

FROM FREEDOM OF WORSHIP TO FREEDOM OF RELIGION OR BELIEF

FOSTERING THE PARTNERSHIP BETWEEN STATES, THE INTERNATIONAL
COMMUNITY AND RELIGIOUS INSTITUTIONS



Proceedings of the Conference
Italian Cultural Institute – Cairo
18 February 2020

EDITED BY

ANDREA BENZO



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EMBASSY OF ITALY IN CAIRO

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Director of the Italian Cultural Institute in Cairo

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Professor at the Department of Creed and Philosophy. He holds a PhD and a MA degree in Fundamentals of Religion (Major in Creed and Philosophy). He authored more than 30 books in different fields including theology, philosophy and logic, sects, doctrines, religions, sufism. He also wrote more than 20 published academic research papers.

ADAMA DIENG

A Senegalese jurist, he was Under-Secretary-General of the United Nations and Special Adviser of the Secretary-General on the Prevention of Genocide from September 2012 until July 2020. Former Registrar of the International Criminal Tribunal for Rwanda, he has headed numerous human rights fact-finding missions around the world.

Before joining the United Nations, Mr Dieng was Secretary General of the Geneva-based International Commission of Jurists. In 2019, he was entrusted by the UN Secretary-General to lead and coordinate within the UN System the implementation of the Strategy and Plan of Action to address Hate Speech.

SILVIO FERRARI

Professor of Law and Religion, University of Milan. Visiting professor at the University of California (Berkeley, 1994 and 2001), Institute for Advanced Legal Studies (London, 1998-99), Ecole Pratique des Hautes Etudes (Paris, Sorbonne, 2004), University of Leuven (2000-2012), Center of Theological Inquiry (Princeton, 2014).

His main fields of interest are law and religion in Europe, comparative law of religions (particularly Jewish law, Canon law and Islamic law) and the Vatican policy in the Middle East. His last publication in English is the *Routledge Handbook of Religious Laws* (2019).

JÁN FIGEL

First Special Envoy for Promotion of Freedom of Religion or Belief (FoRB) outside the European Union (2016 – 2019), appointed by the European Commission. An experienced Slovak and European politician, he was Slovakia's Chief Negotiator and the first EU Commissioner responsible for Education, Culture and Youth policies, First Deputy Prime Minister and Minister of Transport, Construction and Regional Development; and Vice-President of the National Council.

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His studies focus on the relations between the State and the Church in Italy, the history of the Italian *Risorgimento* and the Italian republican era, the history of the Catholic Church in the nineteenth

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He has been a Visiting Research Fellow at the Carr Centre for Human Rights at Harvard University, Fellow of the Montreal Institute for Genocide and Human Rights Studies at Concordia University in Montreal, and Special Adviser to the late Shahbaz Bhatti, former Minister for Minority Affairs in Pakistan. He is a Research Fellow at the Religious Freedom and Business Foundation, a Professional Associate at the Centre for Law and Religion at Cardiff University and a member of the Global Steering Committee of the Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes.

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He was a participant in the G20 interfaith summits of Istanbul 2015, Beijing 2016, Potsdam 2017, Buenos Aires 2018, Tokyo 2019 and Riyadh 2020. His latest book is *From Your Gods to Our Gods. A History of Religion in British, Indian and South African Courts* (Cascade Books 2014). His latest journal article is M. Gatti, P. Annicchino, J. Birdsall, V. Fabretti & M. Ventura (2019) 'Quantifying Persecution: Developing an International Law-based Measurement of Freedom of Religion or Belief', *The Review of Faith & International Affairs*, 17:2, 87-96.

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Key to the success of this initiative was the gracious support offered by His Eminence Dr *Ahmed Attayeb*, the Grand Imam of Al-Azhar Al-Sharif, and by His Holiness *Tawadros II*, Pope of Alexandria and Patriarch of the See of St. Mark, who also granted special audiences to the speakers of the conference on 19 February 2020.

A word of gratitude is due to Professors *Silvio Ferrari* and *Giovanni B. Varnier* for their continuous advice and guidance throughout the different phases of this endeavor.

Preface

EMANUELA CLAUDIA DEL RE

*Vice Minister of Foreign Affairs and International
Cooperation, Italy*

Religion and Freedom: two concepts that must go together. Freedom of Religion or Belief: an imperative for all contemporary societies. Yet, religion is frequently deprived of freedom, and freedom is deprived of religion as one of those fundamental human expressions in which it can be most effectively exercised. This book that hosts the Proceedings of the Conference held at the Italian Cultural Institute in Cairo on 18 February 2020, entitled “From Freedom of Worship to Freedom of Religion or Belief”, offers a very relevant and absolutely contemporary point of view on a topic – freedom of religion or belief – that is too often dismissed by democracies as a resolved issue as far as they are concerned, and an issue difficult to resolve – worth trying? – in other contexts. Very wise indeed is therefore the accent here proposed, because in this scenario emerges as fundamental the need to foster the partnership between States, the International Community and religious institutions. Why? Because awareness needs to be arisen, laws must be written, pluralism must be internalized, and, most importantly, mentalities must change and lifestyles must adapt. The utmost ambitions are the recognition of all religions and the mutual recognition between all religions. The advantage would be to finally comprehend and make understand that if social systems are integrated, every component – including religion – is functional to the equilibrium within them. Functional, certainly. I would like to quote Durkheim in this sense, who affirmed: “If religion has given

birth to all that is essential in society, it is because the idea of society is the soul of religion". Society, religion and soul go together, but once we understand this, we must also take into account the fact that, again in Durkheim's words, "there can be no society which does not feel the need of upholding and reaffirming at regular intervals the collective sentiments and the collective ideas which makes its unity and its personality". Freedom of religion is fundamental, because as Max Weber sustained, religion can be a social actor capable of promoting positive change, and it is a social institution whose practices and beliefs respond to social needs. In this framework, I find particularly significant the two keynote speeches on the role of freedom of religion or belief in fostering equality in religiously plural societies by Ján Figel and in preventing incitement to violence and atrocity crimes by Adama Dieng, out of the many interesting interventions that this book contains. Having spent most of my life in conflict areas with extensive fieldwork on and with religious minorities – the latest have been the Yazidis and the Christians persecuted by Daesh – I consider these perspectives particularly relevant.

I really want to thank the Italian Ambassador to Cairo Giampaolo Cantini for having organized the conference. A conference that reflects the endless work of Italy for Freedom of Religion or Belief (FoRB) in the world. I am proud to say that the protection of FoRB and of the rights of members of ethnic and religious minorities is a priority of the Italian Foreign Policy, at bilateral and multilateral level, as well as in all the programs of Development Cooperation. It is also by our impulse that within the UN this topic has become the object of specific resolutions at the UN General Assembly. We strongly support – and fund – the UN initiatives on interreligious dialogue which we shall intensify. Italy contributes to the centrality of FoRB as a human right within EU policies, and has promoted the inclusion of the guidelines of FoRB (adopted in 2013) for the EU policy in third countries. During our presidency of the OSCE in 2018 we have promoted initiatives dedicated to contrasting anti-

Semitism and other forms of intolerance and discrimination with a special focus on Christians and Muslims. We are very active in protecting cultural and religious heritage in conflict areas, often in partnership with UNESCO. When I talk about Italian initiatives, I want to underline that nothing is done without a sense of sharing, of partnership, because all actions imply collaboration between States, with international organizations, with civil society at local and global level. This creates a strong movement of thought that intends to diffuse a positive and respectful approach to religion and belief, in the name of human rights, democracy and, most importantly, for the benefit of peace and stability in societies. The challenge is how to keep the attention always high, how to keep all likeminded actors always engaged, how to reach out to those who are reluctant, how to find firm answers to the pressing instances of those often unexpected parts of society that still use religion to separate and exclude – also violently and also in democratic societies – and provide them with alternative socially “healthy” options.

This book has a long future, because it is a precious tool to refer to in elaborating our policies, also because it identifies elements that are transversal to all the issues related to FoRB and functional to the different actors to define their role and strategies. We cannot ignore, for instance, that religious dialogue is a formidable tool in the resolution of crises.

The most important element of Religion is collectiveness, in an era in which single lifestyles prevail reducing one’s universe to a fishbowl, Religion in its highest meaning can reconstitute to humanity its true sense, considering that the eclipse of religion – predicted by some scholars – never happened. We could agree, though, as Bryan Wilson sustains, that we assist to a decline of religion, if we compare its today’s position to the past. I personally believe that Religion must play its role today, but its centrality must be within a polycentric system that must ensure that there is no disequilibrium in a more general context. Religions undeniably undergo continuous transformations: it is to us

all to make sure that those transformations promote peace, inclusion.

This book teaches us a lot, in the spirit of the words of Durkheim that synthesize the sense of the reason why we need to protect and promote FoRB: “faith is warmth, life, enthusiasm, the exaltation of the whole mental life, the raising of the individual above himself”.

Welcome Remarks

DAVIDE SCALMANI

Director of the Italian Cultural Institute in Cairo

Excellencies, distinguished representatives of governmental and religious institutions, panelists and participants, ladies and gentlemen, a very good morning to you all!

I wish you a warm welcome to the Italian Cultural Institute.

It is a great honor to have you here as guests for the conference “*From Freedom of Worship to Freedom of Religion or Belief. Fostering the Partnership between States, the International Community and Religious Institutions*”. This conference is organized by the Embassy of Italy in Cairo and before leaving the floor to our Ambassador, H.E. Giampaolo Cantini, who will be delivering the first opening remarks, I would like to spend a couple of words to introduce our Institute.

The Italian Cultural Institute in Cairo is part of a network rooted in the Italian Ministry of Foreign Affairs and International Cooperation. We are entrusted with the task of promoting cultural relations, fostering exchanges and common projects with local partners and Egyptian cultural institutions, and working together with our European sister institutions.

We are indeed honored to host this conference precisely because we are the *Istituto Italiano di Cultura*. Our official name is also a short definition of what we are. Namely, our Institute is Italian;

however the word *culture*, defining the field of our mission, has no adjective or nationality limiting it. Culture is in fact understood within our Institute as a rich and diverse dimension, the real human one, potentially projected to overcome barriers. It is a solid foundation on which cooperation and mutual understanding can be built. I expect that culture in a broader sense of the term will play its part in this conference, especially when discussing actions and effective implementation of human rights in the society as a whole.

Distinguished participants, we are looking very much forward to your interventions. I hope that our Institute will keep up with the just mentioned definition of a virtuous space for cultural exchanges.

Thank you and best wishes for the conference!

Opening Speeches

GIAMPAOLO CANTINI

Ambassador of Italy to the Arab Republic of Egypt

Excellencies, Ladies and Gentlemen,

It gives me a great pleasure to welcome you today at this workshop focusing on the promotion of freedom of religion or belief through stronger partnerships between States, international organizations and religious communities.

I wish to warmly thank our international guests for graciously accepting our invitation:

-Dr Adama Dieng, Under-Secretary-General of the United Nations and Special Adviser of the Secretary-General on the Prevention of Genocide;

-Dr Ján Figel, Special Envoy for the Promotion of Freedom of Religion or Belief outside the EU until November 2019; and

-Dr Kishan Manocha, Senior Adviser on Freedom of Religion or Belief at the OSCE Office for Democratic Institutions and Human Rights.

I would also like to welcome Ambassador Ahmed Ihab Gamaleldin, Assistant Minister for Human Rights and International Humanitarian and Social Affairs and representative of the Egyptian Foreign Ministry, the Apostolic Nuncio, the Assistant Secretary-General of the League of Arab States, the esteemed representatives of His Excellency the Grand Imam of Al-Azhar and of His Holiness the Pope of the Coptic Orthodox Church as well as the Dominican Fathers of the *Institut Dominicain d'Études Orientales (IDEO)* and the other members of religious institutions.

A special word of thanks goes to our distinguished speakers from Italy – Professors Silvio Ferrari, Agostino Giovagnoli and Marco Ventura – who have largely contributed to turning our preliminary ideas for this conference into a reality with their insightful advice and remarkable expertise.

Today's conference was born out of the awareness that religion plays a vital role in the formation and development of both human beings and societies as a whole. Despite this obvious assumption, national governments – especially in the western world – have largely looked at religion through the prism of separation between State and religion. Such an approach is due to historical reasons, mostly related to the establishment and consolidation of national States in Europe. Just to make a reference to Italy, the process of unification, in the nineteenth century, was closely intertwined with the struggle against the several States, and their external supporters, in which the country was divided at the time, including the Pontifical State. The unification of Italy was completed only in 1870, when the Pontifical State was taken over and the power of the Popes was limited to the spiritual sphere. Only in 1929 did the Italian State and the Holy See enter into an agreement that regulated their relationship. The basic assumption of the secular State in most European States as well as in the Socialist States at the time of the Cold War and in the States of new independence in Africa and elsewhere was that religion belongs

to the personal and individual sphere. In many cases religion was considered of a divisive and self-referential nature that prevents it from playing any positive and constructive role in public affairs.

At a later stage, States and international organizations revised their approach to religion with a view to offering protection and assistance for some religious communities as victims of persecution, discrimination or impairment of their right to worship freely. Though this obviously was and still is a much needed response, it is nevertheless founded on a limited appreciation of the role religion and religious leaders and communities play in our societies. Throughout the years, national governments and international organizations have moved to engage with religious leaders and their constituencies not just as beneficiaries of some form of public support but rather as active players and partners that should be listened to and involved in order to effectively advance freedom of religion or belief at both the national and the international level. Furthermore, the role of religion has been reappraised as a decisive factor, under certain circumstances, of stability, pluralism, inclusiveness, social cohesion, mutual understanding and development. Only by joining their efforts in the policy-making phase can States, international organizations, civil society and religious institutions and communities devise sustainable strategies capable of fostering a more comprehensive and meaningful role of religion in public affairs.

Italy has always been actively advocating for continuous and deep interaction and partnership between civil and religious actors in the promotion of freedom of religion or belief. Defending religious freedom and advancing interreligious dialogue, both in bilateral relations and in multilateral fora, are paramount goals of our foreign policy. Italy's engagement in this domain stems not only from its unique historical and cultural background but also from the growing awareness that political and religious leaders share, within their distinct spheres and missions, the same responsibility to prevent

persecution, discrimination, marginalization and intolerance on religious grounds and to enable all citizens and the faithful to play a role in developing their societies. There is a strong nexus between religious freedom and cultural diversity. When people are persecuted and displaced because of their religious affiliation, societies are left impoverished and weakened. Conflicts and the rise of extremism and terrorism engender deep social and demographic changes which are only partially reversible. The response to such challenges cannot be left to governments alone but rather requires stronger partnerships between civil and religious institutions.

I would also recall the role that religious communities play in most cases in social solidarity, all the more since the functions of the welfare State have shrunk in most European countries. In Italy, we call “the Third Sector” – as distinct from the public and the private ones – a very broad range of civil society organizations that play an increasingly crucial role in the assistance to the weakest sectors of the population, such as the elders, people with disabilities, the poorest and others. Religious organizations, among others, have developed a special expertise and play a central role to this effect. Let me also recall the role religious leaders can play in some major campaigns against social plagues like female genital mutilations. The outreach capacity of such figures is unique and irreplaceable.

Our conference is, therefore, meant as a contribution to the ongoing international debate on how to engage religious actors in promoting freedom of religion or belief. In order to attain this objective, we will first look into how Christianity and Islam conceive freedom of religion or belief and then see how national and international legislators have so far codified these principles into legal norms.

Holding this conference in Egypt bears a special meaning. In the past, events key to the three monotheistic faiths happened in the

land of Egypt. Nowadays, minarets and bell-towers proudly stand next to each other in Egyptian cities and towns, thus powerfully symbolizing the country's religious co-existence, richness and pluralism as well as cultural diversity. Lately, the Government announced the restoration of some of the old synagogues. Such works were recently completed in Alexandria. Egypt is home to the Copts, who constitute the largest Christian community in the Middle East and North Africa. Here also sits Al-Azhar Al-Sharif, the most prominent religious and cultural authority in Islam worldwide. The numerous visits made by Sheikh Ahmad Attayeb and Pope Tawadros II to Italy in recent years reflect the potential of our cooperation in fostering mutual understanding and dialogue among religions to tackle the challenges facing our region and beyond. Today's initiative is a new step in our partnership with Egypt and part of our joint efforts to advance common goals and values internationally.

Once again, thank you all for being here. I wish you a fruitful and successful outcome of the proceedings.

AHMED IHAB GAMALELDIN

Assistant Minister of Foreign Affairs, Arab Republic of Egypt

H.E. Mr Adama Dieng, Under-Secretary-General of the United Nations and Special Adviser of the Secretary-General on the Prevention of Genocide,

H.E. Mr Ján Figel, Former Special Envoy for the Promotion of Freedom of Religion or Belief outside the EU,

H.E. Ambassador Giampaolo Cantini, Ambassador of Italy to Egypt,

Excellencies, dear Guests,

Ladies and Gentlemen,

Let me at the outset express my sincere gratitude to the Italian Embassy in Cairo for the kind invitation to attend the present seminar entitled “*From Freedom of Worship to Freedom of Religion or Belief: Fostering the Partnership between States, the International Community and Religious Institutions*”.

This seminar comes at an important juncture in which the world is determined to confront and address the root causes of hate speech, intolerance, and persecution everywhere. Despite the affirmation of freedom of religion or belief in the Universal Declaration on Human Rights and in the International Covenant on Civil and

Political Rights, and in countless UN resolutions and conferences, the situation of religious freedoms in the world is still unsatisfactory. We continue to face the grim reality of forces of extremism, violence and intolerance.

Ladies and Gentlemen,

under President Abdelfatah Al-Sisi, Egypt has taken important multi-dimensional efforts for the promotion and protection of religious freedoms. From a traumatized society under the rule of the Muslim Brotherhood, Egypt has emerged as an example of tolerance and religious harmony. The President's decisive political will and determination to confront the seeds of extremism, to renew religious discourse and to lead the society by example, have led to the resurgence of the historical heritage of Egypt as a tolerant society, open to the followers of all religions and their harmonious interaction.

Whereas some countries in the region collapsed or are suffering from painful instability, Egypt is racing against time to create a modern State in which everyone enjoys equal rights irrespective of religious affiliation. The 2014 Constitution overwhelmingly adopted by public referendum describes Egypt as the cradle of religions, on whose land Moses grew up, the light of God appeared, and the message descended on Mount Sinai, the Virgin Mary and Jesus were welcomed, and so was the message of Prophet Mohamed. The Constitution affirms that freedom of belief is absolute and that citizens are equal before the law, and may not be discriminated against on the basis of religion, belief or any other criteria. While affirming that Shari'a law is the principal source of legislation, it specifies that the reference for interpretation thereof is the relevant texts in the collected rulings of the Supreme Constitutional Court. Furthermore, the Constitution guarantees Christians and Jews autonomy in matters of civil status and religious affairs and in the selection of their religious leaders.

President Al-Sisi repeatedly stressed Egypt's commitment to religious freedom. He affirmed that citizens have the right to worship what they want or even not to worship at all, adding that the State will not interfere in this matter. The President affirmed that the State is keen on building churches in each new community. The President said that in Egypt we do not discriminate over religion, whether they are Muslim or Christian, in the end they are just Egyptians. He affirmed that the fall of any Egyptian as victim of terrorist attacks hurts all Egyptians, and that all Egyptians are equal and these were not just words, but we need to put practices enforcing what is every citizen's right.

President Al-Sisi also institutionalized a regular tradition of attending mass at St. Mark's Coptic Orthodox Cathedral in Cairo. The largest cathedral in the Middle East, together with the largest mosque in Egypt, was inaugurated on the same day in the new administrative capital in January 2019. At present, there are 39 Coptic Christian members of Parliament, the largest ever number since its establishment in 1866. The government restored more than 80 churches and affiliated buildings that were attacked and destroyed by Muslim Brotherhood members during the summer of 2013. A new law was passed in 2016 setting up a process to review and rectify the status of unlicensed churches, with the full participation of representatives of the Coptic Orthodox, Catholic and Anglican Churches. So far, out of a total of 5,415 churches and administrative buildings, 1,494 had their cases rectified, and we expect the remaining to be expeditiously treated by the said committee. The government is also restoring its Jewish heritage including the registration of 500 artefacts collected from several synagogues across Egypt. Recently, the Egyptian government has embarked on a \$70 million scheme aimed at restoring some of Egypt's historical monuments, including synagogues in Alexandria and Cairo, the last of which being Eliaho Henabi synagogue in Alexandria, which was re-opened on 10 January 2020, after it had been restored as part of the country's heritage, in

addition to the recent restoration of the Jewish cemetery in Fustat, in Old Cairo.

A presidential advisor was appointed to address any cases of religious strife and to present recommendations as to actions to be undertaken by the State. Both Al-Azhar and the Coptic Church and the Evangelical Church and others are working hand in hand to promote tolerance and harmony between the adherents of the various religions. A significant initiative in this regard is the “Egyptian Family initiative” which was established in 2011 under the auspices of the Grand Imam of Al-Azhar and the Patriarch of the Coptic Church. The objective of the said initiative is to preserve the national fabric of the Egyptian society by means of upholding the culture of peace, combating hatred and violence and promoting national solidarity. Another important initiative was launched by the National Council for Women, whereby Muslim and Christian female religious guides were recruited, with a view to sensitizing women in Upper Egypt on tolerance and peaceful coexistence, and working towards the eradication of violence against women.

Ladies and Gentlemen,

At the international level, let me highlight with great pride the landmark “Declaration on Human Fraternity for World Peace and Living Together” issued on 4 February 2019 by the Sheikh Ahmed Attayeb the Grand Imam of Al-Azhar and Pope Francis of the Catholic Church in Abu Dhabi. This declaration *inter-alia* called on world leaders to work towards spreading the culture of tolerance and living together in peace, and to intervene at the earliest opportunity to stop the shedding of innocent blood and bring an end to wars.

I also note with appreciation the great work by the Special Adviser of the Secretary-General of the United Nations on the Prevention of Genocide, my dear friend and brother Mr Adama Dieng whom it gives me great pleasure to welcome in Egypt,

while commending his relentless work in the service of Africa and humanity. He is also the representative of the Secretary-General in the steering committee of the *Human Fraternity Initiative*. Whereas his mandate concerns mainly the “prevention” of most heinous crimes, it is beyond doubt that such crimes can and do emanate from hate speech, discrimination and intolerance, which may lead to violence. We have countless experiences in recent history where humanity witnessed real tragedies in the countries of the north and the south alike. Let me also commend his leadership in the launching of the “Plan of Action for Religious Leaders and Actors to Prevent incitement to Violence that Could Lead to Atrocity Crimes” after two years of consultations with leaders from different faiths and religions around the world. This landmark document indeed contains ways and means in which religious leaders and actors can prevent incitement to violence and contribute to peace and stability. Let me also welcome the launching in June 2019 by the UN Secretary-General of the “UN Strategy and Plan of Action on Hate Speech”. This strategy sets out 13 commitments and includes a wide range of actions at the global and national levels including increasing understanding and monitoring of hate speech and its impact on societies, identifying and devising programs to address the drivers and root causes of hate speech, and supporting alternative and positive narratives to counter hate speech. This is a huge undertaking which will require the involvement of member States, civil society, the media, tech companies and other relevant stakeholders. It is also the responsibility of each and every individual.

Another important initiative which reflects a commendable example of the necessary partnership between States, the International Community and Religious Institutions, with a view to enhancing freedom of religion or belief, is the resolution 16/18 of the Human Rights Council entitled “Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination,

Incitement to Violence and Violence against Persons Based on Religion or Belief". This resolution, which was adopted by consensus in March 2011, represents the main UN global policy framework in confronting religious intolerance. The said resolution represents the baseline approach for addressing the issue of religious intolerance, stigmatization and discrimination. It does so by promoting the rights to freedom of religion or belief, non-discrimination and freedom of expression, and by rejecting intolerance and religious hatred, and strengthening endeavors to build understanding and promote dialogue. To that end, the aforementioned resolution, seeks also to encourage the efforts of community leaders with a view to addressing intolerance and discrimination.

Ladies and Gentlemen,

We owe it to the world to join our efforts to create a new reality that celebrates diversity and respects religious freedoms for all. Key to such undertaking is non-selectivity in addressing the seeds, root causes and manifestations of all types of extremism, as in purpose and effect, they affect entire populations and groups and condemn them to an inferior political and socio-economic status. We are all a majority in our home countries and a minority elsewhere. So as the saying goes what goes around comes around. We should all stand united against those who harbour, finance and/or assist extremists of all kinds, or propagate their ideologies, or facilitate their movement and the spread of their dangerous ideologies from one country or region to another. We should all be alarmed at the resurgence of populist movements in some regions reminding us of dark episodes witnessed last century when they were left unchecked. We should stand against victimizing second and third generations of migrants by the political exploitation of religious and ethnic differences, unjustly holding them responsible for socio-economic ills. We should also address Islamophobia which remains one of the potent forms of religious discrimination in today's world.

In closing, let me reiterate the Egyptian Ministry of Foreign Affairs' appreciation for the Embassy of Italy for organizing this timely seminar, and wish you all successful deliberations, and renew Egypt's steadfast commitment to joining our efforts with all of you to achieve religious freedom for all.

I thank you.

NICOLAS HENRY THEVENIN

Apostolic Nuncio to the Arab Republic of Egypt

Your Excellencies, Honourable Guests, Ladies and Gentlemen,

In his message for the World Day of Peace 1988, Pope John Paul II stressed the following point: “ [...] The freedom of individuals and of communities to profess and practice their religion is an essential element for peaceful human coexistence”. And the same John Paul II also indicates that

The civil and social right to religious freedom, inasmuch as it touches the most intimate sphere of the spirit, is a point of reference of the other fundamental rights and in some way becomes a measure of them. For it is a matter of respecting the individual's most jealously guarded autonomy, thus making it possible to act according to the dictates of conscience both in private choices and in social life.

In a general context in which some few groups or persons are trying to undermine peaceful human coexistence, promoting divisions and hatred, boosting forms of religious fundamentalism, it is essential to understand that freedom of religion or belief is for each person and for the society the necessary base to foster the culture of peace. In order to be able to reach that common aspiration, it is therefore essential that in a context of permanent dialogue and exchange between the religious and civil authorities, we try to elaborate mechanisms which

will make it possible to determine a general and harmonic framework in order to better define what freedom of religion requests.

In that sense, I would like to quote what Pope Francis was expressing on 20 June 2014 in his address to the participants in the conference on International Religious Freedom and the Global Clash of Values:

Religious freedom, acknowledged in constitutions and laws and expressed in consistent conduct, promotes the development of relationships of mutual respect among the diverse Confessions and their healthy collaboration with the State and political society, without confusion of roles and without antagonism. In place of the global clash of values, it thus becomes possible to start from a nucleus of universally shared values, of global cooperation in view of the common good.

I am therefore very glad to greet the organizers of this conference and the very valuable contributions which we will receive in order to reflect on how to better achieve such a fundamental aim in society: pursuing the common good and reflecting the Creator's absolute goodness and justice.

Thank you.

QAIS AL AZZAWI

*Assistant-Secretary-General of the League of Arab States and
Head of the Media and Communication Sector*

Excellencies, Ladies and Gentlemen,

I am pleased to convey to you the greetings of the Secretary-General of the League of Arab States, His Excellency Ahmed Aboul Gheit, and his best wishes for success. I would also like to extend to His Excellency Ambassador Giampaolo Cantini my heartfelt appreciation for launching such a commendable initiative.

It gives me great honor to participate with you in the proceedings of this important international conference on freedom of worship which leads to freedom of religion or belief, a topic that has become extremely important in a difficult period during which the world is experiencing political, ideological and doctrinal differences that push some societies to fall into the trap of extremism and the scourge of intolerance. This reality makes it incumbent upon us to work to counter this phenomenon and combat it by strengthening the partnership between States, the international community, and religious institutions.

Heavenly religions attach great importance to the topic of freedom of worship or belief. Freedom of belief and the practice of religious rituals are among the priorities of all prophets and

messengers, and God made pluralism and diversity the norm; if God had wanted all people to be one nation following the same creed, He could have done so. But the divine will kept pluralism, coexistence, and urged us to renounce violence and coercion. As mentioned in the holy Quran in chapter (2) *sūrat l-baqarah* ("The Cow"), "Let there be no compulsion in religion: Truth stands out clear from Error." Furthermore, in chapter (3) *Surah 'Ali-Imran* ("The House of Imran") in the holy Quran, a direct call for harmony, cooperation in worshipping one God is sent to all followers of heavenly religions: "O People of the Book! Come to common terms as between us and you; that we worship none but God; that we associate no partners with him."

These are bright images of forms of coexistence between cultures mentioned and confirmed by all divine religions. And we are keen to circulate them through mass media channels and on social media. As this is the lifeline of humanity to stay afloat in this sea of intolerance that extremists use to incite violence.

Ladies and Gentlemen,

The League of Arab States puts a high value on interreligious dialogue and cross-cultural communication. It has always called for building bridges of communication and interaction among different civilizations, highlighting the common ground among them to create cooperation and integration spaces that allow us to work to combat negative phenomena such as extremism and intolerance in all forms.

The League of Arab States considers dialogue the only way to foster a culture of fraternity, to achieve peaceful coexistence among peoples, to reject hatred, to clear up misunderstandings and to stop demonizing cultures. In this context, the League of Arab States has played an important role in formulating balanced concepts for intercultural dialogue, religious coexistence, alliance of civilizations,

commitment to the principles of mutual respect, justice and equity, and renouncing hatred and racial discrimination.

Ladies and Gentlemen,

The ever-increasing extremist populist inflammatory rhetoric by some media outlets underscores the urgent and dire need for a shared global system of values based on respect for cultural and religious pluralism. It is worth mentioning that States, regional and international organizations are exerting tireless and commendable efforts to foster the culture of peace and tolerance among peoples and nations. I cannot but praise them.

In this regard, I would be remiss if I did not praise, proudly and rightly so, the document entitled “Human Fraternity for World Peace and Living Together” signed by the Grand Imam of Al-Azhar and the Catholic Pope in February 2019.

We celebrated a few days ago in Abu Dhabi, in the United Arab Emirates, the first anniversary of signing this document, which reflects the insistence of the two religious poles, supported by the international community, to promote a system of values that consolidates a culture of tolerance, peaceful coexistence, and sustainable peace.

It goes without saying that this contributes to achieving the sustainable development goals for the year 2030 and in particular the achievement of the sixteenth goal which calls for “promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels” by reducing inequality within and between countries, strengthening the rule of law at the national and international levels, and ensuring equal access to justice for all.

We have long suffered from inciting hatred against Islam and mongering fear of what was called back then the Islamic threat until Islamophobia has become common phobia among people. This disease caused great injustice to Muslims all over the world. The media campaigns to distort Islam have had severe military, political, economic, social and cultural repercussions on all Muslims. Therefore, it is incumbent upon the international community to intervene to formulate and implement policies that would abort wars of hatred and stop the machine of intimidation and demonization. And we need to work to intensify the efforts of regional and international organizations, the efforts of religious and social institutions in particular, and civil society institutions to address and confront these issues.

Extremism, in its political and religious form, has been one of the most pressing challenges facing the international community, and it constitutes a serious threat to its growth, stability and development. Extremism has remained the primary source for the disintegration of societies and the disruption of their social fabric, and it remains the main source of violence and terrorism and the perpetuation of underdevelopment and backwardness throughout history.

Despite these scourges and despite the prevalence of religious extremism and terrorism in all its horrific forms, despite these challenges, the world is moving towards more interdependence, integration and peaceful coexistence among peoples and cultures.

Today, calls for solidarity, human fraternity, universal civilization, human rights and citizenship have become loud and clear throughout the globe to rise above all kinds of discrimination based on race or religion. It is the responsibility of media outlets to educate people about the ethics of religions and humanitarian goals of cultures, and to air programs to promote cross-cultural understanding.

We have great confidence in the work of all this enlightened academic elite participating in the proceedings of this conference and we hope that you will lay the foundations and formulate principles to enhance human fraternity.

May God bless your efforts. Peace be upon you.

NAZIR MOHAMMED AYAD

Secretary General of the Al-Azhar Center for Islamic Research

All praise be to Allah, and may his peace and blessings be upon the Prophet of Allah.

“Peace be upon him and his companions”,

In the name of Al-Azhar Al-Sharif, the light for those calling for peaceful coexistence among humans, I welcome you ladies and gentlemen and I convey to you and to humanity the kind greetings of the Grand Imam of Al-Azhar Al-Sharif Dr Ahmad Attayeb, wishing you all perpetual prosperity and success.

Our meeting today holds a high significance as it ingrains and asserts an important human value we are in need of which is the freedom of religion, belief and creed. A value which proves its eminence at a time the world falls under huge piles of injustice and conflicts, and as some try to connect these notions to religions and religious men.

Concerning this point I may say: freedom of belief firstly came to light with the revelation sent to the Prophet, pbuh, as the Quran says that Allah has created people different to compete for good and not to conflict and fight among one another. Islam also was first to grant the right of belief, to secure for each person the right to practice his religious rituals, it also made laws to preserve such

rights and protect them against any infringement. This proves beyond doubt that the Islamic creed is based on reason and critical cogency; and that whatever else is said about Islam is untrue.

Islam laid the bases for the concept of freedom of belief, like: human dignity shall be the core of interaction between brothers in humanity, as the reality we share asserts the necessity to respect human dignity and preserve it. In addition, Islam always emphasizes the idea of diversity as a universal fact and that difference and diversity shall be accepted for the sake of competing in doing good deeds, securing the way for *Ijtihad*, accepting the other and acknowledging him, his rights and respecting his humanity. Islamic *Shari'a* has always acknowledged the right to difference and diversity in addition to regarding justice as the base of the relation between all people whether Muslims or non-Muslims, friends or enemies.

In addition to the aforementioned, Islam has made general regulations for freedom, like: to balance rights and duties; hence it is a right to call for personal freedom yet this freedom shall be regulated by the duties towards protecting the rights of others. It is also a duty to abide by regulations of personal freedom and not to break the boundaries of justice and equity, and to preserve the society's common rules.

It is evident that freedom of religion or belief bears great importance and is being used by many to achieve their own interests and agendas, as those people attempt to use some individual cases to distort the concepts of tolerance in religions and clear them of the actions of those linking themselves to these religions.

The *Document on Human Fraternity* as an accomplishment by Al-Azhar Al-Sharif and the Catholic Church has aimed at spreading the values of nobility and human fraternity in its true meaning.

Thus the document says:

In the name of God and of everything stated thus far; Al-Azhar al-Sharif and the Muslims of the East and West, together with the Catholic Church and the Catholics of the East and West, declare the adoption of a culture of dialogue as the path; mutual cooperation as the code of conduct; reciprocal understanding as the method and standard. [...]

Dialogue, understanding and the widespread promotion of a culture of tolerance, acceptance of others and of coexisting peacefully would contribute significantly to reducing many economic, social, political and environmental problems that weigh so heavily on a large part of humanity.

Dialogue among believers means coming together in the vast space of spiritual, human and shared social values and, from here, transmitting the highest moral virtues that religions aim for. It also means avoiding unproductive discussions [...].

The Document was mainly concerned with correcting the misconceptions that have lately led to terrorism, violence and lack of active inclusion in the societies.

Among the misconceptions the Document worked on correcting is the concept of “minorities”, for this concept carries in its core the feelings of weakness, isolation and inferiority, and paves the way for the spread of seditions and discord. Hence the Document asserted that:

The concept of citizenship is based on the equality of rights and duties, under which all enjoy justice. It is

therefore crucial to establish in our societies the concept of full citizenship and reject the discriminatory use of the term *minorities* which engenders feelings of isolation and inferiority. Its misuse paves the way for hostility and discord; it undoes any successes and takes away the religious and civil rights of some citizens who are thus discriminated against.

PAVLY

Auxiliary Bishop of Alexandria, Assistant to the Coptic Orthodox Pope

Ladies and Gentlemen,

I would like to begin by conveying to you the greetings of His Holiness, Pope Tawadros II, Pope of Alexandria and the Patriarch of the See of Saint Mark, who wishes you a fruitful and insightful conference full of new and constructive ideas.

Personal freedom is a gift from the Almighty, who said in the Old Testament, “I have set before you life and death [...]. Now choose life, so that you [...] may live.”

God in the Old Testament wanted his people to choose life, not death, and the Old Testament disapproved of forcing people to worship.

Here is another quote from the Old Testament to drive the point home: “If your brother secretly entices you, saying, ‘Let us go and worship other gods, do not yield to him or listen to him. Show him no pity.’” Moving now to the New Testament, Jesus Christ made repeated references to one’s will to worship and be pious, meaning that worship and piety are guaranteed freedom for people. The same holds true when Jesus Christ sent his messengers and disciples to the world, telling them that some people might not accept the message and that they should never use force nor arms in response to these

people. “If no one accepts your message, leave this place”. That was the advice. Hence, Christianity guarantees this freedom; no physical weapon may be used, just strong words uttered to influence people.

So, Christianity has guaranteed the freedom of worship, the freedom to believe, and the freedom not to be compelled to believe. These are the teachings of Christianity in the New Testament.

Turning now to freedom of worship, each person is accountable to God for his life. Only God can judge this. As for the ruler, he can only hold citizens accountable for their behaviors. He cannot hold people accountable for their religious practices. Doing so would make him a clergyman rather than a ruler. Under French law, a State is defined as a region, with a law, and a land in which people live, regardless of religion. Because of the rule of law, law-abiding people can be more civilized than religious people who do not obey the law. That is why many people, regardless of their religion, have a conception of personal piety. I say so as a clergyman who has roamed the world and found many civilized nations to be more respectful than those who claim to speak in the name of religion.

Once again, the freedom to worship is a personal freedom guaranteed to everyone, for which no ruler can hold anyone accountable. Everyone has the right to worship in their own way.

In Egypt we have a great city, Alexandria, that was known as a cosmopolitan city in ancient times; it is a multinational, multicultural, multi-faith city where people of many walks of life live together. I come from Alexandria today with this message: freedom is guaranteed to everyone.

Let us now move from freedom of worship to freedom of religion or belief. If a person is forced by any means to embrace a particular religion, then this is not freedom, even if it is done by law. The personal freedom that is guaranteed to each of us means the freedom to choose, or not to choose, without being held accountable; there is no minority and majority. A majority may choose to worship and a minority may choose not to worship; a minority may choose to worship and a majority may choose not to worship, and they should not be hostile to each other.

Freedom of belief must be guaranteed by all the laws of the world. I must be free to believe or not to believe, and if I do not believe, I must not be blamed: it is a freedom guaranteed to me. People should be able to worship freely, and if someone declares that he is not religious, this also must be accepted. This is civilized humanity. Many countries are ahead of us in this regard; you will find there are thousands of people worshipping without asking others to convert in order to join a certain community. This freedom is guaranteed. This is the theme of our conference today.

I wish you a fruitful conference with many productive exchanges of ideas. Thank you for your kind attention.

Keynote Speech I

THE ROLE OF FREEDOM OF RELIGION OR BELIEF IN FOSTERING EQUALITY IN RELIGIOUSLY PLURAL SOCIETIES

*JÁN FIGEL**

At the outset of my intervention I would like to express my sincere gratitude and deep appreciation to the Ambassador of Italy to Egypt, His Excellency Giampaolo Cantini, for convening this timely, inspiring and insightful conference.

Freedom of religion or belief (FoRB) is a condition of good governance, important for believers and non-believers. It is a civilizational objective and criterion, representing freedom of thought, conscience, and religion. The protection of FoRB is a precondition for sustainable development. Why? Development is another name for peace. Peace is a fruit of justice. Justice is based on human rights for all. FoRB is a fundamental human right. Article 18 of the Universal Declaration of Human Rights (UDHR, 1948) is central to all universal human rights. It combines the protection of our freedom as individuals and as members of a community, in private and in public. It is a litmus test for all human rights. If it is not respected, other rights suffer the same fate.

* *Former Special Envoy for the Promotion of Freedom of Religion or Belief outside the European Union.*

FoRB represents human dignity, which is a foundational principle of human rights. Dignity expresses one's uniqueness, originality, rights but also duties towards the other and towards the community one lives in.

For decades FoRB has been a neglected, abandoned, misinterpreted human right. Today 79 per cent of the global population lives in countries with high or very high obstacles against FoRB (Pew Research Center). The second bad news is that trends are worrying, oppression is on the rise. Drivers of persecution are totalitarian and autocratic regimes, proponents of religious nationalism and violent extremism, terrorists and non-State actors. We can speak of four levels of problems and crises: intolerance, discrimination, persecution, genocide. This is not a theory, as even genocides represent current world reality.

In 2019 the UK Foreign and Commonwealth Office commissioned a special report. It says that up to 250 million of Christians are persecuted today, calling it "the most shocking abuse of human rights today". Muslim Rohingyas in Myanmar suffer systematic persecution, like millions of Uighurs in China. Anti-Semitism is on rise, including in the West. My nomination was a reaction to the genocide of Yazidis, Christians and Shias committed by ISIS in Iraq and Syria. Baha'is suffer in Iran, Ahmadis in Pakistan.

Pressure is growing against groups from A to Z (from atheists to Zoroastrians). Atheism may lead to capital punishment in 13 countries, conversions in 22. And over 70 States in the world have blasphemy laws, some of them very stringent, like Pakistan or Mauretania. If one minority is persecuted, many others are persecuted as well. For too long, FoRB has been treated like a forgotten orphan; it has not been given priority either in foreign policy or in development cooperation.

But there is also good news. FoRB awareness is growing.

In 2013 the “EU Guidelines on the promotion and protection of freedom of religion or belief” were adopted by the 28 Member States. In 2014 the first Intergroup on FoRB and Religious Tolerance emerged in the European Parliament with 38 members. In the same period, the International Panel of Parliamentarians for Freedom of Religion or Belief (IPPFoRB) was established. Since 2015 there has been an International Contact Group on FoRB made up of diplomats from a growing number of countries. And since 2016 the European Union has had the first ever Special Envoy for FoRB promotion.

After that, several Members States have established their respective Ambassadors, Special Representatives and Envoys – Hungary, the United Kingdom, Germany, Denmark, Lithuania, Poland, the Netherlands and the Czech Republic. They have been followed by Norway, Finland, and Sweden. Some other EU countries may join the group soon as well. We have very active transatlantic partners in the United States and Canada. Two Ministerial summits were held in Washington DC with concrete commitments, testimonials, networks, side events. The presence of 104 governments and up to 1000 religious and civil society participants in July 2019 was a strong call for global cooperation on FoRB. More recently, in February 2020, 26 countries established the International Religious Freedom Alliance.

In times of growing tensions, violence and conflicts, we have witnessed an unprecedented rise of religious initiatives on peaceful coexistence: earlier ones, like the “Amman Message” as a reaction to 9/11 and the Beslan killings in 2004, “A Common Word between Us and You” in 2007, and more recent initiatives like the 2016 “Marrakesh Declaration” on the treatment of religious minorities in Muslim-majority countries, the 2017 “Beirut Declaration” called “Faiths for Rights”, initiated by the UN Office of High Commissioner for Human Rights, or *Peighame-e-Pakistan* – a declaration of thousands of scholars and imams against violent extremism and the abuse of religion in 2018.

The most recent one is the “Abu Dhabi Declaration on Human Fraternity and Peaceful Coexistence” signed by Pope Francis and Grand Imam of Al Ahzar Attayeb in February 2019. I am glad to support the growth of the PaRD initiative – “International Partnership on Religion and Development” bringing together more than 80 members and partner organizations. In addition, OSCE is now more active in the area of FoRB. Under a Polish-led proposal, the United Nations General Assembly decided to designate August 22 the first ever “International Day Commemorating the Victims of Acts of Violence based on Religion or Belief”.

I visited 16 countries on working missions; I spoke to many leaders, communities, organizations, members of the academia. The role of Special Envoy gave me closer access to human suffering. I am convinced that we need a *FoRB climate change*! The situation is already alarming, trends are worrying. And it concerns millions of people in many regions of the world!

Therefore,

- the International community must recognize the importance of FoRB;

- the EU and its Member States must make FoRB a permanent and important condition of external relations;

- we need to organize an efficient cooperation on FoRB promotion with like-minded actors – against violent extremism, religious fundamentalism and intolerance.

With the adoption of the “EU Guidelines on the promotion and protection of freedom of religion or belief” in June 2013, the EU has committed to advance this fundamental freedom in its external action, including through its financial instruments. In doing

so, the EU is guided by the principles of non-discrimination and interrelatedness of human rights.

The foundational principle of human rights is dignity. The culture of human dignity is based on respect of the universal principle: *We are all different in identity, we are all equal in dignity.*

Dignity is crucially important for Christians (*Dignitatis Humanae* is the Second Vatican Council major document on religious freedom). For Muslims it is the Quranic concept of *Karamah*. For the adherents of the Bible it is *Imago Dei* and *Medaber al kabot* in the Hebrew tradition. The EU Charter of Fundamental Rights starts with dignity as the first out of four main values. In India, one of the most populous countries, we can find a call for dignity in the preamble of its secular Constitution. I had a good experience when sharing these principles at the Punjab Institute of Islamic Studies at the University of Lahore or at the Ahfad University for Women in Sudan. Human dignity may serve as a meeting point for both religious and secular humanists. The “Punta del Este Declaration on Human Dignity for Everyone Everywhere” of December 2018 is a recent proof of this. I am happy that many scholars, experts and activists have signed up to commemorate the 70 years of the UDHR, but also to recommit to its foundational principle. The document is still open for signatures at www.dignityforeveryone.org.

The ethical principle of equal dignity is the departure point of the socio-political principle of equal citizenship (an inclusive, dignified one). It brings us to a pluralist society – like a mosaic, to a civil State based on equal citizenship. For example, this is the best option for the future of Iraq. A fair, civil (secular) State is a blessing for FoRB and the coexistence of different faiths.

Interreligious and intercultural dialogue must become the norm, not an exception. Dialogue not just for the sake of dialogue and exchange, but as a quest for truth, justice, and common good. This is

also the spirit of “Article 17 Dialogue”, where I was regularly invited by the European Commission First Vice-President Timmermans.

We need to move from respect for identity towards

- awareness of interdependence, and
- ethics of shared responsibility.

Pope Francis and the Grand Imam of Al-Ahzar have set an inspiring example in Abu Dhabi. People generally read encyclicals or fatwas very little. But they see images and they get the message immediately.

A united Europe is a lesson on common good, winning over hatred and violence. It has grown from the definition of a common ground and understanding, a definition of common values and interests, bringing common good and a common future. I know well from my missions that the EU is welcomed when not teaching or preaching, but sharing; when not imposing, but proposing.

Evil is very successful today because it has very widely spread and influential allies. These are indifference, ignorance, fear – they are siblings of evil. Therefore, we must learn how to live in diversity, not only to coexist in diversity. We need to nurture the allies of good – engagement, education, courage.

Religious literacy is important (the digital one is not enough). More and faster smartphones? Yes, but this is not a sufficient ambition. We need smart people – in diplomacy, public policy, schools, media, community leaders (with modern smart technologies).

Therefore I am supportive of the activities of the newly established *European Academy of Religion* in Bologna (2016) as a network of universities, faculties, journals and scholars on the nexus between religion and different sciences.

My nomination in 2016 was called for following the genocide in the Middle East. Year 2016 marked the *century of genocides* – over 100 years. There were many, too many. What is coming next: the *century of hope* or the *century of continuity* (business as usual)?

We need a change; we must stick to the commitment *never again*. We need a *FoRB climate change*! FoRB protection and promotion is in our best interest and is a global responsibility. This is a preventive antidote against injustice, persecution and refugee crises. Therefore our effort on FoRB protection and promotion should continue. At the same time, it needs more adequate institutional support, stronger political conditions and more efficient cooperation among like-minded States, religious actors and other relevant partners.

I arrived here, as I promised, in the spirit of togetherness and solidarity. I came here to support you and to share experience, cooperation and encouragement. I wish you all that this very timely and important forum brings trust and inspiration into our countries, institutions and societies. And that it serves our common objectives!

Part I

FREEDOM OF RELIGION OR BELIEF IN CONTEMPORARY CATHOLIC AND MUSLIM TRADITIONS

CHAIR: ADRIEN CANDIARD, O.P.

(DOMINICAN INSTITUTE OF ORIENTAL STUDIES – IDEO, CAIRO)

FREEDOM OF RELIGION OR BELIEF IN CONTEMPORARY CATHOLICISM

AGOSTINO GIOVAGNOLI*

Contents: 1. Second Vatican Council and *Dignitatis Humanae* - 2. The return of the sacred - 3. The State: less internal control, greater external influence - 4. Multicultural coexistence and interreligious dialogue - 5. Human fraternity and religious freedom

1. Second Vatican Council and Dignitatis Humanae

First of all I would like to thank Ambassador Giampaolo Cantini for kindly hosting us today and for convening such a distinguished gathering of scholars as well as civil and religious officials.

In contemporary Christianity, support for religious freedom has become increasingly strong and widespread. This is also true for the Catholic Church, whose leading document on the subject still remains the declaration *Dignitatis Humanae* (*Human dignity*) which was approved in 1965 by the Second Vatican Ecumenical Council.

On the one hand, this document represented a crucial arrival

* Professor of Contemporary History, Catholic University of the Sacred Heart in Milan.

point for the intense debate that had occurred up till then; and on the other hand, it was the starting point for a further evolution that is still going on.

At the Council, the theme of religious freedom provoked much discussion because it was deeply innovative, compared to the previous Catholic *magisterium*, and particularly that of the nineteenth century, which culminated in Pius IX's 1864 *Syllabus*. Accepting the principle of religious freedom meant abandoning the unconditional assertion of the rights of truth, which rules out any kind of tolerance of error. It also meant accepting the principle of the separation between Church and State which – in the tradition of the predominantly Catholic European countries – was defined as the principle of *laicity* (“*laicità*” in Italian, “*laïcisme*” in French). In fact, until the Second Vatican Council, Catholics still claimed that the ideal model of the relationship between Church and State was that of the *Ancien Régime*, where the State forcibly imposed the principles of the Catholic religion. In fact, following the French Revolution that model had been gradually waning but, on principle, the Church's *magisterium* continued to uphold it. In this vision, there was no room for religious freedom. With the declaration *Dignitatis Humanae*, however, the Catholic Church accepted religious freedom, the separation between Church and State, and the principle of *laicity*.

The history of this Second Vatican Council document is useful in understanding this change, which did not imply either renouncing the belief in the truth of the teachings of the Catholic Church, or abandoning the missionary commitment to announce the Gospel across the world. Indeed, after Vatican II, evangelization became a priority for Catholics, alongside an increasingly strong dialogue with other Christians, with believers of other religions, and with people who do not have any religious belief. *Dignitatis Humanae* was the result of a long discussion within the Council that began around two texts on religious freedom, which were originally part of the drafts of two other documents, dedicated to the dialogue with other Christians

and to the dialogue with Jews, respectively. These two drafts were then transformed into two documents dedicated respectively to ecumenism (*Unitatis Redintegratio*) and to interreligious dialogue (*Nostra Aetate*), in which some references to religious freedom were kept. For example, in *Nostra Aetate* we read: “The Church reproves, as foreign to the mind of Christ, any discrimination against men or harassment of them because of their race, colour, condition of life, or religion.” However, the main discussion of this subject took an independent path and – particularly due to the insistence of the American episcopate – it steered from dialogue with other believers, to the duty of the State to guarantee the religious freedom of its citizens. It is therefore a document of a legal and constitutional character, indicating a preference for liberal and democratic countries. The Council fathers judged that they could uphold this position because it respects the fundamental dignity of every person created by God. It was a very important and innovative result: with *Dignitatis Humanae*, the Catholic Church definitely renounced the imposition of the truth that it announces. However, it is also a result that shifts the focus from Church to State and shows indirectly how the problem of full reconciliation between proclaiming the truth and respecting other religions was not yet fully resolved. It is no coincidence that after the Second Vatican Council the relationship between *announcement* and *dialogue* has been much debated within the Catholic Church while many have continued to see them as alternative choices.

2. *The return of the sacred*

Over time, however, many things have changed. This was recently highlighted by a document of the International Theological Commission, a subsidiary body of the Congregation for the Doctrine of the Faith. The document, titled *Religious Freedom for the Good of All. A Theological Approach to Contemporary Challenges*, was published on 21 March 2019. It is a very influential reflection on the current *magisterium* of the Catholic Church regarding religious freedom; yet it is not an expression of this *magisterium*, which – as is widely known – within the Catholic Church is the responsibility of the pope and the bishops, not of a group of theologians, albeit officially called to address a specific topic.

The document summarizes some major differences between the historical context of 1965 and the current one, with the following words:

The great religious traditions of the world no longer appear only as the remnant of ancient eras and pre-modern cultures overcome by history. The different forms of religious belonging have a new impact on the constitution of personal identities, on the interpretation of the social bond and on the search for the common good. In many secularized societies the different forms of religious community are still socially perceived as relevant factors of intermediation between individuals and the State.

Many of these phenomena – the International Theological Commission’s document observes – can be attributed to the “return of religion” (or “return of the sacred”) which has radically challenged many theories on religious experience, and particularly those that

assumed an inverse correlation between religion and modernity. Nowadays, it is easy to see that these theories answered a twentieth-century western (especially European) idea of religious phenomena, and an equally twentieth-century western idea of modernity. In western Europe a progressive decline of traditional religious behaviour has in fact been going on for some time, and a progressive disappearance of the religious phenomenon in all its forms had been forecast since the 1960s and 70s. The supporters of these theories were convinced that western modernity would gradually prevail all over the world, leading to a strong downsizing or even to the extinction of religion. But the “return of the sacred” has proved this theory wrong. First of all, it showed that there is not only one type of modernity – the western one – but there are many, as is stated in the 2002 classic volume *Multiple Modernities*, edited by Shmuel Eistensadt. Modernities – other than western ones – have shown a high degree of compatibility with religions in Asia, Africa, Latin America, the United States and so on. Therefore, as the document by the International Theological Commission states, “the great religious traditions of the world no longer appear [...] as the remnant of ancient eras and pre-modern cultures overcome by history”.

The so-called “return of the sacred” does not only show that the drastic predictions about the eclipse of the sacred or the end of religion were wrong. It also indicates a set of transformations that have profoundly influenced the historical appearance of religions. Today, the world’s religious landscape appears very complex. Within Islam, as we know, many innovations have occurred over the last few decades. Today there is also an expansion of Christianity outside Europe, especially with regard to Africa. China has seen a steady growth in the number of believers – accompanied, however, by a strong secularization process in large urban centers. In Japan there has been an increasing marginalization of traditional religious phenomena related to Shinto and Buddhism. And so forth. In the field of religions, the different modernity models influence one another. In western

Europe, for example, the decline of the historically prevalent religion – Christianity – has not stopped; yet there is a growing presence of believers of other confessions or faiths as a result of the immigration of Orthodox Christians, Muslims and followers of Eastern religions. New phenomena, such as fundamentalism and neo-Pentecostalism, have appeared across all – or almost all – religions.

The discussion could go on and on, but there is one element that I would like to stress above all else: the manifold expressions of the religious phenomenon in recent decades lead us to rethink the traditional notions of religion. In the case of Catholicism, faith has long been conceived as the adhesion to the truth imparted by the Church, without delving into the many aspects underlying such adhesion: intellectual, emotional, relational, and so on. Today, however, such analysis is universally considered unavoidable. It's very meaningful that the title of this conference is: "*From Freedom of Worship to Freedom of Religion or Belief*". This title reflects a broader, inclusive vision of the different aspects of religious faith, without separating the inner experience from exterior expressions, the individual and communal dimensions, the theological matter and the traditions that surround it and so on. It is no coincidence that today we often use the expression "religious identity" to indicate an overall way of being and interacting. Identity, in fact, means roots, beliefs, values, ideals and at the same time history, choices, behaviours, relationships ... it implies both the sense of belonging to a community, and a unique and distinctive individual experience. In short, it refers to the transformation of the idea of religion that has emerged in recent decades – one that integrates the traditional meaning of *belief* with the broader one of historical, social and cultural identity worthy of respect and protection. All of this obviously also changes how we understand religious freedom, and challenges the western assumption that tends to interpret it on the one hand as freedom of worship, and on the other hand as something akin to freedom of thought.

3. The State: less internal control, greater external influence

In recent decades, the question of religious freedom has also been influenced by the changes in the State. In fact, not only have religions changed, but also States. Globalization has deeply affected them, and it has influenced their institutional structures and policies. The growth of new nationalist, sovereignty-oriented and populist movements is the expression of a widespread crisis of the traditional principle of national sovereignty. In a nutshell, it can be said that national States have lost part of their ability to prevent the influence of transnational phenomena within their boundaries, and to control their citizens on an economic, social, cultural and even religious level. At the same time, however, the possibility of States to intervene – directly or through international organizations – in the religious problems of other countries has also increased, often provoking defensive reactions on the latter's part.

As Silvio Ferrari wrote on the subject, in this framework we find the crisis of laicity, that constituted the context within which religious freedom developed in predominantly Catholic western European countries like France, Italy, and Spain, as well as in some Latin American countries. Indeed, laicity expresses a separation between Church and State, and the neutrality of the latter on religious matters. These two aspects imply a common anthropological and moral vision shared by both believers and non-believers. In other words, in a laic state, citizens may well have different attitudes towards religion, but they share a common cultural background. Globalization, however, breaks deeply into States and shakes the cultural foundations of civil coexistence. This causes lacerations which also affect the basic principles of natural constitutions such as the conception of human life, its beginning, its end, and so on.

The other aspect of the changes concerning religious freedom is constituted by the growing possibility for States to intervene on such matters outside of the restricted sphere of their own sovereignty. This is not a wholly new development: some States in particular, have always been summoned toward religious freedom in the context of their international action. In colonial times for instance, some European countries claimed their right/duty to protect both western and native Christians from the real or alleged dangers they faced in non-European areas, and sometimes this was a way to impose and justify their power over local populations. In the case of China, for example, France had assumed the “protection” of Catholics (*see* Louis Wei Tsing Sing), without being requested to by the Holy See, imposing it on the latter, against its explicit will, at least beginning with the pontificates of Leo XIII and Benedict XV (*see* Agostino Giovagnoli; Olivier Sibire). The attitude of the United States is different, since they have always appealed to their own origins – particularly the incident of the Pilgrim Fathers who were forced to flee Europe because they were persecuted on religious grounds – to support the right to religious freedom on the international level, the creation of rules to protect it, the implementation of actions to affirm it and so on. It is clear, however, that this is a very delicate ground: the affirmation of this freedom is closely intermingled with the foreign policy of the States that support it, and with their concrete economic, political and ideological interests (*see* Anna Su). Even today there are lobbies that leverage this principle to limit the freedom of trade of some countries, or to impose sanctions and economic and political obligations on countries accused of repressing it. States that commit themselves to promoting religious freedom internationally must therefore seek to do so in a very cautious and transparent way, preferably through international bodies capable of ruling out, as much as possible, the undercover pursuit of national interests.

4. Multicultural coexistence and interreligious dialogue

One of the consequences of the increased importance of religions in the contemporary world has been the development of interreligious dialogue. The “return of the sacred” has made it an essential aspect of increasingly intense and widespread intercultural relations following globalization processes. Therefore new relations developed also among interreligious dialogue and religious freedom: believers of different religions are more interested to develop their relations without the influences of States. As I have already stated before, the relations with believers of other Christian confessions (ecumenism) and of non-Christian religions (interreligious dialogue) constituted one of the original grounds of the declaration *Dignitatis Humanae*. The issue of religious freedom was originally addressed by Vatican II to develop a new attitude towards other Christians, towards the Jews and towards other believers. It is therefore natural that – as the interreligious dialogue intensified – in recent years the Catholic Church has been paying growing attention to the relationship between religious freedom and interreligious dialogue, as well as to the relationship between religious freedom and the politics of the States on which the *Dignitatis Humanae* declaration focused.

As we know, Paul VI paid much attention to dialogue, and his *Ecclesiam suam* programmatic encyclical was entirely devoted to this theme. After the openings of some forerunners such as Massignon, Basetti Sani, La Pira and others, the dialogue between Catholics and Islam began in the 1960s, marking a path that has not always been easy and constructive. Catholics seemed to lack authoritative interlocutors in the Muslim world. The same years saw the development of a less problematic – but also less intense – dialogue with Buddhism, Hinduism and other religions. Meanwhile, Islam changed profoundly and became torn with the growth of fundamentalism (which also appeared in some Christian denominations, while similar

phenomena emerged in Hinduism and Buddhism too). John Paul II was a firm believer in the need for interreligious dialogue. He adopted the Council's call to this dialogue in 1986 by inviting the leading representatives of the world's major religions to Assisi to pray together, side by side. That encounter became the symbol of religions at peace with one another. There were even Muslims. Attayeb, the Grand Imam of Al-Azhar, has taken part in various meetings in the "spirit of Assisi". He promoted several dialogues amongst religions, and has been showing great attention to the Catholic Church. Very fortunate was his personal meeting with Pope Francis, who had been conversing with Jews and Muslims since he was Archbishop of Buenos Aires. It is widely acknowledged that the culmination of this dialogue was the Abu Dhabi interreligious assembly and the resulting *Document on Human Fraternity*.

This development has progressively interwoven the theme of religious freedom with the debate on multi-ethnic, multicultural and multireligious coexistence. This is one of the best-known effects of globalization, linked to the onset of large migratory processes and many other phenomena related to increased human mobility, economic and financial interdependencies, forms of communication, and so on. Today, in many places of the world and especially in large urban centers, we can witness forms of coexistence amongst believers of different ethnicities, cultures and religions which were unthinkable a few decades ago. This entails a radical re-foundation of the principles, the forms and the norms on which to build a civil coexistence capable of facing the intercultural challenges of the twenty-first century. It is a social structure that is new in so many ways, entailing problems for which nobody has a definitive solution. It is a structure in which the States are important but not exclusive actors, and that in many ways proceeds "bottom up", through partial attempts and without assured recipes, in which the sincerity of intentions is very important together with the flexibility, caution and patience with which one proceeds; and above all, with a great capacity for cooperation.

Today in particular – in a period of strong international tensions, of mounting *hate speeches* and of rising cultural contrasts – it is crucial to learn to live together in diversity. As a teacher, allow me to stress in particular the importance and positive impact of the contacts and exchanges between researchers and academics that today are much more advanced than in the past. We are witnessing the rise of young generations of scholars who know the world and are open to the encounter with the other, much more than previous generations did. However, the cases of Giulio Regeni and Patrick Zaki show that these exchanges raise alarm and can be stopped by violence.

Within a new multicultural coexistence, religions can play a negative or a positive role. Undoubtedly, there are religious institutions, groups of believers and individual believers who use their religion to practise intolerance and conflict. This happens for instance when religious belief is used to affirm a political project. It is therefore necessary for the authorities and believers of any religion to explicitly and firmly condemn any of their co-religionists who have intolerant or even violent behaviour towards believers of other religions. Timid dissent or generic stances are not enough. As for the Catholic Church, its most intolerant representatives are the same who oppose Pope Francis by rejecting his limpid evangelical teaching from which the need for a fraternal dialogue with believers of all religions arises. In Catholic circles someone instrumentally stirs up the very question of religious freedom to promote *de facto* intolerant attitudes. The call for religious freedom can in fact become a criterion for judging non-democratic or illiberal States, mostly non-western ones, or to put pressure on them, in order to serve western political interests. Or even to summarily condemn religions other than one's own. Even the memory of martyrs can be used instrumentally against States or against religions, but this use is absolutely contrary to the very meaning of Christian martyrdom: martyrs being in fact champions of faith, peace and even forgiveness towards their executioners. Examples of this are the beautiful characters of the monks of Tibhirine and of

brother Christian de Chergé, who forgave his murderer before he was killed in Algeria.

However, we should also reject the misleading *cliché* that monotheistic religions, with their claims to be announcing the truth, are by their nature incompatible with peaceful multireligious coexistence and religious freedom. Facts belie such prejudices: there are many believers of Judaism, Christianity and Islam who do not impose their certainties on others, and who sincerely seek dialogue. As for Catholicism, we have already seen how the Catholic Church has condemned the use of force to affirm the Christian faith since Vatican II, and how Pope Francis has repeatedly stressed that evangelization should not equal proselytism. These attitudes by the believers of the great monotheistic religions show that syncretism is not the only viable way to develop a peaceful multi-religious coexistence. It is also possible to practice the path of dialogue. Indeed, in the long run, this path is the most solid and effective, since most forms of syncretism actually involve forms of cultural assimilation which are scarcely compatible with most believers' aspiration to preserve the intactness of their own religious faith. However, this does not exclude forms of political and cultural adaptation: in this sense, in recent decades the Catholic Church has been encouraging multiple forms of inculturation of the Christian faith, unhampered by any close links with western civilization, and respecting different cultures and different political contexts.

Through dialogue, religions can play a very positive role in building a civil coexistence based on tolerance, peace and cooperation. Indeed, they are in some ways irreplaceable in this role: when isolated, even the best-intentioned States cannot do everything by themselves. This is the proposal that resulted from the prayer meeting for peace promoted by John Paul II in Assisi in 1986. The spirit of peaceful coexistence can also be found in the embrace between the Pope and the Grand Imam Attayeb in Abu Dhabi. It is a spirit that must be spread amongst the various religious communities and that must

grow in both the Christian world (Catholic and beyond) and in the Muslim world (with its different components), so as to “cooperate with one another and live as brothers”, as Pope Francis and Attayeb concluded, envisioning the path to a better world.

5. Human fraternity and religious freedom

Regarding Catholicism, particularly important are the most recent developments on the subject of the unity of the human family, a theme which was already present in the *magisteria* of all the twentieth and twenty-first century popes. In the declaration *Nostra Aetate* of the Second Vatican Council, we read: “We cannot truly call God as the Father of all, if we refuse to treat in a brotherly way any man, created as he is in the image of God”. John Paul II celebrated the value of fraternity, and Benedict XVI stressed the importance of “universal brotherhood”. In Abu Dhabi, Pope Francis said that only by living in authentic fraternity is it possible for different members of the human family to protect one another, making “the inclusion of the other prevail over exclusion”. This fraternity requires “a daily and effective dialogue” which presupposes loyalty to one’s own identity and, at the same time, the “courage of otherness”, together with “sincerity of intentions”. Without such sincerity, in fact, there is no real dialogue: “as an authentic expression of humanity”, dialogue “is not a strategy for achieving specific goals, but rather a path to truth, one that deserves to be undertaken patiently, in order to transform competition into cooperation” (Pope Francis’ address to the International Peace Conference at Al-Azhar). But this does not only mean the adoption of righteous behaviours, as in any honestly conducted negotiation: it also implies an authentic search for an understanding.

On this basis it is possible to develop the “courage of otherness”, while remaining faithful to one’s identity. It is language that reveals the important path followed since the Second Vatican

Council, when the theme of the “rights of truth” had not only weighed heavily on the council debate, but had also conditioned the final result, shifting the problem of religious freedom from the attitude of the Church to the behaviour of States. Unlike the council bishops, who were still heavily conditioned by the traditional positions of the Catholic Church, Francis tackles the issues clearly and directly, stressing that even “those who are different from me, either culturally or religiously, should not be seen or treated as enemies, but rather welcomed as fellow-travelers, in the genuine conviction that the good of each resides in the good of all” (*ibidem*). The diversity of faiths, therefore, is not a problem that should be tolerated, but a good that should be preserved. The “courage of otherness” involves respect and tolerance, but it goes beyond them in the direction of communion and solidarity. The shared path between people of different cultural or religious backgrounds has an intrinsic value, because it forces them to care for their fellow travelers and their good. In a sense, walking together is in itself a way of achieving the common good, because the shared path pushes us to have an attitude of mutual custody towards one another. In fact, it reminds “each other that nothing of what is human can remain foreign to us” and pushes us to “form open identities capable of overcoming the temptation to turn in on oneself and become rigid.” (Pope Francis’ address at the Founder’s Memorial in Abu Dhabi).

The focus shifts from the obstinate defense of the rights of “truth” which excludes any tolerance towards “error”, to the affirmation of an “open” religious “identity”. It is not a question of sliding towards relativism or syncretism: in fact, Francis considers “fidelity to one’s identity” a fundamental prerequisite for any dialogue. But it is precisely this fidelity that requires being open to the other. It is the same Christian truth, in fact, which demands its believers to see their brothers and sisters in other human beings. The fraternity that derives from this also sheds new light on the issue of religious freedom. Recalling the teaching of the declaration *Dignitatis Humanae*, in

2014 Pope Francis reiterated that “religious freedom [constitutes] a fundamental human right which reflects the highest human dignity, the ability to seek the truth and conform to it, and recognizes in it a condition which is indispensable to the ability to deploy all of one’s own potentiality.” (Pope Francis’ address at the International Conference ‘Religious Freedom and the Global Conflict of Values’). In Abu Dhabi, however, he raised this question in the perspective of the unity of the human family and universal fraternity. For Francis, religious freedom must also be pursued through “dialogue, understanding and the widespread promotion of a culture of tolerance, acceptance of others and of living together peacefully.” (Document on ‘Human Fraternity for World Peace and Living Together’). In his speech at the Founder’s Memorial in Abu Dhabi, he stressed that this freedom “is not limited only to freedom of worship but it sees in the other truly a brother, a child of my own humanity whom God leaves free and whom, therefore, no human institution can coerce, not even in God’s name.” It is God himself who wants every man and every woman to conduct their religious quest in complete freedom: no human institution can force this quest. The religions themselves, therefore, must be the most convinced guarantors of the religious freedom of others, because herein lies, in its highest form, the humanity of the brother which believers are called upon not only to respect, but also to safeguard and care for.

It is in this perspective that we can establish a human coexistence based on peace and mutual collaboration. It is no coincidence that the document signed in Abu Dhabi bears the title of “Document on Human Fraternity for World Peace and Living Together”. Amongst the elements necessary to build a new coexistence, religions indicate “the freedom of belief, thought, expression and action” as “a right of every person,” adding that “pluralism and the diversity of religions [...] are willed by God in His wisdom, through which He created human beings.” The document insists:

This divine wisdom is the source from which the right to

freedom of belief and the freedom to be different derives. Therefore, the fact that people are forced to adhere to a certain religion or culture must be rejected, as too the imposition of a cultural way of life that others do not accept.

In this perspective, it clearly states that “the protection of places of worship – synagogues, churches and mosques – is a duty guaranteed by religions”, as well as by “human values, laws and international agreements.” This is not the only mention of the duty of believers to act as defenders of religious freedom. The document also underlines that “it is therefore crucial to establish in our societies the concept of *full citizenship*” based “on the equality of rights and duties, under which all enjoy justice.” It is also necessary to “reject the discriminatory use of the term *minorities* which engenders feelings of isolation and inferiority. Its misuse paves the way for hostility and discord; it undoes any successes and takes away the religious and civil rights of some citizens who are thus discriminated against.”

Pope Francis’s adoption of this text shows that, in the current vision of the Catholic Church, religions must support the building of citizenship which is the basis of equal rights and duties and guarantees religious freedom. Francis later spoke of the “Document on Human Fraternity” as

an important text, aimed at fostering mutual understanding between Christians and Muslims, and peaceful coexistence in increasingly multi-ethnic and multicultural societies. In forcefully condemning the use of ‘the name of God to justify acts of murder, exile, terrorism and oppression’,

the Document recalls the importance of the concept of citizenship [...]. This requires respect for religious freedom [...]. (Pope Francis' address to the Diplomatic Corps, 2020).

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FREEDOM OF RELIGION OR BELIEF IN CONTEMPORARY ISLAM

*NAZIR MOHAMMED AYAD**

CONTENTS: 1. Introduction - 2. The Bases of Peaceful Coexistence - 3. The role of Al-Azhar

1. Introduction

All praise be to Allah, and may his peace and blessings be upon the Prophet of Allah;

“Peace be upon him and his companions”,

In the name of Al-Azhar Al-Sharif, the light for those calling for peaceful coexistence among humans, I welcome you ladies and gentlemen and I convey to you and to humanity the kind greetings of the Grand Imam of Al-Azhar Al-Sharif, Dr Ahmad Attayeb, wishing for all perpetual prosperity and success.

Our meeting at such time carries the objective of enhancing the right concepts of security and stability of modern countries; and it refutes the misconceptions of extremist groups which pave the way for terrorism, instability and falling behind modernization and finally towards dismantling countries and destructing nations. Therefore this meeting comes forward to emphasize some concepts among which comes rejecting fanaticism and extremism, and asserting the

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importance of peaceful coexistence. The peaceful coexistence meant here is one that is based on pacifism, security, safety and the acceptance of others with all their beliefs, granting them their rights with the values of justice, equity and preserving their dignity.

Within this context, the clear call of the Quran upon all humanity to adopt the concepts of coexistence, integration and knowing each other becomes evident. Such call is portrayed in His saying: “O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.” (49:13)

2. The Bases of Peaceful Coexistence

The Islamic call upon a peaceful coexistence is not a baseless call for it is based on very well intertwined bases. Among these come:

– The concept of human unity: to reach human unity, it is a must to deem all humans as brothers, and to protect all their rights as your own, like the right of acceptance, preservation of rights, freedom and dignity. The Quran asserted such meanings in Allah’s saying: “Mankind was [of] one religion [before their deviation]; then Allah sent the prophets as bringers of good tidings and warners and sent down with them the Scripture in truth to judge between the people concerning that in which they differed.” (2:213)

Allah’s speech in the Quran asserted such concept about 20 times when He spoke to all people despite their different beliefs in His Saying: “O mankind” (2:21).

– The concept of *freedom of belief*: it is an undeniable fact, religiously and historically – denied only by a malevolent person or

a hater – that Islam never forced anyone to embrace its creed, and it granted all mankind the freedom of belief, the right to a safe and secure life, allowed them to practice and observe their religious rituals; a fact announced clearly by the Quran: “There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong.” (2:256)

The Prophet, pbuh, was the clear manifestation of such concept when he stated it in the “Al-Madina document”, in which he asserted the importance of peaceful coexistence with the other despite the difference in religion, race or descent, on the basis of the freedom of belief, opinion, and the duty to guarantee the rights of protection and guardianship. Among the articles stated in the document we read: “the Jews of Bani Auf are one nation with Muslims, the Jews have the right to their religion as well as the Muslims, their heirs and themselves, except one who performs an act of injustice or sin.”

Islamic history is rich with uncountable events and cases that assert the tolerance of Muslims with people of different religion or race.

– The concept of *justice and equality of rights and duties*: the Quran values the concepts of justice and equality between all humans, without any kind of bias or hateful discrimination. Allah says: “O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is Acquainted with what you do.” (5:8)

The Quran also asserts that justice is one of most valued rules of countries and nations, coming from the concept of the rule of law and respecting its articles. In the same context, *Shari’a* rulings state that what is established by condition is equivalent to what is religiously legislated. A concept that has been used in establishing modern countries, stated in Allah’s saying: “Indeed, Allah commands

you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing.” (4:58)

– The concept of *unconditional world peace*: Islam has laid the basis for establishing international relations using two concepts, first of which is stated in Allah’s saying: “And if they incline to peace, then incline to it [also] and rely upon Allah. Indeed, it is He who is the Hearing, the Knowing.” (8:61). And the second comes in His saying: “Fight in the way of Allah those who fight you but do not transgress. Indeed, Allah does not like transgressors.” (2:190). Hence the concept of peace in Islam is one that is unconditional, gathering all meanings of peace, safety, reconciliation, security, satisfaction, affection, kindness and justice towards the oneself and others; meanings that the whole world stands thirsty for them to be established in reality.

3. The role of Al-Azhar

It is worth mentioning that extremist groups turn a blind eye to such concepts and hold onto the necessity of conflicting and fighting the other. And nothing is more surprising than the fact that such groups – with such malicious understanding – are presenting themselves as the right representatives of Islam, a point that can never bear any reality.

However and under such conditions, Al-Azhar is still working on achieving cooperation for the sake of embedding the philosophy of peaceful coexistence, reviving the approach of dialogue, respecting the beliefs of others and cooperating in light of those many principles being agreed upon between believers of religions.

Putting forward the values of peace, coexistence and interreligious dialogue, the Grand Imam Dr Ahmad Attayeb has put the issues of peaceful coexistence and accepting the other on his top

priorities. This notion has been translated into different languages in Al-Azhar conferences for interreligious dialogue, that witnessed the participation of the Grand Imam himself as well as the “Egyptian Family House”.

The “Document on Human Fraternity” is a civilized accomplishment by both Al-Azhar Al-Sharif and the Catholic Church to enhance the strengthening of the values of coexistence, tolerance and knowing one another around the world. The Document was also keen on correcting the misconceptions that lead to terrorism, violence and passive inclusion in human societies.

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Keynote Speech II

THE ROLE OF FREEDOM OF RELIGION OR BELIEF IN ADDRESSING ATROCITY CRIMES

*ADAMA DIENG**

Distinguished guests,

It is with great honor for me to participate in this very important conference. It has been many years since I was in Cairo last and it gives me a great pleasure to address you today in this beautiful city and in this great country. Egypt is the cradle of our humanity and world culture – its world wonders go a long way to explain the African and Arab heritage – its civilization is what brings us together today.

Before I delve into my address, please allow me to express my profound gratitude to the Embassy of Italy in Cairo, and in particular to His Excellency Giampaolo Cantini, for organizing this important conference and for bringing together so many eminent speakers.

Thank you, your Excellency, for your generosity and hospitality.

* *United Nations Under-Secretary-General/Special Adviser on the Prevention of Genocide*

Ladies and Gentlemen,

In my presentation today, I will briefly tell you about my mandate as UN Special Adviser on the Prevention of Genocide, because that will put the issues I will touch on into context. I will then delve into the topic I was asked to focus on today, which is the link between freedom of religion or belief and atrocity crimes. I will end my speech by providing some insights sharing my vision for a world in which atrocity crimes should be a thing of the past, but if they occur, we should be firm in confronting them by holding those responsible accountable but also drawing lessons at every stage.

Ladies and Gentlemen,

As you may know the position I hold was established by the late Secretary-General, Kofi Annan, following the failure by the international community to prevent and respond to the genocide of the Tutsis in Rwanda in 1994, and the genocide in Srebrenica in 1995. The core of my mandate is prevention of the most heinous international crimes namely: genocide, war crimes and crimes against humanity. These crimes are commonly referred to as atrocity crimes – a term you hear repeatedly in my presentation. My mandate is to provide early warning to the Secretary-General and, through him, to the Security Council, on situations that could escalate to genocide or related atrocity crimes. Let me quickly add that the risk of atrocity crimes is not confined to certain countries or regions, it is a global risk. I monitor and assess situations worldwide. No region in the world is immune to the risk of these crimes. All societies have risk factors related to atrocity crimes to some extent, for example intergroup tensions, political, social and economic upheavals or human rights violations. The most important thing is how and when we respond to these risk factors. We need to respond in a timely manner to mitigate these risks before they escalate into situations of more serious concern. My office has developed a “Framework for Analysis for Atrocity Crimes”, a tool

that the United Nations and other actors, including Member States and regional organizations can use to assess the risk of atrocity crimes. This tool is a public document which is available on the website of my office. Prevention is the work of all of us, I encourage you all to read and use this framework. It is only through the contribution of all actors that we can achieve the “never again”. That is a job I struggle with every day – because what is happening around the world today clearly demonstrates, we are not yet there.

Ladies and Gentlemen,

I will get back to this point later in my presentation. For now, let me focus on the theme of this conference.

The global picture is not encouraging. The freedom of religion or belief is under threat globally. We are witnessing increasing trends of racism, xenophobia and intolerance across the world, even in developed democracies. Let me warn that violations of freedom of religion or belief are among the risk factors associated with atrocity crimes. We have to take these fundamental rights very serious, because a threat to these freedoms is a threat to humanity.

Dear friends,

From a human rights perspective, freedom of religion or belief is not about protecting religion(s) as such but about protecting individuals. Article 18 of the Universal Declaration of Human Rights includes reference to freedom of thought, conscience and religion. This is not surprising, considering that thought, conscience and religion are parts of the same equation. This is also why freedom of religion or belief is so inherently linked to freedom of opinion and expression and freedom of peaceful assembly.

According to article 18 of the Universal Declaration of Human Rights, freedom of religion or belief includes “freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”.

The right to convert, to practice and to proselytize is intrinsic to freedom of religion or belief. Most importantly, freedom of religion or belief includes the right not to have any religion and not believe that there is a God, and also to be free from coercion and discrimination on the grounds of religion or belief. In this context, freedom of religion or belief protects atheists, as well as women’s and sexual minorities’ right to interpret and practice their religion the way they believe is true, even when this goes against the orthodoxy of their religion.

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 certain circumstances, most importantly in cases where religious or belief practices and manifestations of some people violate the rights and freedoms of others. As such, freedom of religion or belief can never be used to justify discrimination, inequality or violation of other rights – including women’s rights or the rights of minority communities.

Distinguished guests,

Violations of freedom of religion or belief can indicate a growing risk of violence or even atrocity crimes in contexts which are conducive to the perpetration of these crimes. As the “Framework for Analysis for Atrocity Crimes” indicates, serious violations of international human rights and humanitarian law, including of freedom of religion or belief, can be precursors of atrocity crimes.

For instance, systematic and widespread attacks targeting a

group of people based on their religious identity may constitute the crime genocide, as established by article II of the 1948 Convention on the Prevention and Prohibition of the Crime of Genocide. The Convention defines genocide as a series of acts committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. These acts include killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group. As you may note, only two acts are related to actual killing, the others are not. Therefore, we do not have to see killings for genocide to be committed. In prevention, I focus on preparatory acts as captured in the “Framework” to mobilize for preventative action.

In addition, according to the Rome Statute of the International Criminal Court, “intentionally directing attacks against buildings dedicated to religion [...] provided they are not military objectives” could amount to war crimes. In other words, targeting religious sites can constitute serious international crimes further to be a violation of freedom of religion or belief as it limits people’s freedom to worship.

Violations of freedom of religion or belief often stem from stigmatization, marginalization and discrimination based on one’s religious identity. In this context, religious minorities often find themselves in conditions of structural vulnerability which can lead to a vicious cycle of hatred, hostility, insecurity and violence.

In some countries, religious minorities may be at significantly greater risk of arbitrary arrest and detention on the basis of their religion, of their legitimate religious or social functions, of their activities to claim their rights, or of protest against unfair or discriminatory treatment.

Also, persons belonging to religious minorities may be individually targeted or face insecurity during community activities. We have seen such threats in the region, and today I want to pay my respects to the victims and their families of these hateful attacks.

Religious minorities do not suffer only of direct violent attacks. At the level of the group, violations include forced displacement and cleansing of towns, villages and other territory from religious minorities. Furthermore, in societies polarized along religious lines, both in time of peace and during conflicts, religious minorities are particularly exposed to the risk of atrocity crimes. We are all very familiar with what happened in Iraq in areas controlled by the so-called Islamic State. Serious abuses of human rights, including discrimination of and persecution of religious minorities, and of the Yazidis in particular, may amount to the crime of genocide. The United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL is currently assisting Iraqi authorities to ensure that accountability indeed takes place. While all the indications are there, only a proper accountability process can determine if the crime of genocide was committed.

Some three quarters of the Rohingya population have fled across the border to Bangladesh as a result of attacks against this community in Myanmar, which may constitute international crimes according to the findings of the United Nations Commission of Inquiry. The situation of religious minorities also remains very precarious in many other countries around the globe.

Ladies and Gentlemen,

According to the first pillar of the responsibility to protect principle, States are responsible for protecting their populations from genocide, war crimes, crimes against humanity and ethnic cleansing, as well as their incitement. The word “populations” refers to all people

living within a State's territory, whether citizens or not, and including national, ethnic, religious, and linguistic minorities.

States can uphold the rights of religious minorities and, therefore, strengthen the national protection structure for these minorities in different ways, including by enhancing access to justice, education and the public life of religious minorities and also by ensuring that these minorities enjoy the right to equal citizenship, legislative protection and institutional attention.

States are also responsible for putting in place adequate legislation to address acts of violence and incitement to religious and ethnic hatred perpetrated by non-State actors. I firmly believe that protecting the rights of religious minorities and establishing dedicated mechanisms for minority rights contributes to promote social stability and cohesion and build resilience to atrocity crimes.

In addition, as atrocity crimes against religious minorities are often perpetrated in the context of interreligious violence, I believe that preventing religious tensions from escalating to the point of violence is essential to protect religious minorities.

Dear friends,

Violence and conflict in the name of religion is one of the most profound and enduring global challenge we face. Acts of religious hatred and violence have emerged with alarming frequency and intensity and prove to be major threats to peaceful coexistence. Despite these challenges, we are all witness of how diversity of religions and beliefs have significantly contributed to and enhanced the struggle for human rights and peaceful coexistence.

While religions may have different names, they generally promote the same values, love and compassion – while opposing violence and conflict. These values or attributes do not require

uniformity rather call for unity with diversity. Unity with diversity does not ignore nor attempt to suppress the diversity of ethnic origins, history, language or traditions that differentiate the peoples and nations of the world. The equal dignity owed to all mankind seeks respect for the differences in the identity of each person. It is in absolute respect for the right to be different that we find authentic equality and our ability to peacefully coexist.

History reminds us of the importance of respecting and cherishing diversity, managing it constructively and allowing its peaceful and full expression. Durable peace, indeed, calls for sustained efforts to create conditions that preserve this diversity, including by protecting the human rights of each individual without discrimination.

In this vein, more attention needs to be given to proactive solutions by dealing squarely with the underlying root causes of intolerance. Among the most rampant causes of intolerance is the lack of understanding of other religions or beliefs. This state of affair often breeds misunderstanding, stereotypes, suspicion, mistrust and fear, and it may also lead to violence.

Religious intolerance cannot be prevented by legislative measures alone. It requires investment in education, knowledge-sharing and the promotion of interfaith dialogue, as exemplified by this gathering. Indeed, as once remarked by Mahatma Gandhi: “If we are to respect others’ religions as we would have them respect our own, a friendly study of the world’s religions is a sacred duty”.

In the same way, as leaders in our communities, we are called upon to always reflect on the weight and implication of our views and opinions. We are increasingly witnessing leaders who instead of organizing through universal principles and values, chose to organize through religion or ethnicity faultiness which leads to exclusion and marginalization and in some cases expressions of hate or violence

against those who fail to identify or subscribe to those beliefs.

Respect for diversity cannot be attained when leaders become the source of discord and intolerance, and when they start calling names those they disagree with, those who challenge them, or those who are simply seeking the protection of the law. Communities and nations have nothing to fear from accepting other faiths and cultures into their society. Mutual respect is a sign of strength, not weakness.

Ladies and Gentlemen,

To further coexistence and use religion as a force for good, there is a need for a shift of mindset; we need to more closely examine the underlying causes that force people to resort to violence, both in order to understand its societal impact and to come up with strategies to reduce its spread. Extremism thrive when human rights are violated, political space is shrunk, legitimate aspirations of citizens are ignored or crushed altogether and many people, especially youths, lack positive prospects and meaning for their lives.

To make progress on this front, we must resolve legitimate grievances peacefully and strive to foster good governance, reduce poverty and corruption, and improve education, health and basic services. Once we understand the unique combination of grievances and needs that are underlying causes of this kind of violence in the name of religion, we can set about creating tailor-made programs and strategies in response.

In this regard, I would like to mention two very important initiatives led by my office. The first one is the “Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes”, also called the “Fez Plan of Action”. This document, which was developed with the help of religious actors from different faiths and beliefs from around the world, includes options religious actors – as well as other societal actors – can consider

implementing to prevent and counter incitement to violence.

The United Nations Secretary-General, Antonio Guterres, urged the widest possible dissemination and implementation of this Plan of Action, which he said, “can help to save lives, reduce suffering, and realize our shared vision of peaceful, inclusive and just societies in which diversity is valued and the rights of all individuals are protected”. My office is currently implementing this Plan of Action: we have held meetings in the United Kingdom and in Bangladesh and in the next months we are planning workshops in Central African Republic, Kosovo and Bosnia.

Let me also add that a resolution was passed last summer by the General Assembly of the United Nations, recognizing the role of the Plan of Action in promoting peace and reconciliation and calling Member States to encourage and support religious leaders and actors to engage in intra- and interfaith dialogue to respond to incitement to violence, discrimination and hate speech.

The second initiative my office is leading is the “United Nations Strategy and Plan of Action on Hate Speech” which was launched by the Secretary-General on 18 June 2019. This strategy sets out guidance for the UN system to address hate speech at the national and global level, to enhance United Nations efforts to address root causes and drivers of hate speech; and enable effective responses by the United Nations system to the impact of hate speech on societies.

The strategy is in line with international human rights standards, and in particular with the right to freedom of opinion and expression. Indeed, at the United Nations we believe that addressing hate speech does not mean limiting or prohibiting freedom of speech. It means keeping hate speech from escalating into incitement to discrimination, hostility and violence, which is prohibited under international law by supporting positive narratives and addressing

root causes.

Both documents assume that addressing hate speech is everybody's responsibility and a goal which is better achieved in partnership. For instance, in my capacity as United Nations focal point for the "United Nations Strategy and Plan of Action on Hate Speech" I am currently strengthening existing partnerships and establishing new ones, including outside the United Nations.

Indeed, I believe that joining hands with Member States, civil society, academia and private corporations is essential to design and implement responses which are timely and effective. In particular, partnering with local actors is paramount to measures which are sensitive to the local context, and really inclusive. Indeed, the work of these organizations is based on strong warrants for peace-making and peacebuilding.

Brothers and Sisters,

To conclude, let me remind you that as leaders you all have a responsibility to contribute to a world without atrocity crimes, where the rights of all individuals are respected without discrimination. I hope the "Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence" and the "United Nations Strategy and Plan of Action on Hate Speech" can help guide your daily work towards upholding human dignity globally.

I cannot but reiterate that as we focus on pursuing coexistence among our communities, we must reaffirm our commitment to work together to advance religious tolerance among diverse groups of our people. We have to strive to promote education that specifically opens young minds to *the other*, those who are culturally and religiously different, and show them how the only future that works is one in which all people are respected as equals whatever their faith or culture may be.

The world will be a better place, if our political and religious leaders, policy makers, community organizers and all of us recognize the strength and boundless possibilities our multitude and diverse heritage can offer to help rid humanity of violence and social economic deprivation.

To achieve this, we will among other things need accountable, visionary and conscious leadership to lead the way. I thank you once more for your efforts and count on your active partnership as we strive to uphold the values that bind us together as a single human family.

Wa salaam aleikum!

Part II

FREEDOM OF RELIGION OR BELIEF IN CONTEMPORARY INTERNATIONAL AND NATIONAL LEGISLATIONS

*CHAIR: KISHAN MANOCHA (SENIOR ADVISER ON FREEDOM OF RELIGION OR
BELIEF AT THE OSCE/ODIHR, WARSAW)*

FREEDOM OF RELIGION OR BELIEF IN INTERNATIONAL LAW

*SILVIO FERRARI**

CONTENTS: 1. Introduction and historical background - 2. Contemporary challenges: theoretical framework - 3. ... and practical implications

1. Introduction and historical background

Before starting my intervention, I would like to thank His Excellency Giampaolo Cantini, Italian Ambassador to Egypt, for the invitation to take part in this conference and Dr Davide Scalmani, Director of the Italian Cultural Institute in Cairo that hosts us. I am pleased and honored to participate in this meeting together with the representatives of the United Nations, the Arab League, the European Union, and the Organization for Security and Cooperation in Europe.

I would like to open my speech with a brief reflection on the characteristic that makes the right to freedom of religion or belief so different from other human rights, such as freedom of thought,

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conscience or expression. While these latter rights are grounded on a bilateral relationship, the relationship between the individual and the State, the right to freedom of religion or belief has a more complex structure as it lies at the triangulation point where the individual, the faith community and the State converge (*see* Mark Hill). The relationships between individual, faith community and political power have been different depending on the historical periods. Sometimes the faith community has prevailed and the political power has regulated freedom of religion or belief according to the tenets of a religion, normally the majority religion in the country. Sometimes the political authority has prevailed and has dictated its own discipline of freedom of religion or belief to which the faith communities have had to adapt. Rarely, however, have individuals been able to assert freedom of religion or belief as their own right, with an autonomous foundation independent from the law of the State or faith community. Consistent with this approach, the sources of the right to freedom of religion or belief were contained in laws issued by the State, for example the articles of a Constitution, or in agreements between two States, for example the capitulations between France and the Ottoman Empire in the sixteen century, or between a State and a faith community, for example the agreements between Italy and the Holy See.

Things changed profoundly in the aftermath of the Second World War, when a strategic choice of great importance was made: that of regulating freedom of religion or belief with a rule of international law that had universal value and served as a yardstick for assessing respect for this right in every part of the world. In order to achieve this project, the emphasis could not be maintained on the law of States and faith communities, which because of their variety were unable to provide a universal yardstick. Their place has been taken, at the center stage, by the rights of the individual: freedom of religion or belief was constructed as a right that is due in equal terms to each

individual simply because he or she is a human being. The individual, detached from the historical and cultural context in which he or she lives, becomes the element of universality on which the whole project is based. In this way, the right to freedom of religion or belief finds a new foundation and is guaranteed through norms that are not the product of a State or a faith community and that must be respected by both the former and the latter. In the end, when we come to freedom of religion or belief there are no Egyptians or Italians, Muslims or Christians: in the end, there are only human beings.

What have we gained from this change of system? Have article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights been a good or a bad idea? In my opinion, they have been a very good idea for at least two reasons. First of all, protecting freedom of religion or belief through international law reflects the fact that each human being wants to be free to believe in what he or she deems to be right and to act accordingly. Guaranteeing the right to freedom of religion or belief through international law means recognizing this aspiration that is instinctively shared by all men and women and transcends the borders of States and religions. Both the former and the latter must come to terms with a right that they cannot deny because it belongs to every citizen and every believer for the sole reason of being a person. Secondly, constructing the right to freedom of religion or belief as a right that belongs to each human being is the best way to respond to the challenge of globalization. We live in a society that is global and at the same time internally diversified. This requires the identification of a shared core of rights that serves both as a point of reference and a benchmark for the different conceptions and practices of freedom of religion or belief generated by the various cultures and civilizations into which the world is divided. Without this shared core, the religious and cultural diversity of the contemporary world becomes unmanageable and, precisely because of the interconnections that characterize a global society, conflictual.

2. Contemporary challenges: theoretical framework ...

In order to attain the goal I have described, a large coalition of stakeholders has taken shape, including States, international organizations, representatives of civil society, human rights bodies. They gather around the idea that the international community should provide a stronger protection of freedom of religion or belief by openly denouncing its violations and even striking the States that are guilty of them with a number of sanctions.

Is it a sustainable project? Is it realistically possible to pursue the objective of identifying a single legal notion of freedom of religion or belief and ensure its implementation over the world? In my opinion the success of this strategy depends on two conditions, one of a theoretical nature and the other of a more practical character.

Let me start with the first. Philosophers, theologians, political scientists and legal experts are divided about the subject of freedom of religion or belief. Some are convinced that:

religion is the universal human search for a greater-than-human source of being and ultimate meaning. So long as human have existed they have engaged in this search, asking, as it was, the religious questions [...] the right to religious freedom is grounded precisely in the value of that enterprise as a human good. (Thomas Farr)

Others claim that “religious liberty is not a single, stable principle existing outside of culture, spatial geographies, or power relations but is a fractious, polyvalent concept unfolding through divergent histories in different political orders”. Therefore, they conclude, “once we recognize that religious liberty is not universal but necessarily context bound [...] we might be able to appreciate how the right to religious liberty is not a safeguard against State coercion

and religious intolerance but at times their vehicle” (*see* Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, Saba Mahmood and Peter G. Danchin). The first group of scholars is convinced that a stronger political protection of freedom of religion or belief at international level is the best way to promote “a universal principle that safeguards the dignity of the human person with respect to his or her religious beliefs” (*see* Daniel Philpott). The second group claims that this strategy “generate[s] social tensions by making religious difference a matter of law, enacting a divide between the religion of those in power and the religion of those without it” (*see* Elizabeth Shakman Hurd).

To address this debate I shall start from a statement of another scholar, José Casanova, who noted that “every universalism is particularistic.” With these words Casanova wants to stress that every vision and project that aims to provide a universal answer (valid for everyone and everywhere) to a given problem inevitably arises within a particular history and culture. Freedom of religion is no exception and the recognition of this right is always rooted in a response to problems that arose in a particular spatial and temporal context.

Let me make an example. In the fourth century of the current era, Emperor Constantine granted everyone the right to follow his/her religion because he realized that the persecution of Christians endangered the political stability of the Roman Empire. Five centuries before, Emperor Ashoka had affirmed the right of all religious communities to settle in the territory of their choice because he was convinced that this decision was helpful to govern the religious and cultural diversity of India. Constantine’s cultural and religious background is provided by the Roman-Christian tradition, Ashoka’s by the Indian-Buddhist one. The difference between the two contexts is by no means irrelevant. Constantine granted the right of freedom of religion to individuals, Ashoka to communities. The

individual dimension of the right of freedom of religion is prevalent in Constantine's Roman-Christian tradition, the collective in the Ashoka's Indian-Buddhist one. In both cases, however, the recognition of the right to freedom of religion has a significance that goes beyond its cultural context and legal formulation. The examples of Constantine and Ashoka show two things. On the one hand, the context in which the right to freedom of religion or belief takes shape is relevant and can lead to different interpretations and implementations of the content of this right. On the other, the specificity of the context does not exclude the possibility to reach conclusions that have a universal value and significance (as indicated by the fact that, after so many centuries, people from very different cultural and religious worlds continue to refer to these two texts as milestones of the road towards freedom of religion or belief).

However, once we have accepted this inescapable dialectic between particular and universal, how can we understand when the specificity of the context endangers the universality of the right? In my opinion, the most convincing answer can be formulated in the following terms. "Cultures and religions are incommensurable because they have developed in quite different contexts of language, history, and physical environment". However, the fact that

cultures are incommensurable and that there is no objective standpoint from which to evaluate them does not entail that no dialogue can be entered into regarding particular cultural or religious practices. Such a dialogue cannot take place on the basis of final and dogmatic truths (not even the 'truth' of liberal democratic secularism), but on the basis of open, honest, and contingent perspectives [...]. Therefore, instead of falling into a debate about relativism and universalism, there is a need to [...] negotiate contingent, rather than universal, norms responding to practical contexts and immediate needs. (Margaret Davies)

The issue of the full-face veil, that has been at the center of heated debates all over Europe, is a good test of how effective this approach may be. Provided that all forms of imposition of the veil should be rejected, the issue can be approached in two ways. Making it a battle of civilizations, as was the case in France and interpreting the full-face veil issue as a clash between two cultural systems that are incompatible because they are based on two different visions of women's rights; or, as happened in other European countries, identifying specific places, times and activities that require to see an individual's face and forbidding to wear the full-face veil in relation to them (but not to others where this need does not arise). The second solution seems to be more appropriate to save the interests of the community without sacrificing women's religious freedom. Of course, it is not always possible to find a satisfactory solution to the expressions of cultural and religious difference but this example shows the fruitfulness of a contingent and pragmatic approach to these problems.

This strategy to reconcile the tensions between the particular and universal dimensions of the right to freedom of religion or belief is particularly helpful to address the issue of its implementation at international level. Some political actors want to export freedom of religion or belief through economic and political sanctions against the States which do not respect it, others criticize this strategy as a manifestation of imperialism and neo-colonialism. To reduce the gap between these different positions, a distinction between husk and kernel can be helpful. International law should grant the kernel but refrain from regulating those manifestations of the right to freedom of religion or belief that are strictly connected to a specific historical and cultural background. This rule could provide some guidance on the issues of apostasy and blasphemy, for example, making a distinction between the kernel (respectively the right to change religion and freely manifest one's opinions) and the husk (the opportunity to regulate proselytism, to criminalize hate speeches, and so on).

3. ... and practical implications

Let me conclude with a few references to the second condition I mentioned before, the more practical one.

In recent decades, freedom of religion or belief has taken on an increasingly important role in the foreign policy of many States. This process started in October 1998, with the enactment of the US International Religious Freedom Act. The law opens with the assertion that “the freedom of religious belief and practice is a universal human right” (sec. 2 [a], 2) and continues by declaring the US government’s commitment to “condemn violations of religious freedom and to promote, and assist other governments in the promotion” of this right. The law provides aid to countries committed to promoting religious freedom and strikes the States which are guilty of the most serious violations with a number of sanctions. To this end, appropriate bodies have been set up with the task, among other things, to draw up annual reports assessing violations of religious freedom all over the world and a list of the States that are responsible for them. The US example was quickly followed by other countries (for instance the United Kingdom, Denmark, Canada) and some international bodies (including the European Union), which have taken the engagement to include a more incisive protection of religious freedom in their foreign policy and develop the legal tools necessary to achieve this goal. Although very different from each other, the offices and bodies that have been created by these States have one point in common: they are responsible for monitoring religious persecution and discrimination abroad, that is outside the borders of the State or States to which they belong. The point of contention is the fact that, in the countries that established this system of international monitoring, similar bodies in charge of assessing the respect for freedom of religion or belief at home do not exist. Of course, in all these countries there are institutions and even courts which have the power to assess the violation of human rights and enforce their respect: but none of them has a specific mandate relating to freedom of religion or belief.

Since, although with varying degrees of seriousness, violations of the right to freedom of religion or belief happen all over the world, this unbalance fueled suspicion that the violations that take place in some parts of the world are being carefully assessed while those that take place in other parts are not being taken into account. This has led to a certain mistrust of these systems of assessment which have been accused of applying double standards.

A step forward to dispel these suspicions has been recently taken with the establishment of the International Religious Freedom Alliance, a coalition of States that are “fully committed to advancing freedom of religion or belief around the world”. The “principles of action” that guide this new organization specify that “Members are committed to pursuing internal-external coherence on matters relating to freedom of religion or belief”. For the first time the link between respect for freedom of religion at home and abroad is made explicit. However, this step forward risks being compromised by the internal imbalance within the Alliance, whose members do not include any country of the Asian continent (apart from Israel) or any Arab State. It is therefore necessary to carefully assess the risk that, beyond the good intentions of the promoters of this initiative, freedom of religion or belief will become an object of division and political conflict on an international scale and that a space will be created where different visions of freedom of religion or belief and their supporters oppose each other.

I believe it is possible to conclude that making freedom of religion or belief a condition for external State relations is a very delicate issue and we still have to learn how to do this without creating counterproductive tensions that could make freedom of religion or belief a matter of conflict rather than peace. To keep this risk under control, I think we need to strike a better balance between two activities that up to now have not been integrated: on the one hand the initiatives aimed at monitoring the respect of freedom of religion

or belief all over the world and on the other hand the initiatives aimed at fostering dialogue and search for common ground among people with a different cultural and religious background. The former initiatives would be much less confrontational if they were included within the framework provided by the latter. But it seems to me we are still far from attaining this goal.

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FREEDOM OF RELIGION OR BELIEF IN THE ITALIAN LAW

MARCO VENTURA*

CONTENTS: 1.Introduction - 2.The protection of freedom of religion or belief in Italy - 3.Domestic law, religious law, EU law and international law - 4.The political process, the civil society and the legal framework- 5.Conclusion

1. Introduction

Excellencies, authorities, colleagues, ladies and gentlemen,

It is an honour and a privilege to be here today.

I wish to express my gratitude for the invitation to the Italian Embassy, *Ambasciata d'Italia in Egitto*, and to *S.E. Ambasciatore Cantini*. Many thanks to the *Istituto Italiano di Cultura* for hosting me at this special occasion. I am very grateful to the Egyptian government, and to the representatives of the United Nations, the Arab League, the European Union, and the Organization for Security and Cooperation in Europe. Finally, I am also thankful to the religious dignitaries, the esteemed colleagues, and the audience of our gathering.

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In our respective capacities and roles, we all share the huge responsibility to be part of a conversation on freedom of religion or belief across nations and across religions, in a time of widespread conflict and violence in the name of religion, as well as of increasing restrictions on the freedom of believers.

I have the task to briefly illustrate the Italian experience with freedom of religion or belief, and the Italian system of protection of freedom of religion or belief. In the three sections of this presentation, I will 1) summarise the pillars of such protection; 2) describe the Italian combination of unilateral and bilateral law, religion-specific and not religion-specific law, State and religious law, and finally of domestic law, European law and international law; and 3) emphasise how the Italian approach to freedom of religion or belief is based on the balance between what belongs to the political process, what belongs to the civil society, and what belongs to the legal framework. I will show how the above draws the portrait of a distinctive experience, system and model. I will conclude on the virtue of the Italian experience and system as progressive, integrated and open: progressive, as based on a step by step process very much aware of the complexity of history and society; integrated, since Italians reject State monism and national or religious exclusivism and commit themselves to the integration of various sources, factors and agents; and open, since they endeavour to preserve and perpetuate tradition and identity not through the repression of freedoms and diversity, not through the oppression of the people by the government, not through an hostile and aggressive nationalism, but by being open to social and political change.

I will now move to the three parts: 1) the pillars of freedom of religion or belief in Italy; 2) the Italian combination of unilateral and bilateral law, religion-specific and not religion-specific law, State and religious law, and finally of domestic law, European law and international law; and 3) the Italian approach to the balance between the political process, the civil society, and the legal framework.

2. The protection of freedom of religion or belief in Italy

In the first place, freedom of religion or belief is protected in Italy through the full endorsement and implementation of liberal democracy as a system based on the rule of law, the separation of powers and fundamental rights. Fundamental rights are stipulated in the Republican Constitution of 1948, and in statutory law, and are interpreted, administered and adjudicated by, respectively, scholars, the government (central and local), and the judiciary. In this sense, well before any religion-specific rule, freedom of religion or belief is protected by implication, because freedoms in general are protected, both at the individual and at the collective level, and because rule of law in a democratic society is taken seriously.

Secondly, freedom of religion or belief is protected explicitly through an array of principles, norms and procedures. The key norm is established at article 19 of the Constitution: “Anyone is entitled to freely profess their religious belief in any form, individually or with others, and to promote them and celebrate rites in public or in private, provided they are not offensive to public morality”. While assuring such a broad protection of freedom of religion or belief, the Italian Constitution is also explicit in the protection of equality and diversity. Article 3 stipulates that “All citizens have equal social dignity and are equal before the law”, without distinction of religion. A fundamental implication of the principle is the privacy protection of religious data as extremely sensitive. The religious affiliation of Italian citizens is no State business and in no way is the State entitled to inquiry about it. Therefore no question on the religious affiliation of citizens is included in the national census.

If the freedom, equality and diversity of individuals is protected, the same applies to organizations. Article 8 provides that “All religious denominations are equally free before the law”. Religious communities are entitled to the full enjoyment of freedom

of religion or belief regardless of any form of recognition. Italian law does not contemplate the category of “recognised” or “registered” religions and accepts the broadest definition of religious activities and organizations. All religious or belief communities are protected: old and new, big and small, theistic or not theistic, gathering affiliated believers or unaffiliated individual pursuing the most diverse forms of spirituality and life style, including atheists and agnostics.

Legal personality is accessible for religious communities in multiple forms, included through an act of 1929 (*Legge sui culti ammessi*, n. 1159). Article 8 of the Constitution stipulates the right to autonomy and self-determination according to the relevant internal statutes, provided that the principles of Italian law are respected. Article 8 also provides for the possibility of contracts between non-Catholic organizations and the State, in case the government and representatives of a given “*confessione religiosa*”, religious denomination, are able to reach an agreement. So far, since 1984, thirteen denominations have stipulated an agreement, in Italian an “*intesa*”, including Mormons, Buddhists and Hindus. The Constitutional Court has made clear in 2016 (decision n. 52) that since “*intesa*” are not meant to grant the legal personality or fundamental rights, but only special conditions based on the specificity of the interlocutor, religious organizations do not have a right to “*intesa*”.

If agreements, “*intesa*”, represent the highest form of bilateral relations between the State and the religious communities, the principle of “*bilateralità*” applies in multiple forms, including through widespread dialogue between central and local governments and religious representatives. The dialogue with representatives of Islamic communities, resulting in the “National Pact for an Italian Islam” of 2017, represents an egregious example.

While according to sociological surveys the large majority of Italians still declare themselves as Catholics (approximately 76 per

cent in 2017), Italy is no longer a Catholic State since the Constitution of 1948. Significantly, the Catholic Church through the Holy See accepted the move from a Catholic State to a “*Stato laico*” in the concordat of 1984 with the Republic of Italy. Thus the termination of the Catholic State was not a unilateral divorce by the State. Actually this was no divorce at all. It was a different articulation altogether of the relationship between the Italian State and Catholics, based on the “independence” and “sovereignty”, “each within its own sphere” of the State and the Catholic Church, as established by article 7 of the Italian Constitution of 1948, and reiterated in the concordat between Italy and the Holy See of 1984.

Since 1989 (decision n. 203), the Constitutional Court has defined “*laicità*” as commanding the impartiality and equidistance of the State, and not its hostility towards religion in general, or towards specific religions in particular.

To sum up, the Italian system of protection and promotion of freedom of religion or belief is based on a combination of various principles, articulated in different levels and instruments. In the next section we will look at this peculiar multi-level and multi-tool system.

3. Domestic law, religious law, EU law and international law

After having presented the basics of the protection of freedom of religion or belief in the first section, I will now delve into the structure of the system, which I see as key to understanding and assessing the system in its entirety.

The first level, and the first tool, for the protection of freedom of religion or belief is Italian domestic law. This is articulated in Constitutional law and in statutory law, with the correspondent

two-level case law of the Constitutional Court and ordinary courts, including administrative courts. With Italy being a highly decentralised State, and one strongly committed to subsidiarity, regions and local communities enjoy large powers, in particular in education, health care, heritage protection and zoning. This implies that crucial matters for freedom of religion or belief make the object of regional and local decision-making, and therefore are potentially litigated in terms of regional or local infringement of constitutional provisions. This was the case in 2016 (decision n. 63), when the Constitutional Court declared that the law of *Regione Lombardia* on new places of worship was not in full compliance with the Constitution as it discriminated against some religious communities, including, potentially, some Christian and Muslim communities.

If the articulation of domestic, regional and local law is paramount, of no less importance is the coordination between the law of the land and religious laws. Because of the salience of the Catholic Church in the Italian history, which understands itself as an independent community represented by a sovereign entity, the Holy See, Italy has grown a country, and since 1861 a unified State, with a strong sense for the independence and the autonomy of religious organizations. This has a twofold implication: on the one hand, religious laws are deeply respected, based on the template of Roman Catholic canon law; on the other hand, bilateral relations with religious communities are encouraged. In this sense, the tradition of concordats, bilateral international instruments settling disputes, and more generally regulating relations between the State and the Holy See, has a strong impact on the Italian system. As a consequence, despite attempts to advocate strict separation of State and religion as incompatible with formal bilateral relations, and despite the growth of unilateral State law as extremely favourable to religions, relations with the Catholic Church are still based on the concordat of 1929, as modified in 1984. At the same time, the Constitution of 1948 has potentially extended the bilateral model of “*bilateralità*” to all religious

communities, hence the proliferation of “*intesa*” as mentioned above.

As key as the coordination of the law of the land with religious laws, is the coordination with European law and international law, an implication of the traditional commitment of Italians and Italy to the European integration process and the peaceful development of the international community. In many ways, Italians and Italy have been crucial in the forging of European and international human rights law in general and in the protection of freedom of religion or belief in particular. Italian legal scholarship has been extremely influential. Francesco Ruffini authored the first modern history of freedom of religion or belief. Santi Romano was the early proponent of legal pluralism. Francesco Capotorti contributed a capital report on minority rights for the United Nations.

A founding member of the Council of Europe and the European Union, and a protagonist of the Helsinki process, Italy has also been an active and creative contributor to the growth of the European and international law on freedom of religion or belief, as well as a diligent, proactive partner in its implementation. While pertaining to the legal sphere, the Italian commitment to multilateralism and cooperation, within Europe, the Middle East and North Africa region, and beyond, results in endless examples of intergovernmental policies and partnerships. It is in this context that one can appreciate the Italian support to the action of the Organization for Security and Cooperation in Europe and to the external action of the European Union.

The system presented in this second section is thus one where the protection and promotion of freedom of religion or belief is sought not through a monistic, simplistic and oppressive action of the central State, but through the coordination and cooperation of multiple actors and instruments, within and outside Italy. Crucial to this approach is the experience-validated principle that the government, for how decisive and irreplaceable, is not the only factor

when freedom of religion or belief is at stake. In the next section I will shortly elaborate on this principle.

4. The political process, the civil society and the legal framework

Threats to security and the national identity are the ground most commonly mobilised in order to restrict freedom of religion or belief. Governments are responsible for such mobilisation, but they are not the only player. Similarly, the legal framework is essential in responding to the present challenges to freedom of religion or belief, but cannot be the left standing alone.

The Italian experience with freedom of religion or belief emphasises the importance of the political process and the civil society, in order for the law to be meaningful beyond merely formal compliance.

Precisely because we are confronted to majoritarian claims, the political process has a unique value: in fact we risk construing freedom of religion or belief as an elitist concern, not supported by the people, and not tested through democracy. Of course the risk that majorities crush minorities, including within majorities, is high as well. The Italian Constitutional Court has found itself confronted to the dilemma. In its decision of 2016 mentioned above on the prerogatives of the government and the Parliament in deciding whether a religious community could enter an agreement, the Court has decided in favour of leaving some political discretion to the government and the Parliament. The Court has ruled that fundamental rights of the relevant community and its individual members cannot be subject to the political process; however, it has also ruled that special conditions dependent on an agreement cannot but also be dependent on the political process. This is precisely where everybody is made aware

that the political process cannot be avoided if, as is the case in Italy, the people and its institutions purport to build a democratic society organized in a liberal-democratic State.

This brings us to civil society, of which religious or belief communities are a vital component. Again, it is crucial in the Italian experience, and therefore in the Italian approach, that civil society is not replaced by the State. This is the fundamental teaching of article 2 of our Constitution, stating that the inviolable rights of the person are to be recognised and guaranteed not only as an individual, but also “in the social groups where human personality is expressed”. This experience and approach have proved decisive in inviting religious communities to contribute to the development of the nation. This is true for the Jewish communities and non-Catholic Christians, and Buddhists and Hindus and Sikhs, and Muslims as well. This is also true for the Catholic Church who developed, in Italy most notably, from an example of faith at odds with freedom of religion or belief, into an example of faith championing for freedom of religion or belief, in Italy and beyond.

Of course, beyond being a lesson from the experience and a principle for the future, the coherence between the legal framework, the political process and the civil society is also the test of whether freedom of religion or belief is protected, and how well. In its *2019 Global Report on Restrictions on Religion*, the Pew Center has assessed Italy as having a relatively low degree of restrictions. By comparison with other countries in Europe, Italy does better than France and Germany. Still, according to the Report, as in the rest of Europe restrictions in Italy have raised considerably from 2007 to 2017. This happened not much in the area of government restrictions, where Italy still scores better not only than France and Germany, but also than Austria, Belgium, Denmark and Spain. Instead, from 2007 to 2017 Italy has considerably worsened in terms of social hostilities. Again, this is a common feature in Europe, with the United Kingdom, for instance, doing much worse than Italy. Still this remains a very

negative finding, which I understand as a clear reminder that the approach to freedom of religion or belief needs to be one of balance between the different factors, where an apparently well-built legal framework is not enough if the political process and the civil society are not supportive of freedom.

5. Conclusion

No country system is perfect, and no country system is an island. Unlike countries and peoples that assume to be perfect, and to be islands, Italians are deeply aware that perfection can only be an inspiring goal, and that partnership is a necessity, and a value. Accordingly, in their approach to freedom of religion or belief, Italians have developed a system, and to some extent a model, which is progressive, integrated, and open.

The Italian system is progressive, based as it is on an incremental step-by-step process. It is integrated, since Italians reject State monism and national or religious exclusivism and are committed to the integration of various sources, factors and agents. Finally, the Italian system is open, because Italians are committed to preserving and perpetuating tradition and identity not through the repression of freedoms and diversity, not through the oppression of the people by the government, not through an hostile and aggressive nationalism, but by being open to social and political change. This has been witnessed across generations, and in recent times by champions of freedom, in Italy and beyond, such as Paolo Dall'Oglio and Giulio Regeni.

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FREEDOM OF RELIGION OR BELIEF IN THE EGYPTIAN LAW

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CONTENTS:1. Introduction - 2. The implications of recognizing freedom of religion or belief in the Egyptian law - 2.1 Legislations promoting religious tolerance 2.2 The right to establish places of worship - 2.3 The right to access the legal system

1. Introduction

Mr. Giampaolo Cantini, the Italian Ambassador to Egypt, thank you so much for your commendable initiative to convene this conference under the title “*From Freedom of Worship to Freedom of Religion or Belief*” which truly represents a significant contribution to fostering partnership between States, the international community and religious institutions.

Before examining directly freedom of religion or belief in the Egyptian law, it is critical to fully appreciate the strategic location of Egypt. Egypt has been one of the first countries to have a multi-national and multi-faith community. The impact of such diversity remains until this very day. The land of Egypt is honored and blessed

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to be the land that hosted some prophets and messengers, such as Moses, Aaron, Joseph, Jesus Christ, the son of Mary, and his mother. Egypt's geographical location is strategic as it is a transcontinental country, connecting the northeast corner of Africa and the southwest corner of Asia through the Sinai Peninsula. Egypt also has extensive coasts running along the Mediterranean Sea. This unique location makes Egypt act as an interface between the whole world, North Africa and the Middle East. The fact that Egypt is a connecting link among continents makes it an important commercial hub for the flow of trade among different countries as well as a cultural hub facilitating cultural exchange. Egypt's location and commercial potential encouraged many foreigners to settle in Egypt along with Egyptians in order to find better life opportunities. Gian Maria Piccinelli argues that the influence of the civil law model on the legal modernization period in Egypt, which began under Muhammad Ali's reign (1805–1849), is quite clear from the very beginning. He also observes that the presence of large communities of Europeans, especially the Italian, Greek and French communities, and their participation in the Egyptian government helped develop the process of legal modernization.

Practicing different religions was essential in Egypt to promote diversity. People either Christians, Muslims or Jews, with their own creeds and rituals, felt that they have the right to worship accordingly. In order to harmonize the practice of these different religions in Egypt, and reap the benefits of this diversity, the Egyptian legislature has promoted the concept of *citizenship* as a political, legal, and rhetorical symbol of the undeniable power of the Egyptian society, creating an Egyptian identity embracing different religions and cultures. The concept of *citizenship* grants a legal and political recognition to individuals inside a society and recognizes citizens as members of a community thus inherently entitling them to enjoy specific rights and fulfil obligations by virtue of this membership. According to the political notion of citizenship, each citizen is entitled to enjoy

the same rights and perform the same duties. In democratic nations, there are rights related to citizenship. This shapes our understanding of this concept including religion, and as such, if an Egyptian citizen is entitled to enjoy his rights without any encroachment, and to practice his religion without any hindrance, other citizens have a duty not to violate his rights or encroach upon his beliefs. This sophisticated connection between citizenship and freedom of religion has been well-received by the Egyptian legislative authorities throughout history. It was documented in different Egyptian Constitutions such as the Constitution of 2014. Article 53 of this Constitution states that

citizens are equal before the law, and possess equal rights, freedoms, and general duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason.

Discrimination and incitement to hatred are crimes punishable by law.

The State shall take the necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose.

Being an inherent right for citizens, the Egyptian Constitution of 2014 in article 64 stipulates that “freedom of belief is absolute, and the freedom of practicing religious rituals and establishing places of worship for the followers of divine religions is a right regulated by law”. Freedom of religion is a well-established notion in the historical development of the various Egyptian constitutions. Prof. Yahia Al Jamal observed that starting from the 1923 Constitution, which came as a result of the liberal revolution of 1919, and ending with the last Constitution of 2014, freedom of belief has always been given

special attention and consideration in the Egyptian legal system. For instance, article 12 of the Constitution of 1923, stipulates that “Freedom of belief is absolute” and article 13 of the same Constitution incorporates a provision that could be complementary to the previous article. It reads as follows: “The State protects the freedom to practice religious rituals and embrace beliefs in accordance with established customs in Egyptian homes, provided that this does not violate public order or public morals”. These provisions clearly prove that Egypt has acknowledged the importance of freedom of religion or belief for both its citizens and foreigners living in the country since its foundation.

The different Egyptian Constitutions recognize two inextricably linked rights in connection with freedom of belief. Under the Egyptian Constitutions, a citizen enjoys full freedom to embrace a faith or a creed as he perceives fit, and that is why it is an absolute right. Freedom of belief cannot be separated from the freedom to practice the rituals of one’s religion, if any. This perception encouraged Egyptian legislators to mention these two religious rights in a single sentence in article 64 of the 2014 Constitution.

2. The implications of recognizing freedom of religion or belief in the Egyptian law

Religious rights are meaningless if they are not enforced on the ground. Considering *citizenship* in the context of freedom of belief, lawmakers in Egypt have confirmed that religious and legal rights are inherent rights for Egyptian citizens. As evident in the Egyptian Constitution, legal and judicial authorities exert tireless efforts to remove barriers to equal access to religious practice, the legal system and judicial services free from religious bias or any other type of discrimination, so that the law applies equally to all Egyptian citizens. Examples of these legislations include laws that promote religious

tolerance, that stipulate the right to establish places of worship, or ensure equal access to the legal and judicial system.

2.1 Legislations promoting religious tolerance

Recognizing religious freedom for Egyptian citizens requires safeguarding the right to freedom of religion or belief against hatred crimes which are based on discriminatory practices and bigotry. The protection of citizens from discrimination on the basis of race and religion has always had a place in the Egyptian law. In fact, legislations against faith-based hatred under the Egyptian law exert much effort to strike a balance between different national policy goals and objectives.

The current legislations strongly reflect an overriding concern to promote “religious tolerance” in the Egyptian society as an integral part of a comprehensive national policy that endorses multiculturalism as part and parcel of diversity in Egypt. In this respect, David Brink claims that offensive speech “undermines the culture of mutual respect necessary for effective expression and fair consideration of diverse points of view”. This diversity is still threatened by competing social tendencies that are oriented towards intolerance, bigotry, ignorance about citizenship and focused on justifying discriminatory practices, and therefore, the Egyptian law deems all sorts of religious defamation crimes punishable by law as specified in the criminal law. A key analytical task, however, is to identify what sort of actions constitute religious defamation crimes. Article 53 of Egypt’s Constitution of 2014 outlaws insults against religions and criminalizes discrimination and “incitement to hatred” based on “religion, belief, sex, origin, race [...] or any other reason”. J. Peter Byrne describes some forms of incitement to hatred and discrimination that include hate speech using epithets that insult and stigmatize others in connection to their race, religion, or other forms of group membership. In order to provide a closer description of contempt of religion, articles 98 (f)

and 160 of the Egyptian Penal Code (Law no. 58 of 1937 as amended in 2006) provide plenty of examples of hate crimes, and grant judges discretionary powers in this regard if such crimes are proved. The law states that

Whoever exploits religion in order to promote extremist ideologies by word of mouth, in writing or in any other manner, with a view to stirring up sedition, disparaging or contempt of any divine religion or its adherents, or prejudicing national unity shall be punished with imprisonment from six months to five years or shall pay a fine of at least 500 Egyptian pounds.

In a similar context, article 160 of the Egyptian Penal Code also stipulates that

without prejudice to any more severe punishment, a three-year sentence and a fine of no less than one thousand pounds and no more than five thousand pounds shall be imposed on anyone who disrupt or interrupt the religious rituals, observances or celebrations of any community; or offend any other emblems significantly revered by a sect or a group of people.

If the purpose of committing this is to cause discord, threaten, or destabilize national unity, the maximum penalty shall be imprisonment for a period of seven years, without prejudice to any more severe penalty stipulated in another law, and the penalty shall be three-year imprisonment for anyone who violates the sanctity of graves or cemeteries or defile them, and the punishment shall be aggravated as follows: imprisonment for a period

of no less than five years, if any of the previous crimes are committed for the purpose of terrorism.

A closer examination of these legal provisions reveals that the Egyptian Penal Code primarily describes the crime of contempt of religion as the exploitation of a religion to promote extremist ideas, by any means, including: writing, photographing, publishing, or spreading rumors, and other means of publicizing these extremist ideas. This crime also aims to cause sedition which in turn undermines the established order or offends one of the divine religions to threaten the peace, security, and national unity of the Egyptian society. The crime of contempt of religion is proved if two elements are established, a criminal act, that is *actus reus* and a criminal intent, that is *mens rea*, and the concurrence of the two. The criminal act is manifested in the exploitation of a divine religion to promote extremist ideas under a disguised or misleading part of religion through any means of publication. In addition to the criminal act, there must be a criminal intention to despise divine religions, or stir up discord, or harm national unity and social peace in Egypt. It should be noted that the crime of religious contempt can occur even if it is only attempted, when the intended criminal action has been committed, but the desired criminal objective was not accomplished for a reason that is outside the will of the criminal, either because the action was stopped by security forces, or because the victims did not respond to the criminal action.

Whether words or behaviors can “threaten the public order” is a question upon which judges can decide. Judges in courts have broad powers to find criminal intent (based on criminal law standards) and to strike a proper balance between safeguarding the right to free expression and protecting interests guarded under the Penal Code.

2.2 The right to establish places of worship

As mentioned earlier, religious rights are meaningless if they are not enforced on the ground. To uphold this constitutional right, the Egyptian law regulates the establishment of places of worship. The Constitution seeks to turn freedom of belief from ink on paper to reality on the ground. Building places of worship is a legal process that is ruled by regulations. Building mosques in Egypt is governed by a special law passed in 2001. Under this law, it is not permissible to establish a mosque except after obtaining an approval from the Ministry of Endowments (*Awqaf*), and subsequent to verifying the suitability of the site and the need for this mosque. The area in which the proposed mosque is to be built must be in real need for an additional mosque due to residential density that existing mosques cannot accommodate, the distance between an existing mosque and the mosque to be constructed should not be less than five hundred meters, the proposed land for the mosque should not be usurped, grabbed or disputed. The construction of the mosque must be in compliance with engineering drawings and designs prepared by the Ministry of Endowments and in line with the location, area and estimated costs of the project.

On a different note, the Egyptian House of Representatives enacted the “Churches Construction Law” (Law No. 80 of 2016) in implementation of article 235 of the 2014 Egyptian Constitution. This new law is central because it merges all the legal procedures pertinent to the construction of churches into a unified code. Before this law, the construction process was governed by many regulations including the “Azabi Decree” of 1934. According to the new law of 2016, the legal representative of the sect must submit a request, supported by the relevant permits and documentation, to the concerned provincial governor. This request aims to secure a license for making many construction-related activities including “building, expansion, enhancement, reinforcement, demolition, external finishes

of a church, church annex, services building, or retreat center.” In accordance with article 2, the proposed size of the church to be built and of the church annex should take into account the number and needs of the local Christian community, in addition to population growth rates. In accordance with article (5), the competent governor is obligated to decide on the application referred to in Articles (3) and (4) of this law after ensuring that all the legally required conditions are fulfilled within a period not exceeding four months from the date of its submission, and notifying the applicant by a registered letter of the result of examining the request and in case the request is rejected, the decision must be justified.

The Egyptian judiciary is a key partner to the Egyptian House of Representatives in relation to protecting freedom of belief. For instance, in 2016 the Alexandria Administrative Court, in a historic court decision, established a legal precedent that governs Christian places of worship by indicating that churches in Egypt cannot be offered for sale nor have their purpose changed, and considered anything that runs counter to this as against the public order. With this ruling, the court sent a strong message to the community, indicating that a church should remain a church, whatever the circumstances might be. The church under dispute is 200 years old, and it represents a historical monument of the ancient city of Rashid. The municipal authorities in Bahaira declined a request made by a citizen, detailing a purchase of the church and a request to demolish the Rashid church, which he purchased from the church owners in 1991 with the sale contract being registered in 2009, since he wanted to change its purpose and build a residential building. This dispute was brought before the Alexandria Administrative Court and the court decided that the request to demolish the church and the sale of the church run counter to “a constitutional court decision that was issued earlier.” The court unequivocally banned demolishing churches and invalidated this sale transaction, even if the church was purchased under a registered contract.

The court based its decision on a former ruling of the Supreme Constitutional Court in 2004 (case number 162 of the judicial year 21 B, session dated 7 March 2004) that granted churches and mosques an equal status under the law of “*waqf*” (endowment), by prohibiting reversal or change in the status of a church or a mosque as they are endowments. The Supreme Court judgment is based on the Law of Endowment No. 48 of 1946 that makes endowment for mosques eternal with no possibility of superseding it. Based on this law, the court decided that both churches and mosques are places dedicated to worship and that any distinction or discrimination between them is unconstitutional.

Furthermore, the court relied on the opinion of the Mufti and the honorable *fatwa* of Al-Azhar stating that Islamic law guarantees the protection of places of worship for all religions. In addition to that, for the first time, the court accepted Pope Tawadros’s intervention in the lawsuit to protect a church from demolition. Pope Tawadros considered this church to be a religious symbol of Christianity as a whole, regardless of sects.

2.3 The right to access the legal system

Citizenship, as the basis of freedom of belief, has encouraged Egyptian lawmakers to ensure and promote equality before the law for all Egyptians in the sense that each citizen is entitled to access the legal system on equal footing and without discrimination. Such equal access to the legal system makes a person able to enjoy rights, secure remedies and protect his/her legal interests. Ideally, an inherent characteristic of a legal system requires it to be fair, expeditious, and accessible for any person. Considering the relation between freedom of belief and the requirements of a sound legal system, the Egyptian Law secures this access to justice by protecting access to information in relation to the law and legal rights, and the right to seek a legal

advice and pursue legal remedies. The Egyptian Constitution of 2014 in article 98 stipulates that “The right to defense in person or by proxy is guaranteed. The independence of lawyers and the protection of their rights is a guarantee for the right of defense. The law offers financially incapable persons means to seek legal redress and defend their rights.”

In a similar context, as we have seen in paragraph 1, the Egyptian Constitution stipulates in article 53 that Egyptians, regardless of religion, are equal before the law.

Confirming the right to equality, the Egyptian Supreme Constitutional Court (in Appeal ruling No. 15329 of Judicial year 79, session dated 28 October 2017) decided that those principles (stipulated in successive Egyptian Constitutions and establishing equality among all as a basic pillar upon which society is based) make people equal before the law, because they are judged by the same rule. This is a tool for justice, the essence of freedom, and a foundation for social peace. The court confirmed that freedom to access the legal system addresses discrimination that undermines rights or restricts their practice, and that this is what justice strives to do. The scale of justice may tilt while enforcing the law, as it may grant or deny people rights despite the fact that these people have the same legal standing, which runs counter to the concept of impartiality stipulated in legal rules, where the governing rule should be the same in similar facts, otherwise impartiality is nothing but empty rhetoric, preached and not practiced. And as such, some litigants are favored at the expense of others, despite the unity of the subject over which they are litigating.

Access to justice is also another right that stems from the concept of citizenship and the way it relates to the Egyptian identity, which has been protected by the Egyptian law regardless of religious affiliation. The Egyptian Constitution of 2014 in article 97 stipulates that “litigation is a safeguarded right and guaranteed to all. The State

shall bring together the litigating parties and work to expedite the settlement of cases. It is prohibited to grant any administrative action or decision immunity from judicial oversight. Individuals are only tried before their natural judge. Extraordinary courts are forbidden.”

Furthermore, the Egyptian Supreme Constitutional Court (in Appeal No. 15329 of the judicial year 79, session dated 28 October 2017) indicated that the Supreme Constitutional Court in Case No. 198 of judicial year 20 ruled that people must neither be discriminated against in relation to their right to access their natural judge, nor in the scope of procedural and substantive rules governing similar judicial litigation, nor in the right to defense that is guaranteed by the Constitution and by legislators, and nor in accessing it according to uniform standards when the conditions for its request are met. The court further established that the same rights should be regulated under uniform rules, and that this applies to the right to litigation, defense, or remedy.

In conclusion, freedom of religion or belief is an inherent right for individuals under the Egyptian law. This right is protected by the Constitution which is the supreme legal document in Egypt, and is regulated by law. The Egyptian law and Constitution do not only protect religious freedom, but also recognize how critical it is to enforce it on the ground through letting people practice their faiths.

Dear Ambassador Giampaolo Cantini, once again thank you so much for hosting this important conference. And thank you for your hospitality.

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CLOSING REMARKS

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1. Introduction

Recent years have witnessed a great interest in freedom of religion or belief (FoRB) and an emerging consensus on the importance of strengthening the international promotion and protection of this universal human right.

The convocation of this conference is an example of this rising interest.

However, despite a robust scheme for its protection and a considerable range of governmental, intergovernmental and civil society efforts to advance it, FoRB is proving to be a difficult human right to guarantee and safeguard. Indeed, there is evidence to suggest that FoRB is the fastest eroding human right in the world.

There are many reasons for this, but part of the problem is that while there is considerable consensus among the various actors

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involved that FoRB is a thing of value and worthy of protection, there are significant variations in – and even conflicts between – conceptions of and approaches to FoRB.

There are many misunderstandings and misconceptualizations about the nature, status and scope of FoRB as set out in international and regional standards and relevant political commitments. This is a very worrying phenomenon as it has real world effects. Misperceptions and inadequate conceptualizations lend intellectual support to excessive restrictions on FoRB, leading to worrying protection gaps for vulnerable and at risk groups such as women, migrants, asylum seekers, refugees, and religious minorities.

This important conference provides a most welcome opportunity for dialogue around a holistic and inclusive understanding of FoRB as a human right. Conceptual clarity around the very substance of FoRB would seem necessary if States, international and intergovernmental organizations, civil society organizations, religious or belief communities, and the academy are to make sustained, universal progress in the area of FoRB and related human rights for all, one that will help to support the development of relevant and effective context-specific strategies for action.

I would like to offer some closing reflections on some of the key elements and principles that are integral to an inclusive approach to advancing FoRB, in keeping with its status as an inalienable entitlement for all human beings everywhere as set out in relevant international standards and commitments, including those entered into by participating States of the Organization for Security and Cooperation in Europe (OSCE).

2. Misunderstandings and misperceptions about freedom of religion or belief

In framing a way forward which does justice to the nature and complexity of FoRB as a human right, we need to address some of the misunderstandings and misperceptions that have shaped approaches to its promotion because, from a human rights perspective, they present major challenges.

These include:

- a historical scepticism which has existed and which still exists within the secular human rights community towards engaging with FoRB. These stem, in large part, from a hardened secularist attitude towards religion in general and poor literacy about specific religious belief systems. As a result, many human rights actors have paid little attention to religion, seeing religion as at best essentially irrelevant to human rights, at worst a source of violations of human rights. From this perspective, FoRB has come to be seen as “a luxury” or a “lesser right”, and thereby detached from the rest of the human rights community. This attitude has also contributed to a reductionist approach to, or understanding of, FoRB which seeks to limit it to mere belief or private worship while neglecting the equal protection given under international law to conviction-based practices, collective expression and manifestation, and religion’s public involvement;

- at the other end of the spectrum, there is the approach of some FoRB promoters who tend to emphasize an understanding of FoRB as the most important of all human rights. This is understandable, insofar as FoRB was for many years an overlooked right, in dire need of attention. Nonetheless, an understanding of FoRB as “the first and foremost right” is arguably just as problematic as the understanding of FoRB as a “a luxury” or “irrelevant”. An overemphasis on the promotion of FoRB can lead to skewed interventions, overlooking other aspects

and rights involved in religious or belief-related discrimination and persecution. Furthermore, and equally problematic, an understanding of FoRB as the most important right sometimes entails assumptions that this right is potentially at odds with other rights, such as rights related to gender equality and non-discrimination and freedom of expression;

- and there is another approach that presents FoRB as a universal right of all individuals and communities, but nevertheless contends that today's most pressing concern is the persecution of certain religious communities and so the focus should be on these specific groups. Unfortunately, there are some "FoRB" advocates that go beyond this position in that they understand FoRB as a right that protects only certain religious groups and individuals rather than as a right that protects *all* religious and non-religious groups and individuals, including those that wish to be "free from religion". Indeed, in some quarters, FoRB is being promoted in a tribal and exclusionary manner, where "FoRB" is less about defending the right of religious believers to hold and practise their faith and more about defending the right of the majority to denigrate and abuse a vulnerable minority.

3. Toward an inclusive human rights approach to advancing freedom of religion or belief for all

Against this background of misperceptions about FoRB and concomitant tendencies to particularize and at times polarize international FoRB promotion, recent years have witnessed the emergence of positions and approaches that anchor the work more firmly and broadly within a human rights framework as part of a more inclusive discourse on FoRB.

This is an approach to which OSCE participating States have long committed. It is an approach grounded in key human rights principles of universality, dignity, freedom, equality and non-discrimination, the indivisibility of human rights, and in line with the multi-dimensional and holistic nature of FoRB as a human right. It furthermore recognizes that the societal and other benefits associated with FoRB are only realizable when this human right is implemented fully in line with international standards and commitments:

- *Universality and non-discrimination*: FoRB is linked with the idea of humanity in all its diversity and needs to be promoted unequivocally as a right for all people, because when it is restricted to one group it does indeed become a force for harm, not good. FoRB is a right of all individuals, regardless of what religion or belief they may adhere to (or none). Religious minorities are often vulnerable to FoRB violations, but violations also affect other groups and individuals, including atheists, converts, dissidents, children, women, LGBTI individuals, migrants, refugees, etc. FoRB should not be used as a weapon of exclusion; instead, we should defend the freedoms of those with whom we deeply disagree, but which do not harm us.

- *Indivisibility*: there is no hierarchy of human rights, all of which are ultimately “universal, indivisible and interrelated and interdependent”, to cite a formula coined at the 1993 World Conference on Human Rights in Vienna. In this light, it is not helpful to refer to FoRB as either a “secondary” or as “the first and foremost right”. Neither approach reflects adequately the complex realities on the ground. FoRB is closely related to and intertwined with other human rights, such as freedom of association and assembly and freedom of expression, and to enjoy FoRB fully, these and other rights must also be protected. FoRB is also related to other human rights in the sense that discrimination against individuals and groups on the grounds of religion or belief rarely concerns only restrictions of

religious or belief-related practices and other manifestations of their religion or belief, but also entails violations of other rights.

-The multi-dimensional and holistic nature of FoRB: FoRB has individual, collective, institutional, educative and communicative dimensions. Due attention should be paid to all these dimensions. We must avoid fragmentation. We must avoid a narrow focus on the individual at the expense of the collective. And as important as collective rights are, FoRB is also a right of the individual to be free to choose and to change; this includes the freedom to practise or not practise one's religion or belief in the way one chooses even when this goes against the values and doctrines of the religious community of which an individual identifies with. An approach that equates FoRB promotion with protection of religious minorities risks overlooking or sidelining the important concerns of individuals who may not be aligned with the views of the mainstream/conventional/orthodox position within their communities, particularly women who claim their right to speak for themselves and interpret their religion in a way that is consistent with principles of equality and non-discrimination.

4. The need for enabling environments to advance freedom of religion or belief for all

FoRB requires enabling or empowering environments that allow people to hold and practise their religion or belief freely. If there is not an enabling environment, then everyone's rights are violated and not just those who may be experiencing discrimination or persecution. I would like to close by offering a few reflections based on ODIHR's work* in this area in recent years on some of the

* ODIHR is the principal institution of the OSCE responsible for the human dimension. ODIHR is active throughout the OSCE area in the fields of election observation, democratic development, human rights, tolerance and non-discrimination, and the rule of law. ODIHR has been active in the area of FoRB since 1997, seeking to build the capacity of

features of such enabling environments.

Role of the State

FoRB requires that the State serve as the trustworthy guarantor of FoRB for everyone; this means that States should provide an open, inclusive framework in which religious or belief pluralism can unfold freely and without discrimination. This requires overcoming any exclusivist settings; what must be overcome is an understanding in which the State identifies itself with one particular religion or belief at the expense of an equal and non-discriminatory treatment of followers of other persuasions. In the course of efforts to create a broader societal culture of respect for religious and belief diversity, there is sometimes a tendency to lose sight of the duty imposed on the State by international law to respect, protect and facilitate FoRB for all and to shift the emphasis from State obligations on to discussions around tolerance and dialogue among religious communities (or a subset thereof) only.

The need for broader alliances and coalitions

However, notwithstanding the vitally important role of the State, it cannot alone bring about the desired change. It has therefore been encouraging to see efforts to engage a range of important stakeholders in the creation of enabling environments for the advancement of FoRB for all. These commonly include religious and belief communities, civil society organizations, national human rights institutions and equality bodies, academic institutions and schools, and the media.

State and non-State actors to advance FoRB for all in accordance with the mandate given to it in consensually-agreed OSCE political commitments.

Nevertheless, there is an urgent need to diversify the range of actors involved. Broader and more inclusive alliances and coalitions are needed to advance FoRB for all. Very often, groups and networks that discuss FoRB are self-selecting ones involving people who have been long involved in this area, particularly religious minorities and certain long-established civil society activists. How do we engage with those who might exclude themselves or be left out of important conversations about FoRB? One way to do this is to mainstream issues of FoRB into other conversations rather than making it a standalone topic. How can FoRB be linked to issues that people care about, for example peace, climate change, sustainable development, and made relevant to these important discussions? This could be a way of ensuring that more people and more institutions realize the value of FoRB.

The need for universalism while appreciating context

We are learning that efforts to advance FoRB for all are best achieved in environments that embody universal values. There needs to be a commitment on the part of all actors to the universality of FoRB and other human rights. A key question here is how can we help people make international standards on FoRB, and the values that underpin them, their own? An important lesson is that while FoRB interventions should not lose sight of universal norms they must also have strong local anchorage/roots. Context matters and with particular force in this field. So interventions to promote FoRB must be locally relevant and resonant.

We have found that key cognitive shifts in relation to FoRB more readily come about when individuals are given the opportunity to learn about it as part of a deeper encounter with religious belief as lived experienced, and how belief, practice and expression affect daily lives, with one another, with one's nation, and with the world.

Opening common communicative spaces for consultation and reflection on religions and beliefs and human rights helps individuals, groups and communities connect more deeply with the meaning and substance of FoRB and with the concepts and issues at stake. The conversation about FoRB is multi-dimensional: it has an important theological aspect, and it is as much about underlying values as it is about the technical and legal content of the human right itself. It is as much about acquiring knowledge and fostering critical thinking and questioning (including self-questioning) as it is about nurturing empathy in relation to the needs, concerns and vulnerabilities of others. We have found that it takes time and effort to make this open, inclusive and reflexive discourse and encounter work for everyone or at least the majority of participants. But we have found that travelling into contexts and listening to people on the ground is an essential and dynamic means of effective learning and engagement on FoRB issues and ultimately aids in the local acceptance of this universal doctrine.

In most societies, local FoRB leadership is weak, divided and isolated, pointing to the need for active engagement with, and support to, local actors through well-crafted practical interventions involving capacity building and training in such areas as advocacy, communication and coalition building, as well as opportunities for networking.

The importance of engaging well and effectively with religious actors

-There is increasing acknowledgement that religious actors, particularly religious leaders with their considerable influence on the hearts and minds of millions of people, are potentially very important human rights actors.

-They hold important local knowledge and are likely to be key actors in promoting or undermining FoRB for all in their societies.

-They need to be brought into the conversation about FoRB, but the manner of doing this requires great humility, sensitivity and transparency on the part of non-religious actors such as intergovernmental organizations. Why humility? Because many religious actors and communities have been the most dynamic and courageous champions and defenders of human rights the world over for many centuries long before intergovernmental organizations came on the scene, and continue to work conscientiously and tirelessly to exorcise any prejudice and discriminatory attitudes from within their traditions and to embrace FoRB for all people, including their co-religionists.

- Engaging religious actors needs to be respectful of their autonomy, their unique standpoints, worldviews, spheres of influence and responsibilities. Great care must be taken not to instrumentalize them for a narrow political purpose. If intergovernmental actors seek to operationalize religious engagement to further a particular agenda or legitimize differential treatment between religious communities, religious engagement to advance FoRB and other human rights for all is unlikely to achieve its aims. Instrumentalizing religious actors is counterproductive at best, and dangerous at worst.

- Nevertheless, it is entirely appropriate to call on religious actors to exercise their responsibility to contribute to finding long-term solutions to religious intolerance and discrimination. Working on FoRB facilitates a privileged and transparent engagement with religious actors to advance their “religious social responsibility” in the public sphere, to enhance their contribution to the common good.

- When thinking about effective engagement with religion in

any setting, it is important to understand how the concept of lived religion operates in that context. The religious sector is broad, deep and complex. There is often little appreciation of the diversity of some religious traditions and communities. There seems to be an obsessive belief in some quarters in monolithically held views. Within many religions there is enormous variety of practice and interpretations which shifts according to context. If we are not sensitive to this, then our best and sincere intentions might end up masking this diversity and only serve to perpetuate essentialist readings of religion and unhelpful stereotypes of the “typical” religious actor or believer.

- Recalibrating understanding of the religious sector to go beyond official religious authorities and formal institutions makes it possible to discern a far more complex religious landscape populated by a far more complex array of actors and voices. For example, although many religious traditions limit formal religious authority to older males, in practice women play a major role in shaping understandings and interpretations of religions, both within families and as public religious leaders. Focusing only on men can serve to reproduce male domination of religious space and miss opportunities for more effective and impactful engagement. For similar reasons, younger or more junior leaders are often omitted from efforts to engage religious adults when they are often more credible and effective communicators, particularly with their peers in local communities. While respecting the autonomy of religious communities, it is often necessary to move engagement beyond religious leaders and engage the grassroots and individuals of capacity.

