



## **Freedom of Religion or Belief - how the FCO can help promote respect for this human right**

“The UK condemns all instances where individuals are persecuted because of their faith or belief, wherever this happens and whatever the religion of the individual or group concerned.”<sup>1</sup>

### **SUMMARY**

Freedom of religion or belief is a human right whose enjoyment is important to achieving the UK’s strategic priorities, particularly as regards conflict prevention and resolution. It is a sensitive issue in many countries. These guidelines, elaborated with the help of specialist stakeholders, aim to provide a simple introduction to the issues for FCO posts and desks, an analytical matrix to identify problems, some general responses to frequently raised issues, and other resources for those who wish to go deeper into the subject.

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<sup>1</sup> FCO Human Rights Annual Report 2007, p. 106

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***Why has the FCO produced these guidelines?***

1. The object of these guidelines is to help Posts (a) to understand the human rights issues involved in freedom of religion or belief, and (b) to promote this human right and to combat violations of it. States are bound by the commitments that they have undertaken when ratifying human rights treaties, so Posts should first inform themselves about which of the treaties listed in annex 2 their host State has ratified (with any reservations) in order to determine the extent of their obligations when considering opening a dialogue on this human right.

***What is “freedom of religion or belief”?***

2. Freedom of thought, conscience, religion or belief is guaranteed by many human rights treaties (see annex 2 for further details). Under the UN’s International Covenant on Civil and Political Rights (ICCPR), this freedom – set out in Article 18 – is one that cannot be derogated from, even in times of public emergency.
3. Freedom of religion or belief is far-reaching and profound. It encompasses not just the freedom to hold personal thoughts and convictions, but also being able to manifest them individually or with others, publicly or in private. It also includes the freedom to subscribe to different schools of thought within a religion, and to change one’s religion or beliefs. It forbids discrimination against individuals who have, or wish to have, different beliefs. It prohibits the use of coercion to make someone hold or change their religion or belief.
4. As with all human rights, freedom of religion or belief belongs to individuals, whether alone or as members of a group, and not to the religion or belief itself. It is by guaranteeing the human rights of individuals that religions and beliefs are protected in society and not the reverse.
5. Of the international monitoring bodies tasked with interpreting human rights treaty provisions on freedom of religion or belief, the European Court of Human Rights (ECtHR) has the most developed jurisprudence and most of the examples given in these Guidelines are taken from this. These interpretations are binding on States that have ratified the European Convention on Human Rights. While not binding on other States that have ratified other international or regional treaties, the monitoring bodies do have regard to each other’s interpretations, and those of the ECtHR are generally considered to be very persuasive.

6. The word “religion” is commonly, but not always, associated with belief in a transcendent deity or deities, i.e. a superhuman power or powers with an interest in human destiny. The term “belief” does not necessarily involve a divine being; it denotes a certain level of cogency, seriousness, cohesion and importance. So not all beliefs are covered by this protection. For example, if someone believed that the moon was made of cheese, this belief would not be likely to meet the test above. But in general a very wide meaning is given to this term. The following are examples of beliefs considered<sup>2</sup> to fall within the protection of this freedom: druidism<sup>3</sup>, veganism<sup>4</sup>, pacifism<sup>5</sup>, the divine light mission<sup>6</sup>, scientology<sup>7</sup>, Krishna Consciousness Movement<sup>8</sup>, humanism,<sup>9</sup> atheism and agnosticism<sup>10</sup>. In 1993, the UN Human Rights Committee (which monitors States Parties’ implementation of ICCPR) described religion or belief as “theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.”<sup>11</sup>
7. However, the issue is complex and contentious, and involves political and other sensitivities. Not all governments accept the definition of “religion” given above. Some make distinctions between religions, philosophies and cults, only recognising monotheistic religions as falling within the human rights ambit of freedom of religion. Some base their decision on the perspective of the State religion. In any event, such positions are contrary to human rights.
8. The right of an individual to hold religious or other beliefs is absolute. No one can be compelled to disclose or adopt religious or other beliefs. However, the right to manifest one’s religion or belief can be curtailed for the limited reasons given in the human rights treaties. Equality and non-discrimination are core aspects of the enjoyment of human rights, and so no one should be subject to discrimination for exercising their right to freedom of religion or belief.
9. Other international standards, such as Article 27 ICCPR, protect the rights of individuals belonging to ethnic, religious, and linguistic minorities. These are relevant to many

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<sup>2</sup> By the European Commission and/or Court of Human Rights.

<sup>3</sup> Chappell v. UK 30 March 1989, para. 246

<sup>4</sup> W. v. UK Appl 18187/93 10 Feb. 1993

<sup>5</sup> Arrowsmith v, UK Appl. 7050/75 (1978) 19 DR 5

<sup>6</sup> Omkaranda v. Switzerland Appl 8118/77 (1980) 25 DR 117

<sup>7</sup> X v. Sweden Appl 8282/78 (1980) 21 DR 109

<sup>8</sup> Iskcon v. UK Appl 20490/92 (1994) 76 DR 106

<sup>9</sup> Folgero & others v. Norway 29 June 2007

<sup>10</sup> Kokkinakis v. Greece 25 May 1993, para. 31.

<sup>11</sup> <http://www1.umn.edu/humanrts/edumat/studyguides/religion.html>. The Committee’s interpretations of the ICCPR published as General Comments are advisory and not binding on States Parties.

instances where freedom of religion is violated, but will not be explored in detail in these Guidelines.

***Why is freedom of religion or belief important to the UK?***

10. Freedom of religion or belief is often crucial to peace in society. One of the UK's strategic policy goals (DSO6) is to prevent and resolve conflict. Many conflicts find their roots in, or are exacerbated by, religious differences. Examples include Israel and Palestine, Iraq, northern Nigeria, Central Sulawesi and Maluku in Indonesia. Discrimination on the grounds of religious belief has led to human rights violations against individuals, such as members of the Baha'i community in Iran, the Ahmadiyya Muslim community in Pakistan and Indonesia, Christians in Orissa (India) and Shia Muslims or Jehovah's Witnesses in many places. Such violations can involve denials of freedom of expression, detention without trial, impunity for attacks on property and people, banning of religious assemblies and unlawful killing. In some cases, people who have been discriminated against because of their religion (often alongside other grievances relating to ethnic or other identity) have turned to violence to assert this right. Further information can be found in the FCO's Human Rights Annual Report.
11. So it is in the interests of the UK to help people to enjoy freedom of religion or belief and to end discrimination on the grounds of religion or belief. It is also a value that is essential to the UK's own culture and its success as a multi-cultural and religiously heterogeneous society, and a human right that the UK is committed to uphold.

***What is needed to achieve freedom of religion?***

12. In order to enjoy freedom of religion, the freedom to carry out the following activities are generally considered to be necessary, subject to such limitations as are permitted in human rights instruments<sup>12</sup>:
  - To change one's religion, discontinue one's religion or to adopt atheistic views;
  - To express one's beliefs and to criticise the beliefs of others in a non-violent manner;
  - To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
  - To establish and maintain appropriate charitable or humanitarian institutions;

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<sup>12</sup> Taken, inter alia, from Article 6, UN Declaration on the Elimination of Discrimination based on Religion 1981

- 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;
- To write, issue and disseminate relevant publications in these areas;
- To teach a religion or belief in places suitable for these purposes;
- To solicit and receive voluntary financial and other contributions from individuals and institutions;
- To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

#### **Cross-cutting issues**

##### ***Vulnerable groups and freedom of religion or belief***

13. States also have obligations to respect the religious or other beliefs of members of vulnerable groups like refugees, prisoners, migrant workers and ethnic or linguistic groups. Women should enjoy recognition as persons before the law and should not be treated as the property of their spouses, nor should they be treated unequally because of their marital or any other status, notwithstanding that religious traditions may dictate otherwise.<sup>13</sup>

##### ***Children and freedom of religion or belief***

14. Human rights treaties give parents and legal guardians the right to educate their children in accordance with their religion and morals, and children should not suffer discrimination because of this. At the same time, children should not be subjected to physical or mental injury because of religious practices. The Convention on the Rights of the Child recognises childhood as ending at 18, and that the child's views should progressively be taken into account as s/he develops capacity.

##### ***Freedom of religion and freedom of expression***

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<sup>13</sup> Articles 15 & 16 UN Convention on the elimination of all forms of discrimination against women

15. In recent years critical comments about religious dogmas or beliefs, perceived by their adherents as being blasphemous or insulting, have sometimes lead to world-wide protests (e.g. the Danish cartoons involving the Prophet Mohammed). This has in turn led to discussion about whether one freedom has, or should have, priority over the other.
16. There is no hierarchy in human rights: all have equal value. Neither freedom is absolute, and both can be restricted, as mentioned below. Freedom of expression is essential to the exercise of freedom of religion. This includes the right to challenge activities, teachings and beliefs, but within limits. Article 20 ICCPR calls for the advocacy of religious hatred that incites to discrimination, hostility or violence to be prohibited by law. The American Charter on Human Rights has a similar provision.<sup>14</sup> Other regional treaties permit restrictions for the purposes of “protecting the rights of others”.<sup>15</sup>
17. The issue has been the subject of several cases before the European Court of Human Rights. The Court has stated that the exercise of freedom of expression involves an obligation to ensure peaceful enjoyment of the right to freedom of religion.<sup>16</sup> Expressions that spread, incite or justify hatred based on religious intolerance lose the protection of Article 10 ECHR.<sup>17</sup> So measures to forbid incitement to religious hatred would be a legitimate restriction of freedom of expression.
18. In England and Wales it is an offence to use threatening words or behaviour that are intended to stir up hatred against a group of persons defined by reference to their religious belief (or lack of belief).<sup>18</sup> The “threat” is one that generally involves inducing fear of violence in the victim. But this offence does not apply to words or conduct that are not threatening, such as expressions of antipathy, ridicule, insult or abuse of religions or their practices, or that try to persuade people to adopt or abandon a particular religious belief. These are protected by freedom of expression. A similar offence exists in N. Ireland,<sup>19</sup> but Scotland has no such offence, although a court may increase a sentence where an offence is aggravated by religious prejudice.<sup>20</sup> A summary of religious offences in other jurisdictions can be found in Appendix 5 of the Report of the House of Lords Select Committee on

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<sup>14</sup> Article 13(5)

<sup>15</sup> Article 10 European Convention on Human Rights; Article 22 African Charter on Human and Peoples’ Rights; Article 32 Revised Arab Charter on Human Rights.

<sup>16</sup> Klein v. Slovakia, 31 October 2006, para. 47

<sup>17</sup> Gündüz v. Turkey, 4 December 2003, para. 51

<sup>18</sup> See the Racial and Religious Hatred Act 2006

<sup>19</sup> See Public Order (NI) Order 1987

<sup>20</sup> S. 59A Criminal Justice (Scotland) Act 2003

Religious Offences in England and Wales 2003.<sup>21</sup>

19. In order to enjoy both rights, there has to be tolerance. Religious believers cannot impose their views on others, as this would violate their human rights, and vice versa. States have an obligation to uphold the rights of all persons within their jurisdictions, and sometimes this will involve restricting rights for the common good.

***Restrictions on freedom of religion or belief***

20. Under ICCPR, States are not allowed to restrict the freedom to hold any religion or belief and they cannot derogate from this provision under any circumstances. Regional human rights treaties have other provisions.<sup>22</sup>
21. Governments are permitted to restrict the manifestation of religious or other beliefs, provided that they can demonstrate that the restrictions comply with the criteria in the following three paragraphs. All restrictions must be prescribed by law, and they must be based on the criteria contained either in para. 23 or in para. 24.
22. Prescribed by law, i.e. is based on the law and applied in such a way that this freedom can still be exercised, and that the restriction respects other human rights. An example is a restriction on the wearing of the headscarf or other religious symbols in educational establishments, which the ECtHR has upheld as reasonable in a secular education system.<sup>23</sup> The restriction interfered with the right to manifest one's religion, as well as the right to access to education. But it was set out clearly and accessibly in the University Regulations, so prescribed by law, and the State was entitled to protect the secular nature of the education system as a fundamental aspect of its democracy.
23. Necessary to protect public safety, public order, health or morals. Public safety is not the same as national security; it is concerned with protecting individuals against harm. An example is a requirement on motorbike riders to wear a safety helmet<sup>24</sup>, or a prohibition on religious dress during PE classes<sup>25</sup>. Public order is concerned with keeping the peace, rather than asserting public policy For example, the dissolution of a political party seeking greater

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<sup>21</sup> <http://www.publications.parliament.uk/pa/ld200203/ldselect/ldrelolof/95/9501.htm>

<sup>22</sup> Article 15 European Convention on Human Rights permits derogation in time of emergency. Article 30 Revised Arab Charter on Human Rights permits restrictions prescribed by law. Article 8 African Charter on Human and Peoples' Rights makes the right subject to law and order. The American Convention on Human Rights forbids any restriction of the right in any circumstances.

<sup>23</sup> Leyla Sahin v. Turkey, ECtHR judgment of 10 November 2005

<sup>24</sup> X v. UK, ECHR DR 14

<sup>25</sup> Dogra v France, ECtHR judgment of 4 December 2008

religious influence in order to protect the secular nature of democracy<sup>26</sup>. As the concept of morals derives from many social, philosophical and religious traditions, limitations for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition. An example of a permitted restriction on grounds of health is a law that forbids parents to allow female genital mutilation of their daughters, in order to protect the health of girls.

24. Necessary to protect the fundamental rights and freedoms of others. “Necessary” suggests that there is an imperative need, and this is a much stricter test than “useful”, “reasonable” or “desirable”. The restrictions must be directly related and proportionate to the specific need identified, and may only be used for that purpose. An example is the State overriding a belief against the use of blood transfusions when the sick children of such believers need a transfusion to save their lives. In the example cited in para. 22, the State also had a duty to protect the rights of others, particularly women in the context of gender equality, and students of other (or no) faith, as the headscarf was also regarded in Turkey as a political statement as much as a religious one.
25. Restrictions on other grounds are not permitted under international human rights law.

***What problems are Posts most likely to encounter?***

26. There will be many different issues relating to freedom of religion or belief across the world. Among the most prominent examples are:
27. *Apostasy.* Converting away from one’s religion in certain countries<sup>27</sup> is subject to legal sanction. In others, it can lead to discrimination and violation of human rights. In some countries, such as Uzbekistan, actions that may lead to people converting are banned.
28. *Manifestation.* This raises a large number of issues of discrimination. See examples in the FCO Human Rights Annual Report.
29. *Legal Recognition.* Some religious minority communities are actively persecuted and are not formally recognised or allowed to practise freely. This also affects their rights to own land or

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<sup>26</sup> Refah Partisi v. Turkey, ECtHR judgment of 13 February 2003

<sup>27</sup> In Afghanistan, Iran, Mauritania, Saudi Arabia, Sudan and some Malay states it is punishable by death. In Bahrain, Comoros, Egypt, Jordan, Kuwait, Malaysia, Maldives, Oman, Qatar and Yemen apostasy is a punishable offence. In other countries, like Pakistan and Turkey, apostates get charged with other offences, such as blasphemy, defaming Islam or insulting their country.

build places of worship or educate their children in their faith. Legal recognition is not a precondition for enjoyment of freedom of religion or belief.

30. *Violence*. Large numbers of individuals all over the world are subjected to violence at the hands of state authorities, extremist groups, their communities or families because of their religious affiliation or their attempts to manifest or change their religion or beliefs.
31. *Manifesting religious belief and anti-racism*. Discrimination on the grounds of race or religion is prohibited under international law.<sup>28</sup> Countries that have ratified these instruments must provide legal protection against such discrimination. In some cases, race and religion are perceived to be closely aligned, e.g. Jewish people and Judaism, Sikhs and Sikhism, but this is irrelevant to human rights law. Individuals should not suffer discrimination either because of their race or their religious belief.
32. *Blasphemy*. There is no agreed international definition of blasphemy, but blasphemy offences usually range from insulting a religion and/or its adherents to hate speech. Their existence and use do not violate international human rights law, provided that the punishment is reasonable and proportionate to the offence, and that a proper balance is maintained to ensure freedom of expression. The UK considers that neither the death penalty nor physical punishment can ever be a reasonable or proportionate penalty for blasphemy.

***How can Posts help to promote freedom of religion or belief?***

33. Assessment. Posts should first assess the situation regarding freedom of religion or belief by using the US State Department annual report on International Religious Freedom<sup>29</sup> or the matrix in the annex to this guidance. Has the country undertaken a commitment to freedom of religion or belief? Is it observing its commitments?
34. Compliance procedures. Posts can urge governments to carry out their reporting obligations under the human rights treaties and to implement the recommendations of the treaty monitoring bodies regarding freedom of religion or belief.
35. Special Rapporteur on Freedom of Religion or Belief. Posts can urge governments to issue an invitation for the Rapporteur to pay a monitoring visit and subsequently to engage constructively on the Rapporteur's recommendations.

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<sup>28</sup> International Convention on the Elimination of Racial Discrimination; Article 2 & 26, ICCPR.

<sup>29</sup> [www.state.gov/g/drl/rls/irf/2008](http://www.state.gov/g/drl/rls/irf/2008)

36. Human Rights Defenders. Individuals or groups who are persecuted for working to promote freedom of religion or belief will qualify as human rights defenders, to whom the EU Guidelines on Human Rights Defenders apply.<sup>30</sup>
37. Working with like-minded countries. Several other countries, inside and outside the EU, also share the UK's perspectives on freedom of religion or belief. In countries that are members of the Organisation for Security and Co-operation in Europe (OSCE), the OSCE Advisory Panel of Experts on freedom of religion or belief can be a useful resource.
38. Public Diplomacy. Posts can publicly promote freedom of religion by supporting reform initiatives in speeches, participating in seminars and events, writing newspaper letters and articles, visiting the victims of violations and attending the trials of human rights defenders. Through regular contact with the relevant local NGOs, religious associations and national legal and/or human rights institutions, Posts can identify where intervention might be helpful and effective, especially where national laws and/or administrative practices result in the non-implementation of international norms. Such meetings can include exiled groups or minorities whose co-believers are persecuted in a neighbouring state. Lobbying relevant Ministries can be effective in raising awareness. If key officials or Ministers are visiting the UK, ensuring that they see how an issue is dealt with in the UK may also help the discussion.

### **Regional Mechanisms**

39. All four regional human rights treaties<sup>31</sup> guarantee the right to freedom of religion and belief. These regional treaties reflect regional values, as well as universal ones. They are not “foreign ideas” imposed by others from distant continents but commitments freely undertaken by countries in the region. Posts can follow their work on freedom of religion or belief and use it as a basis for work in countries that adhere to the regional mechanisms. As international mechanisms have regard to the interpretations of each other, it is useful to know how other regional mechanisms have interpreted similar provisions.

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<sup>30</sup> Available at [www.ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf](http://www.ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf)

<sup>31</sup> African Charter on Human and Peoples' Rights; American Convention on Human Rights; Revised Arab Charter on Human Rights; European Convention on Human Rights

## **Some basic issues and answers about freedom of religion or belief**

### ***Q. We have a State religion, which we want to protect.***

The fact of there being a State religion or dominant ideology believed by the majority of the population does not justify discrimination against other individuals who do not share that religion or belief. In the UK, there are two State churches, in England and Scotland, but none in Wales or Northern Ireland. But no-one in the UK is discriminated against because they do not belong to a State church. All people in the UK, whatever their religion or belief, enjoy the same freedom of religion or belief.

### ***Q. Why should we allow “foreign cults” to exploit the people’s ignorance and credulity?***

The government does have the responsibility to protect individuals from exploitation. People also have the right to impart and receive information, including on religion. The government and others can provide information to people, but it is individuals who have the right to choose what they believe, not the government, based on a level playing field. The State also has a duty to protect individuals from coercion in their choice of religion or belief.

### ***Q. Religious tensions are high, so we need to control the activities of religious fanatics to preserve communal peace.***

If there are real threats to public order, then the government has the duty to preserve peace. But this means imposing only those controls that are necessary, both as to scope and time. A government should not use this as an excuse for wider restrictions than are necessary, nor for a longer period than is needed before tension is reduced. The UK experience in Northern Ireland demonstrates the importance of ensuring that all people enjoy freedom of religion or belief in order to ensure peace and order in the longer term.

### ***Q. Religious fanatics are trying to turn our country into a theocracy, so we need to limit their influence on the democratic process to preserve our liberties.***

The political process needs to be made robust enough to withstand this pressure – a just constitution that all have allegiance to; courts that will rule fairly on disputes; and police and armed forces that owe their loyalty to the State. Religious groups are entitled to influence public policy as much as anyone else, and sound state institutions and genuine democracy are the best safeguards for civil liberty. In Europe, disbanding a party that advocates the overthrow of democracy and its replacement by a theocracy is not contrary to human rights.

***Q. We have to guide our children in our religion and not allow others to tempt them away from the true path.***

It is a child's parents who have the right to bring up their child in their own religion and not the State. Nor can the State specify which religion, if any, the parents must teach their children. In a pluralist and democratic society, an educational system in which religious beliefs are taught should inform children about many different religious beliefs in the world, as well as non-religious beliefs.

***Q. Our religious beliefs recognise natural hierarchies, with mutual obligations. These are designed to ensure peace and harmony at the home and in society.***

Religious hierarchies are as valid as any other. But they cannot take away the human rights of individuals who are lower in the hierarchy, or justify inequality in the enjoyment of these rights. So, women enjoy the same human rights as men, and members of one group are entitled to the same human rights as members of another group in a 'higher' religious echelon.

***Q. We require all religions to be registered and only recognise those that are registered.***

Governments are entitled to take appropriate measures to ensure the proper running of society, provided that these do not deny the legitimate exercise of human rights. This can include a registration process. But any registration requirements should be applied without discrimination and the process should not impose unreasonable burdens (such as a high minimum number of adherents, or excessive registration fees).

***Q. All citizens have to be prepared to defend their country and so we insist on the obligation of young people to undertake military service.***

Conscientious objection to military service is recognised by human rights authorities as being a part of religious or moral belief. So the State should allow some civilian service alternative to military service.

***Q. Some religious groups tolerate members who commit crimes and agitate against the peace and order, so we are justified in banning these groups.***

Individuals who commit crimes should be prosecuted and punished according to the law. Group punishments are neither acceptable under human rights law, nor an effective way to ensure peace and order, nor to create an inclusive society. In Northern Ireland, the

Government tried hard not to alienate those in the minority community who were opposed to the existing constitutional settlement, and only sought to punish the individuals who had perpetrated crimes, even when they claimed to act on behalf of their community. This is the right approach under international human rights law.

***Q. Our religious traditions recognise that men have a greater role in the family and society; why should human rights not recognise this?***

Certain traditions that discriminate against women are regarded by their practitioners as part of their religion or belief. But international human rights law can require States to impose restrictions on religious practices “to defend the rights and freedoms of others.” So where religious practices clash with other human rights and this might lead to their violation, such as in the context of gender equality, then domestic law should seek a proper balance between the right to religious freedom and other rights, such as the right to equality and non-discrimination.

***Q. Many people in the West are Islamophobic and deny respect to our religion.***

Phobia language, including “Islamophobia” and “Christianophobia”, has been used in some international human rights fora. This emphasises “feelings” rather than “actions”, whether or not a human right has actually been violated. Human rights allows restrictions on inciting hatred against religious (or non-religious) believers, but it also requires a proper balance to be struck to safeguard freedom of expression. It is therefore important to ensure that freedom of religion or belief itself, not feelings about it, remains the primary focus of concern.

***Q. Our religion should be protected from defamation by those hostile to it.***

The quasi-legal phrase *defamation of religion* does not identify what states are obliged to do under their human rights obligations and has been used to suggest that disagreement about, and criticism of, religion or belief is unacceptable. As the right to disagree about and criticise religion or belief is itself part of the right to freedom of religion or belief, the UK contests use of the phrase “defamation of religion”. In the UK, we prohibit the use or display of threatening words or behaviour but only if it is intended to stir up religious hatred against individual religious or non-religious believers. Human rights law protects the individuals, not their particular beliefs.

***Q. We need a law of blasphemy to protect public order***

Blasphemy laws limit freedom of expression, but this is only compatible with human rights when used to prevent or punish incitement to discrimination, hostility or violence. It should not be used to muzzle opposition and silence minorities or to reinforce a dominant religion or belief. Freedom of religion or belief includes vigorous debate about ideology and should be properly balanced against freedom of expression. But blasphemy offences should not discriminate in favour of, or against, adherents of any particular religion or belief.

## Annex 1 – Analysis of right to freedom of religion or belief

### 1.2 Legal Recognition

| Questions   | Pointers   | Sources of Information  |
|---|--|---|
| 1.1 Does the law allow freedom of religion or belief? Does the law restrict such freedom to specific branches of a religion?              | Is there a provision in the Constitution to this effect? Or the legal codes?   | The Constitution. Legal codes.  |
| 1.2 Are any restrictions on manifesting a religion or belief established by law? Are they compatible with international human rights law? | Is it necessary to get permission from the authorities to practise a religion? Is this requirement unreasonably applied? Are there legal penalties directed at people who practise any particular religion (or branch of a religion) or belief ?   | Consultations with religious leaders and/or lawyers working in this area.                 |
| 1.3 Does the law unduly favour one religion over others?  | Can one religion engage in activities that others are not allowed or hindered from doing?  | Consultations with religious leaders and/or lawyers working in this area.                 |
| 1.4 Do members of any religion or belief suffer direct discrimination on account of their religion or belief?                             | Do people have difficulty accessing public services, such as education or health, or obtaining work or identity documents because of their beliefs? Do they have to declare their religion or belief in order to access such services, or to vote? Does membership of a religion limit civil liberties, such as voting, access to public employment or public service? | Press and web-based information. Consultations with religious and civil liberties groups. |

## 2. Exercise of other necessary freedoms

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| <p>2.1 Can people assemble freely to worship, discuss their religion and teach it?</p>   | <p>Can they rent or purchase places of assembly? Are worshippers and places of worship subject to harassment?</p>  | <p>Media reports. Discussions with religious leaders. Human Rights organisations</p>  |
| <p>2.2 Are there unreasonable obstacles to setting up religious charitable institutions, including for studying religion?</p>                                    | <p>Does the law permit this for religions on the same basis as other charities?</p> <p>Is the cost of setting up institutions prohibitive?</p> <p>Are the general minimum requirements excessive?</p> <p>Does membership entail any personal risk? Are the rules concerning registration consistently applied?</p> | <p>Analysis of legal documents relating to creating such institutions by experts.</p> <p>Interviews with religious leaders.</p> |
| <p>2.3 Are religious believers able to publicise their religious information and promotional materials without unreasonable interference by the authorities?</p> | <p>Are there legal or administrative obstacles? Are discriminatory charges or fees levied on such materials? Do people suffer adversely if found in possession of these materials?</p>   | <p>Censorship laws applied to distributing religious materials. Media reports. Discussion with religious leaders and NGOs.</p>  |
| <p>2.4 Can religious organisations solicit and receive financial contributions?</p>  | <p>Are there legal or practical restrictions? Can they use ordinary banking facilities? Do they suffer any discrimination in the taxation regime? Can they receive foreign donations?</p>  | <p>Analysis of laws and regulations.</p>  |
| <p>2.5 Do religious organisations have the power to elect their own leaders without unreasonable State</p>   | <p>Does the State require a religion to get approval before leaders can be appointed? Do leaders suffer any adverse</p>  | <p>Media reports. Discussion with religious leaders.</p>  |

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|---|---|--|
| interference?   | consequences by being chosen without State approval? Are members able to influence the choice of leaders in the case of a State religion?   |  |
| 2.6 Can religious adherents celebrate holy days and celebrations?   | Do educational establishments allow children to observe these days? Do employers allow their employees to celebrate these days? Does the law discriminate against particular religious adherents who seek to celebrate their holy days? | Assess the laws and practices of educational establishments and the workplace.   |
| 2.7 Can people freely choose and change their religion?   | Does changing, or relinquishing, any religion involve any penalty? Does the law provide protection against discrimination caused by such change?  | Analysis of the laws and reports of legal cases. Discussion with NGOs and relevant organisations.                          |
| 2.8 Do women suffer discrimination on account of their religion?  | Do women enjoy equal rights with men on issues like the right to inheritance or the right to divorce?   | Legal analysis. Discussion with women's organisations.   |
| 2.9 Does the state permit persons in its care and control to practise their religion?                             | Can detained persons, members of the security forces, persons in compulsory care, or hospitals, practise their religion?  | Reports of civil society organisations involved with such persons. Ombudsmen reports. Discussion with relevant Ministries. |
| 2.10 Is the media free to comment on issues of religion or belief?  | Are media subject to censorship on such issues, whether official or unofficial?   | Discussions with journalists, religious and human rights groups.   |
| 2.11 Do other minorities, like migrant workers, refugees and asylum-seekers, enjoy freedom of religion or belief? | Can they establish places of worship? Can they celebrate rituals and holy days? Do they enjoy State protection if others object to them manifesting their beliefs?  | Newspaper reports; discussions with members of these groups; reports of NGOs and other monitoring bodies.                  |

## **Annex 2 – Treaties & other international provisions mentioning freedom of religion or belief**

### **United Nations**

#### Treaties:

1951 – Convention Relating to the Status of Refugees

- Article 3 – Non-discrimination
- Article 4 – Religion

1954 – Convention relating to the Status of Stateless Persons

- Article 4

1966 – International Covenant on Civil and Political Rights

- Articles 2, 18, 20, 24, 26

1966 – International Convention on the Elimination of Racial Discrimination

- Article 5

1966 – International Covenant on Economic, Social and Cultural Rights

- Article 2

1989 – United Nations Convention on the Rights of the Child

- Articles 2, 14

1990 – International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families<sup>32</sup>

- Articles 12, 13

#### Declarations:

1948 – Universal Declaration of Human Rights

- Articles 2, 18

1981 – Declaration on the Elimination of All forms of Intolerance and of Discrimination Based on Religion or Belief

1986 – Declaration on the Right to Development

- Article 6

1992 – Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

### **Council of Europe**

1950 – Convention for the Protection of Human Rights and Fundamental Freedoms.

- Article 9 – Freedom of thought, conscience and religion

1952 – First Protocol (to above)

- Article 2 – Right to education

2000 – Twelfth Protocol (to above)<sup>33</sup>

- Article 1 – General Prohibition of Discrimination

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<sup>32</sup> The UK is not a party to this treaty.

<sup>33</sup> The UK has not ratified this Protocol

1995 – Framework Convention for the Protection of National Minorities

- Articles 5, 6, 7

### **European Union**

2000 – Charter of Fundamental Rights of the European Union.

- Article 10 – Freedom of thought, conscience and religion.
- Article 21 – Non-discrimination.
- Article 22 – Cultural, religious and linguistic diversity.

### **Organisation for Security and Co-operation in Europe (OSCE)**

Helsinki Final Act 1975 – Basket 1, principle 7

Concluding document of Vienna follow-up meeting 1989 – Articles 16 & 17

### **Organisation of American States (OAS)**

1969 – American Convention on Human Rights ('Pact of San José', Costa Rica)

- Article 1 – Obligation to respect rights.
- Article 12 – Freedom of Conscience and Religion.
- Article 16 – Freedom of Association

1988 – Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

- Article 3 – Obligation of Non-discrimination

1994 – Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ('Convention of Belém Do Para')

- Article 4

### **African Union (AU)**

1969 – Convention Governing the Specific Aspects of Refugee Problems in Africa.

- Article IV – Non-discrimination.

1981 – African Charter on Human and Peoples' Rights

- Articles 2, 8

1990 – African Charter on the Rights and Welfare of the Child.

- Article 9 – Freedom of thought, conscience and religion.

### **Commonwealth of Independent States (CIS)**

1995 – Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms.

- Articles 4, 10

### **League of Arab States**

2004 – Arab Charter on Human Rights

- Articles 4, 25, 30

### **Annex 3 – Some useful websites for further information**

Oslo Coalition on Freedom of Religion or Belief; a network formed by Norwegian academic, religious and belief communities and NGOs, based in the Norwegian Centre for Human Rights, to work on international religious freedom and tolerance: [www.oslocoalition.org/](http://www.oslocoalition.org/)

OSCE; the Office for Democratic Institutions and Human Rights (ODIHR) webpage on freedom of religion or belief: [www.osce.org/odihr/20056.html](http://www.osce.org/odihr/20056.html)

Forum 18; a web and e-mail initiative providing original reporting and analysis on freedom of religion or belief violations: [www.forum18.org/index.php](http://www.forum18.org/index.php)

US Commission on International Religious Freedom; an agency funded by the US Congress providing independent policy recommendations to the US President, the State Department, and the Congress: [www.uscirf.gov](http://www.uscirf.gov)

Christian Solidarity Worldwide; a human rights organisation that specialises in religious freedom for all: [www.csw.org.uk](http://www.csw.org.uk)

In addition, there are many websites dedicated to specific religious and other, non-religious or ethical organisations.

## Annex 4

### Freedom of Religion or Belief in Europe: An Introductory Overview<sup>34</sup>

The leading human rights bodies have placed a high value on both the freedom of religion or belief and the freedom of expression. In its General Comment No 22, the UN Human Rights Committee said that ‘the right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18(1) is far-reaching and profound ..... the fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency...’.<sup>35</sup>

Structurally, the European Convention on Human Rights (ECHR) follows the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) all of which set out the right which is to be enjoyed by the individual person<sup>36</sup>, whilst providing for it to be subject it to a range of potential limitations intended to safeguard the interests of other individuals or a variety of community interests. Some of those limitations are expressly provided for in the texts themselves whilst others can be derived from the interplay of broader convention principles with the specific rights in question, as developed by and illustrated through the jurisprudence of the Court.

ECHR Article 9(1) provides 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 worship, teaching, practice or observance.

Believing what one wishes does not necessarily carry with it the right to act or to say what one wishes and the second element of Article 9(1) of the ECHR moves beyond private, personal convictions (the *forum internum*) and addresses situations which arise when adherents of a belief seeks to act in accordance with what they consider to be appropriate in the light of their belief. First, it expressly protects<sup>37</sup> the right of a person to change their religion or belief - something which follows naturally from the opening words of the article safeguarding the freedom of thought, conscience and religion itself. Secondly, and in common with Article 18 of the ICCPR, it expressly recognises the right of believers and belief communities to ‘manifest’ their religion or belief and lists four particular forms that such manifestations may take: worship, teaching, practice and observance. However, the Court has hinted on several occasions that this is not necessarily a definitive list and it has interpreted Article 9 in a way which offers protection to a wide range of interests and which suggests that these terms should be broadly construed. Once again, the Human Rights Committee

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<sup>6</sup> UN Human Rights Committee, General Comment No 22, adopted 30 July 1993, para. 1.

<sup>36</sup> It is clear from the case law of the Court that these rights are to be enjoyed by both natural and legal persons and ‘person’ should be understood to be referring to both.

<sup>37</sup> A contrast might be drawn at this point with Article 18 of the ICCPR which does not expressly mention ‘change’ but speaks of the right to ‘have or adopt’. In General Comment No 22 (1993), para 5, however, the Human Rights Committee has made it clear that this includes ‘the right to replace one’s current religion or belief with another or to adopted atheistic views...’.

has taken a similar view, commenting that ‘the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts and the concept of worship extends to rituals and ceremonial acts giving expression to belief, as well as various practices integral to such acts’.<sup>38</sup> It is important to stress that it is the ‘manifestation’ of religion or belief which may be subjected to limitations in accordance with the provisions of Article 9(2), and not the freedom of thought, conscience and religion itself.

*i) the nature of the opinion or belief*

It is both unhelpful and unnecessary to seek to distinguish those patterns of thought and conscience which are religious in nature from patterns of belief which are not since all those systems of thought and conscience which fall within the scope of the article are to be equated with ‘beliefs’, the manifestation of which is to be protected.

Difficulty has also been occasioned by less well established patterns of thought, or by beliefs which, though sincerely held, do not offer up an overall ‘guiding outlook’ of a similarly encompassing nature. For example, in the case of *Pretty v. the United Kingdom*<sup>39</sup> the applicant suffered from a terminal illness and wished to die but needed assistance in order to commit suicide. Her husband was unwilling to do so since this would be a criminal offence under domestic law. Mrs Pretty argued that this breached her rights under Article 9 of the ECHR since she ‘believed in and supported the notion of assisted suicide’. The European Court rejected this, saying that ‘not all opinions and convictions constitute beliefs in the sense protected by Article 9(1) of the Convention’,<sup>40</sup> choosing to see the issue as being one of personal autonomy under Article 8 of the Convention (concerning respect for family and private life).

Some forms of opinions or ideas may, however, be considered incompatible with Convention values altogether and so be unable to benefit from its protection at all. For example, Article 17<sup>41</sup> expressly seeks to prevent its provisions being used to undermine essential Convention values and in the case of *Norwood v. the United Kingdom*, the Court found that the display of a poster by a member of an extreme right wing party that identified Islam with terrorism amounted to a ‘vehement attack on a religious group’ which was ‘incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination’ and so did not benefit from the protection of Article 10, the freedom of expression, at all.<sup>42</sup> This approach is consonant with the UDHR, Article 30 of which provides that ‘Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein’.

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4. *Boodoo v. Trinidad and Tobago*, Communication No. 721/96 (views of 2 August 2002), UN Doc. A/57/40 vol.2 (2002), p. 76 at para 6.6.

<sup>39</sup> *Pretty v. the United Kingdom*, no. 2346/02, ECHR 2002-III.

<sup>40</sup> *Ibid*, para. 82

<sup>41</sup> Article 17 provides: ‘Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided from in the Convention’

<sup>42</sup> *Norwood v. the United Kingdom* (dec.), no. 23131/03, ECHR 2004-XI.

## *ii) the question of a 'manifestation'*

Assuming that the opinion or idea has attained the threshold of significance so as to qualify as a form of religion or belief, a number of other questions need to be asked before it can be decided that a 'manifestation' of that belief is at issue.

If it is asserted that an action is the product of a religion or belief, is it possible simply to deny that this is so on the basis of a scrutiny of the facts, or is it necessary to accept an applicant's 'subjective' characterisation of their actions? It is difficult to see on what basis a court can determine that a person does not understand an issue to be of a religious in nature if they say that, for them, it is. This does not mean that an applicant's characterisation of an act as a manifestation must be accepted in an unquestioning fashion. For example, if a person is seeking to take advantage of a privilege or exemption which is available only to adherents of a particular religious tradition or belief system it may be necessary to consider whether that person is a genuine adherent of the belief system in question.<sup>43</sup>

Even when it is clear that the activity in question is to be taken as a *bona fide* form of manifestation by an applicant, this does not necessary mean that it is to be taken as a form of manifestation *for the purposes of human rights protection*.<sup>44</sup> As has been seen, in order to be protected as a form of manifestation an activity must be a form of worship, teaching, observance or practice and, as the former European Commission on Human Rights, in a passage still regularly cited by the Court, concluded, 'the term "practice" as employed in Article 9(1) does not cover each act which is motivated or influenced by a religion or a belief'.<sup>45</sup>

### B. The limitation clauses

The human rights framework permits the exercise of the freedom of religion or belief to be subject to a variety of limitations.

#### *i) Common limitations*

A first source of common restraint are those articles which place overarching limits on the forms of belief or forms of expression which may be protected by the human rights framework. Reference has already been made to Article 17 of the ECHR and Articles 30 of the UDHR and 20(2) of the ICCPR also exclude the expression of certain forms of beliefs, ideas or opinions from the scope of protection altogether. Such provisions should, however, be approached with caution and as a last resort. Although this is not, strictly speaking, a limitation on the enjoyment of a right so much as a limitation of the extent of a right, it has much the same practical effect.

A further common limitation is that it is possible to derogate from those rights under strictly defined circumstances. There is a difference of approach between the ICCPR and the ECHR in this respect.

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<sup>43</sup> See, for example, *Kosteski v. the former Yugoslav Republic of Macedonia* no. 55170/00, 13 April 2006 where the Court said that 'it is not oppressive or in fundamental conflict with freedom of conscience to require some level of substantiation when the claim concerns a privilege or entitlement not commonly available' (para 39). Care needs to be taken, however, since compelling a person to prove their religious allegiance might become oppressive

<sup>44</sup> *Arrowsmith v. UK*, no. 7050/77, Commission decision of 12 October 1978, Decisions and Reports 19, p. 5, para 71.

<sup>45</sup> *Idem*.

Article 4(2) of the ICCPR makes the freedom of religion or belief a non-derogable right. Article 15 of the ECHR, however, does permit states to derogate from the freedom of religion or belief 'in times of war or other public emergencies threatening the life of the nation' and only 'to the extent strictly required by the exigencies of the situation'.

*ii) The specific limitation clauses*

The specific limitations on the freedom of religion and belief in both the ICCPR and the ECHR are very similar and, as has already been explained, relate only to the freedom to manifest religion or belief, rather than the freedom of thought, conscience or religion *per se*. Both require that any limitation be 'prescribed by law' and that they be 'necessary' in order to achieve one of a number of limited purposes which are essentially the same: in the ICCPR these are 'to protect public safety, order, health, or morals or the fundamental rights and freedoms of others' whilst in the ECHR these are 'public safety, the protection of public order, health or morals and the protection of the rights and freedoms of others'. The chief difference is that in the ICCPR reference is made to the 'fundamental' rights and freedoms of others but it is unlikely to be a meaningful distinction in practice. The only other difference between these limitation clauses is that the ECHR expressly refers to the need for limitations to be necessary *in a democratic society* which underscores the need to ensure that such restrictions are indeed being imposed to serve the interests of all, rather than of a segment of political society with a state. In essence, however, there is a high degree of similarity between these provisions.

Article 9(2) requires that limitations be both 'prescribed by law' and 'necessary in a democratic society'. The 'prescribed by law' requirement captures two ideas: first, that 'the law must be adequately accessible; the citizen must be able to have an indication that is adequate in the circumstances' and secondly, that the law must be 'formulated with sufficient precision to enable the citizen to regulate his conduct ... to foresee to a degree that is reasonable in the circumstances, the consequences which a given action may entail'.<sup>46</sup>

Whether a restriction is 'necessary in a democratic society' turns on two issues. First, a restriction must pursue one of the legitimate aims set out in those articles. The second is whether the nature of the interference is proportionate to the legitimate aim which is being pursued and it is at this point that doctrine of the 'margin of appreciation' comes into play. The rationale for the 'margin of appreciation' was set out in the case of *Handyside v. the United Kingdom* in the following term<sup>47</sup>

By reason of their direct and continuous contact with the vital forces of their countries, State authorities are in principle in a better position than the international judge to give an opinion on the exact content of these requirements as well as on the 'necessity' of a 'restriction' or 'penalty' intended to meet them.

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<sup>46</sup> *Sunday Times v. the United Kingdom (no. 1)*, judgment of 26 April 1979, Series A no. 30, para 49.

<sup>47</sup> *Handyside v. the United Kingdom*, judgment of 7 December 1976, Series A no. 24, para 48.

- *Neutrality/impartiality*

The European Court calls on States to act in a neutral fashion as between religions and as between religious and non-religious forms of belief.<sup>48</sup> It inevitably flows from this that the State is not to privilege religious expression over other forms of expression, or to sub-ordinate the expression of religion or belief to the non-religious. The duty to remain neutral and impartial has been re-iterated on many occasions<sup>49</sup> and it is clear that any evidence that the State has failed to act in such a fashion will require justification under Article 9(2) if it is not to amount to a breach of the Convention.

This duty has a number of facets, perhaps the most important being that ‘the State’s duty of neutrality and impartiality is incompatible with any power on the State’s part to assess the legitimacy of religious beliefs *or the ways in which they are expressed*’.<sup>50</sup> Limitations of the freedom of religious expression, in whatever form this may take, require close scrutiny to ensure that they do not breach this duty by favouring one group at the expense of another. From a practical perspective, this makes it important that any restrictions be generic in nature and not focussed upon a particular form of religion or belief. Given the difficulty in establishing the proportionality of generic restrictions upon the freedom of expression or the freedom of religion or belief, the duty of impartiality and neutrality becomes a powerful background factor which supports a maximalist approach to the enjoyment of these freedoms and a minimalist approach to their limitation.<sup>51</sup> This approach emphasises the responsibility of the State to ensure the realisation of all Convention rights within the broader context of democratic society.

- *fostering pluralism and tolerance*

Fostering of pluralism and tolerance is not an ‘incidental outcome’ but is a goal which is to be achieved in its own right. This raises some difficult and delicate issues. Most religious belief systems advance truth claims which are, in varying degrees, absolutist in nature and reject at least elements of the validity of others. In addition, the need to allow for the ‘market place’ of ideas requires that there be exchanges of views, expressions of beliefs, ideas and opinions which may be unwelcome and, perhaps, offensive, to others. This is both necessary for the realisation of pluralism and tolerance yet at the same time runs the risk of compromising it.

Whilst respect for the freedom of religion and belief cannot require others to respect the doctrines and teachings of faith traditions other than one’s own (if any), it can, and does, require that one be respectful of them. The role of the State in such cases is to ensure that both believers and non-believers are able to continue to enjoy their Convention rights, albeit that they may be troubled or

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<sup>48</sup> See, for example, *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, para 78, ECHR 2000-XI.

<sup>49</sup> See, for example, *Metropolitan Church of Bessarabia and Others v. Moldova*, no. 45701/99, para 116, ECHR 2001-XII.

<sup>50</sup> *Manoussakis and Others v. Greece*, judgment of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, para 47.

<sup>51</sup> This is reinforced by the suggestion found in *Leyla Sahin v. Turkey* where the Court saw the role of the state as being one of ensuring that religious life within the state *is* neutral and impartial, which is a subtle, but important difference. In principle, this should make it more rather than less difficult to justify restrictions on forms of religious expression.

disturbed by what they see and hear around them. It is only when the manner in which the views, ideas or opinions are expressed are akin to a 'malicious violation of the spirit of tolerance'<sup>52</sup> that it is for the State to intervene.

- *Respect*

The principle of respect which has emerged as the single most important element in determining the scope of the limitations clauses. The Convention itself does not directly refer to 'respect'<sup>53</sup> but its centrality to the practical operation of the Convention framework was made clear in the very first case which was decided by the Court on the basis of Article 9, this being *Kokkinakis v. Greece*. This case concerned a member of the Jehovah's Witnesses who had been convicted for unlawful proselytism, a criminal offence under Greek law. At the heart of the case lay the question of balancing the right of the applicant to practice his religion by seeking to share his faith with others against the right of the State to intervene to protect others from unwanted exposure to his point of view. Although on the facts of the case it was decided that the interference had not been shown to be justified, the Court argued that it may be 'necessary to place restrictions on this freedom in order to reconcile the interests of the various groups and to ensure that everyone's beliefs are respected'.<sup>54</sup> The key, then, is to ensure that when exercising its responsibilities the State adopts an approach which reflects the degree of respect which is to be accorded to the beliefs in question, which may of course be religious or non-religious in nature.

The principle of 'respect' is, then, a key factor when balancing the respective interests which are engaged; both believers and non-believers are entitled to the respect of those who express themselves on matters pertaining to their opinions, ideas and beliefs. Of course, there may be profound disagreement regarding the *content* of those views, since respect for the believer does not necessarily entail respect for what is believed. It is the freedom to believe and to manifest beliefs, subject only to those limitations strictly necessary to protect the rights and interests of others, which is the subject of human rights protection, and not the beliefs themselves.

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<sup>52</sup>*Otto-Preminger Institut v. Austria*, judgement of 20 September 1994, Series A no 295-A, para. 47

<sup>53</sup>'Respect' for parental wishes in matters concerning the education of their children is expressly referred to in Article 2 of the First Protocol to the ECHR.

<sup>54</sup>*Kokkinakis v. Greece*, judgement of 25 May 1993, Series A no 260-A, para 33.