

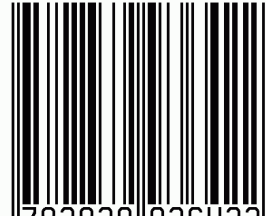
FREEDOM OF RELIGION OR BELIEF

A Guide for Monitoring International Human Rights Law



Written by Abigail Koshimo Brown

Edited by Daisuke Shirane and Patrick Mutzenberg



**Freedom of Religion or Belief – A Guide for
Monitoring International Human Rights Law**

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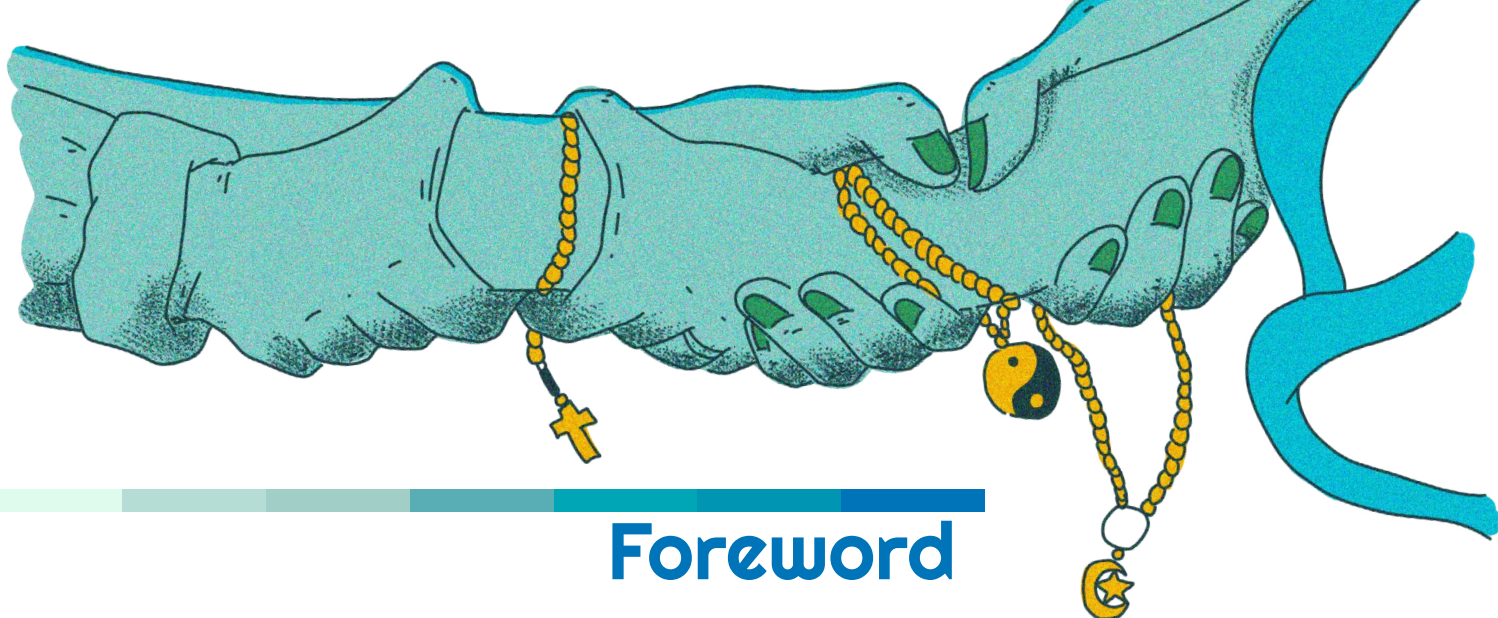
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Abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT (Committee)	Committee Against Torture (UN body in charge of monitoring implementation of the CAT)
CED	Committee on Enforced Disappearances (UN body in charge of monitoring implementation of the CPED)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW (Committee)	Committee on the Elimination of Discrimination against Women (UN body in charge of monitoring implementation of the CEDAW)
CERD	Committee on the Elimination of Racial Discrimination (UN body in charge of monitoring implementation of the ICERD)
CESCR	Committee on Economic, Social and Cultural Rights (UN body in charge of monitoring implementation of the ICESCR)
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN body in charge of monitoring implementation of the ICRMW)
CPED	International Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRC (Committee)	Committee on the Rights of the Child (UN body in charge of monitoring implementation of the CRC)
CRPD	Convention on the Rights of Persons with Disabilities
CRPD (Committee)	Committee on the Rights of Persons with Disabilities (UN body in charge of monitoring implementation of the CRPD)
CSO	Civil Society Organisation
ECOSOC	United Nations Economic and Social Council
ESCR	Economic, Social and Cultural Rights
HRCttee	Human Rights Committee (UN body in charge of monitoring implementation of the ICCPR)
HRC	Human Rights Council
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Right of All Migrant Workers and Members of Their Families (known as the 'Migrant Workers Convention')
IDPs	Internally Displaced Persons
NGO	Non-governmental Organisation
NHRI	National Human Rights Institution
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organisation for Security and Cooperation in Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNHCR	UN High Commissioner for Refugees



Foreword

The freedom of religion or belief is one of the fundamental human rights protected by international human rights law, among others the article 18 of the International Covenant on Civil and Political Rights (ICCPR). However, at the same time, its protection remains as one of the most persistent and common human rights challenges in the world, for multiple and complex reasons of a political, cultural, religious and social nature.

Often religion or belief relates to core values of an individual, a social group or even a country. And as such, it can be a factor that strengthen peace and harmony at different levels and contribute to protection of various other human rights. On the other hand, it can also be a cause of inter-personal tension, discrimination or larger scale conflict, and at time, used as a tool to justify restriction or violation of human rights, in particular those of individuals who are put in a more vulnerable position in a society.

ICCPR article 18 protects the right of everyone to the freedom of religion or belief (thus it is not a right of a group or society, or religion itself). Most of the human rights challenges related to religion we have witnessed through the work of the Human Rights Committee, the monitoring body of the ICCPR, arise from improper protection, including mis-interpretation and mis-application, of this right, may it be about the scope of the right or permissible limitations.

This Guide in this regard is a quite helpful and practical tool for all stakeholders, in particular those dealing with the issue at the grassroots and national levels, including national and local authorities as well as human rights defenders. It can be used as a tool to monitor implementation of relevant international human rights law, especially ICCPR article 18, to develop national legislations and policies, or in trainings and awareness raising activities. Common issues highlighted therein, together with the guiding questions for monitoring, are particularly useful to identify and assess the situation on the ground from the perspective of international standards and, in turn, to raise the issues at stake with international human rights bodies.

Yadh BEN ACHOUR

Member of the UN Human Rights Committee

Introduction

This publication was prepared by the Centre for Civil and Political Rights ('CCPR Centre') with the aim of providing practical information and guidance to monitor the implementation of international human rights law, especially article 18 of the International Covenant on Civil and Political Rights ('ICCPR'). It should serve as a useful tool for all actors working for the protection of the freedom of religion or belief on the ground, in particular civil society organisations (CSOs) and Human Rights Defenders (HRDs).

It provides an overview and simple explanation of ICCPR article 18, detailing aspects of the freedom of religion or belief as protected by the provision (Chapter 1). This tool also analyses the freedom of religion or belief in view of 'vulnerable groups', who are at a greater risk of facing violations of their freedom due to intersecting factors and identities, such as ethnic or national origin, age, gender, citizenship or migration status (Chapter 2). Throughout the tool there are textboxes that examine common issues related to religion that affect rights protected by ICCPR article 18 and other provisions of international human rights law.

In order to assist monitoring and reporting by national stakeholders, several Guiding Questions are included in Chapter 1. These Guiding Questions are designed to support the identification of violations of ICCPR article 18, and the determination of what information should be collected and reported to the Human Rights Committee ('HRCttee') and other international bodies. It also provides examples of violations of the freedom of religion or belief and relevant issues that can be reported to and addressed by different Treaty Bodies.

This publication was prepared based on research and analysis of more than 147 Concluding Observations and 123 Lists of Issues of the UN Treaty Bodies issued to State parties, mainly in Asia and the Pacific since 2010. As the monitoring body of the implementation of the ICCPR, most of the documents analysed for this publication are those of the HRCttee. However, as explained in this Guide, issues related to the freedom of religion or belief often have intersecting aspects and as such can be reported to, and indeed have been addressed by, other Treaty Bodies, including CEDAW, CRC and CERD.

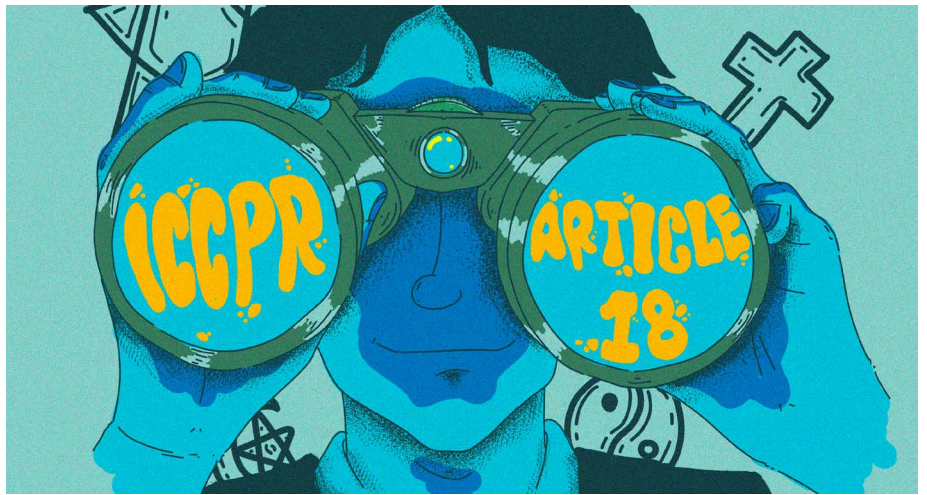
Given the aim and scope of this publication, it does not intend to provide an in-depth review of article 18 or capture all of the complexities of protecting the freedom of religion or belief. For readers who wish to learn more or gain a greater legal understanding, sources and materials indicated in this publication can be referred to.



Chapter 1

ICCPR Article 18





Article 18 of the ICCPR reads:

- 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.

ICCPR Article 18 protects the freedom of all individuals to have, not to have, or to change their thought, conscience, religion, or belief. The freedom protected by ICCPR article 18 encompasses all matters of thought and theistic, non-theistic and atheistic beliefs – including the right not to profess any religion or belief at all. No one can be compelled to reveal their thoughts or adherence to a religion or belief.

The different elements of the freedom protected by the ICCPR article 18 are explained in more detail in the following sections of this Chapter. While article 18 is the main provision relating to freedom of religion or belief, other provisions within the ICCPR add important elements to the protection of this freedom. One such element is set out by ICCPR article 4(2), which lists article 18 as one of the Covenant's non-derogable rights. This means that although State parties may take measures derogating from some of their obligations under the ICCPR at times of public emergencies, derogation from article 18 is not allowed under any circumstance.

Furthermore, article 18 permits no limitations on the freedom of thought and conscience, or on the freedom to have a religion or belief of one's choice, while the freedom to manifest a religion or belief may be limited in certain circumstances as specified in ICCPR articles 18(3) and 20.



Common Issues 1: Reservations on ICCPR article 18

Reservations are made by some State parties to article 18, majority of which seeking to limit the applicability of the article 18 only to the extent it does not affect the prescriptions of the Constitution and/or Islamic Sharia.¹ In general, HRCttee always encourages all State parties who made reservations to any of the ICCPR article to withdraw them. Concerning the reservations made to ICCPR article 18, all of them were also met by objections from other State parties, while one case resulting in the withdrawal of the reservation (Pakistan) and another in the rejection of the reservation by the UN Secretary-General (Bahrain).²

For example, concerning the reservation made by Mauritania to article 18, the HRCttee made clear that it is “incompatible with the object and purpose of the Covenant” and that the State party should “ensure that the reference to Islam does not prevent the full application of the Covenant in its legal order and is not interpreted or applied in such a way as to impede the enjoyment of the rights set forth in the Covenant”.³

Guiding Questions for Monitoring:

- Are there any laws, policies, customs, or practices in your society that restrict your freedom of thought, conscience, religion, or belief?
- Are there any individuals or groups in your society whose freedom of thought, conscience, religion, or belief are protected or restricted differently from those of others?
- Has your State or Government taken any measures derogating from ICCPR article 18?

If your answer is YES to any of the Questions above, there is a risk of violation of the ICCPR. Please check:

- Which laws, policies, customs, or practices restrict your freedom of thought, conscience religion or belief, and how?
- Who are the individuals or groups, whose freedom of thought, conscience, religion, or belief are protected or restricted differently from others, and how?
- What kind of measures are taken by your State or Government to derogate from ICCPR article 18, and on what grounds?

¹See Annex for the full list of reservations to Article 18 and objections.

²United Nations, Treaties Series Volume 999 Chapter IV, 14

³HRCttee, Concluding Observations on Mauritania (2019) CCPR/C/MRT/CO/2, paras. 6 and 7.

1.1 Freedom to have or adopt a religion or belief

Article 18(1) protects an individual's freedom to have or adopt a religion or belief. This freedom includes the right to choose or replace a religion or belief as well as to adopt atheistic views.⁴ This right is absolute, meaning that there is no justification for any form of limitation.⁵ This prohibition of limitation is reinforced by article 18(2), which explicitly prohibits coercion.

This freedom to have or adopt a religion or belief can be violated, for example, in the following situations:

- Individuals are forced to abandon their faith by threats including eviction⁶
- Religious conversion is prohibited by law or in practice through measures including trials for 'apostasy', imprisonment, limitations on inter-religious marriages, annulment of marriages, and suspension of contracts⁷
- Women and girls are abducted for the purpose of forced conversion and marriage⁸
- Converts to new religious movements are abducted and placed under forced confinement by their family members in an effort to de-covert them⁹

Guiding Questions for Monitoring:

- Can you freely choose which religion to follow?
- Can you freely change your religion?
- Are you able to choose not to hold any religion at all?
- Has your State your Government taken measures to protect your freedom to have or adopt a religion or belief of your

If your answer is NO to any of the Questions above, there is a risk

- What barriers or limitation do you face when choosing or changing your religion or belief, adopting atheistic view and/or choosing not to follow any religion or belief?
- What kind of measures of would your State or Government need to take to protect your freedom to have or adopt a religion or belief of your choice?

⁴ HRCttee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 5.

⁵ HRCttee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 3.

⁶ See for e.g. HRCttee, List of Issues to the Lao People's Democratic Republic (2018) CCPR/C/LAO/Q/1, para. 18.

⁷ See for e.g. CEDAW (Committee), Concluding Observations on Malaysia (2013) CEDAW/C/MYS/CO/3-5, para. 53; See also UN General Assembly, Interim Report of the Special Rapporteur on Freedom of Religion or Belief (2012) A/67/303, paras. 21-25.

⁸ See for e.g. CEDAW (Committee), List of Issues to Pakistan (2019) CEDAW/C/PAK/Q/5, para. 21

⁹ See for e.g. HRCttee, Concluding Observations on Japan (2014) CCPR/C/JPN/CO/6, para. 21.



Common Issues 2: Conscientious Objection¹⁰

The normative basis and scope of the right to conscientious objection have long been contested under international human rights law, as human rights bodies including the HRCttee have shifted in their positions towards the right.

In 1985, the HRCttee stated that “the Covenant does not provide for the right to conscientious objection; neither does article 18 nor article 19”,¹¹ in view of article 8 “which makes clear that ‘service of military character’ or ‘national service required by law of conscientious objectors’ is not to be regarded as forced or compulsory labour”.¹²

However, the HRCttee later adopted a new position in General Comment No. 22; stating that the right to conscientious objection “can be derived from article 18, in as much as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief”.¹³ In *Yoon and Choi v. Republic of Korea*, the Committee clarified that article 8 “neither recognizes nor excludes a right of conscientious objection” and proceeded to assess the claims under article 18.¹⁴ The HRCttee found that the authors’ refusal to be drafted for compulsory service was a direct expression of their religious beliefs, and that their conviction and sentence amounted to a restriction on their ability to manifest their religion or belief.¹⁵ This finding was based on a combination of both articles 18(1) and (3) – the freedom to have or adopt alongside the freedom to manifest.

The HRCttee has based its most recent findings on conscientious objection on the freedom to have or adopt a religion or belief (article 18(1)). In *Jeong et al v. Republic of Korea*, the Committee stated that ‘the right to conscientious objection to military service inheres in the freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual’s religion or beliefs’.¹⁶ The legal effect of this interpretation is that the right (inhering from article 18(1)) cannot be limited, as it could be if conscientious objection was deemed to be a matter of manifestation (article 18(3)).

The right to conscientious objection entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual’s

¹¹ HRCttee, *LTK v Finland* (1985) Comm No. 185/1984, para. 5.2.

¹² HRCttee, *Jarvinen v Finland* (1990) Comm No. 295/1988, paras. 6.1-6.2.

¹³ HRCttee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 11; See also HRCttee, *Westerman v. the Netherlands* (1997) Comm No. 682/1996.

¹⁴ HRCttee, *Yoon and Choi v. Republic of Korea* (2006) Comm Nos. 1321/2004 1322/2004, para. 8.2.

¹⁵ HRCttee, *Yoon and Choi v. Republic of Korea* (2006) Comm Nos. 1321/2004 1322/2004, para. 8.3.

¹⁶ HRCttee, *Jeong et al v. Republic of Korea* (2011) Comm Nos. 1642-1741/2007, para. 7.3; See also *Atasoy and Sarkut v. Turkey* (2012) Comm No. 1853/2008 1854/2008, para. 10.4.

religion or beliefs. However, a State may compel an objector to undertake a civilian alternative to military service, outside the military sphere and not under military command.¹⁷ The HRCttee has elaborated on conditions of civilian alternatives to military service and considers whether:

- The alternative service is punitive in nature or a real service to the community¹⁸
- The law ensures that individuals may claim the status of conscientious objector and perform an alternative service without discrimination¹⁹
- The alternative service is compatible with the convictions on which the objection is based²⁰
- The length of the alternative service is “based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for a special training”²¹

¹⁷HRCttee, Jeong et al v. Republic of Korea (2011) Comm Nos. 1642-1741/2007, para. 7.3; See also Atasoy and Sarkut v. Turkey (2012) Comm No. 1853/2008 1854/2008, para. 10.4; See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 17; See also HRCttee, Concluding Observations on Lithuania (2004) CCPR/C/LTU/CO/80, para. 17.

¹⁸ See for e.g. HRCttee, Min-kyu Jeong et al v. The Republic of Korea (2011) Comm No. 1642-1741/2007, para. 7.3; Jong-nam Kim et al. v. Republic of Korea (2013) Comm No. 1786/2008, para. 7.4.

¹⁹ See for e.g. HRCttee, Concluding Observations on Viet Nam (2002) CCPR/C/VNM/CO/75, para. 17; List of Issues to Mongolia (2016) CCPR/C/MNG/Q/6, para. 19; List of Issues to the Lao People's Democratic Republic (2018) CCPR/C/LAO/Q/1, para. 18.

²⁰ See for e.g. HRCttee, Concluding Observations on Russia (2003) CCPR/C/RUS/CO/79, para. 17.

²¹ HRCttee, Foin v. France (1995) Comm No. 666/1995, para. 10.3.

²² HRCttee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 5.

²³ See for e.g. HRCttee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 6; List of Issues to Sri Lanka (2014) CCPR/C/LKA/Q/5, para. 26; List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18.

1.2 Freedom from coercion that would impair the right to have or adopt a religion or belief

Article 18(2) bars coercion, including physical or indirect coercion, which would impair a person's right to have or adopt a religion or belief. Policies or practices that have the intention or effect of coercion are inconsistent with article 18(2),²² including those that restrict the access of religious groups or minorities to education, medical care, or employment.²³ Policies or practices that have the intention or effect of limiting the enjoyment of the rights guaranteed by other provisions of the Covenant are also inconsistent with article 18(2).²⁴

This freedom can be violated, for example, in the following situations:

- Acts of private persons or groups, such as abductions or forced confinement by family members, inflicted on converts to new religious movements, in an effort to de-covert them²⁵
- Preferential treatment within prison and improved possibility of parole offered in an effort to alter the beliefs of an inmate²⁶
- Where an individual is excluded from university on the basis that she refused to remove her headscarf contrary to the university's rules²⁷
- Adherence to or knowledge of a particular religion is a mandatory requirement for employment in the public service²⁸



Guiding Questions for Monitoring:

- Are you being forced to follow a certain religion or belief against your will?
- Are you being forced to abandon your religion or belief against your will?
- Do you face disadvantages or barriers – such as to education, employment, or public services – if you do not follow the religion or belief recognized by the State or adopted by the majority of society?
- Would you gain advantages or benefits if you adopted the religion or belief recognised by the State or adopted by the majority of society?

If your answer is YES to any of the Questions above, there is a risk of violation of the ICCPR. Please Check:

- Who – for e.g. State agents or family members - is forcing you to follow a certain religion or abandon your religion, and how?
- What – such as laws, practices, or traditions – is forcing you to follow a certain religion or abandon your religion, and how?
- What are the disadvantages or barriers that you face if you do not follow the religion or belief recognized by the State or adopted by the majority of society?
- What are the advantages or benefits of following or adopting the religion or belief recognized by the State or adopted by the majority of society?

²⁵ See for e.g. HRCttee, Concluding Observations on Japan (2014) CCPR/C/JPN/CO/6, para. 21.

²⁶ See for e.g. HRCttee, Kang v. Republic of Korea (2003) Comm No. 878/1999, para. 7.2.

²⁷ See for e.g. HRCttee, Hudoyberganova v. Uzbekistan (2005) Comm No. 931/2000, para. 6.2: The HRCttee “considers that to prevent a person from wearing religious clothing in public or private may constitute a violation of article 18, paragraph 2, which prohibits any coercion that would impair the individual’s freedom to have or adopt a religion. As reflected in the Committee’s General Comment No. 22, policies or practices that have the same intention or effect as direct coercion, such as those restricting access to education, are inconsistent with article 18, paragraph 2... In the particular circumstances of the present case, and without either prejudging the right of a State party to limit expressions of religion and belief in the context of article 18 of the Covenant and duly taking into account the specifics of the context, or prejudging the right of academic institutions to adopt specific regulations relating to their own functioning, the Committee is led to conclude, in the absence of any justification provided by the State party, that there has been a violation of article 18, paragraph 2”.

²⁸ See for e.g. HRCttee, Concluding

1.3 Freedom to manifest one's religion or belief

Article 18 (1) also protects the freedom to manifest a religion or belief in worship, observance, practice, and teaching that may be exercised individually or in community with others as well as in public or in private. Acts to manifest one's religion or belief can take a broad range of forms,²⁹ such as:

- Ritual and ceremonial acts giving direct expression to belief
- Building places of worship
- Using ritual formulae and objects
- Displaying symbols
- Observing holidays and days of rest
- Observing dietary regulations
- Wearing distinctive clothing or head coverings
- Participating in rituals associated with certain stages of life
- Using a particular language customarily spoken by a group
- Acts integral to the conduct of basic affairs by religious groups, including:
 - Choosing their religious leaders, priests, and teachers
 - Establishing seminaries or religious schools
 - Preparing and distributing religious texts and publications
 - Registering religious, charitable, or humanitarian institutions as well as receiving voluntary financial and other contributions from individuals or institutions³⁰

²⁹HRCtee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 4; See also UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) A/RES/36/55, article 6 which contains a non-exhaustive list of manifestations that are protected under the right to freedom of thought, conscience, religion or belief.

³⁰UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) A/RES/36/55, article 6 (b) and (f); See also Commission on Human Rights, Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (2005) E/CN.4/RES/2005/40, paras. 4 (c) and 4 (e)); Human Rights Council, Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (2007) HRC/RES/6/37, para. 12 (h); See also HRCtee, *Boodoo v. Trinidad and Tobago* (2002) Comm No. 721/1996, para. 6.6.

³¹See for e.g. HRCtee, Concluding Observations on Sri Lanka (2014) CCPR/C/LKA/CO/5, para. 23.

³²See for e.g. HRCtee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, paras. 43-44.

³³See for e.g. HRCtee, Concluding Observations on Mongolia (2011) CCPR/C/MNG/CO/5, para. 24.

³⁴See for e.g. HRCtee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 24; See also HRCtee, *Alymbek Bekmanov v. Kyrgyzstan* (2013) Comm No. 2312/2013, para. 7.4.



To protect this freedom, State parties are obligated to take measures to ensure that individuals and communities are able to carry out acts that are a form of manifestation. Such measures include, for example, protecting places of worship and preventing attacks on such places.³¹

With respect to the registration of religious associations, the HRCtee may raise concerns where:

- Registration is compulsory³²
- The registration process is unjustifiably onerous or based on vague or broadly formulated laws or rules that are subject to arbitrary application³³
- One religious group is in a decision-making role on the registration of another religion³⁴

This freedom can be violated, for example, in the following situations:

- Laws prohibit religious associations from propagating and disseminating information about a religion other than the State's predominant religion³⁵
- Restrictions are placed on the use, distribution, and importation of religious materials³⁶
- The State imposes measures, including prosecution measures, limiting the observance of religions other than the predominant religion, prohibiting public celebration of Christmas, Chinese New Year, and other festivities³⁷
- Restrictions require adherents of a particular faith to only practice their religion in private³⁸

1.4 Limitations on the Freedom to Manifest One's Religion or Belief

While no limitations are allowed on the freedom of thought and conscience or to have a religion or belief of one's choice, article 18(3) allows for certain limitations on the freedom to manifest one's religion, if they are prescribed by law and are necessary to protect:³⁹

- Public safety
- Public order
- Public health
- Public morals
- The fundamental rights and freedoms of others

Any limitations on the freedom to manifest one's religion must:⁴⁰

- Not derive exclusively from a single social, philosophical or religious tradition
- Not be applied in a manner that would nullify the protection of the rights guaranteed in article 18
- Be directly related, necessary and proportionate to the specific need on which they are predicated
- Not be imposed for a discriminatory purpose or applied in a discriminatory manner
- Ensure that persons already subject to certain legitimate constraints, such as prisoners, may continue to enjoy their freedom to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint

³⁵HRCttee, *Sister Immaculate Joseph et al. v. Sri Lanka* (2005) Comm No. 1249/2004, para. 7.2.

³⁶See for e.g. HRCttee, *Concluding Observations on Uzbekistan* (2020) CCPR/C/UZB/CO/5, para. 42; *Concluding Observations on Kazakhstan* (2016) CCPR/C/KAZ/CO/2, para. 47.

³⁷See for e.g. HRCttee, *Concluding Observations on Brunei Darussalam* (2016) CCPR/C/BRN/CO/2-3, para. 35.

³⁸See for e.g. HRCttee, *Concluding Observations on the Maldives* (2012) CCPR/C/MDV/CO/1, para. 24.

³⁹National security is not included in the permitted grounds for limiting freedom to manifest one's religion, while it is allowed for certain limitations of the other rights protected by the ICCPR such as articles 12, 19 (2), 21, and 22.

⁴⁰HRCttee, *General Comment No. 22* (CCPR/C/21/ Rev.1/Add.4), para. 8.



Common Issues 3: Grounds for permitted limitations

- **Public safety** should be understood as “protection against danger to the safety of persons, to their life or their physical integrity, or serious damage to their property”.⁴¹ Limitations that may be permissible for the purpose of public safety may include registration requirements for demonstrations, funerals, or other religious processions to control traffic and avoid disturbances.⁴²
- **Public order** is “the sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded”.⁴³ Public order cannot be conflated with “public welfare”.⁴⁴ As this sum of rules and principles comprises society as a whole, States cannot use public order as an excuse to limit the rights of persons belonging to specific religious groups or promote a majority religion or belief.
- **Public health** should be understood as protection against “a serious threat to its population’s health or that of individual members” and measures taken for this purpose must be specifically aimed at preventing disease or injury or providing care for the sick and injured.⁴⁵
- **Public morals** derive “from many social, philosophical and religious traditions, and as such, limitation on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from one single tradition.”⁴⁶ When justifying restrictions based on the protection of public morality, States must demonstrate that a limitation on this ground is essential to the maintenance of respect for the fundamental values of communities.⁴⁷

⁴¹Commission on Human Rights, The Siracusa Principles on the limitation and derogation provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4), paras. 33-34.

⁴²M Nowak and T Vospernik, ‘Permissible Restrictions on Freedom of Religion or Belief’ in Oslo Coalition on Freedom of Religion and Belief (eds.), *Facilitating Freedom of Religion or Belief: A Deskbook* (2004, Springer), 152.

⁴³Commission on Human Rights, The Siracusa Principles on the limitation and derogation provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4), paras. 22-23.

⁴⁴State parties have in the past made attempts to justify limitations on the basis of “public welfare”. The HRCttee has maintained that the concept of “public welfare” is too vague and open-ended and may not permit restrictions exceeding those permitted by the ICCPR; See for e.g. HRCttee, Concluding Observations on Japan (2014) CCPR/C/JPN/CO/6, para. 21.

⁴⁵Commission on Human Rights, The Siracusa Principles on the limitation and derogation provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4), paras. 25

⁴⁶HRCttee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 8.

⁴⁷Commission on Human Rights, The Siracusa Principles on the limitation and derogation provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4),



Guiding Questions for Monitoring:

If measures have been taken by the State authority that limit freedom to manifest a religion and belief, are those measures:

- Prescribed by law with clear definitions and precise criteria for the limitation of the freedom to manifest one's religion?
- Necessary for and proportionate to the protection of public safety, order, health, morals or the fundamental rights of others?
- The least intrusive means as there are no less harmful alternatives that would equally protect public safety / order / health / morals or the fundamental rights of others?
- Applied without any discriminatory purpose or impact on particular groups (e.g., there is no specific group particularly affected by the restriction without good reason)?
- Equally protecting the safety / order / health / morals or fundamental rights of everyone without any unjustified distinction (there is no particular group unjustifiably left out

If your answer is NO to any of the Questions above, there is a risk of violation of the ICCPR. Please Check:

- Which measures are restricting the freedom of religion and belief and in what way?
- Which law provides the basis for the restriction, and in what manner?
- What part of the restriction is unnecessary, disproportionate or unjustified in light of its purpose of protecting public safety / order / health / morals or the fundamental rights of others, and in what sense?
- Which groups are discriminated against or particularly affected by the restrictions, and in what way?
- Which groups are left out from the scope of protection, and in what way?



Common Issues 4: Proportionality and necessity of limitations

In *Aliyev v. Azerbaijan*,⁴⁸ the focus was on the requirements under domestic law that religious literature be approved and religious associations be registered and whether such requirements fall within the scope of permissible limitations under the ICCPR article 18(3). The HRCttee noted that the State party

⁴⁸ HRCttee, *Aziz Aliyev v. Azerbaijan* (2021) Comm No. 2805/2016

“failed to demonstrate that the application [of the regulations under domestic law] was proportionate [to the protection of public safety, order, health, morals or the rights of others]” and failed “to demonstrate that the prior approval and registration requirements were the least restrictive measure necessary”. In *Mammadov v. Azerbaijan*,⁴⁹ the HRCttee observed “that the State party has not described any context, or provided any example, in which there was a specific and significant threat to public order and safety that would justify the blanket ban on religious worship outside of a registered religious organization”. In both cases, the HRCttee concluded that the regulations set out under domestic law could not be regarded as limitations permissible under the article 18(3).

Moreover, in both Aliyev and Mammadov cases, the authors faced arrest, detention, conviction and fines for failure to meet the regulations on manifestation of religious beliefs as set by domestic law. The HRCttee found that, as it could not be demonstrated how the punishments were proportionate measures necessary to serve a legitimate purpose within the meaning of article 18(3), “by arresting, detaining, convicting and fining the authors for holding the religious meeting, the State party violated their rights under article 18(1)”.

1.5 Liberty of parents to ensure the religious and moral education of their children

ICCPR article 18(4) protects the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. This liberty of parents and, when applicable, legal guardians, including those of minority groups, indigenous peoples and migrants, is further elaborated and reinforced by the International Covenant on Economic, Social and Cultural Rights (ICESCR, article 13 (4)), the Convention on the Rights of the Child (CRC, articles 14, 29 and 30),⁵⁰ and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW, article 12) respectively.⁵¹

The HRCttee’s General Comment No. 22 provides “public education that includes instruction in a particular religion or belief is inconsistent with article 18(4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians”,⁵² while public school instruction in subjects such as general history of religions and ethics are permitted when given in a neutral and objective way.⁵³

⁴⁹ HRCttee, *Saladdin Mammadov et al v. Azerbaijan* (2020) Comm No. 2928/2017

⁵⁰ As a part of the right of the child to education and to the freedom of thought, conscience, religion, or belief, including minority and indigenous children, see also the section on ‘Children’ in this tool.

⁵¹ As a part of the right of migrant workers and their family members to the freedom of thought, conscience, religion, or belief, see also the section on ‘Migrants’ in this tool.

From the perspective of the rights of children to religious freedom, CRC article 14(2) notes that while State parties are obligated to respect the rights and duties of parents and legal guardians to provide direction to the child, this direction must be “in a manner consistent with the evolving capacities of the child”. This means that once a child is capable of forming personal views, these views should be heard and given due weight.



Guiding Questions for Monitoring:

- Does public education in your country have subjects related to religion or ethics that are NOT given in a neutral or objective way?
- Does public education in your country include instruction in a particular religion or belief against the wish of parents, legal guardians, or children?
- Do parents or legal guardians face any difficulty to give their children religious and moral education of their choice?
- Do children face any difficulty to receive religious and moral education of their choice?

If your answer is YES to any of the Questions above, there is a risk of violation of the ICCPR. Please Check:

- What are subjects related to religion or ethics in the public education and why do you think they are not neutral or objective?
- How is instruction in a particular religion or belief included in the public education?
- What are the difficulties parents or legal guardians face to give their children religious and moral education of their choice, and if any what kind of alternatives are available?
- What are the difficulties children face to receive religious or moral education of their choice, and if any what kind of alternatives are available?

⁵²HRCtee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 6; See for e.g. CRC Committee, Concluding Observations on Brunei Darussalam (2016) CRC/C/BRN/CO/2-3, para. 36.

⁵³HRCtee, General Comment No. 22 (CCPR/C/21/ Rev.1/Add.4), para. 6; See also HRCtee, Erkki Hartikainen et al v. Finland (1981) Comm No. 40/1978; C Evans, 'Religious Education in Public Schools: An International Human Rights Law Perspective' (2008) 8 Human Rights Law Review 449.

1.6 Obligations of States to protect freedom of religion or belief

ICCPR Article 2(1) requires State parties to respect and ensure all of the rights provided in the ICCPR for all individuals within their territory and subject to their jurisdiction, without any discrimination.⁵⁴ State parties must take all necessary measures to protect the rights of individuals against violations by both State agents as well as private persons and entities.⁵⁵

In order to comprehensively protect the freedom of thought, conscience, religion, or belief, various measures are required such as enactment of relevant laws (article 2(2)), provision of effective remedies to victims (article 2(3)), safeguarding rights through procedural guarantees, and other administrative, judicial or educative measures to raise awareness about the Covenant.⁵⁶ A failure to comply with the obligation to give effect to ICCPR rights cannot be justified by reference to political, social, cultural, or economic considerations.⁵⁷

In this regard, the HRCttee may recommend State parties to:

- Provide victims of religiously motivated attacks with adequate compensation⁵⁸
- Protect places of worship and prevent attacks on such places⁵⁹
- Adopt laws that prohibit discrimination and ensure that everyone is equally and effectively protected by the law⁶⁰
- Sanction conduct that amounts to persecution or discrimination, such as arbitrary arrests of religious minorities⁶¹
- Take positive steps towards inclusivity, such as “plans for economic growth in areas populated by persons belonging to minorities and indigenous peoples without negatively affecting them”⁶²
- Take judicial response to incidents of hate speech, incitement to discrimination, violence, or alleged hate crime, and ensure that those responsible are brought to justice⁶³
 - Engage various communities in decision-making processes⁶⁴
 - Conduct a thorough analysis of the administrative and practical difficulties faced by religious groups to register and conduct activities, adopting modifications to ensure compliance with the ICCPR⁶⁵



⁵⁴ See for e.g. HRCttee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 6.

⁵⁵ HRCttee, General Comment No. 31 (CCPR/C/21/Rev.1/Add.13), para. 8.

⁵⁶ HRCttee, General Comment No. 31 (CCPR/C/21/Rev.1/Add.13), para. 7.

⁵⁷ HRCttee, General Comment No. 31 (CCPR/C/21/Rev.1/Add.13), para. 14.

⁵⁸ See for e.g. HRCttee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 17.

⁵⁹ See for e.g. HRCttee, Concluding Observations on Sri Lanka (2014) CCPR/C/LKA/CO/5, para. 23.

⁶⁰ See for e.g. HRCttee, Concluding Observations on Bangladesh (2017) CCPR/C/BGD/CO/1, para. 11.

⁶¹ See for e.g. HRCttee, Concluding Observations on the Lao People's Democratic Republic (2018) CCPR/C/LAO/CO/1, paras. 31-32.

⁶² See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 56.

⁶³ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 44; Concluding Observations on Pakistan (2017) CCPR/C/PAK/CO/1, para. 34.

⁶⁴ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 56.

⁶⁵ See for e.g. HRCttee, Concluding Observations on Mongolia (2011) CCPR/C/MNG/CO/5, para. 24.



Common Issues 5: Discrimination Based on Religion

The ICCPR prohibits discrimination based on any ground including religion,⁶⁶ for which “discrimination” should be understood as “any distinction, exclusion, restriction or preference which is based on any ground [such as religion] and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms”.⁶⁷

Discrimination based on religion may be found where a person is treated less favourably than another person in a similar situation based on their religion.⁶⁸ However, differentiated treatment is not always discrimination, particularly if the differentiation is based on reasonable and objective criteria and has a legitimate purpose under the ICCPR.⁶⁹ At the same time, unintentional acts, including neutral or well-intended laws, policies, or practices can amount to discrimination, where there is a negative and disproportionate effect on an individual or certain group.⁷⁰

Religious discrimination may place individuals or groups that already face marginalization or discrimination in an even more vulnerable position.⁷¹ An individual or community may be subjected to intersectional discrimination or “aggravated discrimination” where an individual or group faces multiple forms of discrimination based on religion and other intersecting factors such as ethnicity, national origin, gender, sexual orientation and gender identity, age or disability.⁷² In such cases, different UN Treaty Bodies, not only the HRCttee, will be able to address the issue of discrimination based on religion, as long as one of the intersecting factors falls within their mandate, for example gender (CEDAW),⁷³ ethnicity (CERD), age (i.e. children) (CRC) and disability (CRPD).

Discrimination based on religion may be found in different instances, such as in access to education, employment, or public services, including:

- Household registration⁷⁴
- Blasphemy or other religious laws that have a heightened impact on groups of a particular religion⁷⁵
- Refusal of admission to school on the grounds of religion⁷⁶
- Persecution, including arbitrary arrests targeting religious minorities⁷⁷
- Restrictions that require adherents of a particular faith to only practice their religion in private
- Favourable treatment of members of a State religion, recognized as official or held by the majority of the population, such as:
 - Restrictive eligibility for government service positions for members of the State religion,
 - Economic privileges for members of the State religion, and
 - Funding allocations for predominant religious bodies⁷⁹

⁶⁶ See ICCPR, articles 2, 18, 26 and 27.

⁶⁷ HRCttee, General Comment No. 18 (HRI/GEN/1/Rev.9/Vol. I), para. 7.

⁶⁸ HRCttee, General Comment No. 18 (HRI/GEN/1/Rev.9/Vol. I), para. 7; See also UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) A/RES/36/55, article 2(2); CESCR, General Comment No. 20 (E/C.12/GC/20), para. 10(a).

⁶⁹ HRCttee, General Comment No. 18, para. 13; See also HRCttee, *Broeks v. Netherlands* (1984) Comm No. 172/1984, para. 13; *Zwann-de Vries v. Netherlands* (1984) Comm No. 182/1984, para. 13; *O'Neill v. Ireland* (2012) Comm No. 1314/2004, para. 8.3.

⁷⁰ HRCttee, *Althammer et al v. Austria* (2001) Comm No. 998/2001, para. 10.2; see also CESCR, General Comment No. 20 (E/C.12/GC/20), para. 10(b).

⁷¹ See Chapter 2.

⁷² For more insight into intersectionality, see UN Partnership on the Rights of Persons with Disabilities & UN-WOMEN, ‘Intersectionality Resource Guide and Toolkit’ (2022).

⁷³ See for e.g. CEDAW Committee, Concluding Observations on Pakistan (2020) CEDAW/C/PAK/CO/5, para. 47; CERD Committee, Concluding Observations on Thailand (2021) CERD/C/THA/CO/4-8, paras. 13-14.

⁷⁴ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 56.

⁷⁵ See for e.g. HRCttee, Concluding Observations on Pakistan (2017) CCPR/C/PAK/CO/1, para. 33.

⁷⁶ See for e.g. HRCttee, Concluding Observations on Sri Lanka (2014) CCPR/C/LKA/CO/5, para. 23.

⁷⁷ See for e.g. HRCttee, Concluding Observations on Lao People's Democratic Republic (2018) CCPR/C/LAO/CO/1, para. 31.

⁷⁸ See for e.g. HRCttee, Concluding Observations on the Maldives (2012) CCPR/C/MDV/CO/1, para. 24.

⁷⁹ HRCttee, General Comment No. 22 (CCPR/C/21/Rev.1/Add.4), para. 9; See for e.g. HRCttee, List of Issues to Pakistan (2016) CCPR/C/PAK/Q/1, paras. 20-21; List of Issues



Common Issues 6: Blasphemy Laws

Prohibitions on the display of disrespect towards a religion or belief, including blasphemy laws, are incompatible with the ICCPR, except for where these prohibitions are for the purpose of preventing advocacy of national, racial, or religious hatred that constitutes incitement of discrimination, hostility, or violence (ICCPR article 20).⁸⁰ Where such prohibitions or blasphemy laws are enacted, they must meet all the conditions set out under ICCPR article 19(3) on freedom of expression. These prohibitions must also be set out in a way that is clear enough for a person to regulate their conduct accordingly and be made accessible to the public.⁸¹ Prohibitions including blasphemy laws must be enacted without any discriminatory intention or effect.⁸²

The Rabat Plan of Action, drafted with the support of members of the HRCttee, includes a six-part threshold for assessing whether acts or expressions amount to incitement of discrimination, hostility, or violence prohibited under the ICCPR article 20 and are to be considered as criminal offence.⁸³

Blasphemy laws are incompatible with the ICCPR where they:⁸⁴

- Discriminate against an individual or community of a particular religion or belief
- Discriminate in favour of religious believers over non-believers
- Are used to prevent or punish criticism of religious leaders or doctrine

The HRCttee may seek information from the State party on measures being taken to uphold the rule of law and to ensure that blasphemy laws are not used to an excess.⁸⁵ Where the HRCttee finds blasphemy laws to be incompatible with the ICCPR, it will recommend their repeal.⁸⁶ Additionally, the CRC (Committee) has emphasized that persons under the age of 18 must be exempt from criminal responsibility for Blasphemy.⁸⁷

⁸⁰ HRCttee, General Comment No. 34, para. 48; See also International Commission of Jurists, 'Challenges to Freedom of Religion or Belief in Myanmar' (2019), 14-22.

⁸¹ HRCttee, General Comment No. 34, para. 24; List of Issues to Pakistan (2016) CCPR/C/PAK/Q/1, paras. 20-21.

⁸² See for e.g. HRCttee, List of Issues to Pakistan (2016) CCPR/C/PAK/Q/1, paras. 20-21; Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 25.

⁸³ UN General Assembly, Rabat Plan of Action (2013) A/HRC/22/17/Add.4, para. 29

⁸⁴ HRCttee, General Comment No. 34 (CCPR/C/GC/34), para. 48.

⁸⁵ See for e.g. HRCttee, List of Issues to Bangladesh (2016) CCPR/C/BGD/Q/1, para. 18; List of Issues to Pakistan (2016) CCPR/C/PAK/Q/1, paras. 20-21.

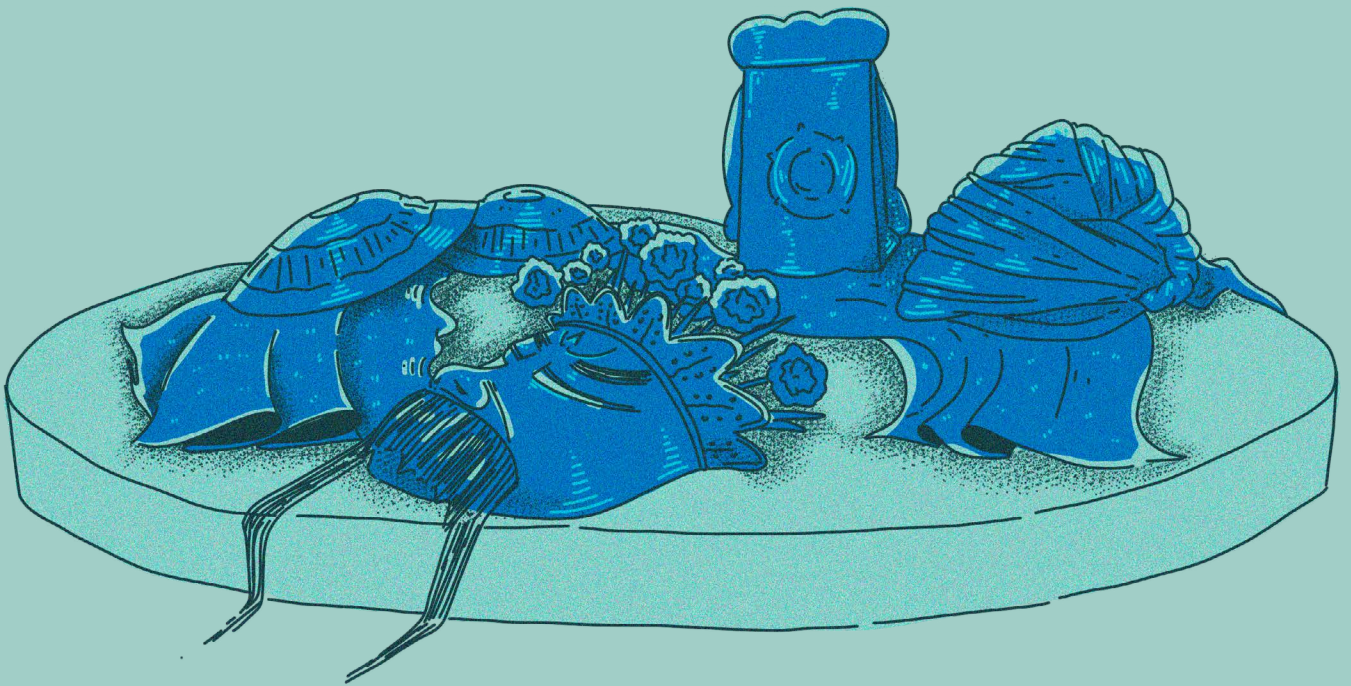
⁸⁶ See for e.g. HRCttee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 24; Concluding Observations on Pakistan (2017) CCPR/C/PAK/CO/1, para. 34.

⁸⁷ See for e.g. CRC (Committee), Concluding Observations on Pakistan (2016) CRC/C/PAK/CO/5, para. 31.



Chapter 2

Vulnerable Groups



Although ICCPR article 18 protects the freedom of religion or belief of everyone, some individuals and groups are at a greater risk of facing infringements of their freedom as well as discrimination due to intersecting factors and identities, such as ethnic or national origin, gender, citizenship or migration status, and age. As such, particular attention should be paid to the situation of such vulnerable groups, whereby State parties are required to take additional and specific measures to effectively protect their rights and freedoms in accordance with the relevant provisions of the ICCPR and wider international human rights law.

2.1 Ethnic, Religious or Linguistic Minorities

ICCPR article 27 protects the right of persons belonging to ethnic, religious or linguistic minorities to profess or practice their own religion, as well as to enjoy their own culture and to use their languages.⁸⁸ Persons whose rights are protected by article 27 are those who belong to a group that share a common culture, religion or language, but need not be citizens or nationals, or have permanent residency status in the State concerned.⁸⁹ Religious minorities are often the victim of violations of freedom of religion or belief and other acts of intolerance⁹⁰ In addition to their increased personal vulnerability, individuals belonging to minority groups may have concerns for the survival of their communities as a whole.

Under article 27, State parties of the ICCPR are required to take measures to protect individuals belonging to minorities from “the acts of the State party itself” and the “acts of other persons within the State party.”⁹¹ Furthermore, the HRCttee emphasises that the obligations of State parties to protect these rights should be “directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned.”⁹² Acts that discriminate against religious minorities may be considered violations of both ICCPR articles 18 and 27, e.g. where the discrimination directly impacts the ability of these minorities to practice their religion or belief.⁹³ Additionally, ICCPR article 20(2) provides safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups.⁹⁴

Although ‘religion’ is not listed as one of the five grounds of discrimination specified by its article 1, the International Convention on the Elimination of All Forms of Racial Discrimination (‘ICERD’) also protects religious minorities from discrimination in cases of ‘double discrimination’ based on religion and another ground specifically provided for in article 1 of the ICERD, including national or ethnic origin.⁹⁵ Additionally, ICERD article 5(d) provides that State parties have an obligation to ensure that all persons enjoy their right to freedom of religion or belief, without any discrimination based on race, colour, descent, national or ethnic origin.

Issues addressed by the HRCttee and other Treaty Bodies, regarding the rights of ethnic, religious, or linguistic minorities, in particular concerning their freedom of religion or belief, include:

⁸⁸ ICCPR, 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 practice their own religion, or to use their own language”; See also UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (A/RES/47/135), article 1(1) which provides that States must encourage conditions that promote the identity of national, ethnic, cultural, religious and linguistic minorities.

⁸⁹ HRCttee, General Comment No. 23 (CCPR/C/21/Rev.1/Add.5), paras. 5.1-5.2.

⁹⁰ See UN General Assembly, Report of the Special Rapporteur on Freedom of Religion or Belief (2006) A/61/340, para. 49; See also N Ghanéa, ‘Minorities and Hatred: Protections and Implications’ (2010) 17 International Journal of Minority and Group Rights 423.

⁹¹ HRCttee, General Comment No. 23 (CCPR/C/21/Rev.1/Add.5), para. 6.1.

⁹² HRCttee, General Comment No. 23 (CCPR/C/21/Rev.1/Add.5), para. 9.

⁹³ HRCttee, General Comment No. 22 (CCPR/C/21/Rev.1/Add.4), para. 9; See for e.g. International Commission of Jurists, ‘Violations of the Right to Freedom of Religion or Belief in Pakistan (2021), 32-34.

⁹⁴ Ibid.

⁹⁵ CERD, General Recommendation No. 25 on Gender-related Dimensions of Racial Discrimination, paras. 3, 4, 5, 6; General Recommendation No. 29 on Article 1(1) of the Convention, paras. 11, 12, 13; General Recommendation No. 30 on Discrimination Against Non-Citizens, para. 8.

⁹⁶ See for e.g. HRCttee, Concluding Observations on Indonesia (2013) CCPR/C/IDN/CO/1, para. 25.

⁹⁷ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, paras. 55-56.

⁹⁸ See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18; CERD, Concluding Observations on Pakistan (2016) CERD/C/PAK/CO/21-23, para. 15.

⁹⁹ See for e.g. CERD, Concluding Observations on Pakistan (2016) CERD/C/PAK/CO/21-23, para. 15.

¹⁰⁰ See for e.g. HRCttee, Concluding Observations on Sri Lanka (2014) CCPR/C/LKA/CO/5, para. 23.

¹⁰¹ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, paras. 55-56.

¹⁰² See for e.g. CERD, Concluding Observations on Sri Lanka (2016) CERD/C/LKA/CO/10-17, para. 18.

¹⁰³ See for e.g. HRCttee, List of Issues to the Philippines (2020) CCPR/C/PHL/Q/5, para. 21.

¹⁰⁴ See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18.

¹⁰⁵ See for e.g. HRCttee, Concluding Observations on Viet Nam (2002) CCPR/C/VNM/CO, para. 16.

¹⁰⁶ See for e.g. HRCttee, Concluding Observations on Viet Nam (2002) CCPR/C/VNM/CO, para. 16.

¹⁰⁷ See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18.

¹⁰⁸ See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18.

¹⁰⁹ See for e.g. HRCttee, List of Issues to Viet Nam (2018) CCPR/C/VNM/Q/3, para. 18.

¹¹⁰ See for e.g. HRCttee, List of Issues to the Philippines (2020) CCPR/C/PHL/Q/5, para. 21.

¹¹¹ See for e.g. HRCttee, List of Issues to the Philippines (2020) CCPR/C/PHL/Q/5, para. 21.

¹¹² See for e.g. HRCttee, List of Issues to Bangladesh (2016) CCPR/C/BGD/Q/1, para. 18.

¹¹³ HRCttee, Concluding Observations Sri Lanka (2014) CCPR/C/LKA/CO/5, para. 22; List of Issues to Nepal (2013) CCPR/C/NPL/Q/2, para. 23.

- Undue restrictions imposed on their freedom of religion or belief including through laws and policies⁹⁶
- Discrimination in education, employment and other public services⁹⁷
- Defamation and hate speech, including by public figures and government officials⁹⁸
- Hate crimes including harassment, violent mobs, and killings⁹⁹
- Attacks on places of worship and business¹⁰⁰
- Seizure and allocation of land for development projects and a lack of appropriate remedies, including relocation and compensation¹⁰¹
- Desecration of places of worship, disruptions of religious services, denials of building permits to construct religious buildings and denials of burials in public cemeteries¹⁰²



Common Issues 7: Attacks and reprisals against religious minorities and their leaders

Members, in particular leaders, of religious minorities often face various forms of attacks and reprisals by State or private actors based on their religion or activity to protect their freedom of religion or belief. Examples of such attacks and reprisals addressed by the HRCttee include:

- Physical violence¹⁰³
- Intimidation¹⁰⁴
- Harassment¹⁰⁵
- Detention (including incommunicado detention without charges)¹⁰⁶
- Hate speech¹⁰⁷
- Torture¹⁰⁸
- Convictions on the ground of 'national security'¹⁰⁹
- Threats of violence¹¹⁰
- Extrajudicial killings¹¹¹
- Denials of protection from authorities¹¹²
- Attacks and restrictions on freedom of assembly and expression¹¹³

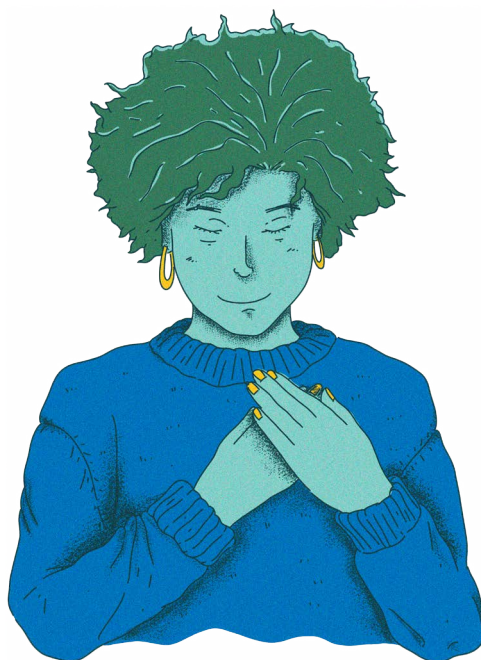
In order to address this issue, the HRCttee often requests that a State party provide information on allegations of reprisals, including the number of investigations, prosecutions and convictions relating to such reprisals.¹¹⁴ The HRCttee also recommends that those responsible for the reprisals be brought to justice by the State.¹¹⁵

2.2 Women¹¹⁶

ICCPR article 3 protects the “equal right of men and women to the enjoyment of all civil and political rights”. This means that the freedom of religion or belief – including the rights to have, adopt, change, and manifest a religion or belief – must be equally guaranteed and protected for men and women. In addition, girls and young women may be placed in a more vulnerable position based on their gender and age. The HRCttee points out that equal enjoyment of religious freedom by women requires special protection and positive measures, including public education as to the role of women, the empowerment of women, changes to domestic legislation and training for officials.¹¹⁷ It should also be noted that any form of discrimination against women, including in their exercise and enjoyment of human rights and fundamental freedoms is prohibited by CEDAW.¹¹⁸

Issues addressed by the HRCttee and other Treaty Bodies, regarding the rights of women and girls, in particular their freedom of religion or belief, include:

- Harmful practices¹¹⁹
- Forced religious conversion in conjunction with forced marriage¹²⁰
- Regulation of clothing to be worn by women and girls in public, in particular, when they are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression, including the right not to wear religious clothing¹²¹
- Rules requiring women to obtain permission from third parties or interference from fathers, husbands, brothers or others, e.g. when exercising their freedom to adopt, change, manifest or not to have religion or belief¹²²
- Family or marriage laws that regulate the rights of women according to their religion¹²³



¹¹⁶ For more information, see HRCttee, General Comment No. 28 (CCPR/C/21/Rev.1/Add.10) and CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31/Rev.1/C/GC/18/Rev.1)

¹¹⁷ HRCttee, General Comment No. 28 (CCPR/C/21/Rev.1/Add.10), para. 3.

¹¹⁸ E.g. articles 2 and 3

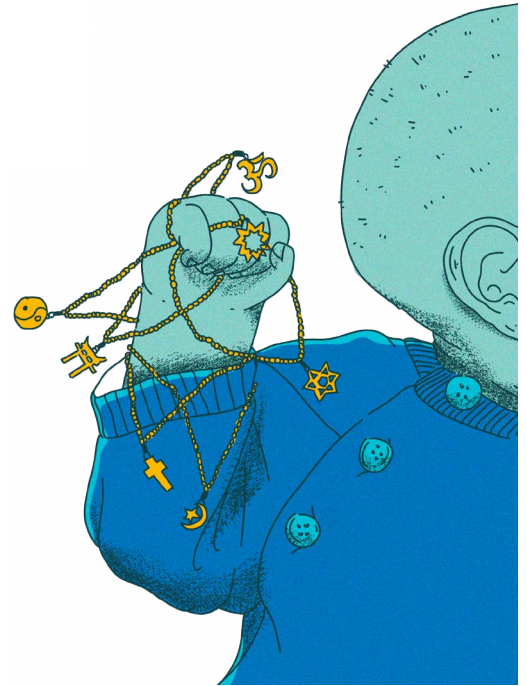
¹¹⁹ See the box “Common Issues 8: Harmful practices

¹²⁰ See for e.g. CEDAW (Committee), List of Issues to Pakistan (2019) CEDAW/C/PAK/Q/5, para. 21; CESCR (Committee), Concluding Observations on Pakistan (2017) CESCR/C/PAK/CO/1, paras. 57-58, See also H Bielefeldt, M Wiener and N Ghana-Hercock, Freedom of Religion or Belief: An International Law Commentary (OUP 2017), 370.

¹²¹ HRCttee, General Comment No. 28 (CCPR/C/21/Rev.1/Add.10), para. 13; See for e.g. CEDAW (Committee), Concluding Observations on Indonesia (2021) CEDAW/C/IDN/CO/8, para. 13; CRC (Committee), Concluding Observations on Iran (2016) CRC/C/IRN/CO/3-4, paras. 49-50; See also HRCttee, *Miriana Hebbadj v. France* (2018) Comm No. 2807/2016, para. 7.15: “The Committee further notes that the blanket ban on the full-face veil introduced by the Act appears to be based on the assumption that the full-face veil is inherently discriminatory and that women who wear it are forced to do so. While acknowledging that some women may be subject to family or social pressures to cover their faces, the Committee observes that the wearing of the full-face veil can also be a choice – or even a means of staking a claim – based on a religious belief, as in the author’s case”.

¹²² HRCttee, General Comment No. 28 (CCPR/C/21/Rev.1/Add.10), para. 21.

¹²³ See for e.g. CEDAW (Committee), Concluding Observations on Myanmar (2016) CEDAW/C/MMR/CO/4-5, para. 14; Concluding Observations on Myanmar (2008) CEDAW/C/MMR/CO/3, para. 10; Concluding Observations on India (2014) CEDAW/C/IDN/CO/4-5, para. 40.



2.3 Children

CRC article 14 protects the right of children to freedom of thought, conscience, religion or belief. CRC article 30 protects the rights of children who belong to an ethnic, religious, or linguistic minority or indigenous communities “in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language”. In addition, CRC article 20 obligates State parties to provide special protection and assistance, and ensure alternative care, with due regard for the continuity of the child’s upbringing as well as ethnic, religious, cultural, and linguistic background.

Infringements of a child’s freedom of religion or belief may include:

- Denial of the freedom of children to adopt a religion different from that of their parents¹²⁴
- Restriction or prohibition imposed on the participation of children (of religious minorities) in religious festivals or from receiving religious education¹²⁵
- Persecution and violence targeting children belonging to religious minorities, including surveillance, arrest, detention, ill-treatment, and torture¹²⁶
- Religious intolerance taught in schools, including derogatory statements in textbooks about religious minorities¹²⁷
- Forced religious education for all children irrespective of their religion or the denial of their right to learn about their religion (in their mother tongue)¹²⁸
- Conversion against the will of children, their parents, or legal guardians¹²⁹
- Barriers to access education on the grounds of religion or absence of a baptism certificate¹³⁰

¹²⁴ See for e.g. CRC (Committee), Concluding Observations on India (2014) CRC/C/IND/CO/3-4, para. 45.

¹²⁵ See for e.g. CRC (Committee), List of Issues to China (2013) CRC/C/CHN/Q/3-4, para. 16; See also Commission on Human Rights, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: Report submitted by Angelo Vidal d’Almeida Ribero (1986) E/CN.4/1987/35, para. 67.

¹²⁶ See for e.g. CRC (Committee), Concluding Observations on China (2013) CRC/C/CHN/CO/3-4, para. 41; Concluding Observations on Korea (2017) CRC/C/PRK/CO/5, para. 21; Concluding Observations on Pakistan (2016) CRC/C/PAK/CO/5, paras. 30-31.

¹²⁷ See for e.g. CRC (Committee), Concluding Observations on Pakistan (2016) CRC/C/PAK/CO/5, paras. 30-31.

¹²⁸ See for e.g. CRC (Committee), Concluding Observations on Brunei Darussalam (2016) CRC/C/BRN/CO/2-3, para. 35; CEDAW (Committee), List of Issues to China (2021) CEDAW/C/CHN/Q/9, para. 14; CRC (Committee), Concluding Observations on Indonesia (2014) CRC/C/IDN/CO/3-4, para. 29.

¹²⁹ See for e.g. CRC (Committee), Concluding Observations on Myanmar (2012) CRC/C/MMR/CO/3-4, para. 45.

¹³⁰ See for e.g. CRC (Committee), Concluding Observations on Timor-Leste (2015) CRC/C/TLS/CO/2-3, paras. 24-25.



Common Issues 8: Harmful practices

Some practices, carried out in the name of a religion or belief or as a part of religious manifestation, may violate human rights, in particular practices that involve physical and/or psychological harm or suffering of the persons concerned. ICCPR article 5 maintains that “nothing” – not even article 18 – within the ICCPR may be interpreted in a way so as to allow for the destruction or excessive limitation of any of the other ICCPR rights and freedoms, and article 18(3) permits limitations of the freedom to manifest a religion or belief for the purpose of protecting the fundamental rights of others. Harmful practices cannot be justified by reference to the freedom of religion or any other religious grounds.¹³¹ Furthermore, corporal punishments including flogging, even if they are provided for in the domestic legislation such as Penal Code or religious laws, are regarded as violation of the ICCPR article 7.¹³² It must be remembered that the freedom of religion or belief, as protected by international human rights law, is a human right that protects individuals, not their religions.

Examples of harmful practices include:

- Female genital mutilation¹³³
- Forced marriage and child marriage¹³⁴
- Honour or dowry-related violence¹³⁵
- Isolating menstruating women and girls¹³⁶
- Virginity testing¹³⁷
- Scarring, burning, stoning, flogging or amputation¹³⁸
- Corporal punishments¹³⁹
- Violent initiation rites¹⁴⁰
- Widowhood practices¹⁴¹
- Accusations of witchcraft¹⁴²
- Incest¹⁴³



¹³¹ See for e.g. HRCttee, Concluding Observations on Thailand (2017) CCPR/C/THA/CO/2, para. 11; See also Human Rights Council, Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (2007) HRC/RES/6/37, para. 11 (b).

¹³² See for e.g. HRCttee, Concluding Observations on Sudan (2018) CCPR/C/SDN/CO/5, para. 35

¹³³ See for e.g. CEDAW (Committee), Concluding Observations on Malaysia (2018) CEDAW/C/MYS/CO/3-5, para. 21

¹³⁴ See for e.g. CEDAW (Committee), Concluding Observations on Nepal (2018) CEDAW/C/NPL/CO/6, para. 18; CRC (Committee), Concluding Observations on Brunei Darussalam (2016) CRC/C/BRN/CO/2-3, para. 44.

¹³⁵ CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31.Rev.1/C/GC/18/Rev.1), para. 9.

¹³⁶ See for e.g. CEDAW (Committee), Concluding Observations on Nepal (2018) CEDAW/C/NPL/CO/6, para. 18.

¹³⁷ See for e.g. CEDAW (Committee), Concluding Observations on Indonesia (2021) CEDAW/C/IDN/CO/8, para. 21.

¹³⁸ HRCttee, Concluding Observations on Sudan (2018) CCPR/C/SDN/CO/5, para. 35 and CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31.Rev.1/C/GC/18/Rev.1), para. 9; See for e.g. CRC (Committee), Concluding Observations on Pakistan (CRC/C/PAK/CO/5), para. 38.

¹³⁹ See for e.g. CRC (Committee), Concluding Observations on Brunei Darussalam (2016) CRC/C/BRN/CO/2-3, para. 40.

¹⁴⁰ CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31.Rev.1/C/GC/18/Rev.1), para. 9.

¹⁴¹ CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31.Rev.1/C/GC/18/Rev.1), para. 9.

¹⁴² See for e.g. CEDAW (Committee), Concluding Observations on Nepal (2018) CEDAW/C/NPL/CO/6, para. 18; Concluding Observations on the Maldives (2021) CEDAW/C/MDV/CO/6, para. 25.

¹⁴³ CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31.Rev.1/C/GC/18/Rev.1), para. 9.

As most of harmful practices target women or children in violation of the CEDAW or CRC, the Committee on the Rights of the Child ('CRC (Committee)') and the Committee on the Elimination of All Forms of Discrimination against Women ('CEDAW (Committee)') have jointly set out the following criteria to detect harmful practices, in particular those that involve women and children.¹⁴⁴ A practice may be harmful where it:

- Constitutes a denial of the dignity and/or integrity of the individual and violates the human rights and fundamental freedoms set out in the two Conventions
- Commits discrimination against women or children and is harmful insofar as it results in negative consequences for them, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential
- Is a traditional, a re-emerging or an emerging practice that is prescribed by social norms that perpetuate male dominance and inequality of women or children, on the basis of sex, gender, age and other intersecting identities
- Is imposed on women and children by family members, community members or society at large, regardless of whether the woman or child provides full, free, and informed consent

Both the CRC and CEDAW (Committees) have recommended State parties to prohibit harmful practices by law, sanction and criminalise those practices, while providing for means of prevention, protection, recovery and redress, and ensuring that legislation aimed at eliminating harmful practices include appropriate budgeting, implementing, monitoring, and effective enforcement measures.¹⁴⁵ These Committees may also recommend measures such as:

- Development of comprehensive strategies in collaboration with civil society to raise awareness among all stakeholders of legislation on harmful practices and of the effects of those practices on the lives of women and girls¹⁴⁶
- Promotion of gender-sensitive interpretations of religious texts by churches¹⁴⁷
Specific legal amendments¹⁴⁸
- Assessments of the impact of religion on public perceptions that compound discriminatory gender stereotypes and gender-based violence
- Awareness raising among religious leaders on the negative effects of discriminatory customary laws

¹⁴⁴ CEDAW (Committee) and CRC (Committee), Joint General Recommendation No. 31 (C/GC/31/Rev.1/C/GC/18/Rev.1), para. 16.

¹⁴⁵ CEDAW (Committee), General Comment No. 28, para. 38(a); CRC Committee, General Comment No. 13, para. 40.

¹⁴⁶ See for e.g. CEDAW (Committee), Concluding Observations on Nepal (2018) CEDAW/C/NPL/CO/6, para. 19

¹⁴⁷ See for e.g. CEDAW (Committee), Concluding Observations on Samoa (2018) CEDAW/C/WSM/CO/6, para. 22.

¹⁴⁸ See for e.g. CEDAW (Committee), Concluding Observations on Timor-Leste (2015) CEDAW/C/YLS/CO/2-3, para. 17.



2.4 Refugees, Asylum Seekers and Internally Displaced Persons (IDPs)¹⁵¹

Although their legal statuses vary, refugees, asylum seekers and IDPs often face particular challenges in exercising their freedom of religion or belief, such as the effects of displacement, lack of familiarity with legal and social contexts, and the possibility of new linguistic or minority situations.¹⁵²

In addition to the protection of their rights and non-discrimination guarantees provided by the ICCPR, the Convention Relating to the Status of Refugees sets out specific provisions obliging State parties to extend the same treatment to refugees as State nationals with respect to the freedom to practice their religion or beliefs and freedom to ensure the religious education of their children.¹⁵³ Additionally, States are prohibited from expelling or returning a refugee to territories where their life or freedom would be threatened based on their religion.¹⁵⁴



Moreover, the Guiding Principles on Internal Displacement prepared by the Commission on Human Rights:¹⁵⁵

- Guarantee application without discrimination of any kind, such as based on 'religion or belief'¹⁵⁶
- Prohibit arbitrary displacement, including practices aimed at the ethnic, religious, or racial composition of the affected population¹⁵⁷
- Prohibit discrimination of IDPs as to the enjoyment of the right to freedom of thought, conscience, religion, or belief¹⁵⁸
- Stress that education should respect the cultural identity, language, and religion of IDPs¹⁵⁹

¹⁴⁹ See for e.g. CEDAW (Committee), Concluding Observations on Samoa (2018) CEDAW/C/WSM/CO/6, para. 22.

¹⁵⁰ See for e.g. CEDAW (Committee), Concluding Observations on Kiribati (2020) CEDAW/C/KIR/CO/1-3, para. 52.

¹⁵¹ For more information, see UNHCR, Guidelines on International Protection: Religion-based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (2004) HRC/GIP/04/06.

¹⁵² See UN General Assembly, Interim Report of the Special Rapporteur on Freedom of Religion or Belief (2008) A/63/161, para. 6.

¹⁵³ Convention Relating to the Status of Refugees 1951, article 4.

¹⁵⁴ Convention Relating to the Status of Refugees 1951, article 33; HRCtee, X v. Denmark (2014) Comm No. 2007/2010, individual concurring opinion of Gerald L. Neuman; See also UNHCR, Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees (2004) HRC/GIP/04/06, para. 4.

2.5 Migrant Workers

Aside from ICCPR article 18, article 12 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ('ICMW') specifically protects the right of this group to the freedom of thought, conscience and religion. ICERD article 5(d) also provides that State parties have the obligation to ensure that all persons enjoy their right to freedom of religion or belief, without any discrimination based on race, colour, descent, national or ethnic origin. Through its State party review procedure, the CERD has also pointed out limitations faced by migrant workers and other foreigners in their ability to manifest their religion or belief, recommending measures for promoting mutual understanding, tolerance, and inter-religious dialogue to confront religious extremism and enhance cultural diversity.¹⁶⁰

Infringements of the freedom of religion or belief of migrants, migrant workers and their families may include:

- Inability to maintain places of worship or to carry out religious rituals outside homes¹⁶¹
- Discrimination and intolerance faced by the children of migrants in the education system¹⁶²
- Barriers to the liberty of parents to ensure the religious education of their children¹⁶³

¹⁵⁵ Commission on Human Rights, Guiding Principles on Internal Displacement (1998) E/CN.4/1998/53/Add.2

¹⁵⁶ Ibid, Principle 4

¹⁵⁷ Ibid, Principle 6(2)(a).

¹⁵⁸ Ibid, Principle 22(1).

¹⁵⁹ Ibid, Principle 23(2).

¹⁶⁰ See for e.g. CERD, Concluding Observations on the Maldives (2011) CERD/C/MDV/CO/5-12, para. 13.

¹⁶¹ UN General Assembly, Report of Special Rapporteur on Freedom of Religion or Belief (2007) A/HRC/6/5, para.

¹⁶² Commission on Human Rights, Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Discrimination (2002) E/CN.4/2002/73, appendix.

¹⁶³ Commission on Human Rights, Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Discrimination (2002) E/CN.4/2002/73, appendix.

2.6 Indigenous Peoples

In addition to relevant provisions of the UN Human Rights Treaties, the UN Declaration on the Rights of Indigenous Peoples ('UNDRIP') explicitly recognizes the collective rights of indigenous peoples including their right to freedom of religion or belief. UNDRIP article 12 enshrines the freedom to manifest an indigenous religion or belief, including the rights to "manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies", "maintain, protect and have access in privacy to their religious and cultural sites", "use and control of their ceremonial objects", and "repatriation of their human remains". Additionally, UNDRIP article 11 protects the right to practice, revitalize and manifest cultural traditions and customs, including the protection and development of ceremonies, historical sites and artefacts. These articles oblige States to act through effective mechanisms developed in conjunction with indigenous peoples to provide redress for property taken without free, prior and informed consent ('FPIC') as well as to enable access or repatriation of ceremonial objects and human remains.

However, despite the protection of collective and individual rights provided in these international instruments, many indigenous peoples also face limitations on or violation of their rights, including their freedom of religion or belief, due to the lack of recognition as indigenous by State authorities.¹⁶⁴

Issues faced by indigenous peoples with respect to their freedom of religion may include:

- Seizure, allocation and usage of traditional land or sacred sites of indigenous peoples without their FPIC¹⁶⁵
Attacks on indigenous peoples and pressure to renounce their faith¹⁶⁶
- Improper acquisition and use by others of indigenous cultural objects, human remains, and intangible cultural heritage¹⁶⁷
- Deliberate desecration or destruction and inaccessibility of sacred objects¹⁶⁸
- An absence of laws or measures adopted to prevent interference with indigenous rituals, practices and ceremonies including the observance of religious holidays or days of rest¹⁶⁹
- A lack of access to justice, through which their rights including freedom of religion or belief may be asserted, including obstacles faced by them throughout the general justice systems and poor recognition of indigenous customary laws and jurisdiction¹⁷⁰

¹⁶⁴ See for e.g. HRCttee, Concluding Observations on Bangladesh (2017) CCPR/C/BGD/CO/1, para. 11; Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 55.

¹⁶⁵ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 55; See also HRCttee, Ilmari Lansman et al. v. Finland (1994) Comm No. 511/1992; Aarela v. Finland (2001) Comm No. 779/1997.

¹⁶⁶ See for e.g. HRCttee, Concluding Observations on Viet Nam (2019) CCPR/C/VNM/CO/3, para. 43.

¹⁶⁷ See UN General Assembly, Repatriation of ceremonial objects, human remains and intangible cultural heritage under the United Nations Declaration on the Rights of Indigenous Peoples (2020) A/HRC/45/35, para. 14.

¹⁶⁸ See Commission on Human Rights, Study of the Problem of Discrimination Against Indigenous Populations (1982) E/CN.4/Sub.2/1982/2/Add.7, paras. 240-257.

¹⁶⁹ See also Commission on Human Rights, Study of the Problem of Discrimination Against Indigenous Populations (1982) E/CN.4/Sub.2/1982/2/Add.7, paras. 127-158.

¹⁷⁰ UN General Assembly, Rights of Indigenous Peoples (2017) A/RES/72/186, paras. 57-61; See also UN General Assembly, Regional Consultation on the rights of indigenous peoples in Asia (2020) A/HRC/45/34/Add.3, paras. 9-10.

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Annex: list of reservations to ICCPR article 18

Pakistan

Reservations	Objections and Depository Practice	Objecting State Parties		
Upon ratification on 23 June 2010, the "Islamic Republic of Pakistan declare[d] that the provisions of articles 3, 6, 7, 18 and 19 shall be so applied to the extent that they are not repugnant to the Provisions of the Constitution of Pakistan and the Sharia laws".	<p>25 States objected, arguing that the reservation was of general and indeterminate scope that was incompatible with the object and purpose of the ICCPR.</p> <p>On 20 September 2011, Pakistan notified the Secretary-General that it had decided to withdraw the reservations.</p>	<p>Australia Austria Belgium Canada Czech Republic Denmark Estonia Finland France Germany Greece</p>	<p>Hungary Ireland Italy Latvia Norway Poland Portugal Slovakia Spain Sweden Switzerland</p>	<p>United Kingdom United States Uruguay</p>

Bahrain

Reservations	Objections and Depository Practice	Objecting State Parties		
Following accession on 20 September 2006, Bahrain filed a reservation that it "interprets the Provisions of articles 3, 18 and 23 as not affecting in any way the prescriptions of the Islamic Shariah".	<p>In keeping with depository practice, the Secretary-General did not accept the reservation in view of the objections made by 15 States.</p> <p>These States argued that the reservations were made too late, were incompatible with the object and purpose of the ICCPR, made it unclear to what extent Bahrain</p>	<p>considered itself to be bound by the obligations of the ICCPR, and contributed to undermining the basis of international law. Ireland noted that a reservation "which consists of a general reference to religious law may cast doubts on the commitment of the reserving State to fulfil its obligations under the Covenant". Mexico argue that the reservation</p>	<p>Mexico argue that the reservation "would have the unavoidable result of making implementation of the articles mentioned subject to the provisions of Islamic Shariah, which would constitute discrimination in the enjoyment and exercise of the rights".</p>	<p>Australia Canada Czech Republic Estonia Hungary Ireland Italy Latvia Mexico Netherlands Poland Portugal Slovakia</p>

Lao People's Democratic Republic

Reservations	Objections and Depository Practice	Objecting State Parties
Upon ratifying the ICCPR on 25 September 2009, Lao declared that "article 18 of the Covenant shall not be construed as authorizing or encouraging any activities, including economic means, by anyone which directly or indirectly, coerce or compel an individual to believe or not to	believe in a religion or to convert his or her religion or belief".	<p>Sweden objected to the declaration, arguing that it modified the legal effect of the provisions, therefore constituted a reservation which Sweden considered to be null and void.</p>

Maldives

Reservations

Maldives acceded to the ICCPR on 19 September 2006, including the reservation that '[t]he application of the principles set out in article 18 shall be without prejudice to the Constitution'.

Objections and Depositary Practice

18 States objected to this reservation, arguing that it was too general, did not clearly define the extent to which the Maldives had accepted the obligation under article 18 and was likely to deprive the provision of effect.

Objecting State Parties

Australia
Austria
Canada
Czech Republic
Estonia
Finland
France
Germany
Hungary
Ireland

Mauritania

Reservations

Upon accession to the Covenant on 17 November 2004, "while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declare[d] that their application will be without prejudice to the Islamic Shariah".

Objections and Depositary Practice

10 States objected, criticizing the general and indeterminate scope of the reservation, which was likely to deprive the provision of any effect and was contrary to the object and purpose of the Covenant.

Objecting State Parties

Finland
France
Germany
Greece
Latvia
Netherlands
Poland
Portugal
Sweden
United Kingdom

Qatar

Reservations

Upon accession to the Covenant on 21 May 2018, Qatar made the statement that it "shall interpret article 18(2) of the Covenant based on the understanding that it does not contravene Islamic Sharia. The State of Qatar reserves the right to implement such paragraph in accordance with such understanding".

Objections and Depositary Practice

21 States objected, rejecting the vague and general wording of the reservation, raising the essential character of article 18 to the ICCPR, questioning Qatar's commitment to the ICCPR and referring to article 27 of the ICCPR, which requires states to align their domestic law with the provisions of the ICCPR.

Objecting State Parties

Austria
Belgium
Canada
Czech Republic
Estonia
Finland
Germany
Greece
Hungary
Ireland
Italy

Latvia
Moldova
Netherlands
Norway
Poland
Portugal
Moldova
Romania
Switzerland
United Kingdom



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