

LEAVING NO ONE BEHIND: A SERIES OF BRIEFING PAPERS ON FREEDOM OF RELIGION OR BELIEF AND THE SUSTAINABLE DEVELOPMENT GOALS. BRIEFING PAPER # 6¹

FREEDOM OF RELIGION OR BELIEF AND FREEDOM OF EXPRESSION

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The right to freedom of religion or belief is linked in important ways to Agenda 2030 and the Sustainable Development Goals (SDGs). This includes SDG no. 16. If we want to promote peaceful and inclusive societies and provide access to justice for all, we must ensure due attention to freedom of religion or belief. Parliamentarians and religious/belief leaders can play an important role in this. This paper provides a brief introduction to the relationship between freedom of religion or belief and SDG 16, focusing on access to information and protection of fundamental freedoms. The brief outlines the relationship between freedom of religion or belief and freedom of expression, identifies key areas of concern, and suggests concrete actions that parliamentarians and religious/belief leaders can take to address them.

THE RIGHT TO FREEDOM OF RELIGION OR BELIEF²

The right to freedom of thought, conscience and religion – commonly known as the right to freedom of religion or belief (FoRB) – is a human right. It endows all individuals with the right to have, adopt, change or leave a religion or belief; to manifest and practice this religion or belief, alone or in community with others; and to be free from coercion and discrimination on the grounds of their religion or belief. It also protects the right not to have or practice a religion or belief. And it protects the right of parents to raise their children in conformity with their own beliefs.

The right to have, adopt, change or leave a religion or belief can never be limited or restricted. The right to manifest and practice a religion or belief, however, can be limited in certain circumstances, most importantly when religious or belief manifestations or practices violate the rights and freedoms of others. Limitations must always be strictly necessary, proportionate and prescribed by law.

The State is the primary duty-bearer in relation to the promotion, protection, and respect of all human rights, and is obliged not only to uphold these rights, but to ensure that others do not violate them. As such, the legal responsibility to respect, protect and fulfil the right to FoRB lies with the State. Non-state actors with power to affect the lives of rights-holders may, however, be said to have a moral

responsibility to contribute to the respect, protection and fulfilment of FoRB and other human rights. This includes e.g. religious/belief leaders, politicians and other non-state actors who hold powerful positions in society or otherwise enjoy strong authority and social influence.³

RIGHTS RELATED TO FREEDOM OF RELIGION OR BELIEF IN THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS*

Article 2: 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 race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 18: Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 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. 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

Article 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 such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 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.

* For a full overview of human rights standards related to FoRB, see the website of the OHCHR: <https://www.ohchr.org/en/issues/freedomreligion/pages/standards.aspx>

FoRB is a universal right. It is a right of all individuals, regardless of citizenship status and what religion or belief they adhere to, or if they do not adhere to any religion or belief. Religious or belief minorities are often vulnerable to FoRB violations, but violations also affect other groups and individuals, in particular converts, atheists, women, sexual orientation and gender identity minorities, refugees, and children.

FoRB entails both collective and individual rights. While due attention should be given to respect the autonomy of religious/belief communities, individuals always have the right to interpret and practice their religion or belief as they want, including to criticise or leave their religion or belief, even when this challenges the mainstream orthodoxy of religious/belief authorities.

FoRB is closely intertwined, interrelated and mutually interdependent with other human rights. To enjoy FoRB fully, several other rights must also be protected – and the other way around. FoRB is also related to other human rights in the sense that discrimination on the grounds of religion or belief rarely concerns only restrictions of religious/belief practices and manifestations, but often also entails violations of other rights.

FoRB is important in the implementation of Agenda 2030 and the Sustainable Development Goals (SDGs). If we want to improve the lives and prospects of everyone, ‘leaving no one behind’, we must ensure due attention to those who are subject to discrimination, marginalisation and inequality on the grounds of their religion or belief (or lack thereof).

FORB AND SDG 16: SPOT LIGHT ON FREEDOM OF EXPRESSION

SDG 16 aims to ‘promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.’ The twelve targets include, among others, reduction of violence, illicit financial and arms flows, and corruption; promotion of rule of law; development of effective, accountable and transparent institutions; and promotion of non-discriminatory laws and policies.

While FoRB is important to a number of these targets, this brief focuses on one target in particular: target 16.10 which aims to ensure public access to information and protect fundamental freedoms in accordance with national legislation and international agreements. Target 16.10 relates closely to the freedom to seek and receive, as well as impart, information, which overall constitutes the right to freedom of expression (in the following FoE).

RIGHTS RELATED TO FREEDOM OF EXPRESSION IN THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 19.

1. Everyone shall have the right to hold opinions without interference.
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.
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.

Article 20.

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

FoE is often understood to be in a tense relationship, or even contradictory, with the right to FoRB. Reactions to the French Charlie Hebdo cartoons, to the burning of Qurans or to the Polish LGBTIQ+ activists' depiction of the Virgin Mary with a rainbow halo show that the expressions of some people can challenge, shock and offend other people's deeply held beliefs and convictions. For some, this is proof that FoE must be curtailed to protect FoRB.

But from a human rights perspective, FoE and FoRB are interrelated, intertwined and interdependent. More often than not, restrictions on FoE will result in restrictions on FoRB. In the struggle against intolerance, discrimination and incitement related to religion or belief, the challenge is not so much to 'balance' FoRB and FoE, but to ensure freedom of all individuals to express themselves, including in relation to religion or belief, while at the same time protecting all individuals against incitement to discrimination, hostility or violence and other expressions that violate their fundamental rights and freedoms.

FoE and FoRB are closely intertwined. Both FoRB and FoE protect the freedom of individuals to have thoughts, opinions or convictions and to express these. FoE ensures the right of all people to hold opinions and to seek, receive, or impart

information or ideas of any kind. This includes opinions and ideas related to religion or belief. While FoRB covers a wide range of manifestations of religion or belief, expressions of one’s religion or belief constitute a central aspect – whether in the form of teaching one’s religion or belief, disseminating or seeking information about religion or belief, performing prayer, or communicating with other individuals and communities on religious or belief matters, including discussion and criticism of one’s own religion or belief or that of others.⁴ Both rights also protect the freedom of individuals *not* to express their thoughts, opinions or convictions on religion or belief. Every individual is, for example, free to withdraw from unwanted communication, remain disinterested in certain information, keep their opinions or religious convictions to themselves, decline invitations to religious ceremonies or refrain from participating in religious holidays.⁵

“*Speech is fundamental to individual and communal flourishing. It constitutes one of the most crucial mediums for good and evil sides of humanity. War starts in the minds and is cultivated by a reasoning fuelled by often hidden advocacy of hatred. Positive speech is also the healing tool of reconciliation and peacebuilding in the hearts and minds*” (Faith for Rights)⁶

FoE is an important precondition for countering intolerance and discrimination related to religion or belief. All over the world, individuals and groups are targets of intolerant and discriminatory speech, because of their religion or belief. FoE ensures a wide scope for expressions, including expressions that to some people are deeply offensive, shocking or intolerant, as long as they do not constitute incitement to discrimination, hostility or violence.⁷ At the same time, FoE plays an indispensable role in combating intolerance and discrimination related to religion or belief, ensuring a space for exposing, challenging and refuting such expressions. An open and inclusive public debate of ideas, opinions and convictions can be an effective tool against intolerance and discrimination; often more so than restrictions and criminalisation of expressions. Public denouncements of hate speech, promotion of tolerance and equality in education, interreligious dialogue and public awareness-raising campaigns are all examples of the positive role that the exercise of FoE can play in combating intolerance and discrimination related to religion or belief.

FoE does not protect advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. The possibility to freely express one’s thoughts, opinions and convictions, including those related to religion or belief, is so fundamental to democracy that the threshold for restrictions must be very high, allowing speech that some may find offensive, provocative, or even discriminatory. But that does not mean that all kinds of expressions are allowed. According to international human rights law, expressions that constitute ‘direct and public incitement to genocide’ or ‘advocacy of national, racial or religious

hatred that constitutes incitement to discrimination, hostility or violence’ should always be prohibited.⁸ This includes expressions of incitement directed at particular religious or belief communities, as well as incitement originating from religious or belief communities. Furthermore, States may also restrict expressions for a limited number of other purposes, namely to protect the rights or reputation of others, to protect national security or public order, or to protect public health or morals. Regardless of the purpose, all restrictions must be prescribed by law, proportional and necessary to pursue the said purpose.⁹

DEFINING INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE

Defining what constitutes incitement is complicated and requires careful analysis. The OHCHR’s *Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence* outlines a six-step threshold test for determining when something should be considered incitement to discrimination, hostility or violence. This includes consideration as to the social and political context of the expression; the status and influence of the speaker; the intent of the expression; its content or form; the extent of the expression; and the likelihood and imminence of actually causing harm.

CHALLENGES TO FORB AND FOE

From a human rights perspective, States must guarantee everybody’s fundamental freedom to express themselves and they are only obliged to prohibit a relatively narrow set of expressions, as outlined above. In practice, however, many states around the world impose overly broad limitations on FoE, often in the form of laws aimed at protecting people against religiously related offense, hate speech or discrimination. Despite the intention, many of these laws result in restrictions on FoRB. Limitations on FoE may very well protect some people against offensive or inflammatory speech, prejudice or discrimination on the grounds of religion or belief, but they very often end up limiting other people’s legitimate right to express their thoughts, opinions and convictions on religion or belief.

Laws against blasphemy, defamation of religions or apostasy are examples of such problematic restrictions. More than 70 countries in the world have blasphemy laws, and the vast majority of these are imprecise and vaguely formulated, allowing for an overly broad application. In many countries blasphemy laws are used to oppress political opponents, journalists and other critical voices. Religious/belief minorities, atheists and others whose convictions and/or practices differ from those of the majority are also disproportionately affected by blasphemy charges.

From a human rights perspective, blasphemy laws are deeply problematic and should be abolished. Human rights protect individuals, not abstract ideas or belief systems. Neither are considerations as to individual ‘religious feelings’ or preservation of ‘societal harmony’ legitimate reasons for limiting our fundamental freedoms. A ban on blasphemy might protect some people’s beliefs, but it will inevitably restrict the beliefs of others. As such, blasphemy laws are also a violation of FoRB. Reports of the UN Special Rapporteur, the Rabat Plan of Action and various other human rights documents urge States that still have anti-blasphemy or anti-apostasy laws to repeal them.¹⁰

EXAMPLES OF BLASPHEMY CASES

A man wrote a critical article about how Islam, in his perspective, was misused to justify caste discrimination in his country. He was charged with apostasy and sentenced to death. His sentence was later reduced to five years imprisonment.

A woman complained to her neighbours about noise from a nearby mosque. She was accused of blasphemy and sentenced to 18 months in prison.

Three LGBTIQ+ activists put up images of the Virgin Mary with a rainbow halo to protest against the Catholic Church’s exclusion of LGBTIQ+ people. They were accused of ‘offending religious feelings’ and risk up to two years in prison.

Some countries employ general restrictions on expressions related to **proselytising and attempts to convert others** on the grounds that they may disturb the religious harmony in a society. Proponents of such laws argue that in contexts where competition between religious groups is hostile, or where there is a history of religious violence, proselytising may contribute to unrest and conflict. Yet as former UN Special Rapporteur on FoRB Heiner Bielefeldt has noted: “Anti-apostasy and anti-proselytism laws also have in common a tendency to prohibit changes away from hegemonic religions, which typically receive privileged treatment. Double standards not only are a problem when applying the respective laws in practice; they frequently define the very essence of those laws.”¹¹ By their prohibitions of non-coercive persuasion and the right to change one’s mind, such laws will tend to create rather than eliminate unrest and conflict.¹²

According to international human rights law, proselytism can be restricted in exceptional cases, most importantly when coercion is employed. But broad restrictions on proselytism and conversion as such are incompatible with human rights and fundamental freedoms, including access to information. They not only prevent some people from sharing information about their religion or belief

(which is in fact an obligation in some religions); they also prevent others from receiving information about religion or belief and from making choices based on this information, including the choice to convert. As such, general restrictions on proselytism will almost inevitably violate not only the right to FoE, but also FoRB. In fact, the right to conversion and the right not to be forced to convert have the status of unconditional protection under international human rights law.¹³

LEGITIMATE RESTRICTIONS ON PROSELYTISM: THE CASE OF LARISSIS AND OTHERS VS GREECE

Three officers in the Greek air force engaged in proselytism; one among his subordinates and the two others among civilians, encouraging them to join the Pentecostal Church. All three were charged with proselytism, which was prohibited in Greece. The officers brought the case to the European Court of Human Rights. The Court emphasised that FoRB encompasses the right to manifest one's religion, including also the right to try to convince others to convert. With regard to the two officers who had been convicted for engaging in proselytism among civilians, the Court found that their right to FoRB had been violated. However, the Court did not find that the right to FoRB had been violated in the case of the officer who had engaged in proselytism among his subordinates. The Court stated that the right to FoRB does not protect proselytism that involves 'improper pressure'. A superior's proselytising among his subordinates may be viewed as a form of harassment or pressure, insofar as the hierarchical structures of the army may make it difficult for a subordinate to rebuff his or her superiors or withdraw from a conversation with them. As such, it is legitimate to restrict the right to proselytise in such situations.¹⁴

A third type of restriction turns on issues of **racism and ethnic discrimination**. Some argue that religious identity constitutes an immutable foundation of human identity analogous to race and ethnicity. As such, they say, attacks on the basis of a person's religion should be grounds for prohibition in the same way that attacks on the basis of race and ethnicity are prohibited.¹⁵

While there are certainly overlaps, invoking a direct analogy is problematic. For many people (even if not for all), religious adherence, membership or identity is a personal choice rather than an innate and unchangeable characteristic. As such, FoRB must necessarily include "the rights to search for meaning by comparing different religions or belief systems, to exchange personal views on questions of religion or belief, and to exercise public criticism in such matters."¹⁶

Equating discrimination on the grounds of religion with discrimination on the grounds of race or ethnicity, would mean that expressions of religious superiority

would have to be condemned along the same lines as propaganda based on ideas of racial or ethnic superiority is. But saying that one race or ethnic group is superior to another is fundamentally different from saying that one religion is superior to another. Claims of superiority are inherent in many religions; for many people the choice to believe in one religion over another is based precisely on their belief that this religion is better than other religions.

COMPARE EXAMPLES OF RACIAL AND RELIGIOUS DISCRIMINATION

Should both expressions be criminalised?

The leader of a neo-Nazi group posts a statement on Facebook, saying that the white race is superior to all other races and will eventually prevail, leading to white supremacy worldwide

The pastor in an Evangelical mega-church claims in his Sunday sermon that Christianity is superior to all other religions, and that by Doomsday, only Christians will be saved while everybody else will burn in Hell

Finally, restrictions on **hate speech related to religion or belief** constitute a fourth potential challenge. Around the world, recent years have seen an increase in hate speech legislation. Such laws can be an important tool in the protection of individuals and groups against incitement to hatred and violence, provided that they reflect international human rights standards, criminalising only a narrow set of expressions (as outlined above) and in so doing, complying with principles of legality, proportionality, and necessity.

However, many hate speech laws are vague and overly broad targeting expressions that are 'likely to stir up hatred' without contextual assessment of the intent of the speaker or the risk of imminent violence. Even if such laws are well-intended, their effects can be chilling.¹⁷ For instance, is it hate speech if members of a conservative religious community call LGBTIQ+ people 'immoral sinners' or 'Satan's brood', or refuse to accept the legitimacy of same-sex marriage? Or, the other way around, is it hate speech if members of the LGBTIQ+ community criticise those religious communities for their views, calling them 'evil homophobes'?¹⁸

The Rabat Plan of Action's six-point test provides valuable guidance on these questions, emphasising the importance of non-legal approaches. As it states, "legislation is only part of a larger toolbox to respond to the challenges of hate speech. Any related legislation should be complemented by initiatives from various sectors of society geared towards a plurality of policies, practices and measures nurturing social consciousness, tolerance and understanding change and public discussion. This is with a view to creating and strengthening a culture of peace, tolerance and mutual respect".¹⁹

SOCIAL MEDIA AND HATE SPEECH²⁰

Even more so than traditional media, social media platforms such as Facebook, Twitter and others can be effective tools for spreading hate speech, not only because of their reach and accessibility, but also because the algorithms upon which they rely seem to encourage extreme expressions over more 'moderate' ones. Hate speech on social media is widespread, including also speech targeting religious minorities, religious feminists, atheists and others. While most platforms have put in place measures to curtail hate speech, many of these efforts fail to comply with fundamental principles of human rights. Main concerns include vague definitions of hate speech, intransparent procedures, lack of procedural safeguards and lack of access to effective remedy. There are indications that religious minorities, along with other minority groups, are at risk of being disproportionately targeted by regulation, whether reflecting bias in the algorithms used to detect hate speech, among staff overseeing content, or among users reporting hate speech. Thus, the very people who are often targets of online hate speech may also find themselves targeted through reporting tools and disproportionately impacted by content removal and other sanctions against their accounts.

AVOIDING THE HECKLER'S VETO

Some argue that certain expressions should be restricted or suppressed because of anticipated or actual violent reactions against the speaker. This is sometimes referred to as 'the heckler's veto'. But expressions that may result in violence against the speaker, no matter how likely it is that violence will erupt, should not be conflated with a speaker's intentional incitement to violence. The Special Rapporteur on Freedom of Religion or Belief provided the following example: "In 2004, a former bishop of the Macedonian Orthodox Church was sentenced by national courts to imprisonment for having instigated violence against himself and his followers because he had left the predominant Church and created a schism. An opinion by the Panel of Experts on Freedom of Religion and Belief of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights expressed concerns about the judgment's approach, which seemed to suggest that any form of religious activity that effectively challenged the legitimacy and supremacy of the Macedonian Orthodox Church as the dominant religion should be considered an action that promotes religious hatred. Since Bishop Jovan had been the target of a hostile response from opposing believers, it is astonishing that he was found by the first instance court to have instigated religious hatred "towards himself and his followers". Subsequently, the Supreme Court partially accepted his appeal with regard to the freedom to perform religious rites and reduced his prison sentence to eight months."²¹

HOW TO ADDRESS CHALLENGES? SUGGESTED ACTIONS FOR PARLIAMENTARIANS AND RELIGIOUS/BELIEF LEADERS

To achieve SDG target 16.10, ensuring access to information and protecting fundamental freedoms, the right to FoE must be upheld. From a human rights perspective, legal restrictions on FoE should be reserved for a very narrow set of circumstances. Even deeply offensive and intolerant expressions should be allowed, as long as they do not amount to incitement to hatred, discrimination or violence. Broad restrictions risk unduly limiting not only FoE, but also FoRB.

This does not mean, however, that offensive and intolerant expressions must stand undisputed. As the Rabat Plan of Action notes, State and non-state actors can and should employ a range of non-legal responses to prejudice, stigmatisation and discrimination and build an environment where ideas, opinions and convictions – religious and non-religious – can be openly exchanged without fear of violence or hatred.²²

Parliamentarians and religious/belief leaders have an important role to play in promoting and protecting the right to FoE, challenging illegitimate restrictions on FoE and speaking up against hate speech, and in so doing, making sure that the right to FoRB is upheld.

Parliamentarians are responsible for proposing, scrutinising and eventually adopting laws, including those related to FoE, as well as for overseeing and passing budgets to allocate funding for FoE-related initiatives. In addition, parliamentarians must represent their constituents, ensuring that their perspectives, experiences and needs are taken into consideration and promoting citizen participation in political processes.²³ In all of this, they can contribute to raising awareness of FoE and FoRB. They can:

- Work to abolish laws that unduly restrict FoE and FoRB, including laws against blasphemy and apostasy, anti-conversion laws, and laws that prohibit proselytism, and ensure that laws on hate speech are in line with the Rabat Plan of Action
- Speak out against hate speech and refrain from using expressions which may incite violence, hostility or discrimination. This is particularly important when intergroup tensions are high and where political stakes are also high, e.g. in the run-up to elections. Early and clear communication can prevent tensions from escalating and open a space for ‘counter-speech’ from other actors.
- Encourage educational reforms to ensure obligatory education in human rights, pluralism and non-discrimination in formal education

Religious/belief leaders often enjoy popular support, legitimacy and authority. They have vast networks and relations and have extensive knowledge of the local context in which they work. All this means that they can play a key role in raising awareness of FoE and its relationship with FoRB. They can:

- Speak out against hate speech and refrain from using expressions which may incite violence, hostility or discrimination. In situations where proponents of hate speech portray themselves as representative of, or acting on behalf of, a specific religious/belief community or tradition, leaders from that community or tradition are well placed not only to refute these claims of representation, but also to challenge their justifications of hatred and offer a persuasive counter-narrative.²⁴
- Encourage dialogue and collaborative action to dismantle stereotypes, prejudices and misperceptions.²⁵ This includes not only interreligious, but also intra-religious, dialogue and collaboration, as well as dialogue and collaboration between religious and non-religious groups. Inter-parliamentarian support for such initiatives can strengthen their credibility and impact.
- Promote diversity and non-discrimination in educational and training activities. Teaching materials and textbooks should be revised where-ever religious interpretations may give rise to the perception of condoning violence or discrimination against particular groups or individuals.²⁶

ABOUT THE PAPER

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The information contained in this paper represents the views and opinions of the author and does not necessarily represent the views and opinions of any of the above-mentioned entities or persons.

NOTES

- 1 The series include six papers: Freedom of Religion or Belief and the Sustainable Development Goals (paper #1), Freedom of Religion or Belief and Health (#2), Freedom of Religion or Belief and Education (#3), Freedom of Religion or Belief and Women’s Rights (#4), Freedom of Religion or Belief and Climate Change (#5), and Freedom of Religion or Belief and Freedom of Expression (#6). All briefs build in part on the author’s report *Promoting Freedom of Religion or Belief and Gender Equality in the Context of the Sustainable Development Goals: Reflections from the 2019 Expert Consultation Process*, Danish Institute for Human Rights, 2020
- 2 See also Marie Juul Petersen and Katherine Marshall, *The International Promotion of Freedom of Religion or Belief. Sketching the Contours of a Common Framework*, Danish Institute for Human Rights, 2019
- 3 A number of declarations, resolutions and action plans point to the roles and responsibilities of religious actors as moral duty-bearers, including e.g. the *UN Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)*, the *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence (2012)*, and the *Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes (2017)*.
- 4 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, 1981, articles 6(d), 6(i) and 6(e).
- 5 Heiner Bielefeldt, *Report of the Special Rapporteur on freedom of religion or belief*, Report to the UN Human Rights Council, A/HRC/31/18, 2015, para. 34.
- 6 OHCHR, *Beirut Declaration and its 18 commitments on “Faith for Rights,”* 2017, annex I, para. 20.
- 7 See e.g. European Court of Human Rights, *Case of Handyside vs. UK*, Application No. 5493/72, 1976
- 8 UN Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Rome Statue of the International Criminal Court (1998); ICCPR, Article 20 (2); Human Rights Committee, *General Comment no. 22*, CCPR/C/21/Rev 1/Add.4, 1993, and *General Comment no. 34*, CCPR/C/GC/34, 2011; Human Rights Council, *Resolution on combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence, and violence against persons based on religion or belief*, A/HRC/RES/16/18, 2011
- 9 The term “prohibit by law” in Article 20 of the ICCPR does not necessarily mean criminalisation; the Human Rights Committee has said it only requires States to “provide appropriate sanctions” in cases of incitement. Civil and administrative penalties (e.g. fines, restitution/compensation, retraction of statement, banning of associations) will in many cases be most appropriate, with criminal sanctions an extreme measure of last resort.
- 10 See e.g. Ahmed Shaheed, *Interim report of the Special Rapporteur on freedom of religion or belief*, Report to the UN General Assembly, A/72/365, 2017
- 11 Heiner Bielefeldt, *Interim report of the Special Rapporteur on freedom of religion or belief (focus: The broad range of violations of freedom of religion or belief, their root causes and variables)*, Report to the UN General Assembly, A/71/269, 2016, para. 44

- 12 Ahmed Shaheed, *Report of the Special Rapporteur on Freedom of Religion or Belief*, Report to the Human Rights Council, A/HRC/40/58, 2019, para. 31
- 13 Heiner Bielefeldt, Interim report of the Special Rapporteur on freedom of religion or belief, Report to the UN General Assembly, 2012
- 14 European Court of Human Rights, *Case of Larissis and Others v. Greece*, 140/1996/759/958-960, 1998
- 15 UN, International Convention on the Elimination of all Forms of Racial Discrimination, Article 4; Article 19, *'Hate Speech' Explained. A Toolkit*, 2015
- 16 Joint submissions to the series of OHCHR expert workshops by Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief; Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 2011
- 17 Ahmed Shaheed, *Report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and freedom of expression)*, Report to the UN Human Rights Council, A/HRC/40/58, 2019, para. 33
- 18 Jacob Mchangama and Nadine Strossen, *Hate-speech laws are no friend of minorities, Spiked*, June 2nd, 2020
- 19 OHCHR, *Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*, 2012
- 20 David Kaye, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report to the UN Human Rights Council, A/74/486, 2019; Ahmed Shaheed, *Report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and freedom of expression)*, Report to the UN Human Rights Council, A/HRC/40/58, 2019, para. 54; Article 19, *'Hate Speech' Explained. A Toolkit*, 2015, p. 49ff, p. 61ff
- 21 Ahmed Shaheed, *Report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and freedom of expression)*, Report to the UN Human Rights Council, A/HRC/40/58, 2019, para. 48
- 22 Article 19, *'Hate Speech' Explained. A Toolkit*, 2015, p. 49ff
- 23 Kevin Deveaux and Charmaine Rodrigues (2017) *Parliament's role in implementing the Sustainable Development Goals, UNDP, GOPAC and Islamic Development Bank*.
- 24 Article 19, *'Hate Speech' Explained. A Toolkit*, 2015, p. 49 and 65
- 25 Article 19, *'Hate Speech' Explained. A Toolkit*, 2015, p. p. 65
- 26 Ahmed Shaheed, *Report of the Special Rapporteur on freedom of religion or belief (focus: freedom of religion or belief and freedom of expression)*, Report to the UN Human Rights Council, A/HRC/40/58, 2019, para. 22