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The 21 martyrs

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The **IJRF** aims to provide a platform for scholarly discourse on religious freedom and persecution. It is an interdisciplinary, international, peer reviewed journal, serving the dissemination of new research on religious freedom and contains research articles, documentation, book reviews, academic news and other relevant items.

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Cover Art

The 21 Martyrs

The cover art is from The 21 Martyrs film being planned for release in 2023.

In 2015, in a now-famous video, ISIS terrorists beheaded 21 Christians men on a Libyan beach. The 21 Martyrs film project aims to counter the ISIS narrative by presenting a more accurate portrayal of the sainted men's abduction, detention and execution. This short film is being animated by a world-class team of artists headed by Tod Polson. This issue has an interview with the filmmakers. You can find out more about the film at <https://www.21martyrsfilm.com/>.

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Editorial

The 21 Martyrs

This issue represents a number of significant changes for the International Journal for Religious Freedom. There have been some major changes in the leadership of the International Institute for Religious Freedom (IIRF), the research institute that publishes this journal. One of the founders of the IIRF was appointed the Secretary General of the World Evangelical Alliance. Dennis Petri has been appointed the new International Director of the IIRF and has ambitious plans to develop the institute. We have interviews with both Thomas Schirrmacher looking back on his years with the IIRF, and with Dennis Petri looking forward to a new vision for the institute. Also, after seven issues catching up with back issues, this issue represents the final “catch up” issue.

The theme of this issue “The 21 Martyrs” reflects the seriousness of the moment of 21 Coptic Christians being executed for their faith on a beach in Libya. The event was filmed and spread around the world. Two resources countering the ISIS narrative are addressed in this issue. In 2019, a book was published, which is reviewed by Paul Rowe. Second, Mark Rogers, a film producer, is working on an animated film to be released in 2023 on the 21 Martyrs. The cover photo is from the film. These resources paint a very different picture than the ISIS video and reveal 21 heroes of the faith who died on that beach.

The articles in this issue cover a broad diversity of geographical locations and perspectives on persecution. Two articles address theological issues. One addresses a methodological issue. Two articles focus on legal issues, one national and one international. One article focuses on describing the persecution of a religious minority. Another suggests that organized crime can be an engine of persecution. And finally, an article examines religious education. The articles address persecution in China, France, Myanmar and Mexico.

On theological issues, Roy Stults from the USA begins to address a theology of persecution. He intends to publish more in future issues on this topic so this is an introduction. Antonius Un from Indonesia addresses a theology of tolerance from a Calvinist perspective.

Meiken Buchholz critiques the methodology of the World Watch List as it relates to religious freedom in China. She argues that a “one size fits all” definition does not work to address local realities in that country, particularly as the definition is one developed in the West.

The first article on a legal issue addresses the practical aspects of a new French law on *laïcité*. Marietta van der Tol described the origins of this new law in the 2020

issue of the IJRF and Nancy Lefevre now focuses on how this impacts on religious institutions in France. The second article is by Werner Nel addresses “grievous religious persecution” as a crime against humanity in the International Criminal Court. This article is taken from Nel’s book, which is available on the IIRF website as a free download.

We are pleased to include an article by Sang Hnin Lian describing the challenges of the Chin minority in Myanmar. This was originally scheduled for the 2018 issue but was delayed by conflict in Myanmar such that the author was not able to complete revisions. The article is a more historical reflection on the development of persecution for the Chin than Lian’s previous article in the 2017 *IJRF*.

Dennis Petri has contributed a provocative article arguing that organized crime in Mexico, related to the drug trade, functions in the same way that government policy does in regulating and restricting religious practices. He argues that on a sub-national level, organized crime functions to restrict religion when it threatens their operations.

Finally, Johannes van der Walt and Izak Oosthuizen have contributed an article arguing that it is not the role of the state to provide confessional instruction in public schools. They analyze four case studies that are paradigmatic of different approaches to confessional education: the Netherlands, North Korea, France and South Africa.

In the Documentation section of this issue, Dennis Petri introduces the Violent Incidents Database. Petri implemented the database for Latin America through his work with the Observatory of Religious Freedom in Latin America (OLIRE). The IIRF is encouraging others to use the database to have shared reporting of data.

As usual, the Noteworthy section lists important religious freedom reports from 2021. There are several book reviews of recent books published on religious freedom.

We trust that you will find the contents of this issue of the IJRF informative.

*Yours for religious freedom,
Janet Epp Buckingham*

IIRF founding co-director appointed Secretary General of the WEA

The International Institute for Religious Freedom offers warm congratulations to founding co-director Bishop Prof Dr Dr Thomas Schirmmacher as he takes up the role of Secretary General of the World Evangelical Alliance. The handover ceremony was on 27 February 2021.

Established in 1846, the World Evangelical Alliance (WEA) is a network of churches consisting of national evangelical alliances from 143 different countries, including 100 international organisations that have joined together to establish a world-wide identity, voice, and platform for the more than 600 million evangelical Christians around the globe.

In his inaugural speech, Schirmmacher noted, “In 1846, the World Evangelical Alliance was the first ever large religious body speaking up for religious freedom. And that meant speaking up against state churches and against Christian nationalism” He acknowledged that this is still a hot issue evangelicals wrestle with today.

With earned doctorates in Missiology, Cultural Anthropology, ethics and Comparative Religions, Schirmmacher is a leading global expert on religious freedom. He has authored and edited over 100 books, which have been translated into 18 languages. His most recent books include *Creation Care* (2019); *Quran and Bible* (2019); *Suppressed Women* (2019); *Leadership in Ethical Responsibility* (2017); *Coffee Breaks with the Pope* (2016/2020); *Corruption* (2016); *Missio Dei* (2016); and *Human Rights* (2015).

Schirmmacher is founder and President Emeritus of ‘Martin Bucer European Theological Seminary and Research Institutes’ with campuses in Berlin, Bielefeld, Bonn, Chemnitz, Hamburg, Innsbruck, Istanbul, Izmir, Linz, Munich, Pforzheim, Prague, Sao Paulo, Tirana, Zurich, where he taught social ethics and comparative religions. Schirmmacher has delivered guest lectures at more than 200 universities



Handover Ceremony from the outgoing Secretary General & CEO Bp Efraim Tendo to Bp Dr Thomas Schirmmacher.

and institutions around the globe. He is also President of the International Council of the International Society for Human Rights.

Schirmmacher regularly testifies in Parliament, in High Courts, and at the United Nations and OSCE, e.g. in the German parliament (Deutscher Bundestag), the House of Lords, the EU Parliament, the US Houses of Representatives or the Supreme Court of Brazil.

We wish Bishop Schirmmacher well and look forward to continuing collaboration in the cause of religious freedom.

IJRF editor appointed WEA director of global advocacy

The International Journal for Religious Freedom is delighted that its executive editor, Prof Dr Janet Epp Buckingham has been appointed the director of global advocacy for the World Evangelical Alliance (WEA). Buckingham will continue in the role of executive editor of the IJRF.

Buckingham has a long history of advocacy both nationally and international. She previously served as director, law and public policy, for the Evangelical Fellowship of Canada and Executive Director of the Christian Legal Fellowship in Canada. She was a religious freedom advocate at the UN in Geneva for the World Evangelical Alliance from 2003-2006. Since 2006, Buckingham has been a professor at Trinity Western University and the director of its Laurentian Leadership Centre in Ottawa. Her academic research area is religious freedom, and she has published many articles and a book on religious freedom in Canada. She is the co-director of the new International Institute for Religious Freedom – Vancouver.

Prof Dr Thomas Schirmmacher who served as Director of the IIRF and now assumed leadership of the WEA as Secretary General expressed his appreciation for the partnership, which will strengthen the WEA's overall engagement in the area of religious freedom.

“The WEA has now bundled its advocacy activities into one department. Our work to help the persecuted church, our religious freedom institutions and human rights advocacy, all our UN offices in New York, Geneva and Bonn, come together under Global Advocacy. These institutions and activities have diverse histories in different departments and contributed in their own unique ways, and the new structural setup will strengthen them as they will benefit from more direct collaboration,” Schirmmacher said, and added: “Over the last three decades, Janet Epp Buckingham has been involved with most of those and thus is well equipped to form a unity out of a vibrant staff and busy organizations. She brings experience in advocacy for her own national Alliance, representing the WEA at the UN and was also involved in global campaigns.”

New international director for the IIRF

The International Institute for Religious Freedom (IIRF) is pleased to announce the appointment of Dr Dennis Petri as its new International Director. A political scientist, international consultant and researcher, Petri founded and serves as scholar-at-large of the Observatory of Religious Freedom in Latin America (OLIRE) and brings a wealth of experience in Latin American and global religious freedom research and advocacy.

“As the founding Co-Directors Prof Dr Dr Schirmmacher and I are happy that Dr Dennis Petri will replace us as the International Director of IIRF,” commented Prof Dr Christof Sauer, who holds a Professorship on Religious Freedom and Research on Persecution of Christians at Giessen School of Theology, Germany, on behalf of the IIRF, and added: “He has a history of excellent cooperation with us over the past years, including his guest-editing an issue of the International Journal for Religious Freedom (IJRF) on *The Impact of Religious Freedom Research*.” Sauer will remain Research Director of IIRF.

Prof Dr Janet Epp Buckingham, the World Evangelical Alliance’s (WEA) Director of Global Advocacy, congratulated Petri and said: “Dennis will bring a fresh vision and passion to the important work of the IIRF as a center for academic research and publications on freedom of religion or belief (FORB). Reliable research is essential to effective advocacy. But it also stands as a contribution to global academic discussion about FORB.”

Putting the recent appointment into the wider historical context of the WEA’s engagement, Secretary General Bp Dr Thomas Schirmmacher who co-founded the IIRF commented: “When the Evangelical Alliance was founded in 1846, religious freedom for all and specifically the opposition to states forcing people to adhere to their national religion – including Christianity – was one of the pillars. The WEA was the first transnational religious movement that championed religious liberty. And I am very pleased that with an experienced researcher like Dr Petri we can ensure that the IIRF continues to actively uphold this tradition and pursue the vision of religious freedom for all.”

Petri currently teaches at The Hague University of Applied Sciences (Netherlands), the Latin American University of Science and Technology (Costa Rica) and the Latin American Faculty of Social Sciences (UNESCO). He has previously served in a number of organizations and government roles focusing on religious freedom, peace building and social development, including at Open Doors International, the European Office of the Inter-American Development Bank, the Arias Foundation for Peace and Human Progress in Costa Rica, and others. As a Mexican-Dutch author, he has published on freedom of religion, religion and politics, social dialogue,

parliamentary reform and democratic assistance. He founded OLIRE as a research, training, and advocacy program, with the mission to promote religious freedom on the continent. The Observatory serves its partners, academia, civil society, and policy makers with research data, training materials, and policy recommendations to promote religious freedom for vulnerable religious minorities in Latin America.

John Fredy Osorio Cardona, Advisor to the Director of Religious Affairs of the Government of Colombia, said: “Dr Dennis Petri has been a supremely diligent person in defending Religious Freedom in the countries of the American continent. As the founder of the OLIRE, he has endeavored to reduce violations of religious freedom through his research, public lectures, technical support to local and national governments, and the creation of synergies between academics, professionals, religious leaders, and other actors. I am very pleased with his appointment as International Director of the IIRF and wish him every success in his new role.”



Dr Dennis P. Petri, International Director, International Institute for Religious Freedom.

Upon his appointment, Petri said: “With extraordinary vision and skill, Thomas Schirrmacher and Christof Sauer laid a solid foundation for the International Institute for Religious Freedom. It’s an honor to have been asked to build upon that foundation and lead the institute into a new phase of consolidation and expansion. As its International Director, I commit to work incessantly toward the promotion of religious freedom worldwide and for all faiths, making religious freedom data widely available and contributing to increased religious literacy.”

International Institute for Religious Freedom opens North American branch

The Religion in Canada Institute (RCI), a research institute of Trinity Western University (TWU) in Langley, British Columbia, has officially become the North American branch of the International Institute for Religious Freedom (IIRF). The RCI is an interdisciplinary research center and intellectual community of scholars at TWU committed to understanding the multifaceted role of religion in Canada for culture, individuals and social institutions. It is an official university institute that was founded in 2007 and is run by co-directors TWU professors Dr Janet Epp Buckingham and Dr Paul Rowe.

The partnership to establish the IIRF-V was formalized with a Memorandum of Understanding signed in February 2021.

Prof Dr Christof Sauer, one of the founding directors of the IIRF, commented:

We are excited that the partnership with the RCI adds a new office to IIRF for a major global region. At the time of the founding of IIRF in 2006, we started with a footprint in Europe, Africa and Asia and in 2017 a Latin America Office was added. It was high time to now add a permanent North American representation.

“The study of religious freedom has entered a pivotal phase, in which scholars have begun to debate how essential and important this key freedom is for contemporary societies,” said Rowe. “At this point in history, it is vital that people of faith learn to articulate why religious freedom is so important and what it means to the larger expansion of freedom in North America and throughout the world.”

“The affiliation with the IIRF will expand our research network and capacity on issues of religious freedom for minorities around the world,” commented Buckingham, who was also recently appointed as WEA’s Director for Global Advocacy. “We are now connected to a global network of scholars on religious freedom.”

Upon Buckingham’s appointment, Dr Sauer commented: “We are very happy that Prof Dr Janet Epp Buckingham will represent the IIRF Vancouver office. She is a long-standing and trusted partner of IIRF, having first published in the International Journal for Religious Freedom (IJRF) in 2011. She stood out by publishing a summary of the first International Consultation on Religious Freedom Research in 2013 initiated by IIRF. In 2019 she took over as managing editor of the IJRF. We appreciate her success in reviving the journal.”

“Prof Dr Paul Rowe also is no stranger to IIRF, having published in IJRF in 2014 as a renowned expert on the Middle East,” Sauer added, and said: “We are

looking forward to partnering with scholars in North America who are willing to engage with those in other parts of the world on an equal footing.”

Under the auspices of the World Evangelical Alliance (WEA), the IIRF is a network of professors, researchers, academics, specialists and university institutions from all continents. Branches work to analyze reliable data on the violation of religious freedom worldwide. They also seek to introduce religious freedom topics in college and university programs and curricula, especially in the areas of law, sociology, religious studies and theology. IIRF is the publisher of the International Journal for Religious Freedom (IJRF). The new Vancouver location (IIRF-V) will join branches in Brussels, Colombo, Delhi, Cape Town, Brasilia and Tübingen.

In memoriam: Dr Ken Gnanankan (1940-2021)

The International Institute for Religious Freedom (IIRF) pays tribute to Dr Ken Gnanankan, a member of the Editorial Board of the International Journal for Religious Freedom. He was a philosopher, theologian and educator from south India and the founder, with his wife Prema, and chancellor of ACTS group of institutions. He was a champion of environmental sustainability. He was also a strong proponent of Christian higher education. Dr Gnanankan was also a former General Secretary of the Asia Theological Association (1991-2001) and a member of the World Evangelical Alliance’s Theological Commission for 26 years.

The past, present and future of the International Institute for Religious Freedom

Interview with Prof Dr Thomas Schirmmacher

Bishop Thomas Schirmmacher, ThD, DPhil, PhD, DD (born 1960) was appointed Secretary General of the World Evangelical Alliance (WEA) in March 2021 (see announcement on p. 7). Before becoming Secretary General, Schirmmacher served WEA in various leadership roles over the last two decades, including the Associate Secretary General for Theological Concerns and Intrafaith and Interfaith Relations. He has been ordained and consecrated in the Anglican tradition and is archbishop of the *Communio Messianica*, which primarily serves Christian believers of Muslim background.

Schirmmacher has earned four doctorates - in ecumenical theology, cultural anthropology, ethics, and sociology of religion - and has received honorary doctorates in the USA and India. He has authored and edited 102 books, which have been translated into 18 languages. He is recognized as one of the leading human rights experts worldwide and has testified frequently before parliaments and courts around the globe, the Organization of Security and Co-operation in Europe, and the UN in Geneva and New York.

In 2009, Schirmmacher founded the International Institute for Religious Freedom (IIRF) with Dr Christof Sauer. When Schirmmacher was appointed the Secretary General of the World Evangelical Alliance, he passed on leadership of the IIRF to Dr Dennis P. Petri. Executive Editor of the IJRF, Prof Dr Janet Epp Buckingham, interviewed Schirmmacher about his role with the IIRF.

Q. Why did you establish the IIRF?

In 2008 and 2009, Hermann Gröhe, German Member of Parliament and legal counsel for the Christian Democratic Union, which was in opposition at that time, wanted to call for a first-ever debate on the persecution of Christians for one hour in Parliament. They used our material, which at that time was more produced for church newsletters and prayer meetings. He got into huge trouble with his colleagues, because it was hard to prove the claims or present adequate data by the academic standards used for other areas of human rights. Gröhe was outraged afterwards about the thin and unreliable data we had given him. His sentence, "That must change, otherwise we never will repeat this," had enough effect on me and Professor Christof Sauer that we founded the IIRF, which today has offices on all continents. At a later event, I said to him, "Dear Mr. Gröhe, my deepest thanks for this most momentous rebuke in all my life."

The IIRF aims to work collaboratively with all who share its aims of supporting the defense of religious freedom by providing the necessary foundations of accurate information and understanding. These are the goals we spelled out at the beginning:

- The establishment of reliable facts on the restriction of religious freedom.
- Making available the results of such research to other researchers, politicians, advocates, courts, and the media.
- The introduction of the subject of religious freedom into academic research and theological curricula around the globe, and initiating as many doctoral dissertations around freedom of religion and belief (FoRB) as possible.
- Backing up our advocacy for victims of violations of religious freedom in the religious, legal, and political worlds with reliable and verifiable facts.

Q. How has the IIRF helped those under pressure for their faith?

We have initiated research, spoken at hearings in many government bodies, published a journal and many books, helped to establish several chairs at universities or seminaries around the globe, and gotten many politicians to speak up in public, as we promised to defend them with academic expertise should they come under fire. We have been involved in developing several UN statements. Of course, it is hard to prove in detail exactly how all this helped the persecuted. But we have many, many instances, where we can prove direct impact in relation to specific persons – for example, when lawyers equipped with our material won in court, or when we got governments to intervene directly after having been confronted with clear proof regarding certain situations. A 350-page IIRF book on apostasy in Islam has been used successfully as evidence in many cases of converts from Islam seeking asylum in different countries. We have had contact with many individuals who said that we made the difference.

Q. What have you been most proud of that the IIRF has accomplished?

In Tirana (Albania) in 2015, the World Evangelical Alliance, the Vatican, the World Council of Churches and the Pentecostal World Fellowship, as pillars of the Global Christian Forum, came together for the first time for a conference on religious freedom, where we listened to firsthand reports from countries of concern. After having jointly apologized for our discrimination against and even persecution of adherents of other religious groups in the past, we issued a joint call on behalf of global Christianity to all political, religious, and worldview actors to end restrictions of FoRB. The IIRF's staff did a brilliant job, its reports were widely distributed around the globe, and our collection of all major global documents around the topic is still in print.

In the Gambia two years ago, extremist forces from abroad had developed a draft of a new constitution with sharia at its center and no separation between state and Islam. The IIRF provided expertise with the help of top lawyers around the

world, working with lawyers from Gambia. Finally, we were able to bring together all major Christian groups in the country and leaders of moderate Islam, who represented in combination three-quarters of the nation. The proposed changes of the text to include separation of church and state and to limit sharia to its traditional meaning in the Gambia (that is, family law) gained so much momentum that shortly afterwards, a large majority of the parliament stopped the process to develop a new constitution.

Q. Where would you like to see the IIRF grow next? What are your hopes for the new leadership?

My biggest dream would be that the IIRF would develop something like the Open Doors World Watch List, but for all religions and worldviews. Existing reports on global restrictions of FoRB are not based on equally extensive on-the-ground research. Many only gather existing information, mainly from the media; most are limited geographically or limited to one's own religion or to secular worldviews. The IIRF has developed the methodology and tools; the implementation is just a matter of funding.

The IIRF's new director, Dennis Petri, has already been working in this area, so besides bringing the organization into a new and younger generation with all the needed adjustments, he is well equipped to pursue this megaproject.

Q. Why is religious freedom important for Evangelicals?

For us Evangelicals, freedom of religion for all people of all faiths is not just an important political concept and a human right, but an integral part of our theological DNA. The conception that faith in God consists of an individual believing and trusting precludes all forms of compulsion and fraud in matters of belief or non-belief, as well as all questioning of an individual's convictions.

When the Evangelical Alliance was founded in 1846, one of the four pillars was freedom of religion. Many churches still had little understanding of the concept; in Europe the system of state churches was still widely prevalent. The numerous pastors of the state churches, such as in England or Germany, who became involved in the Alliance were mostly considered traitors by their own churches. Gerhard Lindemann, in his habilitation (post-doctoral) treatise of over 900 pages, has traced how, during the second half of the 19th century, the Evangelical Alliance declared freedom of religion to be a European topic. He summarized his findings as follows: "With their engagement for freedom of religion the Alliance rendered a valuable service to the enforcement of civil freedoms in the countries concerned and made no insignificant contribution to the development of a European civil society ... with an influence extending even to Russia and Japan." (Lindemann 2011:843)

Let me say a bit more about some of Lindemann's important historical findings. The Homburg Conference for Religious Freedom of 1853 was a milestone in the history of the Alliance and of tolerance in Germany and Europe (263-267). The core result was the rejection of all clerical violence against seceders and the rejection of any use of state violence by certain churches against others (266). This principle was deliberately applied not only to Christians but to all religions, which naturally resulted in sharp protests on the part of Protestant state churches (267-272).

In 1861, a French pastor first put forward the brand-new thesis, which came to prevail more and more within the Alliance, that "freedom of religion guarantees state order and its intrinsic peace" (592), whereas suppression of individual freedom of religion feeds discord and withdraws from the state its God-given foundation!

When the Alliance sent a delegation in 1858 to protest against Sweden, whose highest court, the Royal Court of Justice, had expelled six women who had converted from Lutheranism to Roman Catholicism (!), from the country, and when the Alliance demanded freedom of religion for these Catholics, a storm of protest arose all over Europe (295-300). The Alliance was significantly involved in the process that eventually led the Swedish parliament, in 1860, to abrogate all punishments for leaving the Lutheran state church.

The Alliance's broad-mindedness appeared also in the fact that they intervened with the Sultan not only on behalf of converts from Islam to Protestantism, but also on behalf of the Greek Orthodox Church (300). In Iran, they stood up for the so-called Nestorians (610-613).

There is a long history of religious freedom in Germany. Audiences that the Alliance was granted with the Prussian king, such as in 1855 in Cologne and again in 1857 (286f), always involved freedom of religion. The same applies to the conversations that Alliance secretaries had with the German Emperor William I and the Imperial Chancellor Otto von Bismarck in 1875 (919). An Alliance deputation to Emperor Franz Joseph I and subsequent talks with the prime minister and education minister resulted in noticeable relief for Protestants and, in 1880, even in their legal recognition (913).

The same is true also for the visit by participants at the International Alliance Conference, which met in New York, to U.S. president Ulysses S. Grant and his cabinet in 1873 (755-756). The only difference was that the U.S. government did not have to be persuaded of the benefits of religious freedom.

In my opinion the Evangelical Alliance has been quite successful for more than 170 years in maintaining a balance between a strong commitment to religious freedom for its own members, and for Christian churches of all confessions, and an

equally strong and clear commitment to the religious freedom of all people, even the non-religious.

It has frequently been objected that the IIRF, although scientifically completely independent, is still associated with a large religious community. It is exactly the other way around, though. Evangelicals should be praised for having an institution that expresses concern for the freedom of all people. All large religious communities and ideological groups should also have such an institution! If religions and ideologies do not stand up actively and organize for freedom of religion, who else will? I have a dream that one day even Islamic groups will quite naturally be devoting research and advocacy efforts to this topic, as is already the case in Indonesia. One might just as logically ask whether women would be welcome in politics without the advocacy of women's associations.

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Vision for the future of the International Institute for Religious Freedom

Interview with Dr Dennis P. Petri

Dr Dennis P. Petri became International Director of the International Institute for Religious Freedom (IIRF) in June 2021. Petri has a PhD in Political Philosophy from Vrije Universiteit Amsterdam. He currently teaches at The Hague University of Applied Sciences (Netherlands), the Latin American University of Science and Technology (Costa Rica), and the Latin American Faculty of Social Sciences (UNESCO). He previously focused on religious freedom, peace building and social development for a variety of organizations, including Open Doors International, the European Office of the Inter-American Development Bank, and the Arias Foundation for Peace and Human Progress in Costa Rica. Petri founded the Observatory of Religious Freedom in Latin America (OLIRE) as a research, training, and advocacy program, with the mission of promoting religious freedom on the continent. Executive Editor, Prof Dr Janet Epp Buckingham, interviewed Petri on his vision for the future of the IIRF.

Q. You have an impressive background in research and experience in the promotion of religious freedom. What are the most significant skills and abilities you bring to the IIRF?

It's a huge honor and responsibility to have been asked to serve as International Director. I would like to thank Thomas Schirrmacher and Christof Sauer, the founders of the IIRF, for their trust and support. I would also like to pay tribute to their legacy. They are both extraordinary visionaries who since 2007 have grown the IIRF to become the world-renowned think tank it is today. Over the years, Christof Sauer has also been one of my personal mentors and has coached me to become a better researcher.

What do I bring to the IIRF? As a political scientist, researcher, and international consultant, I have worked in both academic and policy roles for various universities, international NGOs, and multilateral organizations, mostly in Latin America but also in Europe, Africa, and the Middle East. My academic work has always focused on applying fundamental research to solve real-life challenges, whether in the field of democracy assistance, social dialogue, parliamentary reform, conflict resolution or, for the past ten years, religious freedom. Having one leg in academia and one leg in policy gives me the ability to establish bridges between these two worlds, which is also an essential feature of the IIRF's central mission of providing high-quality academic research on religious freedom to inform advocacy.

My doctoral dissertation, entitled *The Specific Vulnerability of Religious Minorities*, which was published in 2021 as part of the IIRF Religious Freedom Series, is a good example of the value of the dialogue between academia and the policy

world. It explores how invisible forms of religious freedom violations can be documented better and what practitioners can do to build resilience within vulnerable religious groups and raise awareness of their situation worldwide.

At the IIRF, which has a global presence with branches in all continents, we also need to build intercultural bridges. My background as a Dutchman who was born in Mexico, was raised in Indonesia, Mali, Romania, and Bolivia, and has lived in France, the Netherlands, and Costa Rica gives me a unique capacity to adapt quickly to different cultural environments and to function as a bridge between cultures.

I also have a passion for building bridges between believers and the secular world. I am convinced that believers should not “preach to the choir” but should engage in an open debate with secular academics, policymakers, and journalists on what is dear to them in their religious beliefs and about the meaning of religious freedom. The secular world should also develop a sensitivity to the practical meaning of religious freedom. Fortunately, this is happening more and more.

Finally, I particularly enjoy pioneering new projects and processes, as I did when I initiated the Observatory of Religious Freedom in Latin America in 2018. This skill set is important to the IIRF, which is now entering a new phase of consolidation, rebranding and expansion. I want to proactively take advantage of all opportunities to promote religious freedom from an academic perspective.

Q. Before becoming its International Director, you had already collaborated with the IIRF. Can you describe that experience?

Yes, I’ve interacted with the IIRF and its staff for a long time. When I was still working for Open Doors International, I had the privilege of working with Christof Sauer, Ron Boyd-MacMillan, Frans Veerman, and others in the process leading to the methodological revision of the World Watch List in 2012 to make it compliant with academic standards.

I’ve also had the opportunity to co-author several articles with Christof Sauer on the persecution of Christians in Africa in 2015 and to teach alongside Thomas Schirrmacher in 2017 at the Postgraduate Degree program on Constitutional State and Religious Freedom at Regent’s Park College (University of Oxford), a program initiated by IIRF partner organizations.

I had already contributed to several issues of the *International Journal for Religious Freedom* when, in 2019, you, Janet, as executive editor, invited me to be the guest editor with Govert Buijs of a special issue on “The Impact of Religious Freedom Research.” The result was an issue packed with 13 excellent contributions on the topic, drawn from an expert panel we co-organized at Vrije Universiteit Amsterdam.

In 2011, Thomas Schirrmacher wrote an opinion article on the challenges of counting the number of Christian martyrs. He concluded, “What we need is a data-

base in which for any year we could enter all the known, larger cases [of religious persecution].”¹ This inspired me to develop the Violent Incidents Database (VID), a service to collect, record and analyze violent incidents concerning violations of religious freedom, as input for both research and policy-influencing efforts. The VID is currently being maintained for Latin American countries by my staff at OLIRE, but I am now taking it to the IIRF with the aim of making it a worldwide project, starting with Nigeria and India.

Q. What are your aspirations for the future of the IIRF?

I have aspirations in four areas. The first area is the consolidation of the IIRF’s position as a world leader in religious freedom research. We want to present the best philosophical and empirical data on religious freedom, both through research we conduct in-house and in collaboration with our partners. Our research needs to be unbiased and should aim to uncover undetected threats to religious freedom. The main added value of our research should be to enable advocacy for religious freedom for all faiths, going beyond anecdotal evidence.

In this effort, our flagship product is the *International Journal for Religious Freedom* (IJRF). Thanks to your leadership as executive editor and the efforts of several guest editors, the backlog of IJRF production has almost been cleared. This enables us to return to being a bi-annual publication and to focus on increasing the journal’s distribution in academic networks.

I would also like to revive the other publications of the IIRF, namely our Book Series and Reports. These are excellent outlets for junior and senior scholars to disseminate their research findings, and I would like to encourage them to take advantage of these opportunities.

Another priority for me is to develop a comprehensive information management system on religious freedom to be used by academics, policymakers, and journalists. Right now, much research is being conducted on religious freedom, both within the IIRF and beyond, but this research needs to be user-friendly and accessible. Such an information management system would comprise (a) the global Violent Incidents Database I have already mentioned; (b) a database of religious freedom indicators; (c) legal compendia on religious freedom clauses in international law, national constitutions, civil codes, and criminal codes; and (d) a catalogue of good practices to prevent and/or solve religious conflicts. This information management system would also provide our partners with the infrastructure to develop regional and national observatories of religious freedom.

¹ Thomas Schirrmacher “A Response to the High Counts of Christian Martyrs Per Year,” 22 August 2011, <https://bit.ly/3M4Nk6B>.

The second area I would like the IIRF to continue to focus on is the promotion of the study of religious freedom in universities around the world. This can be done in many ways: organizing academic panels, delivering guest lectures, consulting on curriculum development, and encouraging the establishment of university-based research institutes and chairs on religious freedom.

Third, I am convinced that we should place a particular focus on promoting religious freedom literacy. We live in a world that is not exactly secularizing, because religion continues to be present in all shapes and forms, but we need academics, policymakers, and journalists to really “get” religion: why it’s important to people, why and how people suffer, and what the concept of religious freedom really entails, because it’s much more than just a theme related to the separation of church and state. Again, there are many ways in which religious freedom literacy can be promoted, but podcasts and online courses are among the strategic tools we can use.

Finally, the IIRF should continue to play a networking function, providing support and encouragement to young and experienced scholars interested in religious freedom – particularly outside North America, the one continent where religious freedom as a theme is much more embedded in academic circles than in other regions. Historically, the IIRF has had a strong presence in Africa, Asia and the German-speaking world, and my own context is Latin America, so we are off to a good start. I envision three programs as part of our networking function: (1) tutoring support for doctoral students, (2) a program for senior research fellows, and (3) collaborative work on research projects with partner organizations. In addition, starting in 2022, I want to organize quarterly roundtable discussions (virtual and in-person), publish periodic newsletters, and develop a much stronger social media presence.

Q. What are you most excited about in the next five years for the IIRF?

In the next five years, I hope to achieve at least three major things. The first is the indexing of the *International Journal for Religious Freedom* to increase its distribution and impact in the academic world. The second is the development of a global report on the state of religious freedom for all faiths, that goes beyond existing religious freedom datasets, particularly in terms of data collection and the conceptualization of religious freedom as a multidimensional concept. The third is to launch “IIRF University,” to deliver courses and degrees to doctoral students, senior academics, and practitioners with the objective of promoting religious freedom literacy. These may be ambitious goals, but I am convinced that they cover important needs and respond to areas where the IIRF can add value.

The 21 martyrs

Interview with Mandi Hart

On 15 February 2015, ISIS terrorists beheaded 21 Coptic Christians on a beach in Libya and filmed their gruesome deed. In 2019, Martin Mosebach wrote a book about these martyrs (see the book review in this issue of the IJRF). A film is planned to be released in 2023 sharing how the 21 are an example of love and forgiveness that is a clarion call for the world to honor and emulate. IJRF Executive Editor Janet Epp Buckingham sent some interview questions to the production team.

Q. What made you decide to do a film on the 21 Martyrs?

The film was inspired by a trip that Mark Rogers (co-founder of MORE Productions) took to Egypt in 2019, one month before the fourth anniversary of the 21 Martyrs' death. As he returned from that trip, while reflecting on his time in Egypt, he realized that the ISIS video of the martyrs' murder was the only visual version of the story that had been produced, and that video did not convey the reality of their strength, courage and faith. So he began to brainstorm, pray and recruit Coptic believers to help in crafting a vision for the film.

Q. Were there any surprises as you filmed and produced this documentary?

The film is not a documentary, although director Tod Polson has done an amazing amount of research and has spoken with many members of the Coptic community to discern their understanding of what happened to the 21, from their kidnapping through their execution. One surprising aspect of the project has been to learn just how widespread the impact of the 21 has been. We have connected with artists literally around the world who want to be a part of this project because they were inspired by the 21 martyrs.

Q. What made you choose an animation style for the film?

We chose animation (albeit a very sophisticated form of animation!) because the weight of the subject matter makes it difficult to produce a live-action film that is accessible to a wide age range. We felt that animation would lower the bar to entry, as it were, so that families with older children could see the film together and be able to talk about the legacy the 21 men have left.

Q. Tell us about the relationships you have built with the Coptic community in developing the film.

The Coptic community has been incredibly supportive and helpful. We have had many Coptic artists involved in the actual production and dozens of others who

have contributed financially as well as providing feedback on the story. We are incredibly honored that the Coptic Orthodox Archbishop of London, His Eminence Archbishop Angaelos, helped us finalize our script and has endorsed the project.

Q. Who do you hope will see the film and what do you hope they will learn from it?

We hope the film will reach a global audience and remind them of the courage and strength of the simple faith of the 21. We hope the film will showcase the reality of the victory of the 21's faith, even at the cost of their lives.

Q. How will the film be distributed? What can those who raise the profile of those persecuted for their faith do to help this distribution?

We hope to screen the film at some film festivals before making it broadly available. Details of distribution will be nailed down as we get closer to the film's completion. Anyone interested in supporting the project can sign up for our newsletter and monitor our social media feeds for more information moving forward! Check their website for more information: <https://www.21martyrsfilm.com>.

Internship Opportunity

International Institute for Religious Freedom

The International Institute for Religious Freedom welcomes applications for internships. Applicants should be university students in sociology, religious studies, international relations, law, political science, theology or any related field, and have an interest in religious freedom. Internships are remote so applicants can be located anywhere.

Please send your CV and letter of interest to info@iirf.global.

Christians under Pressure: Studies in Discrimination and Persecution 2

Kay Bascom

Overcomers

*God's deliverance through the
Ethiopian Revolution as witnessed
primarily by the Kale Heywet Church community*



VKW

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Looking at persecution and suffering theologically

Initial thoughts

Donald LeRoy Stults¹

Abstract

Persecution and suffering for Christ are important parts of our overall work to advance the church in every part of the world. Western theologies tend to reflect a church established in a particular culture without reference to the global mission of the church and the possible negative outcomes of the gospel's encounter with other cultures. Therefore it is necessary to include persecution and suffering for Christ which are present realities in many countries, in our theological reflections. As an initial step, we should embrace the reality of persecution.

Keywords persecution, suffering, theodicy, praxis.

1. Introduction

In this paper, I offer a theological overview of some of the major questions and issues that arise as we consider the mission of God and the consequential suffering and persecution that Christians are experiencing today and have experienced ever since the time of Christ. When I say “initial thoughts,” I do not mean that we are starting from scratch. Many scholars have written on this subject and have helped to spark new interest in reflecting on persecution and suffering theologically.

Suffering for Christ is, as we know well, a part of the mission of God. Many theologians have affirmed this truth. Although Western societies hold human rights issues and fighting modern forms of slavery in high esteem – indeed, as very significant work and newsworthy activity – religious persecution (particularly Christian persecution) is not a popular subject and receives relatively little media attention. Recently, however, persecution has become so blatant in some cases that even mainstream media are reporting it. Some in the Western world still have difficulty processing persecution because it is rarely part of their own life experience, those who understand the reality of persecution are speaking out.

¹ Donald LeRoy Stults (1946) served as a missionary educator in Asia and Europe and taught classes in persecution studies at Oklahoma Wesleyan University. He has written books on Asian theology and a theology of mission to the Western world, based on the thought and writings of Lesslie Newbigin. He is now retired and lives in Gardner, Kansas USA. This article uses American English. Article received: 19 Aug 2020; accepted: 26 Jan 2022. Email: roystults@gmail.com. Phone: 918-914-3153.

Gordon-Conwell Theological Seminary president Scott W. Sunquist, for example, articulates a number of important insights into suffering as part of God's mission to the world. We must understand, he states, that "mission has a temporal reality – it participates in the suffering of God" (Sunquist 2013:xii). Mission starts with God, who determines the means by which it is done. Sunquist continues, "Mission is from the heart of God, in each context, and it is carried out in suffering in this world for God's eternal glory" (2013:xii). "It may seem strange," he remarks, "to raise the issue of suffering," but he explains:

In contrast to our culture . . . we believe that God is the one who heals and conquers death. We also see, however, that God does not heal all illnesses, and we believe that God enters into our suffering and endures our death and alienation. Suffering is inescapable as a central element in God's redemption (Sunquist 2013:xvi).

When Sunquist experienced the oppression that new Christians had to undergo in new areas of Christian mission, he became convinced that suffering is indeed a part of God's mission to the world: "The overwhelming and sustaining image that I came away with is of the massive suffering of Christians as Christianity has developed in each new region. Suffering is very much a part of Christian experience, as well as human existence in general" (Sunquist 2013:xiv).

2. Theological and missiological perspectives

The Bad Urach Statement is a foundational document for all who desire to think theologically about suffering and persecution. It affirms that God's mission is revealed in the theology of the Bible. As a part of our theological discussion of God's mission to the world, we should also seek to understand persecution and suffering for Christ's sake from a theological perspective and how it is integral to the *missio Dei*. The mission of God is the *occasion* for persecution and suffering, since persecution arises in response to Christians' efforts to share their faith in a variety of circumstances and cultures, some of which are hostile and resistant.

When I was teaching missiology at a university in Oklahoma, USA, I became aware that they were beginning a program in "Persecution Studies." As I learned more about what they were doing and eventually taught classes in the program, I realized that although I have had a lot of training in missiology, not much was said about the cost to the persons doing mission, except perhaps those early missionaries working on the frontiers. I think that the cost of discipleship was simply assumed. The missionary life can be difficult, hence the idea that missions and suffering go together. But there was only occasional mention of those who became martyrs for preaching the gospel.

As I pursued studies in the history of missions, I became increasingly aware of the role of persecution and suffering in the lives of missionaries throughout the ages. While working for an organization that supported the persecuted church around the world, I traveled to countries hostile to the gospel and saw the results of persecution firsthand.

Participating in the mission of God means we will be confronted by many cultural philosophies and ideologies, some of which reject Christianity outright. Missionaries and missional pastors often discover that a particular philosophy or ideology that dominates the culture is in opposition to Christian faith. These differences can become points of conflict with the culture. When people come to faith in Christ, they begin to deal with the core values and cultural worldview in which they have been immersed, and they realize that belief in Christ will change their perspective and worldview as well as their heart and spiritual life. This means that new believers are faced with formidable challenges, spiritually, morally, and intellectually. They become aliens in their own culture. Christopher J. H. Wright (2006:182) observes:

Those who came to faith in Christ out of a background of Greco-Roman polytheism embraced the biblical monotheistic worldview. But they still lived surrounded by all the idolatrous reality of the culture within which they were now called to live out their Christian identity. This posed daily dilemmas for them. The thoroughness of Paul's mission practice is that he was not content merely with evangelism and church planting but was concerned to build mature communities of believers who could think biblically through the ethical issues they faced in their ambient religious culture. His pastoral and ethical guidance to his churches was thus as much a part of his missional task as his evangelistic zeal, and just as theologically grounded too.

The need to explain and defend the faith presents a severe challenge to Christians in hostile or resistant nations. Very few people are won over by pure intellectual argument, but once people become Christians, reasonable discussions can fortify and mature their faith. They must embrace a biblical worldview and belief system that can give them a more realistic perspective on God and the world. Their conversion makes life difficult for them in the culture from which they were converted, especially in a totalitarian society that demands uniformity of belief. Those Christians realize the sacrifice and suffering necessary to keep and spread the faith; consequently it does not seem unusual to them to include persecution and suffering in their theology of mission.

Questions about God's mission and suffering for Christ's sake need to be addressed in a manner that will give us deeper insight into why mission and suffering are related. The promotion for Peter Kreeft's book, *Making Sense out of Suffering*

(1986), says, “This book is for everyone who has ever wept and wondered ‘Why?’” We have all wept and wondered why God seems to require suffering and allow persecution to exist. Augustine said, “*Credo ut intelligam*” – meaning that “one believes in order to know” or that one must believe to be able to understand. Certain issues and questions beg for adequate answers. People live for years mulling over issues such as the persecution of Christians in their minds but never take the time to resolve them. Theology is a tool given to us by God to resolve our questions with greater intentionality.

3. A definition of persecution

Persecution, as described in the Bad Urach Statement, is essentially suffering for the sake of Christ while serving him (Sauer 2010:1.6.1). This definition refers to Christian persecution, but the term is used in a much broader sense in society. Accordingly, the Bad Urach Statement offers three more definitions, ranging from the general to the specific. A general definition of persecution is any “unjust hostile action which causes damage from the perspective of the victim(s)” (Sauer 2010:1.6.2). It can come from multiple motivations and can be delivered in multiple forms and degrees.

Religious persecution is an unjust action against a believer or a group of believers motivated by religious reasons, although other motivations, like ethnic hatred, gender issues, or political viewpoint, may also be motivation for their actions. Persecution may include systematic oppression, discrimination, annoyance, genocide, and harassment. Persecution of Christians further narrows the definition to persecution for religious reasons because they are Christians. (Sauer 2010:1.6.2)

These actions would include the systematic denial of religious freedom and rights.

The late Glenn Penner, with whom I taught with prior to his untimely death and whose legacy I hope to carry on, defined persecution as “a situation where Christians are repetitively, persistently and systematically inflicted with grave and serious suffering or harm and deprived of (or significantly threatened with deprivation of) their basic human rights because of a difference that comes from being a Christian that the persecutor will not tolerate” (Penner 2004:163).

4. Why some Christians do not pay attention to the reality of persecution

Some Christians do not want to embrace the reality of religious persecution because they do not personally experience it. It seems far off and distant, outside their range of experience and interest and much too difficult to think about.

Eric Metaxas contends that many in the West are ignorant of persecution, either failing to acknowledge it or simply having not encountered the idea. Metaxas says that “those of us who live in the modern West don’t experience anything along these lines, and most of us are deeply ignorant of the sufferings of our brethren around the world. Indeed, as we read these words now, millions suffer” (Metaxas, 2013:vii, Foreword) A similarly strong indictment of the Western Church is found in the Bad Urach Statement:

In Western societies, more often than not, a lack of attention is given to religious persecution, due to apathy, lack of empathy, and cowardice, or because such reports disturb the idealistic pictures of harmonious life elsewhere, and might endanger ecumenical and inter-religious relations. This leads to a conscious repression of the reality of persecution and an aversion to clear language in that regard. (Sauer 2010:3.2.1)

The enormity of the issue, the gruesomeness of some persecution events, and the desire to avoid responsibility (because knowing requires a person to do something about it) keep Christians in the West from fully embracing the reality of persecution.

5. Why people or governments become persecutors

Why do people decide to persecute Christians? Perhaps believers are seen as a threat to prevailing religious beliefs (especially where religious belief is equated with cultural, political, or ethnic identity), to social stability (breaking up family and community unity), and to political allegiances (where religion and the state are closely identified or identical). In ancient Rome, Christianity was seen as a threat to civic safety because of the belief that the gods, if not given due allegiance, would not protect Roman society.

The more militant, radical groups within such faiths as Islam, Buddhism, and Hinduism target Christians because of their attitudes toward “non-believers” and the belief that Christians blaspheme their gods. Religious nationalism can become a political tool to manipulate, coerce, and control the population. They may see Christianity as a Western religion which threatens the traditional social fabric of the society (family relationships, traditional religious beliefs, customs, etc.).

Governments become persecutors when there is an ideological clash with Christian allegiance to Christ, especially when the state seeks to be the ultimate authority and demands total allegiance. In communist nations, the atheistic ideology and the demand for total allegiance to the state forces Christians into an obvious conflict. In many countries, government pressure aims to stamp out Christianity altogether, whereas secular forces in Western countries allow religious freedom but seek to make religion ineffective in influencing public life, morals, or policy. This attempt to keep Christianity from being

fully Christian (as when the name of Christ cannot be mentioned in public prayer) or to relegate it to private life is a subtle form of harassment and discrimination calculated to bar Christian influence from the public forum, in the hope that it will merely fade away.

6. Theological assumptions for practical ministry

All professions and ministries, as practical as their work may be, have an assumed philosophy (in our case, theological and missiological assumptions) that defines, describes, and drives their work, whether they recognize it or not. We can thus speak of a theology of ministry, since we are doing more than describing our philosophy in terms of theoretical components or rational arguments; rather, we articulate it in relation to God's mission and his revelation to us as believers. It is not something that we create out of our minds but something we have received as a gift of grace and calling.

In the wake of the persecution of Christians, we must clearly grasp the important questions being raised about the practice of Christianity. Persecution will arise in many parts of the world as we carry out God's mission. Arthur C. McGill writes:

A theological investigation . . . must be a real labor, moving always toward the light of Christ, but in that light wrestling with real darkness – with questions that truly dismay and perplex, questions that arise from the torments of existence, like the question of suffering. (McGill 1968:28)

Theological thinking about persecution and suffering participates in Christ's work, because theologians are called by God to articulate the truths of the Bible in the context of ministry and Christian living. More specifically, this must include the contexts in which persecution and suffering for Christ's sake is a reality. "For theology," adds McGill, "is not just a detached intellectual exercise about certain subject matter. It itself is a participation in Christ's redemptive work" (1968:31). This makes theological work very significant.

7. The importance of a theology of suffering for Christ

First, a theology of suffering is an attempt to put the question of suffering and pain into the larger perspective of faith in God and resulting practice, such as doing missionary work, evangelizing in hostile areas, living a Christlike, holy life, loving our enemies, pastoring a congregation that is being persecuted, and praying for those being persecuted. Our theology represents our faith commitment, which sets the parameters of our faith. Suffering may challenge our faith and our level of commitment.

Second, we need to reconsider our assumptions in relation to questions raised by our practical ministry. Do our theological beliefs correct our (possibly inadequate) perspective of reality? How do suffering, pain, and sacrifice factor into our theology of mission?

Third, a theology of suffering attempts to understand the implications of the questions or issues introduced by serious reflection on suffering and pain, and it allows us to see if our assumptions help us understand God's mission. Is there any redemptive value to suffering? In what way could it be redemptive? Why does God allow suffering, especially for those seeking to obey their calling from God, and how do we deal with unjust suffering? Suffering compels tough questions about why such experiences exist in a world created by a good God. Therefore, the problem of evil must be engaged. It is a prominent part of the philosophy of religion, stemming from the desire to make sense of the complex questions that arise from the reality of suffering.

Fourth, a theology of suffering attempts to develop a series of principles or theological tenets that will shape a perspective, approach, and methodology for practical ministry to those who suffer for the sake of Christ. Theology is an ongoing process of trying to understand God's revelation and will in the context of real-life issues and struggles, including the suffering and persecution of Christians for their testimony of faith in Christ.

I would propose that a theology of suffering generally, and a theology of suffering as a result of persecution in particular, should include the following tenets:

- 1) Theology is a necessary aspect of genuine mission and ministry, so a theology of mission must include a theology of suffering.
- 2) Every form of ministry should be informed, directed, and driven by our theological convictions (tenets, precepts) rather than primarily by personal emotions, sociological principles, or humanitarian concerns. Our practical concerns should not dictate our theology, but these concerns and the humanitarian needs we confront should engender a truly Christian response, one that reflects the nature and purposes of the God we serve. The practice of ministry should flow out of our deepest theological convictions. In union with Christ and with each other, we will pursue God's goals and purposes.
- 3) Many Christians around the world are suffering from some form of persecution, and theology needs to address this fact. Consequently, a theology of suffering is an integral part of God's mission to the world and of a theology of mission. Theological inquiry must address all aspects of Christian life and ministry.
- 4) God seeks to redeem the world through redemptive suffering, first by his Son Jesus Christ and then through those who are obedient to Christ by going out into the world to serve him, no matter the cost. Christians thus participate in redemptive suffering when they continue in Christ's ministry through suffering on behalf of Christ and others.

8. Theology of persecution and suffering

The questions that arise as we reflect on our calling and mission must be addressed in such a way as to substantiate our efforts to present the gospel across national and international barriers. This calling will most likely mean confrontation, potential con-

flict, and the possibility of suffering and dying to fulfill this mission. We stand alongside those who are being mistreated, insulted, and persecuted for their faith (Heb. 10:33-34), and we take the suffering of our brothers and sisters upon ourselves as though it is ours (Heb. 13:3). Christians have a calling to be witnesses in all contexts (even hostile and restricted contexts), and all Christians are to join Christ in his global mission and to accept the mandate of evangelism, which becomes the occasion for persecution and suffering for the Lord. We should pray for those facing such persecution and, where possible, provide them with materials to assist their evangelism.

A theology of persecution and suffering for Christ's sake helps Christians to grasp God's will and realize that persecution and suffering may be the lot of some believers. A theological framework helps us to recognize, understand, and evaluate suffering for Christ and persecution in light of our calling to be witnesses. It is part of acquiring a mature perspective based on a mature and reasonable understanding, rather than just relying on mere sympathy to determine our understanding and response. Richard Wurmbrand, the founder (along with his wife, Sabina) of The Voice of the Martyrs, wrote, "God says we should serve Him not only with all our heart, but also with all our mind. This means intellectual work, hard work" (Wurmbrand 2000:11). It means that we must understand suffering for Christ's sake, both biblically and theologically. Consider the following questions:

- 1) How central is suffering for Christ to the whole of biblical teaching, or is suffering for righteousness' sake only a minor theme?
- 2) How do persecution and suffering factor into God's purpose and method for reaching the world?
- 3) Does suffering count for something beyond just being a witness? In what way can it be redemptive?

9. Setting up the context for engaging the questions

There is hardly a topic more relevant than suffering for righteousness' sake for the church today. People are suffering for their testimony of Christ at this very moment. They are doing what is right in the sight of God and of reasonable people, yet they suffer horrific pain because of their faith in Christ.

Christiaan Beker, a biblical scholar who suffered as a result of the Nazi occupation of his country, captured the pathos of our age:

What characterizes our time is that the spatial and quantitative dimension of suffering, its worldwide scope, reinforces its qualitative dimension, its experienced intensity. Moreover, the scope and intensity of suffering seems to suffocate any hopeful attempt to correlate suffering with projects of authentic hope. (Beker 1987:14)

Suffering is an “ever-present, undesired, and hated side of human existence” (Ton 1997:3). The Jewish Holocaust raised the question of unjust suffering to a new level. It also raised serious questions about God.” (Beker 1987:14)

10. Primary questions

As we begin our study of suffering and persecution, we are confronted with some questions that trouble those who seek to go beyond the simplistic answers often given to questions about suffering and persecution. Many Christians, while steadfast in their faith, seek deeper answers that will be significant for their own spiritual well-being and their quest to understand the God they serve and the circumstances of that service.

First, how do we reconcile a loving God and the reality of suffering? The key word for this question is *theodicy* (usually related to suffering in general, but in this case specifically to those suffering as a result of their testimony for Christ). Theodicy is an attempt to explain evil (suffering and pain) while still maintaining that God is good. It seeks to defend God’s integrity in the face of serious challenges to the character and nature of God presented by our present reality.

For many non-believers, the presence of evil and suffering is a major obstacle to believing in a good God. Christians usually accept biblical assertions that God is good, that he is totally and unreservedly opposed to evil in any form, including sin, and that he did not create or predestine evil. What, then, is evil? Henri Blocher and N. T. Wright have written on the topic of evil. Blocher has a short but potent definition: “Evil is defined in the Bible by its failure to conform to the wishes and commands of God” (1996:106). Wright’s definition is more extensive:

Evil is the force of anti-creation, anti-life, the force which opposes and seeks to deface and destroy God’s good world of space, time and matter, and above all God’s image-bearing human creatures. That is why death, as Paul saw so graphically in 1 Corinthians 15:26, is the final great enemy. (N. T. Wright 2006:89)

Westerners have debated how to explain evil. N. T. Wright takes us back to the biblical term used for the manifestation of evil among humans: “The Gospels tell the story of the deeper, darker forces which operate at a *supra-personnel level*, forces for which the language of the demonic, despite all its problems, is still at the least adequate” (2006:81). Evil, then, is demonic.

Blocher writes about what seems to be the larger question. Although humanity may debate the origin and existence of evil and what forms it may present itself to us, the foremost question in most human minds is “How Long?” (Blocher 1994:120).

Blocher, after a detailed description of evil and a detailed list of possible explanations of its existence, does not leave us hanging regarding the final outcome of

the war on evil. He writes, "Without the slightest doubt, the Kingdom, according to the prophets who are the reference point of the New Testament, entails *victory over evil*, over folly, and war, sin and suffering, sickness and death" (1994:107).

The second question asks whether there is any redemptive value or significance in suffering on behalf of Christ, for those who suffer or even for those who persecute. It is not redemptive in the same way that Christ's sacrifice was redemptive, because Christ's atonement was once and for all time, but the suffering of his witnesses participates in some manner in Christ's sufferings and extends his sacrifice (Col. 1:24), continuing the ministry of Christ that was initiated at the time of his death on the cross to atone for our sins (Phil. 3:10). The grace of God that flows from the cross through the atonement of Christ is utilized in blessing those who suffer and those who cause the suffering (in a different way), since through the suffering of Christ and his people God uses his grace in prevenient grace to reach those who are lost. The suffering of God's faithful witness is a sacred offering to God, who honors the witness and releases grace in redemptive ways into the situation. It is also a blessing to those who are persecuted (Matt. 5:10-11); it is an honor (Phil. 1:29). The ministry of God's witness is a part of the *application of grace* that was generated at the atonement, for both the witness and the ones engaging in persecution. The suffering of the witness can be the avenue of saving grace for the persecutor, as God reaches out to the persecutor with His convicting grace. This is why we love and pray for our persecutors. The grace that comes from the atonement of Christ through the Holy Spirit counteracts evil, transforms people and situations, transfers people from the kingdom of darkness to the kingdom of light, frustrates Satan's attempt to establish dominion, brings the spiritually dead to life, and saves people from their sins.

The third question is actually a series of related questions. Can and does God suffer? When Christ suffered, did God suffer? Does God really feel our pain, or is pain only a human experience? Is it necessary for God to suffer so that we can benefit from his help? Would his suffering contribute in some manner to our healing or comfort? Would suffering reveal a weakness in God's omnipotence or be a magnificent expression of his love? The theological discussions of these questions are focused on key words such as *impassibility* (God does not have emotions) and *immutability* (God does not change).

The idea that God can and does suffer is, according to Richard Bauckham, dealt with by numerous theologians, some leaning in the direction of a suffering God and others embracing it completely. Bauckham notes, for example, that Kazoh Kitamori wrote about the suffering of God and that many other Asian theologians followed his example. Other theologians who wrote about the suffering of God include Emil Brunner, Karl Barth, Dietrich Bonhoeffer, and Jurgen Moltmann among the Germans, Abraham Heschel among Jewish scholars, Maldwyn Hughes and C. S.

Dinsmore, of the English and Welsh tradition, and Jean Gilot in the French Catholic tradition (Bauckham 1984:7).

Speaking about the Christ-event (meaning the crucifixion of Christ) and how it is related to the Trinity, Moltmann writes:

Humiliation to the point of death on the cross corresponds to God's nature is the contradiction of abandonment. When the crucified Jesus is called the "image of the invisible God," the meaning is that *this* is God, and God is like *this*. God is not greater than he is in this humiliation. (Moltmann 1974:205)

He asserts that the Christ-event is really a God-event and that "the God-event takes place on the cross of the risen Christ" (Moltmann 1974:205). Moltmann emphasizes the unity of the Trinity and the inter-penetration of the Father with the Son so that what the Son experiences, the Father experiences as well.

Michael J. Gorman explains the relationship between Jesus and God in a different manner. Paul's experience with the crucified Jesus had deep implications for understanding the nature of God. He writes:

The initial and ongoing encounter with Jesus . . . reformulated his understanding of who God is and how God is fully experienced. That the Messiah, God's Son, was sent by God to be crucified and then raised by God, meant that somehow *God and the cross were inextricably interrelated*. The connection led Paul to see not only Jesus, but also God the "Father of our Lord Jesus Christ," as defined by the cross. (Gorman 2001:9)

At the cross, Jesus was giving insight into the nature of God. Gorman sees this as the interpretive principle through which we now see and understand who God is. He further clarifies his discussion about the suffering God by stating that although there is interrelational conformity in the cross, it does not mean that God the Father is crucified" (Gorman 2001:17).

Fourth, what are the practical implications of a theology of suffering for ministry to those who suffer? The key word is *praxis*, which means a method of action and reflection. This relates to the fact that God utilizes suffering and sacrifice to accomplish his mission of redemption of the world. Suffering for righteousness' sake ("Christ's sake" in the New Testament) is the method God uses to reach, redeem, and transform the world. It is central to a theology of suffering and persecution. We can expect persecution and suffering (John 15:18-20; and 2 Tim. 3:12). The fact that we are to suffer for righteousness' sake reminds us that our righteousness comes from God. Our mission, given to us by a righteous God, is therefore a holy mission. When we obediently try to fulfill it, the world may not always be appreciative. In fact, it may respond with hostility toward us.

11. Conclusion

Although I have spent most of my academic life since returning to the United States focused on mission to the Western world – which I consider one of the most difficult areas in the world in which to evangelize today – a theology of suffering and persecution remains foremost on my mind and in my heart. Persecution is not present in the United States in the same intensity as in other parts of the world, but it should be the concern of the whole church. The questions I have raised must be addressed more fully for those who suffer persecution and for those who support and stand by them in their time of difficulty. “If one part suffers, every part suffers with it” (1 Cor. 12:26, NIV).

Remember those earlier days after you had received the light, when you endured in a great conflict full of suffering. Sometimes you were publicly exposed to insult and persecution; at other times you stood side by side with those who were so treated. You suffered along with those in prison and joyfully accepted the confiscation of your property, because you knew that you yourselves had better and lasting possessions. (Heb. 10:32-35, NIV)

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A systematic theology of tolerance

A Reformed perspective

Antonius Steven Un¹

Abstract

This article seeks to construct a theology of tolerance, based on the Reformed doctrines. It argues that since God gives general revelation, the sense of the divine and the seed of religion, the capacity to interpret and form an identity, and the common grace to every human being including those who do not yet believe in Jesus Christ, Protestants should tolerate their fellow human beings' existence, even though they may not necessarily agree with other people's beliefs. Moreover, the authority to coerce human beings regarding their beliefs is Christ's eschatological authority, not our responsibility.

Keywords tolerance, revelation, common grace, the sense of the divine, seed of religion, Christ, eschatology.

1. Introduction

Reformed theology is a school of Christian theology, commonly known as initiated by the sixteenth-century Reformer John Calvin (1509-1564), and further developed by Calvin's theological successors.² Reformed theology holds several sharp theological positions. For instance, it believes in the Reformation principle of *sola scriptura* – in other words, that the Bible is the sole inerrant and infallible foundation for Christian faith and practice. It also affirms Jesus Christ as the only way to the true God. Other Reformed convictions include the unconditional election of believers by God the Father and the limited atonement of God the Son. These sharp theological positions differentiate Reformed theology not only from other religions but even from other schools of theology in Christianity. The clear distinctions made in these theological statements could give the impression that Reformed theology lacks a theology or an attitude of tolerance.

Living in this postmodern multicultural era, Reformed theology is challenged to maintain a tolerant attitude toward those who have different religious beliefs

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² Of course, the important role of Huldrych Zwingli (1484-1531) in the initial stage is beyond doubt.

and practices without compromising its core beliefs. Addressing this challenge is important to avoid what Nicholas Wolterstorff warned about when he stated, “Therein lies the greatest obstacle to religious toleration: many religious people down through the ages and yet today, believe that their religion obligates them not to tolerate other religions” (Wolterstorff 2015:378).

I contend that Reformed theology contains a set of doctrines that encourages tolerance. Tolerance in this article means an attitude to acknowledge the existence of other people, especially their right to have other views even though that recognition is not the same as agreeing with their views. Therefore, the main concern of this article is to construct a systematic theology of tolerance from a Reformed perspective. Theology of tolerance means a theology, especially in this sense, Christian theology, that encourages a tolerant attitude toward those who have different beliefs and practices. I call the result a “systematic theology of tolerance” since it consists of four aspects, ordered according to the traditional structure of systematic theology: the doctrine of revelation, the doctrine of humanity, the doctrine of the Holy Spirit and grace, and the doctrine of last things. I will begin my explanation with the doctrine of revelation.

2. Revelatory tolerance

Revelatory tolerance means tolerance based on the teaching of revelation. The Bible clearly teaches that God reveals himself. Reformed theologians usually distinguish between general and special revelation. General revelation can be received by human beings through the work of mere reason alone, whereas special revelation can be received only through the work of the Holy Spirit exclusively. General revelation consists of nature, human conscience, and human history. Special revelation consists of the Bible as the written word of God and Jesus Christ as the living word of God. General revelation is given to all human beings, but special revelation is only given to the believers who by the work of the Holy Spirit, accept the Bible as the word of God and acknowledge Jesus Christ as their Lord and only Savior. Thus, only special revelation could bring human beings to the true knowledge of God. General revelation, however, still has a great significance.

Louis Berkhof says that in general revelation, “Divine thoughts are embodied in the phenomena of nature, in the human consciousness, and in the facts of experience or history” (Berkhof 1996, Introductory:128). In Berkhof’s explanation, the last form of general revelation is “the course of God’s providential government.” According to article 2 of the Belgic Confession, general revelation is:

[T]he creation, preservation, and government of the universe; which is before our eyes as a most elegant book, wherein all creatures, great and small, are as so many

characters leading us to contemplate the invisible things of God, namely, his power and divinity, as the apostle Paul saith, Romans 1:20. All which things are sufficient to convince men, and leave them without excuse.

General revelation has great importance in understanding the existence of religions. Cornelis van der Kooi and Gijsbert van den Brink conclude, “God’s (general) revelation, however fragmentary and incomplete it may be, basically has a universal operating range. . . . In general, we believe that all religions somehow reflect the divine mystery that surrounds and challenges humankind. That is, no religion should be regarded in detachment from God’s speaking and acting” (van der Kooi and van den Brink 2017:191). This conclusion is in accordance with the previous studies in Reformed theology. “Though there is no purely natural religion,” Berkhof says, “yet the general revelation of God in nature and history furnishes the firm and lasting foundation for the Gentile religions” (Berkhof 1996, Introductory:130). This does not necessarily mean that religions are part of general revelation. Nevertheless, general revelation, as the Bible witnesses it, becomes the basis for religions (e.g., Acts 17:26-28). General revelation cannot produce a true religion, but it can produce some true features within a religion. As Berkhof states, “But though Scripture passes a severe judgment on the religions of the Gentiles and represents them as false religions over against Christianity as the only true religion, it also recognizes *true elements* in them” (Berkhof 1996, Introductory:131; my emphasis). This statement will be endorsed by the explanation of the work of the Holy Spirit in common grace as presented below.

The connection between revelation and religion is also elaborated by Herman Bavinck. He refuses to acknowledge historical and psychological methods as sufficient explanations of the origin of religion. Instead, for him, “God is the great supposition of religion. His existence and revelation are the foundation on which all human religion rests. . . . Aside from him religion is an absurdity. . . . There is no religion without revelation; revelation is the necessary correlative of religion” (Bavinck 2003:276). Revelation becomes not only a distinctive way to understand the origin of religion but also becomes a unique source for religion. Here, Bavinck differentiates between religion, knowledge and art. He says, “Nature, the world all around us is the source of our knowledge and the teacher of art. But in religion, that same world comes under consideration from still another viewpoint, viz., as the revelation of God, as the disclosure of his eternal power and divinity” (Bavinck 2003:277).

Though religions are dependent on the revelation of God, especially general revelation, religions themselves are not parts of general revelation itself. Rather, they are the “interpretations of God’s general revelation” (Berkhof 1996, Systematic:28). Berkhof uses this phrase in the context of his explanation of the rational arguments for the existence of God. Berkhof asserts that believers do not need

those arguments to prove the existence of God since the witness of special revelation within the work of the Holy Spirit is enough for believers to know the true God. While these non-biblical rational arguments can be considered interpretations of God's general revelation, in the same way, we could say that religions are also attempts to interpret God's general revelation after the Fall.

Though we do not acknowledge religions as necessarily the correct interpretations of God's general revelation, the doctrine of general revelation provides a theological framework for us to understand and accept the existence of other religions. God who provides general revelation is the same God who created human beings as the image of God with the capacity to interpret it. Though this interpretative process takes place after the fall, general revelation itself and our capacity to interpret it are created by God. This becomes the basis for us to tolerate the existence of other religious adherents, though we do not accept their teachings. Now we will turn to another basis for tolerance.

3. Anthropological tolerance³

Anthropological tolerance means tolerance based on the teaching of anthropology or the doctrine of humanity. Reformed theologians, especially in the line of John Calvin and Abraham Kuyper believe that all human beings are "by nature 'incurably religious'" (Spykman 1989:81). In this conviction, Kuyper, Spykman, and others were preceded by Calvin. Calvin says, "There is within the human mind, and indeed by natural instinct, *an awareness of divinity*. This we take to be beyond controversy. To prevent anyone from taking refuge in the pretense of ignorance, God himself has implanted in all men a certain understanding of his divine majesty" (Calvin 1960:L.iii.1; my emphasis). This "awareness of divinity" would generate human perception of the presence of God and of God's role as the creator of the human beings. Thus, Calvin believed that we find even in primitive tribes, "a deep-seated conviction that there is a God" and "some seed of religion". In brief, there is no tribe so brutal, barbaric or backward that it does not have a seed of religion or awareness of divinity. "A sense of deity", Calvin called it, "inscribed in the hearts of all". We will not here distinguish between the terms used by Calvin. Rather, we will follow Calvinists such as John McNeill who says that these terms "refer generally to a numinous awareness of God" and are synonymous (see Oliphint 2008:27).

In his commentary on Romans 1:18, Calvin indicates that this sense of the divine is implanted in the human being as the image of God. Calvin (Calvin 2009:XIX:67) says, "The structure of the world and the most beautiful arrangement of the elements ought to have induced man to glorify God, yet no one discharged his proper

³ This section further develops a part of my dissertation (see Un 2020b:242-243).

duty.” K. Scott Oliphint (Oliphint 2008:23-24) states, “There can be a little doubt that what Paul is describing here is an essential part of what it means to be the image of God.” Douglas Vickers also affirms this understanding. He says, “There exists in the soul, we have said, *a semen religionis*, a seed of religion. That means that by reason of his createdness as the image of God, man is necessarily a religious creature. He was made to worship God” (Vickers 2011:14). Stephen Tong (Tong 2007:II:23) asks, “Why does religion arise only in the realm of the human being?” The sense of religion has never appeared in the realm of animals. Tong answers, “The sense of religion has been placed by God in human being since he was created. Human being is created as a religious creature.”

Calvin believes that the human fall into sin does not remove this seed of religion from human beings as the image of God, though they are damaged by it. He says, “And they who in other aspects of life seem least to differ from brutes still continue to retain some seed of religion” (Calvin 1960:I.iii.1). In his commentary on Romans 2:15, in which Paul emphasizes the inscription of God’s law in human hearts, Calvin (Calvin 2009:99) affirms, “It is enough to know, that in [the Gentiles’] thought there is a God and that honour and worship are due to him”, no matter “what sort of God they imagined him to be, or how many gods they devised.” Louis Berkhof says, “The Bible informs us that man was created in the image of God. When he fell in sin, he did not entirely cease to be the image-bearer of the Most-High. The seed of religion is still present in all men, though their sinful nature constantly reacts against it” (Berkhof 1938:I.1). In sum, the human fall into sin did not deprive the sense of deity in human beings but damaged and turned it away from worshipping the true God.

Therefore, religion is inherent in the human being as the image of God. Religiosity is unavoidable for human life even after the human fall into sin. Since religion is deeply seated in the human heart (Berkhof 1996, Introductory:108) and affects all aspects of human life, we are invited to have what I call anthropological tolerance. We have to tolerate the existence of our fellow human beings who hold various convictions because of the biblical fact that they also are created as the image of God and have a sense of deity or the seed of religion implanted inside them. The notion of tolerance, as we will see later, however, does not necessarily imply the celebration of relativism.

Anthropological tolerance consists not only in the sense of the divine and the seed of religion, but in what Nicholas Wolterstorff (2015) calls “the dignity argument” for religious tolerance. In addition to the human capacities for rational and normative agency, he proposes two other capacities. First, he states, “To be a human person is to have the capacity to interpret reality and one’s place therein” (Wolterstorff 2015:383). It is relevant for me to mention this capacity since in the

preceding explanation of revelatory tolerance, I have described the human capacity to interpret God's general revelation. For Wolterstorff, human existence involves not only the interpretation of perception and introspection of our nature but also goes beyond that to interpret the invisible, immaterial, and eternal things. Second, Wolterstorff (2015:383) proposes, "To be a full-fledged human person is also to have the capacity to form what I shall call a 'valorized identity'". This identity is understood as "the relative importance that he/she assigns to states and events in his/her life: to his/her various beliefs, to his/her various commitments, to his/her plans for action, his/her memories, his/her attachments to persons, animals, and objects, and so forth." In short, "This commitment is more important to me than any other, I cannot imagine giving it up. It is fundamental to who I am." For me, this fundamental commitment is very much connected with the sense of the divine and the seed of religion as I have explained above. In sum, for Wolterstorff (Wolterstorff 2015:384), "Religions represent a remarkable exercise of these two capacities, along, of course, with the capacities for rational and normative agency".

The dignity argument proposed by Wolterstorff complements my explanation of the sense of the divine and the seed of religion so as to provide a basis for anthropological tolerance. Those who have the capacities of religion, interpretation, and forming valorized identity should be treated as having the civil right to freely exercise their belief. Moreover, "The freedom to adopt and lead a way of life is the most fundamental human freedom, since our commitment to a way of life shapes every aspect of our existence" (Volf and McAnnally-Linz 2016:169). This does not mean that we acknowledge the civil right of free exercise of all kinds of beliefs, such as a belief in the positive value of child sacrifice. Religious tolerance as posited in this article must be a tolerance of something true and good produced by religion, at least in terms of universal humanitarian values. The production of everything true and good that may be contained in religion is a fruit of common grace, as I will explain in the next section.

4. Pneumatological tolerance⁴

Pneumatological tolerance is tolerance based on the teaching of the Holy Spirit, especially common grace. To explain this, I must first elaborate on the meaning of common grace. Human beings as the image of God have fallen into sin, and our human capacities and relationships are not spared from sin. Nonetheless, we still experience the blessing of common grace. As Kuyper put it, though the world is totally corrupted, it still exceeds believers' expectations (van der Kooi 1999:96; cf. Kuyper 2019:10). I believe that common grace is poured out to glorify God's supremacy

⁴ This section is a further development (Un 2020b:206-211).

over Satan and sin and to protect God's creatures. Hence, "pure wickedness and corruption" do not "dominate the world" (van der Kooi 1999:96). Common grace is an "instrument to halt the disintegrative effects of sin" and "to make possible the actualization of Particular Grace" (van der Kooi 1999:97).

Moreover, God's gift of common grace fosters the development of all aspects of earthly life, such as culture, science, technology, society, politics, and so forth. In Kuyper's view, common grace reaches every place where sin and its destructive effects are found. "Common grace extends", Kuyper says, "over our entire human life, in all its manifestations" (2016:497-498). Kuyper thus mentions several aspects as examples of the operation of common grace: "order and law," "prosperity and affluence," "healthy development of strength and heroic courage of a nation," "the development of science and art," the "inventiveness in enterprise and commerce," the empowerment of "the domestic and moral life," and the protection of "religious life against excessive degeneration".

I will now suggest some implications of the doctrine of common grace regarding the existence of non-Christian beliefs and worldviews. First, though common grace lacks the power to solve the problem of sin and its effects completely, it nevertheless empowers civil society, the realm outside the church including other religions. The church, meanwhile, can be viewed as the locus of saving grace. Whereas saving grace "ultimately cancels sin and completely neutralizes its consequences," Kuyper defines common grace as "a *temporarily restraining* grace that stems and arrests the continued effect of sin" (2016:264; emphasis in original). Thus, saving grace "is connected with the elect of God" while common grace "covers the *entire sphere* of human life" (Kuyper 2016:264; my emphasis). By its connection with the elect of God, saving grace is *particularly* the business of the church. No wonder Kuyper calls the church "an institution of grace" (2017:302). Common grace, however, covers all spheres of human life, which *commonly* means human civil life, such as the family, society, art, science, and so forth (Kuyper 2017:301). Consequently, common grace provides the possibility for people who hold other religious convictions to flourish. For instance, when a religion teaches and encourages something true and good, its followers' lives will be enhanced and society will be blessed.

Second, common grace is the universal operation of the Holy Spirit to provide intellectual knowledge and technical capabilities that may generate various fields of study as part of the realm of education or art in civil society. Here we can learn from Calvin's valuable explanation of the universal operation of the Holy Spirit. About Bezalel, God says, "I have filled him with the Spirit of God, with ability and intelligence, with knowledge and all craftsmanship" (Exod. 31:3). The divine spirit, based on his pleasures, distributes all excellent capabilities for the "common good of mankind" (Calvin 1960:II.ii.16). Though the Spirit of sanctification dwells and

works only in believers, the Lord “quickens all things by the power of the same spirit” (Calvin 1960:II.ii.16) since the Spirit of God is “the sole fountain of truth” (Calvin 1960:II.ii.15).

Bavinck affirms Calvin’s conviction by saying, “The Holy Spirit is the author of all life, of every power, and every virtue” (Bavinck 1989:41). Bavinck also says, “It is true the Holy Spirit as a spirit of sanctification dwells in believers only, but as a spirit of life, of wisdom and of power He works also in those who do not believe. No Christian, therefore, should despise these gifts; on the contrary, he should honor art and science, music and philosophy and various other products of the human mind as *praestantissima Spiritus dona* [the most outstanding gifts of the Spirit], and make the most of them for his own personal use” (Bavinck 2004:119). Thus, the excellent capacities provided by the Holy Spirit include not only technical and artistic knowledge and craftsmanship, as illustrated by Bezalel and Oholiab, but are also abilities in philosophy, medicine, physics, dialectics, mathematics, and other disciplines (Calvin 1960:II.ii.15-16).

The Holy Spirit also works to provide ability in judgment, reading or learning, in government as exemplified by Saul and David, and in literature such as in Homer (Calvin 1960:II.ii.17). The Holy Spirit as the only source of truth, knowledge, and craftsmanship works through His universal operation to empower the clergy, philosophers and followers of other worldviews who may contribute to society or exercise authority. Furthermore, every truth in every belief and worldview must be acknowledged as the gift of the Holy Spirit. As I have quoted above, what Berkhof calls the true elements in other religions must be acknowledged as the gift of the Holy Spirit. By this acknowledgment, we learn to apply pneumatological tolerance to the actuality of the devotees of other beliefs and worldviews, though we do not agree with their convictions.

Third, common grace not only enables the restraint of sin but also ensures that “order is maintained in social life, and civil righteousness is promoted” (Berkhof 1996, Systematic:436), and this civil righteousness is deeply connected to civil society, including religions. Common grace makes possible both moral order and social order. As the image of God, human beings with a moral order instituted by God still have moral obligations that govern human life, even after the fall (cf. Ballor and Charles 2019:xvii). This is of course an act of common grace, as Kuyper stated, “Thanks to common grace, the spiritual light has not totally departed from the soul’s eye of the sinner. And also, notwithstanding the curse that spread throughout creation, a speaking of God has survived within that creation, thanks to common grace” (Kuyper 2016:490). The moral order or discernment in Kuyper’s thought is ontologically rooted in God’s inscribing his law into human hearts, as Paul says in Romans 2:15. “By the law of God [we mean] the universal moral law that was in-

grained in man before his fall into sin and which nevertheless, however, weakened after the fall, still speaks so sharply, so strongly, so clearly among even the most brutalized peoples and the most degenerate persons” (Kuyper 2015:76). It is vital for us to recognize moral order, albeit present imperfectly in other religions.

Besides this moral order, there is also a social order. People do not want to live in a chaotic situation. Social order refers to the fact that however it may be conceived of theoretically, “the essential notion of ‘society’ is scientifically and practically meaningful only when it refers to routinely observable phenomena about which lasting statements are possible” (Dandaneau 2007:4495). To avoid chaos and maintain a society with regular order, common grace is needed to restrain sin by providing the possibility of law and instituting civil government supported by the adherents of various religions.

Fourth, common grace blesses other beliefs and worldviews through its operation in “the internal part” and in “the external dimension” of human existence (Kuyper 2016:539-540). When common grace operates in the inner part of human existence, it produces civic virtue, natural love, public conscience, integrity, and mutual loyalty. When common grace operates in the outer part of the human being, it brings forth many other fruits: the growth of human understanding through beliefs and worldviews, the flourishing of religious arts, the multiplicity of religious enjoyment, and more.

Fifth, public opinion, which is an important manifestation of the public sphere, can be an instrument for the operation of common grace when it becomes a means of exercising social or political control with a view to avoiding sin. Religions can appear as a strong force in shaping public opinion. Religions and other philosophies can form a public opinion through the medium of the public sphere, with the effect of restraining sin, maintaining social order, and promoting civil righteousness.

5. Eschatological tolerance⁵

The doctrinal basis for the Protestant’s tolerance toward the adherents of other beliefs and worldviews, however, goes beyond the doctrine of common grace. It also encompasses eschatological tolerance, or tolerance based on the doctrine of last things. I take this term from Gordon Spykman (1989:85).

Eschatological tolerance is part of Kuyper’s idea of confessional pluralism, which encourages the appreciation of religious rights. That is “the right of the various religious groups that make up a society to develop their own patterns of involvement in public life through their own associations – schools, political parties, labor unions, churches, and so on – to promote their views” (Spykman 1989:79).

⁵ A small portion of this section has been previously published in Un 2020a:105.

Kuyper's argument for confessional pluralism can be traced through several points. First, we can consider his notion of Christ's kingship and eschatological unity. As indicated above, for Kuyper, the true unity of all creatures or all human beings will be accomplished by Christ at the end of history. He says, "Someday there will be *coercion*, when Christ descends in majesty from the heavens [and] breaks the anti-Christian powers with a rod of iron... He has a right to this because he knows the hearts of all and will be the judge of all. But *we do not*. To us it is only given to fight with spiritual weapons and to bear our cross in joyful discipleship" (Kuyper 1998:220; my emphasis). Coercion in religious matters, thus for Kuyper, is Christ's eschatological prerogative. Kuyper therefore encourages us to use "persuasion" in all religious and spiritual matters as a better way, instead of coercion (Kuyper 1998:219-220).

Kuyper further urges us to admit "the position of equality before the law" with those who hold a different belief from us. Kuyper seeks a formal assurance of constitutional liberty for the performance of the religious rights of citizens. This means the government must guarantee freedom of religion for all citizens (Spykman 1989:86). Spykman bases his argument for eschatological tolerance on Matthew 13:24-30, 36-43. The parable is told in verses 24-30, and its meaning is explained in verses 36-43. In brief, by this parable, Jesus Christ teaches us that "the weeds" which "are the sons of the evil one" must be left until the end of the age when the angels will be sent as the reapers and "the weeds are gathered and burned with fire." Jesus is depicting "an ominous battle between the cosmic forces of good and evil" (Turner 2008:344). Another emphasis in this parable is that Jesus wants to emphasize that the sons of the evil one, who are marked by lawlessness will experience the "judgment at the end of the world [which] is portrayed as the removal of sinners from God's kingdom" (Turner 2008:351). By this judgment, the knees of the sinners will be forced to bow at the name of Jesus and the tongues of the wicked persons will be coerced to confess that "Jesus Christ is Lord, to the glory of God the Father" (Phil. 2:10-11). In Moisés Silva's interpretation of these verses, "Paul's purpose is clearly to stress the universality of Christ's lordship" (Silva 2005:epub file). Jesus' eschatological authority will make every person bow down and confess his authority at the end of the world. It is Jesus' end time responsibility and not our role in this life, to force others to confess Jesus as Lord. In this way, we can see how the eschatological parable of the weeds reinforces the idea of tolerance.

Matthew 13:30 states, "Let both grow together until the harvest." This statement is given to "the sons of the kingdom" who ask the Master, "Then do you want us to go and gather [the weeds]?" Jesus responds, "No, lest in gathering the weeds you root up the wheat along with them." Craig L. Blomberg states that this parable is aimed at Jesus' disciples such as Simon the Zealot and his fellow Zealots, or those

people who did not want to wait for the final judgment and instead tried “to purify the world from evil” (Blomberg 1992:219). In Blomberg’s analysis, Jesus wants us to understand that even “God allows evil and suffering in the world”. Blomberg adds, “God’s delay in bringing the end of the world is thus entirely *gracious*, giving people more opportunity to repent” (my emphasis). He continues, “God will permit the righteous and wicked to coexist in this age.” Blomberg’s emphasis on God’s grace toward the sinners encourages us to have the same attitude as the “imitators of God” and his “beloved children” to “walk in love” (Eph. 5:1-2).

The idea of tolerance, however, does not necessarily imply the celebration of relativism. Kuyper rejects relativism as I have explained elsewhere (see Un 2020a:107). Kuyper certainly rejects relativism since relativism means the theoretical and practical denial of any objective or absolute truth and moral standards. Nevertheless, Kuyper also rejected Calvin’s narrow understanding of the role of government to punish those who are outside the realm of Christianity (see Un 2020a:107-108). In Calvin’s view, the main tasks of government are “to cherish and protect the outward worship of God, to defend sound doctrine of piety and the position of the church, to adjust our life to the society of men, to form our social behaviour to civil righteousness, to reconcile us with one another, and to promote general peace and tranquillity” (Calvin 1960:IV.xx.2). Kuyper certainly affirms the second task of government to handle the relationships among human beings. What Kuyper rejected is the first task regarding the relationships between human beings and God. By this task, government is endorsed to punish those who are outside Christianity. According to Douglas Kelly, Calvin’s model of relating to other religious believers was “Constantinian and medieval” (Kelly 1992:26). Calvin, in Kelly’s reading, had “no concept of a separation between religion and state, or of a non-Christian magistrate, or of toleration of plural churches.” Though rejecting relativism, we should tolerate those who are different from us since the Lord Jesus calls us to let them exist till the end of the world.

6. Conclusion

In this article, I have demonstrated that Reformed theology, despite its strongly held theological positions, does in fact contain a systematic theology of tolerance, based on its own core beliefs. Using the content of the traditional Reformed systematic doctrines of revelation, humanity, common grace, and eschatology, I have shown how tolerance has a strong Reformed foundation.

General revelation of God is an indirect source of the existence of religions since all religions engage in the interpretation of general revelation. Another source of the existence of religions is the sense of the divine or the seed of religion implanted by God in human beings as the image of God. Religion also entails the human ca-

capacity to interpret and form a valorized identity. Moreover, common grace of God provides the possibility for all religions to have some true elements and positive features. And even if religions have corrupt beliefs and practices, it is Christ's eschatological prerogatives, not ours, to coerce or punish them. Our responsibility is to maintain a persuasive model in our relationships with other religious believers.

These lines of argument should encourage Reformed church members and Reformed theologians to adopt a tolerant attitude toward those who have different beliefs and practices, without compromising or changing our core beliefs. I would encourage further studies to consider how other doctrines within Reformed thinking encourage believers to take a tolerant stance toward people of all worldviews.

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Call for Papers for Consultation and Special Issue on “Gender & Religious Freedom: Children and Youth”

The Gender and Religious Freedom Task Group and the Research Task Group of the Religious Liberty Partnership invite proposals on the theme of “Gender & Religious Freedom: Children and Youth”. You are warmly invited to submit proposals by **31 January 2023** for presentation of a paper at a seminar to be held in April 2023. Please send proposals to ijrf@iirf.global.

Following the seminar, academic papers may be submitted to a special issue of the International Journal for Religious Freedom (IJRF).

We encourage submissions from any relevant fields such as sociology, anthropology, religious studies, theology, philosophy, law, political studies and international relations. Submissions may address specific situations or be theoretical. They can focus on a particular country or be international in scope.

Papers can focus on children and/or adolescents (the terms ‘girls’ and ‘boys’ is used below to refer to the non-adult status of under-18s). We recognise that the cultural and legal definitions of child, youth or adolescent vary considerably across context so do include your definition and context in your paper. We particularly encourage papers that are related to gender-specific religious persecution or discrimination but will accept non-gender-specific papers related to FoRB and children/youth. Some themes that are of interest include:

1. **Girls:** Girls (under-18s) are subject to abduction, forced conversion, forced marriage and rape on the basis of their religion. Girls often have difficulty accessing education and this is exacerbated by their religion.
2. **Boys:** Boys (under-18s) are subject to forced conscription and militarization.
3. **Orphans:** Children who are orphaned because of religious conflicts are particularly vulnerable and at risk of being trafficked.
4. **Families:** Families are weakened when a parent faces discrimination or persecution (eg, a father is imprisoned, loses a job or is killed; a mother experiences sexual assault, abduction/trafficking or is widowed). The impact on boys and girls may be different but is often has both short and long-term consequences for all children and youth.
5. **Education:** The internationally recognized right to education up to the age of 16/18 in conformity with one’s convictions is frequently violated in practice as a deliberate means of diminishing future capacity of religious minorities.

*Articles submitted to the IJRF should be 4000-6000 words and be submitted by **15 August 2023**. Authors should conform to the Guidelines for Authors found on the ijrf.org website. Acceptance is subject to peer review. Please send your submission to: ijrf@iirf.global.*

Global categories and local realities

Some thoughts on the WWL Country Dossier on China and its use of WCD-categories

Meiken Buchholz¹

Abstract

To facilitate significant data for the global advocacy of religious freedom, the annual World Watch List (WWL) relies on the method of global comparison. This article examines indicators that help to discern which kinds of global categories facilitate appropriate pictures of local realities and which ones foster misinterpretations. Their categorization of churches in China shows the WWL's dependence on problematic "one-fits-all" categories of the World Christian Encyclopedia, which rely on a historic Western perspective. The article concludes with suggested criteria for creating alternative categories that better reflect the diversity of Christianity worldwide.

Keywords Chinese Christianity, World Christian Encyclopedia, World Watch List, independent Christians.

1. Introduction

Anyone seeking to interpret global phenomena must deal with the tension between the need for global applicable categories and sensitivity to unique local realities. This is also true for the World Watch List's (WWL) analysis of the religious freedom situation for Christian believers globally. WWL's sound annual country dossiers on more than 70 countries² relate specific data concerning religious freedom to the general situation of the Christian church in the respective country. To do so, WWL relies on the global overview provided by the World Christian Database (WCD) (Johnson and Zurlo 2021),³ which can be considered a standard.

To produce evidence that can be communicated and applied in worldwide contexts and translated into action priorities, both WCD and WWL apply the method of global comparison. Therefore, they must necessarily work with global categories.

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² World Watch List dossiers are available at: <http://opendoorsanalytical.org/country-dossiers/> (password: freedom).

³ The third edition of the World Christian Encyclopedia was published in 2020 (Barrett et al. 2020), using WCD's data, methodology and classification system.

This article will not call that approach into question. Comparison has been one of the essential methods of sociology since its early beginnings⁴ and the development of meaningful categories has always been one of its basic issues.

However, what about respect for unique local realities? The growing interculturality of socio-political discourses has drawn attention to another truth that has also been observed since the early days of sociology: all categories – or, in Weber's phrasing, 'ideal types' – are no more than preliminary abstractions and instruments to better understand diverse realities,⁵ which are subject to constant revision. Furthermore, post-colonial studies have revealed that allegedly 'global' categories often implement a Euro-centric (or US-centric) perspective (Heintz 2010:162-163), leading to constricted or even distorted observations of local realities.

Given the fact that global comparisons always occur amidst this tension between globally applicable categories and unique local realities, a key question arises: How can we identify which kinds of global categories facilitate appropriate pictures of local realities and which ones would lead to misinterpretations? This is not a minor question, because distorted pictures of local realities will obviously reduce the validity of any global comparison.

In this paper, I consider that question by reference to WWL's 2021 country dossier on China and how it applies WCD's categories. Based on the case of categorizing churches in China, I demonstrate that some established global categories are in danger of ignoring the self-understanding of local Christians and may therefore yield a limited picture of the dynamics of persecution. These observations lead to general considerations of how to facilitate more meaningful results in global comparisons.

I appreciate the solid methodologies underlying WWL, its country dossiers and WCD. They all provide for regular review and improvement (Barrett 2020:896-914; World Watch Research 2020:§1.5.1).⁶ There are indications in both publications that at least some authors are aware of potential problems akin to those I describe in this article (Johnson and Zurlo 2020).⁷ Therefore, my critical comments are

⁴ E.g. the fundamental function of interreligious comparison in Max Weber's sociology of religion, particularly in 'Die protestantische Ethik und der Geist des Kapitalismus' and 'Die Wirtschaftsethik der Weltreligionen'; see Weber 1988:12-13.

⁵ Cf. Müller 2007:64-65.

⁶ All online documents by World Watch Research are cited by paragraph instead of page number. Because these documents are continuously updated, page numbers are changing. Additionally, see 'Methodology of the World Christian Database.' Available at: <https://bit.ly/3IJ440k>.

⁷ As for WWL and its dossier on China, I had the opportunity to experience the willingness for critical exchange, a systematized process of methodological improvement and an awareness of potential problems when I was part of the audit process for China in January 2021.

meant as suggestions for the sake of a common cause and an impulse to advance some pending improvements.

2. The categorization of Christians in WWL

WWL's methodology distinguishes, in each country, four categories of Christian communities which often experience persecution in different ways: (1) communities of expatriate Christians, (2) historical Christian communities, (3) converts and (4) non-traditional Christian communities. WWL's definitions of 'expatriate Christians' and 'converts' can easily be applied to China in a meaningful way. On one hand, Christians who hold a foreign passport enjoy some privileges regarding religious liberty compared to Chinese citizens. On the other hand, Chinese converts from Tibetan Buddhist and Muslim ethnic minorities face additional oppression from their families and ethnic community, compared to new Christians from the Han-Chinese majority.

However, the application of the two remaining categories – 'historical Christian communities' and 'non-traditional Christian communities' – to China poses a challenge. According to the WWL methodology's definition, the category of 'historical Christian communities' concerns "historical churches, such as Catholics, Orthodox and traditional Protestant, which have often been part of a country's history for hundreds of years. In many cases, they have held official church registration for years. . . . In persecution contexts they are often less persecuted than converts and non-traditional churches" (World Watch Research 2020:§1.5.1).

As the authors emphasize with regard to 'historical churches', "their situation and degree of freedom differ from country to country" (World Watch Research 2020:§1.5.1). In other words, a long history in a country is in some contexts – but far from all! – the basis for a legal status that gives some protection against persecution.

Obviously, this kind of church does not exist in China. Except for two short periods around 1300 and 1700, Christianity has never been part of China's history (Bays 2003:186). One reason is that China as a whole – in contrast to, for instance, the Philippines or Indonesia – has never been under the rule of a Western colonial power.

WWL's methodology shows that the authors are aware of the problem of applying the category 'historical Christian communities' to China. The paragraph about such communities in China concludes:

A parallel phenomenon in this category is formed by so-called government-controlled churches, such as the Three Self Church in China. They have official registration but because they are controlled by the government authorities their status

is different to that of the historical churches mentioned in this category (World Watch Research 2020:§1.5.1).

“Parallel phenomenon” probably refers to the observation that Christians in churches with official registration have a recognized, special relationship to the government akin to the status of some ‘historical church’ with a long history in certain countries. This special relationship makes them “often less persecuted” than other Christians (World Watch Research 2020:§1.5.1).

However, the example of China shows that the official registration of religious institutions is not necessarily linked with historically accorded privileges. Daniel Bays, historian of the Chinese church, points out that in China since the 7th century some kind of “state registration” of all religious groups, “though irregularly exercised, was an organized reality of religious life.” (Bays 2003:186) However, registration has always served the monitoring of religious activity. It was motivated by mistrust and the quest to protect the legitimacy of the state, which in China has always had a “religious dimension” and structures akin to “theocratic organization” (Bays 2003:186). The introduction of a formal, nation-wide system of registration for all churches has been connected to Communist rule. Since the 1950s, churches have been urged to join the Protestant Three-Self Patriotic Movement (TSPM) or the Catholic Patriotic Association (CPA). Like other “mass organizations” (such as trade unions), they had to join the United Front Work Department of the Communist Party (Vala 2018:28-31, 55-56). In other words, from the government’s perspective, ‘registration’ in China has nothing to do with granting certain freedoms or privileges because of a particular historic relationship and mutual trust; it is rather a means of domination (Vala 2018:27-48).

For a concise description of the complex reality of religious life in the People’s Republic of China (PRC) today, sociologists of religion often resort to Feng-gang Yang’s division into a ‘red,’ ‘black’ and ‘gray’ market (Yang 2006). According to Yang, the ‘red market’ consists of religious activities that take place within the framework of registration, while the ‘black market’ refers to religious activities that are officially banned as ‘evil cults’ and therefore prosecuted under criminal law.⁸ Most Christian activities happen in the ‘gray market,’ i.e. in a legally ambiguous space created by loopholes in the law, disinterested officials, or unofficial arrangements ‘over a cup of tea.’⁹ On the believers’ side, historical experience plays a

⁸ Introvigne (2020:18-26) provides a thorough explanation of the Chinese government’s understanding and treatment of ‘evil cults’ (*xie jiao*).

⁹ The empirical studies of Vala and Reny describes in detail the complex interaction between government officials and church leadership that creates the this ‘gray market’ of Christian activities, cf. Vala 2018:63-78, 95-105, 130-149; Reny 2018:86-101.

role in the way they maneuver among the three markets. From the government's perspective, however, the enforcement of state control is the only criterion that determines how it deals with Christian groups.

To sum up, the example of China shows that it can be misleading to assign registered churches to the category of 'historical churches.' The question arises why WWL's methodology does not rename this category according to the one criterion that really unites all elements which are assigned to it. Wouldn't it make more sense to call this category 'Christian communities which enjoy a special legal status' and then present reasons for privileged treatment by the government? In some countries, 'historical churches' would then belong to this category, in others 'registered churches' and in some cases, churches may enjoy a special legal status because of yet another reason.

One practical reason to maintain the category 'historical Christian communities' is probably that it provides the necessary complement to the fourth category, 'non-traditional Christian communities.' This last category is circumscribed in an explanatory parenthesis as "such as Evangelicals, Baptists, Pentecostals and/or Christian communities not included in the above three groups" (World Watch Research 2020:§1.5.1). In other words, the fourth category consists of whatever Christian communities are not included in the other categories. More precisely, the category 'non-traditional Christian communities' is understood in contrast to 'historical communities and government-controlled churches.'

This counterposing of 'historical' and 'non-traditional' Christian communities in WWL's country dossiers probably has a methodological reason as well – namely dependence on the WCD statistics in the general presentation of 'Church information' in each dossier (see the description of China in World Watch Research 2021a).¹⁰

3. The categorization of churches in WCD

Since WCD has become established as a standard source of information about the status of Christianity in any country, it is only natural that WWL should also adopt its statistics and categorizations. WCD differentiates six categories of Christian churches: Orthodox, Catholic, Protestant, Independent, unaffiliated and doubly affiliated Christians (cf. Barrett et al. 2020:6). WCD statistics for China do not list 'unaffiliated' or 'doubly-affiliated' Christians in China (Barrett et al. 2020:952). The focus of the following considerations is on the differentiation between 'Protestant Christians' and 'independent Christians' according to WCD and the *World Christian*

¹⁰ Paragraph "Church Spectrum Today" in Watch Research 2021a refers to WCD data from February 2020, which differ slightly from the numbers published in the World Christian Encyclopedia's third edition (cf. WCE 2020:196).

Encyclopedia (WCE). By extension, some other sub-categories of Christianity are affected by this discussion as well.

In WCD's methodology also, the differentiation between 'Protestant' and 'independent' Christians is entirely based on the existence of historic denominational churches. WCE's glossary defines the category of 'Protestants' as follows: "Christians in churches originating in, or reformulated at the time of, or in communion with, the 16th-century Protestant Reformation" (Barrett et al. 2020:970). In contrast, 'Independents' are "Churches or individual Christians separated from, uninterested in and independent of historic denominationalist. Christianity" (Barrett et al. 2020:969).

Interestingly, the editors of the WCE's third edition point out in their preface the difficulties involved in defining denominations. Because of the "many changes in the nature of World Christianity . . . traditional denominational structures are much looser than they used to be, with a significant amount of double-affiliation between traditions (e.g., many baptized Catholics are now Pentecostals) and blurrier lines regarding church membership" (Johnson and Zurlo 2020:xi).

The preface goes on to draw our attention to a more general latent flaw in WCE's categorization of Christians: its underlying Western perspective. The inadequacies of these categories will become increasingly apparent as more information about non-Western countries is obtained through local perspectives.¹¹ This aspect is underscored by Becky Yang Hsu in her foreword to WCE's third edition:

The categories of world religions that we have used for over a hundred years are increasingly understood as one product of a history of colonialism These categories were one way that everyone on earth could be placed into this framework, with Christian Europe at the centre and everyone else an orbital of various distance. (Hsu 2020:xiv)

The same Euro-centric thinking is reflected in the rationale behind the category 'independent Christians.' Here we read, "It soon becomes apparent that there are many large churches and denominations that do not define themselves under any of these three terms [i.e. Catholic, Protestant, Orthodox], and often reject all three" (Barrett et al. 2020:904).

In other words, the only reason to combine these Christians into a single category is their lack of relationship to Western denominational churches. This rationale is methodologically questionable for two reasons. First, it ignores whether these

¹¹ Cf. the endeavor in the WCE's third edition to increase "multi-language country-level bibliographic research" (2020:xi). In her critical foreword to the third edition, Hsu (2020:xiv) says regarding the WCE that "gathering data as natively as possible" is its "unique strength."

Christians themselves would really prefer to define themselves as “independent” if they knew with whom they would be sharing the category – namely, “break-offs from Orthodoxy, ... and Christians distinguished from mainline Christianity [by] claiming a second or supplementary or ongoing source of divine revelation in addition to the Bible” (Barrett et al. 2020:905).¹²

WCE has already taken initial steps to confront this flaw by including for each country a narrative text on “what is unique to Christianity in that context,” so as to convey information that is “more contextualized to the lived experiences of Christians around the world” (Johnson and Zurlo 2020:xi). By doing so, the editorial team shows that it is conscious of the need to address the possibility that certain categories “do not tell us much about how people actually see the world from their own points of view” (Johnson and Zurlo 2020:xi).

Second, it is obviously ironic – if not logically meaningless – to define ‘independent Christians’ by something that many of them never have been dependent on! Since – as the WCE repeatedly stresses – historic Western denominational churches are continuing to decline in influence, the relationship of a Christian community to historical Western denominational churches is increasingly irrelevant for classifying global Christianity. As time passes, Christian identity is shaped by historic events other than those of interest to Western historiography, including the entanglement of church planting with colonialism. In this regard, China serves as an illustrative example of a global trend, as I will explain further below.

4. The problematic counterposing of historic and non-traditional churches and its application to China

WWL’s country dossier on China reveals the problems that result from applying the category of ‘historical churches’ to China. The respective heading is reformulated ‘Historical Christian communities and government-controlled churches’ (World Watch Research 2021a). Right at the beginning, the paragraph clarifies that “a unique factor in Chinese Christianity” is the difference between “registered and government-recognized churches” on one hand and “non-registered, independent churches” on the other hand (World Watch Research 2021a). The dossier goes on to give a good, concise explanation of this distinction with regard to both the Protestant TSPM and the Catholic CPA. However, it does not give any explanation of how the term ‘historic Christian communities’ is used in this context or how it

¹² The question whether such broad and blurry categories ignore the history and self-understanding of those Christians assigned to them has been a matter of debate for quite a long time with regard to the WCE’s sub-category ‘independent charismatics’; see e.g. McGee (1994). For the past decade, the subject has increasingly been discussed in relation to China, see the contributions in Yang et al. (2017) and particularly the authors’ introduction on pages 1-3.

relates to 'government-controlled churches.' Yet the juxtaposition of both terms in the heading implies that they are used synonymously.

This impression is fortified by the way in which the category 'non-traditional Christian communities' is applied in the country dossier. This category is explicitly identified with 'house churches,' i.e. churches outside TSPM and CPA. The paragraph reads as follows:

This category is made up of a multitude of Evangelical, Baptist and Pentecostal congregations under a whole variety of names. On the Protestant side, these (often unregistered) non-traditional churches are also called house-churches or underground churches, sometimes also family churches. These terms, however, are misleading as some congregations consist of hundreds of members and in some provinces they might be meeting openly in commercial buildings and not in secret (World Watch Research 2021a).

We can conclude that WWL's country dossier on China equates 'historic churches' with 'registered churches' in describing TSPM and CPA on one hand, whereas 'non-traditional churches' are those not registered under the TSPM or CPA umbrella. The distinction between registered and unregistered churches undoubtedly makes sense in China, given the different approaches to government control. However, when it is combined with the distinction between historic and non-traditional churches – i.e. with Western denominational thinking – the presentation inevitably misses the reality of Chinese Christianity for numerous reasons.

First, the general definition of 'non-historical Christian communities' in WWL's methodology states:

The category deals mainly with the great variety of new Protestant expressions, including the independent churches in many countries. ... In general, the Christian communities included in this category are often active in reaching out to their communities. This makes them prone to serious hostilities in countries where the context for Christianity is suppressive. Because of this, these Christians are sometimes also forced to gather in 'house churches' or in 'underground churches.' (World Watch Research 2020:§1.5.1)

According to this definition, all Protestant Christian communities could be counted as 'independent,' because no contemporary Protestant church in China has a formal affiliation with an international denomination. This is particularly true for the churches in the TSPM, which has always stressed its 'post-denominational' stance and is eager to maintain its self-image as an independent Chinese church (Starr 2015)! In addition, being "active in reaching out to their community" can cause TSPM-affiliated churches to experience government repression as well.

Second, among those congregations which have registered under the TSPM, some have their origin in classical denominational mission efforts. Others, however, derive from independent, indigenous movements such as the True Jesus Church and Little Flock (Bays 2003:189). At the same time, many Christian communities with the same historic roots as congregations inside TSPM have chosen to stay outside TSPM. In other words, equating 'independent, non-traditional churches' and 'house churches' does not correspond to the historic facts in China.

Third, the equating of 'historical' and 'government controlled' churches is particularly problematic with regard to Catholic Christians.¹³ Members of this 'historical Christian community' who have a strong denominational identity generally insist on papal authority, e.g. regarding the ordination of bishops. But this insistence is the very reason why many Catholics have distanced themselves from the CPA and its bishops, who are not ordained by the pope, and prefer to meet as 'underground churches.' This conflict was only partially resolved by the 2018 agreement between the PRC and the Vatican, which provides for an ordination procedure involving the Chinese Religious Affairs Bureau and the Pope (Heyndricks 2019:30-36).

The WWL's country dossier addresses this problem.¹⁴ However, this detail only contributes further to the blurred picture of registered churches which is imparted by the heading 'Historical Christian communities and government-controlled churches.'

Fourth, one widely noticed development in the last decade is the emergence of new, independent churches among urban middle-class Chinese. The most prominent among them hold a firm Reformed theological stance (cf. Kang 2020).¹⁵ They are independent and unregistered, and at the same time they identify with an international, traditional denomination. Yet their Calvinist self-understanding is an independent, conscious choice. It is not due to historical connections to Western missions. Their case demonstrates the inappropriateness of equating 'not being government controlled' with 'not identifying with a historic denomination.'

Fifth, the problem of applying Western denominational categories to China is exemplified in recent academic research on Pentecostalism in China. Several Western researchers on global Pentecostalism classify all Chinese unregistered churches as part of a global Pentecostal-charismatic movement. One prominent example is

¹³ In Chinese, we find a strict distinction between 'Catholics' and 'Protestants.' This distinction has historical reasons and has been solidified in the Chinese language. There is no superordinate term for Christians. The term 'Christians' (literally called 'followers of Christ') refers rather to all Christians who are not Catholic or Orthodox, whereas 'Catholics' are called 'followers of the teachings of the heavenly Lord' in a reference to the translation of 'God' in Catholic Bibles.

¹⁴ See World Watch Research 2021a, paragraph "Christian communities and how they are affected."

¹⁵ See also World Watch Research 2021a, paragraph "Church spectrum today."

Allan H. Anderson's articles (Anderson 2000:18-23, 2017:346-349)¹⁶. However, some researchers on Christianity in China question such a classification according to categories rooted in the history of US churches and Western revival movements (cf. Kao 2009; Miller 2017; Hu 2017; Liu 2017). For example, Kao (2009:174) highlights the significance of the Cultural Revolution for Chinese Christianity. It brought a sharp disruption to the legacies of Christianity before the time of revolution and was "a time of formation and rebirth" of a new form of Christianity in which the faith survived as an individual religious practice. Therefore, the decisive factors shaping contemporary Chinese churches cannot be derived by reference to the situation before the 1940s, i.e. an opposition between Western denominational legacies and independent, indigenous movements.

Sixth and finally, Daniel Bays, historian of the Chinese church, delivers a fundamental admonition regarding the use of "terms and categories more familiar in the West." Looking beyond legacies of "both missionary-established denominational churches and the several strands of independent church movement," Bays highlights the influence of local factors, such as a pragmatic approach to conversion, experiences of shamanism, and moral ideas about sin. He states, "The most striking feature of contemporary Protestantism is the large number of new converts who come from none of these [Western] traditions, but are products of Chinese popular [religious] culture" (Bays 2003:189). Therefore, Bays demands in his conclusion: "For the near future it may be more useful to view Chinese Protestants as part of that new centre of gravity outside Europe and North America, rather than to discuss it [sic] in terms and categories more familiar in the West but now increasingly distant from Chinese reality." (Bays 2003:197-198)

As Bays makes clear, more is at stake than just the categorization of Chinese Christianity in WWL. Actually, the naming of the categories 'historical' and 'non-traditional' in WWL is only of secondary concern. Although the problematic application of these categories to China has no effect on China's overall rating in WWL, the real question concerns the reasoning behind the choice and persistence of the term 'historical Christian communities.' I believe the picture of Chinese Christian communities may be methodologically limited by the perspective of the 'old churches' which have been the center of Christianity in former centuries. Such a perspective does not match the shift in growth and numbers in global Christianity. In the long run, it hampers a true understanding of other Christians consistent with their self-understandings. This problem particularly affects persecuted Christians because they have limited opportunities to make themselves heard.

¹⁶ I refer to these two articles, 17 years apart, because they show that Anderson's viewpoint has not changed despite several objections.

5. Alternative categories – phenomenological in nature and focused on the research question

As I stated at the beginning of this article, the common identifier of all Christian communities in China which WWL assigns to the category ‘historical’ (in WWL’s methodology) or ‘historical and government controlled’ (World Watch Research 2021a)¹⁷ is their special legal status due to registration under the umbrella of TSPM or CPA. Accordingly, the common identifier of all Christian communities in China which WWL assigns to the category ‘non-traditional Christian communities’ is that they lack the special legal status associated with registration.

I have elaborated above that Chinese Christian communities in both categories have very different and complex relationships with ‘historical’ or ‘traditional’ churches and Western denominations. Therefore, the dichotomy between ‘historical’ and ‘non-traditional’ Christian communities will inevitably lead to several inconsistencies if applied as an identifier in the categorizing process.

Based on the assumption that for a growing number of churches, worldwide historic relationships to traditional Western denominations are of little significance with regard to their identity and legal status, it may be time to redefine these categories. This redefinition should happen on a more phenomenological basis by generalizing global observations about what really makes a difference with regard to religious oppression. Basically, the WWL methodology functions in this way when it creates the categories ‘communities of expatriate Christians’ and ‘converts.’ Also, WWL’s contextual specification of the categories ‘historical Christian communities’ and ‘non-traditional Christian communities’ with regard to China seems to be guided by factual observations. These factors reinforce the impression that the time for a consistent renaming has come.

Therefore, I suggest replacing the dichotomy between ‘historical’ and ‘non-traditional’ Christian communities with two descriptive categories: Christian communities which enjoy a special legal status and those which do not.

My suggestions are based only on the case of China and on general assumptions about the development of global Christianity. Of course, the extent to which WWL’s analyses of other countries face similar challenges remains open to further investigation. At least, the analysis of the situation of religious freedom for Christian communities in China indicates that the differentiation between Christian communities with a special legal status and those without one would deliver a more precise picture and more consistent results. Doubtless, in some countries, the difference in legal status is due to the historical status of a church in the respective country. But in other cases, there are other reasons. Country-specific reasons can still be given wherever the category ‘churches with a special legal status’ applies.

¹⁷ See paragraph “Christian communities and how they are affected”.

This way of categorizing would have several advantages. First, it is neutral and does not favour any historic or geographic perspective.

Second, its relevance can be objectively proven by official documents and government regulations concerning religious policy. In the case of China, essential differences between the ways in which registered and unregistered churches experience government restriction result from the fact that they are exposed to different government institutions based on their legal status. Because unregistered Christian communities have no legal status, their supervision “falls in large part under the jurisdiction of public security bureaus, particularly ... the Domestic Security Brigade,” which is “primarily responsible for collecting intelligence ... and investigating criminal activities” (Reny 2018:69-70). Consequently, the interaction between unregistered churches and government authorities always happens within the framework of criminal law and under the suspicion of harming public security.¹⁸ In contrast, churches registered under the umbrella of TSPM or CPA have a legal status which gives them the right to exist – though under conditions stipulated by the Communist Party (CPC) and its United Front Work Department. In their interaction with government authorities, these churches enjoy – at least in theory – certain rights. However, according to the CPC’s ideology, the admission of a religious group’s right to exist is inseparably linked to the government’s obligation to “direct” religions (including Christian churches) towards becoming “positive elements” of the socialist society. The task of implementing this religious policy is given to the Religious Affairs Bureau in close cooperation with each religion’s “patriotic association,” such as TSPM and CPA (Gänssbauer 2004:46-51, 77-80).¹⁹

Third, the method of differentiating churches according to their legal status corresponds better to how Chinese Christians themselves describe their experiences of repression than denominational categories would. Depending on the legal status of their church, Christians (particularly Christian leaders) must deal either with public security officers and police or with the personnel of Religious Affairs Bureau and the leadership of TSPM or CPA. Consequently, they experience restrictive measures predominantly in one of two forms: either criminalization or surveillance and interference. Even if it is true that both kinds of Christian communities in several areas experience similar oppression,²⁰ it still makes sense to distinguish them according to their legal status, because different mechanisms are involved.

¹⁸ For detailed information, see Reny (2018:68-77).

¹⁹ At the risk of oversimplification, it can be said that China’s religious policy treats Christians in registered churches like mentally unstable children in need of moral education, while Christians in unregistered churches are approached like potential criminals.

²⁰ See paragraph “Persecution Dynamics China” in World Watch Research 2021a. On the demolition of church buildings and crosses of registered churches, see Reny 2018:145-147.

This takes us to the last point. Focusing on the distinction between registered and unregistered churches is particularly significant when the topic of discussion is religious freedom and persecution. In contrast, the legal status of a church makes less difference with regard to theology, spiritual life, evangelism or ecclesial structures. There is consensus in current research on China that in these other matters, the difference between urban and rural churches is much more significant than the difference between registered and unregistered churches (cf. Bays 2003:185-186). Restricting the use of legal status as a criterion for categorizing churches to the realm of religious freedom and persecution does not reduce the validity of this criterion. On the contrary, this restriction points rather to a fourth advantage of categories developed phenomenologically, and with reference to the research question at hand. Categories constructed in this way will facilitate a clearer view of the issue at stake than “one-fits-all” categories.

The considerations discussed with reference to China in this paper lead to some general conclusions beyond China regarding the question of which kinds of global categories are helpful or, in contrast, potentially misleading.

6. The need for new categories for the new gravity of global Christianity

At first stance, the situation of the church in China seems unique. On closer examination, however, the problems that arise when we try to apply certain established global categories to Chinese Christians point to a general challenge which we can expect to meet increasingly when analyzing global Christianity.

In a way, China can serve as a paradigm for post-colonial Christianity. The decisive growth and consolidation of the Chinese church happened independently of colonial history. As mentioned above, the historic gap of the Cultural Revolution separates contemporary Chinese Christianity from the golden age of Western mission between 1800 and 1950. In this sense, developments in China illustrate an increasing tendency in global Christianity, according to which the historical and practical influence of Western churches is of diminishing importance for understanding the present situation of non-Western Christian communities. As a methodological consequence, it can be expected that categories grounded in a Western historical perspective will be less and less in line with reality and with the self-understanding of non-Western Christian communities.

As a first indicator of that a category needs revision, we can cite the error of relying on historical groupings that are of little significance for current developments in most Christian churches worldwide. A second, related indicator can be clearly recognized in the example of China: global categories are potentially misleading when they ignore the self-understanding of local Christians.

In these cases, alternative categories are needed. From the considerations above regarding the analysis of religious freedom for Christians in China, we can deduce

two general characteristics of helpful global categories. On one hand, they must be wider than old categories. They must leave behind a Western perspective and must grasp the complex phenomena that result from the new gravity of global Christianity. On the other hand, they must be suitably focused. Meaningful global categories should not aim to be universal in the sense that they fit all research issues. They must rather work well with regard to a specific topic.

Consequently, all categories must be continuously adapted. That is a basic methodological truth to which the WWL and WCD are committed. The bigger challenge is to recognize when old, familiar categories should be abandoned completely, not readjusted. This requires a resolute attentiveness to local realities and resistance of the law of inertia, which naturally maintains established criteria. Hsu voices such a concern in the concluding remark of her preface to WCE. Her words correspond perfectly to WWL's concern for giving voice to the persecuted. Hsu reminds us of the challenge of balancing the methodological necessity of global categories against respect for local realities:

Broadly, one aspect of the project of classifying all the people in the world “was born from and for empire,” but another feature of the project, gathering data from (not simply about) many people, can serve post-colonial purposes. The project can, I believe, serve to give voice to the subaltern – those whose perspectives are usually hidden from sight, blotted out by the louder and more powerful. The best way to move forward for understanding is to continue gathering data as natively as possible. (Hsu 2020:xiv)

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French secularism and the fight against separatism

From the 1905 *laïcité* of separation to the 2021 *laïcité* of surveillance

Nancy Lefevre¹

Abstract

Meant to fight separatism, the French Act to strengthen the respect of principles of the Republic of 2021 transformed the *laïcité* of separation into a *laïcité* of surveillance. This article discusses the historical roots and conceptions of laicity underlying the 2021 reform, according to which religion seems to be viewed as a possible enemy, separating the citizen from the Republic and impairing universalism of rights. The article focuses on the impact on religious organisations resulting from the state's greater control over religious groups' activities, places of worship and foreign funding. It closes by reflecting on the way forward for defenders of religious freedom.

Keywords *laïcité*, France, religious associations, religious minorities, secularism, separatism.

1. Introduction

In France, the Act to strengthen the respect of principles of the Republic,² commonly known as the “Law to fight separatism,” was promulgated on 24 August 2021. Enacted in less than a year through an accelerated parliamentary procedure, this Act shakes the status quo regarding *laïcité*. It thoroughly amends the historic and symbolic law of 9 December 1905 on the separation of religions and the state, both in its letter and its spirit, with specific impact on religious organisations. The 1905 Act, which provides the legal framework for religious organisations in France, has been profoundly amended to enable greater control of religious groups' activities, places of worship and foreign funding. The 2021 Act also amends other statutes in addition to the 1905 Act in several areas that have consequences for religious freedom, particularly freedom of education with the requirement of prior authorization for homeschooling (article L. 131-2 of the code of education), as well as a legal requirement of neutrality in the workplace for people working for public services

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² Loi confortant le respect des principes de la République du 24 août 2021. Available at: <https://bit.ly/36q1tvL>.

(article 1 of the 2021 Act). It also adds some restrictions to freedom of expression regarding “online hatred” through the creation of the offence of endangering the lives of others by disseminating information relating to private, family or professional lives online (article 223-1 of the criminal code). Moreover, there are now additional obligations for online providers (Loi sur la confiance en l’Économie Numérique). However, the most immediate impact on religious freedom is related to the changes in the legal framework of religious organisations, which demonstrate the emergence of a new *laïcité* of surveillance (van de Tol 2020).

Indeed, the entry into force of the new legislation opens the field to a new type of relation between the French state and religions. What was known, since 1905, as a *laïcité* of separation has been transformed into a *laïcité* of surveillance, through the reinforcement of state control of religious activities.

This article explores the genesis of the Act to strengthen the respect of principles of the Republic. It briefly outlines the new law’s historical and political roots in the “*nouvelle laïcité*” (Hennette-Vauchez and Valentin 2014) as well as the favourable circumstances that enabled the French government to succeed in amending the 1905 Act. In particular, it argues that French *laïcité* has conceptually turned from separation between state and religions to the fear of separation between state and citizens by religion. Religion now seems to be seen as a threat to French universalism. As the recognition of minority groups in French law seems impossible. This new issue of separatism in France is revealed as the sad consequences of both the fear of communitarianism and the trauma of the 2013 and 2015 Islamic terrorist attacks, which put security at the forefront of political actions and designated religion as a potential enemy of the Republic.

The fear that religions cause separatism has clearly led the way to a shift in the life of French *laïcité*. A new era of *laïcité* of surveillance has begun, involving restrictions of fundamental freedoms, in particular freedom of religion. This article brings to light the method used to enhance the state’s control over religious organizations, including the specific role of the prefect at the departmental level, and the overall potential detrimental effects on freedom of religion in France. It provides an overview of the specific changes in the legal framework for religious activity in France and their possible impact on religious freedom. Finally, it reflects on this new era of *laïcité* of surveillance, the implications for religious organizations, and the way forward to guarantee religious freedom in the future.

2. Genesis and principles of the “law on separatism”

The 2021 Act to strengthen the respect of principles of the Republic may be seen as the epitome of recent developments on *laïcité*, as various conceptions of *laïcité* have emerged in the French debate and have been fuelled by France’s troubled history of

the relation between the state and religion. In 2020, the time was ripe to crystallize this movement into action so that the French government could legitimately launch a bill against separatism and win a majority in Parliament. As a result, the 2021 Act, among other measures, substantially amended the symbolic 1905 Act and reformed the legal status of religious organisations in France.

As presented by Jean Baubérot (2015), seven conceptions of French *laïcité* coexist, various ones being dominant at different times. These include the anti-religious conception; the Gallicane conception, with a high level of state supervision of religious activities and organisations; the strict separatist conception; the separatist conception; the inclusive and separatist conception; and the identity conception, resting on a certain idea of Frenchness, and the conception based on the Napoleonic Concordat of 1801. The Gallicane doctrine, according to Baubérot (2021) gives the political authority the right to intervene in religious affairs. Hence the king or the Parliament was entitled to intervene in the affairs of the French Catholic Church, in particular in order to limit the influence of Saint Siège, viewed by the king as a foreign sovereign.

Whereas the 1905 Act clearly rejected the anti-religious, the Gallicane and the identity conceptions of laicity and embraced the separatist view, the 2021 Act seems to find inspiration in the Gallicane conception and to a certain extent in the Concordat. The 2021 shift towards greater surveillance of religious activities through the prefect's control of religious organisations, places of worship, religious speech and the financing of religious activities, with a specific focus on foreign funding, shows the emergence of a *laïcité* of control, based in particular on a fear that religion in France could be subversive as a counterpower to the state or could undermine French sovereignty through foreign influence. Giving an historical perspective, Mariëtta van der Tol explains that the 2021 Reform that has led to this "laïcité of control" finds its origin in the reminiscence of Napoleonic interferences with the Catholic Church and with Protestant and Jewish minorities (van der Tol 2020).

The issue of religion in the public sphere has been controversial in France over the last decades, amounting to the emergence of a "new laicity" as described by Stéphanie Hennette-Vauchez et Vincent Valentin (2014). This new *laïcité* has transformed the 1905 paradigm (which included freedom of conscience and religion, religious neutrality of the state, and political neutrality of religion) into an uncertain concept of extended neutrality (not only a duty of the state but also of the citizens, with a decreasing place for religious organisations in civil society). Hennette-Vauchez and Valentin have described this movement as a "reconfiguration of the principle of laicity" and suggested that it "would thus run counter to the original philosophy of secularism-separation of 1905." They add that the new *laïcité* is "not congruent with the meaning of the legal principle of secularism as it was forged throughout the 20th century. On the contrary, it attempts to subvert it: from a principle guaranteeing freedom of worship, it makes the basis of restrictions

on religious freedom. In so doing, the New Secularism limits not only the action of the State but also the freedom of individuals” (Hennette-Vauchez and Valentin 2014:29).

According to Hennette-Vauchez and Valentin, “the reconfiguration of the principle of *laïcité*” started in 2003 with the Baroin Report³ and then developed with the laws of 2004 on the wearing of religious symbols in schools, colleges and high schools, and of 2010 on the prohibition of the full veil in public spaces. The 2014 Babyloup case⁴ illustrates a prominent symbol of the new *laïcité* and the French debate over the legitimacy of neutrality requirements as imposed on a worker in a day care unit of a private association. Confirming the political tension underlining the issue of religion in France, the authors allege that “the religious issue is ... a question on which tensions are global today. It seems, however, that it is posed in France in specific forms, where any discourse on secularism is, simultaneously, a discourse on the Nation. ... Secularism constitutes a question that is indissociably legal and political” (Hennette-Vauchez and Valentin 2014:17). For decades, the new *laïcité* has shaken the 1905 principles and has opened the door to a new era where *laïcité* could be thoroughly redefined. However, until 2021, a reform of the 1905 Act was impossible for political reasons. The symbolic 1905 Act has remained almost unmodified (except for some details) since its original passage, and no previous government succeeded in any substantial reform. There has been no legal redefinition.

In 2021, the transformation of French *laïcité*, not only in the perception of society but in the law, was made politically possible by the new rhetoric of separatism and the severity of security issues. Beginning in 2018, the French government worked on proposals to modify the legal framework of religious associations with the aim of encouraging French Muslim communities to resort to the 1905 Act to create religious organisations (*associations cultuelles*) as most of them had resorted instead to the status of a non-specific type of organisations (under the Act of 1 July 1901 on freedom of association). The second aim was to allow the state

³ The Baroin Report was presented in 2003 to the French Prime Minister by M. Baroin in his quality of vice president of the French national Assembly. The title of the report was “for a new *laïcité*”. It argued that *laïcité*, as a core value of French identity, was questioned and contested, particularly by the “Muslim world”. It identified an evolution from religious issues to cultural and identity challenges for French *laïcité*, because of “multiculturalism and communautarism.”

⁴ The Babyloup case (Cass., ass. plén., 25 juin 2014, n° 13-28.369 P) involved a worker at day care unit who was fired because she wore a Hijab. The Cour de cassation ruled in favour of the day care unit considering that the decision to fire the employee was not a violation of the freedom to manifest religion. The Court considered that *laïcité* was not to be applied to the private sector but that, in this case and under Labour Law, limiting the right to manifest religion of the employee was duly justified by the aim to protect children and to promote gender equality in the day care unit. The Babyloup case, a very controversial case, led to the passing of the “El Komry Act” (loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels). This act amended French labour code, adding the possibility for the employer to impose neutrality in the internal rules (Article L1321-2-1 of the French Labour Code).

to monitor foreign influences on religions in France through the control of funding of religious activities. Because of the various events that shook France (the Yellow Jackets Movement from October 2018 on, the mobilization against the reform of pensions in December 2019, and the COVID-19 pandemic since March 2020), the reform of the symbolic Act of 1905 was postponed. It finally crystallized in fall 2020.

During his speech in Les Mureaux on 2 October 2020,⁵ highlighting the problem of Islamist radicalization, President Macron called for a fight against separatisms, in particular Islamist separatism, and for a strict application of secularism. He announced a series of measures to restore secularism in different areas so as to re-establish the stability of the Republic in places where political Islamism was gaining ground. On 16 October 2020, France was under the shock of the assassination of professor Samuel Paty in Conflans Saint Honorine, a horrifying act of Islamist terrorism. The issues of communitarianism, terrorism and the threat to the Republic came together, encouraging the President to call for a strong political and legal initiative. The bill to strengthen the respect of republican principles, intended to address the whole “separatist” issue, was symbolically presented to the Council of Ministers on 9 December 2020, the anniversary of the 1905 Act of separation of religions and the State, the founding act of French *laïcité*. Examined in accelerated procedure before the Parliament to arrive at final adoption on 23 July 2021, with few reservations in the decision of the Constitutional Council on 13 August 2021,⁶ the Act strengthening the respect of the principles of the Republic was promulgated on 24 August 2021 and came into force the next day.

Regarding freedom of religion, the Act includes the measures announced in 2018 for the reform of the legal framework of religious organisations, in its Title III, ironically named “To guarantee the free exercise of worship.” It actually reinforces state control over the exercise of worship, to which all exclusively or partially religious organisations will have to adapt from now on.

Control over the decisions of local authorities that would seriously undermine secularism or neutrality in a public service (e.g. school cafeterias, sports facilities, public subsidies) is strengthened. The prefect (the representative of the state at the county level) will be able to refer a violator and request the suspension of the decision to the administrative judge, who will have 48 hours to decide.

A new offence of separatism (Art. 433-3-1, Criminal code) protects elected officials and public servants against the use of threats or violence to obtain an exemption or a different application of the rules of public service.

Associations or foundations that ask for a public subsidy will have to commit themselves to respecting the secular character and the principles of the Republic

⁵ The presidential speech is available at <https://bit.ly/3xBh3jf>.

⁶ The decision of the Constitutional court (Décision n° 2021-823 DC du 13 août 2021) is available at <https://bit.ly/3uTrIEI>.

(equality between men and women, human dignity, fraternity) in a “contract of republican commitment” (article 10 of Act 2000-321 of 12 April 2000 regarding the rights of citizens in their relations with government administrations, and Decree 2021-1947 of 31 December 2021). If they violate this obligation, the subsidy must be reimbursed. The respect for the contract becomes a condition for obtaining an approval or the recognition of public benefit.

Additionally, the Act restricts parents’ ability to teach their children through home schooling (article L. 131-2 of the code of education).

Before we examine in further detail the changes made to the 1905 Act regarding religious organisations, it is worthwhile to explore the additional reasons for the changes in the spirit of the separation between state and religion. The process clearly reveals a shift of concerns from separation between state and religions to the fear of separation between state and citizens by means of religion.

3. From separation between state and religions to the fear of separation between state and citizens by religion

In 2020, “separatism” arose as a new rhetorical term in public discourse to designate new enemies of the Republic. In France, the term “separatism” stands out as the opposite of a fundamental concept: universalism. French law remains attached to the republican universalism affirmed in its Constitution, which lays down the principle of equality before the law for all citizens, regardless of their origins or affiliations. Secularism and the indivisibility of the Republic imply that community affiliations are not to be taken into account. Hence, French law does not recognize the qualification of “minorities.” According to Daniele Lochack, “the notion of minority as a group is ignored in French law for political and ideological reasons” (Lochack 1989). The attitude of the French revolutionaries towards minorities is summarized in this famous sentence of the Count of Clermont-Tonnerre about the Jews:

We must refuse everything to the Jews as a nation and accord everything to Jews as individuals. . . . We must refuse legal protection to the maintenance of the so-called laws of their Judaic organization; they should not be allowed to form in the state either a political body or an order. They must be citizens individually. (Clermont-Tonnerre 1789[1996]:88)

As a consequence, France has not signed the additional protocol of the European Convention of Human Rights on the rights of minorities (collective and individual rights) or the Framework Convention of the Council of Europe for the Protection of National Minorities (8/02/1991), despite the recommendations of the UN Economic and Social Council in 2008. The political theory of the French nation is based

on republican universalism, i.e. a nation understood as one and indivisible, with universal values which apply to all its members, regardless of their origin, race, gender or social class. The law should be applied equally by and to all citizens.

From this perspective, “separatism” and “separatists” undermine the Republic as they challenge universalism and the individualistic conception of law and human rights when they seek to apply different sets of rules to their communities. This reasoning may apply to religious communities. Consequently, when religion is designated as a cause of separatism, there are direct effects on *laïcité* and on freedom of religion.

The 1905 Act (article 4) did recognize the autonomy of religious organisations (the right to draft their own internal constitutions, and by-laws), which amounts to a certain degree of independence for religious groups. However, this right does not equate to the concept of a minority group entitled to specific rights for the preservation of its distinct nature. Religious organisations may choose some of their rules according to their religious doctrines. However this freedom is limited, since the 2021 Act imposes a stricter legal framework for religious organisations. For instance, the newly amended article 19 of the 1905 Act imposes democratic rules among religious organisations since specific decisions (on admission of new members, transactions on real property, choice of religious ministers, and modification of statutes) can be taken only by a deliberative body (i.e. the general assembly of members) of the religious organisation.

More precisely and building on the idea that minorities are a concern under the 2021 Act, van der Tol alleges that the 2021 Act:

[P]re-emptively casts suspicion on religious minorities as potential threats to public order, Frenchness and the principles of the Republic, and it attaches to this suspicion an assertion of control backed by the force of administrative and criminal law. In this assertion of control, the 2021 law is reminiscent of the rationale of the oversight imposed by Napoleon Bonaparte on Catholic, Protestant and Jewish communities – a structure which remained in place for all of the nineteenth century and from which religious minorities were emancipated by means of the 1905 Separation Act. From this perspective, the development of *laïcité* in the 2021 law embodies an historical regression in the protection of religious minorities. (van der Tol 2020:68)

Consequently, it appears that the French state is in serious tension with religious minorities due to two emphases: the impossibility of recognizing minority groups as such in the face of universalism and the need for greater control over minorities as they inspire suspicion and pose a possible threat to the nation.

French *laïcité* is often referred to as a model of balancing freedom of religion for all, the neutrality requirement of the state regarding religions and religious affairs, and equality or pluralism. However French republicanism reveals itself as in ten-

sion with religious freedom when religion becomes a “force between the state and the individual,” leading to restrictions of religious freedom.

Describing French secularism, Heiner Bielefeldt and Michael Weiner point out:

[T]he French Republic traditionally understands itself as the guarantor of the rights of each individual citizen. This is the reason why the custodians of French republicanism wish to ensure that no political forces stand between the state and the individual, with possibly restrictive implications for the manifestations of religious life in public institutions. Well-known examples include the strict headscarf ban in public schools and more recently the general prohibition of the face veil in public life. (Bielefeldt and Weiner 2020:117)

From 1905 to 2021, the French state has progressively shifted from fear of the interference of religions in the state affairs in 1905, resulting in the separation of state and religions (with the state standing in favour of neutrality), to the fear of the separation of state and citizens, with religions as a possible separating factor or actor and the neutrality requirement resting on all citizens in a secularized country.

This fear of the potential separating impact of religions finds its roots, among other causes, in another concept known as communitarianism. In France, the word appeared in the 1990s to describe any form of practice, whether of an ethnic or a religious nature, that would value the differences between a group and the rest of society, with the effect of isolating a community, according to Jérémy Guedj. *Communautarisme* is a complex concept that has been studied and discussed at length, some arguing that it is used in political rhetoric to promote the interest of the majority (Taguieff 2005) and others explaining that it has now been replaced by “separatism.” (Carballet et al. 2020). As Jean-Marie Woerhling and Pierre-Henri Prelot explain in a comment on the decision by the Constitutional Council of 19 November 2004 on the Constitutional Treaty for Europe:

[T]he decision of the constitutional council also clearly shows that secularism constitutes a limiting principle of freedom of religion. It concerns individuals in their relations with public authorities in order to exclude that the convictions of the former can have an impact on the latter and in order to guarantee that the common rules prevail over personal beliefs. This decision clearly highlights the shift in concerns from the institutional state-church relationship to the fear of communitarianism, that is, the temptation of religious groups to escape the common law. In a certain sense, it is no longer a question of promoting separation but of avoiding it. (Woerhling and Prelot 2010:436)

Hence, in the 2000s, the fear of communitarianism shed a new light on religions as a possible threat to national cohesion and to one of the pillars of republicanism, the

principle of equality before the law. Rightly or wrongly, religions and religious organizations have been seen as a potential force standing between the state and the citizens. This was part of the rationale behind the headscarf ban in public schools (article L.141-5-1 Code of Education, Law of 15 March 2004), prohibition of the face veil in public life (Law of 11 October 2010), the multiple Charters of *laïcité* (in schools, hospitals and public services)⁷, and the new neutrality requirements established in the workplace by internal regulations (articles L. 1321-1 and following of the French Labour Code). In 2014, Emile Poulat, after describing four types of *laïcité* (political and structural *laïcité*, replacing Catholicity, and being inclusive as “giving a place under the sun to everyone”; legal *laïcité*, grounded in freedom of conscience for all; historical *laïcité*, the fruit of religious wars and the current peace; and philosophical *laïcité*, grounded in the emancipation of the spirit by reason), noted in philosophical *laïcité* a conception that “may lead to designating religion as an enemy – the Catholic Church before, Islam nowadays” and “to exciting minds by legislating in a manner contrary to the public expression of faith” (Poulat 2014:74, 75). Then, in the 2010s, security issues became an additional cause of suspicion of religion.

While discussing the most recent developments regarding *laïcité*, Philippe Portier and Jean Paul-Willaime (2021:235) mention “a dual inclination, recognition and security” (“*reconitifet securitaire*”). Throughout French history, the relation between the state and religions has been in constant evolution. Different phases may be delineated to highlight the regulation of religious organisations and life by the French state over the three last centuries. First came a regime of dissociation without separation, beginning with the Napoleonic Concordat of 1801 until 1880-1910; a separatist regime based on the 1905 Law with the end of public funding of religions and religious ministers; and a regime of recognition starting in the 1960s, acknowledging the need for religions in civil society and accepting a certain cooperation with the state to ensure integration. Then, in the wake of Islamic terrorist attacks, in particular since the Charlie Hebdo attacks in 2013 and the Bataclan attacks in 2015, the security dimension grew in importance alongside the concern that religion could divide the Republic. The political and religious dimensions of terrorism have created a new level of suspicion on religion, in particular towards Islam, in France. Religion has started to be conceived as possibly incompatible with security, public order, national cohesion, equality and the principles of the Republic, therefore deserving not only separation from the state but even surveillance by the state. In other words, religion was designated as a new enemy of the Republic.

Although such surveillance could have been limited to a narrow target by identifying specific groups threatening national unity and security and to the strict dimension of protection of public order, it was instead extended to all religions, equality

⁷ Available at: <https://www.gouvernement.fr/chartes-de-la-laicite>.

before the law being a leading principle. Therefore, the 1905 Act has been substantially amended with a serious impact on all religious communities, most of which have nothing to do with separatism or security issues. The *laïcité* of separation has been converted into a *laïcité* of surveillance, introducing a new era for the relation between the state and religions in France.

4. From separation between the state and religions to surveillance by the state over religions: the case of religious organisations

The surveillance of all religious activity by the state according to the 2021 law is a profound modification of the initial spirit of the 1905 Act.

The restrictions on religious activities require in practice a real transition for the French religious world. Indeed, the new administrative and accounting obligations may be considerable for small or medium-sized religious organisations. Compliance requires quasi-professional capacity of boards of religious organisations. So minority groups might suffer more from the reform than long-established religious groups with greater administrative capacity and legal support.

The new law applies immediately to all associations, except for the provisions subject to implementing decree and transitional measures (for organisations constituted before 25 August 2021). Organisations established prior to the enactment of the Act to strengthen the respect of principles of the Republic will benefit from a period of time to comply with the law, which should run until the beginning of 2023 at the latest. The year 2022 will therefore be the year of transition and compliance.

The implementing decrees⁸ specify the conditions of application of certain articles (specifically, statutory obligations, declaration of religious status, declaration of funds and benefits from abroad, and obligation to certify accounts). A summary of the new obligations concerning the exercise of worship in France already reveals a comprehensive evolution of the legal framework. The associations that engage in worship must now do the following:

- (1) opt for an exclusive exercise of worship by constituting themselves as a religious association and file a declaration for religious status at the prefecture (which was not required before). This declaration is mandatory and renewable every five years. The prefecture can oppose the application if the association does not respect public order or does not meet the legal criteria.

⁸ Décret n° 2021-1844 du 27 décembre 2021 relatif aux associations culturelles régies par la loi du 9 décembre 1905. Décret n° 2021-1789 du 23 décembre 2021 pris pour l'application de la loi du 2 janvier 1907 concernant l'exercice public des cultes.

The association's statutes must provide for a deliberative body to be competent to manage the admission of members, changes to the statutes, the transfer of real estate and, where applicable, the recruitment of ministers of religion.

The accounting obligations are reinforced (annual accounts, separate book-keeping of benefits and resources coming from abroad, inventory of movable and immovable property, accounting certification in the case of resources coming from abroad according to a threshold defined by decree, contribution treaty annexed to the accounts, accounting documents and provisional budget to be transmitted to the prefecture at its request).

The list of places of worship must be provided to the prefecture. The prefecture must be informed of any project to build a place of worship, as local authorities have an obligation to provide information (construction, administrative long lease, loan guarantee).

Benefits and funds coming from abroad in excess of 50,000 euros per year are subject to declaration to the prefecture and entail an obligation of accounting certification (with a possible cost of 3,000 to 4,000 euros per year for a six-year mandate of the auditor).

(2) Alternatively, if they wish to remain mixed (with both non-religious activities and public worship), organisations can be constituted as associations under the law of 1 July 1901 and clearly state the religious purpose in their statutes (under the control of the prefecture). The notion of mixed association will be specified by decree. Mixed associations cannot be those that exercise public worship in an exceptional way or in a manner that is strictly accessory. Mixed associations will be subject to a number of obligations of the 1905 law and to additional obligations: annual accounts, management of the exercise of worship in a separate functional unit, having a bank account, submission to the rules of public appeal to generosity, and obligation to certify accounts when there are funds or resources coming from abroad or issuance of tax receipts or public subsidies.

The tax authorities will have to receive an annual declaration of the total amount of donations and the number of tax receipts issued by the associations (article 222 bis of the Tax Code).

On a more positive note, the law provides for a certain harmonization of the regime for the exercise of worship in French territories, including Alsace-Moselle, a reduction in the minimum number of members to form an association exercising worship to seven adults, and the possibility of public subsidies for the accessibility of places of worship. Another positive measure is the new possibility of income from buildings acquired free of charge by religious organisations, limited to 50 percent of the organisation's total income.

- The exercise of worship, whatever its form (even on an individual basis from the point of view of freedom of assembly – house churches, for example), is subject to the provisions of the 1905 Act relating to the *police des cultes* (policing of worship), with increased penal sanctions for ministers of worship or association leaders: prohibition of political meetings and electoral operations, prohibition of incitement to subversion or violation of the law, and temporary measures to close a place of worship or its dependent premises by the prefect, if speeches inciting hatred or violence are observed. Eric Dupont Moretti, French Minister of Justice, in a circular of 22 October 2021⁹ insisted on the “special influence that religious ministers may have on attendees in places of worship,” which justifies that any speech or act that would question the institutions of the republic in the name of religious principles may be criminally sanctioned. Therefore, higher surveillance of religious speech and acts in places of worship may be expected. State control takes place through the new power that is given to the representative of the state at the departmental level (prefects, or police prefects in Paris) or in the overseas territories, since the representative of the state is responsible for these functions: examining the declaration of religious status of religious associations
- checking the statutes of associations practicing worship
- controlling the declaration of funds or resources coming from abroad by religious and mixed associations; the prefect can oppose them in case of real and sufficiently serious threats affecting a fundamental interest of the society
- the option to oppose a donation from abroad
- the ability to temporarily close a place of worship in case of violent or hateful speech
- receiving information from the local authorities regarding a construction project at a place of worship, an administrative lease (*bail emphytéotique administratif*) or a loan guarantee granted for the construction of a place of worship; the prefect must receive a list of places of worship from the associations practicing the religion

This new role of surveillance by the prefect over religious organisations explains why the new FORIF (Forum de l’Islam de France),¹⁰ initiated in 2022 to enable a new dialogue between the French state and the representatives of Muslim communities in France, will be instituted at both the national and the departmental level. Finally, for associations receiving public subsidies, a contract of republican

⁹ Présentation des dispositions de droit pénal et de procédure pénale de la loi n°2121-1109 du 24 août 2021 confortant le respect des principes de la République, Circulaire du 22 octobre 2021, CRIM 2021 12/H3 - 19.19.2021.

¹⁰ “Forum de l’islam de France: une nouvelle étape dans le dialogue entre les pouvoirs publics et le culte musulman”. 5 February 2022. Available at: <https://bit.ly/3MdjlsZ>.

commitment, the content of which is defined by the Decree of 31 December 2021,¹¹ will have to be signed to guarantee the association's respect for the principles of the republic (i.e. liberty, equality, fraternity and dignity of the human person) as well as the symbols of the Republic, promising "not to call into question the secular character of the Republic" and "to refrain from any action that undermines public order." According to the parliamentary debates, denominational associations (without religious activities but claiming a religious affiliation) should be entitled to sign this contract, while respecting freedom of association.

5. Conclusion: Preserving religious freedom in France in this new era of laïcité of surveillance

A new era of laïcité began on 24 August 2021. To what extent will freedom of religion in France be preserved?

One may share the serious concerns that Mariëtta van der Tol expressed recently:

[I]n the context of this law, laïcité ceases to be just an organisational principle of the state. Laïcité has become a tool of state control, used generally, pre-emptively and (most importantly) irrespective of the absence or presence of any real, concrete and tangible threat to public order within a specific context of space and time. The 2021 changes thus create a dangerous precedent for legal control over religious minorities, taking liberties beyond the confines of constitutional logic and thus eroding the protection of the freedom of religion in France. (van der Tol 2020:78)

Well aware of these concerns, French defenders of freedom of religion have been active and will remain so in the future.

During the parliamentary debate on the bill to strengthen the respect for the principles of the Republic, the French Conference of Bishops,¹² the Protestant Federation (Fédération Protestante de France 2021) and the National Council for French Evangelicals (Conseil National des Évangélique de France 2021), along with other religious and non-religious representatives, voiced their concerns about the bill and its detrimental effects on freedom of religion or freedom of association. (Conference of INGOs 2021; Kossonogow and Benaceur 2021) In particular, the concerns were focused on ensuring the survival of small and medium-sized religious associations through the proportionality of the measures, the need for clarification of the notion of worship. Also, with regard to mixed associations, there were

¹¹ Décret n° 2021-1947 du 31 décembre 2021 pris pour l'application de l'article 10-1 de la loi n°2000-321 du 12 avril 2000 et approuvant le contrat d'engagement républicain des associations et fondations bénéficiant de subventions publiques ou d'un agrément de l'Etat.

¹² Décision n° 2021 - 823 DC: liste des contributions extérieures. Available at: <https://bit.ly/3ErnlhF>.

questions about the scope of the measures. Additionally, proposals were made to target more precisely the worrying situations linked to funds coming from abroad. Few of the many remarks offered by these representatives were taken into account in the final Act. Some advocates noted that “the law against separatism could paradoxically weaken the Republican principles it claims to strengthen” (Khemilat 2021) since it will undermine freedom of worship for communities which already feel threatened or under stigma, in particular French Muslims.

Although it was raised in the parliamentary debate, the issue of public manifestation of religion did not find its way into the 2021 Act. In that regard, there has been no legal change regarding the public display of religious signs or religious events in the public square. However, secularisation and the new pressure on religious organisations could have a deterrent effect on the exercise of the right to manifest one’s religious convictions in public.

“French secularism has in more recent times often (wrongly in my view, as I have argued) reacted to fears of Islamic radicalisation by the relegation of religion to the private sphere and an assertion of national common values in the public sphere, itself broadly construed” stated Myriam Hunter-Henin (2020:57). In 2021, a new questionable reaction is the enhanced state control over religious organisations, based on the suspicion that religion fosters separatism. In the long term, this restrictive view of freedom of religion could put the French *vivre ensemble* in jeopardy, as French *laïcité* departs from an inclusive ideal type of secularism, defined by Dieter Grimm as one” (Grimm 2014:6).

Therefore, in the years to come, the impact of the new legislation on religious freedom will need to be closely monitored as the decrees are applied and the new legal arrangement is applied, in particular by the prefectures. The weight of state control over religious denominations will require regular assessment. Since, in Decision number 2021-823 DC of 13 August 2021,¹³ the Constitutional Council refrained from reviewing the constitutionality of the articles of Title III of the 2021 Act, dedicated to religious organisations, it has left the field open for questions of constitutionality during administrative litigation, for instance in the case of a prefectural decision that would be contrary to freedom of worship. After the exhaustion of internal legal remedies in France, a request to the European Court of Human Rights, based on article 9 of the European Convention of Human Rights, would be another way to challenge the new legislation if it resulted in the stifling of religious organisations. Undoubtedly, the French government will eventually need to demonstrate and defend the impact of this comprehensive legislative reform on freedom

¹³ Available at: <https://www.conseil-constitutionnel.fr/decision/2021/2021823DC.html>.

of religion, equality before the law and freedom of association, whether before the UN Human Rights Committee or at the Universal Periodic Review.

This new phase for French *laïcité* does not send a positive signal for freedom of religion, as other states might find inspiration in the French arsenal of new ways to control religious activity and organisations. However, French *laïcité* is a living instrument and there is hope for reasonable implementation of the new framework by the French government or for further changes in the future. In any case, freedom of religion and belief requires attention even in the oldest Western countries such as France, as this freedom is one of the foundations of a democratic society¹⁴ and of a harmonious *vivre ensemble*.

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¹⁴ Kokkinakis c Greece Series A n 260, 17 EHRR 397; Application no 14307/88, judgement of 25 May 1993.

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Conceptualising “grievous religious persecution” as a response to impunity

Werner Nicolaas Nel¹

Abstract

Particular incidences of religious persecution are, because of their scale, severity, and discriminatory motivation, so heinous that they may be justifiably categorised as inhumane acts of crimes against humanity. Despite this proscription under international criminal law, religion-based persecution remains a serious human rights concern; yet the international criminal justice system appears reluctant to enforce prosecution measures. This paper argues that the continuing pattern of impunity for persecution stems primarily from definitional instability and legal vagueness. To address this problem, this paper formulates a comprehensive and nuanced conceptualisation of the definitional elements of crimes against humanity of religious persecution or, more simply, “grievous religious persecution.”

Keywords religious persecution, international criminal law, human rights, religious freedom, counteracting impunity, crimes against humanity, advocacy.

1. Introduction

Persecution takes place in virtually all parts of the globe and occurs under various political or ideological auspices, reaching varying degrees of intensity.² In recent years, we have seen several instances of mass-discriminatory atrocities committed against communities based on their religious beliefs. Some of these occurrences have justifiably generated a global moral outcry, while others have continued amidst deafening silence.

Though various commendable initiatives have sought to curb religious persecution, these responses may be inadequate or insufficient to properly address serious human rights atrocities. Consequently, it has been argued that as a potentially powerful tool to address the existing culture of impunity for religious persecution, “international prosecution systems, as provided by the International Criminal Court (ICC), are to be resorted to in pursuit of criminal accountability.”³

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² Bielefeldt, H., foreword in Nel, W. N. *Grievous Religious Persecution: A Conceptualisation of Crimes Against Humanity of Religious Persecution*. Religious Freedom Series Vol. 5. VKW: Bonn (2021), 13. Available at: <https://iirf.global/publications/books/grievous-religious-persecution/>.

³ Van Boven, T. *Racial and Religious Discrimination*. Max Planck Encyclopedia on Public International

Unfortunately, despite persecution's universal acceptance under customary international law,⁴ the ICC remains disinclined to enforce prosecutions thereof. Notwithstanding multiple reasonable explanations, this article endorses the argument that the lack of prosecutorial conviction for the crime of persecution stems *primarily* from "definitional instability and judicial unease, notable due to the fact that the crime itself so far falls short of a definitive and comprehensive definition."⁵ Therefore, to advocate for the more effective use of international criminal prosecution mechanisms, we first need to address this legal opacity.

Centred on the *Rome Statute* of the ICC as an institutional and legal framework,⁶ this article endeavours to decisively conceptualise the definitional elements of crimes against humanity of religious persecution or, more briefly, "grievous religious persecution."⁷ The fundamental aim of such a conceptualisation is to improve legal certainty and promote prosecutorial assurance for persecution so as to aid the fight to end impunity.

Apart from addressing the conceptual uncertainties of the crime of persecution, such a clarifying conceptualisation may have various positive effects on the phenomenon of persecution. Greater legal certainty will advance advocacy efforts on behalf of those who are persecuted not only by developing legal, political and diplomatic rhetoric, but also by offering a normative framework that provides greater credibility, objectivity and legal accuracy with which to publicise the plight of religiously persecuted communities.

Finally, such a conceptualisation may contribute to a truly universal framework, encouraging the domestic prohibition of persecution globally, and may serve to interpret the crime of persecution in the *Rome Statute* as well as the draft codification of the *Convention on the Prevention and Punishment of Crimes Against Humanity*.⁸

Law, Wolfrum, R. (ed), (2009), para. 22.

⁴ *Summary of Appeal Judgement (KAING Guek Eav)*, Case File 001/18-07-2007/ECCC/SC, Extraordinary Chambers in the Courts of Cambodia, 3 February 2012, para. 225.

⁵ Fournet, C. and Pégiorier, C. 'Only One Step Away from Genocide': *The Crime of Persecution in International Criminal Law*. *International Criminal Law Review*, Vol. 10, Issue 5 (2010), 713.

⁶ *Rome Statute of the International Criminal Court*, Doc. A/CONF.183/9 of 17 July 1998, in force 1 July 2002, Art. 7(2)(g) read together with Art. 7(1)(h) (*Rome Statute*).

⁷ "Grievous religious persecution" is a term of reference, coined by the writer, to refer to persecutory conduct that satisfies the intensity threshold for crimes against humanity of persecution in terms of the *Rome Statute*, while indicating a focus on religion as the specified discriminatory ground of persecution. The term also distinguishes extreme forms of religious persecution, constituting crimes against humanity, from other 'subsidiary' forms. See Nel, W. N. *International Criminal Accountability for Religious Persecution in Terms of the Rome Statute: A Taxonomy of Crimes against Humanity of Religious Persecution*, doctoral thesis, University of Pretoria (2019), 129-130. Available at: <http://hdl.handle.net/2263/72657>.

⁸ The International Law Commission's (ILC) proposal for a *Convention on the Prevention and Punish-*

The conceptualisation proposed in this article functions as a substantive synopsis of the legal preconditions for establishing the ICC’s subject-matter jurisdiction over conduct constituting grievous religious persecution. It comprises two parts: a systematic analysis of the unique definitional elements, and a proposed definition.

2. The substantive elements of “grievous religious persecution”

The *Rome Statute* defines persecution as follows:

[T]he intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectively . . . against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.⁹

According to the conditions of applicability,¹⁰ persecution may amount to an enumerated inhumane act of crimes against humanity if: (1) the *chapeau* elements are satisfied, which establish the contextual framework,¹¹ and (2) particular definitional elements are fulfilled.

The *chapeau* elements (contextual circumstances) are applicable to all crimes against humanity and reflect the customary international law standard.¹² They are meant to “clarify the requisite participation in and knowledge of a widespread or systematic attack against a civilian population.”¹³ In addition, the *Rome Statute*

ment of Crimes against Humanity. During October 2021, the Sixth Committee (Legal) of the United Nations debated the codification of the draft articles on crimes against humanity into a convention, available at: <https://sites.wustl.edu/crimesagainsthumanity/convention-text/>. The draft convention uses the exact same definition of “crimes against humanity” as appears in Article 7, including for the crime of persecution, except for three non-substantive contextual changes. See Para. 8 of the UN General Assembly, *First Report on Crimes against Humanity by Sean D. Murphy, Special Rapporteur, at the 67th session (4 May-5 June and 6 July-7 August 2015)*, 2015, A/CN.4/680 and Corr. 1. For more on the Crimes Against Humanity Initiative see: <https://sites.wustl.edu/crimesagainsthumanity/>.

⁹ Art. 7(2)(g), read with Art. 7(1)(h) of the *Rome Statute*.

¹⁰ Art. 7(2)(g) and Art. 7(1)(h) of the *Rome Statute*, read with the ICC, *Elements of Crimes*, 2011, Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May-11 June 2010 (*ICC Elements of Crimes*).

¹¹ Cassese, A. et al., *International Criminal Law: Cases and Commentary*, Oxford University Press (2011), 179. The *chapeau* elements for crimes against humanity consist of (1) an attack, which is committed as part of a widespread or systematic practice, (2) directed against any civilian population, and (3) committed with knowledge of the attack. See Art. 7(1) of the *Rome Statute*.

¹² Brady, H. and Liss, R. *The Evolution of Persecution as a Crime Against Humanity, in Historical Origins of International Criminal Law*, Vol. 3, Bergsmo, M. et al. (eds). Torkel Opsahl Academic EPublisher, Brussels (2014), 541, fn 461.

¹³ ICC *Elements of Crimes* (2011), Introduction to Crimes against Humanity, para. 2. In relation to perse-

adds a further contextual circumstance, namely that the attack against the civilian population must be “pursuant to or in furtherance of a State or organizational policy to commit such attack” (the so-called policy element).¹⁴ The Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) in *Kupreškić* stated, “In reality, persecutory acts are often committed pursuant to a discriminatory policy or a widespread discriminatory practice,”¹⁵ and inevitably “the discriminatory element of the attack is, by its very nature, only possible as a consequence of a policy.”¹⁶ These *chapeau* elements will not be discussed further, instead the focus will be on the definitional elements of persecution.¹⁷

The definitional elements unique to the crime of persecution may be divided into three main categories (with further subdivisions): (1) the *actus reus* (material elements), (2) the *mens rea* (mental elements), and (3) the required threshold of severity.

2.1 The *actus reus* of religious persecution

Persecution’s material element (*actus reus*) captures the inherent consequence of the underlying persecutory conduct (act(s) or omission(s)), which prohibits the causation of a certain result, specifically *severe deprivation of fundamental right on a discriminatory basis*.¹⁸ Hence, persecution is probably best understood as a materially defined (result) crime.

These material elements of persecution will be unpacked in more detail under the following subdivisions:

1. The underlying persecutory acts which constitute the deprivation;
2. The required causal link between the discriminatory conduct and the deprivation of fundamental human rights; and
3. The connection requirement (jurisdictional element).

cution, Elements 5 and 6 of the *ICC Elements of Crimes* (2011), Article 7(1)(h) lists the following two *chapeau* elements: “The conduct was committed as part of a widespread or systematic attack directed against a civilian population,” and “The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.”

¹⁴ Art. 7(2)(a) of the *Rome Statute* and *ICC Elements of Crimes*, Art. 7, Crimes against humanity Introduction, para. 3.

¹⁵ *Prosecutor v Kupreškić et al.* (Trial Judgement), Case No. IT-95-16-T, 14 January 2000, 248.

¹⁶ *Prosecutor v Kayishema and Ruzindana* (Trial Judgement), Case No. ICTR-95-1-T, 21 May 1999, para. 124.

¹⁷ For a more detailed discussion of the *chapeau* elements, see Mettraux, G. *International Crimes and the Ad Hoc Tribunals*. Oxford University Press (2006); Cryer, R. et al. *An Introduction to International Criminal Law and Procedure*. Cambridge University Press (2007), 234-245; and Zgonec-Rozej, M. (principal author). *International Criminal Law Manual*. International Bar Association (2013), 135-141.

¹⁸ *Prosecutor v Milorad Krnojelac* (Appeal Judgement), Case No. ICTY-97-25-A, 17 September 2003, para. 185. A deprivation of fundamental rights *contrary to international law* implies that it must be generally considered impermissible under international law.

2.1.1 Underlying religious persecutory conduct

Persecutory conduct (acts of deprivation) is based on voluntary (will-controlled) conduct (act(s) or omission(s))¹⁹ which “*may take many forms* with its common characteristic being the denial of the human rights and fundamental freedoms to which every individual is entitled without distinction” (emphasis added).²⁰ As such, a list of possible persecutory conduct is not comprehensive.²¹ From a legality perspective, this may be problematic. There is, however, “a limit to the acts which can constitute persecution,”²² which parameters are set by the severity threshold discussed below.

Persecutory conduct may be constituted by a *series of acts* (“evaluated not in isolation but in context, by looking at their cumulative effect”)²³ or by a *single inhumane act*.²⁴ The general characteristic of persecutory conduct, whether considered separately or cumulatively, is that its overall consequences “must offend humanity in such a way that they may be termed ‘inhumane’”²⁵ or offensive to humanity,²⁶ and the common element of discrimination with regard to the enjoyment of a basic or fundamental right must be present.²⁷ In other words, an actual discriminatory result (“discrimination in fact”)²⁸ is vital in understanding the prohibited consequences of persecution.

Interestingly, given that the disadvantage to a victim or victim group “is an obvious consequence of a severe form of discrimination,”²⁹ “it is not necessary to have

¹⁹ *Prosecutor v Dario Kordić and Mario Cerkez* (Trial Judgement), Case No. IT-95-14/2-T, 26 February 2001, para. 694; *Prosecutor v Tihomir Blaškić* (Trial Judgement), Case No. IT-95-14-T, ICTY, 3 March 2000, para. 556. A persecutory omission refers to the deliberate failure to take action in circumstances where there is a legal duty resting upon the *de facto* authority to perform a certain type of positive act – for example, if the state abdicates its responsibility to control social hostility discriminately directed at a certain religious community through the deliberate inaction of responsible office bearers.

²⁰ ILC, *Draft Code of Offences against the Peace and Security of Mankind with Commentaries 1996*, Yearbook of the International Law Commission, 1996, vol. II, Part Two, commentary on Art. 18, 46–48, hereinafter *ILC Draft Code* (1996). Available at: <http://www.legal-tools.org/doc/5e4532/>.

²¹ *Kordić and Cerkez* (Trial Judgement), para. 694. See also *Appeal Judgement (Kaing Guek Eav alias Duch)*, Case File 001/18-07-2007/ECCC/SC, Extraordinary Chambers in the Courts of Cambodia, 3 February 2012, para. 227, hereinafter *Duch* (Appeal Judgement).

²² *Prosecutor v Duško Tadić* (Trial Judgement), Case No. IT-94-1-T, ICTY, 7 May 1997, par. 707.

²³ *Kupreškić* (Trial Judgement), paras. 628–633. See also *Kordić and Cerkez* (Trial Judgement), para. 199; and *Prosecutor v Mitar Vasiljević* (Appeal Judgement), IT-98-32-A, ICTY, 25 February 2004, para. 113.

²⁴ Provided that there is “clear evidence of the discriminatory intent”; *Kupreškić* (Trial Judgement), para. 624 (emphasis added).

²⁵ *Kupreškić* (Trial Judgement), para. 622, reiterating para. 615.

²⁶ *Duch* (Appeal Judgement), para. 257. See also Ambos, K. and Wirth, S. *The Current Law of Crimes Against Humanity: An Analysis of UNTAET Regulation 15/2000*. Crim LF, 13 (2002), 79.

²⁷ *Tadić* (Trial Judgement), para. 707. See also Cassese et al. (2011), 184.

²⁸ *Krnjelac* (Appeal Judgement) paras. 184–185. See also *Duch* (Appeal Judgement), para. 228; Byron, C. *War Crimes and Crimes Against Humanity in the Rome Statute of the International Criminal Court*. Manchester University Press (2009), 227.

²⁹ Triffterer, O. and Ambos, K. *Commentary on the Rome Statute of the International Criminal Court*:

a separate act of an inhumane nature to constitute persecution; the *discrimination itself makes the act inhumane*.³⁰ Consequently, “persecution does not necessarily require a physical element [harm].”³¹

Accordingly, persecutory conduct may be defined tersely, as a serious form of discriminatory conduct, to the extent that it may be termed inhumane or offensive to humanity.³² Nevertheless, we can distinguish between the two acknowledged categories of persecutory conduct, *viz.* “inhumane-type” and “other-type” conduct.³³

2.1.1.1 “Inhumane-type” conduct

“Inhumane-type” conduct refers to the commission of one or more of the inhumane acts of crimes against humanity enumerated in Article 7(1) of the *Rome Statute*,³⁴ including an inherently inhumane discriminatory policy, such as apartheid³⁵ or other forms of institutionalised discrimination.³⁶ In this form, “persecution essentially captures an aggravated form of the underlying crime.”³⁷ In other words, “*all of the inhumane acts . . . [of crimes against humanity] amount to severe deprivation[s] of fundamental rights and can constitute persecution,*”³⁸ provided that there is

Observers’ Notes, Article by Article. 2nd ed. Beck Publishers (2008), 257-258.

³⁰ *Tadić* (Trial Judgement), para. 697 (emphasis added). See also *Fédération Nationale des Déportés et Internés Résistants et Patriotes and Others v. Barbie, Court of Cassation (Criminal Chamber)*, 20 December 1985, 78 I.L.R. 125, 143.

³¹ *Tadić* (Trial Judgement), para. 707.

³² *Prosecutor v Blagoje Simić et al.* (Trial Judgement), IT-95-9-T, ICTY, 17 October 2003, para. 58. In *Tadić* (Trial Judgement), para. 704, the ICTY noted that persecutory conduct can range “from killing to a limitation on the type of professions open to the targeted group.”

³³ For a more detailed discussion regarding the distinguishable forms of persecutory conduct, see Nel (2021), 63.

³⁴ Ambos and Wirth (2002), 74.

³⁵ Articles 7(1)(j) and 7(2)(h) of the *Rome Statute*. Apartheid consists of “distinct and yet closely related criminal conduct which involves the denial of the human rights and fundamental freedoms of individuals based on an unjustifiable discriminatory criterion.” Art. 18 (f) of the *ILC Draft Code* (1996).

³⁶ Art 18 (crimes against humanity), distinguished between the inhumane acts of persecution and institutionalised discrimination as follows: “Whereas both categories of prohibited acts must be committed in a systematic manner or on a large scale to constitute a crime against humanity under article 18, the sixth category of prohibited acts [institutionalised discrimination] further requires that the discriminatory plan or policy has been institutionalized.” *ILC Draft Code* (1996) 49. The *Rome Statute* includes the crime of apartheid, but not institutionalised discrimination. It seems rational to conclude that since Art. 7(2)(a) requires that the attack against the civilian population be “pursuant to or in furtherance of a State or organizational policy to commit such attack,” the discriminatory plan or policy distinguishable above as institutionalised discrimination is in fact fully encapsulated as part of the crime of persecution.

³⁷ Brady and Liss (2014), 509. If the underlying persecutory conduct is based on an enumerated inhumane act or crime, the prosecution must prove the definitional elements of the underlying act.

³⁸ Ambos and Wirth (2002), 73 (emphasis added).

“clear evidence of the discriminatory intent.”³⁹ For example, the application for an arrest warrant against Laurent Koudou Gbagbo relied on separate charges of murder and rape as the underlying acts of persecution.⁴⁰

Inhumane-type acts are generally physical acts and inherently inhumane in nature, even if only one act is committed.⁴¹ Essentially, this means that a single discriminatory inhumane-type act by a perpetrator entails individual criminal responsibility,⁴² provided that there is “a sufficient nexus between the unlawful acts of the accused and the attack.”⁴³

2.1.1.2 “Other-type” conduct

“Other-type” conduct, meaning conduct other than enumerated inhumane acts of crimes against humanity,⁴⁴ may become persecutorial should it “seek[s] to subject individuals or groups of individuals to a kind of life in which enjoyment of some of their basic rights is repeatedly or constantly denied.”⁴⁵ Persecutory “other-type” conduct may “constitute discrimination, which is in itself a reprehensible act; however, they may not in and of themselves amount to persecution... [unless] examined in their context and weighed for their cumulative effect”.⁴⁶

In *Kvočka*, the court concluded that “acts that are *not inherently criminal* may nonetheless become criminal and persecutorial if committed with discriminatory intent.”⁴⁷ For example, in the so-called *Media Case*,⁴⁸ hate speeches were

³⁹ *Kupreškić* (Trial Judgement), para. 624. See also *Tadić* (Trial Judgement), paras. 703-710.

⁴⁰ Situation in the Republic of Côte d'Ivoire, *Decision on the Confirmation of Charges against Laurent Gbagbo*, ICC-02/11-01/11-656-Red, 12 June 2014, Pre-Trial Chamber. Other relevant examples of such ICC cases include, among others, *Prosecutor v Muthaura et al.* (ICC PT. Ch. II, ICC-01/09-02/11-382-Red); *Prosecutor v Ruto et al.* (ICC PT. Ch. II, ICC-01/09-01/11-373); *Prosecutor v Charles Blé Goudé* (ICC-02/11-02/11-186); and *Prosecutor v Bosco Ntaganda* (ICC-01/04-02/06).

⁴¹ In such instances, the enumerated inhumane crimes forming the underlying acts of persecution must satisfy the unique *actus reus* and *mens rea* elements relevant to that specific underlying offence.

⁴² *Tadić* (Trial Judgement), para. 649.

⁴³ Triffterer and Ambos (2008), 176. See also the discussion regarding the reliable indicators of such a nexus.

⁴⁴ For a non-exhaustive list see Triffterer and Ambos (2008), 260-261.

⁴⁵ ILC, 1991 *Draft Code of Crimes against the Peace and the Security of Mankind*, Yearbook of the International Law Commission, 1991, Vol. II, Part One, document A/CN.4/435 and Add.I, 236, hereinafter *ILC Draft Code* (1991).

⁴⁶ *Kupreškić* (Trial Judgement), 248.

⁴⁷ *Prosecutor v Miroslav Kvočka et al.* (Trial Judgement), Case No. IT-98-30/1-T, 2 November 2001, para. 186. See also *Krnjelac* (Appeal Judgement), Separate Opinion of Judge Shahabuddeen, par 6. This position was followed in other ICTY cases, such as *Blagoje Simić et al.* (Trial Judgement), para. 50, and confirmed by the Appeal Court in *Prosecutor v Radoslav Brđjanin* (Appeal Judgement), Case No. IT-99-36-A ICTY, 3 April 2007, paras. 296-297. For a non-exhaustive list, see Triffterer and Ambos (2008), 260-261.

⁴⁸ *Prosecutor v Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze* (Appeal Judgment), ICTR-99-52-A, 28 November 2007, 307-320.

accompanied by calls for genocide and took place in the context of a campaign of persecution against the Tutsi group. Considered cumulatively and in context, these broadcasted speeches themselves constituted “other-type” acts of persecution, equal in gravity to the other enumerated inhumane acts.

In short, underlying persecutory conduct includes sufficiently serious “inhumane-type” conduct or the substantially serious cumulative effect of a course of “other-type” (not inherently inhumane) conduct,⁴⁹ provided that it results in the severe deprivation of a fundamental human right on a discriminatory basis. Either way, the persecutory conduct (act of deprivation) must have been “intentional” but should not be construed so as to require the intention to deprive fundamental rights specifically.

2.1.2 Causation of a severe deprivation of a fundamental right (causation requirement)

The persecutory conduct, whether considered individually or cumulatively, must *result* in a deprivation of a fundamental right.⁵⁰ Inherently, this requires a causal nexus between the persecutor’s conduct and the deprivation (denial or infringement) of fundamental rights on a discriminatory basis.⁵¹ The ICTY articulated this causation requirement by stating that “what is necessary is some form of discrimination that is *intended* to be and *results* in an infringement of an individual’s fundamental rights.”⁵² Consequently, the causal link may emanate from any “violation of the right to equality in some serious fashion that infringes on the enjoyment of a basic or fundamental right.”⁵³

The “intentional”⁵⁴ commission of persecutory conduct provides evidence of causation. This is because engaging in conduct purposefully with the awareness that a certain consequence will occur, or with the purpose of causing a prohibited consequence, provides *prima facie* proof of a causal link between the act and the consequences.⁵⁵

2.1.3 Connection requirement

In terms of the *Rome Statute*, the deprivation of fundamental rights must have been committed in connection with any of the enumerated inhumane *act* or any *crime* within the jurisdiction of the court.⁵⁶

⁴⁹ *Kupreškić* (Trial Judgement), para. 622, reiterating para. 615.

⁵⁰ Triffterer and Ambos (2008), 262.

⁵¹ Cassese, A. (ed), *The Oxford Companion to International Criminal Justice*. Oxford University Press (2009), 454.

⁵² *Tadić* (Trial Judgement), para. 697.

⁵³ *Tadić* (Trial Judgement), para. 697.

⁵⁴ Art. 7(2)(g) of the *Rome Statute*.

⁵⁵ The word “intentional” requires that the act of deprivation must have been committed intentionally but should not be construed to require that the perpetrator intended to deprive human rights specifically.

⁵⁶ Art. 7(1)(h) of the *Rome Statute*. See also Ambos and Wirth (2002), 71; Brady and Liss (2014), 543.

However, such a connection may not be required for all forms of persecutory conduct. Ambos and Wirth explain that the connection requirement establishes two types of persecution:

First, persecution may be an autonomous crime, if it is committed through conduct which is not enumerated among the inhumane acts but it is connected with an enumerated inhumane act. Second, persecution can be an aggravated form of an enumerated inhumane act, if the act is committed with discriminatory intent; a further connection to yet another inhumane act is not required.⁵⁷

The phrase “in connection with any [enumerated inhumane] *act*” should be construed as including any other acts of persecution.⁵⁸ As a result, “if the persecutory conduct is sufficiently widespread or systematic, *the persecutory acts themselves* can constitute the context element.”⁵⁹

The connection requirement was included to ensure that the potentially elastic concept of persecution did not criminalise “relatively trivial acts of discrimination . . . [that] do not form the basis for international criminal liability.”⁶⁰ In addition, the “perpetrator need not be aware that the connection exists.”⁶¹ Consequently, the connection requirement must be interpreted to merely *enforce the jurisdictional threshold* for crimes against humanity,⁶² i.e. an objective contextual link,⁶³ which may also serve to satisfy the “broader attack” requirement.⁶⁴ An objective contextual link entails a clear and obvious connection if the act or crime supports the purpose of the persecution or vice versa.

2.2 The *mens rea* of religious persecution

Persecution may be considered an aggravated crime against humanity, requiring a specific *mens rea* “[i]n addition to the normal mental element relating to the

⁵⁷ Ambos and Wirth (2002), 72.

⁵⁸ Triffterer and Ambos (2008), 221.

⁵⁹ Ambos and Wirth (2002), 72.

⁶⁰ Chertoff, E. *Prosecuting Gender-Based Persecution: The Islamic State at the ICC*. Yale Law Journal (2017), 1109. See also Ambos and Wirth (2002), 73; Brady and Liss (2014), 543-544; Cryer et al. (2007), 260. Such a connection requirement is “not consonant with customary international law”; *Kupreškić* (Trial Judgement), 580. See also Ambos and Wirth (2002) 71. A nexus to an armed conflict is not required.

⁶¹ Ambos and Wirth (2002), 74.

⁶² Ambos and Wirth (2002), 74. “The connection between the act or crime and the persecutory conduct exists if the goal of the persecution is supported by the act or crime or if the persecution supports the commission of the act or crime. A causal link is not required.” Ambos & Wirth (2002), 87.

⁶³ Byron (2009), 234. See also Cryer et al. (2007), 260.

⁶⁴ The connection requirement confirms that persecution can be based on inhumane-type or other-type conduct and must thus be interpreted to be a merely jurisdictional requirement (objective conditions of punishability). Ambos and Wirth (2002), 74.

conduct and the broader context.”⁶⁵ Therefore, persecution’s mental element consists of (1) contextual knowledge, required for all crimes against humanity; (2) the intent to commit the underlying persecutory conduct; and (3) the intent to discriminate.⁶⁶

First, contextual knowledge, derived from the *chapeau* elements, requires that “[t]he perpetrator *knew* that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.”⁶⁷ Knowledge of the broader attack within which persecutory acts were committed requires an awareness of the risk that the conduct can be objectively considered to form part of a broader attack.⁶⁸ Knowledge can be actual or inferred from the circumstances.⁶⁹ Second, intentional deprivation implies that the persecutory conduct must have been carried out intentionally or deliberately,⁷⁰ i.e. the perpetrator meant to engage in the underlying persecutory conduct.⁷¹ If the underlying persecutory conduct is based on the discrimination itself, this requirement becomes redundant as the intent to discriminate constitutes an existing mental element.

Third, discriminatory intent, which is the distinctive feature of persecution, necessitates an additional, higher standard of criminal intent, akin to *dolus specialis*.⁷² Because of its significance, this mental element is discussed in more detail below.

2.2.1 The mental element of discrimination

In *Krnjelac*, the Appeals Chamber reiterated that “persecution as a crime against humanity requires evidence of a specific intent to discriminate” on certain specified grounds.⁷³ In relation to the crime of persecution, discrimination relates to “the violation of the right to equality in some serious fashion.”⁷⁴ Importantly, the perpetrator’s state of mind (“will to discriminate”) is essential in this determination of discrimination.⁷⁵

⁶⁵ Cryer et al. (2007), 261. See also Fournet and Pégurier (2010), 716; *Kupreškić* (Trial Judgement), para. 620.

⁶⁶ *Prosecutor v Milomir Stakić* (Trial Judgement), Case No. IT-97-24-T, 31 July 2003, para. 738. See also Cassese et al. (2011), 184-188.

⁶⁷ Element 6 of the *ICC Elements of Crimes* (2011), Art. 7(1)(h), Crime against humanity of persecution.

⁶⁸ *Blaškić* (Trial Judgement), para. 220. See also Ambos and Wirth (2002), 86.

⁶⁹ Triffterer and Ambos (2008), 182.

⁷⁰ *Duch* (Appeal Judgement), paras. 226, 240, 267 and 278. See also Byron (2009), 234.

⁷¹ Art. 30(2)(a) of the *Rome Statute*.

⁷² Brady and Liss (2014), 553. See also Cassese (2009), 453.

⁷³ *Krnjelac* (Appeal Judgement), para. 184.

⁷⁴ *Tadić* (Trial Judgement), para. 697.

⁷⁵ *Krnjelac* (Appeal Judgement), para. 184-185.

Persecution’s unique mental element is “an indispensable legal ingredient of the offence”⁷⁶ and denotes a discriminatory victim selection. As such, it contains two important and interconnected features, namely the *intention to discriminate* on one or more of the *specified discriminatory grounds*.⁷⁷ These two features are discussed in the next two sub-sections.

2.2.1.1 Discriminatory intent

Discriminatory intent implies that the perpetrator targeted specific persons *because* (“by reason”) of their identity.⁷⁸ It is a form of *dolus specialis* (*dol spécial*),⁷⁹ requiring that the perpetrator committed the conduct for an ulterior purpose (aim), or in pursuit of a specific goal, which goes beyond the result of his conduct.⁸⁰ A persecutor’s ulterior purpose for persecution relates to “the discrimination they seek to instil within humankind.”⁸¹

In relation to a particular intent (deliberate will) to discriminate, the accused must consciously intend to discriminate. Awareness (“knowledge”) that one is acting in a discriminatory way is not sufficient;⁸² the discriminatory intent must relate to “the *specific act charged as persecution*.”⁸³ Furthermore, this discriminatory intent need not be the perpetrator’s primary intent with respect to the act but must nevertheless be a significant intent.⁸⁴

A discriminatory intent must be proved, either by way of direct evidence (direct discriminatory intent)⁸⁵ or, more commonly, by way of inferential reasoning (inferred discriminatory intent).⁸⁶

⁷⁶ *Kordić and Cerkez* (Trial Judgement), para. 212.

⁷⁷ *Kupreškić* (Trial Judgement), para. 620. See also Finnin, S. *Mental Elements under Article 30 of the Rome Statute of the International Criminal Court: A Comparative Analysis*. ICLQ, Vol. 61, No. 2 (2012), 357.

⁷⁸ Brady and Liss (2014), 553.

⁷⁹ *Stakić* (Trial Judgement), para. 737.

⁸⁰ Finnin (2012), 356.

⁸¹ *Blaškić* (Trial Judgement), para. 227.

⁸² *Prosecutor v Milorad Krnojelac* (Trial Judgement), Case No. IT-97-25-T, 15 March 2002, par 435. See also Cryer et al. (2007), 261. In other words, “It is not sufficient that the act merely occurs within an attack which has a discriminatory aspect.” *Prosecutor v Mitar Vasiljević* (Trial Judgement), IT-98-32-T, 29 November 2002, para. 249.

⁸³ *Krnojelac* (Trial Judgement), para. 436 (emphasis added).

⁸⁴ *Krnojelac* (Trial Judgement), para. 435.

⁸⁵ Brady and Liss (2014), 536. For example, this may occur where an explicit or systematic policy of conscious and religious discrimination existed within a structured group, or in instances where a *de facto* authority subscribes to a deliberate policy of passive toleration consciously aimed at encouraging such religious discrimination and persecution. However, the existence of such a policy cannot be inferred solely from the absence of governmental or organizational action. *ICC Elements of Crimes*, Art. 7, Introduction, footnote 6.

⁸⁶ Brady and Liss (2014), 536. This does not mean that a discriminatory intent may be automatically

A discriminatory intent may be inferred from the surrounding circumstances that provide *prima facie* proof of an apparent pattern of discrimination.⁸⁷ However, a discriminatory intent “may only be inferred from the context if the circumstances surrounding the commission of the alleged acts substantiate the existence of such intent,”⁸⁸ and only to the extent that such inference is the only reasonable conclusion to be drawn.⁸⁹ A discriminatory intent may also be inferred from the persecutor’s active participation and association with either an explicit discriminatory policy by a *de facto* authority (discriminatory policy)⁹⁰ or an overt policy to persecute a particular group though evidence of a pattern of acts committed against a protected group.⁹¹

The intent to discriminate must be understood as a prohibition to single out either an identifiable group or collectivity (community) as such,⁹² or an individual member(s) of a group, “by reason of the identity of the group or collectivity.”⁹³ These aspects of identity are related to the impermissible discriminatory grounds.

2.2.1.2 Enumerated discriminatory grounds

As mentioned, the perpetrator must consciously intend to discriminately select victims based on specified listed grounds.⁹⁴ This implies that the “*decisive reason* to choose a particular victim must have been the impermissible ground.”⁹⁵ In other words, the fact that a chosen victim had a particular characteristic (identity) does

inferred directly from the general discriminatory nature of the persecutory conduct; *Krnjelac* (Appeal Judgement), para. 184, confirmed in *Prosecutor v Tihomir Blaškić* (Appeal Judgement), Case No. IT-95-14-A, 29 July 2004, para. 164, and *Prosecutor v Dario Kordić and Mario Cerkez* (Appeal Judgement), Case No. IT-95-14/2-A, ICTY, 17 December 2004, para. 110.

⁸⁷ *Prosecutor v Laurent Koudou Gbagbo* (ICC) Case No ICC-02/11-01/11, public redacted version of “Decision on the Prosecutor’s Application Pursuant to Article 58 for a warrant of arrest against Laurent Koudou Gbagbo” (30 November 2011) (*‘Gbagbo Arrest Warrant’*), para. 204. See also *Prosecutor v Ahmad Harun and Al Kushayb, Decision on the Prosecution Application under Article 58(7) of the Statute*, 27 April 2007 (ICC-02/05-01/07-1), 74.

⁸⁸ *Krnjelac* (Appeal Judgement) (2003), para. 184. However, such an inferred discriminatory intent may be rebutted by evidence that the accused acted for other reasons or motives.

⁸⁹ *Krnjelac* (Appeal Judgement) (2003), paras. 186 and 202. The context may include the systematic nature of the crimes committed against a specific identity, as well as the general discriminatory attitude of the perpetrator as seen through his behaviour. *Prosecutor v Miroslav Kvočka et al.* (Appeal Judgement), Case No. IT-98-30/1-A, 28 February 2005, para. 460.

⁹⁰ Chertoff (2017), 1107.

⁹¹ *Harun and Al Kushayb* (ICC-02/05-01/07-1), 74-75; *Gbagbo Arrest Warrant*, para. 204.

⁹² Brady and Liss (2014), 550-553. The terms “group” and “collectivity” appear interchangeably; however, a group seems to imply a single or specific entity, whereas a collectivity may include a cumulative set of attacks on a number of groups.

⁹³ Art. 7(1)(h), read together with Art. 7(2)(g) of the *Rome Statute*.

⁹⁴ Brady and Liss (2014), 553.

⁹⁵ Ambos and Wirth (2002), 82 (emphasis added).

not automatically amount to persecution, unless such a victim was deliberately, consciously, and decisively targeted “by reason of” that aspect of his or her identity.⁹⁶ Note that “by reason of” should not be construed as limited only to actual membership in the group,⁹⁷ but may include victims targeted because of their close affiliations, association or affinity with the victim group.⁹⁸

The persecution must target an “identifiable” group or collectivity.⁹⁹ Identifiability in this context implies that the identity of the victim or victim group is sufficiently discernible on one or more of the listed grounds. Identifiability is perceptive, rather than descriptive. In other words, the victim or victim group must “be ‘identifiable’, either based on objective criteria or in the mind of the accused.”¹⁰⁰ Such a subjective identification may occur in one of two ways:

The group or collectivity might therefore also be identifiable by the accused, both as a group or collectivity by virtue of objective criteria, and as a group or collectivity not being the same as the group or collectivity the accused belongs to himself or herself.¹⁰¹

This means that the identity of the victim or victim group may be defined either in a positive manner (“specific discriminatory intent”), or in a negative manner (“antithetical discriminatory intent”).¹⁰² In the former case, the victim is chosen by reason of his or her perceived identity. For example, a person may be targeted because he or she is (or is perceived to be) a Buddhist or orthodox Christian. In the latter case, the victim is chosen by reason of *not* being in the same group as the one to which the accused belongs. For example, a person may be targeted because he or she is not (or is perceived not to be) an atheist or Sunni Muslim.

Importantly, the victims must be identifiable based on one or more of the discriminatory grounds (identity elements) listed in Article 7(1)(h) of the *Rome Statute*.¹⁰³ The listed grounds of identity comprise “fundamental features of hu-

⁹⁶ Ambos and Wirth (2002), 82.

⁹⁷ In *Duch* (Appeal Judgement), the SCC found that the required discriminatory intent is lacking when the perpetrator subjectively erred as to the victim’s membership in the targeted group. Such a restricted view does not seem consonant with the *Rome Statute*; see Nel (2019), 129–130.

⁹⁸ Byron (2009), 230. See also *Prosecutor v Mladen Naletilic aka “Tuta,” Vinko Martinovic aka “Stela”* (Trial Judgement), IT-98-34 T, 31 March 2003, para. 636; Brady and Liss (2014), 430; Acquaviva, G. and Pocar, F. *Crimes against Humanity*. The Max Planck Encyclopedia of Public International Law. Wolfrum, R. (ed). (2011), para. 17.

⁹⁹ Art. 7(1)(h) of the *Rome Statute*.

¹⁰⁰ Triffterer and Ambos (2008), 217.

¹⁰¹ Triffterer and Ambos (2008), 217.

¹⁰² *Tadic* (Trial Judgement), para. 714; *Blaškić* (Trial Judgement), para. 236; *Kvočka* (Trial Judgement), para. 195.

¹⁰³ This expansive list of discriminatory grounds includes political, racial, national, ethnic, cultural, religious and gender grounds, as well as “other grounds that are universally recognised as impermissible under international law.” A detailed discussion of the listed discriminatory grounds falls outside the

mankind, of ‘humanness.’”¹⁰⁴ Moreover, these grounds are not mutually exclusive; “under customary international law the bases for persecution are alternatives and it is sufficient if one discriminatory basis is present.”¹⁰⁵

The remainder of this discussion will focus on persecution “by reason of” the religious identity of the victim.

2.2.1.3 Religious discriminatory intent

Religious discriminatory intent refers to the conscious intent to discriminate against the victim or victim group, “by reason of” their actual or perceived religious identity, or lack thereof, for motives peculiar to the perpetrator.¹⁰⁶ If it is established that the victims were discriminately targeted by reason of their religious identity, such a discriminatory ground (identifying factor) will determine the ground of persecution. In other words, religious persecution is contextualised as such, if religion is “the common feature according to which the victims were singled out by the perpetrators.”¹⁰⁷ The question is whether the victim’s actual or perceived religious identity was the decisive (not necessarily exclusive)¹⁰⁸ factor by reason of which he or she was discriminately targeted.¹⁰⁹

Significantly, “religion” in international human rights law, is best understood in the context of the right to freedom of thought, conscience and religion or belief, guaranteed as a fundamental right.¹¹⁰ In this context, religion is an umbrella term, not limited to traditional notions of faith, but which may include other deep or profound existential views derived from the inner self. Such an expansive interpretation of religion and religious identity is similarly applicable to the conceptualisation of

scope of this paper. See Brady and Liss (2014), 551-552; Triffterer and Ambos (2008), 219-220; Byron (2009), 231-234.

¹⁰⁴ Brady and Liss (2014), 554.

¹⁰⁵ *Tadić* (Trial Judgement), para. 712.

¹⁰⁶ Although the root causes of religious persecution are often anti-religious or religiously motivated, a persecutor’s motivations are *sui generis* in each case and may be complex, manifold and interrelated. For a discussion of the motivational triggers of religious persecution, see Bielefeldt, H. *Freedom of Religion or Belief: Thematic Reports of the UN Special Rapporteur 2010-2016*. Religious Freedom Series of the International Institute for Religious Freedom, Vol. 3, 2nd and extended edition, Bonn (2017); and Bielefeldt, H., Ghanea, N. & Wiener, M. *Freedom of Religion or Belief: An International Law Commentary*. Oxford University Press (2016).

¹⁰⁷ Ambos and Wirth (2002), 77.

¹⁰⁸ Tieszen, C. L. *Towards Redefining Persecution*. Religious Freedom Series: Suffering, Persecution and Martyrdom. Vol. 2 (2010), 164.

¹⁰⁹ Brady and Liss (2014), 550.

¹¹⁰ Most notably, Art. 18 of the UN General Assembly’s *Universal Declaration of Human Rights*, 10 December 1948, Resolution 217 A (III) (UDHR), and Art. 18 of the UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966 (ICCPR) with its two Optional Protocols.

religious persecution. Consequently, religious persecution is not limited to persecution on the basis of religion *per se* but includes any deep existential world views.¹¹¹

2.3 The threshold of severity for persecution

Persecution must reach a certain threshold of gravity before it constitutes crimes against humanity.¹¹² This gravity threshold is two-fold and includes (1) the contextual threshold applicable to all crimes against humanity¹¹³ and (2) the intensity threshold for persecution, *viz.* the persecution must result in the *severe* deprivation of a *fundamental* right.¹¹⁴ The latter relates to the material effect of the persecution¹¹⁵ and denotes two distinct features that are discussed below.

2.3.1 Intensity threshold

Not every denial or infringement of a human right is sufficient to qualify as grievous persecution.¹¹⁶ The crux in analysing the intensity threshold lies in determining whether or not the persecutory conduct, whether considered individually or cumulatively and in context, resulted in a *severe* (gross or blatant) deprivation of *fundamental* rights.¹¹⁷

2.3.1.1 Fundamental human rights

Persecution must result in the deprivation of a fundamental right. On one hand, “fundamental” has been interpreted as referring to the basic rights¹¹⁸ laid down in international customary law or treaty law,¹¹⁹ such as those found in the *International Bill of Rights*.¹²⁰ Consequently, it may be “possible to identify a set of fundamental rights appertaining to any human being, the gross infringement of which may amount, depending on the surrounding circumstances, to a crime against humanity.”¹²¹ Undoubtedly included in this category are the fundamental

¹¹¹ For a more detailed discussion, see Nel (2021), 107-150.

¹¹² The ICC’s jurisdiction is limited to “unimaginable atrocities that deeply shock the conscience of humanity,” per the Preamble of the *Rome Statute*.

¹¹³ The contextual threshold of severity requires that either the persecution itself was carried out in a systematic manner or on a mass scale, or that the persecutory conduct formed part of a broader attack of a widespread or systematic nature.

¹¹⁴ Ambos and Wirth (2002), 74.

¹¹⁵ Triffterer and Ambos (2008), 257.

¹¹⁶ Ambos and Wirth (2002), 74.

¹¹⁷ *Duch* (Appeal Judgement), para. 257. This threshold is similar to the “gross or blatant denial of fundamental rights” standard required by the *ad hoc* tribunals. See Brady and Liss (2014), 545.

¹¹⁸ *ILC Draft Code* (1991), 236.

¹¹⁹ *Blaškić* (Appeal Judgement), paras. 139 and 129.

¹²⁰ This includes the *UDHR* (1948), *ICCPR* (1966), and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966).

¹²¹ Such an interpretation is in “full accordance with the purpose of crimes against humanity, the protec-

right to freedom of religion or belief and the principle of equality on the basis of religion,¹²² which is particularly relevant in situations of religious persecution.¹²³ However, persecution is not rigidly limited to deprivations of fundamental rights only; “[p]ersecution can consist of the deprivation of a wide variety of rights, whether *fundamental or not*, derogable or not.”¹²⁴ In spite of this, the range of rights that may be included is not limitless; though “the realm of human rights is dynamic and expansive, not every denial of a human right may constitute a crime against humanity.”¹²⁵

On the other hand, the ICTY in *Kupreškić* noted that in “applying the maxim *ejusdem generis*, it holds that a human rights violation must be at least as grave as one of the other, more concrete enumerated inhumane acts.”¹²⁶ In this way, the tribunal provided for a second possible interpretation of “fundamental” to account for the “ever-changing” forms and “particular ingenuity” with which persecution may be committed in future.¹²⁷

2.3.1.2 Severe deprivation

The nature and gravity of the deprivation must be *severe* (substantial), similar to “gross or blatant denials of fundamental human rights.”¹²⁸ Severity “does not refer to the character of the act of persecution as such. . . . It refers to the character of the deprivation of fundamental rights which could be explained as a requirement of severity of the discrimination.”¹²⁹ In other words, regardless of the nature or form of the persecutory conduct, the overall discriminatory consequence on fundamental rights must offend humanity in such a way that it may be termed inhumane.¹³⁰ It is not necessary that the perpetrator intended to *severely* deprive victims of their fundamental rights.¹³¹

tion of human rights, and also with article 7(1)(g) of the *Rome Statute*.” *Kupreškić* (Trial Judgement), para. 621.

¹²² Art. 3 of the UN General Assembly, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, UNGA Res 36/55, 73rd plenary meeting, 25 November 1981 (*Religious Discrimination Declaration*): “[D]iscrimination between human beings based on grounds of religion or belief constitutes an affront to human dignity ... and shall be condemned as a violation of human rights and fundamental freedoms.”

¹²³ Although religious persecution is often understood as and equated with the denial of any of the rights of religious freedom, this is not a definitional prerequisite.

¹²⁴ *Stakić* (Trial Judgement), para. 773 (emphasis added).

¹²⁵ *Kupreškić* (Trial Judgement), para. 618.

¹²⁶ *Kupreškić* (Trial Judgement), para. 620.

¹²⁷ *Kupreškić* (Trial Judgement), para. 623.

¹²⁸ Cassese et al. (2011), 187. See *Kupreškić* (Trial Judgement), para. 621; *Blaškić* (Appeal Judgement), para. 135; and *Kvočka* (Appeal Judgement), para. 323.

¹²⁹ Triffterer & Ambos (2008), 257.

¹³⁰ Cassese et al. (2011), para. 622.

¹³¹ ICC *Elements of Crimes* (2011), General Introduction, para. 4 notes, “With respect to mental elements associated with elements involving value judgement, such as those using the terms ‘inhumane’ or ‘severe,’ it is not necessary that the perpetrator personally completed a particular value judgement,

Evidently, the exact parameters of “severe” and “fundamental” remain flexible.¹³² Ultimately, it will be the ICC’s responsibility to interpret these two distinct features of the intensity threshold for persecution on a case-by-case basis.

2.4 Religious persecution taxonomy checklist

The conceptualisation of the definitional elements of “grievous persecution” set out above can be summarised and presented as a flowchart (see p. 103 following). This checklist poses a series of sequential polar questions with the intention of establishing whether each of the definitional requirements has been met. Such a checklist may be of great practical use for those working with persecuted communities to ascertain whether such a situation might factually constitute grievous religious persecution.

3. Proposed definition of “grievous religious persecution”

A universally accepted definition of persecution does not exist and has even been described as “elusive” and “protean.”¹³³ However, based on the conceptualisation outlined above, the following definition of the crime of grievous religious persecution is recommended:

The deliberate and unjustifiable persecutory conduct by a persecutor based on an explicit or implied policy of conscious and intentional discrimination against a particular civilian group, decisively targeted by reason of their religious identity (or lack thereof), which resulted in the severe deprivation of the fundamental human rights of those persecuted, is connected to any jurisdictionally relevant inhumane act or core crime, and knowingly forms part of a widespread or systematic attack.

4. Conclusion

The crime of persecution is evidence of mass or systematic inhumanity on the greatest scale¹³⁴ and has been identified as an enumerated inhumane act of crimes against humanity under customary international law.¹³⁵ As a result, international criminal prosecution mechanisms constitute a justifiable and appropriate way to pursue criminal accountability and thus a potentially powerful tool in countering impunity for grievous persecution.¹³⁶

unless otherwise indicated.”

¹³² For a more detailed discussion of which rights are fundamental in nature and what constitutes a severe deprivation of such rights, see Nel (2019), 135-141.

¹³³ Rempell, S. *Defining Persecution*. Utah Law Review, Vol. 2013, No. 1, 3.

¹³⁴ *The Trial of German Major War Criminals, Proceedings of the International Military Tribunal Sitting at Nuremberg, Germany*. International Military Tribunal (IMT), Judgment of 1 October 1946, 247.

¹³⁵ *Summary of Appeal Judgement (KAING Guek Eav)*, para. 225.

¹³⁶ Van Boven (2009), para. 22.

However, despite the extensive acceptance and great prominence in human rights discourse of this problem,¹³⁷ religious discrimination and persecution remain a major human rights issue of national and international concern.¹³⁸ In large part, this may be because the crime of persecution is plagued by definitional instability and legal vagueness.

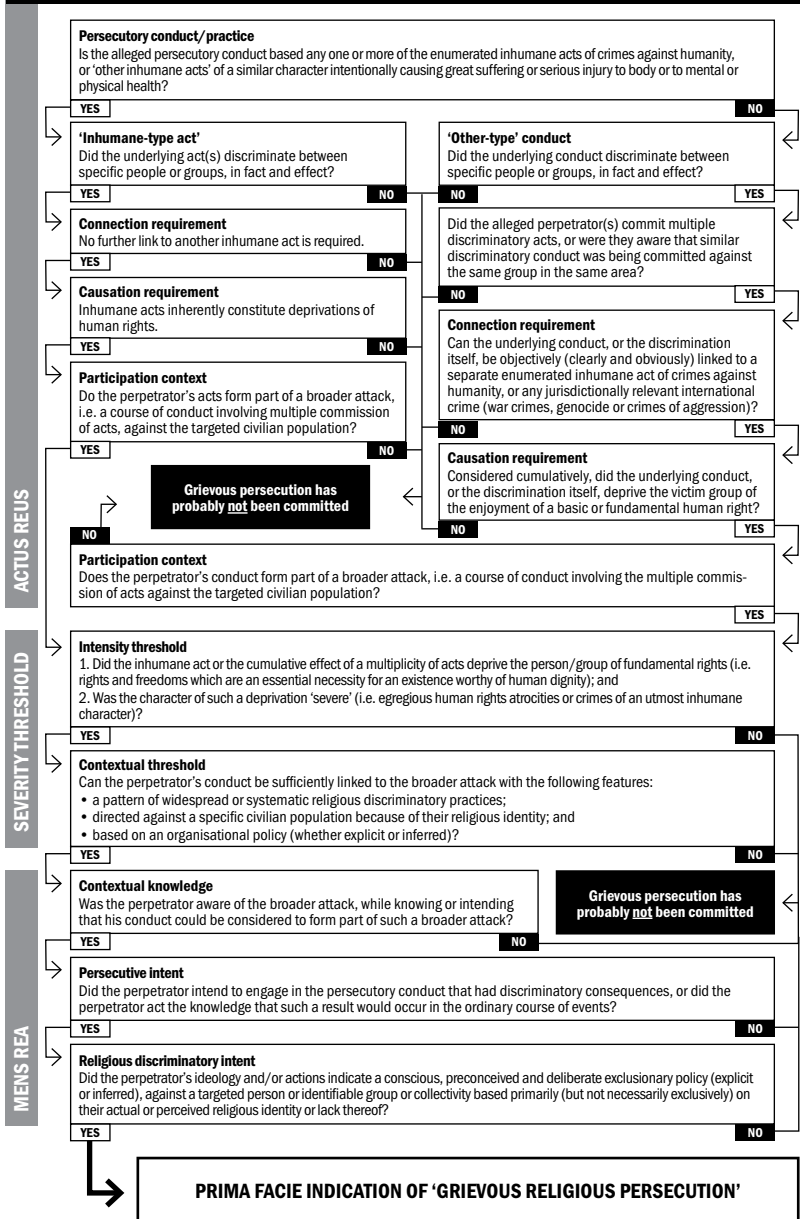
In speaking to this legal obstacle and to attain greater legal certainty regarding the scope and application of persecution in international criminal justice, this paper has addressed the conceptual uncertainties of persecution by way of a proposed conceptualisation within the context of the *Rome Statute*. The taxonomy comprised two parts: a systematic analysis of the unique definitional elements of “grievous religious persecution” and an attendant definition. This conceptualisation may be used as a functional ‘law-based barometer’ to assess factual evidence of contemporary situations of alleged religious persecution, in order to ascertain whether such situations could be designated as crimes against humanity.

Ultimately, the aim of this conceptualisation is to improve the enforceability of prosecution mechanisms so as to address the existing impunity for “grievous religious persecution.” It may also enhance diplomatic and legal advocacy efforts and encourage further proscriptions of the crime of persecution at the national, regional and international levels. Without accountability, there can be no lasting peace and no restorative justice for those persecuted, and we would be no closer to religious pluralism.

¹³⁷ Kupreškić (Trial Judgement), 597.

¹³⁸ Van Boven (2009), para. 22.

CHECKLIST TO DETERMINE ‘GRIEVOUS RELIGIOUS PERSECUTION’



Werner Nicolaas Nel

Grievous Religious Persecution:

A Conceptualisation of Crimes against
Humanity of Religious Persecution

shall be equal before the law

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Christianity and the state of religious freedom in Burma/Myanmar's Chin State

Sang Hnin Lian¹

Abstract

Repression and threats to religious and ethnic minorities in Myanmar have continued to increase since the country's formation. This paper focuses on the different phases of repression of the religious rights and freedoms of the Chin people, a religious and ethnic minority in the northwest part of the country. Interviews with key informants, conducted shortly after the 2015 general election, ascertained that the Chin people along with other ethnic and religious minorities had experienced different types of repression under successive governments. Despite such acts by the governing authorities, the Chin Christians have continued to preserve their faith, culture, and language under the guidance of their religious institutions.

Keywords religious freedom, repression, Christian, Myanmar, Chin.

1. Introduction

The ethnic Chin people in Burma/Myanmar are one of the most diverse groups in the country. The six main Chin tribes – namely Asho, Cho (K'cho), Khumi (M'ro), Laimi, Mizo (Lushai), and Zomi (Kuki) – can be further distinguished into additional sub-tribal categories living in Burma/Myanmar and in neighboring countries including India and Bangladesh.

Most of the Chin people were originally animists or followers of indigenous beliefs. However, a new realization and political consciousness among the Chin, expressed through cultural homogeneity, developed with a framework for Chin nationalism following the conversion to Christianity of many Chin in the late 1890s. Today, more than a century after the first arrival of missionaries in the Chin Hills, most Chin espouse Christianity in a country where the majority of the population is Buddhist and Burmese. In this context, the intersection between ethnicity (Chin) and religion (Christian) has become an important factor in understanding modern Chin identity. However, it has also negatively impacted the socio-economic life of the

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ethnic Chin under successive different governments in Burma/Myanmar. Therefore, this paper explores the different phases of repression and threats that the Chin people have been facing.

This study applies ethnographic methodology and a qualitative case-study method to investigate the systemic threats to the Chins' freedom of religion and their resistance. It draws on in-depth interviews with influential religious and community leaders, government department officials, civil society organizations, and media personnel from Myanmar's Chin State. The sample for this study consists of a dozen Chin people from the southern part of Chin State and a comparable number from the northern part, so as to obtain a balanced perspective on their experience. Those in the south face greater physical insecurity and threats, due to the lesser number of Christians in the area. In the north, nearly the whole population is Christian, and anti-government protests have occurred in response to an order to remove the Christian cross during the period of quasi-civilian or semi-democratic government in early 2015. The interviews include people from different types of livelihoods and backgrounds to ensure representation of all the diverse views and perspectives considered significant to freedom of religion.

2. Christianity in Chin State

Nearly 90 percent of the residents of Chin State are Christian. The Chin people were co-founders of the Union of Burma in 1948.² Prior to the formation of modern Burma, Christianity was introduced into the territory of what would become Chin State in the late nineteenth century by the American Baptist Mission.³ The population of Chin State was reported as 478,801 in 2014, representing only 0.93 percent of the total population (52.28 million) of Burma/Myanmar (UNFPA 2014; Department of Population 2015). It is the only state in Myanmar without a Buddhist majority (World Watch Monitor, 2016). However, Christianity is also dominant among the Kachin and Naga peoples in Sagaing Region, and it is practiced widely within Karen and Karenni (Kayah) States.

Burma/Myanmar's religious identity is reinforced at the highest levels of the state, as the Burmese majority openly professes their faith and positions Buddhism as a "special religion" in the country (Constitution 2008:151). According to UNFPA (2015), approximately 80 percent of the total population of Myanmar is Buddhist,

² Burma/Myanmar gained independence from the British on 4 January 1948 after the signing of the Panglong Agreement to establish the Union of Burma between Proper Burma and the Chin, Kachin and Shan frontier areas on 12 February 1947.

³ Arthur E. Carson was the first Baptist missionary to the Chin people. He and Mrs. Laura Carson arrived in Hakha on 1 March 1899. See Chin Human Rights Organization, *Religious Persecution: A Campaign of Ethnocide against Chin Christians in Burma* (2004). Available at: <https://bit.ly/3KX4aUj>.

and Christianity is a repressed religious group (World Watch Monitor 2016; Human Rights Watch 2018). Burma/Myanmar and Laos have some of the highest government restrictions on religious minority communities, comparable to those of other deeply divided societies such as India, Malaysia, and Sri Lanka (Pew Research Center 2018). This paper focuses on the state of religious freedom from 1990 and 2010, followed by developments during the Union Solidarity Development Party (USDP) era of 2011-2015 and then under the National League for Democracy (NLD) government led by noble laureate Aung San Suu Kyi (ASSK).

3. Motivators and drivers of the repression and restrictions

Buddhism has been the dominant religion for at least a millennium in Burma, dating back to the reign of King Anawrahta (1044-1077), who converted and brought Buddhism in Bagan (Stadtner 2008:206). The history of the Burma dynasty shows that the royal court emphasized elite control of manpower as well as the monarch's role as patron of Buddhism (Myint-U 2001:247). Nyi Nyi Kyaw (2018:42) noted, "Buddhism has been remarkably invoked three times as a potent social and political force: during the British colonization (1885-1948); the parliamentary period (1948-62); and post-transition Myanmar (2011-present).

In modern Burma/Myanmar, the politicization of Buddhism gradually began after the founding of the Young Men's Buddhist Association (YMBA) in 1906 (Walton 2012), modeled after the Western and missionary-led Young Men's Christian Association (YMCA) during colonial times (Lintner 1989:28). The Burmese YMBA strived to preserve the country's Buddhist heritage in the modern world (Human Rights Watch 2009) and transformed itself into the openly nationalist General Council of Burmese (Buddhist) Associations (GCBA) in 1920 (Ramstedt 2014:350). According to Lintner (1989:28), the YMBA primarily drew its support from the educated urban middle class, as can be seen by the fact that one of the early leaders of the YMBA was Chit Hlaing, the son of a barrister educated in England.

After Aung San's death, U Nu, the first and three-time Prime Minister of Burma, promoted a democratic government that was "devoted to the advancement of Buddhism as the State religion" (Leach 1973:33) and emphasized a "programmatic Buddhist revival," utilizing "Buddhist missionary efforts to implement the politics of the nation-state" in independent Burma (Meister 2012:462). U Nu also established a Ministry for Religious Affairs that enabled his government to comprehensively regulate the religious practice of laypeople, monastics, and the adherents of minority religions (Ramstedt 2014:351). Eventually, Buddhism became the state religion in August 1961 through a controversial constitutional amendment that alienated Christians, Muslims, and others. These religious minorities were not threatened yet, however, as their existence was guaranteed by Article 21 of the 1947 Constitu-

tion (Gutter 2019:7; Mang 2016:155). However, the state promoted Buddhism and allocated a budget for Buddhist activities to influence and assimilate religious and non-Burman ethnic minorities in the country.

With the overthrow of U Nu by General Ne Win and the Revolutionary Council (RC) in 1962 (Biver 2014:16) came the “Burmese Way to Socialism” (Rogers 2010:41). The 1947 constitution was abolished (Gutter 2011:7) and the bicameral parliament was dissolved (Lintner 1989:25). This was all done in the name of nationalism and unity, and although it was carried out very differently in practice, their foundations were similar, based on the notion of “one race, one language, and one religion” – that is to say, the Burman (Myanmar) race, the Burmese language, and Buddhism. After this point, Christianity began to be seen as a religion with obscure and alien roots in the country whereas Buddhism was viewed as very much a part of national identity and as widespread (Nyi Nyi Kyaw 2018:32). Although their approaches to national integration were different, U Nu and Ne Win both had the same goal of creating a homogeneous people in the country.

There were violent, centralized campaigns during Ne Win’s era, designed to eradicate non-Buddhist religion. Following the military coup in 1962, successive military regimes viewed Christianity as a foreign religion, a political and cultural invasion from the West (Zam Khat Kham 2016:57), and therefore a threat to creating a homogeneous national identity among the citizens of the Union of Burma. This concept arguably resulted in Burmese nationalism and engulfed other minority religions, particularly targeting Christians in Chin State under the State Law and Order Restoration Council/State Peace and Development Council (SLORC/SPDC) regime, with a distorted version of Buddhism as a tool for this purpose. Pum Za Mang (2016:149) stated:

The government, since then, nationalized all mission schools, mission hospitals, and other mission assets, expelled all foreign missionaries from Burma, banned national church leaders from leaving the country for further studies, meetings and conferences, and started a campaign of religious restriction against the church, marking not merely the virtual end of the presence of Christian mission in Burma, but also the complete isolation of Christians in Burma/Myanmar from the world church.

Successive military leaders, including the former heads of state Than Shwe and Thein Sein, as well as the NLD-led government, have continued this consistent policy of discrimination, restriction, repression, and threats against the church up to the present day. For instance, the authorities have consistently prohibited the Christians and other minority religions from renovating or building churches. Other religious minority communities, especially Muslims, have also been subjected to various

forms of harassment and discrimination. As Selth (2015:9) has stated, since 1962 Muslims have effectively been forbidden from building additional mosques, just as Christians have been restricted.

As history has shown, the Chin along with the Kachin and Shan were not a part of the administration of Proper Burma under British colonial times. The Chin were living as an independent nation located within the distinct border demarcations until the British annexed their sovereign land. The British officially promulgated a constitution, called the "Chin Hills Regulation," in 1896 and ruled until 1947/1948 (Lian Uk 2008:261). A prominent Chin scholar, Sakhong (2003:139), noted that a Burman police surgeon appointed by the British government at Haka was surprised to see the Chin pupils being required to learn the Burmese language under the instruction of a Karen teacher at the mission school. However, the Chin joined Burma's independence movement with the Kachin and Shan under the leadership of Aung San, in what Scott (2009) described as risking everything so that they may achieve some form of independence and recognition. In 1947, frontier areas including the Chin, Kachin, and Shan signed the Panglong Agreement to establish a federal union based on democratic principles and ethnic equality (Sakhong 2006:21). But the course of Burma's modern history was completely changed, and Aung San's federal, secular vision died along with him on 19 July 1947 when he was assassinated before Burma achieved independence (Rogers 2010:24).

The regime promoted Buddhism with military backup in some non-Burman ethnic nationality areas, such as Chin State where the majority is Christian. In fact, it is hardly possible to point out any particular law that explicitly prohibits minority religious practice or promotes Buddhism. However, successive governments promoted Buddhism using state mechanisms, including budgets allocated under the Ministry of Religious Affairs, later known as the Ministry of Religious Affairs and Culture (MORAC) under the NLD's Suu Kyi government after 2016. For instance, the first of the government's "Border Areas National Races Youth Development Training Schools" (known locally as Na Ta La schools)⁴ was opened under the State Law and Order Restoration Council (SLORC) (CHRO 2012:12). The government also gives priority to those who are studying in the program they run under Na Ta La. Students who graduate from Na Ta La colleges are guaranteed an official position in one of the government's departments at the state level. This comment by an interviewee was typical:

In the past, during the military dictatorship, all the leaders or officers in government were Burmese and Buddhist. We sometimes needed to give some money to

⁴ Na Ta La is the Burmese acronym for Progress of the Border Areas and National Races Development Program, run by the Department for the Promotion and Propagation of the Sasana (DPPS) through the state budget mechanism for Buddhism promotion in non-Burman ethnic areas.

officials for no specific reasons in the past. It could be for just to get a favor or for Buddhist activities, and we still continue to give in order to get government jobs here. (Interview 2016)

Many other scholars have claimed that Buddhism also suffered, or that the military government has tried in several ways to control it as well (Matthews 1993:414). The assertion is somewhat factual, but there is no comparison to what has occurred in non-Burman ethnic areas. Since the 1900s, the military government had a “Hills Regions Buddhist Mission” with a state-sponsored budget in Chin State and heavy militarization (Matthews 1993:412; Ministry of Religious Affairs 2005; Crouch 2015:8). The Chin and their ethnic state suffered from religious and political discrimination under the rule of Burma/Myanmar’s Buddhist military regime. Violations of human rights continue to run rampant in Chin State (Hrang Tiam 2010:211). One respondent said that being Chin and Christian can keep people from getting government jobs. Furthermore, it is difficult for Chin Christians to gain promotions even after they are employed in the government sector. This practice of discrimination continues today, particularly in the form of requiring bribes or favoring Buddhists for civil service jobs in the government. Therefore, the relationship between successive military regimes, the quasi-civilian government, and Buddhism has been complex. It has been even more difficult to understand under the NLD-led government, as most of the formerly planned programs were in the process of implementation. This has resulted in a discriminatory practice toward other non-Burman ethnics and non-Buddhists in the country.

4. Phases, characteristics, and illustrations of repression and restriction

There is no doubt that the restrictions are mostly ordered from the top levels of government, since local authorities have no power to make decisions. Burma/Myanmar has had a long tradition of strong, centralized governance system since the country’s independence. This tradition has continued under successive governments including the USDP and NLD. It is undoubtedly reflected in the military-drafted 2008 constitution.⁵ As a result, the repression in Chin State has been very systematic in its discriminatory approach, with little change. Unsurprisingly, one informant, referring to religious discrimination against Christian Chin by the authority, stated:

⁵ According to Article 261 (b) of the 2008 Constitution, the Chief Minister is selected by the President from among elected or unelected state-level members of the legislature (the state hluttaw) and also confirmed by the hluttaw. The Chief Minister selects the civilian ministers from among hluttaw representatives or other candidates, and these are assigned portfolios by the country’s President. Moreover, the state or regional Minister for Border and Security Affairs is a military officer nominated by the Commander-in-Chief.

Different Burma leaders from U Nu and U Ne Win's eras have properly planned this [discriminatory] policy. It has been employed as if the policy is of the government. So this has been rooted in the mind of these people [government leaders] for many years. (Interview with a male journalist from Hakha, Chin State, 29 January 2016)

As mentioned, the relationship between state affairs and religion has always been tight, and ever since the country's independence, the regime has sought to combine political beliefs with Buddhist values. According to a religious leader turned NGO worker from Hakha:

The government's policy and practice on favoring Buddhism have not ended with the end of the dictatorship, Ne Win or Than Shwe or our former Chief Minister during USDP, but it is still a continuing process. I don't think this will end easily as it is not something relating only to an individual [leader]. It might have already ended a long time ago if this [discriminatory policy] was only one person's plan or project. (Interview in Hakha, Chin State, 26 January 2016)

Given the fact that religion plays a very important role in the national heritage, its practices, teachings, and symbols have often been used as an effective system of communication and of legitimizing government actions (Juergensmeyer 2010:269). During the military regime, non-Buddhist minorities were depicted as impediments to a homogeneous Burmese Buddhist culture and a common national identity. This contributed to the general internalization of the country's nationalistic xenophobia (Wai Yan Phone 2014).

Although it is tempting to generalize from the experience of Chin and other Christian ethnic nationalities regarding Burma/Myanmar's religious policy and practice, there are some significant differences. The different governments, including the NLD, have all targeted Chin State as it is the only state where Burmese Buddhists are not the majority. However, successive governments have applied different approaches and strategies at different times among other non-Burman ethnic nationalities. For instance, the military government divided the Karen community, especially the armed organization known as the Karen National Union (KNU), using Buddhism and intra-ethnic conflict as its tools (Harriden 2002:84). The division between Christian Karen and Buddhist Karen eventually led to the fall of Manerplaw (Manaplau) in 1994-1995.⁶

⁶ This proved particularly damaging in 1994-1995 when a Buddhist faction, the Democratic Karen/Kayin Buddhist Army (DKBA), broke away from the Christian-dominated Karen National Union (KNU) and subsequently helped the Burmese Army to capture Manerplaw, which was until then the impregnable base camp of the strongest nationalist group and also the physical and symbolic center of the democracy movement in the "liberated areas."

It is useful to divide the repression and restrictions that Chin State's Christians have experienced into three main phases. The first phase started with the country's popular uprising in 1988 and continued under the military's SLORC/SPDC government until the historic transition of 2010-2011, resulting from the controversial 2008 Constitution drafted by the military. The second phase extends from the transition in 2011 under President Thein Sein of the Union Solidarity and Development Party (USDP) government until the introduction of the four packages of laws on "Race and Religion Protection" in 2015. The introduction of the NLD-led government, which came to power in early 2016, and the current situation of religious freedom constitute the third phase.

4.1 The first phase (1990-2010): Military impact

After being in power for more than two decades following a military coup in 1962, General Ne Win was forced to step down in 1988. A series of widespread, unprecedented pro-democracy movements took place as part of a popular uprising against military rule and the accompanying political oppression and economic mismanagement. The protests, inspired by student activists, became known as the 8-8-88 movement. The uprising was later brutally suppressed; the army opened fire on hundreds of thousands of unarmed students, civilians, and civil servants protesting military rule (Clapp 2007:6; Brooten 2016:185). Subsequently, the military managed to reconsolidate its power after it cracked down on the demonstrations. In response to these demonstrations, the military carried out another coup by a different name, SLORC, on 18 August 1988. It nullified the 1974 constitution and promised to hold a multiparty election in 1990 (Bünto 2014:745).

The reestablishment of direct military rule continued from the SLORC to the SPDC under the leadership of Than Shwe. As promised, the regime held multi-party elections in 1990, but it refused to transfer power to the NLD even after that party won a landslide victory. Instead, the military convened a decade-long National Convention (NC) to produce a military-friendly Constitution (Aung Naing Oo 2003). After that convention it failed, the country was ruled by General Than Shwe for another 21 years without a constitution until March 2011.

In terms of the treatment of religious minorities, Pi Oi Lim (age 74 as of her interview in Matupi, southern Chin State on 15 January 2016), whose husband's memorial stone was destroyed by the military in southern Chin State, recalled her own experience during the military regime in the 1990s:

The previous government was totally controlled by the military and the military did not want any symbols related to Christianity. They [military government] destroyed a lot of Christian crosses and imposed control on religious leaders, particularly targeting pastors, as they are the most influential in villages or towns.

The fact that Chin State has the largest percentage of Christians in all of Burma/Myanmar causes this state to remain a target. The regime sent both soldiers and monks to implement what Harrison Akins (2018) called “the institutionalization of the dominant group’s identity as the national identity” (Akins 2018:229-245). A women’s organization leader from Matupi in southern Chin State also noted:

Under the previous [military] regime with heavy militarization in Chin State, we could not build a church. We cannot build a church as we wish. Around 1990 and after 2000, there were many problems in relation to many Christian churches here. (Interview, 16 January 2016)

Direct military rule came to an end when the military government put an end to the ruling SPDC and transferred authority to the newly elected civilian government of Thein Sein in March 2011 (Schearf 2011). Formally, this transfer ended the Burmese military’s deep involvement in politics, which has dominated the country ever since it gained independence from Great Britain in 1948. However, the country remains effectively under military control, and the army is the arbiter of power in the country. In this sense, the military’s withdrawal from the apex of power after the 2010 general election did not signal a full retreat from politics.

4.2 The second phase (2010-2015): Legalizing religious extremism

As discussed, Burma/Myanmar had undergone a decades-long civil war under successive governments in many forms, including a military dictatorship (Sang Hnin Lian 2015). The military planned a transition through writing its own 2008 Constitution after decades of dictatorship. Subsequently, the years 2008, 2010, and 2012 became key moments in the transition to the first quasi-civilian democratic government in Burma/Myanmar’s political history.

The military government held a referendum in 2008 and approved a new military-drafted constitution, also called the “Nargis Constitution” since it was adopted just eight days after Cyclone Nargis hit Burma/Myanmar, killing some 138,000 people (BBC 2008; Wei Yan Aung 2019). The first general election followed in 2010. However, it was widely condemned by both national and international actors including the United Nations (BBC 2010; Hara 2010:13).

In fact, the 2010 general election ultimately helped to contribute toward the creation of a new quasi-civilian parliament and the formal renunciation of military control of the presidency after more than six decades (UEC 2010; Wilson 2010). Therefore, Myanmar’s former Prime Minister and retired General Thein Sein became the country’s new president in March 2011 (Olarn 2011). Change came thick and fast in the months that followed Thein Sein assumption of this office, as ceasefires were called

with armed ethnic organizations. The by-election of April 2012 improved relations between the government and the opposition, and between the former pariah state and the international community (Lidauer 2012). During this time, many political prisoners were released (though many still remained behind bars or were rearrested) and some exiled dissidents were granted permission to return home without the fear of persecution (Eck 2013; Bangkok Post 2013, 2014). The transition also allowed the media and other civil societies to blossom by ending censorship (Pidd 2012).

During the tenure of the USDP government, however, the ultra-nationalist groups like 'Ma Ba Tha' came to an existence with official backup, support, and are emboldened by the elevation of Buddhism as the *de facto* official religion, combined with state-sanctioned systematic discrimination against religious minorities. In fact, the country's Buddhist majority, the USDP as well as military that has the *de facto* power supported with monetary donation to such ultranationalist group by saying that the group is necessary and should be supported in the name of Buddhism. Indeed, the Ma Ba Tha was born out of the 969 movement, a nationalist campaign that called for the boycott of Muslim-owned business in 2012 (Perera, 2015; Frontier Myanmar, 2015). As a result, they are frequently portrayed as an anti-Muslim organization with strong influence threatens all minority rights. Fleming (2016:10) stated Muslims – and Rohingya in particular – are the primary target of Ma Ba Tha's vitriol. Ma Ba Tha's hateful ideology in the guise of protecting "race and religion" is far-reaching and extremely dangerous – any minority group could become a target of its intolerance and incitement to hatred and violence. Ma Ba Tha, however, are not very active in Chin State as they have a smaller population. Hitherto, there are other Buddhism promotion programs under the government.

In 2012, the Chin Human Rights Organization (CHRO 2012:3) reported the destruction of 13 Christian crosses by the successive governments where the authorities built at least 15 Buddhist pagodas or monasteries. Moreover, the program director at CHRO also said that "they have documented 13 incidents relating to the right to freedom of religion or belief (FoRB) only in 2013. The violations included an attack on a Chin pastor, threats and intimidation of the Christian community and orders to stop holding worship services." With regard to religious repression, government practice remained essentially the same, as the laws favor the majority and are used for their own purposes through the Department of Religious Affairs they created. Although Burma/Myanmar's 2008 Constitution guarantees religious freedom and equality among all religions, it notes the "special position" of Buddhism as the faith practiced by the majority while Christianity, Islam, Hinduism, and animism merely "exist" (Constitution 2008:151; CHRO 2013:1). According to a former government employee, who was working as secretary to the Minister for Economic and Planning in the Chin State government (2011-2015):

There has been a lot of military influence in leadership during the USDP-led government. Many of the practices remained the same as under the military government. For example, in 2012, the Chin State government ordered the destruction of two crosses in Kanpelet, southern Chin State. During that time, all the Chin MPs, Chin political party members, and other civil society groups wrote a letter to Chief Minister Hung Ngai and President Thein Sein to point out that this was unlawful, unconstitutional, and shouldn't be happening in the democratic government. (Interview in Hakha, Chin State on 25 January 2016)

However, the Chin objectors to this treatment have received no official government response to their concerns from that time to the present. The Christian Chin face not just the problem of limits on their religious freedom, but also an ongoing struggle for peace and development. The International Crisis Group (ICG 2013) reported that other new domestic conflicts have emerged since the democratic reform began in 2011. In 2013, Buddhist nationalist activists began mobilizing for the passage of a law that would restrict interfaith marriages between Buddhist women and males of other religions and would require Buddhist women to get permission from their parents and authorities to do so (Hayward and Walton 2016:70). In 2015, the previous government enacted four laws in stages, passed individually by the parliament and signed into force shortly thereafter by President Thein Sein before he left office. These "Race and Religion Protection Laws" severely restrict the fundamental right to freedom of religion or belief under international law and present a grave threat to the human rights of various groups, including the Chin. However, the practical implementation of the laws faced little objection as they were passed amidst strong moves to silence civil society organizations.

4.3 Third phase (2016-present): A wave of hope but no promises

Following the 8 November 2015 election another turning point arrived in the hoped-for transition from authoritarian to civilian rule. The landmark victory of ASSK's National League for Democracy (NLD) was a remarkable moment in the nation's history of Myanmar. People had great hope in ASSK after such a long period of military dictatorship. Recalling the manifesto of ASSK's led NLD campaign in 2015, Rev. Peng Thang from Matupi, Southern Chin State said during the interview on 15 January 2016:

This is our long-time prayer and I think it is coming true. As our Aunty (referring to ASSK, as many people refer her as Amay Suu or Aunty) and her party won the election and are in power, I and many people here think that our country will go positively further and change to a pure democratic country like many other coun-

tries around the world. We believe that she is going to change our country as she made promises to the people.

The people hoped that ASSK would not just change the country from military to civilian government but would enable Burma/Myanmar to stand proudly among other countries around the world. With the people's support and trust, the NLD won almost exactly the same percentage of contested seats in both 1990 and 2015. By securing the vast majority of popular support, the NLD gained control over the parliament (with 887 seats, or 77.1 percent of those contested) and the right to choose the president (BBC 2015; UEC 2015).

The military, however, maintains a strong presence with 25 percent of the seats in parliament, according to the military-drafted 2008 constitution. In other words, the USDP was a clear loser in 2015, but the military was the winner. Nevertheless, this does not suggest that the military had no concerns about the result. Indeed, the military continued to control the key levers of power, including three ministers and the country's economy through its companies and business holdings. Moreover, the military-drafted constitution also barred ASSK from officially becoming president.

During the election campaign, however, ASSK repeatedly said that she would be "above the president." ASSK chose her close confidant, Htin Kyaw, to become president, and after the NLD government was formed, legislation was passed to grant her the new position of "State Counselor," giving her far-reaching power like that of the prime minister and effectively placing her above the president. A government official, however, said, "It is very difficult to see changes in terms of the legal system yet some practices had changed and developed in a better way somehow."

Recognizing changes in the state, many informants also said that they were no longer afraid of the government and felt free to express their views. "We do not need to be afraid of the government. Even if they said they are doing something good for us, we can now question directly and express what we want to the authority," said a 58-year-old man community leader from Hakha (interview, 25 January 2016). In contrast, some people still have little hope unless the 2008 Constitution is changed. A pastor from Hakha expressed his desire for what he hoped to see in the future for Chin State and the country as a whole:

Our country is in transition, and the NLD is in power in the government. Many people no longer are in fear of expressing their views. Recently, people have started to think more about politics. I wish the NLD-led government could stop all the immoral and ruthless practices that we experienced in the past under the previous military government.

However, there has also been an increase in hate speech, protests, and attacks against minorities in some parts of Myanmar, particularly against the Muslim community. Many informants have noticed that, at least for the Chin, that there was a relaxation or the degree of repression; for example, building churches was no longer actively prohibited, though there was no official announcement or order saying that they were openly allowed. On the other hand, the restrictive laws regarding religious minorities were not abolished. In fact, with no legal and policy amendment, the government continues to strictly prohibit, in particular, the building of crosses in Chin State.

During this same period, on the other hand, looking at the situation and treatment that the Rohingya, an ethnic Muslim group living in Myanmar's western Rakhine State bordering with Chin State, faced under ASSK's government had not been different from that of the successive governments. As Freedom House (2015) reports stated, "To speak out in support of the Rohingya within Myanmar is taboo." It continued to be the same and many local human rights activists, pro-democracy politicians, including the Nobel laureate Aung San Suu Kyi were silent, and as the United Nations reported (Ellis-Petersen and Hogan 2018) ASSK had failed to use her "position as head of government, or her moral authority," to stem or prevent the unfolding events in Rakhine State over the face of the majority Burmese Buddhists population and the military.

Aside from the plight of the Rohingya, further study is needed to determine whether the changes that have occurred in Myanmar to a quasi-civilian government have brought meaningful improvements in the state of religious freedom for minorities particularly for the Chin Christian.

5. Conclusion

To summarize the state of religious freedom in Chin State under the successive governments of Burma/Myanmar, the first major issue was the designation of Buddhism as the state religion by the first Prime Minister, U Nu, in the 1960s. This recognition of Buddhism brought negative consequences for the country's minority religious groups. Some changes in the political system occurred from 1960 to 1988, as the "Burmese Way to Socialism" was adopted by the regime. However, the most significant and rapid changes with severe impact on religious freedom occurred after 1988 when a military coup ended Ne Win's socialist regime.

In the 1990s, heavy militarization came along with the Hill Regions Buddhist Mission, established in the 1950s, and the military initiated its destruction of crosses while not allowing Christians to renovate or build churches in Chin State. Even after the 2010 and 2015 general elections in Myanmar, Christian communities across the country continue to experience deep pain and suffering due to continuing violations

of religious freedom. Institutionalized discrimination against the Christian Chin and other minorities should have been addressed, although as of 2016, some respondents indicated that the NLD government had shown interest in doing so.

In both the northern and southern parts of Chin State, informants interviewed for this study and other stakeholders reported major impact on socio-economic conditions in Chin State because thousands of Chin people were forced to flee to neighboring countries due to the repression of Christian Chin. The moral nature of the Chin people has also been affected. The intentional division of Chin State into northern and southern sections by the government also divided the people's mindset.

The successive government changes in political systems in 1962, 1988, 2010, and 2015 have impacted the people as they have witnessed waves of destruction, socio-economic pressure, and political corruption. The impact of the three phases of repression could be summarized in the words of one town elder:

The very reason [for our struggles] is that the military has ruled our country for many years, which destroyed our mindset and moral character, and we were hopeless for many years. We could not possess a good heart and mind, and we became selfish and inconsiderate of others. We want everything for ourselves, which resulted in many people in this country wanting to become dictators. The citizens became used to ruling by force and power. To make it concise, generally, our mindset has been corrupted for so many years. So, it will be very difficult to make a good change in the mindset of all the people.

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The Specific Vulnerability of Religious Minorities

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The regulation of religion by organized crime

Conceptualization of an underexplored phenomenon through a case study in Northeast Mexico

Dennis P. Petri¹

Abstract

Using evidence from field research in the Mexican states of Nuevo León and Tamaulipas, I argue that characteristic elements of the regulation of religion by authoritarian governments can be observed at the subnational level, imposed not by the state but by crime syndicates. The threats drug cartels make to religious groups can be reinterpreted as forms of “religious policy,” such as interventions in the appointment of religious ministers, elimination of ministers who are critical of the drug trade, censorship of sermons, imposition of curfews, application of “taxes” through protection rackets, and restrictions placed on charitable work.

Keywords regulation of religion, organized crime, religious freedom, active religious behavior, Mexico.

This study investigates the underexplored relationship between organized crime and religion.² It is generally assumed that since organized crime affects the whole population and has no particularly religious motives, it is not a relevant threat to religious groups. In any event, its influence on religious freedom is rarely considered. However, increasing empirical evidence suggests the vulnerability of religious groups to organized crime. Several narrative reports on Mexico have stressed the impact of organized crime on religious groups (Sotelo Aguilar 2017; Freston 2018; Gómez Chico Spamer, González Alvarez, Perera Calzada, and Porras Sánchez 2018). The *International Religious Freedom* report on Mexico by the US State Department (2015) mentions that “priests and other religious leaders in some parts of the country continued to be targeted and received extortion attempts, death

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² This study draws on chapters 3 and 5 of my PhD dissertation, “The Specific Vulnerability of Religious Minorities” (2020). An earlier version of this study was presented to the International Studies Association Midwest Conference, St. Louis, Missouri, USA, 22–23 November 2019. I thank Jonathan Fox for his comments on a draft of this study.

threats, and intimidation, often from organized criminal groups.”³ In hearings before the US Congress, “narco-persecution” in Mexico has been denounced.⁴ Awareness of the vulnerability of Christian workers in the face of organized crime is also increasing in the broader society. An article in *El Universal*, one of Mexico’s leading newspapers, was entitled “Organized crime is intolerant of priests.”⁵

In this study, I argue that characteristic elements of the regulation of religion by authoritarian governments are applied at the subnational level by crime syndicates. I first provide a brief overview of what regulation of religion in non-democracies entails, based on a review of pertinent literature. I then adapt this framework to non-state actors, discussing the regulation of religion by organized crime in north-east Mexico. My analysis draws on more than 40 interviews with Christians in the region who have suffered human rights abuses at the hands of organized crime. I show that the threats drug cartels make to religious groups can be reinterpreted as forms of “religious policy,” such as interventions in the appointment of religious ministers, the elimination of ministers critical of the drug trade, censorship of the contents of sermons, the imposition of curfews, the application of “taxes” through protection rackets, and restrictions placed on charitable work.

1. State regulation of religion in non-democracies

This section addresses the most relevant characteristics of state regulation of religion, an important topic of interest for scholars who specialize in the relation between religion and politics. In the following section, I will show that non-state actors such as organized crime, when they take over state functions, use similar policies to regulate religion.

Regulation of religion encompasses “all government laws, policies, and practices that limit, regulate, or control the majority religion in a state, or all religions in a state” (Fox 2013:41). In this regard, two preliminary remarks are in order. First, every state, whether democratic or authoritarian, has some form of religious policy and regulates religion in some way. In fact, states can and do regulate a great number of dimensions of religion. The Religion and State (RAS) dataset elabo-

³ Because the US State Department reports are the primary input for the Pew Research Center indexes and the Religion and State dataset, this type of observation is taken into account in their measures of social hostilities, although organized crime is not specifically coded.

⁴ Congressional hearing on “The Worldwide Persecution of Christians,” Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, House Committee on Foreign Affairs, US Congress, 11 February 2014; Congressional hearing on “Freedom of Expression in the Americas,” Subcommittee on the Western Hemisphere, House Committee on Foreign Affairs, US Congress, 17 September 2015.

⁵ “El crimen organizado es intolerante con los sacerdotes,” *El Universal*, 4 January 2015; “Asesinados 44 sacerdotes en los últimos 27 años: Iglesia,” *La Prensa*, 19 January 2017.

rated by Jonathan Fox describes government involvement in religion through 132 variables, which can be complemented by 9 detailed variables measuring certain religious policies.

Second, the nature of state regulation of religion can be more or less restrictive for religious groups. This is a central point emphasized by Fox (2016) and Philpott (2019), among others. Often, religious policy differentiates between religion in general, the majority religion and some or all minority religions. Major differences can be observed between democratic and authoritarian states, but also within each category. State regulation of religion can range from simple administrative requirements such as the registration of religious organizations, which is standard in most democracies, to extensive state intervention in or even the complete outlawing of particular religious practices or groups. The latter is more common in authoritarian states, especially those that enforce a strict anti-religion policy (such as communist states) or favor one religion to the detriment of others (such as theocratic states). The most extreme forms of regulation of religion occur in authoritarian countries that either exhibit an anti-religious emphasis or enforce a religious political ideology.

2. Adaptation of the state regulation of religion framework to non-state actors

Most studies of religious regulation treat the state as the unit of analysis and rarely consider the possibility that non-state actors may regulate religion in a manner similar to governments. Focusing on the subnational level allows one to uncover dimensions of religious freedom, including the regulation of religion, that would otherwise go unnoticed. The existence of subnational areas characterized by weak rule of law and weak state capacity has obvious implications for the enforcement of democratic rights, including religious freedom.

Not all non-state actors that create vulnerability for religious groups can be described as regulating religion. For example, if a militant religious group attacks a member of another religious group, this does not mean that the actor is enacting and enforcing some form of religious policy. For non-state actors to engage in systematic regulation of religion, they must have a certain amount of control over territory and thus act as the *de facto* political authority. Sadly, this has been the case with organized crime, specifically the Los Zetas drug cartel, in northeast Mexico.

Three reasons can be suggested as to why organized crime cares about religion. The first is economic. Churches are often seen as revenue centers by drug cartels because they receive large amounts of money in offerings. They are easy targets for extortion or for kidnappings seeking ransom because of their generalized unresponsiveness when it comes to defending themselves against threats (few

churches hire private security, for example) and because they are easy to enter as most churches want to appear welcoming to visitors.⁶

The second explanation of organized crime's interest in religion lies in considerations of power politics: certain forms of religious behavior threaten their influence. The vulnerability of actively practicing Christians is highest when they display active forms of religious behavior such as evangelism or social work, which pose a direct threat to the influence of organized crime. The moral authority of churches, the large numbers of people they attract and their influence in the community explain why Christian leaders are particularly affected.⁷

As numerous scholars have pointed out, religion and the state can be viewed as competing sources of legitimacy (Weber 1919; Habermas 2006; Scolnicov 2011; Buijs, Sunier and Versteeg 2013; Fox 2013). In northeast Mexico, religion also competes with organized crime. Religious leaders are vulnerable because religion is an alternative, especially for young men, to a life in the drug cartels.

Besides the moral authority of Christian leaders, organized crime is wary of the unique mobilization capacity, international connections, resources and societal presence of religious groups,⁸ just as the state is in many non-democracies (Goldenzel 2009; Koesel 2014; Fox 2015). Like states, criminal organizations sometimes seek to control or co-opt religious groups to claim legitimacy for themselves.⁹

Organized crime is not concerned with all forms of religion, but primarily with active religious behavior. Indeed, most expressions of religious identity, such as owning a Bible, confessing a particular creed, praying privately, displaying religious symbols, and listening to religious music, do not make Christians vulnerable in this context. But more active forms of religious behavior do. As one interviewee put it, "Because of their way of life, Christians are naturally more exposed to suffering from organized crime."¹⁰

Finally, organized crime sometimes has a religious motive. In the case of the Los Zetas drug cartel, the perpetration of extremely cruel acts of violence serve more than an instrumental purpose and can be interpreted in relation to their adherence to the *Santa Muerte* [Holy Death] cult.

⁶ Interview with MX21 (2014).

⁷ Just as in various areas of Mexico, criminal organizations in El Salvador extort money from and assault large churches, but there gangs seem to respect smaller churches that are genuinely concerned with social matters such as relieving extreme poverty (Brenneman 2012, 2014; Cruz and Rosen 2020, 2022).

⁸ These characteristics also set religious leaders apart from other types of actors, such as journalists or human rights activists, who may otherwise face very similar threats.

⁹ There are plenty of anecdotal accounts of Mexican cartels providing assistance to religious organizations.

¹⁰ Interview with MX14 (2014).

These factors disprove the implicit consensus that religion is not singled out for opposition by organized crime, or at least they show that the relationship is more complex. Organized crime does take direct aim at religious groups, but only when expressions of religion threaten their interests or when religious organizations are seen as revenue centers.

3. Case study selection and methods

The time frame for this case study encompassed the second half of President Felipe de Jesús Calderón Hinojosa's term (2009-2012) and the first half of President Enrique Peña Nieto's term (2012-2015), during the height of the *Los Zetas* (the Z's) insurgency. Los Zetas were the dominant drug cartel in northeast Mexico at the time.

In 1999, the Gulf Cartel began to recruit members of the Mexican Army Special Forces to serve as its military armed wing. This led to the creation of Los Zetas, a particularly bloodthirsty but extremely well-trained division composed initially of deserted army commandos that "brought in a series of unprecedented tactics: the use of paramilitary hit squads; widespread attacks on police; and mass kidnappings" (Grillo 2012: 94). Eventually, Los Zetas broke away from the Gulf Cartel and became its greatest rival (Grayson 2007, 2014). Los Zetas were considered the most powerful and the most violent cartel in North and Central America after they overtook the Sinaloa Cartel and the Gulf Cartel in terms of military sophistication and territorial control (ICG 2013; Grayson 2014). All three cartels continue to dispute control of the Nuevo Laredo area.

When President Felipe Calderón took office in 2006 and launched a nationwide "war on drugs," high-intensity crime increased to previously unseen rates. Both the ongoing turf wars between the Gulf Cartel and Los Zetas and the government's declaration of war on the drug cartels precipitated widespread violence (ICG 2013; IACHR 2015; Rosen and Zepeda 2016). In 2012, a homicide rate of 46.9 per 100,000 inhabitants was recorded in Tamaulipas, more than double the national rate of 22.2.¹¹ In Nuevo León, the homicide rate was 38.6. Rosen and Zepeda (2016) reported a total of 132,135 homicides in Mexico from 2006 to 2012, of which 5,943 occurred in Nuevo León and 4,756 in Tamaulipas. Of a total of 49,415 "narco-executions" by government security forces throughout Mexico during the Calderón administration (2006-2012), 3,924 happened in Nuevo León and 2,178 in Tamaulipas with respectively 5.1 and 3.4 million inhabitants (IAHCR 2015).

For this study, I carried out three one-week field trips to the states of Nuevo León and Tamaulipas, both of which border the US state of Texas, between 2014 and 2016. During these trips, I interviewed over 40 people from a wide range of backgrounds: church leaders, police officers, social workers, youth workers, jour-

¹¹ "En 2010 hubo 24,374 homicidios: INEGI," *Expansión*, 28 July 2011.

nalists, shopkeepers and former cartel members. The interviewees were selected based on their background – most had been victims of hostilities as a result of organized crime or were firsthand observers of such hostilities – and their characteristics as actively practicing Christians (purposive sampling combined with snowball sampling). All interviews were open-ended in nature and sought to identify the threats to which the interviewees considered themselves vulnerable.¹²

4. Case study of Nuevo León and Tamaulipas

At particular moments and locations, Mexican drug cartels such as Los Zetas, the Gulf Cartel and the Sinaloa Cartel have exercised a number of prerogatives that constitute traditional functions of the state. This has been possible because of the state's intrinsic weakness in those areas, due to inefficiency and corruption. Drug organizations have taken advantage of and aggravated that weakness (see Shirk and Wallman 2015; Ríos 2015; Chabat 2010; Correa-Cabrera 2021; Watt and Zepeda 2012).

The emergence of the drug cartels in Mexico has been documented extensively (Olson, Shirk and Selee 2010; Grayson 2010; Grillo 2012, 2016; Garay Salamanca and Salcedo-Albarán 2012; Schedler 2014, 2015; Rosen and Zepeda 2016; Heinle, Ferreira and Shirk 2017). A full discussion of this history is beyond the scope of this study, but to explain briefly, undemocratic subnational regimes can arise when drug traffickers take advantage of structural political vacuums to implement *de facto* authoritarian regimes through the cooptation of local authorities and the infiltration of political institutions (Garay Salamanca and Salcedo-Albarán 2012: 316; IACHR 2015; Rosen and Zepeda 2016).

Criminal organizations wreak major havoc on the people, including religious groups, in the territories where they function. Security forces have been incapable of restoring law and order in the state. “When the military are present, things normalize but when they leave, [Los Zetas] pick up where they left,” said a pastor in a rural area of Tamaulipas.¹³ A police officer from Monterrey explains, “Previous military successes in Monterrey just drove Los Zetas away to Reynosa and Ciudad Victoria.”¹⁴ Below, I discuss evidence from my fieldwork on how the Los Zetas drug cartel regulates religion, drawing on and adapting Sarkissian's categories of religious regulation (2015).

4.1 Religious observance

Depending on the location and the time, in practice church services are restricted by the generalized context of insecurity and impunity and by the orders of drug car-

¹² More information about my data collection can be found on the research portal of Vrije Universiteit Amsterdam: <https://bit.ly/3rvCH4M>.

¹³ Interview with MX02 (2014).

¹⁴ Interview with MX03 (2014).

tels. The right being violated in both cases is freedom of assembly, an important dimension of religious freedom. Any type of large gathering is always at risk of being interrupted and attacked for extortion or kidnapping for ransom, but this especially applies to church meetings which are visible, recurrent and generally easy to enter.

In many areas, church leaders have decided not to organize nighttime church services for security reasons, and in some areas they have held no church services at all. A pastor from Monterrey said, “At the peak of the violence caused by Los Zetas in Nuevo León in 2010 and 2011, many churches decided to eliminate services at night because of the risks that this posed. We could only hold church services in daylight.”¹⁵ A pastor from Ciudad Victoria in Tamaulipas, referring to the same period, stated:

In 2010 and 2011 we lived through two years of unprecedented violence. We suffered many kidnappings, extortions and other abuses. The police were corrupt, and almost 100% were involved with crime. We had no place to go. We stopped organizing church meetings at night, and church attendance decreased considerably. In 2011, we wanted to organize a large prayer service in a stadium, but many pastors did not want to send their church members to this gathering because they knew that Los Zetas would be throwing grenades at them.¹⁶

In some cases, services were suspended by a direct drug cartel order. “In Ciudad Mante, Los Zetas set a curfew and have explicitly ordered all churches not to organize any church services at night. We have no other option than to obey this order, because they are the real authority in this city.”¹⁷

The financial sustainability of some churches is also threatened by these attacks. As the level of threat increases, fewer people attend church services, thereby reducing church income. A pastor from Ciudad Victoria recalled, “Most of the big tithers [i.e. people paying up to 10 percent of their income to the church] left because of the extortions.”¹⁸ Another minister said, “The income of many churches went down because we are collecting much smaller tithes. Many pastors can no longer provide for their families. I had to open a small business, but they started to claim *derecho de piso* [protection racket (literally: floor rights)]. Because I did not want to pay, I was forced to close this business.”¹⁹

¹⁵ Interview with MX07 (2014).

¹⁶ Interview with MX06 (2014). Similar views were expressed in other interviews, such as by MX09 (2014).

¹⁷ Interview with MX01 (2014).

¹⁸ Interview with MX06 (2014).

¹⁹ Interview with MX01 (2014).

Church services were banned in certain areas, and some churches have reportedly been closed by orders of drug cartels for not paying *derecho de piso*.²⁰ Missionary activities are also restricted in some areas. Moreover, some individuals have reportedly been prohibited from attending church services or told they must report to the drug cartels whenever they visit a particular church.

Although this regulation of religious observance does not extend to matters such as religious dress, dietary laws or the celebration of religious holidays, the insecurity caused by organized crime restricts many forms of attendance of religious services, directly affecting their openness, hours and attendance level.

4.2 Places of worship

Organized crime also restricts the freedom to administer places of worship, which includes access to these facilities as well as their construction, leasing or repairing. Access to places of worship is directly reduced when the faithful are concerned about the risk of extortion, kidnapping and other assaults, or because of the curfews noted above. Reduced attendance at religious services translates into lower tithes, compounds the costs of extortion and ransom, and burdens the capacity of religious organizations to maintain their places of worship.

Theft of church property has occurred with some frequency. A pastor reported, “Attacks on churches happen. Los Zetas sometimes walk in to steal and don’t need to use violence because there is no security.”²¹ A police officer in Guadalupe, Nuevo León also highlighted the robbery of church property as one of the major crimes in his jurisdiction.²² Many church robberies are deliberately not reported. Catholic leaders indicate that they often prefer not to report the crimes to avoid stimulating panic among their members. Moreover, no official records are kept on the theft of church property.

Despite the absence of official records, a search of local media sources in the two states revealed that the theft of church property was relatively frequent. Indeed, the Catholic diocese of Tamaulipas announced in 2014 that it had decided to install surveillance systems after frequent church robberies in Ciudad Madero and Tampico.²³ A spokesperson for the Matamoros diocese, also in the state of Tamaulipas, reported that robberies of churches and parishes “have increased.”²⁴ A priest from Reynosa reported the robbery of musical instruments and a sound system from

²⁰ Interview with MX08 (2014).

²¹ Interview with MX07 (2014).

²² Interview with MX03 (2014).

²³ “Iglesias instalan sistema de vigilancia,” *Milenio*, 13 December 2014.

²⁴ “Al alza robos en iglesias, no hay denuncias para no generar pánico, dice la Diócesis,” *Mundo Tamaulipas*, 21 October 2015.

his parish.²⁵ Protestant churches in Matamoros made similar reports.²⁶ In 2012, a group of journalists requested the inclusion of theft of church property in police statistics, due to the frequency of this crime.²⁷

It is difficult to determine the motives for the robberies of church property. Most reports speculate that the perpetrators are drug addicts who need valuable objects to sell or trade for drugs. Protestant churches are often targeted because they are usually closed for three or more days a week, making them easier targets. Catholic churches are generally open to visitors, so thieves can easily enter them (Sotelo Aguilar 2017).

4.3 Religious laws

Although most drug cartels do not have a religious motive for regulating religion, the *Santa Muerte* (Holy Death) cult has a widespread following among the members of drug cartels, especially Los Zetas and the Gulf Cartel, both headquartered in Tamaulipas. Santa Muerte is an expression of Mexican folk religion that revolves around the *Niña Blanca* (White Girl), a skeletal grim reaper image representing “a popular spirit who cares for the poor and downtrodden” and who is believed to have the power to “deflect bullets” (Grillo 2012:191-196). There is also a very large industry of Santa Muerte souvenirs that are sold to nationals and tourists in large quantities. According to anthropologists, Santa Muerte “reflects the nation’s age-old fascination with the deceased, as shown in its Day of the Dead. The skeleton could even be a resurgence of an old Aztec deity called Mictcacihuatl or the Lady of the Land of the Dead” (Grillo 2012:195).

Santa Muerte is venerated by members of drug cartels, in particular by Los Zetas. Grillo and others, including former members of Los Zetas whom I interviewed for this research, asserted that the Santa Muerte cult inspired them to extreme cruelty, such as beheadings using axes, castrations, and other brutal acts.²⁸ Many Christian leaders affirm that the violence of Los Zetas is inspired by Santa Muerte.²⁹ A female pastor near Tampico, Tamaulipas declared, “Los Zetas kill as a form of satanic sacrifice.”³⁰

Interviewees confirmed that the Santa Muerte cult is a central element of the identity of Los Zetas and a justification for their activities. Los Zetas have forced various churches to pay tribute to Santa Muerte and have retaliated violently when

²⁵ “Roban instrumentos y sonido de la iglesia,” *El Mañana*, 23 January 2015.

²⁶ “Afirmar que adictos roban iglesias de Matamoros,” *Horacero*, 9 June 2013.

²⁷ “Robo a iglesias, delito no contemplado en estadísticas de la autoridad,” *La Policiaca*, 12 June 2012.

²⁸ Interviews with MX06, MX01, MX07 and MX08 (2014).

²⁹ “Recent Santa Muerte Spiritual Conflict Trends,” *Small Wars Journal*, 16 January 2014.

³⁰ Interview with MX09 (2014).

church leaders have refused to host their shrines, statues and symbols or to participate in the worship of this deity, such as through masses dedicated to Santa Muerte. The forced observance of Santa Muerte rituals is a major infringement upon church autonomy, which particularly affects Catholic congregations. When church leaders refuse to collaborate, they can face violent reprisals. “It is believed that one of the priests assassinated in December [2013] was eliminated because he refused to celebrate a mass dedicated to Santa Muerte in his church,” a news service reported.³¹

4.4 Conversion

In general, changes in religious identity do not cause reprisals by drug cartels, but cartel members who convert to Christianity and consequently abandon their cartel risk being killed. Often, converted cartel members also seek to convert other members, making them vulnerable to threats.

A pastor from Nuevo León shared a story about a youth who had left Los Zetas after becoming a Christian and attended his drug rehabilitation center: “Shortly after he left Los Zetas, the last thing we heard was that he was going to visit his family in Reynosa [Tamaulipas]. He disappeared. We never heard from him again.”³² Another pastor recalled a former Zeta who converted to Christianity in prison: “Two days before he got out of prison, he was killed. Los Zetas did not want it to become known that he had converted to Christianity. I officiated his funeral.”³³ The pastor added, “Criminals who convert to Christianity are murdered. What the cartels are afraid of is that they may lose their leaders if they are exposed to the Gospel.” The media have also reported violent accounts of what happens to former cartel members who convert to Christianity. In one instance, a former cartel member was given the remains of his daughter and wife on a tray as a punishment for converting and leaving his cartel.³⁴

4.5 Proselytizing

Drug cartels do not restrict proselytizing in general, unless it aims at cartel members. Christian workers who engage in this kind of activity can expect death threats. One pastor reported: “One night we wanted to organize an evangelistic campaign in Linares [Nuevo León], where many cartel members live. We had to cancel this activity due to the risk of gunfire and extortions.”³⁵ A missionary shared this report:

³¹ “México: narco-persecución contra cristianos”, *Noticiero Milamex*, 11 March 2014.

³² Interview with MX08 (2014).

³³ Interview with MX07 (2014).

³⁴ “Conversión de ‘narcos’: posible explicación a los ataques a centros de rehabilitación en México,” *Noticia Cristiana*, 25 June 2010.

³⁵ Interview with MX07 (2014).

In Nuevo León, a friend from the Bible institute where I studied contacted me and told me his uncle had received death threats because he was preaching to youths who had been recruited by the cartels in Padilla, Tamaulipas. When I asked him for more information, he refused to say anything. His uncle is too afraid to speak to me. I was also told about a team of five people who left for an evangelistic mission to the mountains of Matamoros [where Los Zetas hide]. None of them came back. I'm afraid they were kidnapped and killed, because no one asked for ransom to be paid.³⁶

4.6 Discriminatory registrations and bans

Crime syndicates in the two states regulate religion through protection rackets, which are used both to finance drug cartels' operations and to silence or even eradicate religious groups whose behavior affects their interests. The effect of this form of extortion is similar to discriminatory registration laws in non-democracies.

Drug cartels implemented a sophisticated "tax" collection system in the territories under their control, commonly known as *derecho de piso* (floor rights) or *venta de protección* (protection racket).³⁷ They charge churches or businesses for the right to remain open or to organize public meetings³⁸ (similar to a public license), or they collect a percentage of the proceeds of a business (just like an income tax).³⁹

The phenomenon of illegal charges is the most common form of extortion in northeast Mexico. Criminal organizations make all kinds of threats, including the kidnapping of family members, if the extorted entity refuses to pay. Victims often cannot report the threats due to the lack of legal security, since the police are also corrupt (Schedler 2015).

It is difficult to assess the extent of these charges because many if not most such payments are not reported; however, interviewees indicate that this is a massive phenomenon affecting all churches.⁴⁰ A female pastor in the coast city of Tampico said, "Various pastors pay *derecho de piso*. Some pastors had to leave the city because they feared for their lives. I personally know the husband of a pastor who had to flee."⁴¹ A former drug addict and trafficker who now runs a drug rehabilitation program in Monterrey, whom I interviewed (for security reasons) in a parking lot on a crowded street, asserted that all pastors in the area pay *derecho de piso*, "including the president of the council of

³⁶ Interview with MX23 (2014).

³⁷ Colombian criminal organizations have a similar practice to *derecho de piso*, known as *vacuna* (vaccine).

³⁸ "Impresentable: Pastores de Michoacán deben pagar a narcos para realizar eventos masivos en sus iglesias," *Noticia Cristiana*, 12 April 2010.

³⁹ "Pago de "derecho de piso" se extiende en todo el país," *El Universal*, 4 October 2011.

⁴⁰ Interview with MX11 (2014).

⁴¹ Interview with MX09 (2014).

pastors of Monterrey, although he would deny it.⁴² Another pastor, a converted former member of Los Zetas, told me, “Many pastors, including pastors of very large churches, pay *derecho de piso*, although nobody wants to speak about it.”⁴³

The consequences of not paying the requested *derecho de piso* are heavy. Some churches and businesses have been closed.⁴⁴ A Christian educational institution in the city of Veracruz, located south of Tampico, was burned after its leaders refused to pay *derecho de piso*.⁴⁵ In other cases, the refusers are beaten, raped, kidnapped or killed. I spoke with several members of a pastoral family who decided to leave their hometown of Ciudad Victoria and move to another state because they were threatened with death if they did not pay a certain amount of money.⁴⁶

The fact that actively practicing Christians are easily identifiable increases their vulnerability to this threat. The visibility of church services, for example, makes churches easy targets for intimidation. “It is obvious that organized crime monitors the activities of churches and of Christians. They take advantage of any public activity by Christians with the aim of extorting and generating income,” one interviewee said.⁴⁷ Another interviewee described a raid by Los Zetas on a Monterrey church during a service. They pointed a gun at the pastor’s head and forced the congregation to pay a certain amount for his life to be spared.⁴⁸ Indeed, churches are seen as attractive revenue centers by organized crime. A police officer commented, “Christian churches collect a lot of money. The bad guys know this. They need money to finance their war: arms, mines, gas.”⁴⁹ Even though the threat is greatest for the larger churches, all congregations are vulnerable to extortions and kidnappings for ransom (Sotelo Aguilar 2017).

4.7 Clerical appointments

The Mexican Episcopal Conference has called Mexico “the most dangerous country in the world to exercise priesthood,” citing more than 500 threats and 31 killings of priests in the past decade; these cases are mostly related to crime.⁵⁰ A Protestant news outlet also reported in 2013 that Mexican churches suffer constant criminal attacks.⁵¹

⁴² Interview with MX08 (2014) and MX12 (2015).

⁴³ Interview with MX07 (2014).

⁴⁴ Interview with MX01 (2014).

⁴⁵ Interview with MX09 (2014).

⁴⁶ Interview with MX16 (2014).

⁴⁷ Interview with MX15 (2016).

⁴⁸ Interview with MX08 (2014).

⁴⁹ Interview with MX03 (2014).

⁵⁰ “Denuncia la CEM amenazas contra sacerdotes; pide afrontar inseguridad,” *Proceso*, 11 April 2013; “Crimen acecha a sacerdotes de la Iglesia Católica,” *Excelsior*, 11 January 2014; “26 sacerdotes asesinados 2012–2018.” *Centro Católico Multimedial*, 16 December 2018.

⁵¹ “Iglesias de México denuncian que sufren constantes ataques criminales,” *Noticia Cristiana*, 15 January 2013.

In the state of Nuevo León, two American Protestant missionaries were killed in 2012 by drug traffickers,⁵² and three Catholic priests were killed in Tamaulipas between 1990 and 2016.⁵³

Above, I discussed kidnapping for ransom as a means for drug cartels to make money; it also gives the cartels a way to intervene indirectly in clerical appointments. Indeed, the threat of kidnapping for ransom is used to intimidate church leaders whom the drug cartels see as a threat because of the content of their preaching or their moral influence. Drug cartels may also engage in kidnappings as intimidation or reprisal for not cooperating with a previous requirement. A particularly cruel account was shared by an evangelical pastor in a crime-torn Tamaulipas city:

A pastor friend of mine was abducted by a criminal gang that was part of a satanic cult. His family was ordered to pay a ransom. His wife and family succeeded in collecting the money and the criminals came to take it. The pastor's wife asked them, "But where is my husband?" "He is at the beginning of your street," they told her. When she went there, her husband was there. Only he was not alive. She found him in a plastic garbage bag, killed and hacked into pieces.⁵⁴

A pastor from the state of San Luis Potosí, located south of Nuevo León, described the threats he was facing: "My wife and I have been receiving calls in which we were threatened with kidnapping. I told my children that if I'm kidnapped, they should never pay any ransom. We can only trust in God."⁵⁵ Another church leader in the same state told of a pastor who was under threat of kidnapping. A young member of his congregation begged Los Zetas not to kidnap this pastor, and he was taken instead. After a few days, he was released. The church leader who related the story could not confirm whether a ransom had been paid for his release.⁵⁶

The scope of the kidnappings is difficult to assess quantitatively because most cases are not reported, but there is no doubt that churches are greatly affected by this threat. A pastor of a large church in Ciudad Victoria told me, "Last Sunday I asked all people to raise their hands if they had a family member or friend who was currently abducted. 129 people raised their hands."⁵⁷ I heard many similar testi-

⁵² "Asesinan en NL a 2 misioneros estadounidenses," *El Universal*, 1 February 2012.

⁵³ "15 sacerdotes caídos," *Centro Católico Multimedial*, 28 September 2016.

⁵⁴ Interview with MX01 (2014).

⁵⁵ Interview with MX21 (2014).

⁵⁶ Interview with MX25 (2014).

⁵⁷ Interview with MX13 (2014).

monies in my interviews,⁵⁸ and other reports further confirm the high frequency of kidnapping of Christian leaders for ransom.⁵⁹

4.8 Religious associations

Christians who set up religious associations face major threats, especially if their initiatives infringe on areas of influence of criminal organizations. Drug rehabilitation programs, chaplaincies in prisons, and youth work are targeted by criminal organizations because they directly threaten the drug trafficking business, or as a reprisal measure for the conversion to Christianity of former drug traffickers.⁶⁰ The director of such a program in Monterrey shared that he received threats from Los Zetas for accepting former Zetas into his program.⁶¹ A bloody attack in June 2010 on a drug rehabilitation clinic in Villa Nueva, Tamaulipas killed fifteen patients and social workers, plus an additional five passers-by. Similar attacks occurred in neighboring states in 2009.⁶²

Initiatives that provide meaningful alternatives for youths at risk who would otherwise be potential targets for recruitment as *balcones* (informants or errand runners for the drug cartels) are also vulnerable to threats. A pastor in a Tamaulipas village, who had set up a very popular soccer team for boys under age twelve, explained:

You could become a member if you had good grades in school. All these boys came from dysfunctional families, which made them easy targets for criminal gangs wishing to recruit them. Some of these boys had already been recruited as *balcones*, watchers for criminal gangs to warn them of police presence. These boys also became part of the team and no longer wanted to work for the criminal gangs. This resulted in one of them, a 10-year-old boy, being murdered. The narcos constantly threaten me to stop with the soccer team. I must deal with threats on my life on a frequent basis. They have called my home, my cellphone, my wife, and the elders of the church. They have left threatening notes on the door of the church.⁶³

4.9 Political speech

There are numerous reports of Mexican human rights activists and journalists suffering human rights abuses as a result of their work. This is also true of Christian leaders whose moral authority is perceived as a threat by organized crime. The in-

⁵⁸ Interviews with MX22 (2011), MX18, MX09, MX14, MX19, MX01 and MX21 (2014).

⁵⁹ Interviews with MX22, MX24 (2012) and MX23 (2014); "A Priest of the Diocese of Ciudad Victoria Has Been Missing Since November, Violence Does Not Calm Down," *Agenzia Fides*, 7 January 2014.

⁶⁰ "Conversión de 'narcos.'"

⁶¹ Interview with MX07 and MX08 (2014).

⁶² "Sangriento ataque a clínica cristiana de rehabilitación de adictos en México," *Noticia Cristiana*, 21 June 2010.

⁶³ Interview with soccer club director and two team members (2014).

terpretations of Christianity that seek to promote spiritual and social transformation can easily conflict with the interests of drug cartels. Speaking out against injustice publicly – whether it is violence, drug consumption, drug trafficking, corruption or organized crime – from the pulpit or in another setting risks provoking intimidation by drug cartels, in the form of beatings, attacks on the houses of church leaders, or even killings. Christian news reporters have also been killed because they exposed the activities of organized crime.⁶⁴

One pastor explained that his house had been attacked by a drug cartel.⁶⁵ Most interviewees indicated there is widespread surveillance within churches and that the content of sermons is monitored. “We need to be very careful about preaching against organized crime. There are always *halcones* in services,” said a youth pastor of a church in Ciudad Madero, Tamaulipas.⁶⁶ A pastor in Ciudad Victoria seemed to be among the few who publicly denounced injustice at church services. He stated:

It’s my conviction that the church needs to be out in the streets, active outside the walls of the church. The church needs to preach about things that are happening in people’s lives. This got me into trouble. Los Zetas arrived at my house, located 8 km outside Ciudad Victoria, one night and wanted to take me with them. [He got out of the situation because the assailants were suddenly called away by their leadership.] They see the church as their worst enemy.⁶⁷

A development worker reported:

In the north of Mexico, organized crime effectively persecutes believers. Narcos threaten pastors to leave certain areas or demand payment of *derecho de piso*. This is because biblical teachings forbid consumption and distribution of drugs and/or corruption, and this affects their business. Also, massive Christian gatherings have been forbidden by organized crime.⁶⁸

5. Conclusions

In this study, I have argued that the framework of state regulation of religion can be adapted to interpret the interaction between organized crime and religion. Drug cartels effectively regulate aspects of religion, either because they view religion as

⁶⁴ Interview with MX07 (2014).

⁶⁵ Interview with MX06 (2014)

⁶⁶ Interview with MX14 (2014).

⁶⁷ Interview with MX06 (2014).

⁶⁸ Interview with MX22 (2011).

a source of revenue or to defend their interests, contradicting the conventional wisdom that organized crime is not particularly concerned with religion.⁶⁹

Not all aspects of religion commonly regulated by non-democracies are regulated by organized crime. Organized crime does not regulate matters related to religious speech (unlike political speech), religious education, the observance of religious holidays (unless they involve large gatherings of people or are used to criticize criminal elements), religious laws related to life events such as marriage or burials, use of religious dress, or formal registration requirements for religious organizations. Drug cartels are generally not interested in religion itself but in behavior inspired by religious convictions that challenges their interests.

During my fieldwork, I did not find any evidence that organized crime enforces a religious policy concerning religious speech or publications, religious education, religious political parties or access to political office, even though there may be instances where organized crime has an indirect impact on these matters due to its influence over political processes and electoral campaigns. Although not all forms of state regulation of religion apply to organized crime, many do, thereby justifying my interpretation of the restrictions placed on religious groups by organized crime as forms of non-state religious policy.

Beyond the importance of considering the role of non-state actors such as organized crime, this study also underlines the pertinence of focusing on active religious practice as a source of vulnerability, instead of simply on religious identity (see Birdsall and Beaman 2020). Indeed, by focusing on active religious practice – instead of on religion in general, which would not have allowed me to observe any variation – I was able to identify specific forms of regulation of religion by organized crime.

This is relevant first from a conceptual perspective. It implies that non-religious motives such as greed, which is evidently the main driver of organized crime, can lead criminal elements to harm religious groups that stand in their way. This particular conclusion is not surprising, considering that organized crime can be expected to be driven by rational calculations; however, it has not been explicitly established in relation to religious groups, partly because the distinction between religious identity and religious behavior is not usually made, and also because religious freedom monitoring instruments generally look for religious motives for the “persecution” of religious groups. Consequently, non-religious motives for threats

⁶⁹ Government regulation of religion is generally assumed to be detrimental to religious freedom. In northeast Mexico, however, the lack of state capacity enables cartels to exercise power over religion. In such cases, government inaction might not necessarily be a good thing. Religious freedom might fare best not in situations of no restrictions, but rather where states have ample capacity to regulate and where they choose wise degrees and types of regulation.

to religious minorities defined by its behavioral characteristics are overlooked (see Petri 2022).

Furthermore, within the broader debate about whether violence in civil conflicts is indiscriminate (Kalyvas 2006; Weinstein 2007; Schedler 2015; Bartman 2018), this study provides an additional argument for the claim that it is not necessarily indiscriminate. Nevertheless, I acknowledge that it is difficult to distinguish regulatory strategies designed by criminal groups from mere consequences that the violent environment they generate imposes on religious practices such as church attendance and proselytizing.

More research on the relation between organized crime and religion is needed. My findings in Mexico could be generalized to other cases. Similar conclusions may apply to other crime-ridden regions of Mexico; the gang violence in Central American countries such as El Salvador, Guatemala or Honduras; the guerrilla wars in rural Colombia; the violence in Brazilian favelas; and drug-related conflicts in the Caribbean region. Beyond Latin America, one could consider organized crime in sub-Saharan Africa, Afghanistan or even US inner cities as potentially affected by the same pattern. Even though these cases of widespread criminal activity are well-known, they have not yet been studied through the lens of regulation of religion.

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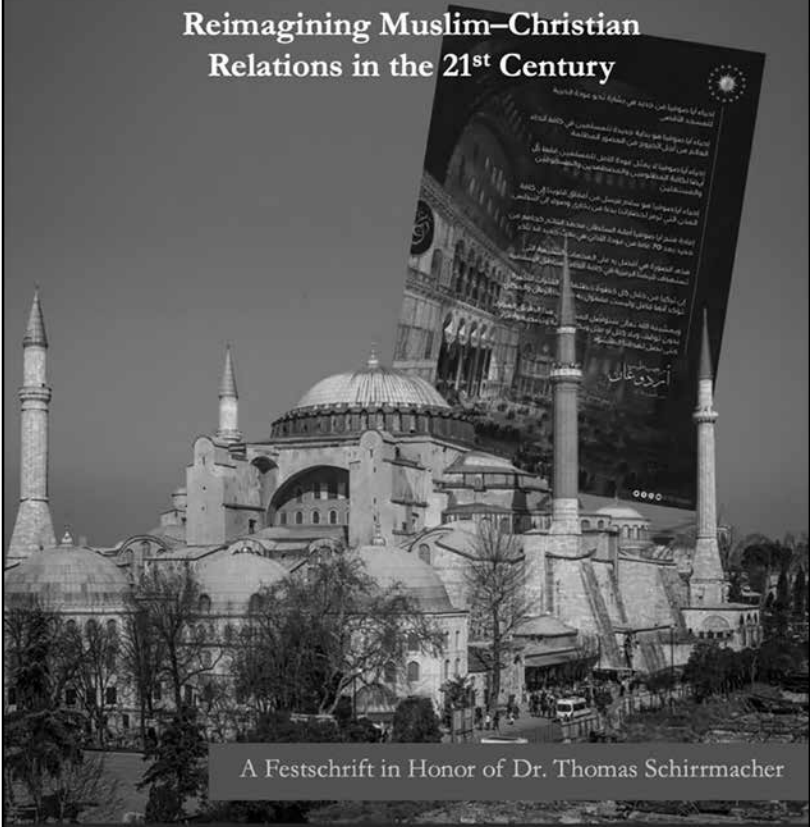
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God Needs No Defense

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The state setting boundaries regarding the right to freedom of religion in education

Can this tendency be justified in principle and practice?

Johannes L. van der Walt¹ and Izak J. Oosthuizen²

Abstract

Recent socio-political developments across the globe have compelled governments to reconsider the extent and the means of setting boundaries between what can be regarded as the private and public domains of their citizens' lives. Such boundary-setting has so far taken various forms, one of which concerns freedom of religion and the right to religious instruction in public schools. Based on several boundary-setting case studies, we conclude that boundary-setting in the public education sector has become an inescapable and justifiable reality.

Keywords religion, religious freedom, education, public schools, private schools, religious instruction, confessional education.

1. Introductory remarks

One often hears complaints that the state is infringing on citizens' fundamental rights as human beings. The complainers are particularly vocal with regard to the right to freely practise one's religion and to acquaint one's children with the parents' religious views, including the right to do so in public-school settings (cf. OGOD 2017).

This dilemma can be illustrated with reference to the situation of Christians in South Africa. The third question that parents belonging to Reformed churches in South Africa are expected to answer in the affirmative when they have a child

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baptized is as follows: “Do you undertake, to the best of your ability, to instruct or to see that this child is instructed in [Reformed] doctrine?” The question implies that parents should seek to have their child instructed in this doctrine at all the educational institutions the child might in future attend or be exposed to, including schools, public or otherwise.

Ideally, according to this view, the parental home, religious institution (church) and school form a triangular partnership jointly devoted to the child’s religious upbringing (De Jong 1969:127-128). A state ruling that confessional education may not be offered in public schools can therefore be construed as conflicting with the parents’ and the learners’ fundamental right to freedom of religion.³ On the other hand, a state ruling that endorses the right of all citizens to freedom of religion in the public-school context will no doubt lead to chaos and disorder in schools. Governments have responded to this challenge in a variety of ways.

2. Problem statement

The term *religious education* refers, according to Miedema (2006:113), to that part of identity or personal development and the formation of children and youngsters that focuses on the systematic, intentional as well as unintentional process of religious meaning-making, religious relationships and religious practices. Miedema (2006:112, 113) adds that the key questions today are where religious education should be offered and how it should be done. A concomitant question is: Where and to what extent should parents and religious communities be allowed to exercise their freedom to practise religious education? Experience teaches that, on one hand, citizens desire and need the freedom to practise all their fundamental human rights but that, on the other hand, the state tends to limit this freedom continually and in numerous ways (Sumption 2021:76-77). Grayling (2010:216) concurs, indicating that there is a constant muddle between state legislators and the citizenry about the degree to which a state may interfere in the lives and practices of individuals and groups before it crosses the boundary into an unjustifiable diminution of individual freedom. The question then becomes how to find universally

³ This remains a controversial issue. Even in a country such as the Netherlands in which clear boundaries between schools with a confessional identity and other (general secular) schools have been in place for several decades, the Dutch *Onderwijsraad* (Education Council) (2021) recently felt the need to compile a report entitled *Grenzen stellen, ruimte laten* (Setting Boundaries, Leaving Space). The publication of this report resulted in an in-depth discussion amongst members of Verus, the Dutch *Vereniging voor katholiek en christelijk onderwijs* (Association for Catholic and Christian Education) on 3 December 2021. The report’s key recommendation was that since the Netherlands is a democracy under the rule of law, clear boundaries must be set between what is permissible at religious and secular schools, respectively (Onderwijsraad 2021:6), and what the term “freedom of education” has come to mean in a country that has become “super-diversified” (Verus 2021).

valid rules to resolve this conflict. Ideally, there must be a point at which the state's obligations and individual or communal freedom converge and coincide (Verburg 2015:20-21).

As explained in the case studies below (section 4), the point of convergence seems to lie where the government draws a line or sets a boundary between what is regarded as the private and the public domains, respectively, in the lives of its citizens. The question then becomes whether this boundary-setting is justified in practice and in principle.

3. Method of investigation, clarification of key concepts, demarcation, and structure of the article

Section 4 below contains our analyses of the steps taken by a number of countries. The analysis entailed a series of case studies of specific instances that illustrate the practice of boundary-setting by the state (Cohen, Manion and Morrison 2011:289); they are not intended for comparison purposes. The discussion in the subsequent sections is the result of critical and principled reflection, a process consisting of an interpretive and a constructivist phase. In the interpretive phase, we interpreted and evaluated the facts relating to the issue under discussion in terms of our own norm system, our assumptions and our presuppositions as Christian educationists. We followed a process of meaning-giving, a hermeneutical process based on our assumed values. In this phase, we regarded all facts as "interpreted bits of knowledge" (Frame 2015:531). In the constructivist phase, we arrived at a tentative answer to the research question mentioned in the previous section, an answer that would do justice to the complexity (Sardar 2021:50) of and represent a plausible solution to the issue under investigation (Plotnitsky 2006:45).

Our investigations revealed that the problems discussed in this article have many theoretical ramifications, some of which are discussed below. Each of these issues could fill an entire article. Among these are such matters and controversies as how to deal with religious diversity in a society; the tension between order and freedom; unity versus diversity; the growing tendency towards a lack of national consensus about religion; the impact of postmodernity on religious choice; the language of tolerance; the impact of power networks; state domination and centrism; the role of the state in managing religious diversity; parental preference with regard to religious education; the place of religion in society; the relationship between religion and education; the idea that neutrality and secularism also represent a religious choice; the shortcomings of a "one size fits all" policy; and the overall situation in many other countries besides those mentioned in this article.

In the discussion below, we employ the terms "religious" and "secular," or "public" and "private" spaces as theoretical categories. Religion refers to a belief

in the existence of a god or gods and all the activities connected with worshipping them, whereas “secular” refers to activities not connected with religious or spiritual matters. The distinction between these two terms can be blurred in some instances, as we will see when we examine the situation in North Korea below (see also Schilbrack 2012 for a discussion of the issues surrounding “religion” and the construction thereof).

The term “public” refers to matters concerning all people in general, whereas “private” refers to matters belonging to or for the use of a particular person in his or her own time and place, not for public use, scrutiny or state regulation.

The remainder of this article is structured as follows. The next section illustrates the practice of boundary-setting between the private and public domains of civic life by presenting four typical approaches to this conundrum. After that, we discuss whether this tendency of government boundary-setting can be justified in principle and in practice. The article ends by assessing the justifiability of this practice.

4. Case studies: Four typical approaches in boundary-setting between the public and the private domains

We originally did ten (10) case studies, but because of length restrictions we present here the results of four studies that are representative of the four boundary-setting approaches we have identified.

4.1 Religiously homogeneous populations and religious favouritism: the Netherlands in the 17th century

Examples of supposedly homogeneous populations that enable the setting of a boundary predominantly in favour of religion, that is, the private domain of its citizens’ lives, include ancient Israel, 17th-century Holland, pre-1994 South Africa, and some modern Muslim countries.⁴ Due to space restrictions, we will focus on the Netherlands.

The *Dutch Confession of Faith* was given its final form during the Synod of Dordrecht (1618-1619). The population at this time was relatively homogeneous: all citizens spoke a form of Dutch and shared much the same culture, and virtually all were Christians belonging to a Reformed church denomination (Van Bijsterveld 2019:409). The *Confession* dealt specifically with a state mandate. The Synod

⁴ At the turn of this century, Germany, Austria and Switzerland also provided examples of this approach. The Christian churches in those countries still had a considerable grip on religious education, which was also to be provided in public schools; they had “substantial control” of religious education in schools (Hull 2007:6, 7). Hull (2007:10) speaks of this situation as “the ecclesiastical captivity of German religious education,” and Schreiner (2005:3) of a “confessionally oriented approach” in public schools.

adopted Article 36 of the *Confession*, proclaiming that the state had been instituted by God for the purpose of governing his people (Rom 13), punishing those who transgressed and protecting all believers. The Synod furthermore proclaimed that the state (government) was obligated not only to attend to the needs of society but also to “protect the holy church service,” to eradicate all idolatry and false religion, to destroy the kingdom of the anti-Christ, and to promote the gospel by having it preached all over the country for the purpose of encouraging everyone to honour and serve God in the manner prescribed in the Bible (Hayes 2021:19).

It is clear from this brief outline that at that time, the Dutch “claim(ed) a more or less exclusive approach to the ultimate truth” (Hull 2007:7) in the form of the Christian-Protestant religion. This doctrine was also applied in the education sector.

4.2 Homogeneously secular populations and an absolute boundary against freedom of mainstream religion in the public domain: North Korea

The opposite tendency can be detected in the case of the People’s Democratic Republic of Korea (North Korea), which is regarded as a “full autocracy” (Pinker 2021:269). In this education system, government prohibits any form of traditional or mainstream religion, religious commitment or religious observance in the lives of citizens and in all schools. Education seems to be dominated by what Hull (2007:15) refers to as the “secular point of view” and what Schreiner (2005:3) calls the “non-confessional” approach.⁵

Education is based on socialistic ideals and an efficiency-oriented school system with emphasis on the Korean language, mathematics, literature and knowledge about the ruling Kim family. All schools are public or state institutions⁶ under tight administrative control. Students are immersed in a political education comprising of the “Juche Doctrine,” which outlines the previous ruler Kim Il-Sung’s ideology and revolutionary strategies, illustrating the importance of collectivistic activities in the nation. Putting these theories into practice forms the basis of the school system. The curriculum for the education system centres on “Kim Il-Sungism and science” and “the Ten Great Principles of Monolithic Ideology” (Oh 2020:277).

Education is thus completely secular in nature. According to a study by the Korea Institute for Curriculum Evaluation, students learn more about the Kims and their history than about any other subject (Borgen Project 2021). Socialist-communist

⁵ We are indebted to a reviewer of this paper for observing that although education in North Korea is presented as secular, the fact that it is based on this political doctrine makes it “sound a lot like religion and confession.” The term “religion” can indeed refer to adherence to the teachings of a spiritual leader. In such a case, according to Barnes (2022:12), one could speak of religious education as a non-confessional subject in the curriculum, a subject with moral and social rather than religious aims.

⁶ The system does not allow the institution of private schools, religious or otherwise.

uniformity is the most common characteristic of schools in the country, which conform to strict state ordinances. Diversity and creativity are rarely nurtured. The approach known as *kyoyang* (indoctrination) is used to shape citizens into reliable communists. According to Oh (2020:258), North Korea does not respect the notion of individual human rights, including the right to freedom of religion.

4.3 A relatively rigid wall of separation between state and religion: France

Most governments tend to set a boundary between what is regarded as religious (private) and secular (public). Although Wales and England provide good examples of this “secular,” “neutral” or “objective” approach⁷ (Hull 2007:7, 9, 10), where religion in public schools is allowed only in the form of instruction *about* religion (e.g., comparative religion, phenomenology of religion, or historical study of world religions), we will illustrate this approach with a brief examination of modern-day France. In this approach, according to Hull (2007:9), religious diversity necessitates “the essentially secular nature of the subject” in public schools.

Based on France’s 1789 *Declaration of Man and the Citizen*,⁸ religious freedom has been a core statutory value in the country’s institutional documents. During the 1800s and early 1900s, under the sustained influence of the Catholic Church, the right to freedom of religion had a strong impact on the country’s religious, political and economic life (Adrian 2015:372). For centuries, the church was responsible for education and played an important role in administering schooling and maintaining public order in the country. Secularism (*laïcité*) gradually developed in an effort to set public services and public schools free from the grip of the Catholic Church and its clergy (Jones 2021:24; Bowen 2007:25). Adrian (2015:372) contends that this was one of the acts that paved the way towards establishing freedom *of* religion in the private sphere and also freedom *from* religion in the public sphere.

The promulgation of the Separation Law in 1905 became incontrovertibly linked with secularism in France. This law established “the separation of two worlds, the civil world and the religious world” (Jones 2021:237). The preamble to the 1946 French Constitution (incorporated in the current 1958 Constitution) reaffirmed this principle: “The provision of free, public and secular education at all levels is a

⁷ Secularism, as Van der Walt (2007:234) convincingly argued, can also be seen as an ideology, a religious stance or a worldview. According to the secularist worldview, the God of the Bible does not exist, or if he does exist, he and his laws are irrelevant to public life. Hull (2007:14) seems to concur with this notion by referring to “secularism” as “the ideological form of secularity.”

⁸ The *Declaration* assures freedom of conscience; it guarantees freedom of worship, with restrictions in the interest of public order.

duty of the State” (Jones 2021:225). Legislation in 2011 banned the wearing of a face veil (*burqa*) by women in public.

4.4 A relatively flexible boundary between the public and private domains: Post-apartheid South Africa

The socio-political situation in South Africa changed drastically with the advent of full democracy in 1994 and the adoption of a new Constitution (1996), and particularly after the promulgation of the *Religion in Education Policy* in 2003. Under this Constitution, a variety of fundamental civil rights that most citizens could not enjoy during the apartheid era became firmly entrenched in chapter 2 of the 1996 Constitution. From 1994 to 2003, the right to freedom of religion in schools was practised as under apartheid. The 2003 policy was not intended to turn South Africa into a secular state, but rather to promote cooperation between the state and all religious institutions (Smit 2013:158). However, even though the new policy was not prescriptive, many public schools in practice began restricting the right to freedom of religion in education by terminating the subject of “Religion Instruction” that had provided teaching, in a confessional sense, on the basic tenets of the Christian religion. Most of the historically more privileged (so-called Model C) schools persisted in styling themselves as based on Christian principles, much to the chagrin of those who insisted that all public schools should be religiously “neutral.”⁹

The de facto banning of religion instruction in public schools amounted to a restriction of parents’, teachers’ and learners’ right to confessional religious education.¹⁰ Comparative religious studies and religious observances continued to be offered in public schools on an equitable basis. From that point on, learners could learn *about* and *from* religion, but they could not be immersed confessionally in the religion of their choice in public schools. This type of instruction became the duty of families and faith institutions such as churches, mosques and synagogues (Schreiner 2005:11).

5. Can boundary-setting as outlined above be justified in principle?

Our examination of the relevant literature and evaluation of the case studies leads us to conclude that there are at least three fundamental reasons why boundary-

⁹ Some of these schools were taken to court by a party named OGOD that insisted that the Religion in Education Policy should be interpreted as enforcing secularism, and hence religious neutrality, in public schools. In this matter, later referred to as the Randhart Schools case, the High Court ruled that regular religious observances in schools may be permitted but that public schools were not to promote themselves as a single-religion institution (Roos, Oosthuizen, Smit and Rossouw 2020:36). The Court reiterated that the policy was not prescriptive with respect to the religious and worldview character of a school; it merely served as a guideline and was not obligatory (OGOD 2017).

¹⁰ Confessional education continues to be offered in private schools.

setting with respect to religion in education can be justified or even regarded as unavoidable:

5.1 The task and duty of the state

Most of those who write about the role of the state wish to achieve a balance between law and order, on one hand, and individual freedom on the other. Governments are construed as seeking what is best for their subjects. In a sense, they negotiate balances between restrictions of government authority and limits on personal liberty, the latter including limits on freedom of religion and belief (Frame 2008:48). A core dimension of the evolution of democratic political systems up to the present day has been the attempt to reduce the dangers of abuses of power that would otherwise occur within a totally unregulated or undifferentiated society (Strauss 2014:20). The key duty of the state is to institute measures to ensure stability, peace and order in its territory (Pinker 2019:12).

The state is a public collectivity that regulates societal relationships, qualified by the jural aspect of reality. Its calling is to bind together (integrate) the multiplicity of legal interests in its territory within one public legal order (Strauss 2014:19). It is essentially guided by a concern for its citizens' legal interests, since intrinsically it is a *res publica* (a "public thing"). The state is a societal relationship tacitly agreed to in a social contract, designed to promote the welfare of all citizens by coordinating their behaviour and discouraging selfish acts that may leave everyone worse off (Pinker 2019:12). Hence, it is of vital importance to have effective accountability within whatever government structures are in place (Lloyd 2021:2). The more responsible individual citizens and groups are in their behaviour towards one another, the fewer formal state regulative processes will be required (Lloyd 2021:3). The measures taken by government and the processes that it institutes should be trusted by the population (Lal 2021:56). Both the indicators and the processes underlying the development and application of measures should be viewed as deserving public trust (Lloyd 2021:3).

Another important principle for the state to adhere to is the perceived sense of fairness exuded by the processes instituted. The greater the sense of fairness in these measures and processes, the more likely it is that the policies will be sustainable (Lloyd 2021:2). To instil trust, politicians and public servants should be driven by ethical values, especially by a genuine concern for others, rather than being self-serving. This concern should find expression in the establishment of appropriate governance structures (Lloyd 2021:4).

The more differentiated and the more pluralistic and diverse a society is, the greater the responsibility of the state to organise the interactions among its individual citizens, on one hand, and the various societal relationships or collectivities

within its boundaries on the other hand (Strauss 2009:771). One task of government in such a differentiated society is to balance the different rights to freedom that both individual citizens and groups or societal relationships / collectivities enjoy in principle. One of these civil rights is the right to freedom of religion, belief and opinion (Smit and Oosthuizen 2011:78), which exists in the realm of education as it does elsewhere. It might be necessary, however, for governments to restrict this right under particular circumstances (see 5.2).

The state should do its utmost to reconcile the intervention of boundary-setting with a minimalist enabling role on the part of government (Lloyd 2021:3). In the process, the state should refrain from transgressing into the sovereign spheres of other social organizations such as religious institutions (Strauss 2014:19). The state should restrict itself to a form of boundary-setting that can clearly be seen as an expression of “state competencies, responsibilities and duties” (Strauss, 2014:20). The population should see and understand the need for the intervention – in this case, the setting of a boundary between what is deemed as private or public so as to facilitate and promote peace, law and order in society (Lloyd 2021:3).

5.2 Increasingly diverse and pluralistic populations necessitate the setting of boundaries

From our personal standpoint as Christian educators, the ideal situation would require no boundary-setting by the government because all of society would be permeated by the Christian religion and worldview. Biblically rooted education in all schools, including public schools, is considered beneficial for all learners and in their best interest (Smit and Oosthuizen 2011:244). Therefore, the most desirable situation would be the one that has prevailed in monotheistic and theocratic societies where children not only learn *about* religion but are also confessionally immersed *in* the tenets of the religion taught at home by their parents and in religious settings. In this way, confessional or denominational teaching is extended to religious education in public schools (cf. Hull 2007:11). However, many practical circumstances make boundary-setting between the private and the public domains unavoidable. Even in a homogeneous Muslim country, the authorities must reckon with “both consensus and dissensus [that arise as a consequence of] independent critical judgement” (Davids 2018:674).

In its *Testimony on Human Rights*, the Reformed Ecumenical Synod (1983) recognised the fact that “as a result of (humanity’s) fall into sin ... we now live in a religiously divided world¹¹ with various faith communities (Prot-

¹¹ The phrase “religiously divided” should not be construed to mean “religiously diverse”. The latter is an ontic feature of reality, whereas religious dividedness and animosity among adherents of different religions is – in principle – morally unjustifiable.

estant, Catholic, Jewish, Islamic, humanist, Buddhist, etc.) (Strauss 2014:18). In line with this insight, Hull concluded that “the central problem facing religious education is plurality, and the character of the subject depends upon the way it conceives of and responds to plurality.” He continued, “The very nature of modernity and post-modernity is plurality, and it is not possible to go back to a period before this. ... These kinds of plurality must ... be set against the growing diversity of society itself, and the many ways religions relate to their secular contexts” (Hull 2007:6). In this regard, Hull (2007:7) speaks of “the inescapable conditions of plurality,” and Pinker (2019:11) of cosmopolitanism as “accepting our citizenship of the world”. In all democratic countries, governments are confronted with the task of grappling with “secular and religious diversity in order to justify religious education in the state schools of a plural democracy” (Hull 2007:9).

We live in a world of growing religious diversity and contact between religious groups within a country, and this increasingly close contact does not always proceed peacefully. The current globalisation process results in people coming into contact with religions about which they formerly only read in books. Previously foreign religions have today become “neighbour” religions. As this intermingling and contact increase, the potential for conflict also increases (Van der Walt 2007:150, 154). The need to set boundaries between what is regarded as the private and public domains, and where to set such a boundary, depends, in theory and in practice, on the degree of religious homogeneity (or diversity) within the state. The more homogeneous the population is in terms of religious affiliation, the less the need to set boundaries in order to maintain peace and order and to avoid conflict among religious groups. In a totally religiously homogeneous society, the role of the state in setting boundaries between the private and the public domains “would wither away” (Lloyd 2021:2). The degree of plurality or religious homogeneity that prevails in a country determines the need for boundary-setting, as well as precisely where the boundary needs to be set. Boundary-setting is determined, as Hull (2007:6) concluded, by the degree of religious diversity that a government has to manage in the educational context in its territory, and, as Smit and Oosthuizen (2011:245) suggested, it should be employed in such a manner that the legal consequences thereof remain negligible.

5.3 The need to protect the right to religious freedom necessitates the setting of boundaries

The need to provide as much personal and group liberty to the citizenry is also a consideration in the boundary-setting process. Isaiah Berlin’s distinc-

tion (as quoted by Grayling 2010:217) between positive and negative liberty is helpful in this regard. Berlin defined positive liberty as the freedom of citizens and groups to seek and realise various goals that they deem to be important, and negative freedom as freedom from external compulsion. Berlin favoured the latter because he thought the idea of the former could tempt the state to enforce behaviour that it deemed to be in the interest of its citizenry, whether they agreed with it or not. He argues that negative liberty, as propounded by John Stuart Mill (1859/2020:14-15), is preferable in that it defines the area within which citizens should be left to their own choices and preferences without interference from other parties such as the state. Boundary-setting by the state is helpful in defining that personal space where particular freedoms can be enjoyed and practised. To do so is particularly important in a democracy governed by the rule of law (Pinker, 2019:28; 441).

6. Conclusion

Boundary-setting is becoming increasingly unavoidable as societies are steadily becoming more pluralistic and diverse due to globalisation and cosmopolitanism, which in turn are facilitated by modern communication media and transport capacities and by increased migration (Dill 2012:541).

Peter Schreiner (2005:3) summarises the current range of boundaries as follows:

The range of approaches to (religion/religious education) goes from no religious education in public schools (mainly in France, also in Montenegro, Slovenia and in Albania for different reasons) to models with exclusive responsibility of the state¹² to cooperative models where state and religious communities share responsibility for religious education,¹³ to confessional or denominational approaches where RE in school is the responsibility of religious communities.

It should be no surprise that there is, in practice, such a wide range of approaches to boundary-setting by governments. After all, as Keller (2015:69) reminds us, there is no neutral standard basis for boundary-setting. How and where a government sets a boundary between the private and the public domains depends on its conception of the right to religious freedom as such, religious freedom in education, the proper relationship between individual and national society, and a virtuous human, community and national life.

¹² Iran, Iraq, ancient Israel, the Netherlands in the 16th century, apartheid South Africa (remark by the present authors)

¹³ Post-apartheid South Africa (remark added by the present authors).

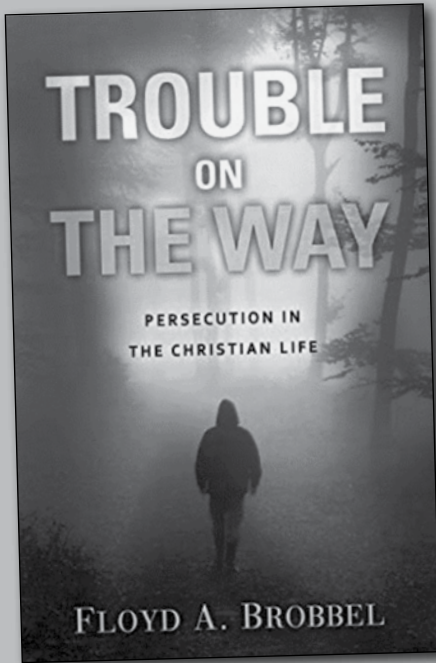
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***Remember Those
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Hebrews 13:3***

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While most of us have heard about Christians suffering for their faith, we tend to think “persecution” mainly impacts believers in times past or in hostile nations today, far removed from our daily lives.

Trouble on the Way describes the various stages of persecution, revealing that persecution is something all followers of the Way can expect to face in this fallen world.

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The Violent Incidents Database of the International Institute for Religious Freedom

Dennis P. Petri and Teresa Flores¹

1. History and vision

In 2011, Thomas Schirrmacher wrote an opinion article on the challenges of counting the number of Christian martyrs in which he concluded, “What we need is a database in which for any year we could enter all the known, larger cases [of religious persecution].” This was the direct inspiration for the development of the Violent Incidents Database (VID), which collects, records and analyzes violent incidents concerning violations of religious freedom of all faiths, as input for both research and policy-influencing efforts. The VID is publicly accessible online at www.violentincidents.com.

The VID was initially developed in September 2011 to support the information management needs of the World Watch List of Open Doors International. This project was discontinued a few years later because the organization moved to a different data collection system that is useful for its purposes but has the disadvantage of not being public. In January 2018, the VID was integrated within the Observatory of Religious Freedom in Latin America (OLIRE, in Spanish), with a regional focus. Now, the VID is becoming a flagship project of the International Institute for Religious Freedom (IIRF), with a global focus. Plans are being made to expand it to other regions, starting with Nigeria and India, and hopefully with more to follow.

At present, the VID is the only comprehensive data collection effort that systematically tracks religious freedom violations in its multiple dimensions: individual and collective, physical and non-physical violence, state and non-state actors, religious and non-religious motivations, and in all spheres of life. The VID collects data concerning all faiths. In many incidents, Christians may be victims, but in others, they are actually the perpetrators.

Sadly, the overwhelming number of organizations working in the field of religious freedom do little to collect solid data. They are generally very good at talking about issues, raising awareness in the media and through social networks, diagnosing social situation, and making recommendations for public policy, but very few of

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them engage in the tedious, time-intensive, and sometimes dangerous task of documenting incidents. Nevertheless, effective political advocacy depends on objective, up-to-date, and reliable information, which often means documenting incidents of human rights violations (Petri 2019).

Limited access to information is common in persecution contexts (Glasius et al. 2018). However, documented incidents are the main justification for requesting attention to a specific social problem. Objectively establishing the quantitative impact of an issue makes it a “social fact” that can be considered (Durkheim 1893). If it is not documented, it is as if it did not exist.

Documentation is particularly important in situations where victims of violence are afraid to report crimes to the police, or when states fail to comply with their duty to register human rights violations. To cite just one example, according to estimates by Ethos (2017), a Mexican think tank, 94% of all crimes in Mexico are not reported. In its report *The Human Rights Situation in Mexico*, the Inter-American Commission on Human Rights (IACHR) found that “the internal forced displacement has not been documented and analyzed comprehensively by the [Mexican] State, which is the main obstacle facing the comprehensive response that Mexico should give this phenomenon.” The report also observed that the situation “is evidenced by the invisibility of the problem,” which hinders efforts to “adopt the measures necessary to provide an effective response to this phenomenon” (IACHR 2015:134). Therefore, one of the most important purposes of documenting incidents, particularly when they concern human rights violations – including religious freedom – is to ensure that a record of specific violations is kept, so as to hold the responsible party accountable and demand compensation for victims.

The VID raises the visibility of religious freedom violations. This visibility is instrumental in the quantification of incidents and the establishment of patterns of persecution for case-by-case and contextual analyses (FLACSO-Mexico and International Bar Association’s Human Rights Institute, 2017), for the elaboration of recommendations for legal and policy reform, and more generally to inform national and international decision makers, religious communities and civil society organizations.

2. Methodology

Religious freedom is a broad and multidimensional concept that can be observed and measured in many different ways. The VID distinguishes between two types of religious freedom violations: physical violence, such as torture or rape as a result of one’s identification with a particular religion, and non-physical violence, which could take the form of discriminatory legislation, social pressure, cultural marginalization, government discrimination, hindrances to conversion, hindrances to participation in public affairs, restrictions on religious life or, more generally, any

form of symbolic or structural violence to borrow sociological concepts popularized by Pierre Bourdieu and Johan Galtung.

Data collection for the VID is an ongoing responsibility of IIRF partners. The main input for the VID is public sources, most of which are digital media available on the internet. These data are complemented by field interviews, desk research and reports provided by partner organizations. Through an online form, individuals can also submit incident reports.

The VID cannot claim to be an exhaustive listing. Many incidents are never made public and are hence not included. On some occasions, media reports of incidents are incorrect. We do not have the capacity to verify all incidents listed. However, where reports are flagged as false or incorrect, the corresponding entries are altered or deleted.

Incident records include geographic location (country, state or province, and city), date of incident, summary, nature of incident (physical² or non-physical³ violence), responsible actor (name and category),⁴ religion of victim(s),⁵ additional information (when applicable) and web sources (if available). A detailed manual for users of and contributors to the VID, including working definitions, will be available on the IIRF website.

3. Examples of data generated by the VID

To illustrate the type of data that is collected by the VID, we now present a few tables describing violent incidents related to religious freedom violations in Latin American countries.

² Physical violence is categorized in the following ways: killings; (attempts) to destroy, vandalize or desecrate places of worship or religious buildings; closed places of worship or religious buildings; arrests/detentions; sentences; abductions; sexual assaults/harassment; forced marriages; other forms of attack (physical or mental abuse); attacked houses/property of faith adherents; attacked shops, businesses, or institutions of faith adherents; forced to leave home; forced to leave country.

³ Non-physical violence is recorded in the personal, social, and public spheres.

⁴ Responsible actors include state and non-state actors: government officials at any level from local to national; ethnic group leaders; religious leaders at any level from local to national; violent religious groups; ideological pressure groups; normal citizens (people from the general public), including mobs; extended family; political parties at any level from local to national; revolutionary or paramilitary groups; organized crime cartels or networks; and multilateral organizations and embassies.

⁵ Religions include Christian (not specified); Christian (Catholic); Christian (Protestant); Christian (Orthodox); Muslim; Hindu; Agnostic; Buddhist; Ethnoreligious (Indigenous, Afro-Brazilian, etc.); Atheist; Jewish; and Unknown.

Country	Incident Date	Summary	Responsible Actor Category	Religion of Victim(s)
Regulation of religion by organized crime				
Mexico	July 2021	Pedro Pérez López, a catechist of a parish and member of the Organización Sociedad Civil Las Abejas de Acteal, a group created to demand justice in that region after the massacre of 45 indigenous people in the church of the Acteal community in 1997, was assassinated by a shot in the head when he was accompanied by his son to do some shopping in the market. The priest Marcelo Pérez pointed out that the attack is a consequence of injustice, drug trafficking, and organized crime that exist in the area.	Criminal groups	Christian (Catholic)
Colombia	July 2021	According to the Police, ELN subversives in the municipality of Hacarí attacked the church, the priest's house and the parish priest's vehicle. Andrey Fajardo, parish priest of the San Miguel Arcángel church, was unharmed from the terrorist action registered against his parish, although his vehicle was destroyed due to the damage to its doors and windows in the face of the strong explosive wave.	National Liberation Army	Christian (Catholic)
Hostility towards religious conversion in indigenous communities				
Mexico	June 2021	Local authorities and members of the municipality of Mititún, in San Cristóbal de las Casas (Chiapas, Mexico), demolished and burned five houses owned by evangelical indigenous people. The houses belonged to pastor Alejandro Jiménez and his children who, since January 2021, lived outside the municipality, expelled for professing the evangelical religion, in a shelter house of Alas de Águila in San Cristóbal de las Casas. Pastor Alejandro and his family were briefly detained when he returned to visit his sick mother. In reaction to his return, they burned his property.	Ethnic local authorities	Christian (Protestant)
Chile	November 2020	An evangelical church was set on fire and burned down in Victoria by radical Mapuche groups, who protested violently to demand the return of ancestral lands.	Ethnic groups	Christian (Protestant)
Hostility to religious expressions by state and non-state actors				
Argentina	March 2021	Within the framework of International Women's Day, a group of radical feminists caused destruction and vandalism in the local San Luis Rey cathedral, an evangelical temple of the Universal Church and a recognized sanatorium known for being an institutional objector to the abortion law.	Radical feminist groups	Christian (Catholic)
Cuba	March 2021	Numerous stones hit the roof of the pastoral house and the Missionary Church in Cuba, headed by Yoel Demetrio, a well-known detractor of the Cuban socialist regime. "The stones are thrown from neighboring courtyards against the church," explained the religious leader, who belongs to the Apostolic Movement, a network of evangelical churches that the state refuses to legalize.	Intolerant citizens	Christian (Protestant)
Religious restrictions from totalitarian government control and from anti-religion political ideology (communism)				
Cuba	July 2021	In the midst of the peaceful protests and the violent repression by the government of Cuba that took place on July 11, Father Castor Álvarez was beaten and detained when defending some young protesters. The religious remained detained, accused of public disorder, but was released after efforts made by Msgr. Willy Pino, Archbishop of Camagüey.	Government officials	Christian (Catholic)
Nicaragua	July 2020	A person threw a Molotov cocktail at the Chapel of the Blood of Christ in the Cathedral of Managua, causing a fire inside the temple. The Archdiocese of Managua pointed out that this event represented one of the many acts that reflect hatred of the Catholic Church and its evangelizing work.	FSLN party sympathizers	Christian (Catholic)

Figure 1. Examples of religious freedom violations in Latin America (physical violence)

Country	Incident Date	Summary	Responsible Actor Category	Religion of Victim(s)
Hostility to religious expressions by state and non-state actors				
Mexico	November 2021	The Electoral Tribunal of the Judiciary of the Federation issued a sentence condemning two cardinals, a bishop and two priests for apparently violating electoral law by failing to observe the principle of separation of church and state during the elections of June 2021. The ministers of worship requested at the time that parishioners meditate on the vote, ask for "light" and not vote for those who promote abortion, among other issues with which they do not agree based on their Christian principles. The ruling orders the Ministry of the Interior to impose the sanctions.	Government authorities (Judiciary)	Christian (Catholic)
Colombia	May 2021	The Constitutional Court pointed out that the publication of the Vice President, entrusting the country to the Virgin of Fatima, was an action that disregarded the principle of secularism and the rights to religious freedom and freedom of conscience, since it was an official message through which the state, through one of the highest representatives of the national government, promoted and identified with the Catholic religion, in violation of the mandate to maintain strict neutrality in religious matters.	Government authorities	Christian (Catholic)
Colombia	October 2020	Judge Ramiro Eliseo Flores Torres refused to marry two women because, according to the judge's testimony, doing so would go against his Christian morals and his convictions. The LGBTI community considered the judge's attitude offensive and discriminatory. The judge is currently under criminal and disciplinary proceedings.	Government authorities and ideological pressure groups	Christian (Protestant)
Mexico	July 2020	Elsa Méndez, Local Representative for District 6 of the state of Querétaro in Mexico, suffers political and judicial persecution. She has 15 investigation folders at the State Attorney's Office where she is accused of the crime of "discrimination" based on her speeches and initiatives that defend life and the family, drawing on her Christian views.	Government authorities	Christian (Catholic)
Argentina	July 2020	The National Institute against Discrimination, Xenophobia and Racism filed a lawsuit with the Public Ministry of the City of Buenos Aires to investigate the authorities of the Santo Tomás de Aquino Group Fraternity (FASTA). The complaint seeks to investigate the contents of this educational network since, according to the authorities, the teachings and beliefs of the group have homophobic and hateful connotations against sexual minorities and the feminist movement.	Government authorities (National Institute against Discrimination, Xenophobia and Racism)	Christian (Catholic)

Figure 2a. Examples of religious freedom violations in Latin America (non-physical violence)

Country	Incident Date	Summary	Responsible Actor Category	Religion of Victim(s)
Religious restrictions from totalitarian government control and from anti-religion political ideology (communism)				
Nicaragua	August 2021	Sandinista congressman Wilfredo Navarro threatened to accuse the Catholic Church in Nicaragua of electoral crimes in response to the communiqué issued this Tuesday by the Justice and Peace Commission of the Archdiocese of Managua, which contended that "Nicaraguans are not allowed to vote" and that "there are no conditions for elections." "As political leaders, as political sotanudos [rebels] dared to say not to vote on November 7, we should analyze whether it does not have criminal connotations because you can say I will not vote, but telling people that is an electoral crime, telling people not to vote, they are opting for war and violence," said deputy Navarro.	Government officials (Sandinista Deputy)	Christian (Catholic)
Cuba	June 2021	The Association of Free Yorubas of Cuba filed a complaint before the People's Court and the Municipal Prosecutor's Office of Placetás, Villa Clara, for violations of religious freedom committed by government officials. "We devotees have no freedom of assembly, we have no freedom to carry out our activities and our ceremonies. We have been forbidden to meet to replicate that knowledge we possess and to reflect on the experience acquired over time," said the president of the independent organization, Donaida Pérez Paseiro.	Government officials	Ethnoreligionist (incl. Indigenous, Afro-Brazilian, etc.)
Cuba	March 2021	María Antonieta Colunga Olivera, the wife of Christian journalist Yoe Suarez, was summoned by state security agents. During the interrogation, the officers asked her if she collaborated with independent media and inquired regarding her employment as a communicator at Cáritas. In the same way, they pointed out to her that her husband's work could affect her employment at Cáritas.	Government officials	Christian (Protestant)
Honduras	November 2020	The Agape Christian Church recently denounced the fact that the managers of a shelter did not allow them to distribute donations directly to the victims of Hurricane Eta; on the contrary, they demanded that the institution be placed in charge of distribution. Apparently, in the face of the presidential elections to be held in November 2021, humanitarian assistance is becoming politicized since support is usually directed to municipalities of the government's political party.	Government officials	Christian (Protestant)

Figure 2b. Examples of religious freedom violations in Latin America (non-physical violence)

Country	Killings	(Attempts) to destroy, vandalize or desecrate places of worship or religious buildings	Closed places of worship or religious buildings	Arrests detentions	Sentences	Abductions	Sexual assaults/harassment
Argentina	3	38	1	0	1	0	0
Bolivia	1	0	0	0	0	0	0
Brazil	3	11	0	0	0	0	0
Chile	0	19	0	0	0	0	0
Colombia	16	44	18	48	8	6	14
Costa Rica	0	1	0	0	0	0	0
Cuba	0	11	1	52	3	0	0
El Salvador	6	7	0	0	0	4	0
Guatemala	3	1	0	0	0	0	0
Haiti	1	0	0	0	0	18	0
Honduras	17	6	0	0	0	1	44
Mexico	13	84	0	50	1	13	11
Nicaragua	1	47	2	0	0	1	0
Paraguay	0	1	0	0	0	0	0
Peru	2	4	0	0	0	0	0
Venezuela	4	34	2	6	0	1	0
Country	Other forms of attack (physical or mental abuse)	Attacked houses/ property of faith adherents	Attacked shops, businesses or institutions of faith adherents	Forced to leave Home	Forced to leave Country		
Argentina	10	1	1	0	0		
Bolivia	1	1	0	0	0		
Brazil	6	1	0	0	0		
Chile	11	0	0	0	0		
Colombia	504	7	3	605	2		
Costa Rica	0	0	0	0	0		
Cuba	31	3	1	0	0		
El Salvador	14	8	10	9	17		
Guatemala	3	0	0	0	0		
Haiti	0	0	0	0	0		
Honduras	38	0	0	9	0		
Mexico	72	88	1	404	40		
Nicaragua	14	2	1	4	7		
Paraguay	0	0	0	0	0		
Peru	0	0	0	0	0		
Venezuela	10	6	0	0	6		

Figure 3. Count of incidents of physical violence in Latin America related to religious freedom (January 2020 - September 2021)

4. Examples of the use of VID data

VID data collected for Latin America have been used in the following ways. First, civil society organizations find the information useful insofar as it helps them to identify scenarios of religious freedom violations not previously considered and that need to be highlighted not only at the local but also at the regional level, especially within human rights protection bodies. Data have been used by NGOs such as Otros Cruces (regional), Fundación Resiliencia Colombia and Conciencia Nacional por la Libertad Religiosa (Mexico).

Second, policymakers or governmental offices including the United States Institute of Peace, the US Commission on International Religious Freedom, and the Foreign and Commonwealth Office of the UK have used VID data. The information helps them recognize new situations that should be addressed in the design or implementation of public policies and laws supporting religious freedom. VID data help these offices gain a more comprehensive view of the state of religious freedom in the region. OLIRE has also used the data to prepare submissions to the IACHR and the UN Special Rapporteur on Religious Freedom.

Third, religious communities and leaders have used the information to strengthen their training programs and to help members of their churches understand the multiplicity of situations to which they may be exposed. Fourth, VID data have been used for asylum determination in several countries, including Belgium, Brazil and the Netherlands. Finally, academics have used the VID as a source of empirical data in their analysis of religious phenomena in Latin American generally or on a specific Latin American country.

As we transform the VID into a global database, we hope that similar results may be achieved for other countries and regions.

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Noteworthy

The noteworthy items are structured in three groups: annual reports and global surveys, regional and country reports, and specific issues. Though we apply serious criteria in the selection of items noted, it is beyond our capacity to scrutinize the accuracy of every statement made. We therefore disclaim responsibility for the contents of the items noted. The compilation was produced by Executive Editor Janet Epp Buckingham.

ANNUAL REPORTS AND GLOBAL SURVEYS

Reports of the Special Rapporteur on Freedom of Religion or Belief United Nations General Assembly and Human Rights Council

<https://www.ohchr.org/en/issues/freedomreligion/pages/annual.aspx>

The Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, issued two reports in 2021. The first was to the Human Rights Council and is titled “Countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief.” The second was to the UN General Assembly and focused on freedom of thought.

United Nations Universal Periodic Review

United Nations Human Rights Council, January–November 2021

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/CyclesUPR.aspx>

The 37th, 38th and 39th sessions of the Universal Periodic Review for Human Rights took place during 2021, reviewing the human rights situation in 42 countries.

2020 Report on international religious freedom

US Department of State, Office of International Religious Freedom, 12 May 2021

<https://bit.ly/3Lr2H96>

The US Department of State draws from NGOs, religious groups, media, academic reports and other sources of information to compile an overview report on international religious freedom.

2021 Annual Report

United States Commission on International Religious Freedom, April 2021

<https://bit.ly/3K3x2Kg>

This report documents the violations and progress in religious freedom violations and designates 14 Countries of Particular Concern and 12 countries for the State Department’s Special Watch List.

Globally, social hostilities related to religion decline in 2019, while government restrictions remain at highest levels

Pew Forum, 30 September 2021

<https://pewrsr.ch/3Hsj6HD>

This annual report on global religious freedom documents violations from 2019.

Freedom in the world 2021: Democracy under siege

Freedom House, November 2021

<https://bit.ly/36Yr27a>

The aim of Freedom House is to provide a comprehensive annual report assessing the state of political rights and civil liberties around the world.

World Report

Human Rights Watch, 2021

<https://www.hrw.org/world-report/2021>

Human Rights Watch, whose aim is to defend the rights of all people, publishes an annual report examining and investigating the abuses of human rights and justice across 90 different countries. The 2021 annual report examines the major events relating to human rights that occurred in 2020.

World Watch List 2021 compilation

Open Doors International/World Watch Research, January 2021

<https://bit.ly/3pTOppd> (password: freedom)

This is a compilation of the main documents published by World Watch Research, excluding country dossiers. These reports include the ranking of countries with regard to the persecution of Christians worldwide, press releases, and statements regarding trends in religious persecution.

REGIONAL AND COUNTRY REPORTS

Afghanistan: what does the Taliban takeover mean for other jihadists?

Open Doors / World Watch Research, August 2021

<https://bit.ly/35JjBQy>

This report examines the Taliban takeover and what lessons are to be learned for other such conflicts, such as those in Africa.

Balkans: Strengthening the protection of freedom of religion or belief in Western Balkans: A roadmap for Parliamentarians

IPPFoRB, 2021

<https://westernbalkansreport.ippforb.com/>

This is a report by Dr. Mine Yildirim, commissioned by IPPFoRB.

China bans faith for all children**Jubilee Campaign, March 2021**<https://bit.ly/3hlztLQ>

This report examines the impact on children of being denied the right to participate in a faith community and how this action violates the International Covenant on the Rights of the Child.

Cuba: Freedom of religion or belief in Cuba**Christian Solidarity Worldwide, 12 January 2021**<https://www.csw.org.uk/2021/01/12/report/4940/article.htm>

This report documents 203 reports of religious freedom violations in Cuba in 2020 and the impact of COVID-19 on freedom of religion.

France: The Persecution of Ex-Muslim Christians in France**European Centre for Law and Justice, 30 March 2021**<https://bit.ly/38BDz12>

This report highlights the fact that an overwhelming majority of people leaving Islam to join Christianity undergo family and community persecutions.

India: Persecution of Christians in the curfew of Covid (2020 Report)**Evangelical Fellowship of India, 14 January 2021**<https://bit.ly/36LbXFN>

This report documents targeted violence and other forms of persecution against Christians in India. "Political excoriation, police impunity, and vigilante groups on their trail marked the experience of many Christian communities in several parts of the country at the height of the COVID-19 spread."

Iran: The reality for Christians**Open Doors International/World Watch Research, May 2021**<https://bit.ly/3hA0M5a>

This report examines the difficult situation for Believers from a Muslim in Iran, where Christianity is seen as a condemnable Western influence and a threat to Islam.

Latin America: Bi-annual report January-June 2021**Observatory of Religious Freedom in Latin America, August 2021**<https://bit.ly/3tGpshR>

This report documents violent incidents on the basis of religion in the Latin American region. While churches have been instrumental in humanitarian assistance in response to the ongoing COVID-19 crisis, corruption and economic conditions have created challenging conditions for religious minorities.

Latin America: Bi-annual report July-December 2021**Observatory of Religious Freedom in Latin America, February 2022**<https://bit.ly/3Mva3tz>

This report documents violent incidents on the basis of religion in the Latin American region. The lingering effects of COVID-19 have resulted in lack of trust in public institutions and poor economic recovery.

Nigeria: Security in Nigeria: violence by non-state actors**Christian Solidarity Worldwide, 22 September 2021**<https://www.csw.org.uk/2021/09/22/report/5416/article.htm>

This report is a briefing on attacks by diverse armed gangs, primarily Fulani, on farming communities.

Sri Lanka: Prejudice and patronage**National Christian Evangelical Alliance of Sri Lanka, 2021**<https://bit.ly/3InARJN>

An analysis of incidents of violence against Hindus, Muslims, and Christians in Sri Lanka (Sept. 2019 to Sept. 2020).

SPECIFIC ISSUES**The intersection of blasphemy law & institutional religious freedom:****Egypt, Indonesia, Pakistan, and Turkey****FORIS Policy Report, May 2021**<https://bit.ly/3vkDSqw>

This policy paper examines how the blasphemy laws in more than half of the world's 49 Muslim-majority countries limit institutional religious freedom.

Children and youth specific persecution 2021: Preliminary findings from 50 countries**Open Doors International/World Watch Research, 1 September 2021**<https://bit.ly/3KsyVAd>

This is the first report from World Watch Research examining persecution aimed specifically at children and youth.

Freedom of religion or belief for everyone: Women in focus**Stefanus Alliance International, 8 March 2021**<https://bit.ly/3r6jne3>

A training booklet for Christians about FORB for everyone – with women in focus. An introduction about how women are targeted differently than men when FORB is violated – and synergies about women's rights and FORB.

Gender-specific religious persecution: Same faith, different persecution
Open Doors International/World Watch Research, 1 March 2021

<https://bit.ly/3hgrvU4>

This third annual WWL report examines global trends regarding gender-specific religious persecution.

Institutional religious liberty: Western societies need proactive policies to protect institutional religious freedom

FORIS Policy Reports, September 2021

<https://bit.ly/3Iq2Qsf>

This report recommends that governments adopt policies to respect and promote the existence in society of a plurality of organizations acting in accordance with their fundamental convictions.

Institutional religious liberty: Institutional religious freedom and the common good: Significance, challenges, and policy implications

FORIS Working Group Report, September 2021

<https://bit.ly/3HmwX2g>

This report argues that religious institutions have significant and important roles in society and suggests ways in which those roles can be protected and enhanced.

Institutional religious liberty: Why people need religious institutions and why religious institutions need freedom

FORIS Report, October 2021

<https://bit.ly/3K100ub>

This report explores the grounds on which religious institutions merit robust freedom in their doctrines, internal organization, and presence in society.

Killing in the name of God: State-sanctioned violations of religious freedom
Monash University Report, October 2021

<https://bit.ly/3pi4uEJ>

Focusing on the 12 nations in which offences against religion are lawfully punishable by death, the report examines four different types of state-sanctioned killings on the basis of religious offence (apostasy, blasphemy, or the like) or affiliation (most commonly, membership in a religious minority): judicial executions, extra-judicial killings, killings by civilians, and killings by extremist groups.

Heiner Bielefeldt

Freedom of Religion or Belief:

Thematic Reports of the
UN Special Rapporteur 2010 – 2016

VKW Religious Freedom Series 3



Thomas Schirmacher (Ed.)

Religious Freedom Series 3, 2nd edition, VKW: Bonn 2017, 364 pp,
ISBN: 978-3-86269-117-3, € 20 **Free download:** www.iirf.global

Book reviews

The 21: A Journey into the Land of Coptic Martyrs

Martin Mosebach, trans. Alta L. Price

New York: Plough Publishing House, 2019, 272 pp., ISBN 9780874868395, \$16.99

Few who saw it can forget the horrific video of 21 Christian men in orange jumpsuits being taken to a beach in Libya to be beheaded by their kidnappers in February 2015. Each one was led by a separate kidnapper while a spokesman announced that the mass execution was a message for the “nation of the cross,” referring to Western acts of aggression against Muslim states and the killing of Osama bin Laden. By this act, the narrator said, his audience would know the “majesty of terror.” Each victim professed his faith in Jesus Christ before dying, making this perhaps the most striking case of modern-day Christian martyrdom in recent history.

Two years later, Martin Mosebach travelled to Egypt to research the lives of the 21 men who died on the beach. This book serves as a meditation on the impact of their martyrdom and an excursus into the life of the Coptic Orthodox Church in which all but one were raised. In a nod to the contemporary iconography of the martyrs he describes, Mosebach separates the book into 21 chapters, each prefaced with a photo of one martyr.

Mosebach travelled to the village of al Aoun near Samalut in Upper Egypt, the childhood home of most of the martyrs. He visited the church established in their memory and met with their family members, learning to his disappointment that “available biographical information was sparse” (84). Church leaders and their families stressed the insignificance of the individual martyrs’ lives. Instead, they described the group’s martyrdom as part of the quotidian experience of the Egyptian church: “They are all the same. . . . We are the Church of Martyrs” (46).

Each of the martyrs’ families, Mosebach writes, “went out of their way to avoid leaving me with the impression that the decapitation of their sons, brothers, and husbands had caused them any misfortune” (91). They did not speak of revenge or of seeking to punish their persecutors.

Mosebach therefore seeks to understand the martyrs as a function of the church in which they were raised. He finds a community that has been preserved largely unchanged since its foundation – indeed, “no one should say too much about early Christianity without first getting to know the Copts” (163). The life of a poor Upper Egyptian Copt is surrounded by the church, the liturgy of which was “the air [the martyrs] breathed” (153). Mosebach emphasizes the immersive experience of the

Coptic liturgy over its catechetical role, arguing that such an experience prepared the martyrs to be a part of the heavenly chorus.

In Mosebach's account, the Copts' lives differ from those of both their Muslim compatriots and their Western coreligionists. Copts are stereotyped and often vilified in Egypt in ways that parallel the treatment of Jews in late modern Europe. They have developed means of surviving in spite of their subordination, and these means reinforce the sense of community among the persecuted.

Mosebach rightly focuses on the monastic tradition as a pillar of the Coptic Orthodox Church, emphasizing how the monasteries contribute to the timelessness of Coptic Christianity. In the garbage recycling village of Cairo, where thousands of Upper Egyptians have migrated to live on the margins of the city, he finds "a symbol of the misery and splendour of the Coptic faith in its astonishing perseverance on the dark side of history" (200). Coptic society, enduring through thousands of years of persecution or marginalization, provides a sort of preparation for martyrdom unseen in the Western church.

Mosebach's profile rightly conveys the unique qualities of the Coptic Orthodox Church and its people. The simplicity of Coptic life in the Upper Egyptian villages clashes with the diversions that distract from the Christian life in Western climes. The author vividly portrays the contrast by depicting his trip to the shopping districts of New Cairo, which seem almost like another planet. The Christian life is nowhere near so immersive among Western Christians who indulge in the latest fashions or secular entertainment. Would those of us who live such jaded lives have anywhere near the level of commitment required for martyrdom?

Although Mosebach is right to emphasize the unique qualities of Coptic Christianity, he provides a somewhat romanticized version of Coptic suffering. Having written extensively on the unique partnership between the Coptic Orthodox leadership and the Egyptian government, I would question his assertion that "the Coptic Church is strictly separated from the secular state," from which it "enjoys no special protections or privileges" (170). First, the Egyptian state is neither constitutionally nor functionally secular. Moreover, though Copts themselves suffer widespread discrimination and even calumny among Egyptians, their church hierarchy has a special relationship with the state, as noted by many scholars. The latest manifestation of this special relationship, as Mosebach acknowledges, is the multitude of church buildings constructed over the past few years. These include the Church of the Martyrs in Samalut in honour of the 21 martyrs and a new national cathedral in Egypt's exurban new capital, built with public money at the behest of President Abdel Fattah al-Sisi. These and other church buildings are guarded by members of the security services. Whether such symbolic acts mean anything for the lives of individual Copts is, of course, another matter.

What does Mosebach's book teach us about religious freedom and martyrdom? A central point of the book is the importance of the quotidian, even mundane preparations that the Egyptian church provides for the suffering of its adherents. The connection between the early Egyptian church and its members venerated in the synaxarion (stories of the martyrs), on one hand, and the lived experience of contemporary Christians on the other captures one's imagination. From the Copts, Mosebach learns that "nothing separates our present day from that of the Diocletian persecutions" of the late third and early fourth centuries (194). Those persecutions were followed almost immediately by the church's deliverance by Constantine. If that is true, "then perhaps the Twenty-One should not be counted among the very last Christians, but rather among the first," Mosebach notes (37). That is, the martyrs may in fact contribute to the expansion and renewal of the church worldwide.

However, if mounting persecution vexes Christians worldwide, perhaps "the path the Western church has taken over the centuries has just been a huge, highly eventful detour that is now leading right back to the fork in the road where the Coptic Church has patiently persevered this entire time" (213). In other words, the violent acts of the persecutors have inadvertently advanced the cause of the very church they sought to terrorize.

Paul S. Rowe, Professor of Political and International Studies, Trinity Western University, Langley, Canada

Governing the Sacred: Political Toleration in Five Contested Sacred Sites

Yuval Jobani and Nahshon Perez

Oxford: Oxford University Press, 2020, 208 pp., ISBN 978-0190932381, \$105.00

How might governments best administer sacred places that are torn by conflict? In this illuminating and beautifully written volume, Jobani and Perez explore five models that states have used to address this issue: non-interference, separation and division, preference, status quo, and closure. They carefully explore each model's foundations in political thought and shed light on each one's strengths and weaknesses by means of in-depth analysis of important case studies: Devil's Tower in Wyoming, USA; the Ayodhya conflict in India; intra-Jewish tensions at the Western Wall; intra-Christian tensions in the Church of the Holy Sepulcher in Jerusalem; and Jewish-Muslim conflict over the Temple Mount. The resulting lessons are crucial and insightful. Each model strikes a different balance between key liberal or democratic values such as separation of religion and state, nonpreferentialism, and egalitarianism.

tarianism. The authors clearly prefer some models (especially non-interference, and separation and division) over others, but their most important advice is that states should remain open to implementing hybrid models, adapting to circumstances as they change.

Several caveats are in order. First, despite the title, this is not a book about mutual respect, restraint, or accommodation between religious groups. The authors define toleration as mere coexistence (12), as a political and not a moral value (161). Second and relatedly, the book privileges the state-centric point of view. The focus is not on the preferences of religious communities, though these are often discussed in a nuanced manner. Rather, it is on the state's laws and policies and the preferences of its leaders and bureaucrats who wish to maximize stability and minimize meddling. The preferences of worshippers matter less, and the sacrosanct value of religious tradition is dismissed altogether (107 and 114). Third, though the volume claims to privilege "order" and the reduction of violence, these concerns often take a back seat to the goal of minimizing state interference in religious affairs. For example, the authors consider the Israeli state's nonintervention at the Tomb of the Patriarchs in Hebron to be more appropriate than its interference at the Western Wall, even though the former site is significantly less stable and much more violence-prone than the latter.

The policy typologies that the authors unearth amount to a handbook of sorts for decision makers and offer an analysis of useful techniques and tradeoffs. At Devil's Tower and Bear Lodge in Wyoming, the state abstained from interfering. Instead, it employed specific techniques ("signaling," "nudging," "ushering") to encourage parties to negotiate the conflict among themselves. At the Ram Janmabhoomi/Babri Masjid in Ayodhya, the state engaged in separation and division but did so without showing preference for one party or another, whereas at the Western Wall, the state granted preference to one religious group at the expense of another. At the Church of the Holy Sepulcher, it froze preexisting rights of ownership and usage. At the Temple Mount, it barred one group (Jews) from worshipping at the site altogether.

This fascinating array of policy options opens the door for much future research. First, scholars inspired by this important book will want to apply these typologies to other cases. Since the book explores only five cases (one for each model), it is conceivable that other cases will reveal additional models, including situations in which state power is limited or in flux.

Second, other scholars might explore the pragmatic, and not only the legal and moral, ramifications of each model and how they address the underlying causes of conflict. The volume offers only a vague theory of the causes of conflict over holy sites (we learn that religious sites are "thick," that practices are often "irrecon-

cilable,” and that worshippers display a “heightened sensitivity” at holy sites). It would be good to understand exactly how each model addresses specific causes of conflict. Does one model reduce sensitivity? Does another avoid irreconcilable rituals? If not, how do they work?

Finally, since the book defines toleration as little more than coexistence, the authors’ claim to break new ground in the study of toleration at sacred spaces (13) is overstated. Elazar Barkan, Karen Barkey, Anne Bigelow, Michael Dumper, Roger Friedland, Richard Hecht, and many others have written at length about the coexistence arrangements analyzed in this volume. It would be important to bring the typologies in this book into closer conversation with those prior discussions.

All the disputes explored in this book remain unstable because all continue to involve at least one party (and often more than one) that is deeply dissatisfied with the status quo. Readers hoping to learn how to contain religious conflicts to the satisfaction of the parties involved will find no easy solutions here. But readers who wish to explore the options available and the moral and legal foundations of these options in the thought of John Rawls, Alfred Stepan, or Robert Axelrod will find this book very compelling.

Ron E. Hassner, University of California, Berkeley

Thou shalt have no other gods before me: Why governments discriminate against religious minorities

Jonathan Fox

Cambridge: Cambridge University Press, 2020, 294 pp., ISBN 9781108488914, US \$86.59

This is a comprehensive study of the reasons why governments (but more broadly regulatory authorities) and societies single out certain religions for disfavored treatment in law and society. It is comprehensive for two main reasons: it is theoretically thick and geographically broad. The study provides a rich and sound theoretical underpinning, based on empirical data, for the causes of singling out religion *qua* religion for disfavored treatment in law and society. Furthermore, it covers nearly the whole globe, categorizing the world into different regions mainly based on their commonalities and shared characteristics – for example, European and Western non-Orthodox Christian-majority democracies (EWNOCMD) and Muslim-majority states.

This geographic categorization is a novel approach to theorizing the phenomenon of disfavoring religion. It results in some path-breaking outcomes that confirm

what previous studies presumed about the challenging relationship between religion and liberal democracy. Hence, the cases on which this study draws remove the persistent biases about Western liberal democracies, which are usually considered among the most religious-tolerant places around the globe. Fox also amplifies, again based on empirical evidence, the assumption that majoritarian sensitivities across Western liberal democracies play an undeniable role in disfavoring religion *qua* religion (see for example Christian Joppke, Saba Mahmood, Nehal Bhuta, Cécile Laborde and Sohail Wahedi). He does the same with the commonly heard claim of the principled incompatibility of secularism with religious toleration and accommodation. Fox claims that liberal democracies provide on normative grounds (i.e. advancing secularism) conditional protection of free exercise of religion, meaning that free exercise should not violate other liberal ideals such as equality.

The study also breaks new ground by showing that in some African countries, such as Sierra Leone, Senegal and Botswana, there is hardly any discrimination against religious minorities based on their religious beliefs. The reasons Fox gives for this high level of tolerance, especially in sub-Saharan West Africa, are the history of Afro-European colonial relationships, the presence of Sufism, and religious syncretism that fosters interfaith interaction. More fundamental research is necessary to learn from this phenomenon of syncretism and determine whether it could be applied in other locations. Such an effort is certainly needed, since Fox shows that discrimination against religion is broadly present today. He provides an overview of some of the main causes of government-based religious discrimination (GRD).

Among the most delicate causes are religious ideologies that are in essence intolerant of non-majoritarian beliefs and convictions. Also, secular state ideologies usually target religious minority groups, for either political or security reasons. Similar to this approach is the tendency to frame minority practices as objectionable. Fox refers to Muslim headscarves, ritual slaughtering of animals and male circumcision as examples of religious practices that have been viewed as incompatible with liberal standards. This specific ground for unfavorable treatment of religious minorities has been extensively studied and theorized as a mechanism of abstraction from the religious dimension that is omnipresent across liberal democracies, but it has received little scrutiny thus far.

At a more micro level, Fox elaborates on causes of GRD that may target some religious minorities (e.g., Muslims and Jews) but have little to no implications for other religious groups. In this context, Fox refers to nationalistic sentiments and the “securitization” of religious minorities. Both result in singling out religion for disfavored treatment, and in both cases, there is obviously abstraction from the religious dimension. But Fox does not extensively engage in the law and religion debate from a more normative and theoretical angle. This is not a serious omission as his main message is clear, well-argued, and well-founded.

Although Fox is quite clear about the main causes of GRD, his study does not provide a thorough analysis of the causes of societal religious discrimination (SRD) – that is, actions against religious minorities taken by the dominant religious majority groups even though it does not possess any regulatory authority. Fox posits a dynamic relationship between SRD and GRD, stating that GRD is not necessarily caused by SRD or vice versa. He claims that SRD could result in GRD if certain triggers are activated, such as security threats. However, more research is necessary to establish the dynamics between SRD and GRD in practice and the main causes of SRD in society.

Thou Shalt Have No Other Gods before Me is an absolute must for anyone interested in doctrines of law and religion, liberal political philosophy, or anthropology. It is a unique contribution to the field of law and religion because of how it intertwines law, political philosophy and sociology. Its focus on forces that disfavor religion in law and society represents not only an asset but a paradigmatic shift in how the relationship between law and religion has been examined.

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Freedom of religion or belief under scrutiny

Heiner Bielefeldt and Michael Wiener

Philadelphia: University of Pennsylvania Press, 2019, 280 pp., ISBN 978-0812251807, \$65 USD, £52

This book is an incredibly rich resource for understanding the breadth and complexities of freedom of religion or belief. One could not ask for more qualified authors. Michael Wiener has worked in the office of the UN High Commissioner for Human Rights since 2006, supporting the UN Special Rapporteur for Religious Freedom for five of those years; Heiner Bielefeldt was the UN Special Rapporteur from 2010 to 2016. This book is therefore both theoretically rigorous and also grounded in experience of documenting violations of freedom of religion or belief.

The book explicates difficult topics and addresses many of the leading arguments against protecting religious freedom. It also includes on-the-ground examples that illustrate the arguments or raise complexities. It is written at a very academic level, making it of interest to academics and human rights practitioners.

Not surprisingly, the authors are strong supporters of robust protection for religious freedom: “We argue that by ignoring or marginalizing freedom of religion or belief we would not just end up with a specific gap; such marginalization would

ultimately weaken the plausibility, attractiveness, and legitimacy of the entire system of human rights” (8-9).

Chapters 1 and 2 set the foundation for the book. Chapter 1 establishes religious freedom as a universal *human* right. It is not religions but people who are entitled to religious freedom. The authors counter the common narrative that human rights are a white, Western construct. Chapter 2 focuses on challenges to religious freedom. The authors urge that limitations on this right be interpreted narrowly. They address anti-liberal distortions of freedom of religion or belief under the following headings: (a) “combating defamation of religions”; (b) protecting collective religious identities; (c) preserving a state-imposed interreligious harmony; and (d) purging the “secular” public sphere of the presence of any visible religion (60-68).

Chapters 3 and 4 place religious freedom in context. Chapter 3 addresses the tension between treating everyone equally and accommodating diversity. Treating everyone equally may sound good in theory but does not take into account individual needs. The authors instead advocate for “a *complex equality*, based on respect for the existing diversity of human convictions” (84). Chapter 4 focuses on religious freedom and other human rights. Although courts and academics often refer to “balancing” rights, the authors prefer the term “coordinate” to address conflicting rights (99). The authors address some thorny topics such as gender equality, defamation of religion (as a matter of freedom of expression) and LGBTQ concerns. Bielefeldt and Wiener conclude, “However, the task at hand is not to strike a sort of fifty-fifty compromise between opposite claims, but to coordinate and maximize the competing human-rights-based concerns in a manner that comes as closely as possible to a full implementation for both of them” (99).

Chapters 5 and 6 analyze restrictions on religious freedom. Chapter 5 focuses specifically on state secularism, which is often promoted as a way to protect religious freedom. The authors distinguish between exclusive and inclusive forms and between doctrinal and non-doctrinal types of secularism, preferring the inclusive and non-doctrinal. They propose an interpretation of state neutrality as encouraging the non-discriminatory implementation of religious freedom, thereby creating an open space for religious symbols, images and voices. Chapter 6 documents a wide range of state persecution activities under three headings: (1) protecting truth claims, (2) preserving national identity and (3) control-obsessed authoritarian governments.

Chapters 7 and 8 analyze the framework for human rights protection. Chapter 7 explains human rights protection nationally, regionally and in the UN system as an ecosystem. As an example, the authors describe the relationship between the European Court of Human Rights and the UN Human Rights Committee, analyzing jurisprudence on religious symbols in public life, religious education and conscientious objection to military service. They highlight the problem of inconsis-

ent interpretation. Chapter 8 looks more broadly at various non-state actors who advocate for religious freedom. The Rabat Plan (2012) and the Beirut Declaration (2017), developed by faith-based and civil society actors working on human rights, are positive examples. Bielefeldt and Wiener encourage interreligious dialogue along with peace-building and trust-building efforts.

The final chapter returns to the religious roots of human rights, not only in the Christian tradition but in many religions. The authors conclude with a strong call for state actors, civil society and religious leaders to promote and protect religious freedom.

Bielefeldt and Wiener have written a strong and fearless apologetic on behalf of religious freedom, tackling many controversial and complex topics. Their breadth of experience is truly global. This is a must read for academics in the field, but also for anyone who wants to be fully equipped to defend religious freedom, particularly in the courts.

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The blessings of liberty: Human rights and religious freedom in the Western legal tradition

John Witte, Jr.

Cambridge, UK and New York: Cambridge University Press, 2021, 316 pp., ISBN: 978-1108429207, US \$110

The Blessings of Liberty reflects the careful scholarship we have come to expect from John Witte, Jr. As he says in the preface, the book reflects his 30-plus years of “writing on the history, theory, and law of human rights and religious freedom” (xi). The title quotes the 1789 US Constitution, and the book highlights the historical thinking underlying the Constitution’s provisions on religious freedom. Witte then brings us up to the current time by examining US court judgments, current arguments for and against religious freedom and, finally, comparative cases from Europe. He concludes with a *cri de coeur* for robust protection for religious freedom.

Witte is a prominent academic at Emory University’s Center for the Study of Law and Religion. He has published an enviable number of books and articles, which have been translated into multiple languages. He has degrees in law and theology and sees himself as a legal historian, with particular focus on law and religion and on family law.

The first three chapters trace the history of thought on religious freedom. Chapter 1 describes Christian contributions to the development of rights in the Western legal tradition from biblical times to the development of international human rights

norms. Chapter 2 covers the Magna Carta and its influence on the American colonies, leading to the Declaration of Independence. Indeed, although the Magna Carta has influenced the development of human rights globally, its greatest influence has been in America. Chapter 3 surveys early Protestant thinking on natural law, democracy, human rights and religious freedom. These chapters are rich in detail and connect the dots between different streams of thought from various time periods.

Chapter 4 provides a case study on the historical development of religious freedom in Massachusetts. I got bogged down in the details in this chapter, but it was very interesting to see the development of John Adams' thinking on religion and religious freedom. Adams was a significant leader of the Revolution and would become America's future second president. In Massachusetts, Adams "sought to balance generous protection for religious freedom for all peaceable faiths with the gentle establishment of Christianity" at the state level (105). At the federal level, the First Amendment prohibited any establishment of religion, but Massachusetts retained state support for churches until 1833.

Chapter 5 reviews the development of the great thinkers involved in the American social experiment of religious freedom for all. Several American colonies were founded as havens for religious minorities that had been persecuted in England. As chapter 4 explained some states sought to establish a religion, even if gently. Overall, however, religious minorities were welcomed in America in ways that were indeed new and unprecedented. I particularly commend pages 160 to 170 of this chapter as Witte's defense of protecting religious freedom. Although it focuses specifically on the US, it will be inspiring for other religious freedom defenders.

Chapters 6 and 7 zoom in on two particular areas of religious freedom interpretation in the US. Chapter 6 elucidates religious freedom in education and how the "wall of separation" has been applied perniciously. Chapter 7 examines how tax-exempt status has been applied to churches and religious institutions more generally. These issues are paradigmatic of how US courts have interpreted religious freedom in various sectors.

In chapters 8 and 9, Witte shifts his focus to Europe to compare and contrast how the courts in Strasbourg and Luxembourg have interpreted religious freedom. The *International Journal for Religious Freedom* has carried several articles in the last few issues on the varying interpretations made by these two courts.¹ The

¹ See André Fagundes, 2018. "The state's duty of neutrality and freedom of religious association Case law of the European Court of Human Rights." *International Journal for Religious Freedom* 11(1/2):45-56; Eugenia Relaño Pastor, 2018. "Combating religious discrimination in the workplace: Approaches by the EU Court of Justice and the European Court of Human Rights." *International Journal for Religious Freedom* 11(1/2):57-70); Hans-Martien ten Napel, 2020. "Why Europe needs a more post-liberal theory of religious liberty: Examining a European court ruling on ritual slaughter." *International Journal for Religious Freedom* 13(1/2):157-167.

European Court of Human Rights (ECtHR) applies Article 9 of the European Convention on Human Rights to the 47 countries in the Council of Europe. The rulings of the ECtHR are not enforceable but, rather, persuasive.

Witte refers to the Court of Justice of the European Union (CJEU), which sits at Luxembourg, as the “new boss of religious freedom” (259). It applies the Charter of Fundamental Rights adopted by the European Union in 2010. It is “the boss” because its rulings are enforceable. For this reason, it is becoming the more favorable venue for litigants. However, Witte sees some worrisome trends in the CJEU’s use of a neutrality test that is unfavorable to minorities.

Although this book will be of greatest interest to American attorneys and academics who specialize in religious freedom, it will also be of interest to European jurists and scholars. The chapters on the development of Christian thinking on religious freedom and the concluding chapter, which offers a Christian defense of human rights and religious freedom, are enormously valuable for those of us who address these issues in a serious way in our own cultures. Despite the US focus, there is enough in this book to keep all of us thinking and discussing better ways to defend religious freedom around the world.

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Post-Liberal Religious Liberty: Forming Communities of Charity

Joel Harrison

Cambridge: Cambridge University Press, 2020, xvi + 262 pp., ISBN 978-1108873796, \$99.99

In this multi-faceted study, Joel Harrison deploys theology and political and legal theory to redefine religious freedom for our time. Harrison builds a solid case for an alternative interpretation of religious freedom, which is “integral to a just political community” (2). He stresses the positive role played by religion and religious associations in society and contrasts his “ecclesiological view” with liberal egalitarianism, the predominant late modern view that accords rights only to individuals as bestowed by the state.

Harrison’s argument contains several steps. First, he turns to Augustine over John Locke to identify how religious freedom should function. Church and state, while a persistent duality, should not be treated as two permanent, separate institutions, since they both have to do with the common good. By denying the importance of “associational life,” liberal egalitarianism caused the conditions for its own fail-

ure, as suggested by Patrick Deneen's *Why Liberalism Failed*. In chapter 1, Harrison also expresses his intellectual indebtedness to Charles Taylor's narrative on secularization and to "Radical Orthodox" theology.

In chapter 2, Harrison outlines, with recourse to case law, the dominant liberal egalitarian view of religious freedom. According to this perspective (espoused by the likes of Ronald Dworkin), religious freedom is understood in terms of the autonomy of individual, personal choice, the pursuit of authenticity and derivative legal notions. For Harrison, this position pits religion against personal autonomy. Not coincidentally, God becomes seen as an arbitrary ruler whose rule must be ended.

Chapter 3 narrates a familiar account of secularization and Enlightenment reduction of the good. Harrison credibly shows how constricted the religious liberty claims offered in contemporary case law are. In the next chapter, he critically considers the attempts to frame religious liberty arguments constructed by John Finnis, Richard Garnett and Nicholas Wolterstorff, each of whom, like Harrison, believes that political authorities have a responsibility to uphold the common good, religiously conceived. Yet their understanding of the common good precludes the state's fostering of virtue and charity. For Harrison, in this analytically most important chapter, each of these thinkers is still wedded to the liberal egalitarian view, though for distinct reasons.

Harrison makes some excellent points here, but he overlooks Finnis' theologically construed category of nature. Also, Garnett's legal, *libertas ecclesiae* perspective is not really a political theory; it is an American legal strategy. However, Harrison interprets these three interlocutors as giving religion a supporting role within liberalism rather than an architectonic role in forging the common good with state actors. The problem, he asserts, is that these thinkers define the common good in instrumental or mechanical terms, thus arriving at "a constrained version of what religious liberty protects" (140). These ostensibly religion-friendly scholars fail in one respect or another to say why religion is an essential component of the common good.

Chapter 5 focuses the argument by articulating religion's architectonic role, in an "ecclesiological account" of religious freedom. The goal is to get beyond church/state dualism by arguing for a more robust, organic sense of association and the authority exercised by groups oriented by charity as broadly understood. Instead of a protective remit for religion under law, Harrison argues for law's orientation to "true religion." Following Milbank's Augustinianism, he values the cooperative dualism of *sacerdotum* and *regnum*. Religion and politics are inseparable.

Finally, chapter 6 and the conclusion summarize why "the surest foundation for religious liberty is the political community's commitment to religion" (235). Religious liberty is for the practice of "solidarity, fraternity and charity" (187), not

an individual right that is defined negatively. For example, conscience is a perennial category in religious freedom case law, but for Harrison, conscience actually operates primarily in a positive sense. It is not merely something to be defensively protected.

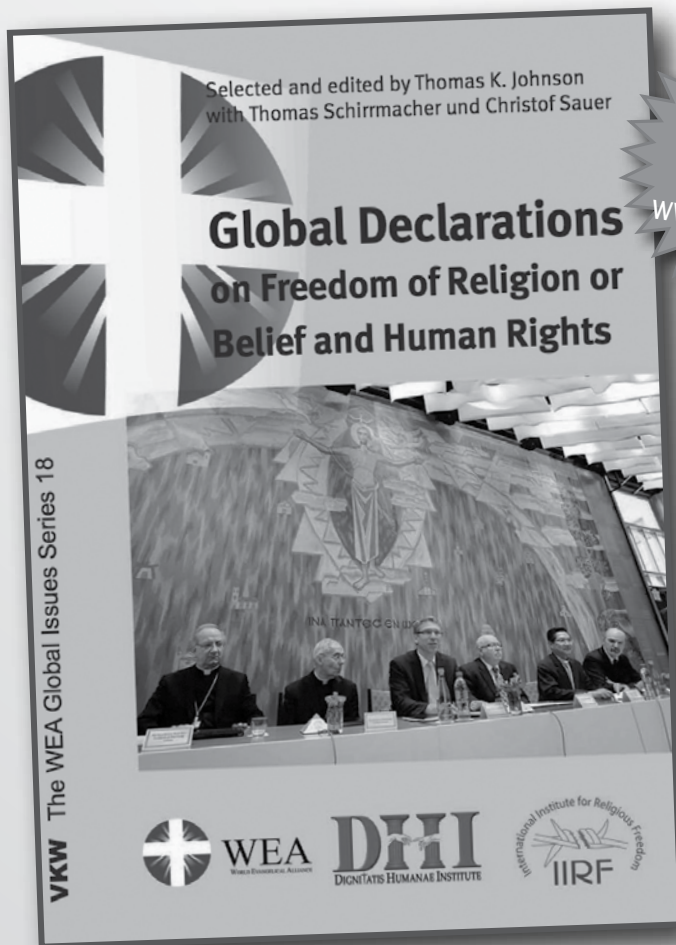
In one area, Harrison attempts to split the difference between individual and tradition-oriented accounts of religion. Religious freedom has been cited in legal cases pertaining to the right of Catholic adoption agencies to place children in families with a mother and a father rather than with same-sex couples. Here, Harrison tries to have it both ways: “differences [between the two positions on this issue] may participate in shared ends” (212), namely right relationships, virtuous living and the sharing of gifts in a common life. He smuggles in a relationally centered validation of same-sex marriage in the hope that religious traditions won’t object. This is simply wishful thinking.

As with his skewed portrait of Finnis, Harrison actually overlooks a fundamental, radical difference between most post-liberals and liberal egalitarianism to soften the blow of his alternative account. Usually, the difference between the two positions is expressed with regard to human nature and specifically concerning how families are defined. However, Harrison overlooks the traditionalist commitment to our status as a created, dimorphic species organized in nuclear and extended families. Other post-liberals will be surprised that he is willing to let natural-law accounts of the traditional (nuclear and extended) family go unmentioned.

Overall, this book is a very important contribution to understanding religious freedom. Although there are some minor problems, as expected with any study of this scope (for example, Harrison oversimplifies Augustine on state coercion), the chief problem concerns its practicability – and this objection is more a lament regarding our contemporary social condition than a critique of the book. Also, the argument would have benefitted from a discussion of the merits and demerits of the new integralism, with which this book is bound to be associated. The theological thrust of the argument, though solid, will be met with incredulity by most political and legal philosophers. However, Harrison’s argument for the rights, status and entitlements of associations is the strongest secular thread in this book. It deserves a wide hearing among disbelieving liberal establishments.

Paul Allen, Academic Dean, Corpus Christi College and Faculty of Theology, St. Mark’s College, Vancouver, Canada

Global Declarations on Freedom of Religion or Belief and Human Rights



**Free
online**
www.iirf.global

by Thomas K. Johnson, Thomas Schirmmayer, Christof Sauer (eds.)

*(WEA GIS, Vol. 18) ISBN 978-3-86269-135-7
Bonn, 2017. 117 pp., €12.00 via book trade*

Guidelines for authors

Version 2021-1 (February 2021)

This document combines essential elements of the editorial policy and the house style of IJRF which can be viewed on <https://ijrf.org>

Aims of the journal

The IJRF aims to provide a platform for scholarly discourse on religious freedom in general and the persecution of Christians in particular. The term persecution is understood broadly and inclusively by the editors. The IJRF is an interdisciplinary, international, peer reviewed journal, serving the dissemination of new research on religious freedom and is envisaged to become a premier publishing location for research articles, documentation, book reviews, academic news and other relevant items on the issue.

Editorial policy

The editors welcome the submission of any contribution to the journal. All manuscripts submitted for publication are assessed by a panel of referees and the decision to publish is dependent on their reports. The IJRF subscribes to the Code of Best Practice in Scholarly Journal Publishing, Editing and Peer Review of 2018 (<https://sites.google.com/view/assaf-nsef-best-practice>) as well as the National Code of Best Practice in Editorial Discretion and Peer Review for South African Scholarly Journals (<http://tinyurl.com/NCBP-2008>) and the supplementary Guidelines for Best Practice of the Forum of Editors of Academic Law Journals in South Africa. As IJRF is listed on the South African Department of Higher Education and Training (DoHET) “Approved list of South African journals”, authors linked to South African universities can claim subsidies and are therefore charged page fees.

Submission addresses

- Book reviews or suggestion of books for review: bookreviews@iirf.global
- Noteworthy items and academic news: ijrf@iirf.global
- All other contributions: research or review articles, opinion pieces, documentation, event reports, letters, reader’s response, etc.: ijrf@iirf.global
IJRF, POBox 1336, Sun Valley 7985, Rep South Africa

Selection criteria

All research articles are expected to conform to the following requirements, which authors should use as a checklist before submission:

- **Focus:** Does the article have a clear focus on religious freedom / religious persecution / suffering because of religious persecution? These terms are understood broadly and inclusively by the editors of IJRF, but these terms clearly do not include everything.

- **Scholarly standard:** Is the scholarly standard of a research article acceptable? Does it contribute something substantially new to the debate?
- **Clarity of argument:** Is it well structured, including subheadings where appropriate?
- **Language usage:** Does it have the international reader, specialists and non-specialists in mind and avoid bias and parochialism?
- **Substantiation/Literature consulted:** Does the author consult sufficient and most current literature? Are claims thoroughly substantiated throughout and reference to sources and documentation made?

Submission procedure

1. Submissions must be complete (see no.6), conform to the formal criteria (see no. 8-10) and must be accompanied by a cover letter (see no.3-4).
2. The standard deadlines for the submission of academic articles are 1 February and 1 August respectively for the next issue and a month later for smaller items such as book reviews, noteworthy items, event reports, etc.
3. A statement whether an item is being submitted elsewhere or has been previously published must accompany the article.
4. Research articles will be sent to up to three independent referees. Authors are encouraged to submit the contact details of 4 potential referees with whom they have not recently co-published. The choice of referees is at the discretion of the editors. The referee process is a double blind process. This means that you should not consult with or inform your referees at any point in the process. Your paper will be anonymized so that the referee does not know that you are the author. Upon receiving the reports from the referees, authors will be notified of the decision of the editorial committee, which may include a statement indicating changes or improvements that are required before publication. You will not be informed which referees were consulted and any feedback from them will be anonymized.
5. Should the article be accepted for publication, the author will be expected to submit a finalized electronic version of the article.
6. Include the following:
 - An abstract of no more than 100 words.
 - Between 3 and 10 keywords that express the key concepts used in the article.
 - Brief biographical details of the author in the first footnote, linked to the name of the author, indicating, among others, year of birth, the institutional affiliation, special connection to the topic, choice of UK or American spelling, date of submission, full contact details including e-mail address.
7. Authors are encouraged to also engage with prior relevant articles in IJRE, the Religious Freedom Series, and IIRF Reports (www.iirf.global) to an appropriate degree. So check for relevant articles.

8. Articles should be spell-checked before submission, by using the spellchecker on the computer. Authors may choose either 'UK English' or 'American English' but must be consistent. Indicate your choice in the first footnote.
9. Number your headings (including introduction) and give them a hierarchical structure. Delete all double spaces and blank lines. Use as little formatting as possible and definitely no "hard formatting" such as extra spaces, tabs. Please do not use a template. All entries in the references and all footnotes end with a full stop. No blank spaces before a line break.
10. Research articles should have an ideal length of 4 000 words and a maximum of 6 000 words. Articles longer than that are not normally accepted, but may be published if, in the views of the referees, it makes an exceptionally important contribution to religious freedom.
11. Research articles are honoured with one complimentary printed copy.
12. For research articles by members of the editorial team or their relatives, the full editorial discretion is delegated to a non-partisan editor and they are submitted to the same peer review process as all other articles.

Style requirements

1. JRF prefers the widely accepted 'name-date' method (or Harvard system) for citations in the text. Other reference methods are permissible if they are fully consistent.
2. A publication is cited or referred to in the text by inserting the author's last name, year and page number(s) in parentheses, for example (Mbiti 1986:67-83).
3. Graphics and Tables: These must be attached as separate files. Indicate in red where they should go in the text. Every effort will be made to place them in that spot. **Image Quality:** minimum width must be 10.5 cm at 220dpi or simply 1000 pixels. The width of the image always goes over the entire width of the type area (10.5cm), but is flexible in height. Please send the image in its own file (e.g. JPG, TIF, EPS ...), not in a Word document. **Tables and "simple" diagrams:** These will likely be redesigned by our layout expert. Please attach them in a separate file.
4. Footnotes should be reserved for content notes only. Bibliographical information is cited in the text according to the Harvard method (see 2 above). Full citations should appear in the References at the end of the article (see below).
5. References should be listed in alphabetical order of authors under the heading "References" at the end of the text. Do not include a complete bibliography of all works consulted, only a list of references actually used in the text.
6. Always give full first names of authors in the list of references, as this simplifies the retrieval of entries in databases. Keep publisher names short.

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