

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

H. Knox Thames
Chris Seiple
Amy Rowe

UNITED NATIONS

Created out of the ashes of World War II and the Holocaust, the United Nations (UN) is the world's preeminent international organization. While often criticized for its bureaucracy and slow response, there are many positive aspects to the UN. Designed to help nations work together, the purpose of the organization is to maintain international peace and security and solve international problems, be they economic, social, cultural, or humanitarian in nature. The founding UN Charter declares one of its primary goals to be the promotion of respect for human rights and fundamental freedoms. This simple but momentous reference for the first time recognized world consensus that human rights were of global concern. Building on this, subsequent UN conventions and covenants have enumerated these rights and concretely established religious freedom as a fundamental freedom.

The UN is headquartered in New York, with major offices in Geneva, Vienna, and Nairobi. It is a complex organization, with six principal organs overseeing fifteen agencies and other specialized departments. From an advocacy perspective, however, the UN system is best viewed in two categories: treaty-based bodies and charter-based bodies.

Treaty-based bodies are autonomous and consist of independent experts who monitor the implementation of certain treaties. They operate under limited mandates based on the scope of specific international treaties and covenants, and have jurisdiction only over those countries ratifying the agreement. The relevant example from a religious freedom perspective is the Human Rights Committee from the International Covenant on Civil and Political Rights.

Charter-based bodies are those specifically set forth in the UN Charter with broad mandates. Relevant bodies include the Security Council, the General Assembly, and the Economic and Social Council, as well as the Human Rights Council (and its predecessor the Commission on Human Rights).

Charter-based bodies are political in nature, and their membership is composed of state representatives.

Nongovernmental Involvement

The UN provides “consultative status” for advocacy groups and nongovernmental organizations, which permits them to participate in UN meetings. NGOs must apply for this status, and of all the various international organizations, the UN accreditation process is the most complex. Therefore, it will be discussed at length at the end of the chapter.

RELIGIOUS FREEDOM COMMITMENTS

UN religious freedom commitments are found in the so-called “International Bill of Rights,” comprised of three documents—the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. These documents add specific rights to the general references to human rights and fundamental freedoms found in the UN Charter. However, at the time of UN Charter approval, it was unclear just what form the International Bill of Rights would take.

Universal Declaration of Human Rights

Passage of the Universal Declaration of Human Rights (UDHR) came first and is the foundational document of the international human rights system. Drafted under the supervision of Eleanor Roosevelt as Chair of the Commission on Human Rights, it was the first attempt by the world community to codify human rights standards after the atrocities of World War II. The UN General Assembly (discussed below) approved the Universal Declaration without any objections in 1948.

While General Assembly resolutions are nonbinding, the Universal Declaration is viewed as a “common standard of achievement” against which to measure government actions. Several provisions of the Universal Declaration are not recognized as universal rights by many countries, such as the right to work or to leisure. However, Article 18 on religious freedom is widely supported. It clearly states that all individuals have the right to change their religion, as well as to manifest their beliefs, either alone or corporately, through worship or other practices.

Article 18

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.

Universal Declaration of Human Rights

Other parts of the Universal Declaration speak to religious freedom. Article 2(1) of the Universal Declaration condemns religiously based discrimination that would limit the enjoyment of these rights. Article 19 protects all forms of speech, including religious expression.

International Covenants

After the approval of the UDHR, two more documents followed. The Commission on Human Rights unsuccessfully attempted to create one legally binding covenant in the 1950s and 1960s that would make actionable the UDHR's aspirational rights, but these efforts failed due to the political climate of the Cold War. Consequently, two separate treaties were created, the International Covenant on Civil and Political Rights (ICCPR) and its sister document, the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Focusing on political rights, the ICCPR speaks specifically to religious freedom, unlike the ICESCR. In addition, the ICCPR provides a more elaborate enunciation of the right to religious freedom than the UDHR. Since it is a treaty, its provisions are also legally binding, unlike the declaratory UDHR. Article 18 of the ICCPR deals directly with religious freedom. Building upon the religious freedom guarantees found in the UDHR, ICCPR Article 18 goes further in positive and negative ways. On the negative side, the UDHR language about "freedom to change his religion or belief" was altered in ICCPR Article 18(1) to "freedom to have or to adopt a religion or belief of his choice," which came at the insistence of Saudi Arabia. However, the intent of the drafters is still clear—governments must protect the *forum internum* and recognize the right of individuals to freely follow the religion of their choice. This outlook is bolstered by Article 18(2), which declares that no one may be coerced into joining a religion.

The Article 18(3) limitation clause focuses only on external displays of religion and not internal, personal beliefs. It holds that religious freedom is not absolute,

but the reasons for limiting it are very narrowly construed. So while it is possible to limit legitimate religious practices, it is only in exceptional circumstances.

Article 4 has important implications for Article 18 rights. Article 4 protects religious freedom by specifically stating that governments cannot limit these rights during a public emergency. Only six other rights are given this protection along with religious freedom.

Article 18

1. 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.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. 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.

4. 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.

International Covenant on Civil and Political Rights

Similar to the Article 2 antidiscrimination clause of the UDHR, Article 2 of the ICCPR commits contracting states to ensure that all individuals in their territory enjoy the rights described in the Covenant and to respect those rights, without regard to religion. Article 19 protects freedom of expression, which would include religiously motivated speech and proselytism. Later, Article 26 promises that all persons are equal before the law, regardless of religion or belief.

The last component of the International Bill of Rights, the International Covenant on Economic, Social and Cultural Rights, has a different focus and only touches upon religious freedom. Like the UDHR and the ICCPR, Article 2 provides expansive guarantees that rights declared in the ICESCR may not be limited based on religion. Article 13(3) provides for the right of religious education, in a similar fashion to ICCPR Article 18(4).

TREATY-BASED BODIES—THE HUMAN RIGHTS COMMITTEE AND THE FIRST OPTIONAL PROTOCOL TO THE ICCPR

Monitoring Body and Complaint Recourse Mechanism

The Human Rights Committee, established by ICCPR Article 28, is the primary treaty-based body of concern to religious freedom advocates. Its role is to monitor the implementation of the ICCPR. The Committee has eighteen independent members, selected from State Parties to the Covenant, who are experts of “high moral character and recognized competence in the field of human rights.” The members are elected for a four-year term with the possibility of one reelection. The Committee meets in three sessions each year in New York and Geneva.

Monitoring Process

Under ICCPR Article 40, State Parties are committed to submitting reports every five years on “the factors and difficulties, if any, affecting the implementation” of the Covenant. Consequently, the original role of the Committee was to review these submissions and provide “concluding observations,” highlighting positive examples of implementation, but also areas of concern. In executing this function, the Committee reviews both government submissions and government answers to oral and written questions, as well as reports from advocacy groups, NGOs, and other UN agencies.

The Committee also issues “general comments”—its interpretation of how to implement the provisions of the Covenant. For instance, it stated in 1998 that the “fundamental character” of religious freedom is “reflected in the fact that this provision cannot be derogated from, even in time of public emergency.”¹

Complaint Admissibility

The Committee was given a complaint recourse mechanism through the approval of the First Optional Protocol to the Covenant in 1976. Expanding the Committee’s role significantly, the Protocol empowered the Committee to receive communications from individuals from those countries ratifying the Protocol who assert a violation of their ICCPR rights. Countries may also file complaints against other state parties. One hundred and five countries have now ratified the First Optional Protocol.

Nations ratifying the First Optional Protocol

Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Estonia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, Iceland, Ireland, Italy, Kyrgyzstan, Latvia, Lesotho, Libya, Liechtenstein, Lithuania, Luxembourg, Macedonia, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Mongolia, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of the Congo, Republic of Korea, Romania, Russian Federation, Saint Vincent and the Grenadines, San Marino, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Suriname, Sweden, Tajikistan, Togo, Turkmenistan, Uganda, Ukraine, Uruguay, Uzbekistan, Venezuela, Zambia

For allegations of abuse to be heard by the Committee's complaint redress procedure, claimants must have exhausted all available domestic remedies, if such remedies are available, or the government must have unreasonably prolonged the granting of a remedy. Anonymous submissions will not be accepted, and the issue must not be pending before another "procedure of international investigation or settlement." Third parties can bring complaints, preferably with the written consent of the victim.

Article 1 – Complaint Admissibility

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:
 - (a) The same matter is not being examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

Optional Protocol to the International Covenant on Civil and Political Rights

Complaint Procedure

A submission will first be reviewed for admissibility by the Office of the High Commissioner for Human Rights, acting as Committee secretariat. If deemed admissible, the Committee will first share the submission with the offending country. Within six months, the offending country must provide the Committee with an explanation clarifying the matter and explaining any remedies provided. The Committee does not have fact-finding capabilities, and so is reliant on submissions provided by the individual complainant and the respondent government.

Remedies

If deemed admissible, the Committee will consider the submitted information and adopt “views” on the merits of the case. These decisions find either a violation, a nonviolation, or a combination of the two (if there are many elements in a complaint). The findings are forwarded to both parties and then made public after the end of the Committee session. If a violation of the Covenant is found, the Committee will issue views that recommend remedial action. States are obligated under the ICCPR to provide for an effective remedy, and the Committee’s Special Rapporteur on Follow-up on Views will work to ensure compliance with the recommendations.

Advocacy Actions

The Human Rights Committee provides a useful avenue to pursue religious freedom abuses committed by, or permitted by, a country that has joined the First Optional Protocol. Importantly, its decisions are nonbinding, but it nonetheless provides a high-profile, public venue to raise concerns. Any Committee ruling against a State Party would place increased international pressure on a government to reform its policies and practices. Advocates can

also provide information in the form of documentation about abuses of religious freedom for Committee reports.

CONTACT INFORMATION

Human Rights Committee

<http://www.unhchr.ch/html/menu2/6/hrc.htm>

Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10, Switzerland

Fax: + 41 22 917 9022

tb-petitions@ohchr.org

CHARTER-BASED BODIES

As mentioned previously, charter-based bodies were not established through specific UN treaties or covenants but were specifically set forth in the UN Charter. They include the Security Council, the General Assembly, and the Economic and Social Council, as well as the Human Rights Council (its predecessor was the Commission on Human Rights).

SECURITY COUNCIL AND THE SECRETARY GENERAL

Policymakers

The UN Security Council is perhaps the best-known organ of the UN. The UN Charter gives the Council responsibility for maintaining international peace and security. The Council is comprised of five permanent members—China, France, the Russian Federation, the United Kingdom, and the United States—and ten nonpermanent members elected by the General Assembly every two years. Each Council member has one vote. Approval of a substantive matter requires nine affirmative votes, including the five permanent members. The well-known veto power comes from this, as all five must vote affirmatively for a matter to be approved.

The Secretary General of the UN is the highest profile UN official, representing the organization and serving as spokesperson. The UN Charter describes the Secretary General as the “chief administrative officer,” but also empowers him to “bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.” Consequently, the Secretary General has great latitude to act

on a variety of issues, including human rights. The Secretary General has also appointed Special Representatives to serve as his personal envoys, and they focus on a range of country and issue portfolios. The General Assembly appoints the Secretary General at the recommendation of the Security Council, therefore giving the permanent members a potential veto. Ban Ki-moon of the Republic of Korea took office in January 2007 as the eighth UN Secretary General and will serve a renewable five-year term.

Advocacy Actions

The Security Council is the highest and most powerful UN body. Questions of religious freedom are rarely dealt with here, and when they are, the stakes are usually very high, making this venue difficult to access for religious freedom advocates. However, advocates can forward information to the Secretary General and his personal envoys about religious freedom abuses and request intervention.

CONTACT INFORMATION

UN Secretary General Ban Ki-moon

<http://www.un.org/sg/>
760 United Nations Plaza
New York, NY 10017

Personal Representatives of the Secretary General

<http://www.un.org/Depts/dpko/SRSG/>

GENERAL ASSEMBLY

Policymakers

The General Assembly is the world's congress, where every member state has one representative with one vote. Serving as the main deliberative body of the UN, the General Assembly discusses issues of international peace and security, as well as human rights and fundamental freedoms. Any decisions, declarations, or resolutions on these issues require a two-thirds-majority vote, and the General Assembly regularly speaks to human rights issues around the world. However, these statements are nonbinding on member states. At the same time, General Assembly declarations can impact religious freedom.

The most well-known General Assembly declaration is the previously discussed Universal Declaration, which speaks to religious freedom

among other things. However, the best example of a declaration focused directly on religious freedom is the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Alarmed by “manifestations of intolerance and by the existence of discrimination in matters of religion or belief,” the General Assembly resolved to “adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief” (Introduction to the Declaration).

The nonbinding Declaration, drafted over several decades, covered a number of issues relating to religious freedom. Article 1 of the Declaration basically reiterates the ICCPR Article 18(1–3) verbatim, but with one notable modification. Stating that the right of religious freedom shall include “freedom to have a religion or whatever belief of his choice,” the drafters omitted the right to “adopt” a religion of one’s choice found in ICCPR Article 18(1). This seemingly harmless wordsmithing represented another attempt by certain governments to further winnow the right of individuals to change their religion.

In more positive areas, Article 2 of the Declaration does state that persons shall not be discriminated against on account of their religion or belief. Article 3 declares that “discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations,” the Universal Declaration of Human Rights, and the international covenants on human rights. Article 4 follows with a pledge for all states to “take effective measures to prevent and eliminate discrimination on the grounds of religion or belief” in the enjoyment of all human rights.

Article 6 is perhaps the most valuable clause of the Declaration, as it spells out the specific freedoms incorporated into the enjoyment of religious freedom. These include the rights to gather for worship and maintain facilities for worship and education; the right to acquire materials for worship or religious practice; the right to write and issue religious publications; the right to receive donations; the right to freely select religious leadership; and the right to maintain international contacts.

Article 6

In accordance with article I of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*Advocacy Actions*

With every UN member state represented, the General Assembly provides a unique opportunity for religious freedom advocates to raise issues of concern with a broad array of governments. The General Assembly meets year round, but its high-level session that convenes each September at the UN headquarters in New York City provides advocates with an opportunity to meet with representatives from countries with problematic records, as well as with those

from countries willing to support religious freedom. The Third Committee on Social, Cultural, and Humanitarian issues is where human rights issues are discussed. A religious freedom resolution is introduced in this committee each year, and this committee is where the UN Special Rapporteur on Freedom of Religion or Belief presents his or her annual report. While advocates can only observe the Third Committee, they can lobby delegations before and after the morning and afternoon sessions. Advocates can aid sympathetic delegations by providing language with religious freedom references for possible incorporation into resolutions and decisions, as well as supporting the work of the Special Rapporteur. Advocates need to apply for consultative status to attend UN General Assembly sessions.

CONTACT INFORMATION

General Assembly

<http://www.un.org/ga/>
760 United Nations Plaza
New York, NY 10017

Non-Governmental Organizations Section

<http://www.un.org/dpi/ngosection/index.asp>
Department of Public Information
Room S-1070 J, K, L
New York, NY 10017
Tel: (212) 963-6842
Fax: (212) 963-6914
dpingo@un.org

UN HUMAN RIGHTS COUNCIL

Monitoring Body

The main charter-based body dealing with human rights is the UN Human Rights Council. The Human Rights Council and its predecessor, the Commission on Human Rights, are not mentioned in the UN Charter, but both were created by bodies designated as “principal organs” of the UN in the UN Charter. The UN Charter-based Economic and Social Council (ECOSOC) created the Commission on Human Rights in 1946, under its power to “set up commissions in economic and social fields for the promotion of human rights.” (ECOSOC is of interest to advocates, as it also handles NGO

accreditation, which will be discussed later.) Likewise, the UN Charter-based General Assembly established the new Human Rights Council in 2006. The UN Charter allows the General Assembly to establish “subsidiary organs as it deems necessary for the performance of its functions” (UN Charter, Art. 22). Therefore, while only indirectly linked to the UN Charter, both the Commission and now the Council are considered charter-based bodies.

The Human Rights Council is relatively new, as the UN General Assembly voted overwhelmingly to replace the increasingly dysfunctional Commission on Human Rights with the new Human Rights Council in March 2006. The creation of the Council was part of a larger effort to reform the UN and improve its ability to speak to human rights issues. The problematic Commission on Human Rights was not all bad, as it did issue a variety of resolutions on human rights situations around the world. For example, the Commission criticized Turkmenistan in 2003 and 2004 for its poor record on human rights and mentioned problems concerning religious freedom. However, the Commission was rightfully criticized for the narrowness of its focus and for allowing abusive human rights violators to participate in the fifty-three-seat body. For instance, Libya held the Commission chairmanship in 2003.

Process

The Human Rights Council is now the lead intergovernmental organization within the UN system for monitoring human rights violations. It has been tasked with promoting universal respect for human rights and fundamental freedoms by assessing compliance with human rights principles, reviewing these standards, and providing technical assistance to requesting governments. The Council meets three times a year, with the possibility of additional special sessions, and reports to the General Assembly. In taking the place of the Commission, the Council has assumed responsibility for “special procedures,” which allows the Council to name special rapporteurs, representatives, and working groups to investigate specific human rights issues. These representatives and groups can review specific cases under a country or thematic mandate set by the Council.

The forty-seven country representatives participating on the Council are selected by a majority vote in the General Assembly. Members must “uphold the highest standards in the promotion and protection of human rights,” as well as undergo periodic reviews of their domestic compliance. Notwithstanding these standards, current members include countries with problematic human rights records, such as China, Cuba, Pakistan, Russia, and Saudi Arabia.

The Council has established the Universal Periodic Review mechanism (discussed below), as well as an Advisory Committee to support its work. The Advisory Committee replaced the former Sub-Commission on the Promotion and Protection of Human Rights and is composed of eighteen experts serving in their personal capacity for a renewable three-year term. The Advisory Committee researches issues of concern to the Council, undertaking various human rights studies and making recommendations to the Council. Members meet for two ten-day sessions each year, with the possibility of additional meetings if deemed necessary by the Council. Notably, the Council has “urged” the Advisory Committee to work with NGOs, and its annual sessions are open to NGOs with consultative status with ECOSOC.

Despite the restructuring, not all are convinced by the Council. Some governments (such as the United States) were skeptical about whether reforms had introduced enough safeguards to prevent the same type of problems from resurfacing in the new body. Initial Council activities have been worrisome. The only country-specific decision approved at the first meeting in 2006 was against Israel; it did not speak to human rights situations elsewhere. In 2007 and 2008, the Council passed resolutions endorsing laws to combat “defamation of religions.” Sponsored by Pakistan on behalf of the Organization of the Islamic Conference, the vote was far from unanimous, but both resolutions were approved. While sounding positive, the problematic resolutions justify limitations on religious freedoms and free speech. The defamation concept could be used against dissident members of the majority faith, persons of no faith, or minority faith communities to stifle the sharing of their personal beliefs with others outside their community.

Advocacy Actions

Considering that the Human Rights Council is the premier human rights body, religious freedom advocates should engage the Council and attend its annual sessions. NGOs may speak during most Council sessions and raise issues of concern about specific countries. NGOs also play an important role in lobbying Council members about pending resolutions, to encourage either certain votes or the inclusion of better language. Council meetings therefore provide an opportunity to make delegations aware of specific religious freedom violations, with the possibility of the issue being discussed before the main UN human rights body. Advocates will also need to obtain consultative status to attend Council sessions.

CONTACT INFORMATION**Human Rights Council**

<http://www.ohchr.org/english/bodies/hrcouncil/>

Human Rights Council NGO Liaison Office

Office of the Director-General

Room 153

Palais des Nations

1211 Geneva 10

Switzerland

Tel: + 41 22 917 21 27

Fax: +41 22 917 05 83

ungeneva.ngoliason@unog.ch

UNIVERSAL PERIODIC REVIEW*Monitoring Body*

The Human Rights Council has established a new procedure called Universal Periodic Review (UPR). The first session began in 2008, and over a four-year period, every UN member state will have its human rights record reviewed to determine its compliance with UN standards. A working group of countries conducting the reviews will consider information from nongovernmental organizations and special procedures, as well as state submissions. NGOs may attend these sessions, and they are also webcast on the internet.

Process

The General Assembly resolution that established the Human Rights Council stated that the Council shall “undertake a universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs.”² The goal of these reviews is, among other things, to improve the “human rights situation on the ground” and help fulfill a state’s “human rights obligations and commitments.”

The reviews, led by a troika of countries randomly selected, will occur three times a year during a two-week session in Geneva. Each review will be based on documents provided by the government under review, a

compilation of UN reports prepared by the Office of the High Commissioner for Human Rights, and “additional, credible and reliable information provided by other relevant stakeholders.” “Stakeholders” include NGOs, and countries under review are encouraged to consult domestic stakeholders when preparing their reports.

Advocates wishing to provide information must meet the deadlines for each tranche of reviews, as established by the Office of the High Commissioner for Human Rights. In addition, these submissions cannot exceed five pages (but may include a longer report); must cover only the past four years; must be written in English, Spanish, or French; and must follow the preparation guidelines.

Advocacy Actions

Advocates should engage the Universal Periodic Review process, both domestically and in Geneva, by providing the government under review information as well as by providing submissions to the UN. NGOs need not have consultative status to provide information or to attend the UPR sessions. Advocates may ask the country under review questions from the floor, but they will be competing with other NGOs and countries for a very limited amount of time. As Council members may also ask questions, advocates should work with sympathetic delegations to encourage specific questions on issues or situations of concern.

CONTACT INFORMATION

Universal Periodic Review

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>

OHCHR Civil Society Unit

Palais des Nations

1211 Geneva 10

Switzerland

Tel: +41 22 917 9656

Fax: +41 22 917 9004

UPRsubmissions@ohchr.org

civilsocietyunit@ohchr.org (NGOs)

HUMAN RIGHTS COUNCIL COMPLAINT PROCEDURE

Complaint Recourse Mechanism

In 1970, the Economic and Social Council (ECOSOC) adopted Resolution 1503, “Procedure for Dealing with Communications Relating to Violations of Human Rights and Fundamental Freedoms,” which provided an avenue for the then Human Rights Commission to receive complaints. The “1503 Procedure” represents the oldest human rights complaint recourse mechanism in the UN system, and the Human Rights Council has since assumed responsibility for this mechanism. In 2007, the Council reviewed the 1503 Procedure and altered its modalities to “be more victims-oriented” and to streamline the process. The new Human Rights Council Complaint Procedure is important for religious freedom advocates, as it allows the Council to address “consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.” Consequently, the Complaint Procedure can be invoked for even non-UN-member countries, making it the only universal complaint mechanism available to date.

It is too soon to determine whether the changes will improve the mechanism, as the former 1503 Procedure had its drawbacks. Some argued it presented only a mirage of an effective recourse to justice, due to the incredible secrecy of the process. The 1503 Procedure was highly confidential, as decisions were not made public and applicants were not informed of decisions. The Council would only announce which countries were under examination, so it was difficult to raise international awareness. In addition, while a complaint could refer to individual contraventions of human rights, the 1503 Procedure only reviewed situations involving gross and systematic violations. If a complaint survived the rigorous review process, the findings were nonbinding, there were no damages awarded, and individual remedies were not prescribed. The new Human Rights Council Complaint Procedure will maintain this nonbinding, confidential nature, so many of these shortcomings will likely remain.

Complaint Admissibility

The Human Rights Council Complaint Procedure is available for victimized individuals or groups who allege “gross and reliably attested violations”³ of human rights and fundamental freedoms. Thousands of requests are received

each year, so submissions must be well tailored and succinctly specify the relevant facts of the alleged violations. The submission must also relate the violations to the Universal Declaration of Human Rights or other human rights conventions and demonstrate that the violations are widespread, affecting more than just one person or a few individuals. Persons or organizations with “direct and reliable” knowledge of violations, but who are not the victims themselves, may also file complaints. Importantly, these third-party groups are not required to have consultative status with the UN. The victims do not have to be citizens of the offending state, but submissions may not be anonymous (names can be kept confidential). As with a Human Rights Committee inquiry, domestic remedies must be exhausted, shown to be ineffective, or unreasonably delayed.

Complaint Procedure

Communications received under the Complaint Procedure are first vetted by the Chairman of the Working Group on Communications. Anonymous complaints or those obviously outside the Complaint Procedure’s parameters are immediately rejected. Surviving petitions are passed to the full Working Group on Communications for the next stage of review. Offending governments are notified of that action and asked to submit information. The petitioner will receive notice that the communication is being forwarded, but no other information about the process will be conveyed, regardless of the final outcome.

The five members of the Working Group on Communications are selected from the Human Rights Council Advisory Committee to serve a renewable three-year term. The Working Group meets twice a year to review communications and make initial admissibility decisions. Communications that are “manifestly ill-founded communications”⁴ or fall outside of rights recognized in the Universal Declaration will be screened out. Importantly, the Working Group can combine communications that together expose a pattern of gross violations. The number of cases advanced each year by the Working Group is small. However, NGOs can informally contact individual Advisory Committee members to advocate on cases of concern. Complaints meeting these requirements are forwarded to the Working Group on Situations for the next screening stage.

The Working Group on Situations is composed of five representatives from the Human Rights Council, so it is more political in nature. Members are appointed for a renewable one-year term and meet twice a year to review communications recommended by the Working Group on Communications and state responses. The Working Group on Situations issues a report to the Human Rights Council about situations of gross human rights violation and presents recommendations for Council action.

Once before the Human Rights Council, the communication goes through a two-step, closed-door review process. First, the offending country is invited to provide its side of the story, and Council members may raise questions with government representatives. Notably, the applicant is not provided the same opportunity. During the adjournment, the Council will review the submitted materials and government responses. The Council will announce its final decision or resolution at the second closed meeting, where concerned governments may also be present, but not applicants.

Remedies

A Council decision can take one of four forms: (1) reject the application and discontinue consideration; (2) postpone and keep the situation under review until additional information becomes available; (3) initiate a study of the situation and appoint an independent expert; and (4) discontinue the private Complaint Procedure and discuss the issue publicly.

The decision and findings are nonbinding and will remain confidential, unless the offending government agrees otherwise (which rarely happens). However, the Council Chair will announce publicly which governments have been examined under the Complaint Procedure.

Advocacy Actions

Despite reforms, the Human Rights Council Complaint Procedure is painstakingly slow, complicated, and nontransparent. However, religious freedom advocates should remember that the Complaint Procedure is taken very seriously by the Human Rights Council. Despite not knowing the final disposition of a complaint, the process can be worthwhile for advocates, as it potentially forces governments to explain actions limiting religious freedom before the UN's pre-eminent human rights council, a body composed of fellow countries.

CONTACT INFORMATION**Human Rights Council Complaint Procedure**

<http://www2.ohchr.org/english/bodies/chr/complaints.htm>

Human Rights Council and Treaties Division

Complaint Procedure

OHCHR-UNOG

1211 Geneva 10, Switzerland

Fax: + 41 22 917 9011

CP@ohchr.org

SPECIAL RAPPORTEURS*Monitoring Body*

The Human Rights Council, like its predecessor the Commission on Human Rights, may use its “special procedures” power to create and appoint Special Rapporteurs. Special Rapporteurs are independent experts selected to continuously examine discreet topics in light of relevant UN documents. A number of different Special Rapporteurs exist, with foci ranging from arbitrary executions to violence against women, and these experts report to the Human Rights Council and the General Assembly. The Special Rapporteur on Freedom of Religion or Belief is the main interlocutor for religious freedom advocacy groups. However, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression could address situations where religiously based speech has been limited. In addition, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance has been tasked with examining anti-Semitism, Christianophobia, and Islamophobia.

However, the Special Rapporteur on Freedom of Religion or Belief is the most relevant Special Rapporteur for advocates and was created in 1986 by the Commission on Human Rights. The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief provides the terms of reference for the Special Rapporteur’s work in examining incidents and government actions that were in violation of those enunciated standards. In 2004, Asma Jahangir of Pakistan was appointed the Special Rapporteur. She has been active—from July 2006 to June 2007, she sent fifty-three communications raising concerns about allegations of religious freedom abuses to twenty-nine different governments.

Process

In accomplishing the assigned task, the Special Rapporteur on Freedom of Religion or Belief looks to receive information from NGOs, religious communities, and advocates regarding potential or actual violations of religious freedom. Advocates can submit communications about religious freedom abuses on behalf of victims, and UN consultative status is not required. In examining the compliance of State parties, the Special Rapporteur will review

1. whether constitutional and legislative systems are adequately protecting religious freedom;
2. whether religious facilities and shrines, as well as religious expressions, are protected;
3. whether registration requirements hinder the ability of individuals or communities to manifest their religious beliefs;
4. whether individuals may gather freely for worship and maintain worship facilities, as well as whether the dissemination of religious publications is allowed;
5. whether individuals may establish religious institutions, as well as charitable and humanitarian organizations;
6. whether persons are abused or tortured because of their religious beliefs; and
7. whether government officials—either civil servants, law enforcement officials, or military personnel—discriminate on religious grounds.

In response to credible allegations of abuse and urgent appeals, the Special Rapporteur can take direct action. She is empowered to communicate these concerns directly with the offending government and to request clarification and information as well as the taking of preventative steps. These communications come in two forms—urgent appeals and letters of allegation. Urgent appeals place governments on notice about actual or imminent violations of religious freedom and request immediate intervention. Letters of allegation are employed after the perpetration of an abuse, to request a clarification and to signal international concern about the situation.

The Special Rapporteur may also conduct country visits to better assess the situation and hold consultations with governmental, nongovernmental, and religious groups. For instance, between 2005 and 2008, she visited a diverse array of countries—Nigeria, Sri Lanka, France, Azerbaijan, the Maldives, Tajikistan, the United Kingdom, Angola, India, and Turkmenistan. An

invitation must be extended from the government before any trip can proceed, but the Special Rapporteur can write and request an invitation. After a visit, the Special Rapporteur will issue recommendations regarding corrective measures to effectively promote religious freedom. The Special Rapporteur annually submits public reports to the Human Rights Council and the General Assembly regarding her work, findings, and a list of states not providing requested invitations for country visits.

The office welcomes information from advocates regarding actual, but also potential, violations of religious freedom, allowing advocates to engage the Special Rapporteur before a situation deteriorates. To facilitate the submission and review of information, the Special Rapporteur's office has developed a model questionnaire for individual complaints (see appendix II). Details are important, but specific names can be held confidentially, if requested, to protect victims from further repercussions.

Advocacy Actions

Advocates for religious freedom are encouraged to contact the Special Rapporteur on Freedom of Religion or Belief about issues of concern, as it is the only UN mechanism devoted entirely to religious freedom concerns. The Special Rapporteur has proven to be a powerful voice for religious freedom across the globe, so religious freedom advocates should use the questionnaire to make the Special Rapporteur aware of problematic situations. Advocates should also consider contacting the Special Rapporteur who focuses on speech freedoms when religious expression is limited, as well as the Special Rapporteur on Racism.

CONTACT INFORMATION

Special Rapporteur on Freedom of Religion or Belief

<http://www2.ohchr.org/english/issues/religion/index.htm>

c/o Office of the High Commissioner for Human Rights

United Nations at Geneva

8-14 Avenue de la Paix

1211 Geneva 10

Switzerland

Fax: +41 22 917 90 06

freedomofreligion@ohchr.org

urgent-action@ohchr.org

**Special Rapporteur on the Promotion and Protection of the Right to
Freedom of Opinion and Expression**

<http://www2.ohchr.org/english/issues/opinion/index.htm>

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10

Switzerland

Fax: +41 22 917 9006

urgent-action@ohchr.org

**Special Rapporteur of the Commission on Human Rights on Con-
temporary Forms of Racism, Racial Discrimination, Xenophobia and
Related Intolerance**

<http://www2.ohchr.org/english/issues/racism/rapporteur/index.htm>

c/o Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10

Switzerland

Fax: +41 22 917 9006

urgent-action@ohchr.org

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS**

Monitoring Body

Outside of the treaty-based and charter-based system are the Office of the UN High Commissioner for Human Rights (OHCHR) and the High Commissioner for Human Rights. They were established in 1993 in response to increasing work by the UN on issues involving human rights, and thus also religious freedom. The High Commissioner leads the work of the OHCHR and has a broad mandate to promote the full realization of human rights through interactions with governmental and nongovernmental organizations, as well as by coordinating UN programs. The High Commissioner travels widely and will regularly speak publicly about specific issues of concern. The current High Commissioner is Navi Pillay, who was appointed in July 2008 by the Secretary General and approved by the General Assembly. Her term is for four years, with the possibility of one renewal.

Process

The OHCHR is headquartered in Geneva and has primary responsibility for promoting the respect of UN human rights norms by all countries and working to ensure proper translation of international commitments into local laws, policies, and practices. The OHCHR also serves as the secretariat to the previously discussed treaty-based Human Rights Committee and the charter-based Human Rights Council, providing logistical support. Two OHCHR Divisions, the Human Rights Procedures Division and the Operations, Programs and Research Division, carry out the Office's work.

In addition, the OHCHR has established field presences and regional offices in a number of countries, to monitor the human rights situation or to investigate specific abuses. While the role differs from country to country, these presences generally work to ensure the full implementation of a country's human rights commitments into law and practice at both the national level and the local level, as well as to lend assistance and protection to victimized groups or individuals.

OHCHR field presences

OHCHR Country Offices

Angola, Togo, Uganda, Palestine (territory), Cambodia, Nepal, Serbia (including Kosovo), Colombia, Guatemala, Mexico, Bolivia

OHCHR Human Rights Components of Peace Missions

Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia/Eritrea, Guinea Bissau, Liberia, Sierra Leone, Somalia, Sudan, Iraq, Afghanistan, Timor-Leste, Georgia/Abkhazia, Haiti

OHCHR Human Rights Advisors

Great Lakes region of Africa, Guinea, Niger, Rwanda, Indonesia, Papua New Guinea, Sri Lanka, Kyrgyzstan, Republic of Moldova, Russian Federation, Serbia, South Caucasus, the former Yugoslav Republic of Macedonia, Ecuador, Guyana, Nicaragua

Regional OHCHR Offices (operating or planned)

Africa: Southern Africa (Pretoria); East Africa (Addis Ababa); Central Africa (Yaoundé); West Africa (planned)

Arab region: Middle East and the Gulf (Beirut); North Africa (planned); General Region (planned in Qatar)

Asia and the Pacific region: South-East Asia (Bangkok); Pacific (Suva)

Europe, North America, and Central Asia: Central Asia (Almaty); North America (New York)

Latin America and the Caribbean: Latin America (Santiago); Central America (planned)

The OHCHR can also conduct rapid responses to quickly deteriorating human rights situations in an attempt to provide protection. Possible actions range from the High Commissioner speaking publicly or through a press release, to initiating fact-finding or monitoring missions, to reinforcing OHCHR field presences.

The OHCHR relies heavily on civil society and nongovernmental organizations, including religious communities and their advocates. In 2004, the OHCHR appointed a special liaison officer to strengthen the OHCHR's engagement, in recognition of how NGOs can serve as an early warning system, providing the UN with the latest information about abuses.

Advocacy Actions

The High Commissioner for Human Rights is the premier human rights advocate in the international system. Consequently, religious freedom advocates would be wise to keep the High Commissioner, the supporting OHCHR, and the various OHCHR field presences apprised of situations of abuse against religious freedom. Advocates can request that the High Commissioner incorporate these concerns into her statements and visits, as well as instruct other offices to inquire about problematic situations.

CONTACT INFORMATION

Office of the UN High Commissioner for Human Rights (OHCHR)

<http://www.ohchr.org/>
UNOG-OHCHR
Palais des Nations
1211 Geneva 10
Switzerland
Tel: +41 22 917 9000

Human Rights Complaints:

Petitions Team

Office of the UN High Commissioner for Human Rights
UNOG-OHCHR
Palais des Nations 8-14
Avenue de la Paix
1211 Geneva 10
Switzerland
Fax: +41 22 917 9022
tb-petitions@ohchr.org

CONSULTATIVE STATUS

Article 71 of the UN Charter established a role for nongovernmental organizations, allowing them to consult UN organs about matters of concern. Referred to as “consultative status,” it is required for NGOs wishing to engage the General Assembly, the Human Rights Council, or the Sub-Commission on the Promotion and Protection of Human Rights. Registration to attend and speak at UN meetings, such as the annual Human Rights Council session, is also contingent on holding consultative status. Applications for this accreditation are reviewed by the ECOSOC Committee on Non-Governmental Organizations, which is composed of nineteen member states.

Eligibility

The eligibility requirements are as follows:

- concern with matters under the competency of ECOSOC or a subsidiary body
- aims and purposes in harmony with principles of the UN Charter
- two years of existence (proven by nonprofit status or other government registration)
- established headquarters
- democratically adopted constitution
- authority to speak for its members
- representative structure
- appropriate mechanisms of accountability to members
- funds from nongovernmental sources
- democratic and transparent decision-making processes.

Three levels of consultative status exist: General, Special, and Roster.

- General consultative status is granted to large NGOs with worldwide activities and interests, “concerned with most of the activities of the Council and its subsidiary bodies.”⁵
- Special consultative status is reserved for NGOs with specialized interests over a narrower agenda, engaging “only a few of the fields of activity covered by the Council and its subsidiary bodies.”⁶
- Roster status is for NGOs who only “make occasional and useful contributions to the work of the Council or its subsidiary bodies” and do not hold general or special consultative status.⁷

Process

Interested NGOs must first write a letter of intent to the NGO Section of the Department of Economic and Social Affairs, asking for recognition in one of the three categories. Once received, the Department will mail an application package and questionnaire. It is incumbent upon the NGO to finish completely the application and return it to the Department so that it can be forwarded to the Committee on Non-Governmental Organizations for consideration. Incomplete applications will not be forwarded.

The Committee on Non-Governmental Organizations meets only twice a year to consider applications. NGOs scheduled for review will be notified, and two representatives have the option of attending the session in New York City. If they do not attend and their application is deferred, they may then wish to participate at the next session and answer any questions. Once completed, the Committee may recommend a consultative status, defer an application to allow for clarification of its questions, or recommend a different status than what was requested. Final recommendations are communicated to the NGO and reported to ECOSOC for approval.

ECOSOC can either approve or reject Committee recommendations. The Department of Economic and Social Affairs sends notification of final decisions to NGOs. Those obtaining general or special consultative status are required to submit every four years a report of their activities and contributions to the work of the UN.

CONTACT INFORMATION**NGO Section of the Department of Economic and Social Affairs**

<http://www.un.org/esa/coordination/ngo/>

ECOSOC

One United Nations Plaza, Room DC1-1480

New York, NY 10017

Tel: (212) 963-8652

Fax: (212) 963-9248

desangosection@un.org