

South and Southeast Asia Regional Profile on Freedom of Religion or Belief (FoRB)

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The Network for
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¹ <https://www.state.gov/international-religious-freedom-reports/>

HIGHLIGHTS

On international affairs agendas, the right to Freedom of Religion or Belief (FoRB) is increasingly a focus, especially among diplomats, peace workers and human rights activists. Concerns have focused on violations of rights and their association with violence, but positive associations linking FoRB to peace, stability, and prosperity are also highlighted. Rising interest is reflected in the appointment of designated envoys in various diplomatic and multilateral organizations, academic reviews, and civil society and business activism.

There is an international consensus that FoRB is a central facet of human rights is very often violated. A respected think tank, the Pew Research Center, reports regularly on trends. In 2019 its data indicated that the share of countries with “high” or “very high” levels of government restrictions on FoRB – that is, laws, policies, and actions by officials that restrict religious beliefs and practices – rose from 20 percent in 2007 to 26 percent in 2017.² Because some of the most restrictive countries have large populations, some 70 percent of the world’s population were considered to live in countries with high restrictions on religion, the brunt of restrictions affecting religious minorities, non-believers and other vulnerable groups and individuals. High estimates are receiving wide attention: an example is President Trump’s speech at the United Nations in September, 2019: “Hard to believe, but 80 percent of the world’s population lives in countries where religious liberty is in significant danger or even completely outlawed.” Figures as high as 83-84 percent are used to highlight the gravity of the situation (there are significant debates around the methodologies underlying differing estimates³).

Approaches to understanding what constitutes FoRB, the reasons for and nature of violations, and how best to promote FoRB in different settings vary markedly. The type of governmental regime, the population’s religious demography, and the constitutional and institutional roles of religion and religious institutions at the national level complicate understandings of religious, social, and ethnic relations and, thus, specifically what religious freedoms might be protected or violated, why, and to what degree. The diverse understandings create challenges for different actors, including those charged with promoting FoRB and those involved in peace processes that involve religious tensions, since FoRB violations are frequently linked to conflicts. While the right to FoRB is integrally linked to human rights, both in international law and in practice, several distinctive communities and organizations have tended to focus specifically on religious dimensions, while human rights organizations have tended not to center their advocacy efforts on FoRB.

The South and Southeast Asia regions are marked by religious, cultural, and ethnic diversity. This diversity has regional, as well as, national and local repercussions and notably can be a factor in transnational tensions and peace. Some nations have clearly framed understandings of citizen rights within diverse, inclusive communities. There are traditional foundations supporting interreligious harmony and tolerance on which to build positive relationships. However, various forces including disruptions linked to social and economic change, security threats, and changing ideas about religious politics and social norms challenge social and political stability and inclusive approaches in a significant number of settings. These contribute to regional tensions that range from violent conflict to patterns of discrimination and exclusion of certain individuals and communities.

² <https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/>

³ Under the DfID financed CREID project a review of methodologies will be forthcoming in late 2019, <https://www.ids.ac.uk/programme-and-centre/creid/>

FORB IN INTERNATIONAL LAW

The international human right to freedom of religion or belief should be understood in context against the background of ancient traditions and leadership on religious tolerance and free exercise of conscience and efforts to restrict religious practice. It was highlighted in the Universal Declaration on Human Rights, (1948), where it is mentioned in the preamble, which proclaims the “advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want [...] as the highest aspiration of the common people.” The right to FoRB is elaborated in the Declaration’s article 18, and the right to non-discrimination on the grounds of religion or belief in articles 2, 26, and 27. The legally binding International Covenant on Civil and Political Rights (adopted in December 1966) reaffirmed these rights, adding a right of persons belonging to religious minorities to profess and practice their own religion.

FoRB in this framework refers to the right of every individual to have, adopt, change, or leave a religion or belief; to manifest and practice this religion or belief; to be free from coercion and discrimination on the grounds of this religion or belief; and to ensure the religious and moral education of their children.

The Right to FoRB in the International Covenant on Civil and Political Rights

Article 2: Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 18: Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

Furthermore, the right to FoRB is guaranteed in many national constitutions and legal statutes, and is often linked to broad commitments of human rights. At a theoretical level FoRB is an integral, indivisible part of the broader human rights framework. In practice, however, the application of the principle can be complex.

OVERSEEING AND APPLYING THE RIGHT TO FoRB

The major actors with broad FoRB responsibilities (apart from states which are the ultimate duty bearers) include international organizations, notably within the United Nations (UN) and the European Union (EU), ministries of foreign affairs (and, where relevant, ministries responsible for religious matters), NGOs, parliamentary networks, religious leaders, and businesses. The EU has a Special Envoy for the Promotion of Freedom of Religion or Belief outside the EU, and several countries, including Norway, UK, Denmark, Germany, and Holland, have established similar offices or functions. In the United States, 1998 legislation establishes various obligatory reporting mechanisms. Various international and regional organizations, for example the Organization for Security Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights—ODIHR, focus explicitly on FoRB. In Southeast Asia, ASEAN (Association of Southeast Asian Nations) supported a major 2015 review of FoRB issues.

In 1986, the United Nations Human Rights Council appointed a Special Rapporteur on Religious Intolerance, later renamed Special Rapporteur on Freedom of Religion or Belief. The Special Rapporteur is mandated to:

- promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;
- identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief, and present recommendations on ways and means to overcome such obstacles;
- continue her/his efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate; and,
- apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

Through fact-finding country visits, annual reports to the Human Rights Council and the UN General Assembly, as well as communications to states on cases that represent infringements or impediments to FoRB rights, the Special Rapporteur contributes to monitoring the state of FoRB and to the continuous development and clarification of the contents of this right.⁴

INTERNATIONAL FOCUS ON FoRB

Growing interest in FoRB reflects empirical evidence that human rights violations linked to religion or belief are rising globally. Various reports including the US-based Pew Research Center (cited above) focus on violations of FoRB. The situation of Christians in parts of the Middle East region has attracted particular attention in Europe and North America. Domestic politics color FoRB concerns, notably around immigration and integration, especially in Europe. Some egregious cases of persecution rising to genocide (Rohingya Muslims in Myanmar, Uighurs in China) have shone light on religious dimensions of conflict and human rights abuses. More broadly, attention to religious forces in international affairs is linked in part to concerns about violent political movements and terrorist acts, but also to growing awareness that religious institutions and beliefs play large roles in political, economic, and social affairs in most world regions. An important area of focus is conflicts with strong religious and worldview dimensions. Approaches to conflict resolution and transformation thus demand an appreciation of FoRB principles and their application.

⁴ <https://ijrcenter.org/un-special-procedures/special-rapporteur-on-freedom-of-religion-or-belief/>

CHALLENGES AND CONSENSUS

With widely varying concepts and approaches characterize work to advance FoRB, a shared framework is notably lacking. Key questions revolve around the causes, nature, and significance of violations, what kind of actors and initiatives are most effective in promoting and protecting FoRB and how best to address specific areas of tension, such as the right to promote one's beliefs freely (proselytizing), definitions of blasphemy, changing one's faith affiliation, and religious approaches to gender equality.

Human rights advocates have tended to treat FoRB as an integral, largely inseparable part of human rights, approaches accentuated by common skepticism about religious matters overall. A result has been that FoRB has often received less specific attention. In contrast, some FoRB advocates view FoRB as a "first freedom" which trumps other human rights. A result has been a practical separation and even polarization between the two communities. The core principles of FoRB are clearly grounded in human rights, but links and possible areas of tension are not always agreed upon.

Areas of concern⁵ include:

- (a) A narrow focus on specific minorities, whether Christians in the Middle East or Muslims in Europe and Southeast and South Asia, is difficult to align with a human rights focus on principles of universality and non-discrimination. Such approaches can lead to particularism and polarization.
- (b) An understanding of FoRB as a right that protects religious groups and individuals specifically can raise concerns. A recent UN Special Rapporteur report emphasizing the right to freedom from religion drew objections from the Vatican, among others, disputing that freedom from religion is covered by international human rights law.⁶ There is concern that broadening the coverage of FoRB may result in thin protections for all. Among secular human rights organizations, conversely, perceptions that FoRB primarily concerns religious communities and individuals can explain the lack of engagement with the topic.
- (c) What constitutes 'authentic' or 'true' religion is contentious and different perspectives are particularly difficult to address, notably in religious traditions where there is no specific recognized authority. What is 'authentic' or 'true' religion is by and large irrelevant to FoRB insofar as FoRB concerns all kinds of religions and beliefs, even the ones that most consider inauthentic or untrue.
- (d) An emphasis on the prominence of FoRB over other human rights can lead to skewed interventions and appreciations that may even obscure religiously related discrimination and persecution. Perceptions of a clash between FoRB and rights related to gender equality, sexual orientation, and gender identity are common. Some actors see freedom of expression as a fundamental threat to FoRB.

Various international human rights organizations, inter-parliamentarian networks, and some newly established governmental offices and envoys promote an inclusive approach that places FoRB issues within a broad human rights setting. Many focus on religious minorities, yet emphasize the rights of all religious minorities over a particular focus on specific groups. Positive movement towards more comprehensive understandings of FoRB include the 2016 Marrakesh *Declaration on the Rights of Religious Minorities in*

⁵ Various concerns and their sources are detailed in Marie Juul Petersen and Katherine Marshall, *The international promotion of freedom of religion or belief: Sketching the contours of a common framework*. Danish Institute for Human Rights, April 5, 2019, (<https://www.humanrights.dk/publications/international-promotion-freedom-religion-belief>). The following builds in large parts on this report.

⁶ <https://humanists.international/2018/03/actually-freedom-religion-human-right-iheu-tells-vatican-un/>

Predominantly Muslim Majority Countries,⁷ which calls for religious freedom and equal rights for all minorities (though it leaves aspects of FoRB protections unaddressed). Faith for Rights (2017),⁸ a declaration formulated by diverse religious actors, in cooperation with the UN Office of the High Commissioner for Human Rights, situates FoRB explicitly within a human rights framework. Various other international inter and intra-faith initiatives seek to promote broader norms of tolerance, moderation, and co-existence, including the Potomac Plan of Action⁹ (2018), and the Interreligious Dialogue for Peace, Promoting Peaceful Coexistence & Common Citizenship promoted by KAICIID (King Abdallah bin Abdulaziz Centre for Interreligious and Intercultural Dialogue).¹⁰ The UN Office of Genocide Prevention has a multi-year program, known as the Fez Process, to involve religious leaders and communities in prevention efforts.¹¹

FoRB as a right of the individual is significant because FoRB issues are sometimes framed as a tension between individual and community rights. While collective rights are important, FoRB is also a right of the individual to practice or not practice his or her religion or belief in the way he or she chooses, even when this goes against the values and doctrines of the religious community of which he or she is a part. Religious communities sometimes engage in discriminatory and oppressive practices against individuals; persecuted religious minorities themselves may be highly patriarchal with values, practices and traditions that undermine the rights of women and LGBTI people, among others. An approach that equates FoRB promotion with protection of religious minorities risks overlooking or sidelining such important aspects. Muslim women's rights organizations such as Musawah¹² and Alliance of Inclusive Muslims¹³ work to empower women to claim their right to speak for themselves and interpret their religion in ways that are consistent with principles of equality and non-discrimination.

REPORTED VIOLATIONS OF FoRB

Approaches to defining and reporting on violations of FoRB vary. The following chart, developed by Petersen and Marshall, outlines major categories of rights and areas of concern and focus.

Elements of a Framework for Promoting FoRB in International Affairs

Elements	Description of Key Points
Underlying principles for a human rights approach to international FoRB promotion	Universality and non-discrimination The primacy of individual rights over collective rights Indivisibility of human rights
Key perpetrators of FoRB violations	State actors Non-state actors
Types of FoRB violations	Violations of the right to have, adopt, change, or leave a religion or belief

⁷ <http://www.marrakeshdeclaration.org/marrakesh-declaration.html>

⁸ <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx>

⁹ <https://www.state.gov/wp-content/uploads/2018/12/Ministerial-to-Advance-Religious-Freedom-Potomac-Plan-of-Action.pdf>

¹⁰ <https://www.kaiciid.org/live-stream-interreligious-dialogue-peace-promoting-peaceful-coexistence-and-common-citizenship>

¹¹ <https://www.un.org/en/genocideprevention/documents/Plan%20of%20Action%20Advanced%20Copy.pdf>

¹² <https://www.musawah.org/>

¹³ <https://www.aim.ngo/>

	<p>Violations of the right to be free from coercion</p> <p>Violations of the right to practice and manifest a religion or belief</p> <p>Violations of the right to non-discrimination on the basis of religion or belief</p> <p>Violations of the right to bring up one's children in accordance with one's religion or belief</p>
Degrees of FoRB violations	<p>Intolerance (minor concerns)</p> <p>Discrimination (problematic issues)</p> <p>Persecution (severe violations)</p>
Contextual factors that are conducive to FoRB violations	<p>Conflict and violence</p> <p>Poverty and inequality</p> <p>Authoritarian state structures</p> <p>Weak state structures</p> <p>Official state religion or state atheism</p> <p>Cultures of intolerance and exclusion</p>
Rationales justifying FoRB violations	<p>Protection of religious doctrines</p> <p>Threats to national identity, societal harmony, or state security</p> <p>FoRB skepticism</p>
Motivations driving perpetrators of FoRB violations	<p>Psychological, political, or economic benefits</p> <p>Routinization and bureaucratization</p> <p>Lack of knowledge and capacities</p>
Strategies and approaches to promoting FoRB	<p>Changing government behavior, legislation and policies (through external pressure or engagement and cooperation)</p> <p>Changing behavior of non-state actors and broader cultures (through external pressure or engagement and cooperation)</p>

Specific recommendations for discussion and action include the following:

- a. **FoRB analysis and activism needs to be deliberately and centrally anchored in a broad human rights framework.** Historically, international human rights communities rarely focused on FoRB, often viewing it as a luxury or a lesser right. In contrast, several organizations, many with conservative and Christian roots, have promoted understandings of FoRB as 'the first and foremost right.' Neither approach reflects adequately the complex realities of diverse situations. The role of FoRB needs to be 'right-sized' in the human rights landscape. FoRB advocacy should focus on key human rights principles, notably universality, non-discrimination, and the primacy of individual over collective rights. FoRB cannot be isolated from, for example, freedom of expression and rights related to gender equality, sexual orientation, and gender identity.
- b. **Broader alliances are needed.** Actors promoting FoRB are predominantly based in Europe and the United States, as well as among international NGOs. This fosters perceptions of FoRB as 'a foreign agenda,' especially where promoters are associated with Christianity, with consequences for interventions and the focus and priority given to particular target groups, themes, and geographic areas. Deliberate and sustained efforts should broaden the field of actors involved, including non-Western states and NGOs, secular human rights actors as well as a broader array of religious actors, locally, as well as internationally.

- c. **Peace and conflict resolution strategies need to take explicit account of FoRB issues and the tensions that can be linked to violations.** This calls for information and training approaches, as well as efforts to engage religious actors including those outside formal leadership positions. Interreligious and intercultural dialogue and action processes would benefit from more explicit attention to FoRB issues.
- d. **Interventions need to be based on thorough understanding and analysis of each context.** Context is especially pertinent in this field. Violations of FoRB rarely have a simple, straightforward cause, but involve a complex and highly context-specific web of interrelated and intertwined factors, many of which are not related to religious beliefs. Generic approaches to FoRB are of limited use. Thorough analysis and understanding of the sources of and dynamics around violations is imperative to effective interventions. Assessments of a given situation need to be based on careful review and judgements about the significance, scale, and intensity of reported FoRB violations. ‘Vernacularizing’ the language of FoRB is needed, translating it into locally relevant and resonant narratives and idioms. Strong local actors and ownership are essential. “Religious literacy” (i.e., professional knowledge and analytic skills) of policy analysts and decision makers is essential.
- e. **Long-term engagement is key.** Promoting FoRB in varying situations involves long term, often slow gestating work and deliberate focus on fostering relationships. Involvement over the long haul is essential if real change is to happen. Political pressure is only successful if sustained over extended periods; relational diplomacy and constructive engagement are needed to cultivate trust and confidence.

RESOURCES

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