

International Religious Freedom Advocacy
A Guide to Organizations, Law, and NGOs

H. Knox Thames
Chris Seiple
Amy Rowe

OVERVIEW OF INTERNATIONAL RELIGIOUS FREEDOM ADVOCACY

Around the world, persons of faith continue to face serious obstacles to the full and free enjoyment of religious freedom, whether from Christian, Muslim, or other religious communities. Religious freedom is perhaps the most personal of human rights, as it goes to the very core of a human being. Yet limitations, abuse, and persecution are a daily occurrence, with some estimating that more than half of the world's population cannot fully enjoy this cherished fundamental freedom.

At the same time, religious freedom protections are well established at the international level. International law recognizes religious freedom as a universal human right. Treaties and international agreements guarantee and reinforce the right of individual and communal religious freedom. Placing limitations on individual belief is never permitted, and communities of believers must be allowed to congregate for worship and study. Because of these wide protections, religious freedom is considered a part of "customary international law," and thereby every country in the world must protect this human right, even if they have not signed any treaties or joined international organizations. Of course, despite states pledging to uphold and defend these norms, implementation is inconsistent, even among European countries. Considering the ongoing abuses and robust international protections, many advocates want to take action on behalf of those suffering elsewhere, but they may not know how. This guidebook is written for them.

Bob Seiple, the first U.S. Ambassador-at-Large for International Religious Freedom and founder of the Institute of Global Engagement, has spoken about how persons of good will observe repression from their homes but are prevented from taking action by the unfamiliar maze of governmental and international offices and mechanisms, as they do not know where to go and who to approach. Without firsthand experience working with international institutions, many find it difficult, if not impossible, to engage effectively.

The purpose of the book is to show religious freedom advocates the path from their homes to the international stage. The following pages are intended to be used as a guidebook for engagement, providing helpful insights into the tangled web of international organizations and international law, and the nongovernmental organizations (NGOs) with which they interface.

International Religious Freedom Advocacy will focus on the practical and is neither an exhaustive encyclopedia nor an academic treatise debating the “theology” of religious freedom. Numerous works that explore the various shades of religious liberty already exist. The purpose of this book is not to retrace that well-worn path, but rather to be a user-friendly, straightforward tool for empowering would-be advocates to effectively promote religious freedom.

Therefore, each chapter will contain a brief overview of an international organization and will then highlight relevant mechanisms and offices that can address religious freedom concerns. The information should serve as an initial starting place for strategies, with the reader applying the information to individual situations or concerns. No specific countries are discussed, except for the United States in Chapter 8. The chapter does not discuss domestic U.S. issues but rather highlights the unique array of American governmental institutions that exist to promote religious freedom internationally. The guidebook also contains two case studies, which will contextualize how advocates have used international mechanisms to successfully promote and defend this fundamental right. The final chapter describes the role of NGOs and the various ways they can work to advance religious freedom.

ADVOCACY AVENUES

In examining the various international institutions, one of three different types of resource will be identified: policymakers, monitoring bodies, and complaint recourse mechanisms.

Policymakers

Policymakers include governmental authorities, international officials, and elected leaders. These individuals oversee or influence policies that touch on religious freedom concerns, either through direct involvement with human rights issues or by following specific countries. Consulting policymakers should be the first step for activists, because they can mobilize untapped political capital on behalf of a cause.

To be effective, advocates must build relationships and consistently provide current and accurate information, highlighting succinctly the facts about problematic situations. When reaching out to policymakers, advocates should

- build compelling but accurate presentations to convince policymakers of the urgency of a situation
- demonstrate how a response fits into their broader policies
- build support for governments/organizations to act.

Whenever policymakers are profiled, the section will highlight

- the role and responsibilities of the individual or office
- how the policymaker can help promote religious freedom
- advocacy suggestions
- contact information.

Monitoring Bodies

Monitoring bodies are those offices tasked with tracking the respect for various human rights, including religious freedom, and issuing reports. Monitoring bodies can be special oversight agencies or commissions, as well as individual rapporteurs and ombudsmen. They can work systematically to examine a range of issues or countries, track governmental compliance and write reports, or respond directly when problems arise and raise concerns directly with an offending government.

Advocates should strive to keep monitoring bodies apprised of specific infringements on religious freedom. These organizations can conduct their own investigations, traveling to countries and questioning government officials about problematic laws and policies. Also, advocates should work to have specific religious freedom situations referenced in reports issued by monitoring bodies, which is an effective way of raising the issue at the international level.

Whenever a monitoring body is profiled, the section will highlight

- the function and focus of the individual or office
- the processes followed by the monitoring body
- how the monitoring body can advance religious freedom
- advocacy suggestions
- contact information.

Complaint Recourse Mechanisms

Complaint recourse mechanisms offer advocates a judicial procedure to pursue justice for the victims they represent. Coming in the form of international courts or quasi-judicial review systems, these bodies can provide victims with a ruling that directs a state to undertake particular action or award monetary damages. However, these procedures are not a panacea. The decisions are not always binding, and compliance can be uneven. The mechanisms have complicated rules on admissibility, and while useful in raising the profile of a situation or moving a government to end problematic activities or provide redress, they take time and a long-term commitment to see a case through to a verdict.

If religious freedom advocates wish to use a complaint recourse mechanism regarding a specific government, they must determine

- what treaties the country has ratified (and not just signed)
- what reservations (if any) were made
- whether the country has accepted international supervision.

Whenever a complaint recourse mechanism is discussed, the section will highlight

- the type and structure of the procedure
- the admissibility requirements for a petition alleging religious freedom violations
- the procedures followed when considering a complaint
- the type of remedies provided (binding vs. nonbinding)
- advocacy suggestions
- contact information.

ADVOCACY 101

By moving governments and international institutions to act, religious freedom advocacy can save lives, free prisoners, and increase religious liberties. Within the international system, there are many ways for religious freedom advocates to engage effectively and push for change—they can conduct direct advocacy, meet with governmental and international policymakers, publicize, report on compliance to monitoring bodies, and use international complaint mechanisms. To be effective, advocates generally undertake these activities by joining or working with NGOs committed to religious freedom.

While it is difficult for individuals and NGOs to convince governments to change policies, international organizations can be a force multiplier. A government will care little about the views of private citizens or foreign advocates, but it will become much more focused on problematic policies when an organ of the United Nations or another international body raises concerns. Advocates should therefore concentrate on engaging international institutions and mobilizing their political leverage towards a government that is violating religious freedom. NGOs often act as the vital catalyst and go-between.

When developing a plan of action, religious freedom advocates should consider the following.

- First, before rushing to international organizations, advocates should initially work to resolve the matter domestically. States are primarily responsible for their own compliance with international religious freedom standards. Relationships with local policymakers can often be more effective in resolving a situation than all the international attention in the world. NGOs with strong, positive relationships with governments can play an important role in this process. However, if the situation is life threatening, or if domestic remedies have been exhausted or will not result in a proper response, then advocates should look abroad.
- Second, determine whether the country is a member of any regional multilateral organizations. Many countries are part of regional organizations that have established their own human rights standards, with some maintaining complaint mechanisms that allow individuals to bring petitions about religious freedom violations. Advocates should also research what monitoring bodies receive human rights complaints and take their concerns there, typically under the auspices of a recognized and reputable NGO. If regional systems fail or the country in question does not participate, then look higher.
- Lastly, at the global level is the United Nations. There are a variety of UN tools available that provide some type of redress mechanism or investigative procedure. Advocates should work to activate one of these UN monitoring bodies or complaint mechanisms on behalf of the victims they represent. Advocates can also look for support from U.S. institutions and agencies or other sympathetic governments.

SPEAKING OUT IN TRUTH

Anyone wishing to advocate for the oppressed and persecuted must act wisely and with great discernment. For every good story about international advocacy

freeing a religious prisoner or reforming laws, there is another about an overly aggressive or troublingly ill-informed activist causing more harm than good.

The Hippocratic Oath for advocates is “do no harm.” This rule is an absolute. Advocates must coordinate their efforts with the victims or the victims’ families, as they will bear the brunt of any response to international advocacy. Victims and their families must be fully aware of the possible ramifications and consent to action—their lives may literally be at stake.

It is also important for religious freedom advocacy groups to speak out against all forms of religious persecution and repression, even if their coreligionists are not affected or persons of no faith are targeted. There is strength in numbers, and often a positive conclusion in one case will be useful to others in similar situations. Governments will try to “buy” the silence of groups by providing benefits or freedoms exclusive to their communities. Advocates should avoid this temptation: if not everyone can enjoy religious freedom, then there is not complete religious freedom for anyone.

Advocates must also be very careful about the facts. If they are found to exaggerate or misrepresent, or to be ill informed, then they will have a difficult time persuading persons of power and influence. One key issue is the use of vocabulary. Sometimes, in an attempt to induce a faster international response, advocates are tempted to exaggerate and make a situation sound more compelling. For instance, the word *persecution* is often carelessly thrown around without any thought as to its true meaning. This overuse only cheapens the term and lessens the impact when describing an actual situation of persecution, hindering an advocate’s effectiveness. It is an issue of trust. Once policymakers and monitoring bodies become aware of the loose usage of terminology, they will be much more difficult to persuade and motivate to action.

INTERNATIONAL LAW AND RELIGIOUS FREEDOM

At its core, the freedom of religion guarantees an individual’s right to *forum internum*, the protection of an individual’s personal beliefs and commitments. This would include theistic, nontheistic, and atheistic beliefs. Religious freedom also protects the *forum externum*, manifestations of religious belief undertaken by individuals or groups of individuals, but with some narrow limitations.

When approaching policymakers, monitoring bodies, or complaint recourse mechanisms, advocates should frame their arguments within the international

standards guaranteeing religious freedom. Provisions protecting religious freedom are part of the larger subset of international law on human rights. To properly understand these international standards, it is important to be familiar with how human rights and religious freedom protections fit into the international legal system.

Originally, international law was about relations between states focused on issues beyond a country's borders. States were the only legitimate actors, and their sovereignty was viewed as unassailable. State rights trumped individual rights, and so within its borders a state could act as it wished and was immune from outside pressures. However, as the international system matured and developed from the 1700s to the 1900s, individual rights were gradually recognized.

The major transition from the state-centric focus to a more individualistic approach came after the atrocities of World War II and the Nuremberg trials. Establishment of the UN provided the architecture for a human rights system protecting an array of individual rights, which include religious freedom. Nations now generally agree that all persons have inherent, inalienable rights, neither bestowable nor removable by governments. Consequently, the power of state sovereignty has receded and individual rights have grown.

The French jurist Karel Vasak identified three general categories of rights, which are widely accepted today as a useful framework for understanding the different types of rights:

- **First Generation Rights:** *Civil and Political*—negative obligation—government should not prohibit or limit (most widely recognized)
- **Second Generation Rights:** *Economic, Social, and Cultural*—positive obligation—government should provide
- **Third Generation Rights:** *Peace, Development, and Environment*—positive obligation (just now emerging and least accepted).

As religious freedom is a personal liberty, it falls under First Generation Rights. Consequently, the right is protected through a variety of different international agreements and human rights treaties, which recognize personal freedoms and limit the actions of governments. These protections come in a variety of forms, with the most common being a treaty. A treaty is a formal, legally binding agreement between states, in which governments agree to uphold certain standards and ensure their laws and policies comply. Human rights treaties usually create individual rights and state obligations,

and are sometimes called “covenants,” “conventions,” or “charters.” A treaty can be amended through a “protocol,” which often adds additional rights or introduces new mechanisms to enforce the treaty. Importantly, states party to a treaty are not obligated to ratify a protocol. When treaties and protocols “enter into force” after a certain number of countries have ratified or adopted the agreement, they are activated and have legal force and effect.

States can sometimes make “reservations” to treaties, explaining how they will not fully implement certain provisions. Reservations are acceptable as long as they do not eviscerate the purpose of the treaty. For instance, the United States regularly makes reservations to provisions in human rights agreements prohibiting “hate speech,” noting that it cannot implement these provisions due to First Amendment speech protections. Lastly, under certain circumstances, states are permitted to “derogate” from their treaty obligations. Derogation enables governments legally to limit certain rights in times of national emergencies or war, although religious freedom is usually protected from any derogation.

Religious freedom is well entrenched in numerous UN human rights treaties, covenants, and conventions. Many jurists therefore agree that religious freedom has risen to the level of customary international law, which means it is a universal right that governments must respect, even if they have not signed any human rights treaties. For instance, Article 18 of the UN Universal Declaration of Human Rights speaks directly to religious freedom. It recognizes that “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.” Similar language on religious freedom is found in other UN agreements.

In addition to the United Nations, groups of countries have developed regional organizations, similar in structure to the United Nations but limited in geographical scope. These are recognized under Chapter VIII of the UN Charter and bind states together into regional arrangements and agreements. Three regions of the world—Europe, the Americas, and Africa—have created specific agreements establishing additional human rights and religious freedom protections that overlap with the Universal Declaration. (Asia lacks any regional human rights bodies. In late 2007, the Association of Southeast

Nations [ASEAN] did agree to establish a human rights body, but nothing concrete has been established as of this writing.)

Regional systems are usually only as strong as the region's cohesiveness. European structures are consequently the most developed, providing robust human rights and religious freedom protections. For instance, the European Court of Human Rights, the strongest of the international judicial bodies, has repeatedly ruled that religious freedom is one of the foundations of a democratic society and must be respected.

Notably, international documents do not define what constitutes a religion. Drafters have rightly not attempted to define the concept of religion, as it would be an impossible task. What one may consider sacred, another may consider sinful. Readers will find in subsequent chapters, however, that international agreements from the UN and regional systems offer a variety of expressions describing religious freedom:

- freedom of religion
- freedom of religion or belief
- freedom of conscience and of religion
- freedom of thought, conscience, and religion
- freedom of thought, conscience, religion, or belief.

The more specific a description, the better it protects religious freedom. So “freedom of thought, conscience, religion, or belief” includes elements of religious freedom additional to those found in the other renderings. However, the simplest wording—freedom of religion—is also understood to include those broader concepts, as the phrase is construed broadly. Also noteworthy is religious speech, either through word or dress, as it can also be protected under separate provisions concerning freedom of expression.

Religious freedom is unique from other human rights in that, for its full enjoyment, a variety of other rights must also be protected. The multifaceted and interdependent nature of this right can be seen in several ways: to meet collectively for worship or religious education, the freedom of association must be respected; to allow the sharing of religious views, which is often a part of a belief system, speech freedoms must be enjoyed; to provide for some type of community legal status, laws must not discriminate on religious grounds; to maintain or own a place of worship, property rights must be respected; to obtain sacred books and disseminate religious publications, media freedoms must be protected.

In touching these other rights, religious freedom can be either easier or harder to advocate for. It may be easier, as activists can attack limitations from a variety of angles and build broader coalitions with organizations not solely focused on religious freedom. It may be harder, however, if religious freedom limitations are an unintended casualty of a broader governmental policy focused on other domestic political concerns.

RELIGION AND THE STATE

The ways in which religion and the state are related by law around the world varies from country to country and region to region. These relationships are often part of a larger historical narrative involving the role of religion in a country's development and evolution. As nations emerged, some established a particular religion as a way to cultivate national identity. Examples range from the Church of England in the United Kingdom to the Islamic faith in Saudi Arabia.

Today some nations have divested religion, removing it from governmental power and, in extreme cases, completely from the public square: France's strict secularism of *laïcité* compares with officially atheistic communist countries. Many nations from all regions of the world have no established faith, such as Albania, Brazil, the Netherlands, South Africa, Thailand, and the United States. Some have recently disestablished the state church, as Norway did in 2008 and Sweden in 2000. Neither of the world's two most populous countries—China and India—have a state religion.

So while state practice toward establishing an official religion varies, virtually all governments provide some mechanism for granting legal status to religions. These laws help facilitate the work of a religious community by allowing it to obtain juridical personhood for administrative purposes. This status is important, as it can make it easier for a religious community to rent or purchase property, import materials, enter into contracts, and avoid personal liability for ministers, as well as obtain benefits such as state subsidies, access to coreligionists in jail or the military, access to schools, and ability to conduct marriage/funeral services. As will be discussed below, legal status provisions become problematic when governments condition the enjoyment of religious freedom by requiring registration with the state.

TYPICAL LIMITATIONS ON RELIGIOUS FREEDOM

Violations of religious freedom come in a variety of pernicious forms and are not limited to any one region. The most egregious actions are usually found

under nondemocratic regimes, yet even in Western countries, lesser forms of religious freedom violations can arise from governmental and private harassment, limitations, and discrimination. As the UN Special Rapporteur on Freedom of Religion or Belief stated in a 2006 report,¹ “Acts of religious intolerance or other acts that may violate the right to freedom of religion or belief can be committed by States but also by non-State entities or actors. States have an obligation to address acts that are perpetrated by non-State actors and which result in violations of the right to freedom of religion of others. This is part of the positive obligation under article 18 [of the Universal Declaration].”

The International Religious Freedom Act, passed by the U.S. Congress in 1998, provides a useful explanation of what can constitute a violation of religious freedom:

- (A) arbitrary prohibitions on, restrictions of, or punishment for
 - i. assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
 - ii. speaking freely about one’s religious beliefs;
 - iii. changing one’s religious beliefs and affiliation;
 - iv. possession and distribution of religious literature, including Bibles; or
 - v. raising one’s children in the religious teachings and practices of one’s choice.²

It also lists other actions that would qualify, if they were “committed on account of an individual’s religious belief or practice.” These actions include detention, interrogation, forced labor, imprisonment, forced religious conversion, beating, torture, rape, enslavement, murder, and execution.

There is a continuum advocates should be aware of when describing a situation:

Persecution—Repression—Harassment—Limitations—Discrimination

Persecution is ground zero for religious freedom violations. *Webster’s Dictionary* defines the act of persecution as “to harass or punish in a manner designed to injure, grieve, or afflict; specifically to cause to suffer because of belief.” Religious persecution is the most violent, egregious, and extreme repression of religious freedom and can include torture, beatings, imprisonment, loss of property, rape, slavery, murder, and forced conversion. If the circumstances are especially grave, persecution can come in the form of prohibition of religious activities, like corporate worship, education, and proselytizing. Persecution can occur at the hands of government agents or

non-state actors. It can be interreligious, intrareligious or a combination of both. For acts to constitute religious persecution, they should be systemic, ongoing, and on account of religious or nonreligious beliefs. In these circumstances, religious groups are often forced underground and must meet secretly, fearing for their well-being and their lives.

The key distinction between persecution and repression is how governments enforce these limitations. *Repression* would describe situations in which believers are prohibited from meeting publicly, religious practice is made illegal, and proselytizing is banned. Repressive governments would use temporary detention, fines, court cases not resulting in prison sentences, and police raids to intimidate believers into submission. These actions violate international norms, but they would not evidence a systematic policy using violent force to bring compliance.

Harassment, limitations, and discrimination, while not rising to the level of persecution, can come in a variety of forms that inappropriately limit religious freedom. Examples of harassment would include overapplication of neutral laws to limit religious activity, as well as police unexpectedly attending religious services or taking pictures of participants as they leave. Threatening actions taken by non-state actors, such as vandalism with little or no response from law enforcement, would also qualify. These incidents would not be part of a wider policy and would occur sporadically. Limitations would include problems with obtaining permits to meet publicly or to use buildings for worship, or restrictions limiting religious speech. Discrimination could come in the form of laws benefiting certain religious communities over others, or through societal actions against particular religious communities.

Recurring examples of harassment, limitations, or discrimination include the following:

Religion Laws—Facilitation vs. Control

Religious freedom is usually guaranteed in a constitution, and in many countries additional religion laws are created to implement those provisions. Ideally, these laws do not overregulate but facilitate religious freedom, aiding the activities of religious groups through the provision of simple mechanisms granting legal personality, nonprofit status, or ways to accept charitable donations. Unfortunately, in many cases the opposite has developed, with specially designed religion laws creating convoluted requirements to place communities in a perpetual catch-22 situation and prevent their religious activity, if not make it outright “illegal.”

Registration Schemes—Too Much Information

Registration schemes that fall outside of international standards seek to control rather than facilitate the enjoyment of religious freedom for all. In many countries, registration with the government is required for a group to practice “legally” or to enjoy a corporate status. Often, these systems require special governmental bodies to review doctrines. This is problematic; it places the state in the inappropriate position of determining what constitutes a religion, and it can lead to discrimination against new or minority religious communities. Other times, registration can be denied if the name of a religious group is considered too similar to another, or is deemed to use symbols attributed to another religious community. If officials are looking for reasons to deny a registration application, these vague provisions provide ample justification.

Tiers—Some Are More Equal than Others

Problematic religion laws often establish *de facto*, if not *de jure*, tiers for religious communities. In these systems, tiers can take the form of different levels of religious community status. They can also come in the form of recognizing one or a few religious groups as “traditional,” thereby discriminating against all other groups and placing them in a permanent second class status. In either situation, historic faith communities are often automatically assigned to the top level, while minority groups must go through a burdensome registration process for a lesser status. Usually these conferrals of status come with benefits: state funding, avoidance of registration, and tax breaks.

Thresholds—the Numbers Game

Thresholds often accompany tiered systems and utilize numerical criteria for placing groups on different levels. In these situations, religion laws require congregations to have a certain number of adult members. If this number is below one hundred, the requirement is generally viewed as benign. However, if it reaches into the thousands, then the threshold is discriminatory. Laws can also establish temporal restrictions, requiring religious groups to operate in the country for a certain period of time before qualifying for registration or a higher level of recognition. These schemes prevent minority religious communities from enjoying the same status as traditional groups and from having access to certain legal protections and benefits discussed earlier.

Free Speech Limitations—the Gag Rule

An increasing number of countries have placed limitations on free speech, to regulate public sharing of religious belief that intends to persuade the listener

to another point of view. Sometimes this is disguised under the premise of respecting family integrity or protecting social harmony. There is growing use of the concept of “proper” and “improper” proselytism. Proselytism is improper if individuals are pressured to convert or monetary or material gain is offered to induce conversion. Increasingly, a number of countries have placed restrictions on religious speech, with some providing criminal penalties for insults against religious officials or for “defaming” a religion. In one example, a pastor in Western Europe was prosecuted for committing “hate speech” because of the content of his sermon. In another country, a student was sentenced to death for “defaming” Islam by circulating information questioning the official interpretation of Islam. Religious speech limitations also include prohibitions on religious expression through dress, be it clerical vestments or the Muslim headscarf.

National Security—False Justification

Many times, governments will cite national security as a reason to limit religious freedom. The justification is a permissible limitation under international standards for certain human rights, like freedom of expression. However, international agreements protecting religious freedom do not recognize national security as a permissible justification to limit religious manifestations, but only “public safety, order, health, [and] morals or the fundamental rights and freedoms of others.”³ Jurists have also firmly established that this is a narrow list of limitations, for employment only in rare occasions.

TIME TO ENGAGE

Religious freedom advocacy is not for the faint of heart. The reasons for religious oppression can vary, but oppressors will not surrender easily or admit freely to violating fundamental human rights. When confronted with such violations, it will take time, dedication, honesty, persistence, and conviction to see an end of the abuses.

Yet advocates can make a difference—sometimes lifesaving—by leveraging international political will against persecution and repression. Advocates can move organizations and governments to act, by reaching out to policymakers and simply making them aware of abuses. Advocates can help encourage positive change by publicizing and documenting abuses for monitoring bodies. Religious freedom advocates can see wrongs righted by utilizing international complaint mechanisms and advocating for justice.

The pages that follow will equip advocates for action, if they are ready and willing to take up the cause.