, tackle poverty and exclusion, and promote people's wellbeing and empowerment." The US Trump administration has placed explicit emphasis on religious freedom (the term commonly used in the US). Actions include the large and high level international gatherings, termed "ministerials", hosted by the State Department in 2018 and 2019, centred on the topic.34 A third meeting of the International Religious Freedom Alliance established in conjunction with these ministerials was planned for July 2020 in Poland but was postponed (to November, as the time of writing) because of the COVID-19 emergency. 35

Domestic politics colour FoRB concerns in many settings. These have different origins and focus but many centre around immigration and refugee movements and the integration of specific groups as citizens. This is especially marked in Europe, where it is a visible focus of debate, with strong underlying currents that have ties to racial attitudes and colonial legacies. It is also pertinent in other regions, including Southeast Asia. Some egregious cases of persecution rising to genocide (Rohingya Muslims in Myanmar, Uighurs in China) have shone light on religious dimensions of conflict and human rights abuses. The COVID-19 emergency has exacerbated tensions as certain religious communities have come into focus as perceived or actual sources of spread of infection (Malaysia, South Korea, Indonesia).

Attention to religious forces in international affairs is often linked primarily to concerns about violent political movements and terrorist acts, including the many approaches to countering and preventing violent extremism. Conflicts with strong religious dimensions are a particular focus. An example is the Philippines, where religious approaches to peacebuilding especially in Mindanao have a long and rich history. ³⁶ There is much attention to the religious dimensions of conflicts also in Myanmar³⁷ and Thailand³⁸. Different analyses (for example by the US Institute for Peace and Mahidol University) emphasise the complexity and deep roots of historic tensions that help to explain these conflicts. Conflict resolution and transformation demand an appreciation of FoRB principles, its role in conflict dynamics, and the application of the principles on the ground.

³¹ Empirical evidence includes both well reported examples like treatment of the Rohingya in Myanmar and Uighurs in China, with the perception of worsening trends bolstered by data such as the Pew Research Center.

³² The database is described in detail in Jonathan Fox, *Thou Shalt Have No Other Gods before Me: Why Governments Discriminate against Religious Minorities*, Cambridge: Cambridge University Press, 2020.

³³ Rt. Rev. Philip Mounstephen, Bishop of Truro, *Bishop of Truro's Independent Review for the Foreign Secretary of FCO Support for Persecuted Christians: Final Report and Recommendations* (2019), available at: https://christianpersecutionreview.org.uk/storage/2019/07/final-report-and-recommendations.pdf.

³⁴ U.S. Department of State, "Ministerial to Advance Religious Freedom," (2019), available at: https://www.state.gov/ministerial-to-advance-religious-freedom/.

³⁵ Association of Religion Data Archives, available at: https://www.thearda.com/.

³⁶ For example of recent activities, see Myla Jabilles Leguro, "Peacebuilding in Mindanao, Philippines during the Covid-19 Pandemic," *Berkley Center for Religion, Peace & World Affairs* (15 June 2020), available at: https://berkleycenter.georgetown.edu/responses/peacebuilding-in-mindanao-philippines-during-the-covid-19-pandemic and Myla Jabilles Leguro, "A Discussion with Myla Leguro, Director of the Interreligious Peacebuilding Program at Catholic Relief Services (CRS)," *Berkley Center for Religion, Peace & World Affairs* (15 June 2020), available at: https://berkleycenter.georgetown.edu/interviews/a-discussion-with-myla-leguro-director-of-the-interreligious-peacebuilding-program-at-catholic-relief-services-crs.

³⁷ See for example Susan Hayward and Iselin Frydenlund, "Religion, Secularism, and the Pursuit of Peace in Myanmar", *The Review of Faith and International Affairs* 17.4 (2019): 1-11.

³⁸Adam Burke, Pauline Tweedie, Ora-orn Poochaoreon, "The Contested Corners of Asia: Subnational Conflict and International Assistance, The Case of Southern Thailand," *The Asia Foundation* (2013), available at: https://asiafoundation.org/resources/pdfs/SouthernThailandCaseStudyFullReport.pdf.

Challenges and questions affecting FoRB approaches

Widely varying concepts characterise the ways in which FoRB is understood. The principles are reflected in national constitutions and in practice in strikingly different ways, for example the ways in which blasphemy and family law are applied. Understandings of the causes, nature, and significance of FoRB violations are thus specific to each situation, with the roles that security concerns play offering a prime example. Likewise, approaches differ as to how international actors address FoRB, both negatively (violations) and positively (affirming its benefits). Here, international law can provide mixed signals. For example, in a recent case on a much contested question about dress, where the *burqa* (face veil) is prohibited (Yaker v. France and Hebbadi v France), the Human Rights Council came to the opposite conclusion to the European Court of Human Rights (ECtHR) on the compatibility of the burga ban in France with the right to manifest religion.³⁹

Questions underlying different approaches include what kind of actors and initiatives are most effective in promoting and protecting FoRB, and how best to address specific areas of tension. Contentious topics include the right to promote one's beliefs freely (proselytising), definitions of blasphemy, the ability to change one's faith affiliation, and religious approaches to gender equality. The definition of "religion" comes into play (what is or is not a religion, and within a tradition, which is "valid"), as does "belief". Both are understood in markedly different ways. The right not to believe is prominent in FoRB but the concept extends in some settings towards broad ideologies as well as, for example, atheism and humanism.⁴⁰

Human rights advocates have tended to treat FoRB as an integral, largely inseparable part of human rights. However, understandings of FoRB are not uncommonly viewed with a skepticism that can apply to views about the role of religion versus secular principles in contemporary societies. As a result, FoRB has often received less specific attention from mainline human rights organisations than other facets of human rights. In contrast, some FoRB advocates view FoRB as a "first freedom" which trumps other human rights, or at a minimum, deserves a higher profile and weight than it often receives. A result has been a practical separation and even polarisation between two communities. The core principles of FoRB are clearly grounded in human rights, but links, priorities, and possible areas of tension are not always agreed upon.

Areas of concern related to policies on FoRB include⁴¹:

- (a) Policies that focus directly on the rights of specific minorities, whether Christians in the Middle East, indigenous communities in Latin America, or Muslims in Europe and Southeast and South Asia, can raise questions for some human rights advocates about undue focus that can be seen to jar with principles of universality and non-discrimination. A concern is that a sharp focus on specific communities can lead to particularism and polarisation, and may reflect domestic interests more than broad human rights concerns for justice.
- (b) An understanding of FoRB as a right that only protects religious groups and individuals specifically can raise concerns of disproportionate or exclusive focus. Among secular human rights organisations, perceptions that FoRB is primarily an agenda of religious communities and individuals helps explain broader lack of engagement with the topic.

³⁹ Stephanie Berry, "The UN Human Rights Committee Disagrees with the European Court of Human Rights Again: The Right to Manifest Religion by Wearing a Burqa," *EJIL:Talk!* (3 January 2019), available at: https://www.ejiltalk.org/the-un-human-rights-committee-disagrees-with-the-european-court-of-human-rights-again-the-right-to-manifest-religion-by-wearing-a-burqa/; and Anon, "UN Human Rights Committee Condemns "Burqa Ban", Countering European Court," *International Justice Resource Center* (14 November 2018), available at: https://ijrcenter.org/2018/11/14/un-human-rights-committee-condemns-burga-ban-countering-european-court/.

⁴⁰ Understandings of "belief" can overlap with "convictions". A case before the European Court of Human Rights centred on corporal punishment in Scotland. Paragraph 36 of the opinion says: "In its ordinary meaning the word "convictions", taken on its own is not synonymous with the words "opinions" and "ideas", such as are utilised in Article 10 (art. 10) of the Convention, which guarantees freedom of expression; it is more akin to the term "beliefs" (in the French text: "convictions") appearing in Article 9 (art. 9) – which guarantees freedom of thought, conscience and religion – and denotes views that attain a certain level of cogency, seriousness, cohesion and importance." (personal communication, W. Cole Durham) ⁴¹ Various concerns and their sources are detailed in Petersen and Marshall, "The International Promotion of Freedom of Religion or Belief".

- (c) Some issues arise that are linked to understandings of the broader freedom of belief, especially when interpreted as freedom *from* religion. A recent report of the UN Special Rapporteur emphasising the right to freedom from religion drew objections from the Vatican, among others, disputing that freedom from religion is covered by international human rights law.⁴² There is concern that broadening the coverage of FoRB may result in thin protection for all, including specific religious communities.⁴³
- (d) What constitutes 'authentic' or 'true' religion is contentious. This applies to different perspectives within a religious tradition, to dissenting views, and to those who express no religious affiliation. Different perspectives are particularly difficult to address, notably in religious traditions where there is no specific recognised authority. What is authentic or true religion is by and large irrelevant to FoRB insofar as FoRB concerns all kinds of religions and beliefs, even the ones that most consider inauthentic or untrue.⁴⁴
- (e) An emphasis on the prominence of FoRB over other human rights can lead to skewed interventions and appreciations that may even obscure religiously related discrimination and persecution. Perceptions of a clash between FoRB and rights related to gender equality, sexual orientation, and gender identity are common. Free expression of views can be treated as a fundamental threat to FoRB when issues arise on respect for a religious tradition or in cases of blasphemy (examples include the Danish cartoon controversy, the Mohammed Bear controversy in Sudan, and blasphemy cases in Pakistan⁴⁵).

Various international human rights organisations, inter-parliamentarian networks, and some newly established governmental offices and envoys promote an inclusive approach that places FoRB issues within a broad human rights setting. They urge a focus on the restrictions placed on and discrimination against specific religious minorities, but emphasise the rights of all religious communities over a particular focus on specific groups.

Positive movement towards more comprehensive understandings of FoRB include the 2016 Marrakesh *Declaration on the Rights of Religious Minorities in Predominantly Muslim Majority Countries*, ⁴⁶ which calls for religious freedom and respect for the equal rights for all minorities. It is, however, primarily a declaration about the rights of minorities, rather than religious freedom. This includes the right to criticise one's religion, to leave it, and to change one's religion which are important, sensitive, and largely unaddressed dimensions of FoRB.⁴⁷

⁴² Anon, "Actually, 'freedom from religion' is a human right, IHEU tells Vatican at the UN," *Humanists International* (9 March 2018), available at: https://humanists.international/2018/03/actually-freedom-religion-human-right-iheu-tells-vatican-un/.

⁴³ John Stuart Mill observed in *On Liberty* that: "It is true we no longer put heretics to death; and the amount of penal infliction which modern feeling would probably tolerate, even against the most obnoxious opinions, is not sufficient to extirpate them. But let us not flatter ourselves that we are yet free from the stain even of legal persecution. Penalties for opinion, or at least for its expression, still exist by law; and their enforcement is not, even in these times, so unexampled as to make it at all incredible that they may some day be revived in full force." John Stuart Mill, "Chapter 2 Of the Liberty of Thought and Discussion," *On Liberty*, available at: https://courses.lumenlearning.com/sanjacinto-philosophy/chapter/johnstuart-mill-on-liberty-chapter-2-of-the-liberty-of-thought-and-discussion/.

⁴⁴ Ibid. Referring again to Mill on the virtues of dissenting views: "Those in whose eyes this reticence on the part of heretics is no evil, should consider in the first place, that in consequence of it there is never any fair and thorough discussion of heretical opinions; and that such of them as could not stand such a discussion, though they may be prevented from spreading, do not disappear. But it is not the minds of heretics that are deteriorated most, by the ban placed on all inquiry which does not end in the orthodox conclusions. The greatest harm done is to those who are not heretics, and whose whole mental development is cramped, and their reason cowed, by the fear of heresy."

⁴⁵ On the 2006 Danish Cartoon controversy, see Simon Cottee, "Flemming Rose: The Reluctant Fundamentalist," *The*

Atlantic (15 March 2016), available at: https://www.theatlantic.com/international/archive/2016/03/flemming-rose-danish-cartoons/473670/; on Sudan, see Jeffrey Gettleman, "Calls in Sudan for Execution of British Teacher," https://www.nytimes.com/2007/12/01/world/africa/01sudan.html; on Pakistan, see Shumaila Jafferey, "Asia Bibi: Pakistan's Notorious Blasphemy Case," https://www.bbc.co.uk/news/resources/idt-sh/Asia_Bibi.

⁴⁶ The Marrakesh Declaration, available at: http://www.marrakeshdeclaration.org/declaration/.

⁴⁷ Marie Juul Petersen and Osama Arhb Moftah, "The Marrakesh Declaration: A Muslim call for protection of religious minorities or freedom of religion?" *LSE Blog* (26 May 2017), available at:

Faith for Rights (2017),⁴⁸ a declaration formulated by diverse religious actors, in cooperation with the UN Office of the High Commissioner for Human Rights, situates FoRB explicitly within a human rights framework. Various other international inter and intra-faith initiatives seek to promote broader norms of tolerance, moderation, and co-existence. Prominent among them is the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. It brings together conclusions recommendations from several OHCHR expert workshops and (held in Geneva, Vienna, Nairobi, Bangkok and Santiago de Chile). 49 The Rabat Plan of Action was adopted by experts at the wrap-up meeting in Rabat on 4-5 October 2012.⁵⁰ Also significant is the Potomac Plan of Action ⁵¹ (2018), that emerged from the US State Department Ministerial gathering, and the Interreligious Dialogue for Peace, Promoting Peaceful Coexistence & Common Citizenship promoted by KAICIID (King Abdallah bin Abdulaziz Centre for Interreligious and Intercultural Dialogue).52 The UN Office of Genocide Prevention has a multi-year program, known as the Fez Process, to involve religious leaders and communities in prevention efforts.53

FoRB as a right of the individual is significant because FoRB issues are sometimes framed as a tension between individual and community rights. While collective rights are important, FoRB is a right of the individual to practise or not practise his or her religion or belief in the way he or she chooses, even when this goes against the values and doctrines of the religious community of which he or she is a part. Religious communities sometimes engage in discriminatory and oppressive practices against individuals; persecuted religious minorities themselves may be highly patriarchal with values, practices and traditions that undermine the rights of women and LGBTI people, among others. An approach that equates FoRB promotion with protection of religious minorities risks overlooking or sidelining such important aspects. Muslim women's rights organisations such as Musawah⁵⁴ and Alliance of Inclusive Muslims⁵⁵ work to empower women to claim their right to speak for themselves and interpret their religion in ways that are consistent with principles of equality and non-discrimination.

Reporting violations of FoRB

Much focus on FoRB is concerned with the specific dimensions of human rights that relate to religious communities and practices. However, approaches to defining and reporting on violations of FoRB vary and tend to highlight some among the various dimensions and concerns noted above. Efforts to monitor violations of FoRB reflect these distinctions to varying degrees. As one example, assessments of the degree of discrimination or persecution and its consequences are often obscured especially in reports that highlight quantitative and comparative assessments. The following chart outlines major categories of rights and areas of concern and focus.⁵⁶

 $\frac{https://blogs.lse.ac.uk/religionglobalsociety/2017/05/the-marrakesh-declaration-a-muslim-call-for-protection-of-religious-minorities-or-freedom-of-religion/.\\$

-

⁴⁸ United Nations, Human Rights Office of the High Commissioner, "OHCR and the 'Faith for Rights' Framework," available at: https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx

⁴⁹ See United Nations, Human Rights Office of the High Commissioner, *2011 Expert workshops on the prohibition of incitement to national, racial or religious hatred*, available at: https://www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

⁵⁰ United Nations, Human Rights Office of the High Commissioner, *Freedom of expression vs incitement to hatred:* OHCHR and the Rabat Plan of Action, available at: https://www.ohchr.org/en/issues/freedomopinion/articles19-20/pages/index.aspx

⁵¹ "Ministerial to Advance Religious Freedom."

⁵² KAICIID, *Promoting Peaceful Coexistence and Common Citizenship*, 2018, available at: https://www.kaiciid.org/publications-resources/hlm-2018-promoting-peaceful-coexistence-and-common-citizenship.

⁵³ United Nations Office on Genocide Prevention and the Responsibility to Protect, *Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes* (July 2017), available at: https://www.un.org/en/genocideprevention/documents/Plan%20of%20Action%20Advanced%20Copy.pdf.

⁵⁴ Musawah, available at: https://www.musawah.org/.

⁵⁵ Alliance of Inclusive Muslims, available at: https://www.aim.ngo/

⁵⁶ Under the CREID project, a review is underway of methodologies for assessing violations of FoRB.

Elements	Description of Key Points
Underlying principles for a human rights approach to promoting FoRB internationally	 Universality and non-discrimination The primacy of individual rights over collective rights Indivisibility of human rights
Key perpetrators of FoRB violations	State actorsNon-state actors
Types of FoRB violations	 Violations of the right to have, adopt, change, or leave a religion or belief Violations of the right to be free from coercion Violations of the right to practice and manifest a religion or belief Violations of the right to non-discrimination on the basis of religion or belief Violations of the right to bring up one's children in accordance with one's religion or belief
Degrees of FoRB violations	 Intolerance (minor concerns), Discrimination (problematic issues), Persecution (severe violations)
Contextual factors that can be conducive to FoRB violations	 Conflict and violence Poverty and inequality Crisis conditions (COVID-19 emergency) Authoritarian state structures, weak state structures Official state religion or state atheism Cultures of intolerance and exclusion
Rationales justifying FoRB violations	 Protection of religious doctrines Threats to national identity, societal harmony, or state security Skepticism about FoRB, Low priority to addressing issues
Motivations driving perpetrators of FoRB violations	 Psychological, political, or economic benefits Habit, bureaucratic procedures in place⁵⁷ Lack of knowledge and capacities
Strategies and approaches to promoting FoRB	 Changing government behaviour, legislation and policies (through external pressure or engagement and cooperation) Changing behaviour of non-state actors and broader cultures (through external pressure or engagement and cooperation, education, leadership)

⁵⁷ An example of the latter is the Sri Lankan government's procedures in place requiring cremation where death resulted from COVID-19. Neither the necessity of such measures nor the objections of Sri Lankan Muslims were taken into account. Vinya Ariyaratne, "The COVID-19 Emergency in Sri Lanka: Strengths and Challenges," *Berkley Center for Religion, Peace & World Affairs* (24 August 2020), available at: https://berkleycenter.georgetown.edu/events/the-covid-19-emergency-in-sri-lanka.

Fig 1: Framework for Promoting FoRB in International Affairs⁵⁸

Conclusions: looking ahead

FoRB is a fundamental and integral part of human rights and deserves support and affirmation across the many dimensions of international as well as national affairs. It is tightly tied to an appreciation for core understandings of human dignity, equality, and liberty. It comes alongside the important if more debated notions that link appreciations of difference among individuals and communities to commitment to truly inclusive policy approaches that address the reality that many are excluded and left behind. And it relates to the idea that diverse and plural societies enrich nations and communities. Religious affiliations are an important element in identities, complicated, intertwined with other facets of identity like cultural heritage, geographic ties, and socio-political affiliations. Religious identities carry some specific features, however, though their significance and weight vary among countries and communities. This calls for deliberate and wise approaches that are grounded in listening, engagement, and respect for the differing perspectives. The debates and tensions surrounding different FoRB approaches highlight both the distinctive sensitivities that surround, for example, proselytising or practices of a religious minority, and the need to integrate approaches to religious freedom within the context of human rights and the demands of democratic, increasingly plural societies.

Looking ahead, various avenues offer promise for honouring and promoting the human rights to freedom of belief and conscience. In addition, more timely, and higher quality information, including context specific qualitative assessments and comparative, quantitatively anchored assessments offer better tools for policy makers and civil society. At a fundamental level, however, analysis and activism on FoRB needs to be more deliberately and centrally anchored in a broad human rights framework. International human rights communities have, in recent history, rarely focused on FoRB, often viewing it as a luxury or a lesser right. In contrast, several organisations, many with conservative and Christian roots, frame and promote understandings of FoRB as the first and foremost right among human rights.⁵⁹ Neither approach reflects adequately the complex realities of diverse situations. There is an important need to "right-size" the role of FoRB within the human rights landscape. FoRB advocacy needs to be set within the context of key human rights principles, notably universality, non-discrimination, and the primacy of individual over collective interests. It is problematic to isolate FoRB from, for example, freedom of expression and rights related to gender equality, sexual orientation, and gender identity.

Bitter conflicts in different regions, including Southeast Asia, frequently have religious dimensions but these are invariably complex. An important priority is to work for better understanding of religious dimensions of these conflicts and to support the evolving approaches and institutions that focus on peacebuilding roles by religious actors. These include work through interreligious bodies like Religions for Peace (active especially in Myanmar), the United Religions Initiative (URI), and KAICIID as well as tradition specific groups like the International Network of Engaged Buddhists (INEB).

Broader alliances that link different facets of human rights and bring together different advocacy communities offer an important potential way forward. Actors whose central focus is FoRB are predominantly based in Europe and the United States, with some among international NGOs. This fosters perceptions that FoRB represents a foreign agenda, especially where promoters are associated with Christianity. This has consequences for interventions and the focus and priority given to particular target groups, themes, and geographic areas. Deliberate and sustained efforts should broaden the field of actors involved, including non-Western states and NGOs, secular human rights actors as well as a broader array of religious actors, locally, as well as internationally.

Peace and conflict resolution strategies need to take explicit account of FoRB issues and the tensions that can be linked to violations of the rights of religious communities. This calls for information and training approaches, as well as efforts to engage religious actors, including those outside formal leadership positions.

⁵⁸ Petersen and Marshall, "The International Promotion of Freedom of Religion or Belief."

⁵⁹ See, for example, speech by US Secretary of State Mike Pompeo as quoted in Julian Borger, "Pompeo claims private property and religious freedom are 'foremost' human rights, *The Guardian* (16 July 2020), available at: https://www.theguardian.com/us-news/2020/jul/16/pompeo-claims-private-property-and-religious-freedom-are-foremost-human-rights.

Interreligious and intercultural dialogue and action processes would benefit from more explicit attention to FoRB issues.

International, foreign policy and development agency advocacy and direct operational support and interventions need to be based on thorough understanding and analysis of each context. Context is especially pertinent in this field. Violations of FoRB rarely have a simple, straightforward cause. They always involve a complex and highly context-specific web of interrelated and intertwined factors, many of which are unrelated to specific religious beliefs. Generic approaches to FoRB are of limited use. Thorough analysis and understanding of the sources of and dynamics around violations is imperative to effective interventions. Assessments of a given situation need to be based on careful review and judgments about the significance, scale, and intensity of reported FoRB violations. 'Vernacularising' the language of FoRB is needed, translating it into locally relevant and resonant narratives and idioms. Strong local actors and ownership are essential. Religious literacy (i.e., professional knowledge and analytic skills) of policy analysts and decision makers is vital to assure the needed level of understanding.

The vision of promoting fully inclusive, respectful, just, and harmonious societies calls for long-term engagement. Promoting FoRB in varying situations involves sustained, often slow gestating work and deliberate focus on fostering relationships and understanding among different communities. Continuing visions and strategic engagement are essential if real change is to happen. Relational diplomacy and constructive engagement alone can cultivate the trust and confidence that can underlie change.

Bibliography

Anon, 2018, "Actually, 'freedom from religion' is a human right, IHEU tells Vatican at the UN," *Humanists International*, 9 March, available at: https://humanists.international/2018/03/actually-freedom-religion-human-right-iheu-tells-vatican-un/.

Anon, 2018, "UN Human Rights Committee Condemns "Burqa Ban", Countering European Court," *International Justice Resource Center*, 14 November, available at: https://ijrcenter.org/2018/11/14/un-human-rights-committee-condemns-burqa-ban-countering-european-court/.

Ariyaratne, Vinya, 2020, "The COVID-19 Emergency in Sri Lanka: Strengths and Challenges," *Berkley Center for Religion, Peace & World Affairs*, 24 August 2020, available at: https://berkleycenter.georgetown.edu/events/the-covid-19-emergency-in-sri-lanka.

Association of Religion Data Archives, available at: https://www.thearda.com/.

Beckett Fund for Religious Liberty, 2019, *Religious Freedom Index: American Perspectives on the First Amendment*, available at: https://s3.amazonaws.com/becketnewsite/2019-Religious-Freedom-Index.pdf.

Berry, Stephanie, 2019, "The UN Human Rights Committee Disagrees with the European Court of Human Rights Again: The Right to Manifest Religion by Wearing a Burqa," *EJIL:Talk!*, 3 January, available at: https://www.ejiltalk.org/the-un-human-rights-committee-disagrees-with-the-european-court-of-human-rights-again-the-right-to-manifest-religion-by-wearing-a-burga/.

Birdsall, Judd and Lori Beaman, 2020, "Faith in Numbers: Can we Trust Quantitative Data on Religious Affiliation and Religious Freedom?" *Transatlantic Partnership on Religion and Diplomacy*, 22 June, available at: https://religionanddiplomacy.org.uk/2020/06/23/tpnrd-releases-new-report-on-faith-in-numbers/.

Borger, Julian, 2020, "Pompeo claims private property and religious freedom are 'foremost' human rights, *The Guardian*, 16 July 2020, available at: https://www.theguardian.com/us-news/2020/jul/16/pompeo-claims-private-property-and-religious-freedom-are-foremost-human-rights.

Burke, Adam, Pauline Tweedie and Ora-orn Poochaoreon, 2013, "The Contested Corners of Asia: Subnational Conflict and International Assistance, The Case of Southern Thailand," *The Asia Foundation*, available at: https://asiafoundation.org/resources/pdfs/SouthernThailandCaseStudyFullReport.pdf.

Cottee, Simon, 2016, "Flemming Rose: The Reluctant Fundamentalist," *The Atlantic*, 15 March, available at: https://www.theatlantic.com/international/archive/2016/03/flemming-rose-danish-cartoons/473670/.

Durham, W. Cole Jr., Matthew K. Richards and Donlu D. Thayer, 2013, "The Status of and Threats to International Law on Freedom of Religion or Belief," in *The Future of Religious Freedom: Global Challenges* ed. Allen D. Hertzke, New York, NY: Oxford University Press, 2013, 31-66.

Fox, Jonathan, 2020, *Thou Shalt Have No Other Gods Before Me: Why Governments Discriminate Against Religion*, Cambridge: Cambridge University Press.

Georgetown University Berkley Center and Joint Learning Initiative repository on faith responses to COVID-19, available at: https://docs.google.com/document/d/1FLxwvN6ICTxWWYOwRiv9sBLgf7v0vstsSzV7_o_1-B8/edit.

Gettleman, Jeffrey, 2007, "Calls in Sudan for Execution of British Teacher," *New York Times*, 1 December 2007, available at: https://www.nytimes.com/2007/12/01/world/africa/01sudan.html.

Government of Canada, *The International Contact Group on Freedom of Religion or Belief*, available at: https://www.international.gc.ca/world-monde/issues development-enjeux development/human rights-droits_homme/freedom-religion-liberte-group_groupe.aspx?lang=eng.

Hayward, Susan and Iselin Frydenlund, 2019, "Religion, Secularism, and the Pursuit of Peace in Myanmar," *The Review of Faith and International Affairs* 17.4, 1-11.

Human Rights Council, Thirty-seventh session, 26 February–23 March 2018, Agenda item 3, "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development," Report of the Special Rapporteur on freedom of religion and belief.

Human Rights Resource Centre, 2015, *Keeping the Faith: A Study of Freedom of Thought, Conscience, and Religion in ASEAN,* available at: http://hrrca.org/wp-content/uploads/2015/11/Book-of-Keeping-the-Faith_web.pdf.

Human Rights Watch, *Saudi Arabia Human Rights Development*, available at: https://www.hrw.org/reports/1992/WR92/MEW2-02.htm#P421_152266.

Hurd, Elizabeth Shakman, 2018, "Politics of religious freedom in the Asia-Pacific: an introduction," *Journal of Religious and Political Practice* 4.1, 9-26.

International Justice Resource Centre, "Special Rapporteur on Freedom of Religion or Belief," available at: https://ijrcenter.org/un-special-procedures/special-rapporteur-on-freedom-of-religion-or-belief/.

Jafferey, Shumaila, 2019, "Asia Bibi: Pakistan's Notorious Blasphemy Case", *BBC*, 1 February, available at: https://www.bbc.co.uk/news/resources/idt-sh/Asia Bibi.

KAICIID, *Promoting Peaceful Coexistence and Common Citizenship*, 2018, available at: https://www.kaiciid.org/publications-resources/hlm-2018-promoting-peaceful-coexistence-and-common-citizenship.

Leguro, Myla Jabilles, 2020, "Peacebuilding in Mindanao, Philippines during the Covid-19 Pandemic," *Berkley Center for Religion, Peace & World Affairs*, 15 June, available at: https://berkleycenter.georgetown.edu/responses/peacebuilding-in-mindanao-philippines-during-the-covid-19-pandemic.

Leguro, Myla Jabilles, 2020, "A Discussion with Myla Leguro, Director of the Interreligious Peacebuilding Program at Catholic Relief Services (CRS)," *Berkley Center for Religion, Peace & World Affairs*,15 June, available at: https://berkleycenter.georgetown.edu/interviews/a-discussion-with-myla-leguro-director-of-the-interreligious-peacebuilding-program-at-catholic-relief-services-crs.

Marshall, Katherine, 2013, "Religious Freedom in US International Development Assistance and Humanitarian Relief: Ideas, Practice, and Issues", *The Review Of Faith & International Affairs* 11.1, 38-48.

Marshall, Katherine, 2020, "What Religion Can Offer in the Response to COVID-19," *World Politics Review*, 26 May, available at:

https://www.worldpoliticsreview.com/articles/read/So41SRA4TtyxUflsV1Dyz6UHixRN5dz4TFHT7Js30SSoEq EIG1OmIrTwMpzS2cG1yN7Lc6Qw9w1Daok9E6u26f0suN4UeVaLg44HCZTO40QRgsXrzA52AbrUwEeExuH.

Mill, John Stuart, 1859, *On Liberty*, available at: https://courses.lumenlearning.com/sanjacinto-philosophy/chapter/john-stuart-mill-on-liberty-chapter-2-of-the-liberty-of-thought-and-discussion/.

Network of Religious and Traditional Peacemakers and World Faiths Development Dialogue, 2019, *South and Southeast Asia Regional Profile on Freedom of Religion or Belief (FoRB)*, November. Country briefs for Bangladesh, Indonesia, Myanmar, Sri Lanka, Thailand. Available at: https://live-peacemakersnetwork.pantheonsite.io/wp-content/uploads/2020/04/South-and-Southeast-Asia-Regional-Profile-on-Freedom-of-Religion-or-Belief.pdf.

Parlevliet, Michelle, 2017, "Human Rights and Peacebuilding: Complementary and Contradictory, Complex and Contingent," *Journal of Human Rights Practice* 9.3, 333-57.

Petersen, Marie Juul, 2020, "Promoting Freedom of Religion or Belief and Gender Equality in the Context of the Sustainable Development Goals: A Focus on Access to Justice, Education and Health," *The Danish Institute of Human Rights*.

Petersen, Marie Juul and Osama Arhb Moftah, 2017, "The Marrakesh Declaration: A Muslim call for protection of religious minorities or freedom of religion?" *LSE Blog*, 26 May, available at: https://blogs.lse.ac.uk/religionglobalsociety/2017/05/the-marrakesh-declaration-a-muslim-call-for-protection-of-religious-minorities-or-freedom-of-religion/.

Petersen, Marie Juul and Katherine Marshall, 2019, "The International Promotion of Freedom of Religion or Belief: Sketching the Contours of a Common Framework," *The Danish Institute for Human Rights*, available at:

 $\frac{https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/research/2019/rapport_in}{ternational promotion_12.pdf}$

Petty, Aaron R., 2016, "Religion, Conscience, and Belief in the European Court of Human Rights", The George Washington International Law Review Vol. 48, available at: https://www.gwilr.org/wordpress/wp-content/uploads/2017/02/ILR-Vol-48.4_Aaron-Petty.pdf.

Pew Research Center, 2018, "Global Uptick in Government Restrictions on Religion in 2016," 21 June, available at:

https://www.pewforum.org/2018/06/21/global-uptick-in-government-restrictions-on-religion-in-2016/.

Pew Research Center, 2019, "A Closer Look at How Religious Restrictions Have Risen Around the World," 15 July, available at: https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/.

Rt. Rev. Mounstephen, Philip, 2019, *Bishop of Truro's Independent Review for the Foreign Secretary of FCO Support for Persecuted Christians: Final Report and Recommendations*, available at: https://christianpersecutionreview.org.uk/storage/2019/07/final-report-and-recommendations.pdf.

Singapore Statutes Online, *Constitution of the Republic of Singapore*, available at: https://sso.agc.gov.sg/Act/CONS1963?ProvIds=P1IV-#pr15-.

Timbuktu Institute, 2020, "Réponses des Acteurs religieux à la pandémie Covid-19 au Sahel," 5 June, available at: https://timbuktu-institute.org/index.php/toutes-l-actualites/item/331-reponses-des-acteurs-religieux-a-la-pandemie-covid-19-au-sahel.

Trump, Donald J., 2019, "Remarks by President Trump at the United Nations Event on Religious Freedom| New York, NY", 23 September, available at: https://www.whitehouse.gov/briefings-statements/remarks-president-trump-united-nations-event-religious-freedom-new-york-ny/.

Trump, Donald J. 2020, "Executive Order on Advancing International Religious Freedom," 2 June, available at: https://www.whitehouse.gov/presidential-actions/executive-order-advancing-international-religious-freedom/.

United Nations, 1948, *The Universal Declaration of Human Rights*, available at: https://www.un.org/en/universal-declaration-human-rights/.

United Nations, Human Rights Office of the High Commissioner, *International Covenant on Civil and Political Rights*, available at: https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

United Nations, Human Rights Office of the High Commissioner, "OHCR and the 'Faith for Rights' Framework," available at: https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx

United Nations, Human Rights Office of the High Commissioner, 2011, 2011 Expert workshops on the prohibition of incitement to national, racial or religious hatred, available at: https://www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

United Nations, Human Rights Office of the High Commissioner, 2012, *Freedom of expression vs incitement to hatred: OHCHR and the Rabat Plan of Action*, available at: https://www.ohchr.org/en/issues/freedomopinion/articles19-20/pages/index.aspx

United Nations, Office on Genocide Prevention and the Responsibility to Protect, 2017, *Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes*, July, available at:

https://www.un.org/en/genocideprevention/documents/Plan%20of%20Action%20Advanced%20Copy.pdf.

United States Commission on International Religious Freedom (USCIRF), *About Us*, available at: https://www.uscirf.gov/about-uscirf/about-us.

- U.S. Department of State, 2020, *Thailand 2019 International Religious Freedom Report*, available at: https://www.state.gov/reports/2019-report-on-international-religious-freedom/thailand/.
- U.S. Department of State, 2019, "Ministerial to Advance Religious Freedom," available at: https://www.state.gov/ministerial-to-advance-religious-freedom/.
- U.S. Department of State, Office of the Ambassador of Religious Freedom, 2020, 2019 Report on International Religious Freedom, available at: https://www.state.gov/reports/2019-report-on-international-religious-freedom/.

About the Author

Katherine Marshall is a senior fellow at Georgetown University's Berkley Center for Religion, Peace, and World Affairs and professor of the practice of development, conflict, and religion in the Walsh School of Foreign Service. She leads the World Faiths Development Dialogue (WFDD). Her wide-ranging work aims squarely at advancing human welfare, bridging divides and building partnerships among religious and non-religious institutions and policies. Marshall, who worked at the World Bank from 1971 to 2006, has over four decades of experience on development issues in Africa, Latin America, Southeast and South Asia, and the Middle East, focusing on the world's poorest countries and most vulnerable groups. She led the World Bank's faith and ethics initiative between 2000 and 2006. She is a pioneering operational leader who has mentored countless younger staff and works from numerous perspectives to strengthen partnerships with countries and communities. Marshall's most recent book, co-edited with Susan Hayward, is *Women, Religion, and Peacebuilding: Illuminating the Unseen* (United States Institute of Peace, 2015). Marshall has a B.A. from Wellesley College and an MPA from Princeton University's School of Public and International Affairs.

About the Interreligious Relations Occasional Papers Series

Interreligious Relations (IRR) is a peer-reviewed Series of Occasional Papers covering issues of religious diversity, including questions relating to social cohesion, religious contextualisation, religious-state-secular interactions, bridge-building between faiths, religiously-motivated conflicts and peacebuilding, as well as cognate areas. The IRR Series focuses mainly on contemporary contexts of religious diversity, but at the same time, it is also interested in historical and methodological questions relating to religious diversity. Though its coverage is international in scope, there is a focus on Asia, especially Southeast Asia. Contributions are invited from a range of academic fields including interdisciplinary approaches, and papers may cover any religious tradition, as well as atheism and non-religion.

About the Studies in Inter-Religious Relations in Plural Societies Programme

The Studies in Inter-Religious Relations in Plural Societies (SRP) Programme aims to study various models of how religious communities develop their teachings to meet the contemporary challenges of living in plural societies. It will also deepen the study of inter-religious relations, formulate models for the positive role of religions in peace-building and produce knowledge to strengthen social ties between communities. The Programme seeks to be at the forefront in the development of scholarship and applied knowledge on the roles of religion and inter-religious relations in plural societies today.

For more details, please visit our website at https://www.rsis.edu.sg/research/srp/, or follow us at https://www.facebook.com/srpprogramme/.

About the S. Rajaratnam School of International Studies

The S. Rajaratnam School of International Studies (RSIS) is a think tank and professional graduate school of international affairs at the Nanyang Technological University, Singapore. An autonomous school, RSIS' mission is to be a leading research and graduate teaching institution in strategic and international affairs in the Asia Pacific. With the core functions of research, graduate education and networking, it produces cutting-edge research on Asia Pacific Security, Multilateralism and Regionalism, Conflict Studies, Non-traditional Security, Cybersecurity, Maritime Security and Terrorism Studies.

For more details, please visit <u>www.rsis.edu.sg</u>. Follow us at <u>www.facebook.com/RSIS.NTU</u> or connect with us at <u>www.linkedin.com/school/rsis-ntu</u>.





Block S4, Level B3, 50 Nanyang Avenue, Singapore 639798 Tel: +65 6790 6982 | Fax: +65 6794 0617 | www.rsis.edu.sg