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Religion and Human Rights: From Conversion to Convergence

Ibrahim Salama and Michael Wiener *

Religion is a cross-cutting, powerful element of the nexus of culture, values, and identity. A human rights–based approach to religion that recognizes freedom of religion or belief and its equal standing and interdependence with other rights is the best guarantee against Samuel Huntington's thesis of a "clash of civilizations."[2] Numerous recent initiatives are forging a rights-based vision to manage the diversity of our increasingly multicultural and multireligious societies. Such a vision requires an active and enlightened participation of faith-based actors: participation not only as preachers but also as practical problem-solvers. Human rights, including freedom of religion or belief, are precious sources of diversity and wisdom that should remain renewable to fit new challenges. This provides the best shield to preserve our diversity, as human rights are the neutral catalyst that equally cuts across cultures, values, and identities. The other way round is equally true; rights-based secularism is the best guarantee for freedom of religion or belief.

The triple mantra of indivisibility, interdependence, and equal emphasis on all human rights is harder to achieve in practice than reiterating it in declarations and resolutions. In the real world, rights-holders and their supportive constituencies compete for attention, protection, and resources, both at the national and international levels. This is a normal and healthy political fact, as long as optimal implementation of all human rights is ultimately achieved. No fair compromise is possible in this context because the indivisibility of all human rights should never be compromised. The tensions between rights and competition among their respective advocates reflect themselves on the multilateral agenda. The essence of human rights diplomacy is to analyze, reconcile, and, if needed, arbitrate between rights

* The views expressed in this article are those of the co-authors and do not necessarily reflect the views of the United Nations.

2. Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

holders and conflicting rights. This is what makes human rights also political, this time in the noble sense of the term.

Equal emphasis on "orphaned"[3] rights, such as religious freedom, cultural rights, and minority rights, is an important objective that international human rights mechanisms strive to achieve. A successful, balanced approach to all human rights at the national and regional levels would optimize their practical implementation. This would also reduce politicization and shield the full spectrum of human rights from recurrent pushback in various forms in different regions. The orphaned rights are the richest in terms of diversity, which makes them more difficult to manage. We can never overemphasize the oft-forgotten fact that diversity is an underlying foundation of human rights simply because human beings are all different and since "all human beings are born free and equal in dignity and rights."[4] All of them, not only those who share particular values with which we sympathize more because of whatever reason. Furthermore, there should be no hierarchy of values under the cover of conflict of rights.

Treating only the symptoms does not accelerate recovery. Digging below legal formalism and stereotypical mantras requires acting strategically to prioritize education and heed the following four conclusions of the ReligioWest research project: (1) treating freedom of religion on equal footing with other rights; (2) maintaining the separation between state and religion; (3) understanding religion as an autonomous sphere, independently from cultures, values, and identities; and (4) looking at human rights as truly universal, rather than European.[5]

Human rights mechanisms contribute meaningfully to reconciling religion and human rights, as they also challenge religious interpretations that manifestly contradict universal human rights norms. One of the most flagrant recent cases is the situation of women in Afghanistan under Taliban rule in the name of Islamic law. The UN Special Rapporteur on violence against women, Reem Alsalem, stressed in August 2021 that any party in

3. See Mary Ann Glendon, "Is Religious Freedom an 'Orphaned' Right?" in *The Changing Nature of Religious Rights under International Law*, ed. Malcolm D. Evans, Peter Petkoff, and Julian Rivers (Oxford: Oxford University Press, 2015), 1–8.

4. https://www.un.org/en/about-us/universal-declaration-of-human-rights, Article 1.

5. Olivier Roy (Principal Investigator), *Rethinking the Place of Religion in European Secularized Societies: The Need for More Open Societies—Conclusions of the Research Project ReligioWest* (Italy: European University Institute, Robert Schuman Centre for Advanced Studies, 2016), 9–10.

Afghanistan declaring that it follows Islamic Sharia must uphold and protect the rights of women and girls. She based her arguments explicitly on Sharia's "true values, principles, and objectives," citing several verses of the Qur'an to support her points on the inherent dignity of all humans, the equality of men and women, the duty to uphold justice, and the requirement to protect oppressed groups.[6]

It is therefore of strategic importance that human rights mechanisms continue building up their knowledge and tools to effectively address human rights abuses related to, or in the name of, religion. Denouncing the evidently despicable is not enough. Human rights–based guidance for policy measures, jurisprudence, legislation, and education are the most efficient and sustainable answer. This knowledge has been accumulated progressively through various encounters and engagement by human rights mechanisms in different regions and on various topics where religion is relevant. These initially ad hoc experiences have started gaining intentionality to optimize the normative clarity gained thanks to soft law instruments. Concrete examples include the broad definition of "religion or belief" by the UN Human Rights Committee in its general comment no. 22 (1993),[7] CESCR's reference to the responsibilities of religious bodies in relation to the effective implementation of the right of everyone to take part in cultural life (2009),[8] as well as the reminder in the Rabat Plan of Action (2012) that freedom of religion or belief "does not include the right to have a religion or a belief that is free from criticism or ridicule."[9] The latter point was also stressed by five special rapporteurs in 2021, who warned states against reviving "the dangerous notion of 'defamation of religions' and the divisive debate that had undercut

6. "Any Party in Afghanistan Declaring It Follows Islamic Sharia Must uphold and Protect the Rights of Women and Girls, United Nations Human Rights Office of the High Commissioner, 24 Augustus 2021, https://www.ohchr.org/en/statements/2021/08/any-party-afghanistan-declaring-it-follows-islamic-sharia-must-uphold-and?LangID=E&NewsID=27402.

7. Human Rights Committee, *General comment no. 22 on Article 18 of the International Covenant on Civil and Political Rights* (1993), para. 2, https://undocs.org/CCPR/C/21/Rev.1/Add.4.

8. Committee on Economic, Social and Cultural Rights, *General comment No. 21: Right of Everyone to Take Part in Cultural Life* (November 2009), para. 73, https://undocs.org/E/C.12/GC/21.

9. Office of the High Commissioner for Human Rights, *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence* (11 January 2013), appendix, para. 19, https://undocs.org/A/HRC/22/17/Add.4.

efforts to combat religious discrimination and intolerance prior to achieving this consensus agreement 10 years ago,"[10] that is, Human Rights Council Resolution 16/18.

Human rights mechanisms emphasize an equally important element, which is the need for states to engage religious actors in human rights dialogues related to their areas of work. States' practices indicate increasing willingness to conduct such national debates in an inclusive manner. This was, for example, the case of Nigeria when in 2017 it accepted a recommendation by the Committee on the Elimination of Discrimination against Women inviting the government to "include religious leaders in the process of addressing issues of faith and human rights, so as to build on several 'faith for rights' initiatives and identify common ground among all religions in the State party, as acknowledged by the delegation."[11] Concrete follow-up discussions have been taking place through several peer-to-peer learning discussions among civil servants, academics and OHCHR staff, organized at Bauchi State University by the Oslo Coalition on Freedom of Religion or Belief in 2020 and 2021.

It is also key to capture results and recommendations from such peer-to-peer learning events. As highlighted by High Commissioner Michelle Bachelet, "this implies listening to each other, sharing experiences of what works and what doesn't, and responding jointly to needs at the grassroots level."[12] One example is the snapshots of learning points emerging from a series of monthly webinars on the role and experiences of faith actors in promoting gender equality, addressing hate speech, safeguarding religious sites, protecting religious or belief minorities, preventing atrocity crimes, and moderation of religious discourse.[13] Organized by OHCHR, the Office of

10. Ahmed Shaheed, Irene Khan, Fernand de Varennes, Clément Nyaletsossi Voule, and Fionnuala Ní Aoláin, "Historic Consensus on Freedoms of Religion and Expression at Risk, Say UN Experts" United Nations website, 23 March 2021, https://www.ohchr.org/en/press-releases/2021/03/historic-consensus-freedoms-religion-and-expression-risk-say-un-experts.

11. Convention on the Elimination of All Forms of Discrimination against Women, https://undocs.org/CEDAW/C/NGA/CO/7-8, para. 12.

12. Michelle Bachelet, "Side Event: Global Pledge for Action by Religious Actors and Faith-Based Organizations to Address the COVID-19 Pandemic in Collaboration with the United Nations," United Nations website, 7 July 2021, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27279&LangID=E

13. United Nations Alliance of Civilizations, UN Office on Genocide Prevention and the Responsibility to Protect and Office of the High Commissioner for Human Rights, "Global Pledge for Action by Religious Actors and Faith-Based Organizations to Address the COVID-19 Pandemic in Collaboration with the United Nations: Peer-to-peer Learning

the Special Advisor on the Prevention of Genocide, and the UN Alliance of Civilizations, this series of webinars was designed in a bottom-up peer-to-peer learning mode between grassroots faith-based organizations and human rights experts during the COVID-19 pandemic. It culminated in a virtual event in July 2021 at the High-level Political Forum on Sustainable Development, during which the High Commissioner stressed that we will only "build back better" from the pandemic when human rights, and human rights bodies, are at the heart of the recovery.[14]

The important link between human rights mechanisms and the Sustainable Development Goals (SDGs) was also highlighted in the UN Secretary-General's Call to Action for Human Rights, which encourages the full use of "the Universal Periodic Review, the human rights treaty bodies and the special procedures, as well as national human rights institutions to contribute to SDG implementation, particularly at the national and local levels."[15] Furthermore, at the G20 Interfaith Forum in September 2021, High Commissioner Michelle Bachelet stressed that "thematic forums—such as our Forum on Minority Issues, our Social Forum and many others—can contribute to widening civic space, promoting mutual understanding and enriching governmental deliberations with grass-roots contributions."[16]

For such engagement with faith-based actors, freedom of religion or belief constitutes a natural entry point within human rights law and practice. Yet, freedom of religion or belief should not be seen merely as a protective shell for religions but rather as a source of defending human dignity also from the perspectives of faith for human rights and faith in human rights. Freedom of religion or belief is also a starter for an equally missing wider angle of a human rights-based approach to faith. It is strategically promising that the principle of human rights responsibilities of non-state faith actors is gaining increasing adherence from faith actors themselves. Their daily engagement with social issues made them realize the convergence toward common desirable changes to create inclusive, peaceful, and equal societies.

Snapshots and Recommendations (July 2021), https://www.ohchr.org/Documents/Issues/Religion/GlobalPledgeRecommendations.pdf

14. Bachelet, "Side Event."

15. António Guterres, *The_Highest_Aspiration:_A_Call_to_Action_for_Human_Rights (2020)*, 5, https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf

16. Michelle Bachelet, "G20 Interfaith Forum 'Time to Heal: Peace Among Cultures, Understanding Between Religions," UN website (11 September 2021), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27442&LangID=E.

Neither of the two communities of religion and rights needs to attempt converting the other one to its own premises. Instead, the two communities should collaborate by seeking practical synergies and convergence of results, whenever common grounds allow for it.

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