

## *Parliament of the Worlds Religions, Barcelona, July 7<sup>th</sup>–13<sup>th</sup> 2004*

International Association of Religious Freedom Panel, 9 July 2004

### **“Freedom of Religion for All”**

Presentation by Professor Kevin Boyle, Human Rights Centre, University of Essex, United Kingdom

#### Introduction

I would like to add my welcome to all who have joined us today for this event of the Barcelona Conference organised by the International Association of Religious Freedom. IARF’s objectives perfectly reflect the goals of the broader international human rights community with respect to freedom of religion or belief and it is an honour for me to be on their platform today.

The purpose of the session is to explore the subject of religious freedom from a particular perspective, the perspective of human rights. The title “Freedom of Religion for All” is well chosen to invoke a human rights approach and I can, I hope, relate all I want to say through drawing out the meaning of that simple title.

I shall divide my presentation into a number of parts. First, I want to briefly recount the story of the international movement for human rights and the place of freedom of religion within that movement. Then I would like to focus on the contemporary challenges in our world to the enjoyment of freedom of religion. Inevitably and properly that subject involves addressing the aftermath of 11 September and the global insecurity that has flowed from that event. I hope that this will be a good background for the discussion and the Open Forum where IARF has suggested a ‘do it yourself’ audit of religious freedom, an exciting technique to involve you and to get to the tough questions that the upholding of religious freedom requires in practice.

#### The recognition of human rights in the UN Charter

Since the Parliament of Religions is over one hundred years old, as indeed is the IARF, I hope I can be excused with going back a half century in beginning my account of freedom of religion as a human right. Freedom of religion was one of the freedoms proclaimed by Franklin D Roosevelt in the famous Atlantic Charter that laid out the hopes for a new world order after the Second World War. The other freedoms you will recall were freedom from fear, freedom of speech and freedom from want.

These aspirations for human freedom are all interrelated. They were to find reflection in the central documents that created the United Nations and that gave it a mission to advance human rights, self-determination of peoples, peace, disarmament and human development after the 2<sup>nd</sup> World War. I am referring to the United Nations Charter 1945 and to the Universal Declaration of Human Rights 1948 in particular. In the life time of all of us in this room there has been one major process of unalloyed achievement at global level and that is the formal agreement on international human rights, principles norms standards and laws. This corpus grew out of the Charter and the Universal Declaration. There is an important historical footnote to insert here and one we can come back to. Namely, we owe the inclusion of human rights language in the Charter of the United Nations not to statesmen alone but to religious people and thinkers. In

particular the lobbying and influence of the new Federal Council of Churches in the United States and the intellectual efforts of the international ecumenical movement in the Inter-war years successfully influenced the values enshrined in the UN Charter. It was their ideas and concerns with the individual, with decolonisation and with self-determination of peoples, and with economic and social progress that found expression in the human centered purposes of the United Nations. There needs to be a deeper awareness of these religious roots of humanitarianism in contemporary debates on globalisation and the democratisation of global institutions.

### Human Rights and equality

The inclusion of individual human rights in the Charter of the United Nations was an important advance but even more significant was the inclusion of the language of *equality*. Human rights were to be promoted and encouraged for all without distinction as to religion language race or religion. Thus our title “Freedom of Religion for All” It was the idea that *everyone, every where* in our world was entitled to human rights including freedom of religion that was the truly revolutionary step forward in the middle of the last century. Every year the General Assembly of the UN adopts a resolution on freedom of religion or belief which expresses these points clearly:

*“ Freedom of thought, conscience, religion and belief is a human right derived from the inherent dignity of the human person and guaranteed to all without discrimination”.*

A further achievement we should notice over the last half -century concerns human solidarity. I mean to refer here to the legitimacy of international concern over the denial of human rights including religious freedom wherever such occurred. It was never anticipated by the founding fathers of the United Nations not least the powerful states such as the UK, USA and by definition the USSR that the human rights language of the Charter would mean much in reality. The Charter had inserted into to it, alongside human rights language, the language of national sovereignty. The intention and expectation was that the new international body should be powerless to speak out or to act about human rights abuses in its member states.

But the big Powers were wrong. The human rights clause became arguably the most important one in the Charter. The motor that kicked everything into life was the radical idea of human equality in the Charter that I have mentioned. The immediate focus was race. The emergence of the Apartheid regime in 1948 proved the focus point for sustained pressure on South Africa a pressure lead by the new decolorized States of the South who took their seat from the 1960s in UN. Thereafter this pressure extended to all forms of racism and ethnic discrimination wherever it occurred. Indeed we could say with out much exaggeration that it has been the countries of the South which have given muscle to the international human rights movement. It allowed action to be taken, despite the assertion of the state sovereignty principle, whereby what happened behinds the borders of one state was no business of any other country. Following the World Conference in 1993 after the end of the Cold War, it was formally accepted that the human rights practices of all states are a legitimate matter of concern for the international community. It was the struggle against racism that provided the crucial precedents that has allowed us to reach the point today that the human rights practices of all governments are in the international public domain.

A further engine for change was the struggle for women’s equality and against sex discrimination. In the case of both forms of discrimination on grounds of race and sex

generations have worked to advance the achievement of equal treatment. There are a range of strong international human rights conventions and active civil societies every where working to advance these causes.

But what then about the third ground of discrimination, the ground of religion? Here there has been an altogether less dramatic process of change. There has been no special Convention agreed to outlaw religious discrimination. There has been no UN World Conference. Why? It was hardly because fifty years ago or today there are no problems of denial of religious freedom in the world. To the contrary the scale of discrimination and persecution on grounds of religion or belief was and remains a serious scandal and shame not in any one region but in all regions. So why no outcry?

The answer broadly over the last half-century lies in the complexity and sensitivity of the subject in a world riven by fundamental divisions over belief. The moral position that all 'races' were equal and that theories and ideologies of racial hierarchy must be repudiated was not embraced readily in the early part of the 20<sup>th</sup> century. But there has today emerged a consensus that repudiates such thinking in all regions notwithstanding the dismal fact that racism remains a major blight in our world. The same process can be identified in the case of sex discrimination although again there is resistance to equality and continuing patterns of discrimination against women.

What has been different about religion and belief is that no strong common morality and collective view emerged at international level that would ensure that secular statesmen or diplomats focussed their attention on discrimination and the denial of equality over religion or belief. After all half a century ago it was quite a challenge to expect Stalin's regime that was resolutely atheist to promote the cause of freedom of religion on the international level. The expectation that the West and especially the United States would espouse freedom of thought for atheists, in particular communists, was also improbable. And one can add to that the sensitivities of colonial history when the questions of enforcing a common universal yardstick of freedom of thought, conscience and religion in societies of radically different cultures and faiths whether Muslim, Hindu, Christian Buddhist or other.

#### International standards on religious freedom

So against that background we must accept that common universal standards of freedom of thought, conscience, religion or belief, that are fully accepted and enjoyed in the world is a task for the 21<sup>st</sup> century. In particular I think we need to focus attention on the meaning of discrimination when it comes to freedom of religion and belief. What lessons can we learn from the experience of the movement for equality led by the struggle against racism or sex discrimination? What is different in addressing questions of unequal treatment where it is based on the religion or beliefs of the individual or community?

Nevertheless it would be wrong to say that there have not been advances. There are international human rights standards on religious freedom. You can find these admirably summarised in the web pages of the IARF. The problem is in making them effective at national level. I can only mention international standards briefly here – this is not a classroom in which you will want to hear the details of international human rights law.

The core principle set out as a common standard to be achieved by all human kind- not alone states but all of us, -was laid down in the Universal Declaration of Human Rights in its 18<sup>th</sup> Article:

*"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".*

We know that the drafting of that article owes much to the theologian Frederick Nolde who was Associate General Secretary (International Affairs) of the World Council of Churches in 1948. Nolde pressed the drafting committee of the Universal Declaration of Human Rights led by Eleanor Roosevelt to adopt this text on religious freedom. Nolde wrote

“What Christians seek for themselves, they must equally grant to all others. In taking a stand of this kind, we believe that we contribute not only to the observance of human rights, but also to the promotion of world order.”

In language which is as relevant today as it was in 1948, he said:

“Freedom of thought and conscience, together with freedom to change religion recognizes a principle which will allow peaceful competition of differing convictions and ideologies. In an ever shrinking world, the impact of one system of thought upon another makes the application of this principle an imperative requisite for world peace and order”.

The text of Article 18 which enshrined the individual’s right to change religion did result in objection from Saudi Arabia in the vote on the Universal Declaration on Human Rights in 1948. Although this dimension of freedom of religion, the right to choose religious commitment, is enshrined in the International Covenant on Civil and Political Rights 1966 to which over 150 states are signatories. Alongside that is the provision that reflects Islamic principle – that there can be no coercion in respect of religion or belief. However this question of the right to choose a religion remains a matter of weak consensus at international level in practice and is not accepted by Islamic countries.

We owe much of the further progress on the development of international standards on religious freedom to an Indian expert, Arcot Krishnaswami, who laboured in the 1950s to produce what remains one of the most insightful and wise studies on the requirements of religious freedom ever produced by the United Nations. From his work came the famous mile stone text on 1981 – The United Nations Declaration on the Elimination of Discrimination and Intolerance based on Religion or Belief. It was adopted on 25 November 1981 and IARF among others have been campaigning for many years to have that date adopted by the United Nations as World Religious Freedom Day. The 1981 Declaration repeats the injunction of the UN Charter to the peoples of the world, ‘to practice tolerance and to live together as in peace with one and other as good neighbours’. It reaffirms the principles of nondiscrimination and equality before the law proclaimed by the Universal Declaration of Human Rights and the International Covenants on Human Rights.

The Declaration asserts that:

"No one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs." (Article 2, Paragraph 1)

It defines "intolerance and discrimination based on religion or belief" to mean, "any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis." (Article 2, Paragraph 2)

*Article 18 the International Covenant on Civil and Political Rights*

Finally in this brief account of the normative foundations of freedom of religion, I should mention the body of experts elected to supervise the implementation of the International Covenant on Civil and Political Rights. That Committee has given important guidance on the meaning of the right to freedom of thought, conscience, religion or belief. In 1993 the Committee adopted General Comment 22 which is the most authoritative statement on the meaning of this right available to us. Here I only want to high light two points from this text as to the requirements in international law for the protection of this freedom. First the emphasis is inclusive in respect to beliefs

“Article 18 protects theistic, non- theistic and atheistic beliefs as well as the right not to profess any religion or belief. The terms religion or belief are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community.”

Second, let me note the Committee’s comments on the limitations that may be imposed on the right to religious freedom. The international standards distinguish the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. These standards do 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 are protected unconditionally.

The manifestation of the freedom may be limited but only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. In applying limitations States should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination. The freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private". The freedom to manifest religion or belief in worship, observance as seen by the Human Rights Committee, encompasses a broad range of acts.

“The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest. The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals

associated with certain stages of life, and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications”.

### The state of freedom of religion in the world today

I turn now to the second theme of my presentation; that of the overall picture of freedom of religion today. It will not be possible to offer an exact audit of how freedom of religion is respected or denied and you will not expect that. I can only deal with the subject in a broad brush way. There are useful sources to refer to for greater detail. The US State Department Annual Report on International Religious Freedom for example. It has been prepared since 1998 and is comprehensive in its coverage. Another source derives from the one mechanism that has been established within the UN human rights system to focus on the protection of freedom of religion or belief. That mechanism is the position of Special Rapporteur on Freedom of Religion or Belief. Since 1993 an independent expert, Mr. Amor, (Tunisia) has been given a mandate to promote freedom of religion to intercede on behalf of those subject to persecution or discrimination on grounds of their beliefs and to report annually to the Commission on Human Rights. In general terms it is clear that religious freedom is not enjoyed by a significant percentage of the world’s population. In many countries the guarantees that should flow from the international human rights standards which I have been discussing are ignored rejected or poorly implemented.

#### A. UN Special Rapporteur’s Reports

The Special Rapporteur’s Reports confirms that victims of religious persecution are to be found among all religions and on all continents. The rapporteur has broken down the categories of violation into seven which offer some insight into the range of experience of victims. The brief examples given are not confined to those he gives. It must be recalled that his data is based on the complaints he receives and the limited resources available to him need to be recalled.

**1. Violations of the principles of non-discrimination in matters of religion and belief:** namely, policies, legislation and regulations, practices and acts that discriminate against certain communities, particularly when they are minorities or do not belong to the official religion. There are cases in this regard concerning **Egypt, France, Islamic Republic of Iran and the United States of America;**

A current example would be the operation of the laws on freedom of religion in Russia, where in June 2004 the Jehovah Witnesses were stripped of their legal status by a Moscow court effectively banning the religion with 100, 000 followers entirely from Moscow.

**2. Violations of the principle of tolerance in matters of religion and belief:** namely, policies, practices and acts of religious intolerance by the State and society, particularly on the part of non-State entities such as communities of religion or belief and political and

religious groups, the strongest manifestations of which verge on religious (inter- and intra-religious) extremism. Cases mentioned include from **Georgia, Indonesia and Viet Nam;**

A current example is Turkmenistan, where it is reported that the deputy police chief told a Baptist that in Turkmenistan “only two faiths are allowed Islam and Orthodox while the rest are banned.

### **3. Violations of freedom of thought, conscience and religion or belief:**

namely, policies, legislation and regulations, practices and acts contrary to the principle of conscientious objection and the freedom to change one’s religion or to keep one’s religion or belief.

The rapporteur under this head raises frequently the question of the rights of conscientious objectors and penalization of freedom to change religion. One example on conscientious objection to military service is the case of six conscientious objectors, who are Jehovah Witnesses in **Turkmenistan**. They have been imprisoned for refusing to undertake military service and allegedly have been put pressure to swear on the Koran their allegiance to the State and the President. In **Sri Lanka** a new Bill is being prepared for parliament which seeks to make it a criminal offence under any circumstances to seek to convert another to a different religion. The Bill is being supported by the Buddhist majority and is believed to be aimed at the small Christian minority. In **Qatar** and **Kuwait**, the conversion of a Muslim to another religion is strictly prohibited and is punishable by death in Kuwait.

Cases the rapporteur mentions concern **China, Eritrea, Israel, the Lao People’s Democratic Republic and Saudi Arabia;**

### **4. Violations of the freedom to manifest one's religion or belief:**

namely, policies, legislation and regulations, practices and acts that constitute controls, interference, prohibitions and abusive restrictions on the freedom to manifest one’s religion or belief.

Cases in this regard concern the **Russian Federation, Turkmenistan and Uzbekistan;**

In **Azerbaijan** last month police forcibly expelled Muslims from a 1000 year old Baku mosque which the authorities want for a new carpet museum.

### **5. Violations of the freedom to dispose of religious property:**

namely, policies, practices and acts affecting the freedom to enjoy the use of religious property that take the form of the confiscation or the non-restitution of properties, refusal of access to places of worship, closure, attacks on and destruction of such places of worship and of cemeteries, places of burial and religious schools.

Cases in this regard concern **Afghanistan, Azerbaijan and Romania;**

## **6. Violations of the right to life, physical integrity and health of persons (clergy and believers).**

namely, policies, practices and acts that take the form of threats, ill-treatment, arrests and detentions, enforced disappearances, death sentences, executions and assassinations.

Cases in this regard concern **Bangladesh, India and Pakistan;**

## **7. Violations affecting women**

namely, a category encapsulating the first six categories. The Special Rapporteur stress that such violations are not only carried out by extremist groups and communities but also and most often by society and official institutions. It is an important fact and little examined that according to the Special Rapporteur, the majority of victims of violations of freedom of religion are women.

Cases in this regard concern **Afghanistan and Nigeria.**

## B. US International Religious Freedom Report

The US State Department Report 2003 on International Religious Freedom provides a useful overview of the global picture in broader categories that identifies countries as of concern, in a way that the UN Special Rapporteur is unable to do under his mandate.

### **Totalitarian or Authoritarian Attempts to Control Religious Belief or Practice**

Burma, China, Cuba, Laos, North Korea, Vietnam

### **State Hostility toward Minority or Non-approved Religions**

Iran Pakistan, Saudia Arabia, Sudan, Turkmenistan, Uzbekistan,

### **State Neglect of the Problem of Discrimination Against, or Persecution of, Minority or Non-approved Religions**

Bangladesh, Egypt, Georgia, Guatemala, India, Indonesia, Nigeria.

### **Discriminatory Legislation or Policies Disadvantaging Certain Religions**

Belarus, Brunei, Eritrea, Indonesia, China, Israel and the Occupied Territories Malaysia, Moldova, Russia, Turkey

### **Stigmatization of Certain Religions by Wrongfully Associating Them with Dangerous "Cults" or "Sects"**

China, Georgia, Germany, India, Indonesia

The report records significant improvement in only two countries since 2002: **Kazakhstan and Laos.** **Iraq** clearly also falls under that category but is dealt with in the Report only in respect of Saddam Hussein's regime.



## Freedom of Religion post-11<sup>th</sup> September 2001

There has been widespread concern throughout the world at the effects of the terrorism which led to the attacks on the United States on 11 September and to the many such attacks aimed at civilians that have occurred both before and since. The first effects of course are the atrocities themselves and the enormous cruel suffering and death they have caused to their victims. But a further concern has been the violation of human rights that have occurred as states seek to respond to terrorism. Many reports from Ngos and from United Nations human rights experts document patterns of human rights abuse in many countries ostensibly in the name of fighting terrorism. Public opinion in the United States is waking up to the enormous damage done to the reputation of a country that claims to live under the rule of law as a result of its proclaimed war on terrorism.

The subject is of central concern to religious freedom not least because the target of many measures is Muslims. Mr. Amor, the Special Rapporteur has expressed deep concern over the rise of Islamophobia in many parts of the world. It is of central importance for those who believe in the ideal of universal human rights and freedoms constantly oppose the stereotyping of Muslims as supporters of violence and terrorism. It is deeply worrying that the abuse of religion by networks of Islamic militants is visited on the majority of the followers of Islam. The causes of the current phase of Islamic militancy may be contested but they go far beyond religion. Explanations are better sought in terms of global social and political factors than in religion. The rhetoric of religious wars or clashes of civilisations should be repudiated from whatever side it comes. Terrorism must be condemned unreservedly but it also must be combated within the rule of international law while upholding the principles of non- discrimination and human rights.

### Conclusions

Let me finish by identifying three lines of action which supporters of religious freedom and human rights should pursue. All are policies that IARF supports and advocates.

#### 1. Ignorance

Ignorance is the true enemy of freedom: The starting point has to be education aimed at spreading the understanding of the sheer diversity of fundamental beliefs in the world and that all such beliefs are entitled to respect.

We know that a root cause of both communal and state persecution and prejudice against religions that differ from the majority is ignorance. The more intense or committed peoples are to their own beliefs the greater their ignorance of the faiths of others and those others are not necessarily far away but minorities in their midst. And of course minorities' victims of intolerance are also ignorant and intolerant of the majority beliefs.

An interesting event in 2001 in this regard was the UN Madrid Conference on religion and education, which at least opened the question of the content of what is taught in schools about religion. It agreed on the need in principle for pluralistic approaches to religious education but it was only the first step in the international discussion of this sensitive issue

Inter- religious and inter- cultural dialogue. There is need for ever more effort at interfaith and intercultural dialogue. We have had the UN efforts initiated by Iran on Dialogue among Civilisations and we have the many initiatives such as the World Parliament of Religions The great work undertaken by Hans Kung at Tubingen of a Global Ethic and many other examples known to you. The work must intensify and it must be based on the right of all to equal human dignity including for their beliefs. It must intensify because in an era of irreversible globalisation we live in a world without walls, as the SG recently noted in which it is no longer possible to imagine that people of diverse cultures and beliefs can live happily apart in closed societies in ignorance of each other. Blissful ignorance is no longer an option. That I suggest is one truth to come home to us after 11 September. Another is the fact that globalisation is not a process in which the majority of the world see themselves as benefiting from which leads to the second factor.

## 2. Inequalities

The second factor associated with religious intolerance is the facts of legal political economic and social inequalities. Prejudice and discrimination lead to and reinforce structural intolerance and such can be the trigger for conflict as the victims seek to challenge inferior status and reactions to the threat of loss of power and privilege turn also to violence. The situation in India between Hindu and Moslem citizens is a clear example or between the Dalits the untouchables and the higher caste Hindus. Here there is a parallel and overlapping with the factors involved in racial discrimination and discrimination experienced by women.

## 3. The problem of religious absolutism

Claims to superiority of one set of beliefs over other sets or all other beliefs has led in history to countless wars and continues to be the source of much religious conflict and intolerance. The notion of equality of esteem is not easy to advance where religious organisations consider the other's beliefs are inferior or even evil. There is much bigotry awash in the world between the major religions. A real challenge now for all churches is to find the language, which without diminishing the integrity of their own beliefs recognises the entitlement of all other beliefs to equal moral dignity. How should the norms I discussed earlier of non-discrimination and equality function in the case of religions? It is the case that international and national law condemns explicitly all racist doctrine all theories of racial or ethnic superiority and inferiority as scientifically false and morally condemnable. But is that possible in respect of religious belief systems?

It is here where I consider the important document prepared by IARF; "Towards an Affirmation of Religious Freedom and Responsibility" should be discussed It proposes a set of principles and a code to develop both freedom of religion for all while accepting also responsibility in the exercise of that freedom. I hope we can discuss these ideas in the Open Forum. We must also come to develop an understanding of all human rights as incorporating three strands; rights, duties and community. Such a conception of human rights could be the framework within which different religious faiths could find common ground and contribute to the abatement of religious tensions and conflict.