

THE DANISH INSTITUTE FOR HUMAN RIGHTS

PROMOTING FREEDOM OF
RELIGION OR BELIEF AND GENDER
EQUALITY IN THE CONTEXT OF
THE SUSTAINABLE DEVELOPMENT
GOALS: A FOCUS ON ACCESS TO
JUSTICE, EDUCATION AND HEALTH

REFLECTIONS FROM THE
2019 EXPERT CONSULTATION
PROCESS



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” The Special Rapporteur fully agrees that the right to freedom of religion or belief can never be used to justify violations of the rights of women and girls, and that ‘it can no longer be taboo to demand that women’s rights take priority over intolerant beliefs used to justify gender discrimination’ [as noted by former Special Rapporteur Asma Jahangir]. Acknowledging and rebuking these practices, however, does not mean tacitly accepting an inherent incompatibility between the right to freedom of religion or belief and gender equality. Instead, the two should be understood in a holistic manner as mutually reinforcing human rights norms.

Ahmed Shaheed, UN Special Rapporteur on Freedom of Religion or Belief¹

” [B]y also empowering groups who traditionally experience discrimination, including women and girls, freedom of religion or belief can serve as a normative reference point for questioning patriarchal tendencies as they exist in different religious traditions. This can lead to more gender-sensitive readings of religious texts and far-reaching discoveries in this field. In virtually all traditions one can indeed find persons or groups who make use of their freedom of religion or belief as a positive resource for the promotion of equality between men and women, often in conjunction with innovative interpretations of religious sources and traditions. This accounts for the possibility of direct synergies between freedom of religion or belief on the one hand and policies for promoting the equal rights of women on the other.

Heiner Bielefeldt, former UN Special Rapporteur on Freedom of Religion or Belief²

” 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.

Beirut Declaration and its 18 commitments on ‘Faith for Rights’³

” Working with religious actors on all aspects of human rights carries both challenges and opportunities. Precisely because gender equality and women’s empowerment are the most stubborn litmus test of religious’ buy-in to all human rights, these are also the areas in which seeing faith-based partners advance can be the most awe-inspiring. I know, beyond a shadow of doubt, in my personal and professional gut, that when faith actors rally together for gender justice—across religious, regional and ethnic lines—that is precisely when “the arc of the moral universe bends towards justice” (in the words of Martin Luther King Jr).

Azza Karam, former UNFPA senior advisor and Chair of the UN Interagency Taskforce on Religion and Sustainable Development; now Secretary General Elect of Religions for Peace⁴

CHAPTER 1

INTRODUCTION

In China, women from the Muslim Uighur community are allegedly subject to rape and forced sterilisation in the so-called 're-education camps' where hundreds of thousands of people are detained. In Egypt, religiously justified family laws on e.g. marriage, divorce and custody of children discriminate not only against women, but also religious minorities, leaving religious minority women as victims of double discrimination. In France, the criminal ban on full-face covering disproportionately affects the religious manifestations of those Muslim women who choose to wear a face veil. In Russia, laws against 'the promotion of homosexuality' make it difficult for SOGI minorities of faith to gather. In India, women are banned from entering the Hindu Sabarimala Temple.⁵

These are just a few examples of the many ways in which violations of freedom of religion or belief (in the following, FoRB) and gender equality intersect. Despite obvious overlaps, actors working for the promotion of respectively FoRB and gender equality rarely work together. In fact, rights related to FoRB and gender equality are often seen to be in contradiction with one another. Underlying this (mis) perception of a normative clash between the two is very often an understanding of FoRB as a right that protects religion – and often conservative, patriarchal religion. For some, this means that FoRB is seen as an inherent obstacle to achieving gender equality; for others, gender equality is seen as a threat to the protection of religious values and practices.

This antagonistic construction of the two human rights norms has consequences. A lack of attention to, or an unwillingness to engage with, the intersections between FoRB and gender equality may result in unnecessary clashes, unsatisfactory handling of factual conflicts, and lost opportunities for synergies, learning, and cooperation among actors engaged in the promotion of respectively FoRB and gender equality. Ultimately, this disadvantages the very people these rights are meant to protect, not only in terms of legal protection gaps, but also in terms of strategies and projects that fail in their understanding of and sensitivity to the needs, wishes, experiences and specific vulnerabilities of the many millions of people "whose life situations falls within the intersection of discrimination on the grounds of their religion or belief and discrimination on the ground of their gender."⁶

Seeking to address these challenges, the UN Special Rapporteur on Freedom of Religion or Belief, in cooperation with the UN Interagency Task Force on Religion and Development, co-led in this effort by the Office of the High Commissioner on Human Rights (OHCHR) and the UN Population Fund (UNFPA), the Stefanus Alliance International and the Danish Institute for Human Rights, organised an **Expert Consultation Process on Freedom of Religion or Belief, Gender Equality and the Sustainable Development Goals**, funded by the Danish Ministry of Foreign Affairs' Office of the Special Representative on FoRB, and the Norwegian Ministry of Foreign Affairs' Special Envoy for FoRB. The process involved more than seventy secular and faith-based experts from over thirty countries, representing a variety of different institutional, professional, religious and geographic backgrounds.⁷

Through a series of workshops throughout 2019, the experts explored the nexus between FoRB and gender equality in relation to key Sustainable Development Goals (SDGs), including access to justice, education, health, and climate change.⁸ Discussions, analysis, ideas and recommendations from the workshops on access to justice, education and health have been summarised in this report, while discussions on climate change consequences have been summarised in a separate report.⁹ The diversity of experts involved in the process, and the participatory format of the workshops, facilitated interesting discussions on broader trends and common challenges, and it provided a stimulating environment for learning and sharing of experiences across widely different thematic, geographic and religious contexts. However, the diverse constellation of experts and the limited time available for each workshop was not particularly conducive to systematic reviews of countries, comprehensive mappings of challenges, in-depth analyses of particular contexts, or the formulation of specific recommendations and ideas for action. This would have required longer and more geographically focused workshops.

Against this background, the present report should be read first and foremost as a basic introduction to the relationship between FoRB and gender equality, providing a snapshot of the examples, experiences and ideas discussed in the workshops and hopefully encouraging further research and analysis.¹⁰ More specifically, the report aims to:

- contribute to the clarification of the relationship between FoRB and gender equality;
- direct attention to, and provide concrete examples of, some of the conflicts, parallels and intersectionalities between FoRB and gender equality in the areas of health, education and access to justice;
- point to good practices in addressing these challenges; and
- formulate general recommendations and ideas for action in this field.

GLOSSARY

Freedom of religion or belief is a human right, outlined in article 18 of the International Covenant on Civil and Political Rights as well as in a number of other international and regional conventions. FoRB concerns the right of individuals to have, adopt or change a religion or belief; to manifest and practice this religion or belief, alone or in community with others; and to be free from coercion and discrimination on the grounds of their religion or belief. This includes theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.

Discrimination of women refers to “[a]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹¹ **Gender discrimination** refers more broadly to any distinction, exclusion, or restriction made on the basis of a person’s sexual orientation or gender identity (SOGI). **Discrimination based on religion or belief** refers to “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.”¹² All these forms of discrimination can be either *de jure* (i.e. stemming from law) or *de facto* (i.e. stemming from practice).

Intersectional discrimination refers to discrimination which is based on several grounds operating and interacting with each other at the same time, thus producing distinct and ‘synergistic’ types of discrimination.¹³ For instance, people who are discriminated against on grounds of their sex or gender identity may also suffer discrimination on grounds of their sexual orientation, religion or belief, race, age or disability.¹⁴

There is no internationally agreed definition of what constitutes a **religious or belief minority**. In the present brief, we understand religious/belief minorities as groups that are in a non-dominant position and whose members possess these characteristics that differ from those of the rest of the population. In most instances, a minority group will be a numerical minority, but there are also examples of numerical majority groups that find themselves in minority-like or non-dominant positions.¹⁵ The term encompasses a broad range of religious or belief communities, traditional and non-traditional, whether recognized by the State or not, including more recently established faith or belief groups, and large and small communities.¹⁶ Importantly, the term also includes atheistic or humanist beliefs. Religious or belief minorities referred to in this report includes sects of larger religions as well as groups like Dalits whose specific religious characteristics may be attributed to them within their religion.

The term **sexual orientation and gender identity (SOGI)** encompasses all individuals regardless of how they identify their sexual orientation or gender identity. With **SOGI minority** we refer to people whose sexual orientation and/or gender identity differ from the majority population, including – but not limited to – people who identify as lesbian, gay, bisexual, transgender, intersex or queer.

The term **disadvantaged group** refers to groups of persons that experience a higher risk of poverty, social exclusion, discrimination and violence than the general population. This may include women and girls, religious minorities, and SOGI minorities. Some groups may be disadvantaged with respect to certain issues, but not others. Disadvantage is not an inherent characteristic of any particular group of people, but is a consequence of particular social, cultural, economic and political conditions.¹⁷

The report contains seven chapters: Chapter 2 gives a clarification of the relationship between rights related to FoRB and gender equality. The chapter outlines different ways in which this relationship plays out, distinguishing between different kinds of discrimination and different kinds of actors involved. The chapter ends with a discussion of the role(s) of religion in these challenges. Chapter 3 introduces Agenda 2030 and the Sustainable Development Goals, briefly outlining the reasons for situating the analysis of FoRB and gender equality within this framework. Chapters 4, 5, and 6 present analyses of the relationship between FoRB and gender equality in the contexts of respectively access to justice (SDG 16), education (SDG 4) and health (SDG 3), pointing to some of the key challenges in each of these areas and directing attention to good practices in dealing with these. Finally, Chapter 7 concludes the analysis by presenting a set of recommendations, cutting across all three thematic areas, as well as selected ideas for action in these areas.

CHAPTER 2

CLARIFYING THE RELATIONSHIP BETWEEN FoRB AND GENDER EQUALITY

2.1 FoRB AND GENDER EQUALITY: A CONTESTED RELATIONSHIP

The Expert Consultation Process on FoRB, Gender Equality and the SDGs grows out of a recognition of the need for normative clarification of FoRB and its relationship with rights related to gender equality. The intersection between FoRB and women's rights has historically been controversial, and there have been few efforts to integrate the two. At the level of international human rights norms and standards, provisions on FoRB (such as the Universal Declaration on Human Rights article 18, ICCPR article 18, and the 1981 Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief) do not specifically mention women's rights or gender equality. Similarly, the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) makes no mention of FoRB; in fact it does not even contain a standard non-discrimination provision calling for no discrimination based on religion or belief.¹⁸

The advocacy groups, NGOs and even UN agencies promoting these rights have been largely distinct and sometimes mutually skeptical. The women's rights movement has historically been largely secular – with little attention to religion as something other or more than the source of harmful practices, discrimination and patriarchy – as something women should be protected from. To the extent that this movement has engaged with freedom of religion, then, it has been in the form of freedom **from** religion. But we have also seen reluctance on the other side. The movement for FoRB has to a large degree consisted of religious, primarily Christian, activists and organisations – many of them relatively conservative with little or no interest in women's rights. In fact, some have explicitly argued against particular aspects of gender equality rights, on the grounds that they violate FoRB. Adding to this, focus has tended to be on protection of religious minorities against discrimination and oppression – and this has made little room for discussions of gender discrimination and inequalities **within** these communities.

” CEDAW traditionally avoided this discourse [on religion], but not anymore. In our concluding observations, we focus on this, using the 'Faith for Rights' initiative to encourage governments to look at problematic areas and promoting alternative religious interpretations. If we truly want to reach out to all women, we have to include these aspects" (Nahla Haidar, member of CEDAW committee)¹⁹

2.2 WHAT IS FORB?

This antagonistic relationship often builds, as noted above, on an understanding of FoRB as a right that protects religion – and often conservative, patriarchal religion. This is not in line with conceptions of FoRB as outlined in international human rights standards. According to article 18 of the International Covenant on Civil and Political Rights, FoRB is about protecting individuals' and groups' right to have, adopt or change a religion or belief; to manifest and practice this religion or belief, alone or in community with others; and to be free from coercion and discrimination on the grounds of their religion or belief. The right to FoRB includes theistic, nontheistic and atheistic beliefs. FoRB also protects the right of people not to have or practice any religion or belief.²⁰

THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION IN THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 2: Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 18: 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. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 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. 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

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

From a human rights perspective, then, FoRB is not about protection of religion(s) as such, nor is it about protection of particular religious groups or practices. FoRB is, as noted by the former UN Special Rapporteur, Heiner Bielefeldt, “a norm to which liberals and conservatives, feminists and traditionalists, and others, can refer in order to promote their various and often conflicting religious or belief-related concerns, including conflicting interests and views in the field of religious traditions and gender issues.”²¹ This includes heterosexual women’s and sexual orientation and gender identity (SOGI) minorities’ right to interpret and practice their religion the way they believe is true, even when this goes against the patriarchal orthodoxy of their religious or belief community. As such, FoRB can be a tool to empower people in their struggles for gender equality.²²

” Women should be given the possibility to interpret the religious texts. This is a human right, let’s bring that in front and center” (Nazila Ghanea, Oxford University)

While the right to have (or not have) a religion or belief can never be limited, the right to manifest this religion or belief can be limited in exceptional circumstances. Limitations must remain within the realm of proportionality which means, among other things, that they must be limited to a minimum of interference and be conducive to the legitimate purpose they are supposed to foster. They must be prescribed by law and be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.²³ FoRB can thus never be used to justify violations of the human rights of heterosexual women, girls and SOGI minorities. Female genital mutilation, forced marriages, child marriages, enforced ‘sacred prostitution’, burning of widows, honour crimes, dowry killings and other harmful practices are not under any circumstances protected by FoRB, just like gender-based violence can never be justified with reference to FoRB.²⁴

THE YOGYAKARTA PRINCIPLES²⁵

Principle 21: The right to freedom of thought, conscience and religion

Everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity. These rights may not be invoked by the State to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of sexual orientation or gender identity.

States shall:

- a) Take all necessary legislative, administrative and other measures to ensure the right of persons, regardless of sexual orientation or gender identity, to hold and practise religious and non-religious beliefs, alone or in association with others, to be free from interference with their beliefs and to be free from coercion or the imposition of beliefs;
- b) Ensure that the expression, practice and promotion of different opinions, convictions and beliefs with regard to issues of sexual orientation or gender identity is not undertaken in a manner incompatible with human rights.

2.3 CHALLENGES IN THE RELATIONSHIP BETWEEN FORB AND GENDER EQUALITY

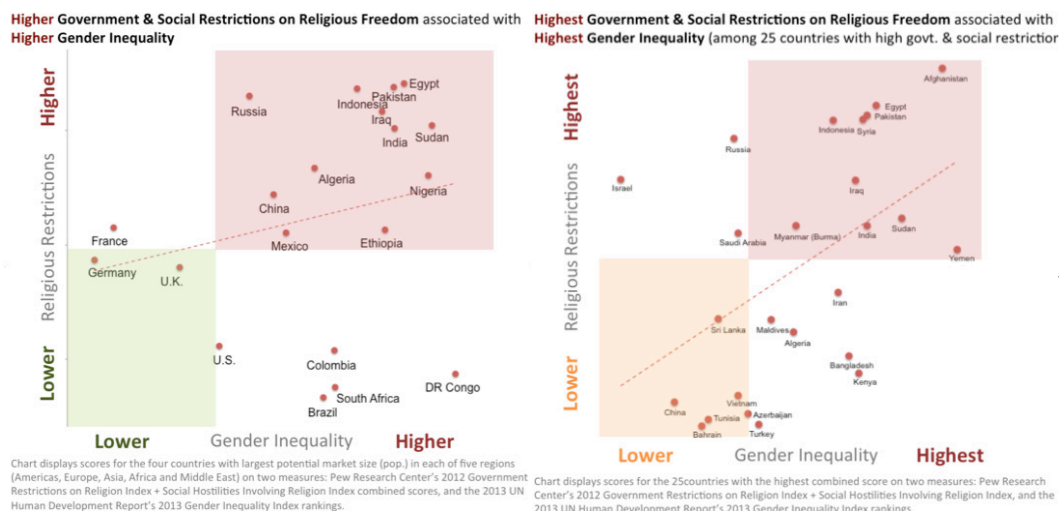
That there is no **inherent** contradiction between rights related to FoRB and gender equality does not mean that the relationship between the two is always straightforward. The two sets of rights can **collide in concrete, specific instances**, with attempts at protecting one right resulting in restrictions on another. This is the case, for instance, in relation to employment of staff in religious institutions. Do religious communities have a right to apply criteria as to gender and sexual orientation in their internal employment procedures, even if this goes against principles of non-discrimination? Another oft-mentioned example turns on issues of conscientious objection, or refusal to provide services related to sexual and reproductive health. Should health personnel have the right to abstain from providing such services, even if it means that this will prevent women from accessing services they are entitled to? Conversely, can governments prohibit the use of head scarves and face veils in public with reference to gender equality and women's rights? Or are such bans in fact a violation of women's and girls' right to FoRB?²⁶ There are no clear-cut answers to these questions, and "the task is to do justice, to the maximum degree possible, to all the human rights involved in a particular case or situation in order to produce 'practical concordance' of the human rights claims involved."²⁷

On a somewhat different level, there may also be questions within communities over which right to prioritise when. For instance, leaders of an oppressed religious minority may prioritize securing rights for the community and fighting the discriminatory practices they are facing on the grounds of their religion, before considering gender discrimination within their own community.²⁸ In such situations, minority women's rights activists who raise attention to e.g. issues of domestic violence may be considered 'traitors' by others in their community, seen to contribute to stereotypification and undermining the struggle for minority rights. Heterosexual women in a religious minority may also prioritise advocating for women's rights rather than for gender equality more broadly, considering advocacy for SOGI rights too controversial in the contexts in which they work and thus damaging to their cause and safety.

” [T]here should neither be an abstract hierarchy of human rights nor a general trumping of the equality principle over religious freedom, or vice versa. Their relationship is not a zero-sum game of 'equality vs. freedom of religion'. On the contrary, a holistic approach is required to promote and protect everyone's human rights and fundamental freedoms, which are universal, indivisible, interdependent, and interrelated“ (Michael Wiener, OHCHR)²⁹

Practical conflicts between rights related to FoRB and gender equality obviously deserve careful attention; however, in our analyses of the relationship between FoRB and gender equality, we have found that most challenges seem to be about **violations of both FoRB and gender equality** rather than about a clash between the two. Discrimination and inequalities on the grounds of religion and gender often exist in tandem. In fact, some research shows a strong correlation between countries with high restrictions on religion and low protection of gender equality.³⁰ The kinds of challenges that SOGI minorities, heterosexual women, girls and religious minorities face in terms of discrimination, marginalization and exclusion can be similar, and sometimes – though certainly not always – the drivers and root causes of these challenges are the same. In relation to education, for instance, we often find similar patterns of gender- and religiously based discrimination in curricula and text books – whether in the form of stereotyping, stigmatisation, or rendering invisible heterosexual women, girls, SOGI minorities and religious minorities. Likewise, when it comes to health, women, girls, SOGI minorities and religious minorities often suffer disproportionately from lack of access to health care and quality treatment.

RELATION BETWEEN RESTRICTIONS ON RELIGION AND GENDER INEQUALITY³¹



Challenges frequently **intersect and overlap** in the sense that religiously based discrimination has gendered consequences, and gender-based discrimination has consequences for religious minorities or others with a particular religious identity. For instance, religious discrimination often affects heterosexual women, girls and SOGI minorities in worse – or just different – ways than men. Persecution of religious minorities can involve gender-based violence, whether in the form of rape, forced sterilisation, forced marriage, kidnappings or otherwise. Similarly, gender discrimination also affects heterosexual women's, girls' and SOGI minorities' right to interpret and practice their religion or belief as they want. When family laws restrict women's right to marriage or custody of their children on the basis of their religious affiliation, these laws reinforce not only gender inequalities but also religious inequalities. SOGI minorities, heterosexual women and girls in religious minorities are often victims of double or triple discrimination, being discriminated against not only by the state and the broader majority culture, but also by their own religious community.

Importantly, the challenges described above, and in the following, concern not only the rights to FoRB and gender equality, but potentially impact on the enjoyment of a wide range of human rights. Human rights are interdependent, intertwined and interrelated – and, most often, so are violations of human rights. A FoRB violation refers both to restrictions specifically on having and/or practicing a religion or belief, and to broader discrimination in which a person's religion or belief (or lack thereof) is a component. However, in the latter case, this is not only – or even primarily – a matter of FoRB violations. For instance, if people are being excluded from job markets, discriminated against in the health care system, or persecuted on grounds of their religious or belief identity, a range of other rights are typically also being violated, and the violation of their right to practice their religion or belief is not necessarily the most pressing concern for these people.³²

” Absence of freedom of religion or belief for women is an obstacle to gender equality. When a woman is denied the right to choose for herself what she believes in and how she wants to live her life according to this belief, there is a high risk that she consequently experiences violations of several other human rights, including (but not limited to) freedom of speech and expression. Because FoRB is so closely interlinked with other human rights, it is a valuable tool in identifying and acting on synergies to improve women’s rights. Some examples include sexual and reproductive health rights, marriage and divorce rights, property rights, right to adoption, custody and guardianship, as well as right to bodily integrity, agency and sexual autonomy of women” (Swedish Mission Council)³³

2.4 WHO ARE AFFECTED BY THESE CHALLENGES?

This report pays particular attention to the ways in which these challenges affect heterosexual women, girls, and SOGI minorities. As noted above, women and girls in religious minorities may be particularly vulnerable to intersectional discrimination, but people in majority religious communities can also experience gendered consequences of FoRB violations, or experience gender discrimination in particular ways because of their particular religious affiliation and identity, for instance religious feminists, reformers or others from the religious majority who interpret their religion in ways that challenge the orthodoxy. Women who are atheists, humanists or other types of non-believers, or who refrain from practicing their religion may also experience various forms of intersectional discrimination. Around the globe, SOGI minorities face restrictions on where and how they can practice their faith, imposed by the state, religious authorities as well as the broader society.³⁴

” Many of us who are LGBTQI are forced to choose between our sexuality and our spirituality ... so we go back and forth in this challenge ... Faith communities, at their best, teach comfort and challenge. They teach comfort to care for each other, be with each other, support each other; and they challenge you to be more open, more loving and more active. And I missed both the comfort and the challenge” (Brent Hawkes, Reverend of Metropolitan Community Church, Toronto)³⁵

Obviously, there are also gendered consequences of religiously related discrimination, or religiously related consequences of gender discrimination, that affect heterosexual men and boys in particular ways. Our omission of these types of discrimination should not in any way be interpreted as an attempt at diminishing them, or creating some sort of ‘hierarchy of suffering’, but merely as an attempt at directing attention to types of discrimination that have so far received less attention.

WHAT DO WE MEAN BY THOUGHT, CONSCIENCE, RELIGION AND BELIEF?

There is no universally agreed upon definition of the terms ‘thought’, ‘conscience’, ‘religion’ and ‘belief’ in international law. In its General Comment no. 22, the Committee on Civil and Political Rights states that the right to freedom of thought, conscience and religion (or the right to freedom of religion or belief) encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. It furthermore notes that the terms ‘religion’ and ‘belief’ are to be broadly construed, including theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief, and that “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.”³⁶ Indigenous beliefs and practices are also protected by the right to freedom of religion or belief.³⁷

People can be both victims and perpetrators of discrimination simultaneously.

Women – whether from religious minority or majority communities – may be subject to gender discrimination, but many also actively contribute to promoting and maintaining patriarchal structures and harmful gender stereotypes within their community. Likewise, women from one religious minority may experience religious discrimination from the majority community while at the same time engaging in discriminatory practices against women from another religious minority or against SOGI minorities within their community. Even within a religious community, women may engage in discriminatory practices and negative social control against other women in the same community, e.g. on the grounds that these women do not comply with orthodox religious norms and practices. While it is important to pay attention to these complex dynamics and patterns of discrimination, it is also necessary not to equalize all forms of discrimination, overlooking or neglecting issues of power and dominance.

” There is a need for human rights advocates to be observant on the impact of FoRB and women’s rights violations on both women from majority and minority communities in different contexts. Forces of patriarchy and religious fundamentalism affect the human rights of both sets of women, but in different ways” (Saumya Uma, O.P. Jindal Global University)

People who are victims of discrimination on the grounds of religion or gender are not only victims. They are often also actively involved in struggles for their own rights as well as those of others, developing strategies to counter public and private forms of discrimination, sometimes on their own, sometimes with others, in their quest for equality, security and dignity.³⁸ Muslim, Hindu, Christian, Sikh and other religious minority women are organising peaceful sit-in protests against

discriminatory citizenship laws in India. The Iraqi Yazidi human rights activist Nadia Murad was held captive by ISIS for three months, and is now an outspoken advocate for ending the use of sexual violence as a weapon of war and armed conflict. In South Africa, the Christian organisation Inclusive and Affirming Ministries (IAM) insists on “greater acceptance and inclusion of LGBTI people within faith communities.”³⁹ The Malaysian NGO Sisters in Islam provides legal counselling to women on Islamic family law cases, despite strong resistance and criticism from conservative Islamic actors.⁴⁰ In international policy circles, the Baha’I International Community is a strong voice for human rights and gender equality. And these are only a few examples. A key purpose of the expert consultation process was precisely to direct attention to the important role that these and other religious actors can play in furthering FoRB and gender equality, and throughout the report we highlight examples of good practices by minority groups, faith-based NGOs, religious leaders and others.

2.5 WHO DISCRIMINATE AND HOW?

Heterosexual women, girls and persons from SOGI minorities experience different forms of religion- and gender-related discrimination. Overall, we can distinguish between two types of discrimination, namely discrimination carried out by state actors and discrimination carried out by non-state actors. Often, the two types of discrimination are closely related – discriminatory societal norms and practices encourage and justify discriminatory laws and other forms of state discrimination, and the other way around. Research shows that countries with a high level of state restrictions on religion typically also have high levels of societal hostilities. Similarly, in countries with gender-discriminatory legislation we also typically find high levels of gender discriminatory social norms and practices.⁴¹

The state is the primary duty-bearer in relation to the promotion, protection, and respect of human rights, including FoRB and gender equality rights, and as such is obliged not only to uphold these rights, but to ensure that others do not violate them. States are, however, common violators of human rights. State-led discrimination on the grounds of religion or gender occur where the state actively discriminates against, harasses, and/or persecutes individuals and groups because of their gender or because of their religion or belief (or lack thereof), or when the state passively supports or refrains from responding to discrimination committed by non-state actors. State actors can discriminate through law or through policies, structures and practices, including in extreme cases violence.

STATES WITH AN OFFICIAL RELIGION

States with an official religion are statistically associated with higher levels of discrimination against religious or belief minorities, as well as restrictions on religion more generally.⁴² In such contexts, the state often has an interest in preserving and propagating a particular religion, or more precisely, a particular interpretation of that religion, and alternative religions, or alternative interpretations of the state religion, are controlled and, in some cases, oppressed. This has consequences not only for religious or belief minorities, but also for followers of the state religion who interpret their religion in ways that are seen to be 'deviant' or 'heretic', e.g. religious feminists, people who do not practice their religion, atheists and others who challenge the often very conservative, literalist orthodoxy of the state religion.⁴³

Legal discrimination: A wide variety of laws around the world may be indirectly or directly gender discriminatory or religion discriminatory. While each of these laws may have dire consequences for the people affected and deserve special attention, the present report focuses specifically on intersections between these different types of laws. Personal status laws, or family laws, for instance are often simultaneously discriminatory against women and particular religious groups. Nationality laws may be generally discriminatory against certain religious groups, but women in these minorities may be affected in particular ways. In our analysis, we explore these and other examples of intersectional legal discrimination.

Discrimination in state policies, structures and practices: Often, discriminatory laws may be implemented by state actors in ways that compound or worsen consequences for subjects of discrimination. Even in situations where the law is non-discriminatory, state policies, structures and practices may still be discriminatory. Judges may interpret the law in a biased manner; police may be reluctant to provide the needed protection or report cases of violations; ministries may prioritise education infrastructure in certain areas over others; staff in governmental health facilities may systematically provide uneven treatment on the basis of religion or gender, to mention only a few examples. In our analysis, we explore these and other examples of intersectional discrimination in state policies, structures and practices.

Non-state actors are also engaged in different forms of **discrimination through social norms and practices**. Inequality in women's enjoyment of their rights is often deeply embedded in tradition, culture and religion, with violations originating from social custom, belief or practice rather than, or as well as, from state law and practices.⁴⁴ Similarly, discrimination and inequalities related to religion is often as rooted in social hostilities and exclusionary practices, as in state actions. The

group of non-state actors engaged in these types of discriminatory norms and practices encompasses a wide range of very different actors, including terrorist and paramilitary groups, militant vigilante groups, religious organisations and leaders, businesses, media, political parties and groups, as well as local communities and individuals. Even religious minorities that are themselves discriminated against may engage in discriminatory practices, whether against other minorities or against individuals within their community. Likewise, the types of discrimination vary tremendously, including stereotyping and bias, harassment, hate speech, hiring decisions, business decisions (e.g. to award a contract or enter into trade), decisions to provide or not provide a service privately for a fee, threats and incitement to violence, as well as harmful practices and gender-based violence.⁴⁵ In our analysis, we explore the ways in which societal discrimination on the grounds of religion and gender intersect in different ways.

HUMAN RIGHTS RESPONSIBILITIES OF RELIGIOUS ACTORS

The legal responsibility to respect, protect and fulfil human rights lies with the state. But non-state actors with power to affect the lives of rights-holders may be said to have a moral responsibility to contribute to the respect, protection and fulfilment of human rights. A number of declarations, resolutions and action plans point to the roles and responsibilities of religious actors in this regard, including e.g. the **Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief** (1981), the **Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence** (2012), and the **Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes** (2017).

For all three spheres of discrimination – legal, state practices and non-state practices – we pay particular attention to the following:

- Parallel discrimination on the grounds of religion and gender
- Discrimination on the grounds of religion which has particular consequences for heterosexual women or people in SOGI minorities
- Discrimination on the grounds of gender which has particular consequences for certain communities or individuals because of their religion or belief

Where relevant, we also look at examples of laws and practices that seek to promote or protect against discrimination on the basis of religion, but which may inadvertently lead to gender discrimination, as well as norms and practices that seek to promote or protect against gender discrimination, but which may lead to discrimination on the basis of religion.

In our analysis, we do not systematically explore the **root causes and drivers of discrimination and inequalities**. As political scientist Jonathan Fox notes, it is “far easier to uncover and measure the extent, nature, and consequences of religious discrimination than it is to do the same for its causes”;⁴⁶ the different contexts in which discrimination and inequality take place are notoriously complex, shaped by their distinct histories, politics, economies, and cultures, and adequate analysis requires in-depth studies of each context in its specificity. However, two overarching factors contributing to shaping and exacerbating discrimination and inequality are worth mentioning, namely poverty and conflict.

Poverty and socioeconomic marginalisation is both a consequence of other types of discrimination, whether legal, institutional or societal, and an exacerbating factor in these types of discrimination. Ten percent of the world's population live on less than USD 1.90 a day.⁴⁷ Poverty is a determining factor in shaping people's access to justice, health, education and a wide range of other rights. Poverty surveys consistently show disproportionately higher levels of poverty for minority groups than for the population in general. Obviously, belonging to a religious minority does not necessarily entail that one is poor; in some contexts, some religious minorities may be poor while others are not, reflecting broader patterns of discrimination and exclusion. In India, for instance, Muslims and Buddhists are, on average, poorer than the general population, while Sikhs and Christians are wealthier.⁴⁸ Insofar as poverty levels for women are generally higher than for men, women in minority groups are presumably at a particular disadvantage. Poverty and socioeconomic marginalisation can also exacerbate the discrimination and inequality that women outside of religious minorities experience. Women who are poor and with little education may have fewer possibilities for coping with and challenging gender discriminatory norms and practices than those who have more resources.

” Often people who live in poverty are the ones that experience the worst violations of their right to express their identity. They are also often the ones with the least power and fewest resources to counter, or cope with, these violations” (Mariz Tadros, Institute for Development Studies/Coalition for Religious Equality and Inclusive Development)

Situations of **war and other forms of violent** conflict exacerbate pre-existing inequalities and discrimination, putting those who are already most vulnerable at further risk.⁴⁹ An estimated 1.8 billion people live in fragile contexts, but this figure is projected to grow to 2.3 billion by 2030.⁵⁰ Consequences of climate change are expected to contribute to worsening this situation, as natural disasters, resource scarcity, food insecurity and pollution will lead to an increase in displacement, instability and conflict. The lack of essential services, including health, education and access to justice, in conflict situations can have a disproportionate impact on individuals and groups who are already vulnerable.⁵¹ Furthermore, women, girls and SOGI minorities are generally at higher risk of gender-based violence and

trafficking in such situations. In some contexts, conflicts may contribute to reviving or exacerbating divides and unresolved tensions along religious lines, often leading to discrimination and violence on the grounds of religion. In such conflicts, women and girls in religious minority groups are particularly vulnerable to rape and other forms of gender-based violence, including as a strategy for elimination or 'contamination' of a community, or a tool for retaliation and revenge.

” [In conflicts] women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group” (UN Security Council Resolution 1820)⁵²

2.6 WHAT IS THE ROLE OF RELIGION IN THIS?

The role of religious actors, discourses and practices in gender and religious discrimination is complex and multifaceted. Most of the world's religions are open to a multitude of different interpretations. Religious doctrines, traditions and norms can present powerful narratives and framings that encourage and justify exclusion, discrimination and oppression, whether of religious minorities, heterosexual women, people in SOGI minorities or others. But religion can also be a strong source of motivation and mobilisation in struggles for inclusion, equality and non-discrimination. As noted by the UN Special Rapporteur on FoRB, “[a] multitude of voices exist within religious groups and institutions, including faith-based actors who campaign for the rights of women, girls and SOGI minorities and work to promote gender equality within their faith.”⁵³

” What would happen if the questions that informed the reading of Scripture were based on values fundamental to Christianity including human dignity and equality of all; the call to prophetic justice making and flourishing of all life? (Nontando Hadebe, Circle of Concerned African Female Theologians)

Historically, some of the strongest advocates for justice have been religious actors, just like religious actors have played an important role in the provision of education, health, and other services to the poor and marginalised. Religious leaders, communities and organisations can also be key players in peace-building and conflict resolution, encouraging co-existence, forgiveness, and tolerance. When analysing and addressing challenges related to FoRB and gender equality, it is imperative to always bear in mind this complexity and openly explore the different ways in which religion plays out in particular contexts rather than presume an inherently positive or negative role of religion and religious actors.

'FAITH FOR RIGHTS' COMMITMENT III⁵⁴

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.

Importantly, a nuanced approach to religion in the context of FoRB and gender equality also implies not over-emphasising the role of religion in the analysis of challenges, or solutions for that matter. Even when discrimination or inequalities seem to be clearly religiously motivated, they are rarely only religiously motivated. Discrimination and inequalities, whether related to gender or religion, are complex and multifaceted phenomena, and religion is only one of many explanatory factors, alongside economic, political, cultural, social, and historical factors. Often, state discrimination on the grounds of religion is justified with reference to security concerns and a desire to control political dissent. This seems to be the case in the Chinese government's persecution of Uighur Muslims, for instance. Struggles over resources can also play an important role in religiously related discrimination and conflicts. In Nigeria, conflicts between farmers and herders may increasingly be framed in terms of religious divides, but interrelated to this are conflicts over access to land and water. In Syria and Iraq, ISIS' abduction and enslavement of religious minority women and girls was clearly motivated by a desire to destabilise, contaminate and even eliminate non-Muslim communities, but they also capitalised on this because the sale of women and girls was a lucrative enterprise for many.

” I once talked to this religious leader who had worked tirelessly to combat practices of female genital mutilation (FGM) in his district. He had talked to local religious leaders and people in the communities, and had explained again and again that there was no religious justification for this practice. And still people kept practicing FGM. In the end, he went to the women who were responsible for carrying out the ritual and asked them why they continued even when this was clearly not a religious obligation. “If we stop,” they said, “how would we earn an income for our families?” (Ed Brown, Secretary General, Stefanus Alliance International)

CHAPTER 3

SITUATING THE RELATIONSHIP BETWEEN FoRB AND GENDER EQUALITY IN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

The Expert Consultation Process on FoRB, Gender Equality and the SDGs situates the analysis of the nexus between FoRB and gender equality within the SDG framework. Apart from SDG 5 on gender equality and empowerment, which cuts across all the topics discussed in the Expert Consultation Process, experts have focused attention on four SDGs – SDG 3 on health, SDG 4 on education, SDG 13 on climate change, and SDG 16 on access to justice. This does not mean that issues related to FoRB and gender equality are not relevant in relation to other SDGs and other contexts, but these are some of the areas where challenges are perhaps most pronounced and where faith-based organisations have historically been particularly active. The present report summarises the discussions on access to justice, education and health, while discussions on climate change are presented in a separate report.

AGENDA 2030 AND THE SUSTAINABLE DEVELOPMENT GOALS

The Sustainable Development Goals are a universal call to action to end poverty, protect the planet and improve the lives and prospects of everyone, everywhere. The 17 Goals were adopted by all UN Member States in 2015, following a comprehensive consultation process with civil society, as part of the 2030 Agenda for Sustainable Development which set out a 15-year plan to achieve the Goals. For each of the SDGs, a set of targets and indicators has been formulated to measure and monitor progress towards the goals. Member states are encouraged to conduct regular and inclusive reviews of progress at the national and sub-national levels. These voluntary national reviews then serve as a basis for the regular reviews and follow-up by the High Level Political Forum. The Forum meets annually under the auspices of the Economic and Social Council for eight days, including a three-day ministerial segment and every four years at the level of Heads of State and Government under the auspices of the General Assembly for two days.⁵⁵

Overall, anchoring this analysis within the SDG framework responds to repeated calls for **strengthening synergies between human rights and the SDGs**. As noted in the report **Human Rights and the SDGs: Pursuing Synergies**, by Universal Rights Group, Danish Institute for Human Rights and others:

If the 2030 Agenda is to be realised in a way that truly does 'leave no one behind,' then human rights obligations and commitments must be applied, implemented and protected by all UN member States. Similarly, the full enjoyment of all human rights will only be possible in the context of worldwide progress with the implementation of the Sustainable Development Goals and Targets, including the eradication of poverty in all its forms and dimensions.⁵⁶

Situating our analysis of the nexus between FoRB and gender equality within the SDG framework, we contribute to **directing attention to some of the groups that are often 'left behind'**, including – but certainly not limited to – women and girls, SOGI minorities, religious or belief minorities, non-believers and others who are subject to discrimination on the grounds of religion or gender. While Agenda 2030 includes a relatively strong focus on gender equality, with SDG 5 dealing explicitly with this and various targets and indicators also including a gender perspective, religiously based discrimination and inequalities are largely absent in the various SDGs and their adjacent targets, except for target 10.2 which calls for states to “empower and promote the social, economic and political inclusion of all irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.”⁵⁷

This relative lack of attention to discrimination and inequalities on the grounds of religion is not only a blind spot in Agenda 2030, but in efforts towards development, human rights and peace-building more generally.⁵⁸ Identifying the particular challenges related to this, and pointing to possible ways to overcome these challenges, this analysis may provide a valuable contribution to the commitment of Agenda 2030 to 'reach those furthest behind first', as well as to directing attention to issues related to religious discrimination and inequalities in broader efforts towards development, human rights and peace-building.

In turn, the SDG lens on the nexus between FoRB and gender equality may **encourage a broader and more nuanced analysis** of this relationship than a strictly legal human rights perspective would. The relationship between FoRB and gender equality is complex and multifaceted, shaped by a myriad of factors, including not only law, but also culture, religion, economy, and politics. Isolated strategies seeking to mend particular violations are rarely successful; instead, responses must be linked to broader strategies for development, democratisation, and peace-building. And here, 2030 Agenda is arguably the most important global framework.

Situating the analysis of FoRB and gender equality within an SDG framework may also contribute to **broadening alliances** and encourage the inclusion of actors that have not traditionally been engaged in the promotion of FoRB. Historically, the field of FoRB advocacy has been relatively narrow, and while recent years have seen a broadening of the field, there are still large segments within the fields of human rights, development and peace-building that – for a variety of reasons – shy away from more explicit FoRB engagement even if their work is highly relevant to this

agenda. Situating FoRB in the context of the SDGs, and directing attention to the ways in which issues related to FoRB and gender equality intersect and overlap in this context, can be a way to reach out to, and involve, some of these actors, encouraging exchange of experiences, knowledge-sharing and joint action.

Of particular relevance here are **faith-based NGOs working more broadly on the intersections of religion, gender and development**. Many of these organisations have decades of experience in engaging with religious leaders and communities on contentious issues such as female genital mutilation, early marriage and gender-based violence. Through a gradual, context-sensitive approach, they challenge patriarchal norms and practices, arguing for gender equality from a religious point-of-view. Engaging with such actors is crucial – not only to build on their experiences, but also to ensure that the struggle for gender equality in the context of FoRB does not end up being defined only in terms of a **negative** struggle against patriarchal religion, but just as much as a **positive** struggle to encourage gender-sensitive religious interpretations and practices.

” We are moving the 2030 Agenda forward and building a new culture of gender equality to counter the culture of patriarchy. And faith, from which much of the world derives its inspiration, has to be a core part of building that new culture” (Lopa Banerjee, UN Women)⁵⁹

CHAPTER 4

FORB, GENDER EQUALITY AND ACCESS TO JUSTICE

4.1 INTRODUCING SDG 16: ACCESS TO JUSTICE FOR ALL

Access to justice is a key element in Agenda 2030, as part of SDG 16, which is dedicated to the promotion of “peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels,” but also reflected in other SDGs, including SDG 5 on gender equality. It is “a fundamental element of the rule of law and good governance, together with the independence, impartiality, integrity and credibility of the judiciary, the fight against impunity and corruption, and the equal participation [...] in the judiciary and other law implementation mechanisms.”⁶⁰

Access to justice refers to the various elements leading to appropriate redress against the violation of a right, such as information on rights and procedures, legal aid, legal representation, legal standing or general access to courts, and as such is a key component in a rule-of-law based society.⁶¹ The obligation of the State to guarantee access to justice for all is inextricably linked to the principle of non-discrimination: all members of society are entitled to have access to justice without distinction of any kind. Closely related to non-discrimination in accessing justice is the principle of equality in law and equal protection of the law. The state is obliged to not only refrain from violating the rights of individuals based on, *inter alia*, gender, ethnic identity, religion or belief, language, disability, age or sexual orientation, but also to take positive measures to ensure that all individuals can effectively obtain a remedy if their rights have been violated.⁶²

Ensuring access to justice, then, is more than ensuring the availability of systems for fair, affordable, accountable and effective remedies; it is also about ensuring the sensitivity and responsiveness of such systems to the needs and realities of all.⁶³ This requires particular attention to the specific challenges encountered by vulnerable and marginalised groups, including – but obviously not limited to – women, SOGI minorities, and people belonging to religious minorities, as well as to the multiple ways in which challenges intersect, resulting in individuals and groups being victims of double or triple discrimination.⁶⁴ Research has documented that women and religious minorities tend to have lower access to justice, with regard to both formal and informal justice systems.⁶⁵

4.2 CHALLENGES IN THE INTERSECTIONS BETWEEN FORB, GENDER EQUALITY AND ACCESS TO JUSTICE

Achieving access to justice for all is a complex endeavour. Inequalities and discrimination occur at various levels, including legal, institutional, socio-economic and cultural, precluding certain individuals and groups from accessing justice.⁶⁶ Factors such as stereotyping, discriminatory laws, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible contribute in various ways to impeding access to justice for all, with consequences especially for groups and individuals who are marginalised or disadvantaged.⁶⁷ The following presents a brief overview of some of the key challenges that were discussed in the workshops, presenting examples of discrimination on the grounds of religion and gender, and exploring how they intersect in different ways.

4.2.1 LEGAL FRAMEWORK

Discriminatory laws – whether constitutional, civil, criminal, labour or administrative – obviously constitute a key challenge in ensuring equal and inclusive access to justice for all. **Equality in law** is a fundamental prerequisite for access to justice. If the laws are discriminatory, there is no justice to access. Around the world, gender discrimination in law is commonplace and includes different standards for women and men in a range of areas, e.g. in applying for a passport, choosing employment, transferring nationality to a child or foreign spouse, participating in court proceedings, receiving inheritance or deciding when and whom to marry. Various laws also allow for inequalities in remedies for and punishment of particular crimes. In several countries, the penal code diminishes the seriousness of harmful practices and gender-based violence, by, for example, placing a higher burden of proof on victims, reducing the value of women's testimony and allowing perpetrators of rape to marry survivors or invoke 'honour' or 'provocation' to escape criminal responsibility or minimise punishment.⁶⁸ An estimated 2.5 billion women and girls live in countries with gender discriminatory laws.⁶⁹ Laws that discriminate against SOGI minorities are even more widespread.⁷⁰ Similarly, more than half of the world's population live in countries where government restrictions on religion are either high or very high.⁷¹ This includes restrictions on religious and non-religious beliefs and practices, e.g. lack of legal recognition of particular communities, anti-blasphemy and anti-apostasy laws, and restrictions on worship, as well as broader discrimination in areas of e.g. education, health, and employment. In some countries, nationality and citizenship laws discriminate explicitly or implicitly on the grounds of religion. In India, for instance, new legislation grants citizenship to migrants from Pakistan, Bangladesh and Afghanistan, prioritizing Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, and excluding Muslims.⁷²

RELIGIOUSLY BASED RESERVATIONS TO CEDAW

While most countries in the world have ratified the Convention for Elimination of All Forms of Discrimination against Women (CEDAW), more than 40 countries have expressed reservations to parts of the convention. Several of these reservations are religiously justified. Most of these are reservations to article 2 which concerns gender equality in national legislation, and article 16 which concerns discrimination against women in matters relating to marriage and family relations, often regulated under personal status law, or family law. Bahrain, for instance, states that “the Kingdom of Bahrain makes reservations with respect to the following provisions of the Convention: Article 2, in order to ensure its implementation within the bounds of the provisions of the Islamic Shariah [...] Article 16, in so far as it is incompatible with the provisions of the Islamic Shariah.” Reservations to these articles are considered by CEDAW to be ‘incompatible with the object and purpose of the convention’ and should not be permitted. They have consequences for individuals’ enjoyment of a range of human rights, including their right to non-discrimination on the grounds of their sex, but also their right to FoRB.⁷³

While each of these laws have detrimental effects for everybody affected, some present particular challenges in terms of compound or intersecting discrimination. **Denominational family laws, or personal status laws**, are perhaps the most problematic laws in this respect. In various countries, especially in countries with an official state religion, family law is based on religion and may be directly and formally administered by religious courts. Many of these laws involve clear gender discrimination in relation to e.g. custody, marriage, divorce, inheritance, and property. In Saudi Arabia, for example, women cannot obtain a passport, marry, travel, or access higher education without the approval of a male guardian. Denominational family law in Israel permits divorce only with the consent of the husband, in some cases forcing women to forfeit property or custody of children.⁷⁴

RELIGIOUS COURTS

Some countries around the world have religious courts as part of the formal justice system, typically with jurisdiction over matters related to personal status and family law, including inheritance, marriage, divorce, and child custody. As such, religious courts have great influence on issues related to women's rights and gender equality. In Lebanon, the religious court system is composed of the court systems of the country's 18 recognized religious denominations, each with jurisdiction over members of their respective denomination in matters related to personal status and family law.⁷⁵ A 2015 report by Human Rights Watch, examining more than 400 legal judgements by the religious courts, found that women often face legal difficulties when seeking divorce, protection from domestic violence or custody of their children after divorce. "Not only are Lebanese citizens of various religions treated unequally under the law, but women are treated unfairly across the board, and their rights and security go unprotected," said Nadim Houry, deputy Middle East director at Human Rights Watch.⁷⁶

At the same time, these laws discriminate on the grounds of religion. In most instances, family laws accommodate a certain degree of religious pluralism, allowing different religious communities, including recognized minorities, to regulate their family-related legal affairs in conformity with their own religious traditions. However, as noted by the former UN Special Rapporteur on FoRB, in spite of such pluralistic conceptualizations, the enforcement of denominational family laws remains problematic from a FoRB perspective. For one, differences in the various laws mean that people are accorded different degrees of protection, depending on their religious identity. In Malaysia, for instance, a series of law reforms to end discrimination against women apply only to non-Muslim family law, leaving Muslim women with less protection under the Islamic legal system.⁷⁷ Second, state enforced denominational family laws typically fail to do justice to the rights of persons living outside of the recognized religious communities, for example atheists or agnostics, and members of un-recognised religious minorities.⁷⁸ Third, such laws often restrict women's right to marry who they want on the basis of religion. In most countries where family law is based on sharia, for instance, a Muslim man may marry a non-Muslim woman, while a Muslim woman may marry only a Muslim man and could be charged with adultery if marrying a non-Muslim man. Divorce in the case of mixed-religion marriages may also be problematic. In Sudan, for instance, the law stipulates that in custody dispute cases where the father is Muslim and the mother is non-Muslim, courts should grant custody to the father if there is any concern that the mother would raise the child in a religion other than Islam.⁷⁹

RELIGIOUS FAMILY LAWS AND GENDER EQUALITY

Promoting gender equality through religious family laws: The Evangelical Lutheran Church in Jordan and the Holy Land. The Palestinian legal system allows for several parallel religious family laws. For instance, the Christian community is governed by parallel laws, as each church has its own family law that governs its members, as well as its own court process through which such matters are solved. The Evangelical Lutheran Church in Jordan and the Holy Land (ELCJHL) is a Lutheran church that consists of six congregations and several ministries including four schools, an elderly care program and a cultural centre, to mention a few. In 2013, a long process of creating a family law and setting up a new court, was initiated. The process began after the Women's Committee of the church wrote a letter to the bishop, asking that the church, as a member of the Lutheran World Federation, implemented its Gender Justice Policy in the church and supported the creation of a Lutheran family law, based on gender justice. The bishop took the initiative seriously and appointed a committee of lawyers to draft a family law for the church. In 2015, after two years of deliberations and theological discussions, the ELCJHL adopted the Lutheran Family Law and created the Ecclesiastical Church Court. It is the only religious family law and ecclesiastical court in the Middle East that incorporates gender justice as a core principle and it addresses many of the issues that the CEDAW committee commented upon in its Concluding observations to the State of Palestine in 2018. The law gives equal rights to men and women concerning marriage, divorce, inheritance, alimony and custody of children. The minimum age of marriage is set at 18 years, to ensure freedom of marriage, the elimination of child marriages and compliance with the standards set by CEDAW.⁸⁰

Encouraging legal reform through litigation: Muslim marriage laws in South Africa. In South Africa, the failure to recognise Muslim marriages has had a negative impact on women's rights, including inability to obtain a divorce and consequent relief on equal terms with one's partner, inability to obtain maintenance orders beyond the brief period of *iddah*, and inability to obtain equal division of marital property upon divorce. Ultimately, women were unable to enforce their constitutional rights. The lack of recognition to Muslim marriages rendered women and children—an already vulnerable sector of society—subject to further ostracization and marginalisation. Twenty years of litigation at various stages of the courts have led to gradual improvements and recognition for Muslim women, culminating in the seminal case of the Women's Legal Center versus the President in 2018. Here, the court found that marriage is a "seal of constitutional significance," and thus differential treatment amounted to a violation of rights. It also recognized that the government had failed to protect and promote rights under ss 9, 10, 15, 28, 31, and 34 of the Constitution including rights to equality, dignity, and freedom of religion, noting religion, marital status, and gender equality as particular grounds of discrimination. The Full Bench ordered the Executive and Parliament to pass legislation providing for the recognition and dissolution of marriages concluded in terms of Islamic Law and for related matters within two years.⁸¹

4.2.2 STATE POLICIES, STRUCTURES AND PRACTICES

Often, challenges related to inequalities and discrimination in access to justice lie not (only) in the legal framework, but in the ways in which laws are interpreted and implemented in practice. Even in contexts where the legal framework formally ensures access to justice and equality in law for all, justice sector actors, including justice ministries, judges, lawyers, police, penitentiary staff and others, are incapable of, or unwilling to, implement the laws, whether because of insufficient expertise, political interests, economic constraints, fear of public riots and resistance, or concerns for their own safety, creating or maintain ‘cultures of impunity’. It may be legally possible to convert, for instance, but police offers little protection in cases where conversion leads to harassment and violence from the surrounding community. Rape may be punishable by law, but lawyers are reluctant to prosecute and judges are reluctant to convict. A Minority Rights Group study of Dalit women’s (lack of) access to justice in India found that many women were blocked from obtaining legal redress by the police or state actors, and when cases were handled, they were typically handled with great delays. Delays in the handling of cases obstructs justice; especially in cases of gender-based violence, physical evidence cannot be preserved permanently. As noted in the Minority Rights Group study, such cultures of impunity work to socially legitimise violence and discrimination against minority women, which in turn reinforces particular norms around gender and minority status.⁸²

” Judicial stereotyping is a common and pernicious barrier to justice, particularly for women victims and survivors of violence. Such stereotyping causes judges to reach a view about cases based on preconceived beliefs, rather than relevant facts and actual enquiry. This can have potentially wide-ranging consequences. It may, for instance, distort judges’ perception of the facts, affect their vision of who is a ‘victim’, and influence their views about witness credibility. Ultimately, it compromises the impartiality and integrity of the justice system, which can, in turn, lead to miscarriages of justice and the revictimization of complainants.” (Simone Cusack, *Eliminating Judicial Stereotyping*, OHCHR, 2014, p. ii)⁸³

Stereotyping, bias and discrimination around gender or religion contribute to creating such cultures of impunity. Gender stereotyping, for instance, may mean that judges – consciously or unconsciously – apply rigid standards about what they consider to be appropriate behavior for women and penalize those who do not conform to these stereotypes, whether these women are from majority or minority communities. It may also affect the credibility given to women’s voices, arguments and testimonies, causing judges to misinterpret or misapply laws. Likewise, prosecutors, law enforcement officials and other actors may allow stereotypes to influence investigations and trials, especially in cases of gender-based violence, with stereotypes undermining the claims of the victim/survivor and simultaneously supporting the defences advanced by the alleged perpetrator, leading to insufficient or lack of remedy. Religious stereotyping and bias may also

contribute to undermining the credibility of victims and influence investigations and trials in different ways. Women in religious minorities thus have to deal with compound discrimination. In addition to this, they may be met with particular kinds of stereotypes, bias and discrimination, not only because they are women or because they are from a religious minority, but because they are religious minority women. In some European countries, for instance, “Muslim women have reported encountering service providers and criminal justice officials who have stated that violence against Muslim women is a part of their ‘culture.’”⁸⁴ In some cases, such stereotypical perceptions may lead to justice sector actors shying away from dealing with the crimes minority women report, out of fear for being culturally or religiously insensitive. In other cases, they may mean that justice sector actors make premature or incorrect judgements.

RELIGIOUS COURTS: IMPROVING WOMEN’S ACCESS TO JUSTICE IN INDONESIA

The Asia Foundation has worked for several years to integrate women’s rights and gender equality into the work of religious courts in Indonesia. In a partnership with the Center for Women’s Studies at Sunan Kalijaga State Islamic University Yogyakarta, Putroe Kandee, the state religious courts body, and the Department of Religious Affairs, the organisation has trained more than 50 religious high court judges and 800 religious court judges on issues related to e.g. partnership in the family, reproductive health and sexuality, domestic violence, and the rights of the child. Judges reported that they learned how to incorporate relevant international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child alongside the Marriage Law of 1974 and the Compilation of Islamic Law.⁸⁵

Lack of resources and discriminatory budgetary priorities constitute another key barrier to access to justice. Laws may be in place, but if sufficient economic resources are not allocated to build and maintain justice sector infrastructure, pay adequate salaries of judges, lawyers, police, and other justice sector actors, or provide quality legal aid services to the population, implementation will fail. Insufficient resource allocation may lead to e.g. insufficient and unequal geographic distribution of justice institutions; failure to record or register complaints; and the spread of corruption as a way to compensate for poor salaries, all of which may disproportionately affect religious or belief minorities and other vulnerable groups. A particularly damaging consequence of insufficient resourcing of the justice sector is the **lack of free legal aid**. Article 14 of the International Covenant on Civil and Political Rights (ICCPR) obliges states to provide free legal assistance in criminal proceedings for individuals who do not have sufficient means to pay for it, and states are also encouraged to provide free legal aid in relation to civil matters for

individuals in economic need. Nonetheless, scarce resources, or skewed political priorities, often mean that free legal aid is limited.

Inadequate infrastructure and lack of physical access to institutions of justice are also key obstacles to equal access to justice. Courts and quasi-judicial bodies, including free legal aid, are often placed in the main cities, making it difficult for people living in rural and remote areas to access them, requiring long and costly travel. In contexts where religious minorities are concentrated in rural and remote areas, this will affect them disproportionately. Social norms and practices around women's mobility make access for women in religious minorities particularly difficult, insofar as they are not expected to travel on their own. Physically insecure buildings and infrastructure, including e.g. lack of possibilities to do legal proceedings privately, may contribute further to hindering women's access to justice.⁸⁶

On a different level, **lack of representation** contributes indirectly to the lack of access to justice for women in general as well as for women in religious minorities in particular. Religious or belief minorities are often underrepresented in the justice sector, whether because they are intentionally restricted from participation, inadvertently disadvantaged by facially-neutral laws or policies, or because there are structural barriers to their full and equal participation.⁸⁷ Similarly, women are generally underrepresented as senior legal professionals, ministers of justice, law reform commissioners and human rights commissioners.⁸⁸ This lack of representation may have wide-ranging consequences – from the ways in which laws are formulated to the ways in which court buildings are designed – influencing women's and religious or belief minorities' access to justice in different ways.

4.2.3 SOCIAL NORMS AND PRACTICES

Social, cultural and religious norms and practices can influence individuals' or groups' access to justice in various ways. As noted by the Norwegian Refugee Council, "the main obstacles to women's access to justice [...] are social norms that limit both women's understanding of their rights and their options for seeking redress when rights are denied. Norms embedded within families, communities and justice structures can perpetuate gender inequality, limiting the extent to which women's rights are realised in practice."⁸⁹ **Patriarchal norms and stereotypes** may influence conditions for women's access to justice, restricting their autonomy and mobility in various ways, whether they are from a religious minority or majority. In some contexts, for instance, it is unthinkable for women to access the justice system without their husband's consent. Traveling for women also often requires male companionship, further complicating access to the justice system. Courts and police stations may be perceived as insecure and threatening environments, associated with criminals and corruption, and as such not 'appropriate' places for a woman to be, and certainly not on her own. For women in religious or belief minorities, the fact that the formal justice system is most likely to be dominated by (often male) representatives from the majority community may add to such worries.

MUSAWAH'S KNOWLEDGE BUILDING INITIATIVE ON QIWAMAH AND WILAYAH

Scholars and activists in the Muslim women's rights organisation Musawah engaged in a five-year initiative to re-interpret the Islamic concepts of qiwamah and wilayah, which are commonly understood as sanctioning men's authority over women. As interpreted and constructed in Muslim legal tradition, and as applied in modern laws and practices, these concepts play a central role in institutionalising, justifying, and sustaining a patriarchal model of families in Muslim contexts. This inequality is at odds with the underlying ethical principles of Islam as articulated in the Qur'an. It also clashes with contemporary notions of Islamic and human rights principles, and with the reality that men are often unable or unwilling to protect and provide for their families. With this initiative, Musawah seeks to show how laws based on outdated interpretations of these concepts, which place women under male authority, no longer reflect the justice of Islam. Other interpretations are both possible and more in line with human rights principles and contemporary lived realities.⁹⁰

Social norms and practices shaping perceptions of what crimes are 'real' or 'worthy' of attention may contribute to restricting women's access to justice more generally whether they are from a religious minority or majority community. Research suggests that women generally hold back on reporting crimes and disputes more often than men, perhaps because the types of crimes that women experience are often surrounded with **shame and stigma**.⁹¹ This is the case with gender-based violence in particular. Global estimates suggest that less than 40 percent of women seek help after experiencing violence, and among those that do, fewer than 10 percent report such cases to the police.⁹² A reason for the lack of reporting may be that women may – often rightly – fear 'victim-blaming' and shaming, being accused of having 'encouraged' the perpetrator by wearing a particular dress, or acting in a certain 'provocative' or 'overly sexual' manner. A qualitative survey of female beneficiaries of legal aid in Jordan, for instance, found that there was a widespread social acceptance of domestic abuse as a matter of life, and the initial response of family members, lawyers, and law enforcement personnel was to encourage reconciliation rather than formally reporting the violence.⁹³ Even when gender-based violence is part of systematic oppression of religious minorities, women have experienced lack of recognition of their suffering by their own community. In Iraq, for instance, the Turkmen Shia religious leadership refused to acknowledge the atrocities committed by ISIS against Turkmen Shi'a women, contributing to the stigmatisation and ostracization of these women upon return to their communities.⁹⁴

WELCOMING YAZIDI WOMEN BACK INTO THEIR COMMUNITY

Yazidi women and girls were among those most severely targeted by ISIS in Iraq and Syria, with thousands of women and girls having been abducted and sold into slavery or forced into marriage. For those who were freed, returning to their communities was difficult. According to Yazidi norms, any sexual contact with non-Yazidis means banishment from the faith, even in cases of rape. This meant that many faced ostracization and exclusion, even from their own family, and the children born in slavery were not recognised as part of the community. Women's rights activists and community organisations worked together with religious leaders to challenge these norms and practices, seeking ways to support survivors in their reintegration into society. In September 2014, the Yazidi's spiritual leader Khurto Hajji Ismail, or Baba Sheihk, issued an edict to community leaders, clarifying that women who had been enslaved by ISIS should be welcomed back into the community. Later, local religious leaders working with Yazda, a Yazedi charity which supports ISIS-victims, started to carry out Yazidi baptism ceremonies for children conceived in slavery.⁹⁵

Lack of confidence in the formal justice system, compounded by experiences of impunity and institutionalised discrimination, may also mean that religious minority women hold back in reporting crimes committed against them. They may be met by police officers, lawyers and judges that ridicule or doubt their statements or side with their perpetrator, especially in cases where the perpetrator is from the majority community. In cases where the perpetrator is someone from their own community, **fear of compounding social alienation and discrimination** may also restrict women from minority groups further in speaking out. In situations where minorities are oppressed and discriminated against, or where there is a conflict between the minority and the majority, women may fear that by revealing cases of domestic violence, they will contribute to negative stereotypes about their culture and religion, and that such cases will be used by certain segments in society to justify further discrimination or oppression.⁹⁶

” In Alliance of Imams in Burundi we try to bring imams into workshops, to introduce international human rights law and show compatibility with religious texts – but this is not done in one day. If you have 30 imams, you might end up with 3-5 of them understanding what this is about” (Khalfan Elie Bukuru, Alliance of Imams in Burundi and member of ImamsForShe)

Women who do speak out and claim their rights, whether they are from a minority or a majority community, may face **resistance, exclusion and even violence from their community** as the price of defying dominant norms and values. In Bangladesh, a young woman reported the principal of a religious school for attempted rape,

and was burned alive when she did not succumb to pressure from teachers and students to withdraw her complaint. The case prompted national outrage and sixteen people were subsequently sentenced to death for her murder.⁹⁷ In India, female lawyers and women's rights activists have for years advocated for access to the Sabarimala temple in Kerala, arguing that the ban on women entering the temple, intended to protect the celibacy of the temple's deity, the Hindu god Ayyappa, was unconstitutional and a violation of their right to FoRB. In September 2018, the Supreme Court ruled that the ban did not constitute 'an essential religious practice'. Following the decision, violent protests emerged and resulting in one death and more than hundred people injured.⁹⁸

ACCUSATIONS OF BLASPHEMY

In contexts where blasphemy is illegal, accusations of blasphemous behaviour is a serious threat, often disproportionately affecting people in religious minorities. While the majority of cases seem to concern men, women are also accused, as in the case of Asia Bibi, a Catholic women in Pakistan, who was accused of insulting the Prophet Muhammad in a row with people from her village, and Meliana, a Buddhist woman in Indonesia who was accused of blasphemy after having complained about the noise of the call to prayer from a nearby mosque. Atheists and other non-believers as well as people from the majority religion who interpret and practice their religion in ways that go against the orthodoxy of the broader community are also subject to blasphemy accusations. Advocates for gender equality may be particularly vulnerable. In Malaysia, for instance, the Selangor Fatwa Committee has declared in a fatwa that the Muslim women's rights organisation Sisters in Islam is 'deviant from Islamic teachings'.⁹⁹ In Pakistan, the academic Junaid Hafeez has been sentenced to death; after inviting a feminist novelist to a lecture, he was accused by students of having made blasphemous remarks during the event.¹⁰⁰ In Greece and Sudan, blasphemy charges have been placed against SOGI rights advocates and allies.¹⁰¹

” When religion is the root of legislation, you automatically criticize religion by criticizing legislation. So in some countries we have seen women who criticize unequal laws are seen as blasphemous and a threat to religion” (Leila Alikarami, Iranian lawyer and human rights activist)

These factors, along with a number of other factors, mean that women often do not take their case to the formal justice system, but rely on **informal and customary justice mechanisms** within their community. Legal needs surveys have repeatedly shown that formal processes play a largely peripheral role in the resolution of most types of justiciable problem, with the majority of people preferring instead to resolve their problems at local level, through local community leaders and

mediators.¹⁰² This is not particular to women, but it has particular consequences for women. Many women turn to customary or informal justice systems because they are seen to be more accessible, affordable and not least familiar than the formal justice system. For women in religious minorities, there may be further attraction in relying on 'their own' customary or informal justice systems insofar as they can access these systems without fear of having to face the kinds of discrimination they face in the formal, majority-controlled, justice system.

INFORMAL AND CUSTOMARY JUSTICE SYSTEMS

Informal justice systems, often also referred to as 'traditional', 'indigenous', 'customary' or 'non-state' justice systems, are an important part of delivering justice in both rural and urban areas worldwide. It is estimated that in many countries, up to 80 percent of cases are resolved through informal justice mechanisms. Cases may include personal security and local crime; protection of land, property and livestock; resolution of family and community disputes; and protection of entitlements, such as access to public services.¹⁰³

However, while informal justice mechanisms can sometimes play a positive role in dispute resolution, in practice they often reflect patriarchal attitudes of society, putting women at a socio-political and economic disadvantage and downplaying or inadequately addressing crimes committed against women, including in particular issues of gender-based violence.¹⁰⁴ In Denmark, for instance, research shows that some Muslim minority women experience that divorce within the formal Danish legal system is not religiously accepted by their former husband, family or broader community. These women then end in a situation where they are legally divorced, but remain married according to religious norms. Some, especially those who have been victim of negative social control or violence, find it difficult to seek and get help from the formal justice system. They then turn to imams and other religious authorities who are not always willing to or capable of providing adequate assistance, either shying away from helping the women or providing them with advice to remain within the marriage.¹⁰⁵

MUSLIM WOMEN'S NETWORK HELPLINE

In the UK, Muslim minority women face many of the same problems as non-Muslim women; however, cultural norms often prevent Muslim women and girls from reaching out for help. The Muslim Women's Network UK recognized the need for faith and culturally sensitive services for the Muslim community, and to Muslim women and girls in particular. To respond to this gap in services, they established the Muslim Women's Network Helpline in January 2015 to intervene in this service gap and reduce the vulnerability of Muslim women. The Helpline provides access to legal rights and other services, and in combating prejudice. Issues raised via the Helpline inform the ongoing expansion of MWNUK's informational assistance and advocacy priorities. The wide range of issues, to name a few, include: domestic violence, sexual abuse, discrimination, marriage, forced marriage, and divorce. Within a year and a half of establishing the helpline, they actively assisted over 300 women.¹⁰⁶

CHAPTER 5

FORB, GENDER EQUALITY AND EDUCATION

5.1 INTRODUCING SDG 4: ENSURING INCLUSIVE AND EQUITABLE QUALITY EDUCATION FOR ALL

Education is at the heart of the UN's 2030 Agenda, with Sustainable Development Goal no. 4 dedicated to ensuring inclusive and equitable quality education for all. According to the Incheon Declaration and Framework for Action for SDG 4, the overarching goal of SDG 4 is to “ensure equity and inclusion in and through education and address all forms of exclusion and marginalization, disparity, vulnerability and inequality in education access, participation, retention and completion and in learning outcomes. Inclusive education for all should be ensured by designing and implementing transformative public policies to respond to learners’ diversity and needs, and to address the multiple forms of discrimination and of situations, including emergencies, which impede the fulfilment of the right to education.”¹⁰⁷

Education, FoRB and gender equality are closely linked. Education is a key human right, as outlined in the Universal Declaration on Human Rights, as well as in the legally binding International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and various other human rights instruments. Every child has a right to education, and this education should be directed to “the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin”.¹⁰⁸

THE RIGHT TO EDUCATION

Article 26, International Covenant on Social, Economic and Cultural Rights

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

The right to education entails four elements, namely:

- Accessibility: The government is obliged to secure access to education for all children without discrimination in the compulsory education age-range, but not for secondary and higher education.
- Availability: The government is obliged to establish, or fund, educational institutions, and to permit the establishment of educational institutions by non-state actors, so as to ensure that education is available for all
- Acceptability: The government is obliged to ensure that the education provided is of quality and that it is free of discrimination, relevant and culturally appropriate for all students. Health and safety should be emphasized within schools including the elimination of any forms of corporal punishment. Professionalism of staff and teachers should be maintained
- Adaptability: Education should be flexible and able to adjust according to the needs of children, as well as societal changes.¹⁰⁹

Ensuring the right to inclusive and equitable education is key to ensuring the rights to FoRB and gender equality. All children have the right to be free from discrimination on the grounds of their gender and religion or belief, or that of their parents, including also in educational settings. They also have a right to have and practice a religion or belief, or not to have or practice a religion or belief, and a right not to receive religious instruction inconsistent with their conviction.¹¹⁰

Education can be a challenge to the enjoyment of these rights, if what is taught – and how it is taught – fuels and propagates stereotypes, harassment and exclusion among students, teachers, parents, as well as in the broader community. This affects not only rights directly related to FoRB and gender equality, but also broader issues of discrimination based on religion or gender. Experiences of discrimination and exclusion can have a negative impact on students' academic performance and well-being, and in the worst case, prevent children and youth from going to school. This can have wide-ranging consequences, in terms of lack of social mobility, political representation, and the ability to claim rights, perpetuating a cycle of exclusion and marginalisation and continuing political and economic underrepresentation of women and religious or belief minorities.¹¹¹

” States must ensure that the national educational environment guarantees equal access to those belonging to religious minorities. They should also ensure that it is welcoming and non-discriminatory, and that students belonging to minority religious groups have the opportunity to learn about their own religion, manifest their religion, participate in their religious holidays, and learn about the religions and beliefs of others [...] Particular attention should be paid to the educational needs of girls belonging to religious minorities” (Forum on Minority Issues)¹¹²

But education can also be a means of promoting the rights to FoRB and gender equality. Education can contribute to creating and encouraging cultures of inclusion, equality and non-discrimination, challenging stereotypes and prejudices related to gender and religion or belief, and empowering individuals to claim their rights. As such, the promotion of inclusive and equitable education is key to ensure the right to FoRB and gender equality for all.¹¹³

‘FAITH FOR RIGHTS’ COMMITMENT XII ON EDUCATION.

“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.”¹¹⁴

5.2 CHALLENGES IN THE INTERSECTIONS BETWEEN FoRB, GENDER EQUALITY AND EDUCATION

The educational sector – like any sector in society – presents a number of challenges with regard to FoRB and gender equality. In a wide range of situations, students experience discrimination on the grounds of their gender or religion, or on the grounds of both. Of the millions of girls worldwide who do not go to school, three-quarters belong to minority groups.¹¹⁵ Challenges emerge not only in relation to students' access to education, but also in relation to the contents of education and the environment in which the education takes place. The following provides a brief overview of some of the most common challenges, focusing on those instances in which challenges related to FoRB and gender equality are similar or intersecting, and as such, present opportunities for synergies and joint actions in tackling them.

THE ROLE OF RELIGIOUS ACTORS IN EDUCATION

The role of religious actors in providing inclusive education for all is complex. Religious actors play a key role in the provision of education for the poor and marginalised, e.g. by building and running schools and other educational institutions. At the same time, some of these schools may provide education that is both gender and religiously discriminatory, whether in form or content. Religious actors can be important norm setters; when religious actors place value on education, education tends to flourish – and the other way around, religious actors can also discourage education, especially for girls.

” An introspective critical look at the curricula of teaching religions is both necessary and beneficial. This would empower faith actors to play a constructive and balancing role between the material and the spiritual ingredients of human development. Faith actors yield huge informal influence that shapes the attitudes of billions of believers. The human rights narrative, including its economic, social, cultural and environmental dimensions, offers an opportunity to enriching faith in an inter-disciplinary manner. Such enrichment of religious education curricula does not alter faith but rather enlarges its scope to embrace its full horizons. It is all about human dignity.” (#Faith4Rights toolkit, module 12)¹¹⁶

5.2.1 LEGAL FRAMEWORK

In a few cases, access to education is **legally denied or restricted** for particular religious or belief minorities. Such laws are fortunately rare, but exist in a few countries around the world, primarily at university level. In Iran, for example, Baha'is have been banned from accessing higher education in mainstream universities, leaving members of the Baha'i community with the limited choice to either conceal

their faith or attend the country's only Baha'i university.¹¹⁷ Similarly, women are banned from studying a number of subjects, including engineering, agriculture and computer science, further limiting the educational choices of Baha'i women in Iran.

More common are laws that do not directly or explicitly deny or restrict access to education on the grounds of gender or religion, but which may indirectly restrict access in other ways. In countries, where access to education is predicated on citizenship, religion discriminatory **citizenship laws** obviously constitute a problem. In Myanmar, for instance, the country's constitution restricts fundamental rights, including education, to citizens only. With nationality based on membership of one of the country's 135 'national races', individuals and groups that fall outside of these groups have little prospect of gaining full citizenship rights, limiting their access to education, among other things. This is the situation for most Hindus and Muslims in the country.¹¹⁸ In contexts such as that of Myanmar, where conservative religious norms and practices around girls' and women's role in society may put less value on girls' education than on boys' education, girls in these minorities are particularly vulnerable.

On a more practical level, **laws that force or coerce students to wear particular religious dress codes and symbols** can also contribute to restricting access to education. In the Kano state of Nigeria, for instance, the wearing of hijab is mandatory for all school girls, regardless of their religion or belief. This is not only a violation of the rights of minority girls to be free from coercion, but also a violation of all girls' right to decide for themselves whether and how they want to practice their religion or belief. In France and other European countries, on the contrary, there are legal restrictions on wearing face veil or headscarf in public schools. While it is clear that forcing students to wear religious apparel or symbols constitutes a human rights violation, the ban of religious apparel or symbols in an educational setting is more complicated, and FoRB mandate holders have emphasised that there is no single solution in international human rights law. Restrictions on the use of religious apparel and symbols can thus be acceptable, for instance if they are crucial to protect the rights of girls, religious minorities or vulnerable groups, and as long as restrictions are neutrally worded and not discriminatory or inconsistently applied.¹¹⁹

Other types of laws do not negatively influence on people's access to education, but contribute to discrimination within the education system. **Laws on school curriculum**, for instance, may contribute to perpetuating and maintaining particular patterns of discrimination, whether on the grounds of religion or gender. As emphasised in Target 4.7 of Agenda 2030, all children should acquire knowledge and skills on, among other things, human rights, gender equality, and cultural diversity. Around the world, however, girls and religious minority students face a number of challenges with regard to the contents of education.

ADYAN FOUNDATION: NATIONAL STRATEGY FOR CITIZENSHIP AND CO-EXISTENCE EDUCATION IN LEBANON.

In partnership with the Lebanese Ministry of Education and Higher Education and the Center for Education, Research and Documentation, the interfaith NGO Adyan Foundation designed and implemented a public policy reform for national education on citizenship and co-existence. The project operated along three tracks, namely 1) consensus-building around education on citizenship and co-existence; development of curricula and textbooks; and capacity building of teachers, trainers and policy makers. Key outputs from the initiative were the formulation of a **National Charter for Education on Living Together**, the development of a training manual for teachers on **Education on inclusive citizenship and religious diversity**; development of a **Curriculum for Civic Education** and a **Curriculum for Philosophy and Civilizations**; as well as training of teachers across Lebanon. As part of its work in the area of curriculum reform, Adyan has also conducted a study on gender and violence in Lebanese curricula.¹²⁰

Mandatory religious education presents a particular challenge in this regard. A useful distinction here is that between neutral **information** about religions and beliefs and confessional **instruction** based on a particular religion or belief. While the former has the purpose of broadening students' general knowledge, and understanding, of different religions and beliefs, the latter seeks to teach students about theological doctrines and norms of a particular religion or belief.¹²¹ From a human rights perspective, neutral religious education, or information, can be obligatory, but confessional religious instruction cannot, insofar as it may violate children's right not to receive religious instruction that goes against their convictions, and parents' right to ensure the religious and moral education of their children, if parents do not agree with or adhere to the religious doctrines being taught.¹²² In a number of countries around the world, however, confessional religious education, or 'religious instruction', is mandated by law. In some cases, alternatives or opt-out possibilities may be available, but even this can be problematic, stigmatising those who do not participate.¹²³

CHALLENGING MANDATORY RELIGIOUS INSTRUCTION

In 2010, the Argentinean Association for Civil Rights (ACD) and a group of mothers, in the case "Castillo, Carina y otros c/Provincia de Salta, Ministerio de Educación de la Prov. De Salta s/amparo", challenged the mandatory Catholic instruction in school education. Based on the Constitution which states that parents have the right that their children receive religious education in agreement with their own convictions, they claimed that this practice was unconstitutional. In an Amicus Curiae to the court, members of the International Network of Civil Liberties Organizations (INCLO) argued that in order to protect FoRB for all, the state must ensure maximum neutrality. The law was considered unconstitutional because it created an inequality between the various religions and because it did not respect international standards for the protection of children's right to FoRB. In their considerations, the organizations said that the State must respect the specific needs of the child, his or her right to be heard and to participate in his or her educational process. The education system must uphold this right, and respect the choice of children not to participate in religious education classes. In 2017, the Supreme Court resolved the case, declaring the law unconstitutional.¹²⁴

Some laws may explicitly aim to promote gender equality but are seen by certain religious communities to be a challenge to their freedom of religion or belief. Around the world, **laws that make sexuality education mandatory** have sometimes triggered resistance on the part of parents who fear that this might go against their moral and religious convictions,¹²⁵ often supported by conservative religious organisations and institutions that work to promote and protect 'traditional values' against what they consider to be 'gender ideology'. A case in point is Peru, where recent years have witnessed the emergence of the movement *Con mis hijos no te metas* ('Don't mess with my children'), largely driven by conservative Evangelicals, Pentecostals and Catholics that challenge the new National Basic Education Curriculum, which includes gender equality education as well as sexuality education.¹²⁶ In countries where sexuality education is part of curriculum in state schools, private religious schools may choose to not follow the curriculum. In Denmark, for instance, there have been cases of Muslim and Christian private schools teaching sexuality education in a manner that is discriminatory towards e.g. SOGI minorities.¹²⁷ As noted by the former Special Rapporteur on FoRB, the issue is complex, and there is no clear-cut legal solution: "Each individual case requires a careful analysis of the specific context and of the human rights norms invoked by the conflicting parties [...] It is always advisable to try to prevent or deescalate conflicts, for instance by training teachers, dispelling mistrust and misunderstandings and establishing outreach programmes towards particular communities."¹²⁸

INTRODUCING SEXUALITY EDUCATION IN TUNISIA

In cooperation with the UNFPA and the Arab Institute for Human Rights, the Tunisian Ministry of Education recently introduced sexuality education in public school curriculum as the first country in the Arab world. Starting at age five, Tunisian students will be exposed to sex education throughout their regular curriculum at various age-appropriate points and in a religiously sensitive manner.¹²⁹

5.2.2 STATE POLICIES, STRUCTURES AND PRACTICES

Legal discrimination related to religion and gender is more often than not coupled with other forms of discrimination. Even in contexts where there is little legal discrimination in the area of education, laws may be implemented in a discriminatory manner, reflecting broader patterns of institutional and societal discrimination.

Teaching material can play an important role in perpetuating discrimination on the grounds of religion in education. A growing body of research shows that educational materials all over the world “nurture the formation of divisive stereotypes,” very often around gender and religion.¹³⁰ In Pakistani text books, for instance, there have been examples of Hindus being described as ‘evil, misguided and heretical’.¹³¹ In Myanmar, students were being taught derogatory poems about people of ‘mixed blood’ threatening the Buddhist religion.¹³² Historical and factual incorrectness, as well as lack of attention to the contributions of religious minorities in society are other common problems in curricula and text book material. Such discriminatory or stereotypical content, or lack of diversity, in learning materials can contribute to reinforcing and perpetuating experiences of exclusion, dispossession, and loss of identity as well as encouraging broader cultures of exclusion and polarisation.

TOOLKIT ON REVISION/ADAPTATION OF CURRICULA, SCHOOL TEXTBOOKS AND OTHER LEARNING MATERIALS TO REMOVE CULTURAL, RELIGIOUS AND GENDER-BIASED STEREOTYPES.

As part of its Global Citizenship Education programme, UNESCO has developed a **Toolkit on revision/adaptation of curricula, school textbooks and other learning materials to remove cultural, religious and gender-biased stereotypes**. This includes, among various other publications, the handbook **Making textbook content inclusive: A focus on religion, gender and culture**, which presents concrete guidelines for the development and revision of textbooks. The handbook presents three overall strategies for combatting divisive stereotypes and emphasising diversity: 1) Employ inclusive language; 2) Represent diverse identities; and 3) Integrate human rights. For each of these, the handbook provides concrete recommendations, approaches and examples of good practices.

Teaching material for religious education can be particularly problematic, especially with regard to **compulsory religious instruction**. Learning about religion is obviously important and can “reinforce appreciation of the importance of respect for everyone’s right to freedom of religion or belief, foster democratic citizenship, promote understanding of societal diversity and, at the same time, enhance social cohesion [and contribute to] reducing conflicts that are based on lack of understanding for others’ beliefs and of encouraging respect for their rights.”¹³³ However, “[r]eligious education or the teaching of the history of religion can [also] be used to promote animus towards different religions, which can encourage hostility, contempt or hatred.”¹³⁴ In compulsory religious instruction, focus will typically be exclusively on the majority religion, while other traditions and beliefs are omitted or – if mentioned – stigmatized. Furthermore, text books used in religious instruction may rely on conservative religious dogma, perpetuating stereotyped gender roles and leaving little room for alternative interpretations, e.g. feminist or other gender equality-oriented interpretations. In Hungary, for instance, a 2013 textbook on religion states that homosexuality is a “serious, deadly sin”. Hungarian SOGI minority organisations note that FoRB is routinely cited as an excuse for such contents.¹³⁵

FOSTERING INCLUSIVE AND PEACEFUL SOCIETIES. THE ROLE OF RELIGIOUS EDUCATION

As part of its **Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes**, the United Nations Office on Prevention of Genocide and the Responsibility to Protect, in cooperation with partners, is implementing the programme on the role of religious leaders and actors in **Fostering inclusive and peaceful societies**. A first step in the programme has been the organisation of a meeting in Bangladesh for various secular and religious education institutions involved in curriculum development. The meeting resulted in the commitment from participants to develop an alternative interfaith curriculum for religious education to uphold the concepts of pluralism, respect for diversity and inclusive citizenship. Gender equality will be mainstreamed in the curriculum. For this purpose, an advisory committee was established, composed of the representatives of the main religious and education institutions in Bangladesh, plus the UN Office for Prevention of Genocide, UNDP and UNESCO. Meetings in other regions will follow.¹³⁶

Institutionalised **discrimination among teachers and education management** is another important obstacle to equality in education. Minority students are often more likely than majority students to be victims of corporal punishment, psychological abuse, harassment and bullying from teachers who are from the majority community themselves. Teachers may try to convince or pressure minority students to convert, ridicule religious minority students in the classroom, ignore them, expect little from them, fail to recognise and encourage their individual

talents, or otherwise maltreat minority students. In addition, girl students from religious minority communities, along with girls from the majority community, are at risk of gender-based violence, harassment and abuse. Girls are generally targeted if they are seen to be behaving in an 'inappropriate' manner, i.e. a manner perceived to be inconsistent with their assigned role and dominant norms in society. In contexts where these roles and norms are shaped by religion, girls who do not practice their religion or who practice in a way that is different from the mainstream are also at risk of discrimination. Studies also indicate that students from SOGI minorities experience disproportionately high levels of discrimination, from teachers as well as fellow students.¹³⁷

In the context of current **measures to prevent violent extremism**, Muslim minority children may experience particular attention from teachers. Teachers and educational institutions are increasingly considered key actors in anti-radicalisation efforts, not only in relation to prevention, but also in relation to reporting of suspicious behaviour to authorities. In several European countries, recent legislation holds schools responsible for reporting cases of radicalisation.¹³⁸ While not discriminatory per se, such efforts entail a number of risks; especially boys from Muslim minority communities are at risk of disproportionate targeting, suspicion and stigmatisation, based on teachers' and management's prejudices and fears. Anti-radicalisation measures in schools may also lead to self-censorship among students, abstaining from expressing their religious views or practicing their religion, including e.g. praying, reading in religious books, or wearing religious symbols, out of fear of being suspected of radicalisation.¹³⁹

Discrimination and inequality in the educational setting may be compounded by a **lack of minority teachers**. In many countries, there is a lack of teachers with a religious or belief minority background, reflecting the historical lack of access to education for both girls and religious or belief minorities, as well as the legal, bureaucratic and societal barriers that minority teachers may encounter when applying for jobs. This is not only problematic for the teachers themselves; it also contributes to a less inclusive learning environment, insofar as religious or belief minority teachers may provide alternative perspectives and serve as important role models.

” Agenda 2030 emphasises strengthening public infrastructure as a means of providing education to all. While quality education does depend, to some degree, on a flow of material resources, the experience of many Baha'i communities at the grassroots suggests that even in the most remote and poverty-stricken areas of the world, there is a wealth of human resources that with time, attention, and the wise channeling of material means, can flourish” (Baha'I International Community).¹⁴⁰

On a different level, institutionalised discrimination may be reflected in **budgetary priorities and lack of adequate infrastructure**. In areas with a predominance of religious minorities, for instance, it is not uncommon that there are comparably

fewer schools than in other areas. In Myanmar, for instance, decades of neglect by the military junta has left the educational infrastructure severely lacking in non-Buddhist minority areas.¹⁴¹ In Nigeria's northern states, predominantly Christian areas have comparatively fewer schools. In 2008, Christian Solidarity Worldwide found that over 3,000 children in a predominantly Christian area in Kano state had no access to primary education.¹⁴² When schools are few and far between, school journeys are long and unsafe, which presents a particular risk for girls in terms of harassment and violence.¹⁴³ Furthermore, schools in areas with a predominance of minorities, or schools that serve predominantly minority students, are "often of lower quality, poorly equipped, inferior in terms of infrastructure and served by the least-qualified teachers."¹⁴⁴ Girls suffer disproportionately from inadequate and unsafe infrastructure, particularly the lack of toilets and gender-segregated toilets.¹⁴⁵

ISLAMIC BOARDING SCHOOL FOR TRANSGENDER PEOPLE IN YOGYAKARTA

In 2008, the Indonesian transgender activist Shinta Ratri founded Pondok Pesantren Waria al-Datah – the world's only Islamic boarding school for transgender people. "We needed a safe place for trans women to pray, because Islam is a blessing for everyone," Shinta says. The school, located in Yogyakarta, provides religious education for approx. 40 transgender people. Since its establishment, the school has been subject to harassment and threats of violence from Front Jihad Islam and other conservative religious groups, and in 2016 management was forced to close down the school. With support from neighbours and others, the school was reopened after four months.¹⁴⁶

5.2.3 SOCIAL NORMS AND PRACTICES

Social norms and practices, including religious and cultural ones, contribute to shaping, justifying and maintaining discrimination related to religion and gender in educational settings in various ways. The most severe type of societal discrimination in the area of education is the **use of violence to obstruct access to education**, often based on ultra-conservative religious interpretations. A well-known example is that of Malala Yousafzai, a Pakistani school girl who was shot by Taleban because of her advocacy for girls' right to education, seen by Taleban to be contrary to Islamic norms and values. Destruction of school buildings also occurs. In Afghanistan, Taleban has destroyed hundreds of girls' schools. Violent attacks on schools also sometimes occur in the context of broader persecution of religious minorities. In Myanmar, for instance, Buddhist nationalists have destroyed Muslim schools, sometimes in complicity with government officials.¹⁴⁷

Other types of violence may not be directly aimed at hindering girls' education but have detrimental consequences to that effect. **Abductions, forced/coerced**

marriage and conversion of girls happen in some parts of the world. In Pakistan and Egypt, abductions are allegedly part of 'ideologically orchestrated campaigns' by ultra-conservative Salafis as a way to 'win over' new converts.¹⁴⁸ According to the Human Rights Commission of Pakistan, an estimated 20 Hindu girls are kidnapped and forced to convert every month.¹⁴⁹ In Egypt, there have been regular reports of Coptic girls being abducted. In Nigeria, Boko Haram has allegedly kidnapped over 1.000 children since 2013, many of them Christian girls, as part of their violent campaign against 'sinful Western education.' In 2014, 276 female students were abducted from a school in Borno state; in 2018, 110 school girls were kidnapped in Yobe State. Many of the girls were forced into marriage with members of Boko Haram, and the non-Muslim girls were forced to convert. While several girls have been released or freed, many remain in captivity.¹⁵⁰ In many cases, parents' appeals to law enforcement agencies for assistance have proven fruitless and the girls remain with their abductors.¹⁵¹ These practices obviously have a wide range of detrimental consequences for the girls involved, including for their access to education. They also have broader consequences for girls' education in general; in areas where abductions are common, parents may refrain from sending their daughters to school to protect them.

Broader **societal conceptions of gender roles and women's place in society**, often shaped or influenced by patriarchal religious and cultural norms, contribute to hindering girls' access to education, in religious minority communities as well as majority communities. In many contexts, women's main responsibilities in society are seen to evolve primarily around family and household responsibilities, and education may be seen as irrelevant to, or even in conflict with, these responsibilities. Notions of women's and girls' inherent inferiority to boys and men may also mean that boys' education is prioritised over that of girls. In contexts of conflict and violence, conceptions of girls' and women's vulnerability may mean that parents' consider sending their girls to school too dangerous, especially when they have to travel far to get to the school.¹⁵² For girls in marginalised religious minorities, poor employment prospects may contribute to the underprioritization of girls' education when family income is limited, pushing these girls into informal economy jobs before they can complete their schooling.¹⁵³ In Iran, for instance, the three regions where marginalized minorities predominate – Kurdistan, Khuzestan, Sistan Baluchestan – the ratio of girls to boys in education lags behind other regions.¹⁵⁴ In Pakistan, a survey by the Asian Human Rights Commission found that school enrolment of girls belonging to Hindu castes was a mere 10 percent, far below the average of 48 percent.¹⁵⁵ At the same time, there may also be substantial differences between different religious minorities. In India, for instance, Sikhs and Christians generally have higher school enrolment rates than Muslims and Buddhists.¹⁵⁶

IMAMS FOR SHE: SUPPORTING GIRLS' RIGHT TO EDUCATION

Imams for She is a global initiative launched by Muslims for Progressive Values to 'address misogynist interpretations of Islamic scripture and traditions' that have led to human rights violations against women and girls. The initiative supports Muslim leaders and scholars that actively advocate for women's rights in different parts of the world. In Burundi, for example, the initiative has led to the launch of a weekly radio show, **La Femme en Islam**, with more than 9 million listeners, which discusses how Islam supports women's right to education, healthcare and equal work opportunities.¹⁵⁷

In school, **everyday violence, harassment and bullying** is common for female minority students and others who are seen to be 'religiously different'. In many contexts, girls are generally at risk of school-related gender-based violence, most commonly on the journey to and from school, where there is little to no supervision.¹⁵⁸ When students have a long way to school, or when they live in a conflict area, the risks increase. In the school setting, minority students are generally more likely than majority students to be victims of psychological abuse, harassment and bullying from fellow students, singled out because of their religion or belief. There are examples of students trying to convince or pressure others to convert, ridiculing them in the classroom, or otherwise maltreating fellow students. In Latin America, for instance, indigenous children often face extreme discrimination and high levels of violence in school settings.¹⁵⁹ In the US, a 2019 study found that 34.3 percent of Muslim youth, 25 percent of Jewish youth, and 23.1 percent of Hindu youth say they have been targeted at school over the last 30 days because of their faith.¹⁶⁰ Students from SOGI minorities also face disproportionately high levels of bullying from fellow students.

LEARNING TO LIVE TOGETHER: AN INTERCULTURAL AND INTERFAITH PROGRAMME FOR ETHICS EDUCATION

The Interfaith Council on Ethics Education for Children has developed the toolkit Learning to Live Together for educators and youth leaders around the world to help children and youth to better understand and respect people from other cultures and religions and nurture a sense of global community. The manual uses interactive and experiential methodologies to develop innovative and critical thinking in participants, to nurture non-violent behaviors and to empower children and youth to become agents of change. Through workshops involving children and young people from different religious and cultural backgrounds wherever possible, the program seeks to help youth to empathize with others, encouraging greater individual and collective responsibility and fostering a spirit of reconciliation. It provides a vehicle for youth to encounter and examine values with their peers from different religious, cultural, and social backgrounds, and to apply what they learn to the real challenges of their daily lives.¹⁶¹

CHAPTER 6

FORB, GENDER EQUALITY AND HEALTH

6.1 INTRODUCING SDG 3: ENSURING HEALTHY LIVES AND PROMOTING WELL-BEING FOR ALL

Health is central in Agenda 2030. SDG 3 is dedicated to 'ensure healthy lives and promote well-being for all at all ages,' including 13 specific targets on e.g. on maternal and child health, sexual and reproductive health care services, universal health coverage, equitable and affordable access to high-quality vaccines and medicines, sustainable financing, a strong health workforce and capacity to address health emergencies all underpin the achievement of SDG 3.¹⁶² Target 3.8 of SDG 3 – achieving universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all – is of particular importance, insofar as this is arguably key to attaining the entire goal as well as health-related targets of other SDGs.¹⁶³

The right to health is also a key human right. It was first articulated in the 1946 WHO Constitution, which declares that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."¹⁶⁴ A few years later, the 1948 Universal Declaration of Human Rights included health as part of the right to an adequate standard of living in its article 25. This was further emphasised in article 12 of the 1966 International Covenant on Economic, Social and Cultural Rights.

THE RIGHT TO HEALTH

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 25 of the Universal Declaration of Human Rights

The right to health encompasses four elements:

- Availability: Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity
- Accessibility: Health facilities, goods and services have to be accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. This includes physical accessibility, affordability and information accessibility
- Acceptability: All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned
- Quality: As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality.¹⁶⁵

Non-discrimination and equity in health are key principles in the human rights frameworks on the right to health and in Agenda 2030. The progressive realization of the right to health involves a concerted and sustained effort to improve health across all populations. Health services, goods and facilities must be provided to all without any discrimination, whether based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status,¹⁶⁶ ensuring that no-one is left behind. This also entails efforts to reduce inequities in the health system, understood as “avoidable, unfair, or remediable differences among groups of people, whether those groups are defined socially, economically, demographically or geographically or by other means of stratification,” aiming at ensuring that all people have a fair opportunity to attain their full health potential and that no one is disadvantaged from achieving this potential.¹⁶⁷



REDUCING HEALTH INEQUITIES

To meet the pledge of the 2030 Agenda for Sustainable Development that no one will be left behind and that those furthest behind will be reached first, explicit attention must be paid to reducing health inequities. Despite the health gains of recent decades, significant health disparities persist, ranging from differences in life expectancy between high- and low-income countries, in access to medicines and other innovations and in legal, cultural and social barriers to health care, including gender inequality. Recognition of health as a human right and of the essential role of health equity in sustainable development, together with equity-focused and rights-based approaches, are essential for achieving health and well-being for all, including for the most vulnerable and marginalized (WHO et al, Global Action Plan for Healthy Lives and Well-being for All)¹⁶⁸

Despite remarkable gains in terms of certain aspects of health, there is still a long way to go. According to the Global Action Plan for Healthy Lives and Well-being for All, pertinent challenges include widening inequalities and inadequate attention to the determinants of health, including stigma and discrimination, gender inequality, violence and education, and a lack of attention to the poor and the disadvantaged, ensuring that no one is left behind.¹⁶⁹ Similarly, the UHC2030 Initiative, in a joint statement, notes the need to “establish health systems that promote equity, reduce stigma and remove barriers based on multiple types of discrimination.”¹⁷⁰

Working to ensure equity and non-discrimination in the health system necessarily entails a focus on those that are particularly vulnerable to discrimination and exclusion, including – but obviously not limited to – heterosexual women, girls, SOGI minorities and religious or belief minorities who are among those experiencing restrictions on access to health care, quality treatment as well as broader participation in the health system. The violations they face are often multi-layered, intersectional and distinct, requiring explicit and dedicated attention. While much attention has been paid to health-related gender inequalities and discrimination within the framework of Agenda 2030, less attention has been given to religiously based inequalities and discrimination, let alone intersectionalities between the two.



Nowhere are the intersectional contestations more prevalent and clear than in the area of health, perhaps especially when this health has to do directly with bodies, ie sexual and reproductive health” (Azza Karam, former senior advisor, UNFPA; now Secretary General, Religions for Peace)

6.2 CHALLENGES IN THE INTERSECTIONS BETWEEN FORB, GENDER EQUALITY AND HEALTH

Discrimination related to religion and gender can contribute to limiting access to health, quality treatment and participation in the health system in various ways. When these types of discrimination overlap and intersect, the subjects of discrimination are in a particularly vulnerable situation. The following presents a

brief overview of some of the major challenges related to intersections between religious and gender based discrimination in the area of health, looking at challenges in law, state structures, policies and practices, and societal norms and practices. How do gender discriminatory laws, state actions and societal actions around health affect people with a particular religious identity differently from the majority? How do religion discriminatory laws, state actions and societal actions affect women, girls and SOGI minorities differently than men?

” Substantive equality in the area of health and safety requires differential treatment. Throughout their life cycle from childhood to old age, women have health needs and vulnerabilities that are distinctively different from those of men. Women have specific biological functions, are exposed to health problems that affect only women, are victims of pervasive gender-based violence and, statistically speaking, live longer than men, resulting in their greater need to access health services frequently and into older age. Hence, women and girls experience the negative effects of insufficiencies in health-care services more intensively than men” (UN Working Group on the issue of discrimination against women in law and in practice)¹⁷¹

6.2.1 LEGAL FRAMEWORK

National laws can foster and perpetuate discrimination in health care settings, prohibiting or discouraging people from seeking the broad range of health care services they may need, from accessing quality health care and from participating in the health system.¹⁷² Heterosexual women, SOGI minorities and people from religious or belief minorities are often victims of indirect or direct legal discrimination, affecting their right to health.

In countries, where access to health care is predicated on citizenship, religion discriminatory **citizenship laws** obviously constitute a problem. As noted in the previous chapter, in Myanmar, the country’s constitution restricts fundamental rights to citizens only. This has severe consequences for those who are denied citizenship, including in terms of their access to health and a range of other services.¹⁷³ In some cases, government-imposed movement restrictions contribute to hindering access to health care. In the Taung Paw camp for internally displaced Rohingya Muslims, for instance, people have at times been barred from leaving the camp without formal authorisation, even in cases of emergency. This has had severe consequences, e.g. in the case of complicated pregnancies and births, and many women have died in labour due to overly complicated referral procedures to hospitals.¹⁷⁴

In many contexts, restrictive laws related to **sexual and reproductive health and rights** constitute a major challenge to women’s access to health. The right to sexual and reproductive health is an integral component of the right to health, but laws and policies around the world restrict access to this aspect of health in various ways, e.g. through criminal and other legal restrictions on abortion; restrictions on conduct during pregnancy; restrictions on access to contraception and family planning, including required consent from legal guardian; and restrictions on

provision of sexual and reproductive education and information.¹⁷⁵ In the Dominican Republic, El Salvador, Nicaragua and Malta, there is total ban on abortion, even in cases where a woman's or a girl's life or health is at risk, if the fetus is not viable, or if the pregnancy is a result of rape.¹⁷⁶ Conservative religious actors often play an important role in justifying and defending restrictive laws on sexual and reproductive health, opposing any attempt at liberalisation. In Argentina, for instance, the Catholic Church vehemently fought the 2002 law on mandatory distribution of contraception in public hospitals, and even halted distribution in some provinces. Recent attempts at liberalising the country's abortion law have also been met with strong resistance from parts of the Church.¹⁷⁷

While not directly targeting women from religious minorities, such laws may disproportionately affect them in contexts where minorities belong to the poor segments of the population. In contexts with legal restrictions on abortion, for instance, poor and less educated women suffer the most. Having no access to safe abortions outside of the state system, e.g. by using private health care or traveling abroad, they resort to using unsafe methods, which often leads to morbidity and death.¹⁷⁸ In contexts where religious and belief minorities are among the poorest and least educated, women from these minorities are particularly disadvantaged, with levels of unsafe abortions often being significantly higher in these groups, compared to the general public. Research has documented e.g. that in Latin America, women from indigenous minorities have increased risks for morbidity and mortality related to unsafe abortion. In Nepal, significantly higher levels of unsafe abortions have been documented among Dalits, Muslims and other minorities.¹⁷⁹

Sometimes laws that restrict women's access to sexual and reproductive health and rights are justified with reference to FoRB. A case in point is **the right to conscientious objection**. In some countries where abortion is legal, medical staff has the right to refuse participation in abortion-related services. Typically, the right also extends to other forms of reproductive healthcare, including e.g. assisted reproductive technologies, prenatal diagnosis, contraception, and sterilization. While some people consider conscientious objection to abortion an essential part of FoRB, others note that this practice may compromise heterosexual women's or SOGI minorities' right to health, especially in situations where the vast majority of health-care providers opt for conscientious objection. In Italy, for instance, as many as 7 out of 10 gynaecologists refuse to carry out abortion services.¹⁸⁰ Similarly, in Uruguay and Poland, there are regions where access to abortion is severely restricted because of 'conscience clauses'.¹⁸¹ In the US, transgender men have been denied hysterectomies by religiously affiliated hospitals in a number of cases.¹⁸²

Some argue for a **conscientious obligation to assist** in accessing safe abortions, even in cases where it is prohibited. Prior to the legalization of abortion in the US, for instance, a group of faith leaders established an underground network to assist tens of thousands of people in accessing safe abortion. Referring to FoRB, Reverend Lyons, a Methodist clergy member of the network, argued that the ban "restricted his right to offer pastoral counselling."¹⁸³ More recently, in 2016 a group of theologians and ethicists filed an amicus brief on behalf of an abortion

clinic, Whole Women's Health, in its Supreme Court challenge of a Texas law that imposed severe restrictions on facilities and doctors: "Because there exists no unified religious or moral position on abortion even within major religions, a state's attempt to restrict the accessibility of abortion necessarily impinges on the religious and moral decisions of some individuals," the brief argued.¹⁸⁴

” Denying a woman and her family full access to the complete spectrum of reproductive healthcare, including contraception, abortion-inducing devices, and abortions, among others, on religious grounds, deprives women of their Constitutional right to religious freedom.” US Rabbinical Assembly Resolution on Reproductive Freedom (2007)¹⁸⁵

6.2.2 STATE POLICIES, STRUCTURES AND PRACTICES

Even when laws and policies guarantee equal access and non-discrimination in the health system, institutional policies and practices in the health system may contribute to maintaining patterns of de facto discrimination and inequalities, whether against heterosexual women, SOGI minorities or religious and belief minorities. In its most severe form, institutionalised discrimination takes the form of **systematic violence**, threatening not only women's and SOGI minorities' right to health, but also their rights to life and security. Forms of violence include e.g. forced abortion or sterilisation, involuntary institutionalization, and forced treatment, including so-called conversion therapies.¹⁸⁶ In contexts of state oppression of religious minorities, the state may engage in different forms of gender-based violence as part of its oppression. In China, for instance, women in the government-run internment camps for Uighur Muslims are reportedly subject to forced sterilisation, abortion, rape and other forms of violence. Outside the camps, women from Uighur and other minorities have been unofficially targeted in population planning policies that interfere with and control their reproductive lives through similar measures, in addition to arbitrary detention and forced disappearances.¹⁸⁷

SCAPEGOATING IN THE CONTEXT OF EPIDEMICS

When epidemics strike, those already excluded and marginalised are at risk of scapegoating. In Egypt, the 2009 H1N1 flu virus, commonly known as the 'swine flu', was quickly associated with the Coptic community. Pigs in Egypt are primarily reared by garbage collectors from the Coptic community, who feed the pigs with the organic household waste they collect. Government ordered the slaughter of thousands of pigs belonging to the Coptic community, disproportionately affecting the poor, often female, garbage collectors.¹⁸⁸

Discrimination in treatment is another common challenge. Qualitative studies indicate that health providers provide **uneven quality of services** depending on the characteristics of clients.¹⁸⁹ People from religious minorities may face a disproportionate risk of discrimination in the health system, including verbal and

physical abuse; refusal of treatment; insufficient or wrong treatment; or involuntary treatment.¹⁹⁰ In contexts where there is a requirement to display one's religious identity in relation to registration in health facilities, the risk of discrimination may be even greater. Women in religious minorities may experience uneven quality of services in much the same ways as men, as well as gender-specific forms of discrimination, in particular in contexts where women are seen as 'inferior', 'vulnerable' or otherwise incapable of making their own decisions. Such forms of discrimination include e.g. breaches of confidentiality; denial of autonomous decision-making, e.g. requiring parent, husband or other guardian's consent; and lack of free and informed consent. Lack of culturally appropriate services may also constitute a barrier for some women. When health workers ignore, disparage or disrespect traditional, non-harmful, health remedies, norms or practices that are prevalent in certain religious communities, women from these communities may be less likely to access the health system.

” Nurses have a professional duty to provide care for all patients regardless of race, ethnicity, religion, gender, disability, sexual orientation, or gender identity. As Christian nurses, we are called by our profession and faith to welcome and care for those who are stigmatized by others” (Sarah Sanders, Faith Community Nurse, Missouri)¹⁹¹

Discrimination within the health system concerns not only patients in the system, but also **discrimination of staff in the health system**. Research has documented entrenched gender-based discrimination within the largely female health workforce, as evidenced by e.g. prejudices and stereotyping from patients and fellow staff; physical and sexual violence, wage gaps, irregular salaries, lack of formal employment, and inability to participate in leadership and decision-making.¹⁹² There is little research on discrimination of staff on the grounds of religion, especially outside a Western context, but existing evidence testifies to such discrimination taking place. A US survey of 225 doctors with Muslim background found that nearly half of respondents felt greater scrutiny at work compared to their peers, and nearly one in four said they had experienced religious discrimination at work. The same percentage of respondents also believed they had been passed over for career advancement due to their religion.¹⁹³

Biased health budgeting and underprioritisation of infrastructure in areas dominated by religious minorities also occur. In the Central African Republic, for instance, people living in predominantly Muslim areas claim that the Christian-dominated government has provided fewer resources to health services in these areas, compared to the country's Christian-majority areas.¹⁹⁴ In Nigeria, on the other hand, government-owned hospitals in Christian areas were allegedly moved to Muslim-majority areas as a result of the ongoing conflict. In Tanzania and Kenya, the geographic distribution of facilities has legacies of colonial patterns of Christian missionary activities.¹⁹⁵ When hospitals and health clinics are few and far away, women suffer disproportionately, insofar as they typically have less mobility and resources to travel. A study of inequalities in access to health among minorities in Myanmar, for instance, found that women, especially in rural areas, were less likely to seek treatment than men.¹⁹⁶

FAITH-BASED HEALTH CARE PROVIDERS

Faith-based actors often play an important role in the provision of health care services, especially in contexts with fragile or weakened state health care systems. International development NGOs, national or local associations, missionary organisations, religious institutions and others run hospitals and health clinics, engage in public health campaigns, provide health information and education, offer counselling or otherwise engage in the provision of health care services. Although some faith-based health care providers are reluctant to align themselves with government, many are, to varying degrees, integrated into the national health care system. There is little systematic data available relating to the work of faith-based health providers; a meta-analysis of existing work on faith-based health providers in Africa suggests that their market shares may be lower than commonly assumed, but that levels of satisfaction are typically higher than in public facilities. Faith-based health care providers also seem to serve poor people slightly more than public providers.¹⁹⁷ The study does not explore issues of potential discrimination, whether on the grounds of religion or gender, in faith-based health provision. Whilst in some contexts, it can be posited that the explicit link between a health care provider and one religion may to varying extents deter those of other religions seeking treatment there, in others such health provision may be instrumental in breaking down barriers and crossing very deep social divides between religions. A case of the latter is the Ahmadi run heart specialist facility in Rabwah which treats those of all faiths, despite the highly sensitive, vulnerable and oppressed situation of the Ahmadi community in general in Pakistan.¹⁹⁸ This area is one which is deserving of additional research.

6.2.3 SOCIAL NORMS AND PRACTICES

Social norms and practices, including cultural and religious ones, play an important role in shaping and influencing patterns of discrimination in the area of health. Discrimination on the grounds of religion and gender is often closely interwoven with patriarchal religious norms and practices. At the same time, religious norms and values can also serve as important motivation for struggles against gender and religiously based discrimination in the area of health.

Non-state actors may hinder other people's access to health in different ways; most dramatically through **destruction of health facilities or attacks on staff and users**. Such attacks can be part of religiously related conflicts or insurgencies. In Nigeria, for instance, Boko Haram has carried out several attacks on health facilities, destroyed and stolen medical equipment and kidnapped health workers as part of their violent insurgency against 'infidels' and 'Westernized elites'. In an attack on a town in Adamawa state in August 2017, Boko Haram destroyed the town hospital, depriving inhabitants of their main health facility.¹⁹⁹ In the Central African Republic, armed rebel groups, including the Anti-Balaka factions, the Lord's Resistance Army, Youssouf Sy's militia, the Return, Reclamation, Rehabilitation group, and the Union for Peace in Central Africa, were responsible for six attacks on health facilities in

2017.²⁰⁰ But attacks on health facilities, staff and users can also be part of militant campaigns against women's reproductive rights. In the US, three people were killed at the 2015 shooting at a Planned Parenthood clinic.²⁰¹ In Chile, three women were stabbed to death when demonstrating for reproductive rights in 2018.²⁰²

Religious norms and practices may influence women's and girls' access to health in various ways, contributing to gender discrimination and inequalities. Around the world, female genital mutilation, child marriage, menstrual isolation and other harmful practices are sometimes justified with reference to particular religious values and traditions. Such harmful practices constitute a direct threat to women's and girls' health and are not protected by the right to FoRB. In fact, the state has an obligation to intervene to stop them. As noted by the UN Special Rapporteur on FoRB, "the principle of institutional autonomy does not extend to State deference to harmful discriminatory gender norms. Nor does it oblige them to defer from intervening to prevent harmful practices because said practices are informed by a 'religious ethos.'"²⁰³ When intervening to stop harmful practices in a particular religious community, however, it is important that these practices are not used as a justification for banning or restricting all religious practices of this community, which would amount to a disproportionate restriction on their right to FoRB. As noted by Minority Rights Group International: "Often what is needed is informed dialogue on how to reform certain specific practices without restricting or denigrating a culture or religion as a whole."²⁰⁴

OHCHR COMPILATION OF GOOD PRACTICES IN PREVENTING AND ELIMINATING FEMALE GENITAL MUTILATION

In 2015, the OHCHR compiled a collection of good practices in preventing and eliminating female genital mutilation around the world. On this basis, the report calls for states to adopt and implement legislation that prohibits female genital mutilation, in accordance with international human rights law; develop comprehensive policies to address female genital mutilation, involving all levels of government; promote the education of girls; undertake education and awareness-raising initiatives; challenge the social norms supporting female genital mutilation and delink the practice from religion, social norms, harmful stereotypes and cultural beliefs that perpetuate discrimination against women; harness political leadership to end the practice; and harmonize data collection.²⁰⁵

Patriarchal gender roles and stereotypes may contribute in very concrete ways to restricting women's access to health, limiting their autonomy and mobility. This may be true for women in religious minorities as well as in majorities. In many contexts, the notion of male superiority and authority may mean that women are not allowed, or do not feel comfortable making decisions with regard to their own health without their husband's or father's consent. Notions of male guardianship also mean that women are expected to travel with a male companion, restricts their general mobility as well as their access to the health system, insofar as it can lead to women

abstaining from seeking treatment, especially on health issues that are considered taboo or stigma.²⁰⁶ For women in marginalised religious minorities, such restrictions may be compounded by the fact that health facilities may be few and far between.

CHANNELS OF HOPE: MOBILIZING RELIGIOUS LEADERS FOR GENDER EQUALITY AND HEALTH

Through the programme **Channels of Hope**, World Vision and Islamic Relief seek to mobilise local religious leaders to respond to core issues affecting their communities, including HIV and AIDS, maternal and child health, child protection, gender-based violence and Ebola. Through a series of workshops, local community leaders are trained and equipped to respond to these issues and promote the well-being of all in the community, especially the most vulnerable. The programme has proven successful in many contexts. In South Sudan, for instance, World Vision found that among religious leaders, prior to the project more than half said that the women themselves may have been at fault in cases of sexual violence, and that they should marry the perpetrator. After participating in the project, 95 percent said they understood the harm caused by sexually based violence and committed themselves to preach this message to the community.²⁰⁷

A wide range of women's health issues are surrounded by **stigma and shame**, often closely intertwined with religious and cultural norms. Issues associated with women's sexual and reproductive health are often particularly sensitive, including e.g. obstetric fistula, infertility, sexually transmitted diseases, menstruation-related issues, HIV/AIDS and abortion. This may influence women's access to health in various ways; it may mean that they do not have sufficient knowledge about their health issues, do not seek treatment, or seek treatment for the wrong issues. Abortion-related stigma, for instance, may prevent women who undergo abortions (whether spontaneous or induced) from requesting treatment for medical complications arising as a result of the abortion.²⁰⁸ Often, those suffering from stigmatized health issues experience ostracization and marginalisation from their community, as has been the case for many people living with HIV, for instance. For women in religious minorities, who are already in a marginalised position, dealing with stigmatized health issues may be particularly challenging. Often, poverty and low education levels contribute further to limiting their coping strategies.

” When you work on culturally and religiously sensitive issues such as HIV/AIDS, language is important. For instance, it can make a huge difference whether you talk about ‘sex workers’ or use more indirect language, such as ‘vulnerable women’. You have to find innovative ways to engage with conservative religious actors – I call this to ‘dance with them’ around sensitive topics. The aim is to reduce their prejudice and increase their tolerance to get them involved in the conversation (Kamiar Alaei, Institute for International Health and Education)

EMPOWERING RELIGIOUS LEADERS TO ELIMINATE STIGMA AND DISCRIMINATION AROUND HIV/AIDS

INERELA+ is an international, interfaith network of religious leaders – lay and ordained, women and men – who are living with or personally affected by HIV/AIDS. INERELA+ has 16 networks in Africa, and is also present in Asia/Pacific, America, Europe and Central Asia. INERELA+ has developed the toolkit SAVE to assist religious leaders in addressing issues related to HIV/AIDS, including sexual practices, access to services, voluntary counselling and testing, and empowerment. The toolkit systematically tackles the issues of stigma, shame, denial, discrimination, inaction and misaction around HIV & AIDS.²⁰⁹

Women's sexual and reproductive health is not only surrounded by stigma, but also by deep-seated **conflicts and polarisation**, in particular around abortion. For some, women's right to self-determination is an indispensable part of human rights; for others the right to life of the unborn child takes precedence. In these debates, FoRB is most often used as an argument by those who are pro-life. In 2009, for instance, a group of Eastern Orthodox, Catholic, and Evangelical Christian institutions drafted the Manhattan Declaration, declaring their obligation to support "the sanctity of life, traditional marriage, and religious liberty."²¹⁰ Increasingly, however, there are religious actors who insist that FoRB may just as well be invoked as an argument for women's right to choose, as described in the section above. The Religious Coalition for Reproductive Choice in the US is one example of this, insisting that "religious liberty [...] upholds the human and constitutional rights of all people to exercise their conscience to make their own reproductive health decisions without shame and stigma."²¹¹ Such attempts at re-claiming and broadening the application of FoRB are important – not because the pro-choice activists have more right to FoRB than those who are staunch pro-life supporters; but because FoRB protects **all** individuals and groups' right to interpret religion as they want, and to communicate these beliefs to others. This includes conservative religious actors who argue for the sanctity of life; secular women's rights actors who reject religion as inherently patriarchal; and religious actors who find arguments for women's reproductive rights in their religion.

” St. John 10.10 tells us ‘I have come to have life and have it in abundance’. As militants of the Gospel, as people of faith and with a Latin American Pentecostal identity, we defend the right to safe and free legal abortion, and we say so because we love and defend life in abundance. Our bodies are sacred territory and in that [lie] our self-determination and religious freedom” (Gabriela Guerreros, Pentecostal pastor, Argentina)

CHAPTER 7

RECOMMENDATIONS AND IDEAS FOR ACTION

The challenges to FoRB and gender equality, whether generally or in the contexts of health, education or access to justice, are complex and multi-faceted, and the above analyses only scratch the surface of the problems at hand. Challenges are rooted in and shaped by a wide range of different factors, including discriminatory legal and policy frameworks, weak or authoritarian state institutions, patriarchal and exclusionary social norms and practices, poverty, and conflicts. Similarly, adequate responses to these challenges require a multitude of different strategies and approaches in a wide range of areas, including the development or reform of legal frameworks and policies, allocation of sufficient financial and human resources, training and awareness-raising, and appropriate facilities and infrastructure.

In the framework of the expert consultation process on FoRB, gender equality and the SDGs, participants identified and discussed a number of areas where intervention is particularly pertinent. While in no way intended as a comprehensive and detailed catalogue or framework for action, the following presents some of the overall conclusions and recommendations that emerged from these discussions, including also some more concrete ideas for action.

Importantly, the various recommendations on how to better address challenges related to FoRB and gender equality should not be understood to suggest that this agenda should be prioritized over other efforts to 'leave no-one behind', or that discrimination on the grounds of religion and gender somehow constitute more pressing concerns than other forms of discrimination, but rather to encourage attention to forms of discrimination that have often been overlooked and to provide suggestions on how to rectify this blind spot.

SDG 10: REDUCE INEQUALITY WITHIN AND AMONG COUNTRIES

Target 10.2. By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

7.1 NORMATIVE CLARIFICATION OF THE RELATIONSHIP BETWEEN FoRB AND GENDER EQUALITY

Overall, there was consensus among participants in the Expert Consultation Process on the need to ensure a better understanding of what FoRB entails and how it relates to gender equality, generally as well as in the contexts of health, education and access to justice. Despite laudable attempts at clarifying the relationship by e.g. the UN Special Rapporteur on FoRB, misunderstandings and lack of attention still prevail. The UN human rights system is encouraged to address this relationship more systematically and consistently, contributing to a clarification of norms.

RELEVANT SDG TARGETS

- 5.1 End all forms of discrimination against all women and girls everywhere
- 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
- 16.B Promote and enforce non-discriminatory laws and policies for sustainable development

Recommendations in this area include:

- The UN Special Rapporteur on FoRB is encouraged to continue to address the relationship between FoRB and gender equality in country reports and thematic reports, as well as to actively and regularly engage with Treaty Bodies and other Special Procedures to build awareness and expertise on this relationship.
- UN Treaty Bodies, in particular the Human Rights Committee, Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, are encouraged to actively address synergies between FoRB and gender equality in their general comments, based on the development of a systematic approach to consideration and analysis of intersectionalities in discrimination.²¹² They could also more systematically require states to provide information on the issue in constructive dialogues and formulate recommendations on this, as has increasingly been done by the CEDAW Committee.
- Special Procedures mandate holders, including Special Rapporteurs, Independent Experts and Working Groups, are encouraged to explore issues related to FoRB and discrimination based on religion or belief in the context of their respective mandates, with particular attention to intersectionalities with gender discrimination. Of particular relevance in the present context are the Special Rapporteur on Violence against Women; the Special Rapporteur on Minority Issues; the Special Rapporteur on Indigenous Peoples' Rights; the Special Rapporteur on the Right to Health;²¹³ the Special Rapporteur on the Right

to Education;²¹⁴ and the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence. In this, they should continue their good practices of inviting faith-based organisations and religious actors, alongside other civil society actors, to consultations.

- The existing collaboration between different Special Procedures mandate holders on issues related to gender and religiously based discrimination should be further strengthened and consolidated, with a view to ensuring more a more efficient information-gathering process and facilitating the exchange of best practices around such issues.²¹⁵ Mandate holders could consider establishing a joint committee and formulating a set of joint recommendations.²¹⁶

IDEAS FOR ACTION:

Secondments of staff to the mandate of the Special Rapporteur on FoRB

The UN Special Rapporteur on FoRB plays a key role in furthering greater clarification of the relationship between FoRB and gender equality, but is restricted by the limited human resources available to the mandate. The position of the mandate holder could be strengthened by secondments of additional staff to the Special Rapporteur, facilitating more in-depth country analyses and audits of legal frameworks. The International Contact Group on FoRB, which is an intergovernmental network of 25-27 states aimed at facilitating coordination and cooperation around the international promotion of FoRB, is well-positioned to ensure such secondments, encouraging members to commit themselves to the provision of regular support.

Collection of UN soft law on FoRB and gender equality and development of legal guidance notes

Thematic reports and general comments from UN treaty bodies and special procedures on a wide range of issues contain important clarification and specification of international human rights norms related to FoRB and gender equality. To date, there has been no attempt at collecting, connecting and systematically analysing this body of soft law. Such a collection could provide important tools for actors involved in advocacy, strategic litigation, law reform and other initiatives for the promotion of gender-sensitive interpretations of FoRB. More concretely, it could provide the basis for development of legal guidance notes on specific issues, e.g. FoRB and sexual and reproductive health and rights.

Shadow-reporting to UN treaty bodies

Women's rights organisations, religious minority organisations, SOGI rights organisations and others engaged in work around FoRB and gender equality can contribute to raising attention to the relationship between FoRB and gender equality, and its relevance in different thematic contexts, through shadow reports to the various UN treaty bodies.

7.2 ENCOURAGING DIALOGUE AND COOPERATION BETWEEN ADVOCATES OF FoRB AND GENDER EQUALITY

A better understanding of the relationship between FoRB and gender equality entails not only a clarification in terms of international human rights norms, but also a strengthening of relations between actors involved in respectively FoRB and gender equality. Advocacy groups, NGOs, government agencies and other actors involved in the promotion of respectively FoRB and gender equality are not always well connected, despite obvious overlaps and similarities in their work. This has consequences for the policies, programmes and projects implemented in these areas. As noted by the former UN Special Rapporteur on FoRB, “[m]easures undertaken to combat religious discrimination may implicitly follow a male understanding of the needs and requirements of concerned religious communities, while programmes aimed at eliminating discrimination against women may lack sensitivity in questions of religious diversity.”

There is a need to encourage dialogue and cooperation between these two groups, ensuring greater attention to the relationship between FoRB and gender equality in concrete policies, programmes and projects. Actions should direct attention to areas of convergence and possible synergies, reflecting the broadness of both agendas, but should also include attention to areas in which there is – real or perceived – conflict, including e.g. issues related to sexual and reproductive health and rights, and should seek to provide concrete guidance on how to overcome such conflicts and maximise protection of both sets of rights.

RELEVANT SDG TARGETS

17.17 Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Recommendations in this area include:

- Intergovernmental organisations, government agencies, NGOs and others working on gender equality and women's rights should review the extent to which they integrate issues related to FoRB and religious discrimination into their work. Similarly, actors working on FoRB and religious discrimination should ensure that they integrate gender perspectives in their work, with particular attention to the challenges faced by heterosexual women and SOGI minorities in religious minorities.
- Development of training material and tools specifically targeted respectively FoRB and gender equality advocates to assist them in the formulation of gender-sensitive FoRB approaches and FoRB-sensitive approaches to gender equality

- Establishment of multi-actor meeting spaces, encouraging sharing of information, mutual learning, coordination and joint action among like-minded actors involved in respectively FoRB and gender equality advocacy and programming

IDEAS FOR ACTION

Establishment of network for FoRB and gender equality advocates

The Expert Consultation Process revealed a great need for – and interest in – more information-sharing and mutual learning among advocates involved in FoRB and gender equality related issues, facilitating exchange of experiences, coordination and joint action. A second phase of the process could aim at establishing informal networks responding to these needs at local, national and regional levels. Such networks should build on, and expand, already existing initiatives for information sharing and cooperation. The International Network of Civil Liberties Organizations (INCLO), for instance, publishes a very informative newsletter highlighting developments in FoRB and equal treatment, including cases and legislation, concerning the intersections between FoRB and gender equality.

Resources for training on FoRB and gender equality

Recent years have witnessed an increase in literacy initiatives on FoRB, and resources for training on FoRB are growing, including info sheets, policy guidance, education films, online courses and other resources. There is a need for a systematic overview of existing resources, and on the basis of this, for identification of gaps and blind spots, and development of new resources, in particular with regard to intersectionalities between FoRB and gender equality. The FoRB Learning Platform, a key actor in the field of FoRB training, is well-placed to engage in such activities, but funding is required. To ensure broad application of resources, funding should also be provided for translation and adaptation of training materials, videos and courses.²¹⁷

7.3 STRENGTHENING ATTENTION TO FoRB AND GENDER EQUALITY IN THE SDG FRAMEWORK AND BROADER EFFORTS FOR HUMAN RIGHTS, DEVELOPMENT AND DEMOCRATISATION

Apart from normative clarification of the relationship between rights related to FoRB and gender equality, and attention to this relationship among actors concerned specifically with FoRB or gender equality, there is a need for initiatives to include and mainstream attention to FoRB and gender equality in broader efforts for human rights, development and democratisation, including Agenda 2030 and the SDGs.

Practitioners and researchers have consistently explored and addressed inequalities and discrimination along the lines of e.g. gender, ethnicity, and geography, but religiously related inequalities and discrimination remains ‘a glaring

blind spot', as Mariz Tadros from the Coalition for Religious Equality and Inclusive Development has put it.²¹⁸ This is also true for Agenda 2030 and the SDGs. While current initiatives for action on the various SDGs emphasise the need to address gender inequalities and discrimination, little attention is given to religion or belief as a source of discrimination and inequality, and even less to intersectionalities with gender discrimination. If Agenda 2030 is to 'leave no-one behind', there is a need for more explicit and systematic attention to this, alongside attention to other forms of discrimination and inequality.

Recent decades have witnessed increasing attention to the role of religion in development cooperation, as well as increasing interest in cooperation with faith-based organisations and religious actors. There is much to learn, and build on, from the 'religion and development' agenda. However, there has been relatively little attention to FoRB in this agenda, arguably contributing to the lack of focus on religiously related inequalities and discrimination in the context of development.

RELEVANT SDG TARGETS

17.17 Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Recommendations in this area include:

- When monitoring and reporting on the SDGs, the actors responsible for this should ensure due attention to discrimination and inequalities on the grounds of religion or belief, along with other forms of discrimination and inequality. International meetings and processes for follow-up and review of the SDGs should include secular and faith-based NGOs, religious actors, scholars and others with expertise and knowledge on religiously based inequalities and discrimination, and the intersections with other types of inequality and discrimination.²¹⁹
- Governments should include attention to religious minorities and other groups who may be vulnerable to discrimination and inequalities on the grounds of religion or belief, alongside other vulnerable groups, in their national action plans on the SDGs as well as in their Voluntary National Review of the SDGs, and ensure due attention to intersectionalities with gender based discrimination in this.²²⁰
- Development and humanitarian actors working on Agenda 2030 and the SDGs, including UN agencies, multilateral development organisations, governmental development agencies, NGOs and private companies, should mainstream attention to religiously based inequalities and discrimination into strategies

and programmes, alongside attention to other forms of inequalities and discrimination. Among these actors, there is increasing awareness of the need for literacy on FoRB along with broader religious literacy initiatives, but there is still a great need for training, tools and guidelines to assist staff in mainstreaming attention to FoRB and religiously based discrimination in their work, as well as to ensure due attention to gender equality in this.²²¹

- Particular attention should be paid to international faith-based and secular NGOs that work on the intersections of development, gender and religion more broadly, building on their experiences, but also encouraging a better understanding of, and more systematic attention to, FoRB in their work.

IDEAS FOR ACTION

Linking FoRB and the SDGs

More than 90 percent of the SDGs and their targets are linked to international human rights and labour standards. The Danish Institute for Human Rights' SDG-Human Rights Data Explorer is a searchable database that links the SDGs and their targets to recommendations of international human rights monitoring bodies. This database could be used for research and analysis on various aspects of the relationship between FoRB, gender equality and the SDGs. A concrete suggestion would be to use the database to identify patterns and trends in recommendations related to FoRB and religiously based discrimination, including intersections and overlaps with recommendations on genderbased discrimination.²²²

Establishment of fund for participation in SDG process

Greater attention to religious inequalities and discrimination in work around Agenda 2030 and the SDGs requires greater attention to the voices of those who suffer from inequality and discrimination. A concrete suggestion would be to establish a special fund or other forms of earmarked funding to cover expenses for representatives from religious and belief minorities, including women and SOGI minorities, to participate in international and regional fora on the SDGs.

Building on the experiences of faith-based development organisations

Faith-based organisations have historically been key actors in development and humanitarian aid, and many are actively engaged in the SDGs, including in particular SDGs 3, 4, 5 and 16. Much of this work is directly or indirectly relevant to FoRB and religious discrimination issues, but until recently there have been few efforts to ensure cross-fertilisation and exchange of experiences. New initiatives in this area, such as the Coalition on Religious Equality and Inclusive Development, should be encouraged. The Partnership on Religion and Development (PaRD) could also play an important role in facilitating such efforts, e.g. through the establishment of working groups, development of mainstreaming tools and collection of good practices.

7.4 DATA AND ANALYSIS ON DISCRIMINATION AND INEQUALITIES

There is a general lack of data on religiously based discrimination, as well as on intersectionalities with gender based and other forms of discrimination. The collection and analysis of these and other forms of 'equality data' is essential in order to identify and address inequalities and discrimination and to track progress or set-backs over time and to evaluate the impact of policies, programs, and interventions, ensuring that no-one is left behind.²²³ General quantitative data can give an overview of the average situation, but may mask important inequalities between different population groups. Disaggregated data is needed to get an accurate picture.

The 2030 Agenda for Sustainable Development commits to strengthening the capacity of countries to increase the availability of "high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts".²²⁴ However, while most international and national initiatives for data collection regularly disaggregate data based on sex, age, and – to some extent – rural/urban divide, the commitment to, and statistical capacity for, disaggregation on other grounds, including religion and sexual orientation, is rare, resulting in a lack of accurate information on certain types of discrimination and inequalities.²²⁵

RELEVANT SDG TARGETS

17.18 By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts

Recommendations in this area include:

- Disaggregation is technically challenging and requires well-developed statistical systems at national level.²²⁶ International and regional initiatives for building statistical capacity in the framework of Agenda 2030 should be supported, with a particular focus on states transitioning from violent conflict. This should include the development of guidelines, tools and training for inclusive and secure equality data collection and disaggregation, firmly based on a human rights approach and ensuring that this does not contribute to further stigmatisation and exclusion.
- Development of supplementary indicators for selected SDG targets, encouraging the collection of data on religious affiliation and sexual orientation alongside

other factors. Indicator 4.5.1 for target 4.5 on the elimination of discrimination in education, for instance, requires states to collect and disaggregate data on factors such as sex, disability, indigenous status, rural/urban divide and wealth, but makes no mention of religious or belief affiliation or sexual orientation in that context. Similarly with indicator 16.7.1 which measures the degree of responsive, inclusive and representative decision-making, and indicator 16.b.1 which measures experiences of discrimination.

- Actors involved in large-scale data collection initiatives should consider including questions on religious affiliation in survey designs, facilitating the collection of disaggregated data. Key initiatives in this regard are the Multiple Indicator Cluster Surveys on the situation of children and women (implemented by UNICEF);²²⁷ the Demographic and Health Survey (implemented by ICF International); and other international and national household surveys.
- Citizen-generated and other forms of alternative data collection should be encouraged. Significant data gaps remain, and closing these gaps requires a pluralistic ecosystem of data, integrating a diversity of complementary data sources.

DEAS FOR ACTION:

Replicating the Indigenous Navigator and other participatory data collection initiatives

The Indigenous Navigator is a participatory data collection initiative that offers a set of tools for and by indigenous peoples to systematically monitor the level of recognition and implementation of their rights. Indigenous peoples all over the world contribute with data related to the SDG indicators as well as a range of other indicators, including data on education, health and access to justice. This and similar initiatives could serve as inspiration for the development of tools for collaborative data collection on religious or belief minorities.²²⁸

Cooperation with the Religion and State project

The Religion and State (RAS) project is a university-based project located at Bar Ilan University in Ramat Gan, Israel. Its goal is to create a set of measures that systematically gauge the intersection between government and religion. Specifically, it examines government religion policy and societal discrimination for 183 states, including information on religious minorities.²²⁹ While the dataset was not designed with the SDG framework in mind, it contains information of high relevance to a number of targets, and cooperation with the UN agencies responsible for monitoring and reporting on these could be fruitful.

Systematic analysis of FoRB reports

There is very little research on intersecting forms of discrimination on the grounds of religion and gender. A systematic review of key FoRB reports, including in particular the US State Department country reports on international religious freedom and the UN Special Rapporteur country reports, with a view to identifying such types of discrimination, could provide valuable empirical data for further analysis, as well as – importantly – point to blind spots with regard to gender in current efforts to monitor FoRB.

7.5 LEGAL REFORM

Whether intentionally or unintentionally, national laws everywhere in the world perpetuate and institutionalise gender and religiously based discrimination. Legal reform is essential to ensuring equality in law for all, including in the areas of health, education and access to justice. Participants in the Expert Consultation Process emphasised the obligation of governments to abolish laws that discriminate either explicitly or implicitly against particular groups or individuals. In the context of gender and religiously related discrimination, particular attention should be paid to religiously justified personal status and family laws which often involve discrimination between men and women alongside discrimination of minorities in relation to e.g. custody, marriage, divorce, inheritance, and property.

RELEVANT SDG TARGETS

- 5.1 End all forms of discrimination against all women and girls everywhere
- 5.A Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws
- 5.C Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels
- 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.B Promote and enforce non-discriminatory laws and policies for sustainable development

Recommendations in this area include:

- Governments should analyse domestic laws, procedures, regulations, jurisprudence and policies to identify direct or indirect discrimination on the basis of gender and/or religion, with particular attention to religious or belief minorities, heterosexual women and SOGI minorities, and engage in law reform to rectify gaps, blind spots and discrimination, seeking advice from relevant international and regional bodies, e.g. OSCE/ODIHR.²³⁰
- Intergovernmental agencies, consultancy firms, NGOs, lawyers, and other actors providing technical support to national processes of law reform should ensure due attention to FoRB and gender equality in their support, including not only in their legal analysis but also in development of roadmaps, legal guidance, training and other activities
- Dialogue with civil society organisations and local communities is key to ensuring that laws and policies respond to the needs of the population and live up to the principle of leaving no one behind. Legal reform processes should entail broad consultations and cooperation with civil society at all stages of the process. Representatives from women's associations, SOGI minorities, religious or belief minorities, and others should be involved in the formulation, adoption, implementation and monitoring of laws and policies, ensuring that the lived experiences of those often left behind are brought to the forefront.²³¹
- Actors engaged in advocacy for legal reform should seek to build broad alliances and strategic partnerships to ensure popular support for reform, including not only cooperation between women's rights and FoRB advocates, but also between religious and secular actors, as well as between different religious communities.
- There is a lack of international strategic litigation addressing FoRB and economic and social rights in the context of religious minority discrimination. This is even more pronounced with regard to intersectionality with gender and sexual orientation. Financial, technical and moral support should be provided to groups who have the potential to identify and pursue strategic cases with this focus.

IDEAS FOR ACTION

Establishing a global panel of experts on FoRB

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) has successfully provided support to OSCE member states in implementing their commitments on FoRB since 1997, and has produced useful policy guidance on a number of issues. In this work, ODIHR is assisted by a 16-member Panel of Experts on FoRB, which consists of independent experts from across the OSCE region.²³² Supplementing and building on these experiences, a global panel of experts could be established, offering technical assistance, advice and training to non-OECD states on FoRB. Assistance should be targeting all justice sector actors, including law reform commissions, the judiciary, ministries of justice, religious courts, members of parliament, and other institutions, to build their legal knowledge and capacities.

Working with parliamentarians

Parliamentarians can play a key role in encouraging legal reform, e.g. through parliamentary questions, public statements, debates, hearings or legislative proposals. The International Panel of Parliamentarians for FoRB (IPP-FoRB), an international network of parliamentarians and legislators, is well-positioned to encourage greater attention to gender equality among parliamentarians working for FoRB, e.g. through regular courses on FoRB and gender equality in the IPP-FoRB Academy. The IPP-FoRB could also consider working more closely together with the Inter-Parliamentary Union's Forum of Women Parliamentarians and other groups of parliamentarians working for gender equality and women's rights.

Strategic litigation: Encouraging exchange of experiences among lawyers working on FoRB and gender equality

Strategic litigation can be an effective tool to bring about change in legal standards and push for reform. In the Expert Consultation Process, several participants were involved in different kinds of strategic litigation and found it useful to share ideas, experiences and strategies across different geographic contexts. An informal network of lawyers engaged in strategic litigation around FoRB, religious minority issues and gender equality, e.g. in the form of an online learning community, could provide a space for continued conversations, exchange of experiences and collection of documentation and best practices.

7.6 ENGAGING WITH LOCAL RELIGIOUS ACTORS: RAISING AWARENESS AND SUPPORTING INCLUSIVE SOCIAL NORMS

While legal reforms are key in ensuring sustainable change, they are not likely to succeed without parallel public outreach and awareness-raising. In the Expert Consultation Process, participants consistently pointed to the need to address discriminatory and exclusionary social norms and practices, including religious and cultural ones, encouraging broader cultures of inclusion, non-discrimination and pluralism. Dialogue, capacity-building and awareness-raising with a wide range of different actors is needed, including media, politicians, scholars, artists and many others who contribute to shaping and disseminating social norms and practices around religion and gender.

In many contexts, religious institutions and leaders, from minority and majority communities alike, play an important role in shaping these norms and practices. Engagement with these actors – alongside other civil society actors – can be fruitful, not only to challenge discriminatory norms and values around gender and religion or belief, but also to identify and support those actors who work – or want to work – to promote FoRB and gender equality.

Importantly, engagement with local religious actors should not only, or even primarily entail cooperation with formal religious leadership which is most often male-dominated, whether in minority or majority religious communities. Patriarchal norms and traditions perpetuate narrow conceptualisations of religious leadership meaning that the formal religious authority, knowledge and expertise of women is often challenged or disregarded. Nonetheless, women take up important leadership positions in religious communities all over the world, sometimes formally, but most often informally, as leaders of faith-based associations and organisations, scholars, civil society activists, journalists or otherwise.

Just as importantly, engagement with religious actors should include representatives from a broad spectrum of religious communities, avoiding the tendency to focus primarily on Christian, Hindu, Muslim, Jewish, and Buddhist communities, overlooking the vast diversity of smaller religious groups, animists and other indigenous faith groups, as well as those with atheist or humanist beliefs.

RELEVANT SDG TARGETS

- 5.1 End all forms of discrimination against all women and girls everywhere
- 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
- 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
- 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life
- 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
- 17.17 Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Recommendations in this area include:

- Training, awareness-raising and capacity-building of local religious leaders, through 'extra-curricular' programs as well as part of institutional training or formation for religious leaders. This should include basic training in theological and international law standards in support of FoRB and gender equality, conflict resolution and reconciliation skills as well as skills in pedagogy, communication, and mobilization.
- Dialogue with and within religious communities to raise awareness of women's rights and gender equality, generally as well as specifically in the areas of health, education and access to justice.²³³ This can include a wide variety of approaches, including intra-faith dialogues, community councils, theatre, media campaigns and other initiatives
- Strategic engagement with formal religious leadership can be a useful strategy to strengthen popular support for legal and policy reform. Especially in contexts where laws are based on religion, this is crucial insofar as religious leaders are the ones with authority and leverage to challenge and change the laws as well as to ensure public support for reform.

IDEAS FOR ACTION:

Piloting the recently launched #Faith4Rights toolkit

This peer-to-peer learning tool, launched by OHCHR in January 2020, is the fruit of the work of human rights mechanisms, civil society and faith actors. It provides a practical tool to explore the relationship between religions, beliefs and human rights. It contains interactive modules for use by faith and civil society actors on the wide scope of human rights issues within the intersectionality of religion, women's rights and gender equality issues. The modules offer concrete ideas for interactive peer-to-peer learning exercises, e.g. on how to unpack the 18 commitments, share personal stories, search for additional faith quotes or provide for inspiring examples of artistic expressions. The #Faith4Rights toolkit is not limited to FoRB; it rather covers the whole spectrum of faith actors' responsibilities in the human rights sphere. For example, module 3 delves into the commitment to promote constructive engagement on the understanding of religious texts, while module 5 focusses on gender equality and module 12 on inclusivity through education. The #Faith4Rights toolkit offers a wide range of resources that empower faith actors to defend human rights from within their own respective disciplines. It serves numerous action points in the three areas of research, training and civil society inter-faith projects. The #Faith4Rights toolkit is open for adaptation by facilitators in order to tailor the modules to the specific context of the participants. Piloting of the #Faith4Rights toolkit in different regions is encouraged, which would also serve the aim of the toolkit's regular updating.²³⁴

Establishment of a platform for female faith leadership

The establishment of a platform for female religious leaders can contribute to providing a safe space for sharing of experiences, mutual empowerment, and networking among female religious leaders, by extension contributing to broadening notions of religious leadership and challenging patriarchal norms. Such a platform could build on Religions for Peace's experiences and networks at national and regional levels throughout the world. One-to-one mentoring could be part of such an initiative, pairing young religious leaders with more experienced ones to encourage support and learning.

7.7 ENCOURAGING AND SUPPORTING GENDER-SENSITIVE RELIGIOUS NORMS

All over the world, people of faith work internationally, nationally or locally to promote gender-sensitive interpretations of religious texts and practices, based on principles of pluralism, equality and non-discrimination. This includes people – men and women alike – who consider themselves 'religious feminists' but also many others who for various reasons prefer to avoid this labelling but share the same goal of developing gender-sensitive theologies and working for equality of

all. Many of the participants in the Expert Consultation Process have been engaged in such activities for decades.

Religious actors working for gender-sensitive theologies merit support and encouragement. Often, these actors are under severe pressure, both from their religious community who see their interpretations as a threat to what they consider to be ‘authentic’ religious doctrines, and from secular women’s rights advocates who suspect that their reliance on a religious language will contribute to legitimising discriminatory religious norms and practices.

RELEVANT SDG TARGETS	
5.1	End all forms of discrimination against all women and girls everywhere
5.2	Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
5.3	Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
5.5	Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life
5.6	Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
17.17	Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

Recommendations in this area include:

- Dialogue with feminist religious actors and others who work to promote gender-sensitive religious interpretations in local and national contexts on how best to support their work. A common criticism of these actors is that they are ‘agents of Western secularism’. As such, Western donor agencies or government offices may not be best placed to provide direct support. In such cases, alternative channels of support may be through international faith-based NGOs.
- Systematic inclusion of feminist religious actors and others who advocate for gender-sensitive interpretations in international and regional fora, consultations and networks related to FoRB, including e.g. the FoRB Learning Platform, the Religious Freedom Roundtables, South-East Asia FoRB conferences (SEA-FoRB), and other initiatives.

- Support the organisation of intra- and interfaith conferences, establishment of networks and other initiatives to encourage knowledge creation, mutual support and exchange of experiences among feminist religious actors and others working for gender-sensitive religious interpretations, as well as with secular women's and SOGI rights organizations.
- Support feminist and other actors working for gender-sensitive religious interpretations in their engagement with key UN processes such as the Human Rights Council, CEDAW, the High Level Political Forum, and the Universal Periodic Review. Support them in building stronger relationships with member states and collaborating with civil society constituencies in the UN spaces and beyond²³⁵

IDEAS FOR ACTION

Support to online communities

Online communities can provide a safe haven for people to meet, learn from each other and discuss issues that are contentious in their religious community, including e.g. SOGI rights, gender equality, atheism, or religious feminism. Social media can also be useful for the dissemination of theological research and education material. Mubaadalah, for instance, is an Indonesian online platform and knowledge hub for discussions of gender relations in Islam, run by the Asian Muslim Action Network and Fahmina Institute. Muslims for Progressive Values has also established various online communities and held lecture series on their YouTube channel, including e.g. on SOGI rights in Islam.²³⁶

Providing sanctuary and assistance to religious actors at risk

Various programmes exist to provide sanctuary and assistance to people at risk, e.g. writers, journalists, and artists. The Scholars at Risk programme, for instance, seeks to protect scholars who suffer grave threats to their lives, freedom and well-being by arranging temporary research and teaching positions at universities and research institutions as well as by providing advisory and referral services.²³⁷ A similar programme could be developed for religious actors who are at risk because of their work for gender equality, FoRB and other human rights.

7.8 ACCESS TO JUSTICE: ADDRESSING STEREOTYPING AND BIAS IN THE JUSTICE SYSTEM

While access to justice is predicated on the existence of non-discriminatory laws and policies, ensuring equality in legal protection (see recommendation 8.5 on legal reform), the concept refers more broadly to the existence of structures, norms and practices that enable individuals to be heard, exercise their rights, challenge discrimination and hold decision-makers accountable. Participants in the Expert Consultation Process identified a range of barriers related to access to justice in the context of FoRB and gender equality, including discriminatory societal norms and practices hindering their access to the justice system, institutionalised discrimination as well as bias and stereotyping among individual actors, in the formal as well as the informal justice system.

Relevant SDG targets

- | | |
|------|---|
| 5.C | Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels |
| 16.3 | Promote the rule of law at the national and international levels and ensure equal access to justice for all |
| 16.7 | Ensure responsive, inclusive, participatory and representative decision-making at all levels |
| 16.B | Promote and enforce non-discriminatory laws and policies for sustainable development |

Recommendations in this area include:

- Building literacy on FoRB and gender equality among justice sector actors, including legislators, judiciary, lawyers, paralegals and law enforcement, is key to ensuring non-discrimination and equality in the justice system. This should include training and capacity-building courses, development of legal and practical guidance notes, as well as inclusion of FoRB and gender equality in curriculum for law schools, police academies, and other educational institutions for justice sector actors. In this context, the hypothetical cases of moot court competitions at national, regional or international levels could also include specific legal issues related to FoRB and gender equality.²³⁸
- Specific programmes for awareness-raising and capacity-building of informal justice sector actors should be developed, including actors in religious, customary, indigenous and community justice systems. Training should be contextualized to fit the circumstances and mandate within which adjudication of disputes takes place, focusing e.g. on the human rights aspects of the specific

cases adjudicators encounter. In cases where informal justice actors uphold customs or beliefs that violate human rights, a broader approach may be more appropriate in order to address societal attitudes underpinning these.²³⁹

- Awareness-raising and education targeting women, SOGI minorities, religious minorities and others in a potentially disadvantaged position, building legal literacy and informing people about their rights. This should include information about the availability of mechanisms for access to justice and eligibility for legal aid and other forms of support.²⁴⁰ In some cases, the use of media, radio and television campaigns are effective. Involvement of trusted and familiar social networks, such as teachers, religious leaders, community groups or others with non-legal specialty skills, can also substantially contribute to public awareness of the law and legal rights.²⁴¹
- The provision of free or low-cost legal aid is a crucial component in ensuring access to justice for all, supporting especially marginalised and disadvantaged individuals in claiming their rights. Governments should strengthen the provision of legal aid at local level, and uphold a system of para-legals, e.g. in partnership with non-governmental providers of legal aid. Initiatives to provide discrete and sensitive legal aid to people in vulnerable situations should be encouraged, including through use of apps and other IT solutions.²⁴² Mobile legal information kiosks or legal clinics can also be useful in reaching people in remote areas.
- Steps should be taken, including temporary special measures, to ensure that heterosexual women, SOGI minorities and people from religious minorities, alongside other disadvantaged groups, are equally represented in the judiciary and other law implementation mechanisms as magistrates, judges, prosecutors, public defenders, lawyers, administrators, mediators, law enforcement officials, judicial and penal officials and expert practitioners, as well as in other professional capacities²⁴³

IDEAS FOR ACTION

Strengthening NHRI legal capacities on FoRB and gender equality

National human rights institutions (NHRIs) are key actors in ensuring equality in law and access to justice, with a mandate to monitor human rights violations, provide legal analysis and recommendations to government, offer human rights training and, in some contexts, handle cases. However, few NHRIs focus on FoRB or religiously related discrimination in their work, let alone on intersectionalities with gender equality, and many lack expertise in this area. The Global Alliance of National Human Rights Institutions (GANHRI) should establish a working group to increase FoRB awareness and capacities among member NHRIs to handle FoRB-related cases, monitor religiously and gender related discrimination.

Minorities Fellowship Programme: Special focus on minority women

The OHCHR's Minorities Fellowship Programme, offering training for human rights defenders from ethnic, linguistic and religious minorities, could consider developing a Fellowship Programme specifically for women human rights defenders, or to dedicate part of the general Fellowship Programme to activities targeting women in particular, strengthening their human rights knowledge and capacities to claim their rights as well as contributing further to establishing networks and relations.

Legal needs surveys

Design and implementation of legal needs surveys to ensure a better understanding of the justiciable challenges that individuals face, and the needs they have for legal aid. While recent years have seen an increase in large-scale legal needs surveys in certain parts of the world, such surveys are still to be carried out in most countries in Africa, Latin America, Middle East and South Asia.²⁴⁴

7.9 EDUCATION: ENCOURAGING EQUALITY OF ACCESS, CURRICULUM REFORM AND TEXT BOOK DEVELOPMENT

In relation to education, participants agreed that one area of particular relevance is curriculum reform and textbook development. These are key elements in ensuring inclusive education for all, as well as for contributing to broader cultures of non-discrimination and equality. Inclusive curricula and textbooks can be instrumental in fostering educational cultures of respect for diversity and equality, challenging stereotypes, promoting critical, nuanced thinking, and encouraging awareness and understanding of 'the other'. At international level, in particular UNESCO has done substantial work to encourage revision of curricula, text books and other learning material. There is a need to put these and other relevant instruments to work at national level.

RELEVANT SDG TARGETS

- 4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations
- 4.7 By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development

Recommendations in this area include:

- UNESCO is encouraged to direct attention to discrimination and inequalities on the grounds of religion or belief in their annual Global Education Monitoring reports, including attention to intersections with gender, alongside attention to other forms of discrimination and inequalities
- Governments are encouraged to review education at all levels for equal access to, equal and respectful treatment within, and equal allocation of resources to and for religious minority girls. Any directly or indirectly discriminatory provisions in law or practice should be rectified. Governments are also encouraged to review and revise national curricula and textbooks, with a view to ensuring that education is inclusive, non-discriminatory and human rights-based. UNESCO's **Toolkit on revision/adaptation of curricula, school textbooks and other learning materials to remove cultural, religious and gender-biased stereotypes** can be useful in this regard.
- Curriculum reform and textbook development must be coupled with teacher training, actively and explicitly addressing discrimination, stereotyping and bias and encouraging inclusive and non-discriminatory teaching methods and approaches.²⁴⁵ Training should also include teachers in religious education institutions, for example using the #Faith4Rights toolkit.²⁴⁶
- Curriculum reform, textbook development and teacher training should be based on consultation processes with relevant stakeholders, including in particular religious and belief minority representatives, women, SOGI minorities and other disadvantaged or marginalised groups to ensure that their perspectives and experiences are reflected and mainstreamed into curricula, textbooks and teacher training.

IDEAS FOR ACTION

Encouraging human rights-based religious education

Particular attention should be paid to curricula and textbooks for religious education, ensuring that this is based on principles of pluralism, diversity and non-confessionalism, in accordance with ODIHR's **Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools**. The UN Office for Prevention of Genocide is currently rolling out the programme **Fostering inclusive and peaceful societies: The Role of Religious Education** with pilot projects in different countries. The OHCHR has launched the **#Faith4Rights toolkit**, including a module to implement commitment XII of refining 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. New projects in this area could link up with and build on these initiatives.

Linking up with human rights education networks

There are various international and regional networks for human rights education, including the NHRI Network on Human Rights Education, Amnesty's Human Rights Educator Network, Democracy and Human Rights Education in Europe (DARE), Human Rights Education Youth Network and various others. Actors involved in curriculum reform and other educational activities for the promotion of FoRB and gender equality should link up with these networks, ensuring mutual exchange of knowledge and experiences and encouraging attention to FoRB and gender equality in broader human rights education efforts.

7.10 HEALTH: BUILDING COMMON GROUND AROUND SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

Challenges related to FoRB and gender equality in the area of health are multiple. While discussions in the Expert Consultation Process focused on a range of different challenges, there was broad consensus among participants that issues related to sexual and reproductive health and rights constitute one of the most pressing concerns. This is an area where the relationship between FoRB and gender equality is particularly strained, in part due to misperceptions, but also because of very real conflicts over values and norms, often religious. There is a need for open and respectful dialogue with those who, for various reasons, are critical of sexual and reproductive health and rights, but also for broader and more coordinated action among those who are advocating for this, including both secular and religious actors. Faith-based organisations and networks already engaged in work on sexual and reproductive health and rights can play an important role in this.

RELEVANT SDG TARGETS

- 3.7: By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes
- 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

Recommendations in this area include:

- Governments are encouraged to introduce and implement laws for the elimination of harmful practices. Governments are also encouraged to abolish laws that restrict women's access to health care, including e.g. requirement of guardian or third-party consent to access health care, restrictions on access to family planning, and overly restrictive abortion laws, often justified with reference to religion or 'morals'.
- Strengthening – and broadening – of alliances of actors working for sexual and reproductive health and rights at national and international levels, including secular advocates for sexual and reproductive health and rights, faith-based NGOs, interreligious networks, religious leaders and others. Involvement of like-minded FoRB advocates should be prioritised, encouraging the use of FoRB as an argument in advocacy, strategic litigation, campaigning and other initiatives seeking to dismantle religious opposition to sexual and reproductive health and rights and promote alternative religious interpretations.
- Training and literacy initiatives targeted secular advocates working on sexual and reproductive health and rights to encourage greater understanding not only of FoRB, but also of the various religious interpretations, positions and dynamics around sexual and reproductive health and rights.
- Facilitation of dialogue between advocates of sexual and reproductive health and rights (religious as well as secular) and their critics, including socially conservative FoRB advocates. Such dialogues should stay clear of dogmatism from both sides and involve pragmatic representatives who share a common goal of reducing suffering and increasing health and wellbeing.²⁴⁷ Closed-door conversations and other methodologies to establish safe spaces are important.
- Faith-based organisations have many years of experience in the development and implementation of gradual, context-sensitive approaches for working with local

religious leaders and communities on SRHR and other religiously controversial issues. While recent years have witnessed increasing attention to this work among donors, there is still a need for more systematic involvement of faith-based organisations in efforts around sexual and reproductive health and rights, including in terms of funding, consultation, and coordination.

IDEAS FOR ACTION

Documenting the use of FoRB as a legal argument for sexual and reproductive health and rights

In the report, **Whose Faith Matters? The Fight for Religious Liberty Beyond the Christian Right** (2019), the Law, Rights and Religion Project at Columbia Law School explores the ways in which FoRB has been used as a legal argument for sexual and reproductive health and rights, challenging conventional narratives around FoRB as a right that primarily protects the values and practices of the 'religious right'. While the report focuses solely on a US context, researchers and NGOs elsewhere could use this as inspiration to document more broadly how FoRB can be used to promote sexual and reproductive health and rights, encouraging new narratives around FoRB as a potential tool for women's empowerment.

Case studies on the development of religiously sensitive approaches to sexual and reproductive health and rights

Effective implementation of international human rights frameworks on the ground requires context-embedded responses that resonate with local norms and practices. Many actors point to the usefulness of 'translating' international SRHR standards into a religiously acceptable language. Unpacking sexual and reproductive health and rights may also be useful in advancing gradual acceptance of specific components, rather than engaging with the entirety from the start.²⁴⁸ However, there is also a risk that such gradual processes of translation end up reinforcing existing gender disparities under the guise of contextualizing international standards on sexual and reproductive health and rights. A collection of case studies, and a systematic analysis of the lessons learned from these, could contribute to building knowledge and evidence in this area.

Revising UNESCO International Guidelines on Sexuality Education (2009)

Sexuality education is a complex and controversial topic in many contexts, and its promotion requires nuanced and sensitive approaches. UNESCO's 2009 guidelines provide a good starting point, but could benefit from revision, including a stronger focus on religious actors, norms and practices. Such a revision would best be carried out in close consultation and cooperation with a wide range of religious actors, including faith-based NGOs, formal religious leaders, religious women's rights activists and sexual and reproductive health experts.

APPENDIX

LIST OF PARTICIPANTS IN EXPERT CONSULTATION PROCESS

For security reasons, some participants preferred not to have their name mentioned in the report. We remain grateful for the important input and insights offered from all participants, including both those mentioned below and those we were not able to mention.

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Susan Hayward, US Institute of Peace
Vija Herefoss, Stefanus Alliance International
Vinya Ariyaratne, Sarvodaya Sharmadana Movement
Yehuda Stolov, Interfaith Encounter Association

NOTES

- 1 Ahmed Shaheed, **Report of the Special Rapporteur on freedom of religion and belief**, A/HRC/34/50, 2019, para. 50
- 2 Heiner Bielefeldt, **Interim report of the Special Rapporteur on freedom of religion or belief** (focus: freedom of religion or belief and equality between men and women), A/68/290, 2013, para. 28
- 3 Office of the High Commissioner for Human Rights, **The Beirut Declaration and its 18 commitments on “Faith for Rights”**, 2019, A/HRC/40/58, annex II, commitment V.
- 4 Religion and Diplomacy website, **Interview: Azza Karam on UN Taskforce on Religion**, Transatlantic Policy Network on Religion and Diplomacy, February 2019
- 5 Azeem Ibrahim, China Must Answer for Cultural genocide in Court, **Foreign Policy**, December 3, 2019; Bureau of Democracy, Human Rights and Labor, **International Religious Freedom Report: Egypt, 2018**; Rebecca Tan, From France to Denmark, bans on full-face veils are spreading across Europe, **Washington Post**, August 16, 2018; Ryan Thoreson, Recognizing Religious Freedom as an LGBT Issue, **Human Rights Watch**, 2018; Amrit Dhillon, Protests break out in India after two women enter temple, **The Guardian**, January 2, 2019.
- 6 Heiner Bielefeldt: **Interim report**, 2013, para. 22. See also Nazila Ghanea, **Women and Religious Freedom: Synergies and Opportunities**, US Commission on International Religious Freedom, 2017, for an analysis of the relationship between FoRB and women’s rights.
- 7 See appendix for a list of participants.
- 8 Four workshops were held in the context of the Expert Consultation Process: An initial brainstorming session in Geneva in March, a thematic workshop on SDGs 4 and 16 in Oslo in May, a thematic workshop on SDGs 3 and 13 in Copenhagen in October, and finally a session to conclude and wrap up in New York in November 2019. Some people participated in all events, while others took part in one or a few.
- 9 The author wishes to thank all participants in the Expert Consultation Process for their valuable and insightful input and insights which have significantly informed and shaped the present report. The author has also benefitted immensely from her participation in workshops organised by the Coalition on Religious Equality and Inclusive Development (CREID) and the FoRB for Inclusive Societies Project. Desk studies of relevant research and analysis, as well as the author’s previous work on freedom of religion or belief – in particular the 2019 report **The International Promotion of Freedom of Religion or Belief**, co-authored with Katherine Marshall – have also informed the contents of the report. The author wants to extend a special thanks to the following people who have provided valuable and

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- 10 While the author has sought to reflect both geographical and religious diversity in the examples of challenges and good practices included, there are obvious and important gaps, and the examples included should not in any way be seen as an exhaustive mapping, neither of challenges, nor of good practices.
- 11 UN, **Convention on the Elimination of all forms of Discrimination Against Women**, 1979, article 1
- 12 UN, **Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**, 1989, article 2
- 13 Kimberlé Crenshaw, **Demarginalising the intersection of race and sex**, University of Chicago Legal Forum, 1989, p. 139
- 14 Related terms such as multiple, co-existing, cumulative, compound or combined discrimination may have subtly different meanings, but are used interchangeably with intersectional discrimination in the present report. See e.g. Sandra Fredman, **Intersectional discrimination in EU gender equality and non-discrimination law**, European network of legal experts in gender equality and non-discrimination, European Commission, 2016, for a discussion of the various terms.
- 15 OHCHR, **Minority Rights: International Standards and Guidance for Implementation**, 2010, p. 2f
- 16 Human Rights Council, **Recommendations of the Forum on Minority Issues at its sixth session: Guaranteeing the rights of religious minorities**, A/HRC/25/66, 2013, par. 9
- 17 European Institute for Gender Equality website, **Disadvantaged groups**, <https://eige.europa.eu/thesaurus/terms/1083>.
- 18 Nazila Ghanea, **Women and Religious Freedom**, 2017, especially pp. 2-5
- 19 See OHCHR, **Excerpts of the discussions concerning “Faith for Rights” since July 2017 by the UN Committee on the Elimination of Discrimination Against Women**, available at https://www.ohchr.org/Documents/Issues/Religion/CEDAW_Excerpts.pdf
- 20 For a general introduction to FoRB, see e.g. Stefanus Alliance International, **Freedom of religion or belief for everyone**, 2017. The FoRB Learning Platform also lists a number of useful resources, see <http://www.forb-learning.org>
- 21 Heiner Bielefeldt, **Interim Report**, 2013, par. 27
- 22 The balance between religious communities' collective rights and the individual rights of their members is delicate and far from black-and-white. Religious communities have the right to autonomy, including the right to decide themselves on matters of doctrine and membership, and the individual right to FoRB “does not guarantee any right to dissent within a religious body;” however, individual members always have the right to express their dissent through leaving the religious community in question, and forming another community if they wish, and the state has an obligation to protect such dissidents if they face coercion

- as a result of this (Göran Gunner, Pamela Slotte and Elizabeta Kitanovic (eds) **Human Rights, Religious Freedom and Faces of Faith**, Conference of European Churches, 2019, p. 25; Heiner Bielefeldt, **Interim Report**, 2013, paras. 59-61).
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of religious fundamentalism and violent extremism, and the Rapporteur is encouraged to broaden this analysis to also include other aspects of the nexus between FoRB and the right to education.

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- 217 The FoRB Learning Platform provides resources to help individuals, communities and decision-makers learn, reflect upon and promote freedom of religion or belief for all. It offers learning resources for personal study and for educators and facilitators to use in group trainings, including short human rights education films, written resources, group exercises and resources for theological and ethical reflection. The Platform is an initiative of the Nordic Ecumenical Network on Freedom of Religion or Belief (NORFORB) in partnership with a wide range of secular and faith based organisations from all over the world. See www.forb-learning.org
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