



人权理事会

第四十届会议

2019年2月25日至3月22日

议程项目3

促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权宗教或信仰自由^{*. **}

宗教或信仰自由问题特别报告员的报告

概要

在本报告中，宗教或信仰自由问题特别报告员艾哈迈德·沙希德将宗教或信仰自由与表达自由作为两项密切相关和相辅相成的权利进行探讨。特别报告员简要概述了有关人权的国际法律框架对这些自由的限制规则，探讨了因宗教或信仰相关原因对表达自由施加限制的一些主要实例，并审查了经常用于施加限制的理由。在此背景下，他进一步讨论了一些典型案例。他的结论认为，为帮助各国落实在《公民权利和政治权利国际公约》第二十条下承担的义务，过去十年中制定了一些倡议和行动计划，应继续利用这些倡议和行动计划，指导各国政府和民间社会行为者的工作。

* 本文件逾期提交，以反映最新动态。

** 本报告附件不译，原文照发。



一. 特别报告员自 2018 年 8 月以来开展的活动

1. 人权理事会 2016 年 3 月通过的第 31/16 号决议将宗教或信仰自由问题特别报告员的任期延长了三年。理事会第三十二届会议任命艾哈迈德·沙希德为特别报告员。他于 2016 年 11 月 1 日就任。

2. 任务负责人在 2017 年 11 月 1 日至 2018 年 7 月 31 日期间的活动概述见他向大会第七十三届会议提交的最新报告(A/73/362)。此外，他应邀参加了一些关于宗教或信仰自由问题的会议和磋商，包括 2018 年 9 月 17 日和 18 日在伊斯坦布尔举行的伊斯兰合作组织独立常设人权委员会关于仇视伊斯兰教问题国际研讨会，以及 9 月 26 日至 28 日在布宜诺斯艾利斯举行的 20 国集团宗教间论坛。他还参加了 11 月在奥斯陆举行的关于促进宗教或信仰自由的全国会议、12 月 13 日和 14 日在瑞士 Collonges 举行的联合国人权事务高级专员办事处(人权高专办)名为“faith4rights”(信仰促进权利)的工具包研讨会，以及 12 月 17 日在日内瓦举行的关于打击欧洲内外反犹太主义的会外活动。

3. 此外，他于 4 月 9 日至 19 日对突尼斯进行了国别访问。2018 年，特别报告员发出了 39 封信函，并发布了 20 份新闻稿，旨在提高反对一些国家侵犯宗教或信仰自由的声音。他还请求访问马来西亚、荷兰、沙特阿拉伯和斯里兰卡。他访问荷兰和斯里兰卡的请求已获准。

二. 导言：思想、良心、宗教或信仰、意见和表达自由

4. 当今时代为人类表达和交流提供了前所未有的机会，这一机会来自无与伦比的人类流动性以及信息和通信技术的发展，这些发展加快了这种交流的速度并扩大了交流的规模。在国家或非国家行为者对表达自由施加新的法律和法律外限制的同时，旧的限制再次出现，其中包括禁止亵渎和禁止叛教法的复兴、公共秩序法的扩散和对公共秩序法的日益依赖，旨在限制表达被视为冒犯宗教或信仰群体的观点的自由。打击基于宗教或信仰原因煽动歧视、敌意或暴力的战略得到的投资日益增加。

5. 见解和表达自由对自我发展、寻求真相、民主合法化和保护其他人权的重要性是不言而喻的。显然，表达自由对于享有所有其他权利，如获得补救和赔偿的权利，也是不可或缺的；同样，在追究责任人责任的能力方面，表达自由也必不可少。它对享受宗教或信仰自由的重要性也不例外。鉴于这两项权利相辅相成的性质，它们的命运也交织在一起，因此，侵犯其中一项权利往往等同于试图破坏另一项权利。

6. 在许多方面，这两项权利都体现了人类表达作为探索意见、表达思想、寻求真相和表现个人信仰(无论是个人还是在社群当中与他人一起表达)的工具的多面性。因此，确保两种自由的法律框架既承认对这些权利的内部层面(内心自由)的保护不可克减，也承认，为减轻对其他人权、公共安全和秩序的任何负面影响而限制公开行使这些权利的某些活动的必要性有限。

7. 此外，宗教或信仰自由的一个核心方面，即和平表达的权利，取决于由多种媒体促进的、口头和非口头形式对表达自由提供保护的程度。同样，在不尊重思想和良心自由的地方，见解和表达自由的权利也可能得不到尊重。因此，与其将

这两项权利视为相互竞争的权利，不如将它们视为存在于一个人权框架内的相辅相成的权利，该框架包含普遍、不可剥夺、不可分割、相互依存和相互关联的各种人权。

8. 尽管这两项权利之间存在密切关系，前特别报告员海纳·比勒费尔特在提交人权理事会第三十一届会议的报告中指出，对这两项权利相互敌对性的误解十分突出，包括存在宗教或信仰自由与表达自由之间的关系是不协调和不可调和的观点。他认为，这种观点的盛行可能是因为“表达自由能够促进坦诚公开的讨论，包括可能冒犯某些人的讽刺性挑衅言论和漫画”，而“相反，人们更有可能针对与宗教问题相关的过度挑衅援引宗教或信仰自由” (A/HRC/31/18, 第 5 段)。关于这两项权利相互对立性质的观点经常出现在关于如何应对日渐密切的互联和人口变化带来的挑战的政策辩论中。当新的宗教或信仰团体出现时，情况尤其如此，这些新的团体可能坚持不同于其他地方流行的关于宗教或信仰在公共生活中的作用的观点。

9. 1989 年针对被许多穆斯林视为亵渎神明的萨尔曼·拉什迪的小说《撒旦诗篇》发布的法特瓦(教法判例)，《查理周刊》出版物导致出版商办公室遭到令人发指的攻击，这些都是经常被引用来证明两项权利存在对立关系的实例。与之前和之后的许多事件一样，拉什迪事件¹ 引发了一系列针对作家、出版商、艺术家及其宣传者的抗议、敌意和暴力浪潮，包括在世界某一地区以宗教或信仰为名的暴力长期存在或组织起来向另一地区传递信息的几起事件。这些事件进一步表明世界已经高度互联。此类事件引发了一系列辩论(其中一些是非建设性的辩论)，讨论在新出现的和不断变化的社会动态中需要与时俱进的规则，促进对不可侵犯的权利的尊重。

10. 对许多人来说，将冒犯宗教敏感性等同于刑事犯罪，与表达自由的基本作用形成鲜明对比，不论表达自由是否有冒犯、冲击或扰乱的可能性，只能在例外情况下受到限制。因此，一些国家的反应是取消对表达宗教或信仰观点的限制，特别是取消禁止亵渎法。然而，另一些国家则强调，一些观点可能非常令人反感或憎恶，因此不应受到保护。本着这种精神，一些国家倾向于颁布保护宗教敏感性或将“仇恨言论”定为犯罪的法律。这些步骤对宗教或信仰自由的影响是多方面的。

11. 在宗教或信仰自由问题特别报告员自 2004 年以来向联合国会员国转交的 665 份来文中，约有 58% 涉及表达、良心、宗教或信仰自由。特别报告员希望促进各国对他收到的许多报告的关注，这些报告详述了在超过法律或社会公约对思想、良心、宗教或信仰的和平表现所规定的限制后，和(或)因有人诋毁他人的圣者从而冒犯了他人的敏感性之后，发生的监视、恐吓、骚扰、起诉、人身伤害威胁、酷刑或谋杀案件。

12. 鉴于人权理事会特别程序之下的来文系统存在局限性，这些资料仅仅是问题严重程度的一个指标。在该系统下发出的信函数量取决于获得可靠信息的机会、据称受害者的同意、及时处理信息的能力、备选方案的可用性和其他因素。尽管

¹ 见前任务负责人在以下文件中的相关参考：E/CN.4/1993/62, 第 79 段；E/CN.4/2002/73, 第 100 段和 101 段；以及 A/HRC/7/10/Add.3, 第 49 段。

如此，特别报告员指出，现有数据突出表明，在表达自由受到保护的程度与宗教或信仰自由受到尊重和享有的程度之间存在着不可分割的关系。这一资料显示出各国在多大程度上对施加《公民权利和政治权利国际公约》第十八条和第十九条规定的限制理由的误解，以及在多大程度上将蓄意煽动敌对或暴力行为(根据第二十条第 2 款，各国义务禁止这种行为)与导致讲话者遭受暴力(这种暴力可能以“起哄者否决”的形式出现)的言论混为一谈。因此，违反《公约》第十九条规定的标准，对表达自由施加限制，可能是遵守 1981 年《消除基于宗教或信仰原因的一切形式的不容忍和歧视宣言》最严重和经常遇到的障碍之一。

13. 本报告简要概述了国际人权法律框架所载的限制制度，探讨了因宗教或信仰原因对表达自由施加限制的一些主要实例，并审查了经常提出的施加这些限制的理由。² 这些限制对宗教或信仰自由的一个核心方面，即个人表明其宗教或信仰的权利的影响，将通过审查特别报告员关注的案例来探讨。对受害者的这一关注符合基于人权的方针，并试图说明许多参与这一问题的人已经习惯的抽象辩论的具体结果。最后，特别报告员认识到当前问题的复杂性和许多国家面临的挑战，因为它们需要深思熟虑的战略来应对紧迫的、往往是情绪化的局势。因此，报告的最后一节描述了一种基于分类的方法，旨在应对特定社会中不同利益攸关方相互竞争的利益经常导致的紧张局势，并强调了在联合国各种倡议下开发的工具，以指导和协助各国的努力。

三. 国际人权框架

14. 表达自由对于有意义地享受思想、良心、宗教或信仰自由是必要的。对这些自由的保护是以类似的方式进行的。³ 如果没有其中一项权利，或者没有隐私权、结社自由与和平集会权，就无法充分享受另一项权利。这一点说明，这两项权利不仅相互依存，而且与无数其他权利存在于一个法律统一体中。⁴ 因此，认为这些权利之间是相辅相成关系而非紧张关系或等级关系更为恰当。

15. 然而，这两种自由往往被视为具有竞争关系，所以许多国家寻求“平衡”这两种权利。在世界某些地方，宗教或信仰自由似乎成为胜利者，而在其他地方，则是表达自由成为胜利者。在前一种情况下，侵犯表达自由和因此对其他权利产生的负面影响越来越大，往往使问责和执法机制感到震惊。反对将涉及宗教或信仰的言论限制范围扩大到《公民权利和政治权利国际公约》第十八条第 3 款、第十九条第 3 款和第二十条第 2 款规定的范围之外的人经常批评限制的模糊性、严厉的惩罚和使用频率(以及滥用)；这与国际人权法规定的对表达和宗教或信仰自由施加较小限制形成鲜明对比。他们呼吁注意国际法，因为国际法规定，人是权利持有人，他们可以随心所欲地保有、接受或改变自己的宗教或信仰，而不必担心因保有上述宗教或信仰而遭受歧视、敌意或暴力。然而，宗教或信仰本身不能

² 本报告不包括为保护他人的基本权利和自由对宗教表达施加的限制(如仇视同性恋和厌恶女性的言论)；这些情况将在以后的报告中进行审查。

³ 但方式有所区别。不得以国家安全为由限制表达与宗教或信仰有关的观点，但可以限制表达自由。

⁴ Malcolm D. Evans, “The freedom of religion or belief and the freedom of expression”, *Religion and Human Rights*, vol. 4, Nos. 2–3 (2009), p. 206.

免于批评、排斥或侮辱，它们不损害个人拥有或接受自己选择的信仰的权利(A/HRC/2/3, 第 37 段)。

16. 反对扩大限制范围的人认为，试图保护宗教教条不受批评，并不代表人权之间的冲突，而是表明对人权原则的滥用。此外，宗教或信仰自由并不赋予信徒保护自己的宗教或信仰不受任何负面评论的权利，而是主要赋予他们根据自己的信仰开展和平行动的权利(A/HRC/2/3, 第 37 段)。他们指出，宗教或信仰的表现形式必须遵守尊重他人的基本权利和自由的义务，并可能因此受到限制。在这方面，各国有义务禁止构成煽动歧视、敌意或暴力的任何鼓吹宗教仇恨的行为(《公约》第二十条第 2 款)。主张限制表达自由的人还认为，限制对所有人行使宗教或信仰自由权构成了固有的威胁，因为这种限制经常针对少数宗教或信仰，而这些宗教或信仰的存在本身可能会挑战多数宗教群体的信仰。这包括无神论者和人文主义者的信仰。在不同信仰团体的眼中，根据这些信仰本身的定义，它们既已构成亵渎。

17. 然而，正如表达自己的宗教或信仰自由一样，表达自由也不是绝对的。为了公共安全、秩序、健康和道德，为了保障他人的权利和自由，以及在表达自由的情况下，出于国家安全的考虑，行使上述两种自由可能受到限制。根据国际法，这种限制必须：(a) 是出于允许的原因；(b) 在法律中明确阐明，以便个人能够明确地了解什么行为是被禁止的；(c) 证明是必要的，并且是实现所追求目标的侵入性尽可能最小的措施；(d) 既不歧视也不破坏权利本身，权利本身必须继续受到保护，并保证适当程序权利，包括保证获得补救的渠道。

18. 国际法承认，表达自由对民主社会至关重要，因此，对为保护人们免遭煽动的无数伤害而设置的限制的触发因素，必须设定非常高的门槛。这一标准防止滥用上述限制和(或)任意检查自由思想和辩论，这两者都是健康和稳定民主的先决条件。此外，人权理事会第 16/18 号决议承认宗教或信仰自由与表达自由之间的相互关系，并在《拉巴特行动计划》中更详细地探讨了禁止构成煽动歧视、敌意或暴力的、鼓吹民族、种族或宗教仇恨的行为。正如前任特别报告员比勒费尔特断言，各国应该创造有利条件，使所有人都能够享有宗教或信仰自由权。除其他外，这需要采取措施消除基于宗教或信仰原因而针对他人实施的一切形式的不容忍、污蔑和丑化行为，并采取有效政策，防止针对他人的暴力行为或煽动暴力行为(A/HRC/31/18, 第 9 段)。

19. 在这方面，《拉巴特行动计划》强调，政治和宗教领袖应避免使用可能煽动暴力、敌意或歧视的信息，他们应坚决、迅速地反对“仇恨言论”，并应明确指出，暴力不能以事先挑衅为由(A/HRC/22/17/Add.4, 附录, 第 36 段)。尽管宗教团体中一些有影响力的人物曾经是煽动行为之源，但他们在公开反对侵犯人权和谴责利用宗教为暴力极端主义或侵犯人权辩护方面的重要作用必须继续得到加强。

20. 其他倡议也宣传各种国家和民间社会行为体可以采取的措施，以打击以宗教或信仰为名实施的歧视和暴力。倡议的共同目标是促进人权和维护宗教或信仰自由。例如，2017 年 7 月，在防止灭绝种族罪行和保护责任办公室牵头举办了一系列区域讲习班之后，启动了《宗教领袖和行为者防止煽动可能导致暴行罪的暴力行为行动计划》(《非斯行动计划》)。这些讲习班汇集了不同的宗教行为者、

人权专家、人权维护者以及民间社会组织，旨在防止煽动可能导致暴行罪的暴力行为。⁵

21. 2017 年 3 月，在人权高专办主持下，在信仰行为者和国际人权专家的参与下启动了“信仰促进权利”框架，该框架借鉴了在《拉巴特行动计划》之下收集的见解，即信仰行为者可在应对煽动暴力行为方面发挥积极作用。“信仰促进权利”框架的目的是调动基于信仰的资源，促进人权框架，特别是承认表达自由与宗教或信仰自由之间的相互依存关系。⁶《关于信仰促进权利的贝鲁特宣言》及其 18 项承诺加强了一种决心，即不以某事物的“神圣性”为名，压制关于宗教或信仰事项的批评声音和观点，即使这些声音和观点可能被认为是错误的或有冒犯性(见附件一和二)。这 18 项承诺还响应《拉巴特行动计划》，呼吁仍有现行禁止亵渎或禁止叛教法的国家废除这些法律，强调这些法律扼杀思想、良心、宗教或信仰自由，压制关于宗教问题的健康对话和辩论。

22. 这 18 项承诺认识到长期措施的重要性，进一步承诺改进课程、教材和教科书：如果这些课程、教材和教科书的某些宗教解释或表现方式可能会让人产生容忍暴力或歧视的感觉，就须进行修改。18 项承诺还包括根据国际人权法捍卫学术自由和表达自由的承诺，特别是捍卫研究宗教的学者的自由，这样做可宣传宗教信仰可能面临新挑战的观点，还可以成为促进自由和创造性思维的来源。

23. 这些举措强调国际人权界日益形成的共识，即禁止亵渎法与促进所有人的人权背道而驰(A/HRC/22/17/Add.4, 附录, 第 19 段)。因此，国际规范标准是明确的：国家不得对侮辱、批评或冒犯宗教思想、偶像或场所的行为施加惩罚，也不得利用法律保护宗教团体的感情。本着这种精神，挪威、荷兰、大不列颠及北爱尔兰联合王国等国家废除了禁止亵渎法，丹麦、马耳他、爱尔兰和加拿大最近也废除了这项法律。然而，必须指出，禁止亵渎法在许多国家仍然有效，世界上还有一些国家政府正在诉诸法律保护人民的感情或实际上的宗教教义，或者试图用法律规范礼仪纲常。

四. 对表达自由的限制及其对宗教或信仰自由的影响

24. 虽然国际社会正在就禁止亵渎法的不可取性达成共识，但世界许多地方的单独的社会却不认可这一共识。世界上近 47% 的国家和领土有对亵渎、叛教或诽谤宗教进行惩罚的法律或政策。⁷ 这些国家仍在讨论对冒犯宗教敏感性的言论施加法律限制是否合法，或者禁止表达对一个群体或社区有负面成见的观点是否合法，这些观点暗示，该社区某些成员犯下的恐怖主义行为和其他非法或反社会行为，可以用来界定该社区作为一个整体的价值观和行为。

⁵ 见 www.un.org/en/genocideprevention/advising-and-mobilizing.shtml。

⁶ 见 www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx。

⁷ Joelle Fiss, “Anti-blasphemy offensives in the digital age: when hardliners take over”, Analysis Paper, No. 25 (Washington D.C., Brookings Institute, 2016).

25. 一些个人或国家可能因自由表达也许会冒犯“神圣”，从而冒犯他人的敏感性的观点，从而主张限制亵渎。⁸ 这些理由促进了对涉及宗教或信仰的言论的限制，包括促进了禁止亵渎法和禁止“诽谤宗教”法。一些支持者认为，这类法律有助于维护宗教和谐或宗教和平。它们的意图是确保多数或少数信仰的信徒的宗教敏感性不受侮辱或冒犯，并提供保护，防止可能针对上述冒犯产生的敌意或暴力。⁹

26. 其中一些支持者认为，对特定宗教有负面成见的言论没有被充分禁止，这对全球和社会和谐以及这些宗教的个别信徒的权利构成威胁。这种威胁表现为歧视、侵犯隐私权、种族或宗教定性和暴力加剧。对真正的信徒来说，这些倡导者中的一些人会注意到，真诚的信念——比如那些由宗教信仰激发的信念——构成了人类身份的不可改变的基础，与种族、族裔和其他被认为是不可改变的特征相似。因此，对宗教或信仰等定义性特征(即人们用来定义自己并被他人定义的特征)的攻击是禁止的理由，就像“仇恨言论”法适用于保护因种族、族裔、性别或性取向而被攻击的弱势个人或群体一样。虽然宗教不容忍的一些因素与种族主义重叠，但将两者等同起来会导致如下文所述的严重的问题。

27. 此外，一些国家依靠公共秩序法，对表达可能冒犯大多数人信仰的观点予以限制。它们要么禁止攻击可能被视为亵渎神明的宗教信仰，要么限制表达与大多数人相冲突的关于宗教或信仰的观点(例如关于宗教在公共生活中的作用的观点)，从而有效地扩大了超出国际法规定的目的限制表达宗教或信仰观点的自由的范围。与此同时，即使在表达这种观点不受国际人权法规定限制的国家，社会行为者(例如新闻媒体)应该如何回应一些社会成员认为是冒犯性的或亵渎性的言论仍是个问题。

28. 对表达与宗教或信仰有关的观点施加的一系列限制可分为两大类。第一类包括旨在保护宗教、信仰、思想或偶像免受批评、排斥或侮辱的法律。这包括禁止叛教、亵渎和诽谤的法律及公共秩序法律。第二类包括旨在保护人们免受以宗教或信仰为动机的“仇恨言论”的法律。

29. 2017年，来自联合国所有地理区域集团的70多个国家制定了禁止亵渎和诽谤宗教的法律。禁止亵渎的法律和禁止诋毁宗教的法律可以说是同一枚硬币的两面。禁止亵渎法旨在保护宗教教义和被视为神圣不可侵犯的东西，而禁止诽谤法则限制表达自由，试图制止对信徒、而非对信仰的无端冒犯。禁止亵渎法的主要目的是保护多数人的信仰，但此类法律中也有一些旨在保护少数人的宗教或宗教人物。至少有20个国家制定了此类法律。它们通常保护所有宗教不受诋毁，这种保护至少在理论上同样适用于多数和少数宗教。在某些方面，禁止诽谤宗教的法律意图模仿禁止“仇恨言论”的法律，但是通过保护信徒免遭对其宗教信仰的

⁸ Neville Cox, “Blasphemy and Defamation of Religion Following Charlie Hebdo” in *Blasphemy and Freedom of Expression: Comparative, Theoretical and Historical Reflections after the Charlie Hebdo Massacre*, Jeroen Temperman and Andr as Koltay, eds. (Cambridge, Cambridge University Press, 2017), p. 59.

⁹ 例如，见欧洲人权法院在以下案件中总结的国内法：*Otto Preminger-Institute* 诉奥地利，第13470/87号申诉，1994年9月20日的判决；*Wingrove* 诉联合王国，第17419/90号申诉，1996年11月25日的判决；以及*E.S.*诉奥地利，第38450/12号申诉，2018年10月25日的判决。

诽谤，实现保护他们免受污名化、歧视和暴力的目标。另一方面，禁止“仇恨言论”的法律试图限制煽动导致敌意、歧视或暴力的仇恨的言论。

30. 全世界至少有 20 个国家惩罚叛教。放弃自己宗教的人可能被视为叛教者，并受到甚至可能包括死刑在内的惩罚。人权事务委员会强调，在任何情况下，死刑都不能作为对违反《公约》的行为的制裁，包括叛教。¹⁰ 在禁止叛教法被用来执行宗教教义的司法管辖区，这类法律通常以宗教教义作为正当理由，其目的是防止正统教义遭到排斥或出现讹误。它们被视为信徒的神圣义务，信徒的个人承诺通过公共政策得到执行。禁止叛教的法律被用来加强某些宗教信仰的垄断地位，并通过限制公民自由，通过立法规定社会行为。没有一个政府明确支持 takfir，即支持谴责其他穆斯林叛教，特别是谴责有些领导者对宗教的承诺不够，一些国家，如突尼斯，将这种谴责行为定为犯罪。然而，禁止叛教法的存在可能会鼓励武装民团和暴徒谴责其他穆斯林叛教。

31. 禁止改宗法禁止人从一种宗教皈依另一宗教的企图，在某些情况下还对皈依者施加惩罚。2015 年，有 99 个国家限制了一些或所有宗教团体说服人们加入他们的信仰，高于 2009 年的 79 个国家。¹¹ 这个数字包括世界上所有禁止改宗(即向人们宣传改信少数宗教的活动)国家中 16.4% 的国家，以及所有禁止被外国神职人员或传教士改宗的国家中 45.2% 的国家。¹² 2015 年，改宗在 25 个国家引发了不涉及人身暴力的社会敌意事件。27 个国家发生了包括人身暴力在内的事件。一些反对自由传教权利的人认为，施加限制对于维护社会秩序是必要的。他们指出，如果宗教团体之间出现敌对竞争，如果存在宗教暴力的历史，或者让宗教在公共生活中发挥作用的企图与国家对这一作用的想法相悖，则对敌对团体传教的限制可能有助于维持社会和谐，防止进一步冲突。另一些人认为，如果传教的目标是弱势群体，或者传教者通过欺骗、威胁或强迫手段使个人改宗，则这类传教行为可以(也应该)受到限制。¹³ 此类法律经常侵犯宗教或信仰自由权包括的内心自由和外在外在自由两个方面。¹⁴

32. 在某些情况下，公共秩序法被用于惩罚和防止表达冒犯宗教感情的观点。这些法律的理由是公共和平必须受到保护，以免遭到受到冒犯的公众的行动的破坏。公共秩序法也可以用来防止受保护的宗教或信仰表现形式，例如防止改宗和不遵守信仰形成既定的宗教或社会惯例。例如，公共秩序法令被用来禁止公共祈祷会、改变宗教信仰或宗教信仰的其他公共表现。实证研究表明，全世界约有 6.8% 的国家限制公开的宗教活动，包括宗教节日和安息日活动，10.2% 的国家限制私人或组织在宗教场所以外开展活动和公开展示宗教象征，包括(但不限于)宗教服饰、蓄须或不蓄须行为、耶稣诞生场景和偶像等。¹⁵

¹⁰ 人权事务委员会，关于生命权的第 36 号一般性意见(2018 年)。

¹¹ Jonathan Fox, “Equal opportunity oppression: religious persecution is a global problem”, *Foreign Affairs*, 31 August 2015.

¹² 同上。

¹³ 见 A/67/303。

¹⁴ 同上。

¹⁵ Fox, “Equal opportunity expression” .

33. 如上所述，禁止亵渎法越来越不受欢迎。相反，各国似乎倾向于颁布关于“仇恨言论”的法律。这类法律无疑非常重要，特别是对保护少数群体和其他弱势群体而言。事实上，《消除一切形式种族歧视国际公约》第四条和《公民权利和政治权利国际公约》第二十条要求各国禁止“仇恨言论”。然而，以不加批判的做法制定和适用禁止“仇恨言论”的法律，可能会导致问题。如果这些法律措词含糊不清，或者侧重于禁止特定内容，那么这些法律可能是禁止亵渎的有效方式。当禁止“仇恨言论”的法律只有限制表达自由这一主题事项，而不是通过具体情况的评估决定暴力是否可能立即发生，或者是否存在通过表达自由煽动歧视或敌意的意图，则该法律的效果可能与禁止亵渎法相似。以这种方式制定的法律经常被用来强化特定社会的主导性政治、社会和道德叙述和观点。它们经常被用来攻击反对派的声音和异议，以及用于审查少数群体。结果是，国家针对那些旨在受到法律保护的少数群体使用了禁止“仇恨言论”法律。在某些情况下，禁止“仇恨言论”法律甚至被用于限制少数群体宣传其文化和身份，或表达他们受到多数群体歧视的关切。¹⁶

34. 各国必须承认这些差别，以确保更好地遵守国际人权法。因为宗教和信仰与身份密切相关，并且在某些情况下与种族问题交叉或混为一谈，所以情况更是如此。它们是人们用来定义自己和被他人识别的特征。各国不妨审查其法律，禁止构成煽动歧视、敌意或暴力的任何宣传民族、种族或宗教仇恨的内容，以确保该法律的定义明确，特别是以下用语定义明确：(a) “仇恨”和“敌意”，指的是“对目标群体的强烈和非理性的谴责、敌意和憎恶情绪”；(b) “宣传”，应理解为要求公开宣扬对目标群体的仇恨的意图；(c) “煽动”，应指关于民族、种族或宗教团体的言论，这些言论会立即导致对属于这些团体的人的歧视、敌意或暴力风险；此外，各国不妨确保(d) 不同社区宣传积极的群体认同感不构成“仇恨言论”。¹⁷

五. 典型案例

35. 尽管存在上述趋势，但关于社会应该如何处理涉及宗教或信仰的言论(有些人认为这些言论有冒犯性或亵渎性)的辩论仍然很有争议。虽然根据国际法，保护公共安全、秩序、健康、道德以及他人的权利和自由是限制表达涉及宗教或信仰观点的既定目的或目标，¹⁸但这种限制必须符合限制制度。无论它们意在打击对某一特定信仰的信徒的污名化，促进公共秩序，促进宗教间和谐，还是打击煽动行为，惩罚或防止批评宗教或信仰的法律，或审查可能冒犯某一特定信仰信徒敏感性的言论的法律，实际上都损害了享有这一权利，因为它们并非追求合理

¹⁶ Agnes Callamard, “Expert meeting on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights: freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence”, paper presented at the expert meeting on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights, Geneva, October 2008.

¹⁷ 第十九条，《关于表达自由和平等的卡姆登原则》(London, 2009)，原则 12.1。另见《拉巴特行动计划》，第 21 段。

¹⁸ 《公约》第十九条第 3 款包括保护国家安全的补充限制理由。

目标。事实上，保护通过言论嘲笑和冒犯的自由与保障思想、良心和宗教或信仰自由的权利密不可分。

36. 此外，关于宗教或信仰自由与表达自由之间的紧张关系所带来的挑战的辩论，例如目前的辩论，通常都使用规范性的措辞，而不是基于受害者的经验。与此同时，这些挑战往往被视为是与一组特定国家相关的问题，这既不准确，作用也适得其反。因此，关于这一问题的经常带有感情色彩的论点无法认识到上一节讨论的措施的人力成本，也没有考虑到这两项权利之间摩擦造成的挑战普遍存在于这一现实。下述案例虽然远未详尽揭示问题的范围，但象征性地表明了对涉及宗教或信仰的言论的限制(有些限制可能是有意的)可能对个人和群体享有权利产生的影响。

A. 对宗教的亵渎和诽谤

阿哈默德派穆斯林社区

37. 针对巴基斯坦阿哈默德派穆斯林的法律主要追求禁止亵渎法的目标。阿哈默德派穆斯林认为自己是逊尼派穆斯林，遵循米尔萨·欧拉姆·阿哈默德(1835年生于巴基斯坦旁遮普省的卡迪安)的教义。他们认为米尔萨·欧拉姆·阿哈默德是一位非法律规定的先知，受到启发后改革和更新穆斯林社区。然而，正统穆斯林认为这种说法是异端，违反了穆罕默德是最后一位先知的原则。阿哈默德派教徒受到国家认可的歧视和其他镇压措施等系统性迫害，他们的企业、学校和礼拜场所被关闭，违反了对社区施加的限制性法律的人被监禁。歧视性措施包括剥夺公民平等权利，如竞选公职的权利。有人因信奉阿哈默德教被解职或被迫辞职，或者仅仅因为其信仰活动而被判处死刑。该教派的信徒受到持续不断的威胁和恐吓，以及暴力和恐怖行为的影响，很少或根本得不到当局的保护。对阿哈默德派教徒的迫害不仅限于巴基斯坦，因为关于米尔萨·欧拉姆·阿哈默德的预言主张存在教义上的分歧，该教派教徒在其他穆斯林占多数的国家也受到歧视和暴力。

Mohammed Shaikh Ould Mohammed Ould Mkhaitir

38. 毛里塔尼亚工程师穆罕默德·谢赫·乌尔德·穆罕默德·乌尔德·姆海蒂于2013年在新闻网站上发表了一篇题为“宗教、宗教虔诚和铁匠”的文章，批评利用宗教为奴隶制辩护，并强调了宗教、种族主义和歧视之间的联系。¹⁹ 姆海蒂被捕，并被控犯有叛教和侮辱先知穆罕默德的死罪。当姆海蒂得知当局试图逮捕他时，他自愿投降。在他被捕后，公众继续对他的文章提出抗议。尽管姆海蒂在审判时道歉，并解释说从未打算侮辱先知，但他还是被判处了死刑。据报道，审判中出现了一些程序上的违规行为，包括无视姆海蒂被捕后不久写的一封信，信中称他无意侮辱伊斯兰教。在审判之前和审判期间，姆海蒂收到大量死亡威胁，以至于他的三名律师辞职。法院发布的死刑判决遭到国际谴责，包括特别程序任务负责人的谴责。然而，该国政府声称，姆海蒂已经超过了受保护言论的限度，因毛里塔尼亚对《公民权利和政治权利国际公约》第十八条提出了保留，

¹⁹ 在第二轮普遍定期审议期间，毛里塔尼亚收到的所有建议中有 17.5% 的建议重点讨论了奴役问题。

所以没有侵犯他的宗教或信仰自由权。2017 年 1 月，最高法院将他的刑期减为两年徒刑和一笔小额罚款。然而，他仍然被关押在一个不为人知的地方，很少或根本没有机会接触他的律师，据报道他患有重病。

Asia Bibi

39. Asia Bibi 于 2010 年 11 月被判亵渎罪，并被判处死刑。她是巴基斯坦拉合尔西部伊坦瓦利村的农场工人，在那里她和她的家人是唯一的基督徒。据报道，Bibi 被指控从一个容器中取水饮用，玷污了一个原本是给她的穆斯林同事用的杯子，理由是她是基督徒，所以是不洁的，她被禁止与穆斯林使用相同的器皿。随后发生了一场争论，她的同事要求她皈依伊斯兰教，据说当时她侮辱了先知穆罕默德。当这一消息传到当地的伊玛目那里时，他强迫她承认说了亵渎神明的话，在她拒绝后，一群暴徒当着她的孩子的面毒打了她。在被监禁近一年后，她被指控亵渎神明。旁遮普省省长 **Salman Taseer** 曾到狱中探访 Asia Bibi，并表示，如果高等法院不暂停对她的判决，她可能有资格获得总统赦免，但省长于 2011 年 1 月被他的保镖枪杀。此外，少数民族事务部长 **Shahbaz Bhatti** 也支持 Asia Bibi，并建议修改禁止亵渎法，但他在 2011 年 3 月的一次伏击中被打死。Asia Bibi 的上诉程序花了八年时间，直到最高法院于 2018 年 10 月撤销了对她的判决，理由是证人的实质证词互相矛盾，以及不一致的陈述，这使人对证据的一致性产生了进一步的怀疑。2019 年 1 月 29 日，最高法院驳回了复审无罪释放裁决的申请。

Basuki Tjahaja Purnama

40. 担任雅加达省长的华裔基督徒 **Basuki Tjahaja Purnama** 是定于 2017 年举行的州长选举的候选人。他在州长竞选期间的一次演讲中提到了古兰经的一节。一些团体反对他在网上发布的一段视频中引用古兰经的做法，这段视频似乎在被编辑时删去了一个词，导致了对他的演讲的误解。一些组织向警方举报 **Purnama**，指控他犯有亵渎罪。**Purnama** 公开道歉，并澄清说他无意冒犯。尽管如此，随后发布了一项法特瓦，据报道，在大规模抗议期间，集会的一些领导人发表了煽动仇恨和不容忍的言论。据称这些抗议是出于政治动机，目的是在州长选举中击败 **Purnama**。尽管 **Purnama** 的辩护小组提出了警方调查中各种程序错误的证据，但法院驳回了他们撤销案件的动议。2017 年 5 月 9 日，北雅加达地区法院判定 **Purnama** 犯有亵渎罪和煽动暴力罪，并判处他两年监禁。2019 年 1 月 24 日，他根据印度尼西亚赦免法提前三个半月获释，该法在公共假日以及根据良好行为给予囚犯宽大处理。

Avijit Roy

41. 美国和孟加拉籍博客作者 **Avijit Roy** 在与妻子 **Rafida Ahmed** 访问孟加拉国时，在达卡街头遭到手持砍刀的人的袭击。他的妻子在野蛮袭击受伤后康复，但 **Roy** 在被送往医院后不久去世。对他的谋杀是对博客作者和无神论者日益增加的暴力攻击趋势的表现形式之一，这一趋势在 2013-2016 年期间加剧，这一时期至少有 10 名博客作者和出版商遭到攻击和杀害。越来越多的人要求制定一项法律，将亵渎定为死罪，对此，政府表示，没有必要制定这样一项法律，因为现行法律禁止无端攻击宗教。2013 年，政府成立了一个委员会，跟踪博客作者和其他在网上发表诋毁伊斯兰教言论的人。随后，一个列出了撰写宗教文章的 84 名

博客作者的名单被公开，据报道，据说该名单是由一个极端主义团体编辑的。在 2014 年至 2016 年期间，该名单上包括 Roy 在内至少有 7 人被杀，另外一些人躲藏了起来。

B. 公共秩序措施

42. 2012 年 2 月 21 日，俄罗斯女权主义朋克摇滚抗议团体 Pussy Riot 演唱了一首 1 分钟长的歌曲，其中包含淫秽内容，批评了莫斯科基督救世主大教堂以及一些公务员和宗教官员。几天后，乐队成员被逮捕，并被指控犯有流氓罪。该音乐团体的成员声称，他们的表演是一种政治声明，而不是出于对宗教团体的仇恨。一名法官接受了见证演出的 11 名信徒的陈述，认为演出冒犯了他们的信仰，并裁定该乐队冒犯了东正教信徒。法官还接受了一个心理语言学专家小组的结论，该小组认为 Pussy Riot 的表演违反了公共行为标准，冒犯了东正教徒。Khamovnicheskiy 地区法院认定他们犯有流氓罪，其动机是宗教仇恨和对特定社会群体的仇恨。然而，欧洲人权法院 2018 年 7 月 17 日的裁决认为，对他们的刑事起诉和监禁相当于对该团体表达自由的过度干涉。该法院的判决明确提及人权事务委员会第 34 号一般性意见(2011 年)以及特别程序的报告。正如大赦国际、人权观察和第十九条在其相关呈件中所所述，法院还提及《拉巴特行动计划》中的六部分门槛测试。²⁰

43. 在古巴，《刑法典》目前允许将被认为滥用宗教或信仰自由权的人监禁 3 个月至 1 年，因为“宗教信仰与教育目标、劳动义务、武装保卫国家、尊重其象征或《宪法》中的任何其他规定相冲突”。²¹ 这项旨在维护公共秩序的措施允许国家惩罚广泛的受保护活动。据报告，大规模拘留因此在 2016 年和 2017 年继续增加。2016 年 2 月，使徒运动伊曼纽尔教会(古巴圣地亚哥地区最大的教会之一)的 200 名成员被拘留，该教会被拆毁，教会财产被没收。

C. 禁止叛教法

44. 禁止叛教法律的存在及其引发的暴力可能导致个人进行自我审查，在我们相互关联的世界中，该现象可能对国际宣传产生负面影响。受害者的范围包括神职人员、教师、学生、作家、记者、博客作者、画家、音乐家、演员、出版商、书商、网站管理者、政治家、人权维护者和持不同政见者等。这些法律不仅损害了对充满活力的社会至关重要的知识和艺术自由，而且还可能损害行使宗教或信仰自由权利所必需的交流自由。此外，它们还可以消除正当程序权利的空间，而正当程序权对于法治和正常运作的民主所必需的政治话语至关重要。

²⁰ 欧洲人权法院，*Mariya Alekhina* 等人诉俄罗斯，第 38004/12 号申诉，2018 年 7 月 17 日的判决，第 105-110、187、190-191、223-224、229-230 段；以及 *María Elósegui* 的单独意见，第 14 段。

²¹ 古巴，《刑法》(第六章，第 206 条)，题为“滥用信仰自由”。

Ashraf Fayadh

45. 巴勒斯坦诗人兼艺术家阿什拉夫·法耶德在沙特阿拉伯被判死刑，他于2015年被判叛教罪，之后上诉法院将死刑减为8年监禁和800鞭。法耶德先生于2013年8月6日首次被捕，此前一名沙特阿拉伯公民指控该诗人在年轻人中宣扬无神论和传播亵渎神明的思想。他于第二天获释，但于2014年1月再次被捕，并被控叛教，因为据称他质疑宗教并通过诗歌宣传无神论。前特别报告员海纳·比勒费尔特在关于此案的新闻声明中强调，人们应该能够表达信念、怀疑和想法，而不必担心受到迫害，宗教信仰的实践在一个允许表达自由的社会中最能蓬勃发展。²² 法耶德先生仍然是良心犯。

D. 禁止改宗或劝说他人改宗的法律

46. 2017年9月，特别报告员在尼泊尔《刑法典》通过一项修正案、将改宗和“伤害宗教感情”定为刑事犯罪(《刑法》第9节第158条)后发表了一份后续函件。正如以前的信函那样，函件引起了人们的关切，即新的规定可能被援引来反对宗教或信仰的合法表现，包括宗教团体的慈善活动或以自己的信仰教导他人；这项法律也可能被用来禁止宗教少数群体与其他人分享信仰。任务负责人在2014年6月19日的函件中对缅甸通过法律提出了类似关切，该法律确定了由国家监管的改宗程序，规定改宗者必须提交申请(第2节(c)和第5节)，证明自己改变信仰的决定是正当的(第5节(c)(xi))，改宗必须登记(第6节)，并规定了面试(第6节(d)和第7节(a)-(c))、研究(第7节(d)-(f))和批准(第8节和第10节)流程。

47. 此外，2016年，美洲74%的国家政府对宗教或信仰自由施加了更多限制。²³ 更多的限制主要导致宗教团体(包括少数群体或未经批准的宗教团体)受到骚扰以及不保护一些宗教团体免受歧视或虐待。例如，据报告，在厄瓜多尔、洪都拉斯和墨西哥，耶和华见证会成员有时被阻止劝说他人改宗和分发宗教材料。²⁴

E. 宗教仇恨和极端主义

Jovan 主教(Zoran Vraniskovski)

48. 2004年，马其顿东正教的一名前主教因煽动暴力侵害自己及其追随者而被国家法院判处监禁，因为他离开主流教会并制造分裂。欧洲安全与合作组织民主制度和人权办公室宗教和信仰自由问题专家小组的一项意见对该判决的做法表示关切，该判决似乎表明，任何形式的宗教活动如果有效挑战马其顿东正教作为主导宗教的合法性和至高无上性，都应被视为助长宗教仇恨的行为。由于Jovan主教一直是反对派信徒敌对反应的目标，令人惊讶的是，一审法院发现他煽动了

²² 人权高专办，“联合国权利专家敦促沙特阿拉伯停止处决巴勒斯坦诗人阿什拉夫·法耶德”，2015年12月3日。

²³ Pew Research Center, “Americas the only region with a rise in both government restrictions and social hostilities involving religion in 2016” in *Global Uptick in Government Restrictions on Religion in 2016* (2018).

²⁴ 同上。

“对他自己和他的信徒”的宗教仇恨。²⁵ 最高法院后来部分接受了他关于举行宗教仪式自由的上诉，并将他的刑期减为八个月。

Müslüm Gündüz

49. 1995 年 6 月 12 日，退休工人 Müslüm Gündüz 以伊斯兰教派(塔里卡) Aczmeni 领导人的身份应邀出现在一档深夜电视节目中，该节目由一个独立频道现场直播。主持人宣布，将与 Gündüz 和其他几位小组成员讨论该教派的各种特征，包括与其信仰和表现形式有关的方面，如他们独特的服装、如何诵经和世界观。在现场讨论时，Gündüz 说了一些话，对土耳其的民主和世俗机构深表不满，称其不虔诚和虚伪，他断言伊斯兰教法将取代土耳其的民主制度。该行为导致了一项关于基于宗教的差异煽动人们仇恨和敌意的起诉。土耳其政府坚持认为，基于紧迫的社会需求，该起诉是合理的，因为 “[Gündüz 的]言论违背了绝大多数人的道德原则，严重危害了社会稳定”。²⁶ 然而，欧洲人权法院认为，在本案中，无法令人信服地确定对他施加限制的必要性，对他表达自由的干涉没有充分的理由。

六. 网络平台和相关限制的影响

50. 从全球来看，决策者面临的挑战是如何应对以宗教或信仰为名煽动人们施加歧视或持续敌对或暴力行为的在线言论。在线平台彻底改变了公共广场，瞬间让无数观点出名，包括那些冒犯宗教或信仰团体的观点，以及那些煽动歧视、敌意或暴力的观点。近年来，各国采取了旨在打击煽动行为的措施，技术公司也采取了自愿措施，包括制定了报告工具和政策，以便在接到通知后迅速删除被视为非法的内容。

51. 世界上大多数互联网用户都经历了各种形式的审查或过滤。批评者指出，这种政策让科技公司和国家拥有了巨大的权力，赋予了它们有效抑制言论的能力，因为人们害怕国家制裁或广泛(通常是尖刻的)公开指责而进行自我审查。批评者还认为，为了行之有效，这类法律有必要遏制不容忍态度的蔓延，削弱极端主义政治力量，并避免被专制倾向滥用。但是，他们经常注意到，法规不符合这些标准。相反，通过加强监视、侵犯隐私和对宗教或信仰相关言论的广泛限制，国家打击煽动行为的努力助长了“数字独裁主义”的出现；对持不同政见者和宗教少数群体而言，网络空间成为一个危险场所。例如，据报道，数字应用程序正被用于报告关于亵渎的指称，数字足迹可用于评估遵守信仰相关仪式的情况。此外，在一些情况下，社交媒体被用来煽动对宗教社区的仇恨，或动员人们对攻击性言论做出敌对或暴力反应。

52. 各国政府对表达自由产生负面影响的现象作出了回应。其应对措施包括删除在线材料，以限制对特定类型内容的访问；封锁和过滤网站；披露批评国家通过

²⁵ A/HRC/13/40/Add.2, 第 47 段；Heiner Bielefeldt, Nazila Ghanea and Michael Wiener, *Freedom of Religion or Belief: An International Law Commentary* (Oxford, Oxford University Press, 2016), p. 497.

²⁶ 欧洲人权法院, *Gündüz 诉土耳其*, 第 35071/97 号申诉, 2003 年 12 月 4 日的判决, 第 31 段。

政治主导宗教的博客作者的身份；以及让中介机构对接受第三方上传的“仇恨言论”内容负责。虽然有必要防止和惩罚网上煽动暴力的行为，但目前一些方法(以措辞模糊、包含禁止哪些行为和对中介机构进行严厉惩罚的法律为特点)可能会产生很大的反作用，导致寒蝉效应。网络活动导致的大量谋杀、攻击和起诉案件明显显示出数字独裁主义兴起的负面影响。与此同时，犯罪和恐怖主义团体最近显示出利用在线平台传播暴力宗教极端主义或煽动针对宗教少数群体的暴力的潜力。

53. 欧洲各地要求有效应对网络煽动行为和“仇恨言论”的压力越来越大。例如，在德国，最近通过的《网络执行法案》(NetzDG)要求技术公司在收到通知后 24 小时内删除“明显违法”的内容。其他违法内容必须在报告后七天内审查，然后删除。如果不符合投诉管理要求，最高可处以 5,000 万欧元的罚款。上述规定存在问题，因为确定哪些内容被禁止的一些标准是基于模糊不清的术语，如“侮辱”或“诽谤”，这不符合《国际公约》第十九条。该法律为限制的扩散开创了一个不祥的先例，实际上，这会导致被视为冒犯国家或民粹主义独裁情绪的意见受到进一步过滤和刑事制裁。

54. 此外，旨在打击构成煽动的言论的在线工具不能保证没有人的偏见，使用这些工具可能会加剧对少数群体的社会偏见，使他们面临进一步的污名化、歧视和边缘化。例如，在不容忍的环境中使用这些工具有时会导致对某些信仰团体的过度监管，并进一步抑制交流行为。个人和整个社区也可能成为操纵在线过滤器的目标，面部识别技术等一些工具的使用有可能破坏和平行使基本人权的民间社会行为者的活动。

七. 结论和建议

55. 当宗教或信仰自由和表达自由在国际人权法建立的法律框架内行使时，是密切相关和相辅相成的两项权利。这两项权利都是民主社会和个人自我实现的基础，也是享受人权的基础。特别报告员表示，本报告中提出的案例说明了这样一个事实，即用于应对涉及宗教或信仰的言论所构成的挑战的措施容易遭到滥用，其结果可能适得其反，往往会使无数宗教和信仰的信徒因这些措施的适用而受害。国际法要求各国在处理表达自由与宗教或信仰自由之间的紧张关系时采取克制的态度，其方法必须依赖限制方面的标准。这些标准承认所有人享有表达自由和表达宗教或信仰的权利，无论其意见、想法、学说或信仰的批评性质如何，也无论这些表达方式是否使他人受到震惊、冒犯或忧虑，只要它不超过宣传宗教仇恨、构成煽动歧视、敌意或暴力的门槛。

56. 宗教或信仰自由分为口头和非口头表达形式，通过礼拜、仪式、实践和教学公开表达思想、良心、宗教或信仰。实现父母或法定监护人根据其宗教或道德信仰抚养子女的权利也很重要。然而，以宗教名义对表达自由施加限制的论点并不少见。将近 70 个国家有禁止亵渎法，30 个国家还有禁止叛教法。在一些司法管辖区，其中的一项或这两项法律都可能规定使用死刑。这些法律在国际人权框架下没有合理道理，因为该框架旨在保护人类，而不是保护宗教或信仰本身。一些禁止亵渎法不再声称保护宗教本身，而是声称保护个人免受对其宗教感情的侵犯。然而，这些禁止诽谤宗教的法律也没有国际法依据，因为这类限制不符合国际法确立的限制制度。

57. 与宗教或信仰相关的表达自由限制越来越多地采取禁止“仇恨言论”法律的形式。《公民权利和政治权利国际公约》第二十条第2款规定，各国必须依法禁止任何构成煽动歧视、敌视或暴力的鼓吹宗教仇恨的行为。与此同时，第34号一般性意见(2011年)强调，第二十条第2款下的禁止必须符合第十九条第3款下的限制制度。此外，宣传仇恨需要各种不同反应，包括刑事制裁以及民事、行政和政策措施。各国必须确保只在最严重的情况下实施刑事制裁，并考虑包括意图在内的若干背景因素。

58. 过去十年中制定的倡议和战略，如《拉巴特行动计划》所载倡议和战略，旨在落实《公约》第二十条规定的国家应对鼓吹宗教仇恨的义务，这些倡议和战略应继续为各国政府和民间社会行为者正在开展的工作提供指导。与此同时，特别报告员认识到，在实施这些倡议和战略方面取得进展存在困难，因为围绕这一问题的观点既复杂又情绪化，当前要考虑各种重大利害关系，包括对无数人权和自由的保护，以及和平与安全问题。因此，可能应当评估导致落实这些倡议和战略特别成问题的法律影响的严重性，以及导致这些法律难以废除的情况。国际社会采取基于分类的办法，可以使行为者从需要补救但可能无需立即作出反应的优先事项中查明最为迫切的优先事项，即需要立即作出反应的优先事项。然而，这种办法不是废除所有不符合《公约》第十九条第3款限制制度要求、对宗教或信仰的表达自由实施的限制的替代品。相反，必须将其作为加快充分遵守国际人权标准的手段。

59. 首先，例如在审查禁止涉及宗教或信仰的言论的影响时，各国政府不妨在审查其处罚时采取从受害者角度出发的办法。在一些司法管辖区，死刑是对违反此类禁令的处罚，而在其他司法管辖区，处罚不那么严厉。废除那些危及生命的法律必须得到最优先审查。此外，如果国内法规定对冒犯宗教判处死刑，则这种法律的存在更有可能鼓励暴民或狂热分子谋杀那些据称违反这些法律的人。

60. 第二，行为者必须考虑加强防范虚假指控或其他形式滥用这些措施的行为，以防止广泛的、任意拘留根据国际法行使受保护形式言论的个人。一些司法管辖区允许在不证明指控真实性的情况下提出指控，也允许在不适当考虑案件事实的情况下做出起诉决定。

61. 第三，迫切需要在涉及宗教政治化的案件中加强保护，防止歧视，因为宗教政治化往往使那些不属于多数或主流宗教的人受害。宗教和国家越紧密地交织在一起，反对者和少数群体就越有可能成为歧视、敌视和暴力的目标。缺乏对少数群体和持不同意见者的平等保护，再加上破坏平等公民身份保障，从而助长边缘化和排斥的政策和做法，使得这些群体特别容易受到那些试图对其实施犯罪者的伤害。

62. 第四，各国必须评估现有法律和措施，查明是否存在含糊不清的表述，例如，是否使用“亵渎他人”、保护“崇拜对象”和“含沙射影”或“间接”冒犯他人等术语，审查和纠正不强调犯罪意图(意图的合理明显存在)作为评估有罪和惩罚的必要因素的重要性的法律和措施。无论是亵渎罪还是煽动暴力罪，在制定犯罪定义时缺乏意图这一要素，往往导致错误定罪。

63. 第五个因素是缺乏司法独立和随之而来的对正当程序权利的侵犯，这种情况经常发生在涉及可能质疑国家正统观点或表达宗教或信仰观点威胁到当局权力的人的案件中。

64. 国家权力有限，即国家部分地区不受政府有效控制，且普遍无视法治，或对宗教或信仰问题的狂热，这些因素削弱了政府执行法院判决的能力，这是国际社会在确定优先重点关注领域时必须考虑的第六个因素。

65. 最后，特别报告员强调社会行为者，特别是宗教领袖和媒体发挥的作用。在所谓的言论行为和通过第三方来源宣传所谓的攻击行为煽动公众愤怒之间，往往有一段时间间隔。宗教领袖和媒体在煽动或打击仇恨方面发挥着至关重要的作用。互联网和社交媒体极大地放大了这些行为者和其他行为者在传播正面或负面信息方面发挥的影响力带来的机遇和风险。

66. 在这方面，《关于信仰促进权利的贝鲁特宣言》为行动提供了重要的指导和灵感：“言论是个人和社区繁荣的基础。它是人类善与恶的最重要的媒介之一。战争始于头脑，由常常隐藏起来的仇恨宣传激发的理论推动。积极的言论也是一种疗伤工具，促进心灵与头脑中的和解及建设和平。言论是我们承诺承担的最具战略性的责任领域之一，我们根据《拉巴特行动计划》阐明的门槛，通过《信仰促进权利宣言》，相互支持履行这些责任。”²⁷

²⁷ 见附件一，第 20 段。

Annex I

Beirut Declaration on Faith for Rights

“There are as many paths to God as there are souls on Earth.” (Rumi)¹

1. We, faith-based and civil society actors working in the field of human rights and gathered in Beirut on 28-29 March 2017, in culmination of a trajectory of meetings initiated by the Office of the United Nations High Commissioner for Human Rights (OHCHR),² express our deep conviction that our respective religions and beliefs share a common commitment to **upholding the dignity and the equal worth of all human beings**. Shared human values and equal dignity are therefore common roots of our cultures. Faith and rights should be mutually reinforcing spheres. Individual and communal expression of religions or beliefs thrive and flourish in environments where human rights, based on the equal worth of all individuals, are protected. Similarly, human rights can benefit from deeply rooted ethical and spiritual foundations provided by religion or beliefs.

2. We understand our respective religious or belief convictions as a source for the protection of the **whole spectrum of inalienable human entitlements** – from the preservation of the gift of life, the freedoms of thought, conscience, religion, belief, opinion and expression to the freedoms from want and fear, including from violence in all its forms.

- *“Whoever preserves one life, is considered by Scripture as if one has preserved the whole world.” (Talmud, Sanhedrin, 37,a).*
- *“Someone who saves a person’s life is equal to someone who saves the life of all.” (Qu’ran 5:32)*
- *“You shall love the Lord your God with all your heart, all your soul, all your strength, and with your entire mind; and your neighbour as yourself.” (Luke 10:27)*
- *Let them worship the Lord of this House who saved them from hunger and saved them from fear.” (Sourat Quraish, verses 3,4)*
- *“A single person was created in the world, to teach that if anyone causes a single person to perish, he has destroyed the entire world; and if anyone saves a single soul, he has saved the entire world.” (Mishna Sanhedrin 4:5)*
- *“Let us stand together, make statements collectively and may our thoughts be one.” (Rigveda 10:191:2)*
- *“Just as I protect myself from unpleasant things however small, in the same way I should act towards others with a compassionate and caring mind.” (Shantideva, A Guide to the Bodhisattva’s Way of Life)*
- *“Let us put our minds together to see what life we can make for our children.” (Chief Sitting Bull, Lakota)*

3. Based on the above, among many other sources of faith, we are convinced that our **religious or belief convictions are one of the fundamental sources** of protection for human dignity and freedoms of all individuals and communities with no distinction on any ground whatsoever. Religious, ethical and philosophical texts preceded international law in upholding the oneness of humankind, the sacredness of the right to life and the corresponding individual and collective duties that are grounded in the hearts of believers.

4. We pledge to disseminate the **common human values that unite us**. While we differ on some theological questions, we undertake to combat any form of exploitation of such differences to advocate violence, discrimination and religious hatred.

- *“We have designed a law and a practice for different groups. Had God willed, He would have made you a single community, but He wanted to test you regarding what has come to you. So compete with each other in doing good. Every one of you will return to God and He will inform you regarding the things about which you differed.” (Qu’ran 5, 48)*

- *“Ye are the fruits of one tree, and the leaves of one branch.” (Bahá’u’lláh)*
5. We believe that freedom of religion or belief does not exist without the **freedom of thought and conscience** which precede all freedoms for they are linked to human essence and his/her rights of choice and to freedom of religion or belief. A person as a whole is the basis of every faith and he/she grows through love, forgiveness and respect.
6. We hereby solemnly launch together from Beirut the **most noble of all struggles, peaceful but powerful**, against our own egos, self-interest and artificial divides. Only when we as religious actors assume our respective roles, articulate a shared vision of our responsibilities and transcend preaching to action, only then we will credibly promote mutual acceptance and fraternity among people of different religions or beliefs and empower them to defeat negative impulses of hatred, viciousness, manipulation, greed, cruelty and related forms of inhumanity. All religious or belief communities need a resolved leadership that unequivocally dresses that path by acting for equal dignity of everyone, driven by our shared humanity and respect for the absolute freedom of conscience of every human being. We pledge to spare no effort in filling that joint leadership gap by protecting freedom and diversity through “faith for rights” (F4R) activities.
- *“We perfected each soul within its built in weakness for wrong doing and its aspiration for what is right. Succeeds he or she who elevate to the path of rightness.” (Qu’ran 91, 7-9)*
7. The present declaration on “Faith for Rights” **reaches out to persons belonging to religions and beliefs in all regions of the world**, with a view to enhancing cohesive, peaceful and respectful societies on the basis of a common action-oriented platform agreed by all concerned and open to all actors that share its objectives. We value that our declaration on Faith for Rights, like its founding precedent the Rabat Plan of Action on incitement to discrimination, hostility or violence (October 2012), were both conceived and conducted under the auspices and with the support of the United Nations that represents all peoples of the world, and enriched by UN human rights mechanisms such as Special Rapporteurs and Treaty Body members.
8. While numerous welcomed initiatives attempted over time to link faith with rights for the benefit of both, none of these attempts fully reached that goal. We are therefore convinced that **religious actors should be enabled**, both nationally and internationally, to assume their responsibilities in defending our shared humanity against incitement to hatred, those who benefit from destabilising societies and the manipulators of fear to the detriment of equal and inalienable human dignity. With the present F4R Declaration, we aim to join hands and hearts in building on previous attempts to bring closer faith and rights **by articulating the common grounds** between all of us and **define ways in which faith can stand for rights** more effectively so that both enhance each other.
- *“Mankind is at loss. Except those who believe in doing righteous deeds, constantly recommend it to one another and persist in that vein.” (Qu’ran 103, 2-3)*
9. Building on the present declaration, we also intend to **practice what we preach** through establishing **a multi-level coalition**, open for all independent religious actors and faith-based organisations who genuinely demonstrate acceptance of and commitment to the present F4R declaration by implementing projects on the ground in areas that contribute to achieving its purpose. We will also be charting a roadmap for concrete actions in specific areas, to be reviewed regularly by our global coalition of Faith for Rights.
10. To achieve the above goal, we pledge as believers (whether theistic, non-theistic, atheistic or other³) to fully adhere to **five fundamental principles**:
- (a) Transcending traditional inter-faith dialogues into **concrete action-oriented Faith for Rights (F4R) projects at the local level**. While dialogue is important, it is not an end in itself. Good intentions are of limited value without corresponding action. Change on the ground is the goal and concerted action is its logical means.
- *“Faith is grounded in the heart when it is demonstrated by deeds.” (Hadith)*

- (b) **Avoiding theological and doctrinal divides** in order to act on areas of shared inter-faith and intra-faith vision as defined in the present F4R declaration. This declaration is not conceived to be a tool for dialogue among religions but rather a joint platform for common action in defence of human dignity for all. While we respect freedom of expression and entertain no illusion as to the continuation of a level of controversy at different levels of religious discourse, we are resolved to challenge the manipulation of religions in both politics and conflicts. We intend to be a balancing united voice of solidarity, reason, compassion, moderation, enlightenment and corresponding collective action at the grassroots level.
- (c) **Introspectiveness** is a virtue we cherish. We will all speak up and act first and foremost on our own weaknesses and challenges within our respective communities. We will address more global issues collectively and consistently, after internal and inclusive deliberation that preserves our most precious strength, i.e. integrity.
- (d) **Speaking with one voice**, particularly against any advocacy of hatred that amounts to inciting violence, discrimination or any other violation of the equal dignity that all human beings enjoy regardless of their religion, belief, gender, political or other opinion, national or social origin, or any other status. Denouncing incitement to hatred, injustices, discrimination on religious grounds or any form of religious intolerance is not enough. We have a duty to redress hate speech by remedial compassion and solidarity that heals hearts and societies alike. Our words of redress should transcend religious or belief boundaries. Such boundaries should thus no longer remain a free land for manipulators, xenophobes, populists and violent extremists.
- (e) We are resolved to **act in a fully independent manner**, abiding only by our conscience, while seeking partnerships with religious and secular authorities, relevant governmental bodies and non-State actors wherever Faith for Rights (F4R) coalitions are freely established in conformity with the present declaration.

11. Our **main tool and asset is reaching out to hundreds of millions of believers** in a preventive structured manner to convey our shared convictions enshrined in this F4R declaration. Speaking up in one voice in defence of equal dignity of all on issues of common challenges to humanity equally serves the cause of faith and rights. Human beings are entitled to full and equal respect, rather than mere tolerance, regardless of what they may believe or not believe. It is our duty to uphold this commitment within our respective spheres of competence. We will also encourage all believers to assume their individual responsibilities in the defence of their deeply held values of justice, equality and responsibility towards the needy and disadvantaged, regardless of their religion or belief.

— *“People are either your brothers in faith, or your brothers in humanity.” (Imam Ali ibn Abi Talib)*

— *“On the long journey of human life, Faith is the best of companions.” (Buddha)*

12. We aim to achieve that goal in a concrete manner that matters **for people at the grassroots level** in all parts of the world where coalitions of religious actors choose to adhere to this declaration and act accordingly. We will support each other's actions, including through a highly symbolic annual Walk of Faith for Rights in the richest expression of our unity in diversity each 10th of December in all parts of the world.

13. Articulating through the present declaration a common vision of religious actors, on the basis of the Rabat Plan of Action of 2012 and follow-up meetings, would provide the tipping point for **disarming the forces of darkness**; and help dismantling the unholy alliance in too many hearts between fear and hatred. Violence in the name of religion defeats its basic foundations, mercy and compassion. We intend to transform the messages of mercy and compassion into acts of solidarity through inter-communal social, developmental and environmental faith-based projects at the local, national, regional and global levels.

14. We **fully embrace the universally recognised values** as articulated in international human rights instruments as common standards of our shared humanity. We ground our commitments in this F4R declaration first and foremost in our conviction that religions and beliefs share common core values of respect for human dignity, justice and fairness. We

also ground these commitments in our acceptance of the fact that *“Everyone has duties to the community in which alone the free and full development of his personality is possible”*⁴. Our duty is to practice what we preach, to fully engage, to speak up and act on the ground in the defence of human dignity long before it is actually threatened.

- *“Oh you believers, why don’t you practice what you preach? Most hateful for God is preaching what you don’t practice.” (Qu’ran 61: 2-3)*
- *“Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy.” (Proverbs 31:8-9)*

15. Both **religious precepts and existing international legal frameworks** attribute responsibilities to religious actors. Empowering religious actors requires actions in areas such as legislation, institutional reforms, supportive public policies and training adapted to the needs of local religious actors who often are one of the main sources of education and social change in their respective areas of action. International conventions and covenants have defined key legal terms such as genocide, refugee, religious discrimination and freedom of religion or belief.⁵ All these concepts have corresponding resonance in different religions and beliefs. In addition, numerous declarations and resolutions⁶ provide elements of religious actors’ roles and responsibilities that we embrace and consolidate in this F4R declaration.

16. We agree as human beings that **we are accountable to all human beings** as to redressing the manner by which religions are portrayed and too often manipulated. We are responsible for our actions but even more responsible if we do not act or do not act properly and timely.

- *“We will ask each of you about all what you have said and done, for you are accountable” (Quran, Assaafat, 24)*
- *“Every man’s work shall be made manifest.” (Bible, 1 Corinthians iii. 13)*

17. While States bear the primary responsibility for promoting and protecting all rights for all, individually and collectively to enjoy a dignified life free from fear and free from want and enjoy the freedom of choice in all aspects of life, we as religious actors or as individual believers do bear a distinct responsibility to **stand up for our shared humanity and equal dignity of each human being** in all circumstances within our own spheres of preaching, teaching, spiritual guidance and social engagement.

- *“Whoever witnesses an injustice or wrong doing should change its course by his hand. If He or she cannot do that, they by his words. If he or she is unable to do that then by their hearts. This would be the weakest of acts of faith” (Hadith)*

18. **Religious communities, their leaders and followers** have a role and bear responsibilities independently from public authorities both under national and international legal instruments. By virtue of article 2 (1) of the 1981 UN Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief, “no one shall be subject to discrimination by any State, institution, group of persons or person on the grounds of religion or belief”. This provision establishes direct responsibilities of religious institutions, leaders and even each individual within religious or belief communities.

19. As much as the notion of effective control⁷ provides the foundation for responsibilities of non-State actors in times of conflict, we see a similar legal and ethical justification in case of religious leaders who exercise a **heightened degree of influence over the hearts and minds of their followers** at all times.

20. Speech is fundamental to individual and communal flourishing. It constitutes one of the most crucial **mediums for good and evil sides of humanity**. War starts in the minds and is cultivated by a reasoning fuelled by often hidden advocacy of hatred. Positive speech is also the healing tool of reconciliation and peace-building in the hearts and minds. Speech is one of the most strategic areas of the responsibilities we commit to assume and support each other for their implementation through this F4R declaration on the basis of the thresholds articulated by the Rabat Plan of Action.

21. Under the International Covenant on Civil and Political Rights (article 20, paragraph 2), States are obliged to prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. This includes **incitement to hatred by some religious leaders in the name of religion**. Due to the speaker's position, context, content and extent of sermons, such statements by religious leaders may be likely to meet the threshold of incitement to hatred. Prohibiting such incitement is not enough. Remedial advocacy to reconciliation is equally a duty, including for religious leaders, particularly when hatred is advocated in the name of religions or beliefs.

22. The clearest and most recent guidance in this area is provided by the 2012 Rabat Plan of Action⁸ which articulates **three specific core responsibilities of religious leaders**: (a) Religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; (b) Religious leaders also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech; and (c) Religious leaders should be clear that violence can never be tolerated as a response to incitement to hatred (e.g. violence cannot be justified by prior provocation).

Annex II

18 commitments on “Faith for Rights”

We, faith-based and civil society actors working in the field of human rights and gathered in Beirut on 28-29 March 2017, express the deep conviction that our respective religions and beliefs share a common commitment to **upholding the dignity and the equal worth of all human beings**. Shared human values and equal dignity are therefore common roots of our cultures. Faith and rights should be mutually reinforcing spheres. Individual and communal expression of religions or beliefs thrive and flourish in environments where human rights, based on the equal worth of all individuals, are protected. Similarly, human rights can benefit from deeply rooted ethical and spiritual foundations provided by religions or beliefs.

The **present declaration on “Faith for Rights” reaches out to persons belonging to religions and beliefs in all regions** of the world, with a view to enhancing cohesive, peaceful and respectful societies on the basis of a common action-oriented platform agreed by all concerned and open to all actors that share its objectives. We value that our declaration on Faith for Rights, like its founding precedent the Rabat Plan of Action, were both conceived and conducted under the auspices and with the support of the United Nations that represents all peoples of the world, and enriched by UN human rights mechanisms such as Special Rapporteurs and Treaty Body members.

The 2012 **Rabat Plan of Action**⁸ articulates three specific core responsibilities of religious leaders: (a) Religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; (b) Religious leaders also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech; and (c) Religious leaders should be clear that violence can never be tolerated as a response to incitement to hatred (e.g. violence cannot be justified by prior provocation).

In order to give concrete effect to the above three core responsibilities articulated by the Rabat Plan of Action, which has repeatedly been positively invoked by States, we formulate the following chart of **18 commitments on “Faith for Rights”**,⁹ including corresponding follow-up actions:

- I. Our most fundamental responsibility is to **stand up and act for everyone’s right to free choices** and particularly for everyone’s freedom of thought, conscience, religion or belief. We affirm our commitment to the universal norms⁵ and standards⁶, including Article 18 of the International Covenant on Civil and Political Rights which does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one’s choice. These freedoms, unconditionally protected by universal norms, are also sacred and inalienable entitlements according to religious teachings.
 - *“There shall be no compulsion in religion.” (Qu’ran 2:256)*
 - *“The Truth is from your Lord; so let he or she who please believe and let he or she who please disbelieve” (Qu’ran 18:29)*
 - *“But if serving the Lord seems undesirable to you, then choose for yourselves this day whom you will serve...” (Joshua 24:15)*
 - *“No one shall coerce another; no one shall exploit another. Everyone, each individual, has the inalienable birth right to seek and pursue happiness and self-fulfilment. Love and persuasion is the only law of social coherence.” (Guru Granth Sahib, p. 74)*
 - *“When freedom of conscience, liberty of thought and right of speech prevail—that is to say, when every man according to his own idealization may give expression to his beliefs—development and growth are inevitable.” (‘Abdu’l-Bah á)*
 - *“People should aim to treat each other as they would like to be treated themselves – with tolerance, consideration and compassion.” (Golden Rule)¹*

- II. We see the present declaration on “Faith for Rights” as a **common minimum standard for believers (whether theistic, non-theistic, atheistic or other)**, based on our conviction that interpretations of religion or belief should add to the level of protection of human dignity that human-made laws provide for.
- III. As religions are necessarily subject to human interpretations, we commit to **promote constructive engagement on the understanding of religious texts**. Consequently, critical thinking and debate on religious matters should not only be tolerated but rather encouraged as a requirement for enlightened religious interpretations in a globalized world composed of increasingly multi-cultural and multi-religious societies that are constantly facing evolving challenges.
- IV. We pledge to **support and promote equal treatment** in all areas and manifestations of religion or belief and to denounce all forms of discriminatory practices. We commit to **prevent the use of the notion of “State religion” to discriminate against any individual or group** and we consider any such interpretation as contrary to the oneness of humanity and equal dignity of humankind. Similarly, we commit to prevent the use of “doctrinal secularism” from reducing the space for religious or belief pluralism in practice.
- *“Then Peter began to speak: ‘I now realize how true it is that God does not show favoritism’.” (Acts 10:34)*
- V. We pledge to **ensure non-discrimination and gender equality** in implementing this declaration on “Faith for Rights”. We specifically commit to revisit, each within our respective areas of competence, those religious understandings and interpretations that appear to perpetuate gender inequality and harmful stereotypes or even condone gender-based violence. We pledge to ensure justice and equal worth of everyone as well as to affirm the right of all women, girls and boys not to be subjected to any form of discrimination and violence, including harmful practices such as female genital mutilation, child and/or forced marriages and crimes committed in the name of so-called honour.
- *“A man should respect his wife more than he respects himself and love her as much as he loves himself.” (Talmud, Yebamot, 62,b)*
- *“Never will I allow to be lost the work of any one among you, whether male or female; for you are of one another.” (Qu’ran 3, 195)*
- *“O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another.” (Quran 49:13)*
- *“In the image of God He created him male and female. He created them.” (Genesis 1, 27)*
- *“The best among you is he who is best to his wife” (Hadith)*
- *“It is a woman who is a friend and partner for life. It is woman who keeps the race going. How may we think low of her of whom are born the greatest. From a woman a woman is born: none may exist without a woman.” (Guru Granth Sahib, p. 473)*
- *“The world of humanity is possessed of two wings - the male and the female. So long as these two wings are not equivalent in strength the bird will not fly. Until womankind reaches the same degree as man, until she enjoys the same arena of activity, extraordinary attainment for humanity will not be realized” (‘Abdu’l-Bah á)*
- *“A comprehensive, holistic and effective approach to capacity-building should aim to engage influential leaders, such as traditional and religious leaders [...]” (Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18, para. 70)*
- VI. We pledge to **stand up for the rights of all persons belonging to minorities** within our respective areas of action and to defend their freedom of religion or belief as well as their right to participate equally and effectively in cultural, religious, social,

economic and public life, as recognized by international human rights law, as a minimum standard of solidarity among all believers.

- VII. We pledge to **publicly denounce all instances of advocacy of hatred that incites to violence, discrimination or hostility**, including those that lead to atrocity crimes. We bear a direct responsibility to denounce such advocacy, particularly when it is conducted in the name of religion or belief.
- *“Now this is the command: Do to the doer to make him do.” (Ancient Egyptian Middle Kingdom)*
 - *“Repay injury with justice and kindness with kindness.” (Confucius)*
 - *“What is hateful to you, don’t do to your friend.” (Talmud, Shabat, 31,a)*
 - *“Whatever words we utter should be chosen with care for people will hear them and be influenced by them for good or ill.” (Buddha)*
 - *“By self-control and by making dharma (right conduct) your main focus, treat others as you treat yourself.” (Mahābhārata)*
 - *“You shall not take vengeance or bear a grudge against your kinsfolk. Love your neighbor as yourself” (Leviticus 19:18)*
 - *“Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.” (Matthew 7:12)*
 - *“Ascribe not to any soul that which thou wouldst not have ascribed to thee, and say not that which thou doest not.” (Bahá’u’lláh)*
- VIII. We therefore pledge to establish, each within our respective spheres, policies and methodologies to **monitor interpretations, determinations or other religious views that manifestly conflict with universal human rights norms and standards**, regardless of whether they are pronounced by formal institutions or by self-appointed individuals. We intend to assume this responsibility in a disciplined objective manner only within our own respective areas of competence in an introspective manner, without judging the faith or beliefs of others.
- *“Do not judge, or you too will be judged. For in the same way you judge others, you will be judged, and with the measure you use, it will be measured to you.” (Bible, Matthew 7:1-2)*
 - *“Habituate your heart to mercy for the subjects and to affection and kindness for them... since they are of two kinds, either your brother in religion or one like you in creation...So, extend to them your forgiveness and pardon, in the same way as you would like Allah to extend His forgiveness and pardon to you”—(Letter from Caliph Ali to Malik Ashtar, Governor of Egypt)*
 - *“The essential purpose of the religion of God is to establish unity among mankind. The divine Manifestations were Founders of the means of fellowship and love. They did not come to create discord, strife and hatred in the world. The religion of God is the cause of love, but if it is made to be the source of enmity and bloodshed, surely its absence is preferable to its existence; for then it becomes satanic, detrimental and an obstacle to the human world.” (‘Abdu’l-Bahá)*
- IX. We also pledge to refrain from, advocate against and jointly **condemn any judgemental public determination by any actor who in the name of religion aims at disqualifying the religion or belief of another individual** or community in a manner that would expose them to violence in the name of religion or deprivation of their human rights.
- X. We pledge **not to give credence to exclusionary interpretations claiming religious grounds** in a manner that would instrumentalize religions, beliefs or their followers to incite hatred and violence, for example for electoral purposes or political gains.
- XI. We equally commit **not to oppress critical voices** and views on matters of religion or belief, however wrong or offensive they may be perceived, in the name of the

“sanctity” of the subject matter and we urge States that still have anti-blasphemy or anti-apostasy laws to repeal them, since such laws have a stifling impact on the enjoyment of freedom of thought, conscience, religion or belief as well as on healthy dialogue and debate about religious issues.

XII. We commit to further **refine the curriculums, teaching materials and textbooks** wherever some religious interpretations, or the way they are presented, may give rise to the perception of condoning violence or discrimination. In this context, we pledge to promote respect for pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction that is inconsistent with one’s conviction. We also commit to **defend the academic freedom and freedom of expression**, in line with Article 19 of the International Covenant on Civil and Political Rights, within the religious discourse in order to promote that religious thinking is capable of confronting new challenges as well as facilitating free and creative thinking. We commit to support efforts in the area of religious reforms in educational and institutional areas.

— *“The only possible basis for a sound morality is mutual tolerance and respect.” (A.J. Ayer)*

XIII. We pledge to build on experiences and lessons learned in **engaging with children and youth**, who are either victims of or vulnerable to incitement to violence in the name of religion, in order to design methodologies and adapted tools and narratives to enable religious communities to deal with this phenomenon effectively, with particular attention to the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion.

— *“Don’t let anyone look down on you because you are young, but set an example for the believers in speech, in conduct, in love, in faith and in purity.” (1 Timothy 4:12)*

XIV. We pledge to promote, within our respective spheres of influence, the imperative necessity of ensuring **respect in all humanitarian assistance activities** of the *Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes*,¹⁰ especially that aid is given regardless of the recipients’ creed and without adverse distinction of any kind and that aid will not be used to further a particular religious standpoint.

XV. We pledge **neither to coerce people nor to exploit persons in vulnerable situations** into converting from their religion or belief, while fully respecting everyone’s freedom to have, adopt or change a religion or belief and the right to manifest it through teaching, practice, worship and observance, either individually or in community with others and in public or private.

XVI. We commit to **leverage the spiritual and moral weight of religions and beliefs** with the aim of strengthening the protection of universal human rights and developing preventative strategies that we adapt to our local contexts, benefitting from the potential support of relevant United Nations entities.

— *“Love your neighbour as yourself. There is no commandment greater than these” (Mark 12, 31)*

— *“But love your enemies, do good to them and lend to them without expecting to get anything back. Then your reward will be great” (Luke 6, 35)*

— *“The God-conscious being is always unstained, like the sun, which gives its comfort and warmth to all. The God-conscious being looks upon all alike, like the wind, which blows equally upon the king and the poor beggar.” (Guru Granth Sahib p. 272)*

— *“The religion of God and His divine law are the most potent instruments and the surest of all means for the dawning of the light of unity amongst men. The progress of the world, the development of nations, the tranquility of peoples, and the peace of all who dwell on earth are among the principles and ordinances of God.” (Bahá’u’lláh)*

XVII. We commit to support each other at the implementation level of this declaration through **exchange of practices**, mutual capacity enhancement and regular activities of skills updating for religious and spiritual preachers, teachers and instructors, notably in

areas of communication, religious or belief minorities, inter-community mediation, conflict resolution, early detection of communal tensions and remedial techniques. In this vein, we shall explore means of developing sustained **partnerships with specialised academic institutions** so as to promote interdisciplinary research on specific questions related to faith and rights and to benefit from their outcomes that could feed into the programs and tools of our coalition on Faith for Rights.

- XVIII. We pledge to **use technological means more creatively and consistently** in order to disseminate this declaration and subsequent Faith for Rights messages to enhance cohesive societies enriched by diversity, including in the area of religions and beliefs. We will also consider means to produce empowering capacity-building and outreach tools and make them available in different languages for use at the local level.

Endnotes

- ¹ All quotations from religious or belief texts were offered by participants of the Beirut workshop in relation to their own religion or belief and are merely intended to be illustrative and non-exhaustive.
- ² OHCHR organized related international meetings, expert seminars and regional workshops, including in Geneva (October 2008), Vienna (February 2011), Nairobi (April 2011), Bangkok (July 2011), Santiago de Chile (October 2011), Rabat (October 2012), Geneva (February 2013), Amman (November 2013), Manama (2014), Tunis (October 2014 and April 2015), Nicosia (October 2015), Beirut (December 2015) and Amman (January 2017).
- ³ See UN Human Rights Committee, general comment no. 22 (1993), UN Doc. CCPR/C/21/Rev.1/Add.4, para. 2.
- ⁴ Article 29, paragraph 1, of the Universal Declaration of Human Rights (1948).
- ⁵ These include the Convention on the Prevention and Punishment of the Crime of Genocide (1948); Convention Relating to the Status of Refugees (1951); International Convention on the Elimination of All Forms of Racial Discrimination (1965); International Covenant on Civil and Political Rights (1966); International Covenant on Economic, Social and Cultural Rights (1966); Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Rights of the Child (1989); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); Convention on the Rights of Persons with Disabilities (2006); and International Convention for the Protection of All Persons from Enforced Disappearance (2006).
- ⁶ These include the Universal Declaration of Human Rights (1948); Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981); Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992); Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes (1994); UNESCO Declaration on Principles of Tolerance (1995); Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination (2001); Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools (2007); United Nations Declaration on the Rights of Indigenous Peoples (2007); The Hague Statement on “Faith in Human Rights” (2008); Camden Principles on Freedom of Expression and Equality (2009); Human Rights Council resolution 16/18 on Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence against, Persons Based on Religion or Belief (and Istanbul Process, 2011); Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (2012); Framework of Analysis for Atrocity Crimes (2014); Secretary-General’s Plan of Action to Prevent Violent Extremism (2015); as well as the Fez Declaration on preventing incitement to violence that could lead to atrocity crimes (2015).
- ⁷ Under certain circumstances, in particular when non-State actors exercise significant/effective control over territory and population (e.g. as de facto authorities), they are also obliged to respect international human rights as duty bearers (see UN Docs. CEDAW/C/GC/30, para. 16; A/HRC/28/66, paras. 54-55).
- ⁸ See UN Doc. A/HRC/22/17/Add.4, annex, appendix, para. 36.

⁹ See Article 18 of the International Covenant on Civil and Political Rights: “(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.”

¹⁰ See www.icrc.org/eng/assets/files/publications/icrc-002-1067.pdf.
