

RELIGION AND HUMAN RIGHTS

A RIGHTS & DEMOCRACY ROUNDTABLE REPORT



EMERGING HUMAN RIGHTS ISSUES



Droits et Démocratie
Rights & Democracy

Centre International des droits de la personne et du développement démocratique
International Centre for Human Rights and Democratic Development

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PREFACE

As part of our ongoing exploration of emerging human rights issues, Rights & Democracy is pleased to present this report on “Religion and Human Rights.” This is the fruit of a roundtable held in Ottawa on October 22, 2007 that brought together some thirty prominent international and Canadian experts to discuss a range of issues relating to the intersection of religious identities and creeds with the universal values enshrined in the Universal Declaration of Human Rights. The United Nations Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, was the keynote speaker.

The discussion focussed on the following four thematic clusters and key questions.

FREEDOM OF EXPRESSION AND /VS. FREEDOM OF RELIGION

Freedom of expression and freedom of religion or belief are two fundamental human rights that are often juxtaposed. For example, the controversy in February 2006 around the Danish cartoons highlighted—rather sharply—the conflict between free speech and religion. Can a balance be found between these two rights and based on what considerations? Can anti-blasphemy laws provide a framework? Should international law guide the debate? What can ethics and philosophy bring to the debate?

DISCRIMINATION AGAINST MINORITIES AND QUESTIONS OF PUBLIC ORDER AND CITIZENSHIP

Often the preservation of public order is cited as a reason for discriminatory practices against religious minorities; similarly, some states and communities insist that their cultural or religious “character” be preserved at the expense of religious freedoms. Questions of citizenship also come into play here, such as the basis upon which citizenship is defined in a given country. Citizens have rights as individuals and as groups, and they make claims onto the state as such. What mechanisms can states

use to deal with such claims? In Canada, the debate surrounding reasonable accommodation of different cultural and religious traditions demonstrates the ongoing need to deal with these questions from a human rights and public policy perspective.

EDUCATION, DIALOGUE AND THE PROMOTION OF TOLERANCE

How can education and interfaith dialogue promote a greater understanding of religions and build a tolerant society? What kinds of education should be promoted (for example, religious education and human rights education)? In this cluster, participants identified examples of best practices in human rights education and interfaith dialogue in an attempt to develop follow-up strategies, policy, and programming recommendations for government, faith communities and NGOs.

DEVELOPING POLICIES AT THE DOMESTIC AND INTERNATIONAL LEVELS

Where can concerns related to religion and human rights be presented and shared at the domestic and international levels? What is the most effective way of injecting Canada's particular experience in the international dialogue related to religion and human rights?

The report that follows is a summary of the discussion during the roundtable. Each section is followed by a series of recommendations and possible follow-up.

In organizing this roundtable, Rights & Democracy benefited from the guidance of an expert steering committee comprised of Lois Wilson, Gregory Baum and Suzanne Tamas, along with Razmik Panossian and Lloyd Lipsett from Rights & Democracy, and representatives from Foreign Affairs and International Trade Canada (DFAIT).

We also would like to acknowledge the invaluable contribution of Amélie Barras in researching and writing this report, as well as that of Augie Van Biljouw for her editing.

Finally, we would like to thank Foreign Affairs and International Trade Canada for their financial contribution to this project.

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INTRODUCTORY COMMENTS

The relationship between religion and human rights centres on the *interdependence* between the freedom of religion and the freedom of expression. The latter must be seen as an integral part of freedom of religion—i.e. to be free to hold beliefs and to be free to speak about them. Following this line of thought, defamation laws are counter-productive as they can divide religious communities and persecute those who are critical of the vision promoted by others. The right to freedom of religion also implies the right to change one's religion or to reject religious belief altogether. For example, some states force religion on a community without protecting the rights of non-believers.

Citizenship—and how it is defined—also comes into play when we speak of the right to freedom of religion. For example, the Constitution of the Maldives, which stipulates that one cannot be a citizen of the country if one is not a Muslim, underlines the limits that continue to exist in 2007 on the right to freedom of religion or belief. Great emphasis has been placed on access to education to promote the right to freedom of religion. However, the quality and content of education are essential, as many government schools continue to teach intolerance to children. Here, UNESCO could play an incremental role in ensuring that education imparts values of tolerance.

Legal solutions may not always be sufficient in addressing issues related to religious freedom. In Sri Lanka, for example, the government considered passing a law condemning inducement to convert to a religion. Yet, inducement is an integral part of religion; it is, therefore, very delicate for the law to decide when inducement is or is not exaggerated. In dealing with these grey areas, the law may create more division and debate, rather than bring about a definite solution. Moreover, questions related to inducement can be of particular concern during a humanitarian crisis when faith-based groups often combine humanitarian and missionary work. In these instances,

participants strongly encouraged the development of clear international guidelines regulating humanitarian work.

The fight against religious intolerance is not only a government concern, but also a concern of non-state actors. The role of governments is to ensure that one religious group is not favoured over another, while non-state actors, particularly human rights groups, need to alert governments to peoples' concerns, advise them in their action, and most importantly ensure they do not overstep from the public into the private sphere. Governments must engage civil society and faith-based groups, and the latter must work with governments on these issues.

Finally, since September 11, questions of Islamophobia, and persecutions of Muslims have been central. Yet, many non-Muslims, in countries such as Pakistan, are also persecuted on a daily basis for their religious beliefs or their non-religious beliefs. Discussions about Islamophobia and related issues must also include the voices of moderate or mainstream Muslims. Governments in many western countries tend to focus on fundamentalist Muslims and exclude other more moderate interlocutors. In an effort to avoid increased tensions, governments should engage regularly with more moderate voices in the dialogue.

CLUSTER I

FREEDOM OF RELIGION OR BELIEF AND/VS. FREEDOM OF EXPRESSION

The February 2006 controversy around the Danish cartoons highlights the ongoing conflict between free speech and freedom of religion. In this cluster, discussion focused on how best to ensure equilibrium between these two rights.

Freedom of Religion or Belief and Freedom of Expression: Two Complementary Rights

The right to freedom of religion or belief and the right to freedom of expression are often presented in opposition to each other. Yet, in the preamble of the Universal Declaration of Human Rights (UDHR), they are interrelated:

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Approaching these two rights as complementary rather than separate should enable more appropriate solutions and a greater understanding of the tensions surrounding these rights.

Legal Framework

The right to freedom of religion or belief is enshrined in Article 18 of the UDHR, elaborated further in Article 18 of the International Covenant on

Civil and Political Rights (ICCPR), and in the Human Rights Committee General Comment 22. The exercise of religious belief is contingent upon the exercise of freedom of expression, as one needs to be free to express his or her religious opinions, and be exposed to new ideas. The right to freedom of expression is protected by Article 19 of the UDHR and of the ICCPR. Paragraph 3 of Article 19 also suggests that the exercise of this right carries duties and responsibilities:

It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Defining Defamation

Over the last decade, one of the greatest tensions between these two rights lies in defining the term *defamation*. Dictionary definitions may vary, but they always refer to the falsehood of allegations and to the deliberate misrepresentation of something or someone. Thus, defamation does not refer here to a misunderstanding, but rather to a deliberate falsehood. The intent to defame must also be considered in this definition-seeking exercise. However, when it comes to religious beliefs, which are subjective and left to interpretation, it is difficult to distinguish between falsehood, truth, conscious motivation and criticism.

Defamation of religion can comprise different meanings in different countries. In Saudi Arabia, criticism against the monarchy is considered to be defamation of religion. Often, there are divisions within a single country on what constitutes defamation. In Canada, different communities have viewed the television programme *Little Mosque on the Prairie* differently. Non-Muslim Canadians enjoyed the programme and thought they were learning about Islam. Muslim Canadians welcomed the programme because it depicted reality in a satirical form. Some new Canadians, on the other hand, thought it was offensive. Participants noted that the lack of a universal definition of defamation is in fact at the root of these deep misunderstandings.

Is Defamation of Religion a Human Rights Violation?

Is there a real purpose in trying to define defamation? Is defamation of religion a human rights concern? Under international human rights law, defamation is only considered to be a human rights concern when it violates

individual and in some instances communities' rights. However, religions *per se* are not considered to be legal entities (they are a set of beliefs); and consequently, the right to freedom of religion does not mean that there is right for the religion not to be criticised. As mentioned above, some restrictions in the law might be provided through Article 19 of the ICCPR on freedom of expression, but what is and what is not restricted is left to interpretation. Although criticizing a religion is not considered to be a human rights violation, this does not mean that it should be ignored. Indeed, public acceptance of defamatory statements about a religion and its adherents can lead to discriminatory stereotypes and a dangerous denial of a range of individual rights.

Is the Law a Remedy?

Can defamation laws provide a remedy? Defamation laws have become an interesting way of defining what defamation might be. However, since there is no clear definition of defamation, it has often been defined to favour governments' opinions and criminalize critics, thereby discouraging academic inquiry and any expressions of concern against religious practices even when they violate human rights. Consequently, religious defamation laws require governments to arbitrate truth, and often to choose and interpret religious orthodoxies, which go well beyond their responsibilities. Although defamation laws may not be the solution, remedies can be found in existing international human rights laws and mechanisms, such as the International Criminal Court in extreme cases when religious hatred and violence lead to genocidal behaviour or crimes against humanity.

Examples of Jurisprudence

To better understand how different legal systems have handled these issues and challenges, the following examples of jurisprudence were discussed:

- In Europe most blasphemy laws have been abolished, and those that remain are very weak. For instance, Britain still has a blasphemy law for Christianity, but it focuses not on what is said but rather on the manner of the attacks. If the Danish cartoons had addressed Christianity, they would not have fallen under the jurisdiction of this law. In this vein, the falsehood approach would run counter to the actual European trend.
- Britain also recently introduced new legislation addressing defamation. An incitement to religious hatred offence was passed into law in 2006

under the Racial and Religious Hatred Act¹ and has yet to be brought into force. This Act produced a very vigorous debate on free speech. As a result, the law includes a very specific amendment that protects the right to criticize a religion in general, distinguishing between inciting hatred towards individuals and inciting hatred towards religions.

- Article 9 of the European Convention on Human Rights (ECHR) protects the freedom of religion and belief and Article 10 protects the freedom of expression. The question on how to balance these two rights came before the European Human Rights Court in 1994 with the blasphemy case entitled *Otto Reminder Institute vs. Austria*.² The court held that limits could be placed on the freedom of expression to protect believers from offenders. However, it explicitly stressed that there was no right for religion in general not to be criticized or offended.
- Afghanistan is an interesting case as its law contains provisions to respect both the Shari'a and human rights international law. Article 1 of the Afghan Constitution³ stipulates that all legislation be based on the Shari'a; however, a sentence in Article 7 emphasizes that all legislation must be defined in accordance with international human rights law. This contradiction has been at the source of many practical problems, especially for local civil society activists who defend women's rights and freedom of expression.

Although the law remains a positive instrument in dealing with religious issues, it has some difficulty adapting to pluralism. Therefore, efforts in the legal field must be coupled with work in other areas (such as theology and civil society) to develop an inclusive social ethic reflecting societal pluralism.

Looking Outside the Legal Framework

The Role of Universities as Sanctuary for Unconventional or even Blasphemous Ideas

Free speech and religious freedom have been central values in Canadian universities. Indeed, universities are responsible for training citizens about civic engagement. Yet, this needs to be done at a level where students do not feel that they are being offended because their personal beliefs are criticised

1 For a complete reading of the British Racial and Religious Hatred Act, see: www.opsi.gov.uk/acts/acts2006/ukpga_20060001_en_1.

2 For the ECHR judgement, see: cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=4703219&skin=hudoc-en&action=request.

3 For the Afghan Constitution, see: www.afghan-web.com/politics/current_constitution.html.

or questioned as the university's institutional values of freedom of speech are upheld. This equilibrium is important. In dealing with hurtful speech, universities encourage a plethora of speech to play a cathartic role. Not only do students have multiple and cross-cutting identities, but some have also only been living in Canada for a few years and have, therefore, a very different sense of civic engagement and free speech than students who have been in Canada longer. Universities need to address this diversity in their policies. Participants suggested that universities explore the ways in which their objective of training students about civic engagement could be linked with the work of other actors in society, such as human rights and faith groups, adopting an inclusive approach that extends outside the academic community.⁴

The Importance of Theological Work

Participants noted that religions themselves have a long tradition of defamation. All religions have made defamatory statements against outsiders and heretics. Although this has recently begun to change—for instance the Catholic Church has modified its attitude toward other world religions, a lot of theological work remains to be done. Religious individuals must be active in their own community to raise awareness of these issues, and when possible re-interpret sacred sources to be more open to pluralism. Participants recognized that such a task is extremely difficult, particularly in those countries or communities where such work is considered to be defamatory. Often there is strong community pressure not to speak of “internal” problems in the wider public.

One participant shared a concrete example of a Canadian event where a Muslim, a Christian and a Jew discussed elements in each of their scriptures that could lead to defamation of other sets of beliefs or believers. The participant noted that the response to the meeting was overwhelming and that interestingly not only theologians or academics attended, but also a wide variety of the general public. One of the conclusions reached at this meeting was the need to share and openly discuss the controversial elements in one tradition in the presence of another, and how this can lead to greater respect for other traditions.

4 One example is the Toronto School of Theology, at University of Toronto, which has been sponsoring Religion and Public Policy Forums for the past few years. Graduate students from various faiths give presentations on various public issues, informed by their faith stance, and dialogue with law and political science students.

Recommendations and Follow-up

1. Acknowledge the difficulty, at the conceptual level, of defining religious defamation. The threshold of what is considered to be religious defamation can vary greatly between individuals. Rather than attempting to define the term, we should seek to analyze those cases where religious defamation leads to human rights violations, and elaborate on how to provide redress and remedy to these violations.
2. Explore further the coupling of legal solutions with other efforts (such as theological work and education). Although a positive mechanism, the law is not always the most appropriate tool to reflect pluralism and to deal with the subjectivity of religion.
3. Encourage greater theological work, which underscores an existing tradition of defamation of other religions and promotes a re-interpretation of sources to be more open to pluralism.
4. Explore the possibility of organizing public events across Canada and internationally with representatives of different faiths speaking about the challenges of their faith to a wide and diverse public.

CLUSTER 2

DISCRIMINATION AGAINST MINORITIES AND QUESTIONS OF PUBLIC ORDER AND CITIZENSHIP

Why do we consider religion and human rights to be an emerging issue today? This is perhaps because the thesis of secularization promoted in the last century has blinded academics and policy makers to the problematic of religion, which came back into force with 9/11. The same thesis has led many states even those that emphasize multiculturalism to believe that claims made by immigrants are based on culture or tradition, but not religion. Consequently, new questions arise: How do we deal with the emergence of religion in the public sphere? How do we create an inclusive notion of citizenship that reflects societal pluralism? How do we remedy blatant discrimination based on religious belief?

Re-considering Citizenship

Questions related to citizenship are central to understanding and dealing with religion today. The notion of citizenship asserts that every citizen has equal rights and duties, regardless of his or her religion, race, culture. However, in this post 9/11 era, citizenship even in Canada has begun to be segmented, as governments profile certain people, many of Muslim origin. Thus, some citizens are treated as lesser citizens, which runs counter to the notion of citizenship. This treatment leads people to question the value of their citizenship, which is supposed to protect them against discrimination.

The distinction between minority and majority is itself structurally problematic. Indeed, even though it represents a demographic reality, it is often overemphasized in our discourse. This discursive construction allows the majority to develop a hegemonic posture, while the minority develops a subaltern and victim position. Concretely, this can impede the process of learning about engagement, since one group believes it has everything (and thus nothing to learn), and the other believes nothing is possible. Discussion and engagement are only possible when civic relations that stress equality are established. Serious work must be done to re-define and promote an inclusive notion of citizenship that combines a negative right protecting citizens' rights with a positive right prompting a responsibility to engage with society. This responsibility must also be seen as an opportunity to contribute and belong to a larger community sharing an overarching identity.

Religious Identity

A Forgotten or Overemphasized Identity: Finding the Right Balance

The West tends to give greater importance to ethnic or cultural identity than to religious identity. For instance, the Kosovo war was often portrayed as an ethnic conflict, while it was mostly a religious one. Thus, there is a pressing need to give to religious identity the same importance given to other identities. We should be wary of falling into the other extreme and focusing only on religious identity. Indeed, in some cases, governments define citizenship in correlation to religion. For instance, in India, being a good citizen is synonymous with being a good Hindu and in Sri Lanka with being a good Buddhist. This narrow definition of citizenship can lead to serious rights violations, particularly social and political rights. Participants recommended governments encourage activities—such as artistic and theatrical activities—that promote multicultural identities.

Multi-faith Identity

Today, some people assume multi-faith identities, which means that they can be at once Christian and Muslim. Some people may carry a religious identity at home, and a more secular one outside. For instance, many young Canadian Muslims have dual identities, where they are Miriam at home and Mary outside—i.e. using both “Muslim” name (at home) and a “Christian” name. In the same vein, another trend relates to individuals who consider themselves to be spiritual, but not religious.

In this context, the question of how to define religious identity becomes central. In particular cases of religious discrimination, it is the responsibility of the plaintiff to clearly indicate his or her religion to the judge, and not the judge to arbitrate on his or her belief. The judge should evaluate whether there has been discrimination and whether the right to freedom of religion has been violated.

Mechanisms to Regulate Religious Concerns and Re-establish Equality

Accommodation

In the last couple of years, there have been many debates across Canada on the principle of accommodation to deal with religious concerns in the public sphere. One participant referred to the example of the Calgary newspapers that reproduced the Danish cartoons. Muslim groups filed criminal charges against these newspapers for inciting hatred. They also filed a complaint with the Alberta Human Rights Commission. Although the chief prosecutor decided that the criminal charges were unfounded, the Alberta Human Rights Commission organized a non-formal mediation process. As a result, the editor of one of the newspapers agreed to publish an op-ed written by Muslims indicating why they had been outraged by this publication. Building on this example, it is important to have and make accessible different types of mechanisms for redress and to ensure dialogue between the two parties in conflict, which entails giving a voice to the offended party.

Reasonable Accommodation in Quebec

Most of the concerns surrounding reasonable accommodation in Quebec have been related to school children and types of behaviours that should and should not be accommodated. Other areas where accommodations are made (such as the workplace) have been raising fewer concerns. Participants noted that reasonable accommodation of a norm, in its legal definition, is a right recognized for an individual victim of discrimination that cannot be claimed by a community. Moreover, this right implies the need for negotiation. In other words, the person requesting accommodation is obliged to help the judge find a solution.

With reference to the Consultation Commission on Accommodation Practices Related to Cultural Differences (Bouchard-Taylor Commission) established by Quebec Prime Minister Jean Charest in 2007 to address religious

accommodation, participants suggested that a coalition of human rights organizations and faith groups be created to work on and publicly intervene in the debates around reasonable accommodation. Some participants were wary of giving too much importance to this Commission, which is only one of many initiatives working on issues related to reasonable accommodation. The Quebec Commission des droits de la personne et des droits de la jeunesse (CDPDJ)⁵ was cited here as a body that has a clear mandate to work on Quebec's bill of rights and that has been conducting regular studies on reasonable accommodation.

Secularism/Laïcité

A state based on secular principles can regulate the relationship between religion and the state. But there are many forms of secularism or *laïcité*. For instance, French *laïcité* differs from the US model of secularism in that it manages pluralism by trying to erase all particularities from the public sphere. Individuals are thus all equal citizens with no particular affiliations with regards to religion or race. In the US, freedom of religion is at the centre of their vision of secularism. Religious freedom is protected by the first amendment of the US Constitution, and thus the protection of the individual's belief vis-à-vis the state is central. State neutrality is a prerequisite, but this does not imply the neutrality of the public sphere as in the French case. Rather, the state is required not to favour one religion over another. We are faced here with two very different models of managing religious pluralism: one favours the community of citizens, whereas the other is centred over the right of the individual.

Despite these differences, some participants see the potential for *laïcité* or secularism as a legal framework for different multicultural contexts to not only protect religious freedom but to also encourage religious pluralism and equality. However, for others, *laïcité* ought not to be analyzed legally, but rather as a political ideology.

As these terms have sparked much debate, it seems crucial to first put them back into their geographical and political contexts and to then seek to provide the clearest definition possible.

5 For further information, see: www.cdpcj.qc.ca/fr/accueil.asp?noeud1=0&noeud2=0&cle=0.

Balancing Rights

Another issue to be further explored is that of defining the boundaries of rights and balancing them. For instance, in religious canon law, there are rulings and legal frameworks that run counter to national and international legislations, such as the Canadian Charter of Rights and Freedoms or the ICCPR. In discussing the balancing of these rights, we must avoid creating a hierarchy of fundamental rights. For instance, freedom of religion should not be perceived to be in opposition to women's rights. Rather, a common ground must be found between these rights.

Dialogue with the Media

The media often play a consequential role in creating stereotypes, which leads to discrimination. One of the problems lies with editors unfamiliar with religious principles and sensibilities, and therefore unaware that their behaviour is offensive. Participants expressed concerns that government-controlled press deliberately stigmatize specific minorities, leading to widespread public discrimination against those groups. Participants proposed establishing a code of ethics for the media as a possible solution to prevent unnecessary hurtful situations. Participants also noted that the media are not a homogenous category and similarly to religious communities are quite diverse. They suggested members of the media be invited to subsequent roundtables to include their perspective in the discussion and debates.

Recommendations and Follow-up

1. Adapt the notion of citizenship to our multicultural era, without segmenting citizenship. Citizenship comes not only with rights but also with obligations, which can be the source of meaningful civic engagement.
2. Develop policies acknowledging religious identity as a legitimate expression of one's self, at par with other identities.
3. Make available and accessible mechanisms to give voice and if need be seek redress when a community or individual's rights have been violated. Encourage access to mechanisms such as human rights commissions that explore solutions outside formal legal procedures.
4. Evaluate the need for further conceptual research to clarify and define concepts such as reasonable accommodation and secularism, especially in the Canadian context.
5. Explore the idea of creating a coalition of faith-based and human rights groups to contribute to the ongoing debates, particularly in Quebec, on reasonable accommodation.

CLUSTER 3

EDUCATION, DIALOGUE AND THE PROMOTION OF TOLERANCE

Cluster 3 focused on best practices in human rights education and interfaith dialogue to develop policy and programming recommendations for governments, faith communities and NGOs that move beyond tolerance and towards concrete engagement.

Formal and Non-formal Education

Participants highlighted the importance of distinguishing between different forms of religious education. Three main forms of religious education were identified: (i) *learning religion*, which refers to a member of a faith community learning about his or her religion, (ii) *learning about religion*, which translates into the work done by an anthropologist or a sociologist examining religion from an academic standpoint, and (iii) *learning from religion*, which implies an analysis of different faiths, drawing from them the moral precepts that could be applied in our daily lives. Learning from religion was identified as the area that needed the furthest exploration.

International Framework for Religious and Human Rights Education

The Madrid Document⁶ of the Madrid Consultative Conference on School Education in relation with Freedom of Religion and Belief, Tolerance and Non-discrimination, held in 2001, provides a very useful framework for the

6 For the final document, see www.hri.ca/children/education/madridDec.htm.

education of religious freedom and non-discrimination. Yet, there has not been a coordinated effort, at least in Canada, to build on the recommendations laid out in this document, nor to report those practices to the UN. This document has become even more relevant in today's political context and should be used to help develop religious education policies. Similarly, the UN World Program for Education⁷ encourages states to develop a human rights curriculum in school. Participants expressed an interest in exploring whether Canada has been involved in such initiatives to systematically implement human rights education nationally.

Religious and Interfaith Education in Schools

Religious education, particularly as it relates to education in schools, has been at the source of many debates. This is in part because, in the West, religion is often perceived as belonging to the private sphere rather than the public one. This need to exclude religion from the public sphere raises many questions about how to engage with religious and interfaith education.

Examples of Religious Education in Public Schools

Participants examined the Netherlands model of religious education, which allows all faiths to conduct religious classes in state schools at the end of the school day. These courses are optional and are under the supervision of the board of education. One concern raised by participants relates to the interpretation of religion taught in these classes.

The current reforms in Quebec's education programme are also noteworthy. In 1999, Quebec adopted a law to deconfessionalize schools, and has, since then, been developing a new curriculum entitled *Éthique et culture religieuse* (ethics and religious culture). This programme for primary and secondary schools aims to teach students to live in a pluralistic society. Although strict secularists or conservative Christians may criticize this programme, it offers a very interesting inclusive curriculum, which if successful could be exported elsewhere.

7 For more information on the program, see: www.ohchr.org/english/issues/education/training/programme.htm.

Can Civil Society Play a Role?

Civil society has a role to play in education, particularly as a mediator in interfaith education. The Canadian Civil Liberties Association⁸ regularly visits high schools (in the Toronto area) to discuss various issues related to religion by presenting concrete case studies where freedoms collide and asking students what they would do in these cases. For example, one of the cases presented was about the freedom of Sikhs to wear a kirpan at school. This case study exercise allowed students to familiarize themselves with different beliefs and to reflect on the complexity of these cases.

It should also be emphasized that religious organizations and faith-based groups, as integral parts of civil society, often play an important role in anti-discrimination activities, in human rights promotion and protection, not to mention the charitable work with new immigrants and the defence of refugees. This positive element of religion, as a motivation to resist human rights violations, is frequently forgotten.

Challenges of Interfaith Education

Participants discussed the difficulty in reaching out to conservative branches of religion and convincing them of the value added of interfaith and human rights education. Conservative Evangelical Christians, who often have independent schools or even home school their children, believe that it is not the state's responsibility to educate children, but rather the responsibility of the parents. They also perceive education about other religions as indoctrination. One participant noted that the freedom of parents to educate their children according to their own religious or philosophical beliefs is a human right. Indeed, the ICCPR recognizes that parents have a right to educate their children in conformity with their religious beliefs, as does Article 6 of the Declaration on the Elimination of Religious Discrimination, and Article 2 of the first Protocol to the ECHR. Therefore, if a state wishes to restrict religious education, it must clearly demonstrate why these restrictions would be in the best interest of society.

8 For further information on this organization, see: www.ccla.org/.

Interfaith Dialogue

Rules of Engagement

With reference to inter-religious dialogue, participants recognized that the process of defining the rules of engagement was ongoing and stressed the importance of distinguishing between *rules of politeness* (based on the idea not to offend) and *rules of courtesy* (based on the desire to engage openly with others). Participants emphasized the need to develop a dialogue based on rules of courtesy and actively engaging with others, thus setting the bar higher than tolerant politeness, which smacks of indifference.

Interfaith Dialogue in Canada

Since September 11, 2001, the need for interfaith dialogue has been increasingly recognised by all sectors of society: school boards, the police force, and the army. Participants referred to many positive initiatives, such as the United Church of Canada engaging with the Jewish community in the review of traditional antagonisms,⁹ and working within the Christian community on understanding and reconciling these. Similar work has been done with the Muslim community.¹⁰

In Canada, for the last couple of years, Christian churches have been the most open to interfaith dialogue. Yet, religious communities are still reluctant to engage in what they see as a type of proselytizing activity. The boundaries between “teaching,” “dialogue” and “proselytizing” are not always clear. However, participants noted the usefulness and necessity of such information-sharing exercise. For instance, Jewish and Muslim communities have appeared together before the Canadian Senate and House of Commons Committees to discuss legislation that affects both their faith communities. One area that requires more progress is the development of concrete community-based activities that go beyond interfaith dialogue within and between religious communities.

9 “Bearing Faithful Witness: Statement on United Church-Jewish Relations Today” (2003).

10 “That We Might Know Each Other: Statement on United Church-Muslim Relations Today” (2006).

The Role of Governments in Education and Interfaith Dialogue

The role of governments in framing and initiating dialogue between different sectors of society is particularly important. Participants highlighted the launch of the New Zealand Diversity Statement¹¹ in February 2007 as an interesting example. To address the growing number of diverse religions, the New Zealand government (as part of an ASEAN initiative) tasked a reference group of faith communities and human rights representatives to sketch the first draft of a diversity statement, which was released for public consultation in the fall of 2006. Interfaith forums were then organized by local governments and interfaith councils throughout New Zealand, creating some spaces for wide public engagement on issues related to religion and pluralism.

Faith communities and civil society play an important role in engaging governments and advising them in their policymaking. And governments must seek the input of civil society and faith-based groups in their policymaking. These groups should evaluate the impact they can have on policy makers. For instance, it is often the liberal strains of religions that present themselves to the Canadian House of Commons or Senate Committees, and policy makers presume they speak for their entire community; however, this is far from being the case since they represent only one group in their community. It is therefore important to sensitize policy makers to the diversity of communities and the complexity of the issues tackled.

Dialogue between Liberals?

A final challenge lies in the fact that interfaith dialogues tend to be conversations between liberals. How can more extreme views be included? Can they be included? Do they wish to be included? These are difficult questions which must be thought through.

A Human Rights Approach

A human rights approach may help overcome some of the limitations of interfaith dialogue and religious education. Rather than viewing human rights through different identities, human rights become the framework through which different contexts are analyzed.

11 For more information and the final Statement, see: www.hrc.co.nz/hrc_new/hrc/cms/files/documents/25-May-2007_08-24-50_NSRD_booklet.pdf.

Equitas (International Centre for Human Rights Education),¹² based in Montréal, Canada, conducts education programmes along these lines, such as its three-week training programme in international human rights, which brings together 130 human rights educators from 60 different countries. One of the themes explored relates to the universality of human rights versus cultural particularities. Their approach recognizes that within every culture and religion there are values that coincide with human rights, and that these can be areas of common ground for dialogue. Since 2004, Equitas has developed another programme introducing human rights in summer camps, which began in the Montréal region and then expanded to Vancouver, Winnipeg, Toronto and New Brunswick. A tool kit, entitled *Play it Right*, is used in camps to teach children human rights, non-discrimination and peaceful conflict resolution. Since the introduction of this programme, the camps have noticed a dramatic decrease in the level of conflict between children and in the number of exclusions in playgroups.

Recommendations and Follow-up

1. Promote and use the recommendations of the Madrid Document and the UN World Program for Education to guide Canadian provincial and federal policies related to education and religious freedom.
2. Catalogue all programmes in Canada related to religious and human rights education at the primary, secondary and post-secondary school levels to develop a list of best practices that can be shared nationally and internationally.
3. Seek ways to promote interfaith and human rights education to more conservative branches of religion.
4. Encourage and mainstream interfaith dialogue and interfaith community service activities throughout society, while stressing that these are sharing of information exercises.
5. Further investigate whether and how to include non-liberals in dialogue.
6. Explore and support a human rights approach to human rights education, as a way to overcome some of the challenges of interfaith dialogue and religious education.

12 For more information on Equitas, visit: www.equitas.org/index_en.php.

CLUSTER 4

DEVELOPING POLICIES AT DOMESTIC AND INTERNATIONAL LEVELS

The final cluster discussions focused on identifying concrete policy recommendations at the national and international levels related to religion and human rights issues.

International Sphere

The UN Human Rights Council

In terms of multilateral institutions, the new Human Rights Council was identified as the principal international forum for discussions on human rights and religion between all stakeholders. The parallel event planned by Rights & Democracy in the autumn of 2008 (or early 2009) at an appropriate Human Rights Council session to outline the results of this roundtable is a great opportunity to feed into this dialogue. Participants noted the significant contributions made by civil society to the international dialogue and encouraged civil society to promote a dialogue of plurality among their networks in Geneva, and also bilaterally, with members of the Human Rights Council in national capitals. Participants noted the importance of engaging religious communities in these international discussions to ensure recommendations relating to human rights and religion reflect the complexity of religious communities and are credible within these communities.

The Human Rights Council has established a Universal Periodic Review (UPR) for UN member states. Canada's review is scheduled for February

2009. The UPR was underlined as an important mechanism for civil society and states to provide their input, particularly on issues related to religion and human rights in Canada and in other countries. Civil society will have the opportunity to provide human rights information on each of the countries under review. The Office of the High Commissioner for Human Rights (OHCHR) will summarize this information into a 10-page report.¹³ Moreover, country reviews will be conducted by Member States of the Council, who will also be able to raise issues of concern and make recommendations. Participants agreed this new mechanism is an opportunity to present the discussions, policies and experiences of Canada to the international community. Participants suggested that Canada explore the possibility of developing a global dialogue around the Canadian Charter of Rights and Freedoms, examining the way in which freedom of religion fits into the Charter and how it is balanced with other rights.

60th Anniversary of the UDHR

Participants underscored the 60th anniversary of the UDHR and its commemorations as opportunities to draw attention both at the national level and international level to key human rights concerns and recommendations, particularly in relation to religion and human rights.

Canadian International Development Agency (CIDA) and Department of Foreign Affairs and International Trade (DFAIT)

Civil society was encouraged to maintain good relations with CIDA's country desks in order to present their concerns and provide them with policy recommendations at the international level. Similarly, working relationships should be developed with the DFAIT Muslim Communities Working Group. This Working Group was created in reaction to a Foreign Affairs Standing Committee report underlining the need for the government to have a greater engagement in and knowledge of the Muslim world. Its principal aims are to increase capacity within Foreign Affairs, activities in the Muslim world, and partnerships with Muslim communities abroad.

13 The Universal Periodic Review will be based on three reports: a 20-page report by the state under review, a 10-page compilation of Treaty Bodies, Special Procedures, and other UN recommendations by the Office of the High Commissioner for Human Rights (OHCHR), and a 10-page OHCHR summary of other stakeholders' information. For more details, see: www2.ohchr.org/english/bodies/hrcouncil/upr/noteNGO_041007.htm.

Missions of Politicians

Finally, both the government and civil society should support missions of Canadian politicians to critical countries to sensitize decision makers to important challenges and concerns, as well as to enable them to report on the situation in a particular country from their own perspective and understanding of the situation.

Domestic Sphere

Treaty Body Reporting

At the domestic level, participants emphasized the importance of Canada's Treaty Body reporting obligations as well as civil society contributions to this process. Canada is signatory to the six UN core human rights treaties, including the ICCPR and its Optional Protocol, which enables individuals to make direct complaints to the Human Rights Committee when they have exhausted all national remedies. Heritage Canada is the ministry responsible for reporting on the implementation of these treaties to the UN. Participants encouraged civil society and religious communities to engage and support the government in this implementation process.

Currently, the Continuing Committee of Officials on Human Rights coordinates and discusses the implementation of these international human rights treaties and obligations at both the federal and provincial levels. However, the work of this body must be more transparent and open to civil society, enabling all stakeholders to provide recommendations on reporting. Indeed, Canada could explore new ways of reporting that emphasize the intersection of religious rights and other rights (such as women's rights) that cut across different human rights treaties. In its reports, it could also present the challenges Canada is grappling with to establish recommendations and share experiences with others in the international community.

Regularize Consultations

Everyone agreed with the need to regularize consultations with civil society, religious and policy actors. Participants recommended that this exercise be open to a variety of religious groups in order to represent the diversity of religious communities as well as to First Nations Peoples, the media, and members of the Canadian Chaplaincy. Moreover, it was suggested that the Special Rapporteur on Freedom of Religion or Belief be involved to

include emerging human rights issues in these discussions and to provide her with relevant and sensitive feedback. Participants also recommended consultations be institutionalized between the government and religious communities, in particular with communities which have been traditionally excluded from such initiatives. They also noted a need to mainstream these consultations to include not only leaders but also other members of the community in the discussions.

Promoting Canadian Best Practices in Policy

Education

Participants recommended building on the added value of Canada's unique university system, where plural civic engagement is an integral part of the curriculum and learning outcomes. They also encouraged the development of a coordinated foreign policy emphasizing the uniqueness of Canada's post-secondary education system.

Diaspora

Canada has multiple diasporas from which many lessons can be learned on intra- and inter-community relationships and managing religious differences. Participants suggested that these lessons and best practices be collected and made available to other countries struggling with similar concerns.

Trade Missions

Canadians who undertake trade missions abroad promote a positive image of Canada as an open and plural country. This influence should not be neglected. DFAIT was strongly encouraged to integrate in pre-departure briefings concerns related to religious persecutions or other human rights issues in a given country.

Recommendations and Follow-up

1. Hold a parallel event, organized by Rights & Democracy, at an appropriate subsequent session of the Human Rights Council, to present the outputs of this roundtable and feed them into the international dialogue on religion and human rights.
2. Support and engage with the UN Universal Periodic Review to express concerns related to religion and human rights in Canada and in other countries, as well as to raise awareness of Canada's particular experience with these issues.
3. Seek opportunities to organize activities around the 60th Anniversary of the UDHR to raise awareness of issues related to human rights and religion.
4. Promote missions of Canadian politicians to critical countries to sensitize policy makers and obtain their perspectives on critical situations related to human rights and religion.
5. Encourage Canada to be more transparent in its treaty body reporting and implementation of recommendations at both the federal and provincial levels. Explore the possibility of having an effective coordinating body, which could propose innovative ways of reporting.
6. Regularize in Canada inclusive consultations, such as this roundtable, which bring together civil society and religious actors, parliamentarians, media, government officials and policy makers, as well as the UN Special Rapporteur.
7. Mainstream and regularize consultations between the Canadian government and religious communities.
8. Develop a coordinated foreign policy with respect to education emphasizing the added value and uniqueness of Canada's post secondary education, which promotes plural civic engagement.
9. Collect lessons and best practices from Canada's diasporas, particularly in managing religious differences, and make these available to countries struggling with similar challenges.
10. Build on the positive impact Canadian trade missions can have on Canada's image abroad, and include concerns related to religion and human rights in particular countries in pre-departure briefings.

CONCLUSION

The intersection of religion and human rights is a complex dynamic. Much nuance and tact are required in dealing with it. Questions of identity politics, human rights law, education and dialogue, as well as citizenship, all come into play. The issue is not to contrast rights; however, there is a balancing act that individuals, academics, human rights organizations, civil society groups, policy makers, governments and international institutions have to play. The ultimate concern is how to maintain, and indeed reinforce, the freedom of religion in a manner that is consistent with all other rights, with individual dignity and a democratic society.

The expert participants from government, civil society and faith communities all shared a constructive approach to these important issues, as is evidenced through the detailed and practical recommendations that accompany each thematic cluster. We hope that the participants will take up these recommendations with their constituencies, networks and communities.

Rights & Democracy is pleased to have participated in these discussions and looks forward to continuing our engagement on these issues with our partners.

APPENDIX

LIST OF ROUNDTABLE PARTICIPANTS

BAHA ABU-LABAN, Professor Emeritus, University of Alberta; Board Member,
Rights & Democracy

RAYNELL ANDREYCHUK, Senator and Chair, Senate Human Rights Committee

AMÉLIE BARRAS, Consultant, Rights & Democracy; London School of Economics

SALAH BASALAMAH, Adjunct Professor, University of Ottawa

GREGORY BAUM, Professor of Theological Ethics, Faculty of Religious Studies, McGill University;
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RICHARD CHAMBERS, Director, Multifaith Centre for Spiritual Study and Practice, University of
Toronto

JAMES T. CHRISTIE, Dean and Professor, Faculty of Theology, University of Winnipeg; Canadian
Council of Churches

PAULINE CÔTÉ, professeure titulaire et directrice, Département de science politique, Université
Laval

GAÉTAN COUSINEAU, président, Commission des droits de la personne et des droits de la
jeunesse du Québec

ADÈLE DION, Director General, Human Security and Human Rights Bureau, DFAIT

ELISABETH EID, Director General and Senior General Counsel, Human Rights Law Section,
Justice Canada

JANET EPP-BUCKINGHAM, Trinity Western University; Director, Law and Public Policy and
General Legal Counsel for the Evangelical Fellowship of Canada (EFC)

KAREN HAMILTON, The Rev., Dr., General Secretary, Canadian Council of Churches

ALIA HOGBEN, Executive Director, Canadian Council of Muslim Women

FATIMA HOUDA-PEPIN, députée de La Pinière et première vice-présidente de l'Assemblée nationale du Québec

ASMA JAHANGIR, UN Special Rapporteur on Freedom of Religion or Belief

GWYN KUTZ, Director, Human Rights, Gender Equality, Health and Population Division, DFAIT

PHILIPPE LEBLANC, directeur, Dominicains pour Justice et Paix

IAN LEIGH, Law Professor, University of Durham

LLOYD LIPSETT, Former Senior Assistant to the President, Rights & Democracy

DOW MARMUR, Rabbi, Holy Blossom Temple

ALEX NEVE, Secretary General, Amnesty International Canada

RAZMIK PANOSSIAN, Director, Policy, Programmes and Planning, Rights & Democracy

ABDUL HAI PATEL, Imam, Muslim Chaplain, University of Toronto

ROBERT ROBERTSON, Senior Advisor Law & Development, Innovation, Policy and Science, IDRC

ANNE SARIS, professeure de droit, UQAM

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SUSANNE E. TAMAS, Director, Bahá'í Community of Canada

LOIS WILSON, Former Senator, and Former Moderator of the World Council of Churches

ANGELA WU, Acting Executive Director, International Law Director, The Becket Fund for Religious Liberty

KORNEL ZATHURECZKY, chercheur invité et directeur à la publication, Chaire de recherche du Canada sur l'islam, le pluralisme et la mondialisation, Université de Montréal

THIS REPORT ON RELIGION AND HUMAN RIGHTS is the fruit of a roundtable held in 2007 as part of Rights & Democracy's ongoing exploration of emerging human rights issues. The roundtable brought together some thirty prominent international and Canadian experts to discuss a range of issues relating to the intersection of religious identities and creeds with the universal values enshrined in the Universal Declaration of Human Rights. The United Nations Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, was the keynote speaker. The discussion focussed on the following thematic clusters and key questions:

- freedom of expression and freedom of religion,
- discrimination against minorities and questions of public order and citizenship,
- education, dialogue and the promotion of tolerance,
- policies at the domestic and international levels.

This report is a summary of the discussion during the roundtable. Each section is followed by a series of recommendations and possible follow-up.