

Major International Instruments Protecting the Right to Freedom of Religion

Annika Lindorsson

Around the world, people of different religions are being persecuted by repressive governments, attacked by police or armed mobs, arrested and beaten, simply because of their religious faith. However, freedom of religion and belief is a well-established fundamental human right, explicitly expressed in international law. In fact, one of the basic principles guiding the Charter of the United Nations and its Member States is the promotion and encouragement of universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.

It was on December 10, 1948 that the General Assembly of the United Nations adopted and proclaimed the **Universal Declaration of Human Rights**. The principle of freedom of religion can be traced throughout the document, but is clearly expressed in Article 18 of the declaration:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

What was significant about this declaration was that, prior to World War II, only states had rights in international law. Now individuals received international legal recognition, and an individual could challenge an oppressive state before the law.

However, the Universal Declaration lacked an enforcement mechanism, so it could not legally constrain the behaviour of states. As a result, the **International Covenant on Civil and Political Rights (ICCPR)** was created on December 16, 1966 to protect religious freedom under the law. The ICCPR articulates the obligation of states – as well as of the individual, having duties to other individuals and to the community to which he or she belongs – to promote universal respect for human rights and freedoms. The covenant is a legally binding treaty for all ratifying states.

Freedom of religion as a legal concept stems from the separation of church and state. It now acts as a guarantee by governments to allow freedom of belief and worship for individuals and groups. Although religious freedom cannot be created or granted by the state, all states must do all they can to protect it. It is a fundamental value of democracy to respect religious differences, and states that do are also more likely to respect other human rights.

Disregard and infringement of human rights and fundamental freedoms (in particular freedom of religion) have brought, directly or indirectly, wars and great suffering to many people. With acts of discrimination and intolerance of religion continuing around the world, the **Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief** was proclaimed by the General Assembly on November 25, 1981. The declaration refines the previous manuscripts, and calls for all states to take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

Yet, over a decade later, with enduring concern for violence and conflict in the name of religion – recalling the determination expressed in the Preamble of the Charter of the United Nations to save succeeding generations from the scourge of war – the promotion and protection of human rights was now to become a matter of priority for the international community. During the World Conference on Human Rights on June 25, 1993, the **Vienna Declaration and Programme of Action** was adopted. Here it is articulated that freedom of religion and belief should not only be protected, but also employed to contribute to the attainment of the goals of world peace, social justice and friendship among peoples, and to the elimination of ideologies or practices of colonialism and racial discrimination. This is further expressed in the **United Nations Millennium Declaration** of September 8, 2000.

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