



Federal Ministry  
for Economic Cooperation  
and Development



Federal Foreign Office

# The Federal Government's Third Report on the Global Status of Freedom of Religion or Belief

Reporting period 2020 – 2022







#### Information about the artwork on the front page of the report

The collage was created by José Ávila, a leader of the Huichol, an Indigenous people living in the Mexican state of Nayarit's Sierra Madre. To produce the collage, the artist first meditated and then took strands of wool coated with resin and wild bee wax, which he arranged on a wood panel. The Huichol are one of the Indigenous ethnic groups who continue to practise their pre-Columbian way of life and religion. They see themselves as guardians of the balance of life. Every year they make a pilgrimage to the sacred Wirikuta desert, which for them is the land of their gods and of the Heart of Mother Earth and Father Sun. They perform a ritual peyote hunt in the desert and slay the sacred peyote cactus, which they call hikuri. They then consume the peyote together to induce visions that will expand their consciousness. The collage features the Sun at its centre, surrounded by the peyote cactus and ritual objects used by shamans. (© BMZ)

*Dear readers,*

Freedom of religion or belief is an essential human right. Not a superordinate right, but not a marginal right either. It is closely intertwined with other rights such as freedom of opinion or assembly, or the right to be protected against discrimination. And that is the objective of my efforts: to embed this right firmly at the centre of the human rights agenda. There is still a long way to go to achieve this.

Freedom of religion or belief is also a human right that is constantly being misunderstood. It is not about any religion, church or institution claiming their rights. And I am not a Commissioner for Religion. It is about the freedom of every individual to manifest their religion or belief, either alone or in community with others, or to change it, or to not have any a religion or belief. Raising awareness of this and providing input for debates both in the political sphere and in society is one of the aims of the Third Report on the Global Status of Freedom of Religion or Belief.

This report is about advancing the debate and it also enters new territory. It builds on the work done by my predecessor, Markus Grübel, but there are also some aspects where the report has been developed further. This is also reflected in the number of focus countries, which has been increased from 30 to 41. The German Parliament, the Bundestag, had asked for the country section to be expanded, and we were happy to comply with that request. Enlarging the range of countries covered by the report provides an opportunity to do two things at once: offer a regular report on developments in individual regions, and expand the focus in the light of new challenges. Among the focus countries that have been added this year are Armenia, Belarus, Guatemala, the Central African Republic, Lebanon, the Maldives and Syria.



For some of them, the decision to add them was taken in the light of recent developments. With these aims in mind, the report will continue to be submitted at regular intervals as intended by the Bundestag, building on a solid basis of data and information.

The report explores new ground above all with its thematic focus on the freedom of religion or belief of Indigenous peoples. There are about 5,000 such groups of people worldwide, with an estimated total population of more than 470 million. With this focus our report ties in with a report by the UN Special Rapporteur on freedom of religion or belief, developing the topic further. In the process of drafting the report, I realised that we are doing pioneering work, because there was and still is the belief that Indigenous spirituality has nothing to do with freedom of religion or belief.

The report provides an opportunity to look in a different way at conflicts over land and infrastructure that involve Indigenous communities. And to develop an understanding that often such conflicts are not just about resources but in fact have to do with Indigenous peoples' belief that all natural things have a spirit or soul. My personal learning curve on this topic is closely connected with Indigenous communities in Guatemala and my experiences with conflictual infrastructure projects. When I visited Guatemala many years ago, I had difficulty understanding why people staged fierce and violent protests against small-scale hydro-power plants that were actually environmentally friendly. Today I know that the areas surrounding a small river were regarded as important spiritual places, with Indigenous communities believing that the forest had a soul, and that interfering with nature there without giving any thought to the spiritual implications was not acceptable. I am pleased that, through this report, readers will now

be able to deepen their understanding of Indigenous spirituality in keeping with the human right to freedom of religion or belief.

When we started to draft the report, some important academic groundwork was missing. One missing aspect was an understanding of what is meant by “Indigenous peoples” and of their specific spirituality. But that also concerns the concept of religion as it has been applied in the human rights context so far. Advocating for the religious freedom of Indigenous peoples requires both an ethnologically sound understanding of Indigenous spirituality and rethinking how religion is regarded in the human rights context.

That is why, for the first time, a scholarly assessment is now being published as well, alongside the report section that has been coordinated and agreed within the German government. The assessment explores the specific human rights issues relating to Indigenous religiosity, and does so more comprehensively and thoroughly than could ever be possible in a government report. I am happy to help advance the political efforts to promote freedom of religion of Indigenous peoples worldwide in this way. I would therefore like to thank Professor Heiner Bielefeldt for his human rights expertise and Volker von Bremen for contributing the ethnological perspective concerning the spirituality of Indigenous peoples. And I would like to thank both of them for their willingness to develop this text through collaboration and discourse. I will take on board the findings delivered through this discourse, and I look forward to witnessing their societal and political impacts.

The second thematic focus of the report is the relationship between religion and sustainable development. I felt that this focus made sense because 2023 is the midpoint for the international community on the path towards reaching the SDGs by 2030. That is why I am pleased that this report also lends support to the policies of the German government as a whole that have the aim of acknowledging the importance and contribution of religious actors, and I very much encourage the efforts in this regard.

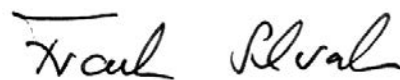
In the final section of the report, the German government mentions twenty specific measures with which it intends to promote the respect for and the protection and guarantee of freedom of religion or belief worldwide. This section also contains insights gained by looking at freedom of religion or belief through the eyes of Indigenous communities.

The purpose of the report, and of my work in general, is to help raise awareness of the importance of freedom of religion or belief as a human right and in the social and political debate, and to strengthen efforts to protect freedom of religion or belief worldwide. For I am convinced that taking an overall look at the existing challenges and exploring new elements such as Indigenous spirituality will also benefit other groups that are larger in numbers, such as Christians.

I would like to thank all those who supported me in drafting the report, particularly my team, and the people around the world who have been, and still are, important dialogue partners for me.

Human beings need their rights like they need air to breathe. Freedom of religion or belief is one of those fundamental rights. The German government will do its part in asserting it.

Best wishes,



*Frank Schwabe*  
*Member of the German Parliament*  
*Federal Government Commissioner for*  
*Freedom of Religion or Belief*

*Dear readers,*

Human rights are universal. Their focus is on a person's inalienable dignity and right to lead a free, self-determined life. In addition to declaring that human rights are universal and inalienable, the Universal Declaration of Human Rights also states that they are indivisible, which means that they are inseparably linked to one another. Personal freedom and a life in dignity therefore only exist when the entire canon of human rights is upheld and individual rights are not sacrificed for the sake of realising others. In this connection, the German government presents a report every two years on its human rights policy, setting out what it is doing to strengthen this canon of human rights worldwide. Against this backdrop, freedom of religion or belief constitutes an elementary component of human rights.

The decision to present a report on the global status of freedom of religion or belief was made by the German parliament, the Bundestag. Of course, the German government does not intend at all to give priority to a single basic right with this report. In fact, the report strives in one way to substantiate the interdependence between the right to freedom of religion or belief and other human rights, for instance when that right gets linked directly to forest or climate protection or to land rights.

Looking at the realisation of freedom of religion or belief worldwide, it quickly becomes clear that this human right, too, serves as an important yardstick for the rule of law and for the degree of freedom in a society. Freedom in this context means two things: It means that every person has the right to manifest their religion or belief, or choose not to do so, to change their adherence to a religion or belief, or keep it private and not reveal it. But it also means that the state refrains

from and prohibits any form of coercion to manifest one religion or belief, and ultimately fosters the peaceful coexistence of different religious communities and belief systems.



For the human rights work of the Federal Republic, it is important to take the respective state context and political conditions in each country into account. Restrictions on the freedom of religion or belief can occur not just in theocratic systems but also in secular or lay states. The reasons for this are often multi-faceted, forming a complex array of social, political, economic and religious circumstances.

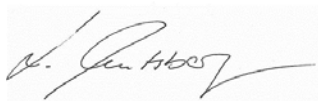
This also includes the recognition that, especially in autocratic systems and in contexts of war and crisis, religious minorities may face multiple discrimination and are often especially hard hit by violence.

Religious communities make a valuable contribution to peace work and to humanitarian assistance in many places. They offer social safe spaces, mediate in conflicts and forge interfaith alliances. Here they are not just important partners for human rights work, they are also agents of change in the respective societal context. At a time when the international system and the basic principles of international law are increasingly being openly questioned, it is also important not to be uncritical of the role played by religion and belief, or of the actions of faith-based actors. If religious communities stand opposed to other human rights, such as equality or sexual self-determination, then our position is clearly to support the universality of human rights.

I welcome that the present report puts a focus on Indigenous groups and the difficult situation that they often face concerning their political, economic and cultural rights – including their right to freedom of religion or belief. A self-critical

examination of Germany's colonial past is needed. The process of decolonisation is multi-faceted and complex. It is far from over. In the human rights context, this process goes far beyond questions of freedom of religion or belief. In this regard, the missionary activities among Indigenous groups which are addressed in the report are one relevant aspect among many, giving rise to responsibilities that must be acknowledged. It will continue to be important, following on from this report, to seek direct exchanges with Indigenous groups and to work with them in order to develop political solutions together.

I am therefore very pleased by your interest in this important topic and I wish you an informative and inspiring read.

A handwritten signature in black ink, appearing to read 'Luise Amtsberg', written in a cursive style.

*Luise Amtsberg,  
Member of the German Parliament  
Federal Government Commissioner for Human  
Rights Policy and Humanitarian Assistance*

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# Introduction

## The German government's efforts on behalf of freedom of religion or belief

With this Report, the German government is fulfilling the mandate given to it by the Bundestag (lower house of parliament) to report on the global status of freedom of religion or belief.<sup>1</sup> Freedom of religion or belief is enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Advocating for this specific right helps to bolster all human rights.

The German government's commitment to human rights is thus guided by its support for the freedoms of people who are discriminated against for a wide range of reasons. Women merit particular attention in that regard. They are often subject to discrimination, for example when they are members of a religious minority, are Indigenous, Black, poor or LGBTIQ+ or live with a disability. For that reason, the emphasis on religious freedom is a complementary part of the German government's feminist foreign and development policy. To enhance this commitment, it created the post of Federal Government Commissioner for Global Freedom of Religion in 2018. On 5 January 2022, it decided to situate this post within the Federal Ministry for Economic Cooperation and Development and appointed Member of the Bundestag Frank Schwabe as its Commissioner for Freedom of Religion or Belief until the end of the 20th legislative period.

Freedom of religion or belief includes the freedom to choose or change one's religious or belief-based faith, as well as the freedom not to adopt a religion or belief. Freedom of religion or belief is enshrined in Article 4 of the Basic Law (Grundgesetz) of the Federal Republic of Germany. In international law, it is one of the universally recognised human rights and is guaranteed in particular in Article 18 of the Universal Declaration of Human Rights (UDHR), Article 18 of the International Covenant on Civil and Political Rights (ICCPR), Article 9 of the European Convention on Human Rights (ECHR) and Article 14 of the United Nations (UN) Convention on the Rights of the Child. Practices of customary international law relating to this human right are reflected, for example, in resolutions on freedom of religion or belief of the UN General Assembly and the UN Human Rights Council. Restrictions on the fundamental human right to freedom of religion or belief have risen

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<sup>1</sup> See German Bundestag printed paper 19/28843.

to a high level and are even increasing in some countries, giving reason for concern.<sup>2</sup> This applies to adherents of various religions, as well as to the increasing persecution of people who are not religiously affiliated.<sup>3</sup>

The global COVID-19 pandemic occurred during the reporting period. The German government successfully contributed to the fight against it. The curfews and restrictions on movement imposed to prevent the spread of the COVID-19 virus also affected members of every religion all over the world. Some of the measures involved restrictions to freedom of religion or belief.<sup>4</sup> Governments urged religious groups to take voluntary measures to limit the spread of COVID-19, including refraining from holding worship services and limiting times for prayer. Measures of this kind were also misused by authoritarian actors in an attempt to curtail spaces used by civil society –

including religious groups. This is discussed at relevant places in the country section of the Report.

This Third Report on the Global Status of Freedom of Religion or Belief covers the period from 2020 to 2022. It was prepared by the Federal Government Commissioner for Freedom of Religion or Belief, who is based at the Federal Ministry for Economic Cooperation and Development (BMZ), in cooperation with the German Federal Foreign Office (AA). In addition to data from the German missions abroad, the Report reflects information from NGOs, religious communities and experts. It also includes the results of many personal discussions between the Commissioner and individuals within affected communities, experts, representatives of civil society and academia and politicians, which have taken place all over the world, including at international conferences and meetings on this subject area.

## The political relevance of freedom of religion or belief

Public awareness of the political relevance of religions and beliefs has recently increased as a result of the Russian war of aggression against Ukraine and the Russian Orthodox Church's open support for it on religious grounds. In addition, select statements by contemporary sociologists

and philosophers during the reporting period have drawn attention with assertions such as “democracy needs religion”<sup>5</sup> or that “democratic resistance movements continue to be fuelled by religious motives up to the present day.”<sup>6</sup> Those views shed light on the major political relevance

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- 2 See: Pew Research Center (2019): “1. A Closer Look at How Religious Restrictions Have Risen around the World”. Available at: <https://www.pewresearch.org/religion/2019/07/15/number-of-countries-with-very-high-government-restrictions-on-religion-remains-at-highest-levels-since-2007/> (accessed: 20 September 2023). Worldwide, more Christians have been prosecuted in recent years than ever, Zdfheute (2023): “Open Doors: 360 Millionen Christen weltweit verfolgt”. Available at: <https://www.zdf.de/nachrichten/panorama/verfolgte-christen-open-doors-100.html> (accessed: 20 September 2023). There is a lack of systematic investigations into persecution of other religious groups, International Society for Human Rights, German Section (IGFM) (2019): “Werden Christen stärker verfolgt als andere Religionen?” Available at: <https://www.igfm.de/werden-christen-staerker-verfolgt-als-andere-religionen/> (accessed: 20 September 2023). However, Muslims and religious minorities are also experiencing increasing waves of persecution, partly due to the COVID pandemic. (In China, Muslims are persecuted to a greater extent than Christians, both in absolute and relative terms.)
  - 3 See Crawford, S., Villa, V. (2023): “Religiously unaffiliated people face harassment in a growing number of countries”, Pew Research Center. Available at: <https://www.pewresearch.org/short-reads/2023/01/27/religiously-unaffiliated-people-face-harassment-in-a-growing-number-of-countries/> (accessed: 20 September 2023).
  - 4 See Majumdar, S. (2022): “How COVID-19 Restrictions Affected Religious Groups Around the World in 2020”, Pew Research Center. Available at: <https://www.pewresearch.org/religion/2022/11/29/how-covid-19-restrictions-affected-religious-groups-around-the-world-in-2020/> (accessed: 20 September 2023).
  - 5 Rosa, H. (2022): *Demokratie braucht Religion*, Munich: Kösel. English translation: Rosa, H. (2024) *Democracy Needs Religion*, trans. V.A. Pakis (Cambridge: Polity Press).
  - 6 Habermas, J. (2019): *Auch eine Geschichte der Philosophie, vol. 1. Die okzidentale Konstellation von Glauben und Wissen*, Berlin: Suhrkamp, p. 78. English edition: Habermas, J. (2023): *Also a History of Philosophy, Volume 1: The Project of a Genealogy of Postmetaphysical Thinking*, trans. C. Cronin (Cambridge: Polity Press).

that religion potentially continues to have. That is why the German government takes the subject of freedom of religion or belief into account in its work.

This Report emphasises that religions and beliefs can strengthen the commitment to democracy and promote development based on human rights which is ethically oriented and economically, socially and environmentally sustainable. Effectively guaranteeing freedom of religion or belief is a prerequisite for this. As described in the Second Report, the German government is basing its approach on tapping the potential offered by beliefs and religions and seeking to strengthen cooperation with religious actors all over the world, for example as part of crisis prevention and management, as well as the transformation to sustainable development.<sup>7</sup> The Sustainable Development Goals (SDGs) set out in the UN's 2030 Agenda – such as ending poverty and hunger and achieving an equitable transition to climate neutrality – cannot be achieved without those actors, given their ability to influence political and societal trends. In many partner countries, religions play significant roles with regard to the socio-environmental transformation, sustainable development and peace. This Report specifically addresses that potential. In accordance with the National Security Strategy, feminist foreign and development policy involves key actors in society,

a category that in many countries includes representatives of religions as well as human rights organisations. Efforts in cooperation with various representatives of religious groups have shown a positive track record, for example in the fight against female genital mutilation and other forms of gender-based violence. This Report is also intended as a contribution to a feminist development and foreign policy that seeks to effectively counteract the mutually reinforcing overlap of various forms of discrimination (a phenomenon known as intersectional discrimination).



*Commissioner Frank Schwabe talking to Dr Muhammad Kabir Adam, Chief Imam of the Abuja National Mosque, Nigeria*

## Structure of the Report

The first section builds on current debates and requirements for transformations with a focus on the issue of Indigenous spirituality, which has previously been neglected in these contexts. Indigenous peoples' freedom of religion and belief has only recently received broader recognition in the human rights context. The second section is dedicated to the thematic area of religion and sustainable development and devotes particular attention to the Sustainable Development Goals

(SDGs) of good health and well-being (SDG 3), gender equality (SDG 5), and peace, justice and strong institutions (SDG 16). Thus, this focus takes up a central concern from the Bundestag debate on the Second Report. Next, 41 country reports examine the individual circumstances and developments in selected countries since the last reporting period. The final section summarises the German government's measures and highlights the central importance of the Indigenous

<sup>7</sup> See BMZ (2016): Religious communities as partners for development cooperation. pp. 18–19. *partner-religion-development.org/fileadmin/Dateien/Resources/Knowledge\_Center/Publikationen/BMZ\_religionen\_als\_partner.pdf* (accessed: 4 April 2023).



and Tribal Peoples Convention (Convention 169 of the International Labour Organisation, or ILO), the equality of women and other marginalised

groups, the transition to sustainable development and the connection between supply chains and freedom of religion or belief.

## Section 1: Indigenous peoples and the right to freedom of religion or belief<sup>8</sup>

Indigenous peoples' freedom of religion or belief is one of the priorities in the Commissioner's work. It is part of an assumption of responsibility for universal human rights that is both tangible and appropriate for our times. Fundamental conflicts concerning the rights of Indigenous peoples also relate to the human right to freedom of religion or belief. The religious freedom of Indigenous peoples has not been a focus of human rights policy until recently.<sup>9</sup> More than ever before, experts understand that there can be no discussion of protecting forests and the climate without taking into account Indigenous peoples' land rights and rights to freedom of religion or belief.<sup>10</sup> Therefore, a Scholarly Assessment by Professor Heiner Bielefeldt and Dr Volker von Bremen, which explores these issues in greater detail, has been included as an annex to this Report.

Indigenous peoples can be important catalysts of sustainable ways of life. With their values and commitment, their impact can extend beyond the

immediate places where they live. Approximately 5,000 Indigenous peoples live in about 90 countries worldwide. Despite internationally recognised collective rights, they are largely excluded from political, economic and cultural life in many countries. The International Labour Organisation (ILO) estimates the total number of Indigenous people at over 476 million. The fact that Indigenous people are almost three times more likely to suffer from extreme poverty, with Indigenous women particularly affected by inequality, justifies the human rights focus adopted here.<sup>11</sup> More than 25 per cent of the world's land area is inhabited and used by Indigenous peoples. This corresponds to 40 per cent of conservation areas and ecologically intact landscapes.<sup>12</sup> More than 60 per cent of the world's most coveted natural resources are located in Indigenous territories. This is another reason Indigenous peoples are disproportionately at risk in their activism on behalf of nature. More than 36 per cent of the environmental and land rights activists murdered in 2021 were Indigenous,<sup>13</sup> although Indigenous people

8 As described in the Commissioner's foreword, this section was compiled in cooperation with Professor Heiner Bielefeldt and Dr Volker von Bremen.

9 See Ghanea, N. (2023): "Landscape of freedom of religion or belief – Report of the Special Rapporteur on freedom of religion or belief, Nazila Ghanea", UN Doc. A/HRC/52/38 27.02.-31.03.2023. The ecumenical report on freedom of religion or belief, published on 5 July 2023, also covers the freedom of religion of Indigenous peoples and their members, citing major challenges. See Deutsche Bischofskonferenz [German Bishops' Conference], Evangelische Kirche [Protestant Church in Germany] (2023): "3. Ökumenischer Bericht zur Religionsfreiheit weltweit 2023", joint texts no. 28, Bonn/Hannover.

10 IPCC, 2022: Summary for Policymakers. In: *Global Warming of 1.5°C: An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 3–24, doi:10.1017/9781009157940.001.

11 See Dhir, R. K. et al. (2020): "Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future", International Labour Organization (ILO). Available at: <https://www.ilo.org/publications/implementing-ilo-indigenous-and-tribal-peoples-convention-no-169-towards> (accessed: 20 September 2023).

12 Garnett, S.T. et al. (2018): "A spatial overview of the global importance of Indigenous lands for conservation", *Nature Sustainability* 1, 369–374, <https://www.nature.com/articles/s41893-018-0100-6> (accessed: 20 October 2023).

13 Global Witness (2023): Standing firm: The land and environmental defenders on the frontlines of the climate crisis. Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/standing-firm/> (accessed: 20 October 2023).

only make up 6.2 per cent of the global population.<sup>14</sup> When Indigenous peoples' land rights and cosmovision<sup>15</sup> are protected, there are enduring and sustainable benefits for climate and environmental protection – at a fraction of the cost of conventional conservation programmes.

In 2007, the United Nations General Assembly declared that “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all [eight] human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.”<sup>16</sup> Effective protection of those rights requires that Indigenous peoples' specific life circumstances and human rights concerns be taken into account, including with regard to their spirituality. Taking into account the long-neglected spiritual experiences of Indigenous peoples can make an important contribution to the development of international human rights policies. The specific instances of injustice that Indigenous peoples have undergone when their spiritual experience has been treated contemptuously as “inferior” should be recognised as injustices and reflected in the human rights system.

This Report and the annexed Scholarly Assessment demonstrate the relevance of engaging with the rights of Indigenous peoples for a contemporary formulation of human rights policy. In recent years, the question of how to deal with the legacy and consequences of colonialism has grown more prominent. The task of coming to grips with the legacy of colonialism cannot be separated from the task of coming to grips with present-day experiences of violence in the individual countries. The process of decolonisation<sup>17</sup> emerges from the recognition of injustices committed during the colonial period. It cannot be conceptualised as a clear break or an abrupt new start, but as part of the ongoing history of colonialism. This process must be self-critical and must foreground the perspectives of those affected. This Report aims to live up to this standard by amplifying specific Indigenous concerns. The point is to overcome ongoing discriminatory power structures, norms and ascribed roles.

Indigenous peoples suffer not only from massive, systematic violations of their land rights, but also from similar violations of their freedom of religion or belief. With its focus on Indigenous people in Latin America, the annexed Scholarly Assessment can provide an impetus for a human rights policy that better considers indigenous peoples.

14 Dhir, R. K., et al. (2020): “Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future”, International Labour Organization (ILO). Available at: <https://www.ilo.org/publications/implementing-ilo-indigenous-and-tribal-peoples-convention-no-169-towards> (accessed: 20 September 2023).

15 The term “cosmovision” refers to the religious belief that human life depends on the balance between human community, the natural world and supernatural transcendence; see the annexed Scholarly Assessment by Heiner Bielefeldt and Volker von Bremen.

16 UN General Assembly: 61/295). United Nations Declaration on the Rights of Indigenous Peoples, UN GAOR, 61st Session, Annex, Agenda item 68, at 1, UN Doc A/RES/61/295 (2023).

17 Fischer-Tiné, H. (2021): “Dekolonisation im 20. Jahrhundert”, German Federal Agency for Civic Education. Available at: <https://www.bpb.de/themen/kolonialismus-imperialismus/postkolonialismus-und-globalgeschichte/219139/Dekolonisation-im-20-jahrhundert/> (accessed: 20 September).

## Section 2: The contribution of religions to sustainable development

This Report is being published at the midpoint of the 2030 Agenda. It is becoming increasingly clear that in addition to the economic, social and environmental factors impacting implementation of the 2030 Agenda cultural aspects require greater attention. Beliefs and religions will play formative roles for the cultural-policy dimensions of the transformation the Agenda demands. The Third Report's thematic priority area of religion and development is a response to suggestions

that came from various quarters during the parliamentary debate on the Second Report.<sup>18</sup> The second section particularly addresses this by laying out fundamental considerations and specific examples, and by presenting pertinent work by the BMZ (Federal Ministry for Economic Cooperation and Development) and the International Partnership on Religion and Sustainable Development (PaRD).

### The country section: The status of freedom of religion or belief in selected countries

Freedom of religion or belief is a universal human right. Upholding and enhancing these rights is a central pillar of the German government's remit and its work both domestically and abroad. One implication of this for Germany's foreign policy is that its missions abroad actively monitor the human rights situation worldwide and engage in particularly close dialogue with civil society and human rights defenders. On the basis of efforts on the ground, the missions abroad compile annual human rights reports providing analyses of current developments as well as policy recommendations for human rights work. The tangible results of this work can be seen in deeper engagement through project funding or initiatives as part of international organisations, such as the UN Human Rights Council. The German government also highlights particularly concerning human rights issues worldwide in its biennial human rights policy reports, as required by the German Bundestag.<sup>19</sup>

The 41 country reports on the status of freedom of religion or belief, prepared for this Report by the German missions abroad in cooperation with the country desks of the Federal Foreign Office, testify to the German government's sustained commitment to human rights. The principle that human rights are indivisible also means that they only take full effect in conjunction with one another. Freedom of religion and belief can only be ensured if unrestricted freedom of opinion and expression is in place. Human rights protection can only take effect if the structures inherent to the rule of law are in place. Therefore, this Report is intertwined with the German government's reporting on its human rights policy.

<sup>18</sup> German Bundestag printed paper 19/28843.

<sup>19</sup> Currently, the Fifteenth Report by the German Government on its Human Rights Policy (German Bundestag printed paper 20/4865).

Actively advancing the preservation and strengthening of human rights is also a political interest of the government and is enshrined in the mandate of the Federal Government Commissioner for Human Rights Policy and Humanitarian Assistance at the Federal Foreign Office. Guiding this active approach are the German Government's Action Plan for Human Rights, 2023–2024, within the Report by the German Government on its Human Rights Policy, and the guidelines of the EU, especially the EU Guidelines on the promotion and protection of freedom of religion or belief.<sup>20</sup>

This Report's selection of focus countries is guided by various considerations: it seeks to update the assessment of conditions in countries discussed in the previous report, while also addressing specific themes of the current report by examining pertinent situations in selected countries. Both positive and negative developments are considered. The selection makes no implicit statement about the state of human rights, and in particular freedom of religion or belief, in countries not included in the analysis.

## **The concluding section: Measures taken by the German government**

The concluding section summarises the key findings of the Report and presents 20 measures by the German government for enforcing and maintaining freedom of religion or belief worldwide.

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<sup>20</sup> Council of the European Union (2013): EU Guidelines on the promotion and protection of freedom of religion or belief. Doc. no. 11491/13. Available at: <https://data.consilium.europa.eu/doc/document/ST-11491-2013-INIT/en/pdf> (accessed: 25 September 2023).



# A Cross-cutting issues

## Section 1: Indigenous peoples and the right to freedom of religion or belief<sup>21</sup>

### 1.1 Indigenous peoples: Definition, status and spirituality

Indigenous peoples' freedom of religion holds crucial significance for credible human rights policy. Given Indigenous peoples' experiences of injustice, taking their specific human rights concerns into consideration is an indispensable prerequisite for defending the universalism of human rights credibly and inclusively. The human rights of Indigenous peoples are being violated worldwide. These conflicts typically centre on agricultural investments, land dispossession, energy, infrastructure and mining projects, and conservation measures. When Indigenous peoples' claims to the land they inhabit are dismissed, their spiritual, cultural and physical survival is threatened. In these conflicts, Indigenous people are not merely victims of human rights violations but also serve as human rights defenders campaigning for their economic, social and cultural rights.

There are around 5,000 Indigenous peoples on Earth, comprising an estimated 476.6 million individuals in total. Of these, 70.5 per cent live in the Asia-Pacific region, 16.3 per cent in Africa, 11.5 per cent in Latin America and the Caribbean, 1.6 per cent in North America and 0.6 per cent in Europe.



*Brazilian Indigenous representative at the 2022 climate march in Brussels, Belgium*

<sup>21</sup> This section incorporates findings and material from the Scholarly Assessment expressly created for this Report by Professor Heiner Bielefeldt and Dr Volker von Bremen, documented in the annex to this Report. For further analysis, reasoning and elaboration of individual points, please refer to that Scholarly Assessment.

Indigenous individuals are nearly three times more likely to be affected by extreme poverty than non-Indigenous people in the same countries. As so often the case, it is women who are hardest hit by inequality.<sup>22</sup> Indigenous peoples manage over 25 per cent of the world's land area and 40 per cent of the conservation areas and ecologically intact landscapes.<sup>23</sup> Indigenous territories contain over 60 per cent of the world's most sought-after resources. Indigenous peoples are disproportionately at risk in their efforts to protect nature: in 2022, 36 per cent of the environmental and land rights activists who were murdered were Indigenous<sup>24</sup>, even though they only account for 6.2 per cent of the world population.<sup>25</sup>

Conflicts over the rights of Indigenous peoples often pertain to their freedom of religion or belief; with that in mind, they have been accorded too little attention in past discussions of human rights policy.<sup>26</sup> A suitable human rights policy should reflect on the definitions of Indigenous and Indigenous spirituality or cosmivision, and then ask: how should the existing human rights strategies regarding religion and freedom of religion be developed to take account of Indigenous peoples?

There is no universally accepted definition of Indigenous peoples. A catch-all term cannot encompass the multiplicity of Indigenous peoples. However, the term "Indigenous peoples" has prevailed in the discourse on universal human rights within the UN context. Indigenous peoples take a universal and collective approach to the right

to self-determination, to collective and cultural rights, as well as to the rights to land and territories and their resources. This is supported by the Declaration on the Rights of Indigenous Peoples, which was adopted by the UN General Assembly in 2007.<sup>27</sup> The increasingly strong representation of Indigenous peoples' concerns in the human rights forums of the United Nations is a welcome development.

## 1.2 Legal framework for Indigenous freedom of religion

Neither the Universal Declaration of Human Rights of 1948 nor the two International Covenants of 1966 – on Civil and Political Rights and on Economic, Social and Cultural Rights – contain explicit references to Indigenous peoples. However, Indigenous children are explicitly mentioned in Article 30 of the Convention on the Rights of the Child (1989), and the UN's committees for monitoring the implementation of human rights treaties have made repeated references to Indigenous peoples. For example, the Human Rights Committee discussed their land rights in 1994 and the Committee on the Elimination of Racial Discrimination invoked Indigenous peoples in 1997.

It was not until ILO Convention 169 of 1989 that an international legal instrument was created, including the rights of Indigenous and tribal populations in its title. To this day, ILO Convention 169 represents the most important **legally binding** guarantee of the rights of Indigenous peoples at the global level. However, it has only

22 Dhir, R. K., et al. (2020): "Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future", ILO. Available at: <https://www.ilo.org/publications/implementing-ilo-indigenous-and-tribal-peoples-convention-no-169-towards> (accessed: 20 September 2023).

23 Garnett, S.T. et al. (2018): "A spatial overview of the global importance of Indigenous lands for conservation", *Nature Sustainability* 1, pp. 369–374, <https://www.nature.com/articles/s41893-018-0100-6> (accessed: 20 October 2023).

24 Global Witness (2023): "Standing firm: The land and environmental defenders on the frontlines of the climate crisis." Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/standing-firm/> (accessed: 20 October 2023).

25 Dhir, R. K., et al. (2020): "Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an inclusive, sustainable and just future", ILO. Available at: <https://www.ilo.org/publications/implementing-ilo-indigenous-and-tribal-peoples-convention-no-169-towards> (accessed: 20 September 2023).

26 This applies particularly to the international discourse around human rights. The most recent Ecumenical Report on Religious Freedom Worldwide addresses the topic of the freedom of religion or belief of Indigenous peoples and their members, see German Bishops' Conference, the Evangelische Kirche in Deutschland (Protestant Church in Germany, EKD, 2023): 3. Ökumenischer Bericht zur Religionsfreiheit weltweit 2023, Joint Texts, no. 28, Bonn/Hanover.

27 See UN (2007): United Nations Declaration on the Rights of Indigenous Peoples. Available at: [https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf) (accessed: 21 September 2023).

been ratified by 24 countries to date – mostly in Latin America. Germany acceded to the Convention during the reporting period of this Report (2021). Only about 15 per cent of Indigenous people live in the 24 countries that have ratified ILO Convention 169. Thus, the vast majority of Indigenous peoples do not enjoy the protections granted by this Convention more than 30 years after its adoption.

- International instruments to protect the rights of Indigenous peoples
- ILO Convention 107 (1957), ratified by 27 states (10 have withdrawn)
- ILO Convention 169 (1989), ratified by 24 states (including Germany in 2021)
- UN Permanent Forum on Indigenous Issues (since 2000)
- UN Special Rapporteur on the Rights of Indigenous Peoples (since 2001)
- UN Declaration on the Rights of Indigenous Peoples (2007)
- EMDRIP (Expert Mechanism on the Rights of Indigenous Peoples, implementing the UN Declaration of 2007)



*Indigenous woman in La Libertad, San Salvador, at a religious ceremony for the winter solstice*

This background underscores the significance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted with 143 votes in favour, four against and 11 abstentions. This Declaration consolidates the status of human rights protection by taking into account the special concerns of Indigenous peoples. The Declaration is not binding under international law, but as a General Assembly resolution has the character of a recommendation. It is considered a historic breakthrough and acknowledges the unique experiences of injustice faced by Indigenous peoples, which have been neglected in the human rights discourse for a long time. Article 1 of UNDRIP underscores the applicability of human rights to Indigenous peoples and their members.<sup>28</sup> The clarification in Article 1 of UNDRIP, that the rights of Indigenous peoples are universal human rights, encompasses freedom of religion or belief.

<sup>28</sup> “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.”



### 1.3 Indigenous peoples' freedom of religion, belief and spirituality

The concerns and needs of Indigenous peoples require appropriate consideration in the human rights discourse on freedom of religion. In his report on the freedom of religion of Indigenous peoples, Ahmed Shaheed, the former UN Special Rapporteur on Freedom of Religion or Belief (2016-2022), points out that Indigenous peoples often avoid the term religion – and likewise the term belief – preferring to use the word spirituality instead.<sup>29</sup> However, this choice of terminology is not set in stone<sup>30</sup> and it is up to the individuals in question to choose the appropriate term.

Relevant international documents on the rights of Indigenous peoples use language that expands the scope of the word religion to include spirituality and culture. For instance, Article 5 of ILO Convention 169 stipulates that the “social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected” in the Convention’s implementation. UNDRIP also addresses this, with Article 12(1) referring to the rights of Indigenous peoples stemming from spiritual and religious practices. Religiously relevant rites, sites and objects are specifically invoked.<sup>31</sup> Article 11(2) of UNDRIP covers issues of compensation for stolen property and possible restitution.<sup>32</sup> Article 25 of UNDRIP discusses the

special relationship that Indigenous peoples maintain with the land they have traditionally used and with their natural environment.<sup>33</sup>



*Celia Nunes Correa, first Indigenous Congress member from Minas Gerais, Brazil, at the 2022 climate conference in Sharm El-Sheikh*

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- 29 “‘Spirituality’ is the preferred term of many indigenous peoples in characterising their religion or belief identity.” Shaheed, Ahmed (2022): Freedom of religion or belief: Note by the Secretary-General. UN doc. A/77/514. 10 October 2022, para. 11.
- 30 “Indigenous peoples employ broader terms interchangeably with ‘spirituality,’ including ‘worldview,’ ‘way of life,’ or ‘culture.’” Ibid., para. 12.
- 31 “Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.”
- 32 “States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.”
- 33 “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”



The rights of Indigenous peoples face various threats as a result of involuntary assimilation. There are many overlaps between Indigenous spirituality and the influences of other religions. Hybrid forms of religious practice fall under the protection of freedom of religion. Thus, freedom of religion encompasses conventional religious practice as well as reformist projects. It includes the freedom both to convert to a different religion and to renounce religion.

Indigenous peoples' religion-related rights fit into the overall context of freedom as a fundamental human right. This means that Indigenous people decide autonomously how they wish to define, develop and practise their religion and spirituality

and how respect for that should manifest. Likewise, they may decide what state support or protection they consider necessary to achieve those ends. The freedom of religious minorities or individual dissenters within Indigenous peoples is also covered by the right to freedom of religion.

Any restrictions on freedom of religion and its dimensions of freedom and equality must be justified. In practice, there are overlaps with other human rights, such as freedom of opinion and expression, freedom of assembly and the rights of cultural minorities. These overlaps clearly illustrate that the various human rights standards form a suite of mutually supporting components.



*Group of Maya K'iche' on their way to a ceremony in front of Santo Tomas Church in Chichicastenango, Guatemala*

## 1.4 Missionary activities and Indigenous peoples' freedom of religion or belief

Missionary activity among Indigenous peoples is among the most controversial issues in the context of freedom of religion or belief. Throughout history and into the present, missionary work has been responsible for widespread violations of Indigenous peoples' rights. For instance, during his 2022 visit to Canada, Pope Francis acknowledged the role of Catholic institutions in forced assimilation; this has been the subject of a Truth and Reconciliation Commission in Canada since 2008. Indigenous peoples worldwide have experienced similar injustices.

At the same time, freedom of religion or belief fundamentally also protects religious missions, provided they operate without coercion and without exploiting relationships of dependency. Against this backdrop, conflicts can arise between the fundamental rights of religious missions and the rights of Indigenous peoples; this may necessitate government restrictions on missionary activities in order to protect Indigenous rights. In addition, the religious and belief-based identities of contemporary Indigenous peoples exhibit a diverse range of influences from other cultures and religions, resulting from religious missions and trade under often asymmetrical conditions – just as Indigenous peoples have influenced other religions with their beliefs. Hybrid forms of religious practice fall under the protection of freedom of religion or belief if the people in question, as the holders of this right, desire such protection. In

a 2011 document titled “Christian Witness in a Multi-Religious World”, the World Council of Churches, the Pontifical Council for Interreligious Dialogue and the World Evangelical Alliance jointly committed to a concept of mission based on respect and formulated corresponding recommendations for conduct.<sup>34</sup> The preamble rejects unjust missionary practices from the outset: “If Christians engage in inappropriate methods of exercising mission by resorting to deception and coercive means, they betray the gospel and may cause suffering to others.”

The Scholarly Assessment accompanying this Report also contributes to the discussion regarding the diverse overlaps between Indigenous spirituality and the influences of other religions.

## 1.5 Land conflicts and Indigenous peoples' freedom of religion or belief

Many political and legal disputes surrounding the rights of Indigenous peoples relate to land conflicts. For example, the UN Special Rapporteur on the Rights of Indigenous Peoples (2014-2020), Victoria Tauli-Corpuz, has noted that land-related allegations are prominent among Indigenous peoples' complaints.<sup>35</sup> Similar observations have been made in reports by civil society organisations such as the Society for Threatened Peoples,<sup>36</sup> the International Work Group for Indigenous Affairs (IWGIA),<sup>37</sup> Survival International<sup>38</sup> and the Minority Rights Group.<sup>39</sup> Land rights are fundamental to the human rights of Indigenous peoples.<sup>40</sup>

34 See <https://www.oikoumene.org/resources/documents/christian-witness-in-a-multi-religious-world> (accessed: 23 February 2024).

35 “The most common complaints brought to the attention of the Special Rapporteur are precisely violations of indigenous peoples' collective rights to their lands, territories and resources”, Tauli-Corpuz, V. (2017): Rights of indigenous peoples: note by the Secretary-General. UN doc. A/72/186. 21 July 2021. Section 52.

36 See Tauli-Corpuz, V. (2015): *Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz*. UN Doc. A/HRC/30/41, 6 August 2015, Section 3.

37 See IWGIA (No Date): Land rights. Available at: <https://www.iwgia.org/en/land-rights.html> (accessed: 25 September 2023).

38 See Survival International (No Date): Lives and Lands. Available at: <https://www.survivalinternational.org/campaigns/landsandlives> (accessed: 25 September 2023).

39 See Minority Rights Group (no date): Available at: Land rights. <https://minorityrights.org/law/land-rights/> (accessed: 25 September 2023).

40 See Xanthaki, A. (2007): *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land*, Cambridge: Cambridge University Press. Doi: 10.1017/CBO9780511494468.





*Indigenous people at a 2022 rally in Brasília in protest against a bill threatening their land rights*

Although Indigenous peoples' and communities' land and territorial rights are usually enshrined in the constitutions and laws of countries with Indigenous populations, in many cases these rights are not implemented in reality. The exact number of land-related violations of freedom of religion or belief is difficult to determine, as land rights infringements are often not recognised as also curtailing freedom of religion or belief.

Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms Indigenous peoples' rights to the land they have their traditionally owned or otherwise occupied and used, and calls on states to respect Indigenous peoples' customs and traditions regarding their collective land ownership. Resource conservation and freedom of religion or belief are closely linked. The religious-spiritual dimension of the land is explicitly recognised in Article 13 of

ILO Convention 169 and in Article 25 of UNDRIP. UNDRIP emphasises Indigenous peoples' special spiritual relationship to the land they have traditionally used, elaborating that the concept of land should be interpreted broadly and also encompasses bodies of water and other elements of the natural surroundings. While the treatment of sacred sites or burial grounds generally falls within the established content covered by freedom of religion or belief, this broad understanding of a relationship to the land with religious or spiritual significance poses new practical and conceptual challenges to the practice of freedom of religion or belief.

James Anaya, a former UN Special Rapporteur on the Rights of Indigenous Peoples (2008–2014), lamented the often devastating impacts of resource extraction industries such as mining on the foundations of Indigenous peoples' lives.<sup>41</sup>

<sup>41</sup> Anaya, James (2013): Report of the Special Rapporteur in the Rights of Indigenous Peoples, James Anaya: extractive industries and indigenous peoples. UN doc. A/HRC/24/41. 1 July 2013. Section 1.

It is also not uncommon for the designation of new conservation areas to have adverse effects on Indigenous peoples, sometimes leading to forced displacements with serious ramifications for culture, language and spiritual identity.<sup>42</sup>

In recent years, there have been some notable developments in related jurisprudence. For instance, the German government has been working closely with the Inter-American Court of Human Rights in San José, Costa Rica. In a 2001 judgement against Nicaragua, the Inter-American Court demanded the recognition of collective property claims in accordance with the customary law of Indigenous peoples for the very first time.<sup>43</sup> In this context, the Court also affirmed Indigenous peoples' close ties to their areas of settlement, which, it held, ought to be respected as the "fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival."<sup>44</sup> In another judgement, the Court explicitly linked the issue of land rights to the requisite respect for the cultural and spiritual values of Indigenous peoples, referring to Article 13 of ILO Convention 169.<sup>45</sup>

In 2010, the African Commission on Human and Peoples' Rights justified a decision about the land rights of the Endorois, an Indigenous community in Kenya, based on freedom of religion or belief. The Commission asserted that not only had the people's forced separation from its "sacred grounds" interfered with the affected communities' freedom of religion; this had "rendered [that freedom] ... virtually impossible."<sup>46</sup>

## 1.6 Anti-drug laws and Indigenous peoples' freedom of religion or belief

Religious minorities are often confronted by the problem that legislation pays scant attention to their specific religious needs and practices. From the perspective of freedom of religion or belief, it may be necessary to make specific concessions for minorities within the framework of generally applicable national legislation.

One example is the use of peyote, a cactus fruit ingested in some Indigenous religious ceremonies. Due to its hallucinogenic effects, peyote consumption conflicts with the drug laws of some US states.<sup>47</sup> The question of how to balance the concerns of the freedom of religion or belief of Indigenous peoples with state drug policies has occupied US jurisprudence and politics for decades. Debates on this issue are still ongoing.

## 1.7 The FPIC principle

One common misconception about Indigenous rights is that these concerns amount to privileges, or an unfair advantage granted to a particular group over the majority population; in fact, Indigenous peoples are often marginalised.

Specific tensions frequently arise between Indigenous peoples' claims and the interests of states regarding issues such as land rights, economic development, conservation and drug laws. The principle of "free, prior and informed consent"

42 Cali Tzay, José Franciso (2022): Rights of indigenous peoples: note by the Secretary-General. UN doc. A/77/238. 19 July 2022. Section 20.

43 Inter-American Court of Human Rights (IACHR), Judgment of 31 Aug 2001: Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Merits, Reparations and Costs – Series C No. 79, para. 149.

44 Ibid.

45 Inter-American Court of Human Rights (IACHR), Judgment of 17 Jun 2005: Case of the Yakye Axa Indigenous Community v. Paraguay, Merits, Reparations and Costs – Series C No. 125, para. 136.

46 "The Endorois' forced eviction from their ancestral lands by the Respondent State interfered with the Endorois' right to religious freedom and removed them from the sacred grounds essential to the practice of their religion, and rendered it virtually impossible for the community to maintain religious practices central to their culture and religion." AfCoHPR Communication, Judgment of 25 Nov 2009: Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council/Kenya – 276/2003, para. 173.

47 See ICEERS (no date): Peyote: Basic Info. Available at: <https://www.iceers.org/peyote-basic-info/> (accessed: 25 September 2023).



(FPIC) applies to such situations. Its purpose is to prevent all coercive measures by the state, typically associated with severe human rights violations, and instead seek consensual solutions. This principle is based on Article 10 of UNDRIP.<sup>48</sup> For Indigenous peoples' consent to count, it must

have been given freely, without external pressure or force, and the decision must be made at an appropriate time and based on complete information. This principle is particularly relevant to Indigenous peoples' freedom of religion or belief in the context of land conflicts.



*José Francisco Calí Tzay, UN Special Rapporteur on the Rights of Indigenous Peoples, at the BMZ international conference on the spirituality of Indigenous peoples, Berlin, 2022*

<sup>48</sup> United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007), Art. 10: “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” Another provision enshrining the principle of “free, prior and informed consent” is found in Art. 19, which refers to all state measures affecting Indigenous Peoples and is thus broader in scope than the more specifically targeted Art. 10. See Art. 19 of UNDRIP: “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”





*Svenja Schulze, Federal Minister for Economic Cooperation and Development, at the BMZ international conference on the spirituality of Indigenous peoples, Berlin, 2022*

The FPIC principle gives Indigenous peoples a strong bargaining position. Article 46(2) of UNDRIP lists the conditions for restrictions on Indigenous peoples' rights as outlined in the declaration. States bear a complex burden of justification in each case. They must demonstrate, among other things, that planned interventions have a legal basis, that they meet the just and urgent needs of a democratic society and that they are compatible with international standards of human rights protection. Given the right of Indigenous peoples to freedom of religion or belief, it is also necessary to take into account criteria related to religious and spiritual matters, which have implications for the communities' way of life and development.<sup>49</sup>

## 1.8 Summary

The importance of religious freedom for Indigenous peoples has not yet received much consideration by academics or policymakers. Building knowledge, deepening analysis and intensifying political attention are crucial steps to reinforce the freedom of religion or belief for Indigenous peoples. Moreover, they are essential for developing a modern comprehension of religion that includes both spirituality and cosmivision. The German government has particular opportunities here to champion the freedom of religion or belief for Indigenous peoples and individuals, to more thoroughly integrate land rights into its human rights agenda and to bolster the rights of Indigenous communities.

<sup>49</sup> Cooper, A. et al. (2023): Religious Freedom for Indigenous Communities in Latin America, United States Commission on International Religious Freedom, p. 11. Available at: <https://www.uscirf.gov/publications/religious-freedom-indigenous-communities-latin-america> (accessed: 25 September 2023).

## Section 2: The contribution of religions to sustainable development

### 2.1 Religion and belief as factors towards achieving the Sustainable Development Goals set out in the 2030 Agenda

#### 2.1.1 Religion, society, human rights and development

Some 90 per cent of the world's population identify as belonging to a religious, spiritual or belief-based tradition.<sup>50</sup> Religious actors worldwide make a specific contribution to sustainable development and to empowering marginalised sections of the population. They have transformative potential and the "ability to legitimise with religious or ideological arguments the evolution of new forms of motivation, activities and institutions."<sup>51</sup> The human rights framework within which they act is therefore worthy of attention.

Religious beliefs are what motivate many people around the world to work for sustainable development and peace. Spiritual principles inform their actions and provide guidance. Guided by principles such as justice, compassion, altruism and the conservation of creation, they work for human rights, for social cohesion and environmental protection, and join forces with others to combat poverty and injustice. Their specific abilities enable them to mediate in crises and conflicts where government measures come up against their limits. There are many regions in which religious actors enjoy a high degree of trust among the population.

In many partner countries of German development cooperation, religious institutions and belief-based organisations not only have a huge influence on the public and on government structures, they also provide social assistance and

support services on a vast scale – including in the most remote regions. The fact that government development policy has recognised the potential of religious organisations and collaborates with them is a welcome development for freedom of religion or belief. It is a sign of recognition of the people who work within the religious organisations. It is they – as individuals and in community with other people – who provide the actual support that underpins the human right of religious freedom. It is expedient to be mindful of the opposite poles of the "return" of religions and ideas of secularisation and to take the role of religious actors in development work just as seriously as the human rights framework within which they work.<sup>52</sup> Religion contributes to social cohesion, peace and sustainable development in many instances. It can prevent violence and consolidate peace.<sup>53</sup> However, it can also contribute to exclusion, marginalisation and conflict or can be instrumentalised to do so. Religious authorities can fan the flames of conflict instead of extinguishing them; members of religious organisations can be both victims and perpetrators of persecution. Religion is sometimes used as an instrument to secure power, stifle criticism and avoid instigating democratic reform. Instead of advancing the Sustainable Development Goals set out in the 2030 Agenda, religious organisations and actors can also be an obstacle to sustainable development. The right to freedom of religion is sometimes abused to justify discrimination against women and LGBTIQ+ people as well as ethnic and religious minorities. While recognising these ambivalences, the German government also sees the potential that collaborating with religious organisations holds for development policy, stabilisation and consolidation of peace. Academic work points out that "...there are strong

50 Roughly 88 per cent of the global population are religiously affiliated. See *Pew Research Center (2018): "The Age Gap in Religion Around the World"*. Available at: <http://www.pewresearch.org/religion/2018/06/13/the-age-gap-in-religion-around-the-world/> (accessed: 21 September 2023).

51 Eisenstadt, S. (1968): "The Protestant Ethic Thesis in an Analytical and Comparative Framework", in: Eisenstadt, S. (ed.): *The Protestant Ethic and Modernization. A Comparative View*, p.10

52 Casanova, J. (2015): *Europas Angst vor der Religion*, 3rd edition, Wiesbaden: Berlin University Press, p. 38.

53 See Hasenclever, A. (2020): "Gotteskrieger oder Friedensstifter? Die Rolle von Religionen in bewaffneten Konflikten", in: Winter, F. (ed.): *Religion und Gewalt. Theologie im kulturellen Dialog*, vol. 37, Innsbruck/Vienna: Tyrolia, p. 13.

indications that religious organisations that stand by their convictions can make an important contribution to preventing violence, settling conflicts and consolidating peace in post-civil-war societies.”<sup>54</sup>

### 2.1.2 Multilateral cooperation with religious and Indigenous groups



*Visit to the Yazidi holy site in Lalish, Region of Kurdistan-Iraq: exchange between Mir Hazim Tahsin Saied Beg, the leader of the Yazidi community; Commissioner Frank Schwabe; German Member of Parliament Derya Türk-Nachbaur; and Dr Irfan Ortaç, Chairman of the Central Council of Yazidis in Germany*

Official development policy's actual experience with cooperation in recent years has shown that the 2030 Agenda with its 17 Sustainable Development Goals (SDGs) cannot be achieved without the active involvement of religious actors. Religions are often already engaged in development work long before official development cooperation or civil society actors appear on the scene. There is a broad spectrum of organisational forms and spiritual orientations. Religious organisations are part of civil society and, as such, their contribution is important to the work of the donor community and development organisations. Since religious organisations influence the actions of their adherents, the German government will continue to harness their inherent potential for

the implementation of the 2030 Agenda and the protection of human rights. It is not only expedient but also essential to join forces with them to create relevant processes of social change. In particular, conservation of natural resources is a central concern of many religions and beliefs.<sup>55</sup> This prompted the United Nations Environment Programme (UNEP) to launch its Faith for Earth Initiative, which has set itself the goal of working in conjunction with religious actors to conserve the natural resources on which life depends.<sup>56</sup>

The new Kunming-Montreal Global Biodiversity Framework (GBF) adopted by the parties to the UN Convention on Biological Diversity sees safeguarding and strengthening the rights of Indigenous groups and local communities as an essential factor in addressing the drivers of global biodiversity loss. The German government (Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) and Federal Ministry for Economic Cooperation and Development (BMZ)) is therefore committed to ensuring an inclusive approach, including with regard to the GBF's new goal of providing effective protection for at least 30 per cent of the world's land and sea area by 2030, promoting the equal and effective participation of Indigenous groups and local communities in decision-making and respecting their rights to land, territories and resources.

<sup>54</sup> Ed. *ibid.*

<sup>55</sup> See Gottlieb, Roger S. (2006): "Introduction: Religion and Ecology. What Is the Connection and Why Does It Matter?" in: Gottlieb, Roger S. (ed.), *The Oxford Handbook of Religion and Ecology*, pp. 3–19.

<sup>56</sup> UN Environment Programme (no date): *Why faith and environment matters*. Available at: <https://www.unep.org/about-un-environment-programme/faith-earth-initiative/why-faith-and-environment-matters> (accessed: 22 September 2023).

Indigenous groups and local communities have a prominent place in the UN Convention on Biological Diversity. Aspects of biodiversity and cultural or religious diversity often overlap. Protection and preservation of biodiversity can therefore only succeed if Indigenous groups are accorded a key role in nature conservation, if they are equally and effectively involved in decision-making processes and if their rights to land, territories and resources are guaranteed. They manage considerably more than 25 per cent of the land area and 80 per cent of biodiversity, although they represent only about 6 per cent of the world's population. In addition, areas managed by them have been shown to have a better biodiversity status than other conservation areas. Article 8, para. j of the UN Convention on Biological Diversity therefore calls for the States Parties to maintain and promote the traditional knowledge and practices of Indigenous groups and local communities committed to the protection and sustainable use of biodiversity. The German government (BMUV and BMZ) has therefore advocated strengthening the role of Indigenous peoples under the Convention and in the implementation of the new GBF.

### 2.1.3 Indigenous spirituality and cosmovision

Different forms of Indigenous spirituality share – in all their diversity – a determination to preserve traditional cosmovisions and thus hold a view of the world and society that is different from that which is widespread in industrialised countries.

Today, the regions of the world with rich biodiversity are often also home to Indigenous communities; they include the Amazon regions of Brazil, Peru and Ecuador, for example. The knowledge and experience with protecting natural resources these communities have is more important now than ever. Their knowledge and collective experience with the natural world provide important insights into understanding changes at both local and global levels.<sup>57</sup> With reference to the African context, theologian James Amanze speaks of the difference between “having dominion over” and “being in communion with” the natural environment.<sup>58</sup> The fact that animals, plants, rivers and mountains have spiritual significance in traditional African religions is directly relevant to the necessity to treat them responsibly. Accordingly, research on the relationship between religion and the environment highlights the positive role of Indigenous spirituality in preserving natural resources and achieving environmental sustainability.<sup>59</sup> Strengthening freedom of religion or belief, especially that of Indigenous and traditional actors, is therefore an important building block for achieving the Sustainable Development Goals.<sup>60</sup>

### 2.1.4 Opportunities for dialogue on peaceful and sustainable development

Religious actors develop political and social influence in the public sphere and at the same time provide guidance on ethical and legal standards that reaches beyond their own religion. On the other hand, if religion directly consolidates legal standards repressive consequences can ensue.

57 BMZ (2016): “Partner für den Wandel. Religionen und nachhaltige Entwicklung”, Berlin: DBM, p. 98.

58 See Amanze, J. N. (2016): “From “Dominion” to “In Communion”. Ecotheology from an African Perspective”, in: *Anglican EcoCare Journal of EcoTheology* 3, pp. 11–21.

59 See Öhlmann, P., Swart, I. (2022): “Religion and Environment. Exploring the Ecological Turn in Religious Traditions, the Religion and Development Debate and Beyond”, in: *Religion and Theology* 29 (3–4), van den Heever, G. A. (ed.), pp. 292–321. DOI: 10.1163/15743012-bja10044; See Taylor, B., Van Wieren, G., Zaleha, B. (2016): “The Greening of Religion Hypothesis (Part Two). Assessing the Data from Lynn White (Jr) to Pope Francis”, in: *Ibid.* (ed.): *Journal for the Study of Religion, Nature and Culture*, DOI: 10.1558/jsrnc.v10i3.29011.

60 See the section on *Indigenous peoples and the right to freedom of religion or belief* in this Report.



At the same time, religious beliefs are the main motivation for many people to work for sustainable development. Religions can strengthen the resilience of individuals and society. They provide explanations and rituals to strengthen resilience and deal with loss, suffering, crises and disasters.<sup>61</sup> Peace-building activities can only gain access to certain crisis and war zones through local religious communities.<sup>62</sup> Religious institutions often provide safe spaces for social debate and for minorities and vulnerable groups. In their role as mediators, religious leaders have repeatedly been able to open doors to dialogue and to help overcome violence.<sup>63</sup> It is often religious authorities that give a voice to the poor and disadvantaged. They can thus be important pillars of civil society.<sup>64</sup>

Religions are compatible with value-oriented policies that are committed to human rights.<sup>65</sup> The global transformation toward sustainable development can only succeed if partnerships with civil society – including religious actors – are further strengthened, with the weakest and most vulnerable being the focus of attention, as called for by the 2030 Agenda.<sup>66</sup>

### 2.1.5 Greater freedom of religion or belief leads to greater sustainability

In its development cooperation work, the German government sees human rights as a crucial component of sustainable development: “The realisation of human rights is an important prerequisite for sustainable development and lasting poverty reduction. It is therefore a key goal of German development policy and a quality criterion [...] for value-oriented, sustainable and future-oriented development cooperation.” Given that human rights are indivisible, this also applies to the right to freedom of religion or belief.<sup>67</sup>

Germany's development policy is built on the belief that civil society's commitment to sustainable development is greater when its freedoms and scope of action are greater. Civil society engagement is particularly effective where human rights freedoms and scope of action are in place. Greater political and civil liberties in a country correlate with greater commitment by religious groups to achieving the Sustainable Development Goals.<sup>68</sup> Freedom of religion or belief thus promotes the sustainable development of societies.

61 See Bentzen, J. S. (2021): “In crisis, we pray: Religiosity and the COVID-19 pandemic”, in: *Journal of Economic Behavior & Organization* 192, pp. 541–583, doi: 10.1016/j.jebo.2021.10.014; See Bentzen, J. S. (2019): “Acts of God? Religiosity and Natural Disasters Across Subnational World Districts”, in: *The Economic Journal* 129, pp. 2295–2321, doi: 10.1093/ej/uez008; See Luhmann, N. (1982): *Funktion der Religion*, Berlin: Suhrkamp.

62 See Federal Foreign Office (ed.) (2017) “Guidelines on Preventing Crises, Resolving Conflicts, Building Peace”, p. 139. Available at: <https://www.auswaertiges-amt.de/blob/1214246/057f794cd3593763ea556897972574fd/preventing-crisis-data.pdf> (accessed: 21 September 2023).

63 See Weingardt, M. A. (2016): “Religion als politischer Faktor zur Gewaltüberwindung”, in: Enns, F., Weiße, W. (eds.): *Gewaltfreiheit und Gewalt in den Religionen*, Münster/New York: Waxmann, p. 96 ff.

64 See BMZ (2016): “Religious communities as partners for development cooperation”, Berlin/Bonn: BMZ, p. 12. Available at: <https://www.bmz.de/resource/blob/23664/6b83f9e4f79fb8eaeef4474f9473b9ba/materialie252-religionen-als-partner-data.pdf>

65 See Stierle, W. (2020): *Über Leben in planetarischen Grenzen. Plädoyer für eine nachhaltige Entwicklungspolitik*, Munich: Oekom.

66 See BMZ: “Agenda 2030 – die globalen Ziele für nachhaltige Entwicklung”. Available at: <https://www.bmz.de/de/agenda-2030> (accessed: 22 September 2023).

67 BMZ: “Menschenrechte und Entwicklung”. Available at: <https://www.bmz.de/de/themen/menschenrechte-und-entwicklung> (accessed: 21 September 2023).

68 See Tho Seeth, A., Basedau, M. (2023): “Beeinflusst Religionsfreiheit die Handlungsfähigkeit religiöser Nichtregierungsorganisationen für die Erreichung der SDGs?” In: GIGA Brief, German Institute for Global and Area Studies, Hamburg, p. 1. Available at: <https://www.giga-hamburg.de/de/publikationen/beitraege/beeinflusst-religionsfreiheit-die-handlungsfahigkeit-religioeser-nichtregierungsorganisationen-fuer-die-erreichung-der-sdgs> (accessed: 21 September 2023).



Effective development work on the part of civil society hinges on respect for human rights. In many contexts, religious groups are particularly important civil society actors due to their social importance, their massive membership and their extensive networks that reach into remote areas. Like other civil society actors, they can only fulfil their role if they have the necessary scope for action. The right to freedom of religion or belief is particularly relevant to them. Especially when freedom of religion or belief exists and people can freely profess their religion – or can also profess that they have no religious affiliation – these people are free to become actively and creatively involved in sustainable development processes.

Furthermore, freedom of religion or belief is also relevant in contexts where fundamental human rights are violated. Religious actors often have scope for action in civil society due to their particular social relevance. They advocate especially for the human rights of marginalised groups, offering basic public services or “safe spaces,” for instance. In Zimbabwe, for example, faith-based actors are an important corrective to government-imposed restrictions on freedom rights. As a secular human right, freedom of religion or belief protects the freedom of people to hold religious, non-religious or ideological convictions and to live their lives accordingly – either individually or as part of a community.

Freedom of religion or belief does guarantee legal protection for religions or world views as such; it does not safeguard the existence or protect the reputation of religious traditions, and it does not function as a vehicle for promoting certain religious values in society. Violent extremism and fundamentalism, exclusion and exploitation have no place within freedom of religion or belief.

## 2.2 German development cooperation’s collaboration with religious actors

### 2.2.1 Principles of cooperation

In their coalition agreement, the parties in government have declared themselves to be in favour of strengthening the area of religion and foreign policy.<sup>69</sup> True to its collaborative intent, the agreement focuses on intensive dialogue, finding a common language, mutual learning and enhanced cooperation with religious actors as important forces in civil society – at local, national and international level. Since the strategy on Religions as Partners in Development Cooperation<sup>70</sup> was published, German development policy has continued to pursue focused cooperation with church aid agencies and development services, combined with an approach that goes beyond the tried and tested cooperation with the two major Christian churches and seeks to work with partners from other religious groups, such as Indigenous actors.<sup>71</sup> If the parties in the partner countries wish it, official development cooperation can, in certain contexts, act as a bridge or a facilitator, both in terms of dialogue and cooperation between government and civil society, and among the faith-based communities themselves.

69 SPD, Bündnis 90 / Die Grünen, FDP (2021): “Mehr Fortschritt wagen – Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit”, Koalitionsvertrag 2021–2025, p. 100. Available at: [https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag\\_2021-2025.pdf](https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf) (accessed: 22 September 2023).

70 BMZ (2016): “Religious communities as partners for development cooperation”. Available at: <https://www.bmz.de/resource/blob/23744/strategiepapier363-religious-communities-as-partners-for-development-cooperation.pdf> (accessed: 21 September 2023).

71 See the section on *Indigenous peoples and the right to freedom of religion or belief* in this Report.

This means that increasing scope for global alliances can be created – including at international or multilateral level. The principles of cooperation between the BMZ and religious actors are outlined in the strategy on Religions as Partners in Development Cooperation.<sup>72</sup>

Accordingly, the German government's development policy continues to pursue the objective of (1) improving the underlying conditions needed for religious diversity and tolerance, (2) attracting new partners to work on jointly implementing the 2030 Agenda and further developing previous approaches, (3) expanding international and multilateral networks, (4) strengthening the development capacity of religious actors in partner countries, (5) supporting research on religion and development, and (6) promoting religious literacy (see section 2.2.3).

### 2.2.2 Criteria for cooperation

It makes sense from the perspective of development cooperation to select religious cooperation partners based on the criteria resulting from the Sustainable Development Goals (SDGs) and the programme objectives agreed with partners. The crucial question here is whether cooperation with religious actors contributes to achieving development goals in a given context. Experience has shown that in many cases these actors are progressive religious forces who are committed to achieving the SDGs in their societies. However, it is also important from a development point of view to reach out to religious and traditional actors whose actions either impede – or are at least not yet conducive to achieving – certain aspects of these goals. This can reduce the risk that their influence in society will result in their counteracting the desired results. An example of this is the fight against female genital mutilation described in section 2.2.3. It was because the programme included the circumcisers that it was able to contribute to a lasting reduction in female genital mutilation.

It goes without saying that the form of cooperation must also be taken into consideration when it comes to establishing criteria for it. Direct project cooperation is not always the best form. German development cooperation has a much wider range of instruments at its disposal. For example, in particular when it comes to cooperation with religious actors, not only direct or indirect project cooperation but transfer of knowledge and expertise, along with dialogue on development and social policy, may also be appropriate instruments.<sup>73</sup> In this context, existing cooperation structures can also be used, for example with church development agencies in Germany, international religious NGOs and the International Partnership on Religion and Sustainable Development (PaRD).

72 BMZ (2016): "Religious communities as partners for development cooperation", pp. 18–19. <https://www.bmz.de/resource/blob/23744/strategiepapier363-religious-communities-as-partners-for-development-cooperation.pdf> (accessed: 4 April 2023).

73 Öhlmann, P., Frost, M.-L., Gräb, W. (2019): "Potenziale der Zusammenarbeit mit African Initiated Churches für nachhaltige Entwicklung. Ergebniszusammenfassung des Forschungsprojekts und Handlungsempfehlungen für die deutsche Entwicklungspolitik", Humboldt-Universität zu Berlin (publ.). Available at: <https://edoc.hu-berlin.de/handle/18452/22338> (accessed: 21 September 2023).

### 2.2.3 Religious literacy

Cooperation with religious actors holds enormous potential for the German government's development and foreign policy – both in terms of mutual learning and also targeted support and cooperation in individual projects. For cooperation on equal terms to be possible, it is first necessary to have a fundamental understanding of how to interact with faith-based actors – including in the sense of communicative action.<sup>74</sup> Religious literacy – knowledge about religion, religious practice and interacting appropriately within the framework of development cooperation – contributes to a better understanding of these interconnections and thus creates the access and competency needed to make comprehensible the positive impact on and diverse contributions to sustainable development made by religious groups and to make cooperation approaches effective in practice.

In terms of development cooperation, religious literacy means first and foremost maintaining a context-sensitive and correspondingly mindful attitude to religious partners. In order to be successful in cooperation, the religious beliefs of others and their motivations and perspectives must also be taken seriously, regardless of the individual's own (religious) ideas and possible reservations. It is a matter of achieving a basic understanding and observing religious practices in the socio-cultural context in question. The real potential for working together to shape society and respond to existential challenges lies in understanding and consequently acknowledging the realities of how religiously motivated partners live and dealing appropriately with those realities – such as climate change – across socio-cultural differences.<sup>75</sup>



Frank Schwabe handing over a mezuzah, a Jewish scroll case, to Iakov Venouziou, the president of the Jewish community in Trikala, Greece

## 2.3 Examples of German development cooperation in practice

### 2.3.1 PaRD – International Partnership on Religion and Sustainable Development

The German government, working through the Federal Ministry for Economic Cooperation and Development, is one of a number of partners – including Canada, Denmark, Indonesia and the United Kingdom – supporting a globally unique alliance, the International Partnership on Religion and Sustainable Development (PaRD), which has the aim of improving intergovernmental cooperation as well as cooperation among governments and multilateral and religious organisations at global level. Germany is the largest donor. Founded in 2016 by 12 members, PaRD now has more than 150 members from over 40 countries, including eight governments, six multilateral

74 See Habermas, J. (1995): *Theorie des kommunikativen Handelns*, 12th edition, Berlin: Suhrkamp. English edition: Habermas, J. (2001): *On the pragmatics of social interaction: Preliminary studies in the theory of communicative action*, trans. Barbara Fultner (Cambridge: MIT Press)

75 See Gühne, C. (2019): *Aufgerichtet werden. Zum Potenzial von Religion und Spiritualität für Entwicklung*, Lausanne: Peter Lang.

organisations, nine academic institutions, and more than 120 civil society organisations – especially those inspired by faith. The United Nations, primarily its development and environment programmes (UNDP and UNEP) as well as its children's fund (UNICEF), belong to PaRD's advisory committee.



Frank Schwabe at the PaRD Annual Forum, Berlin, 2023

Trust-based dialogue and long-term cooperation are at the heart of the partnership. Members share information and experience and learn from each other. Under the umbrella of PaRD, they pool and scale up contributions by religious actors to the SDGs, develop new cooperation approaches, and organise communication. The multistakeholder partnership has a number of interdisciplinary working groups that focus on climate action, social cohesion and sustaining peace, health – including mental health – of vulnerable groups (including protection from genital mutilation),

freedom of religion or belief, and gender equality and strengthening feminist approaches – which is in line with the German government's newly formulated feminist development and foreign policy. Members also address current global challenges such as pandemics and conflicts.<sup>76</sup> PaRD members regularly take part in national and international conferences and actively participate in committees with the aim of addressing both successful development policy approaches and challenges and making them visible worldwide.

PaRD's steering board, which consists of elected member organisations, ensures that the members meet on an equal footing, cooperate in an interdisciplinary manner and agree work objectives. The partnership promotes global cooperation among actors from a range of cultural, religious, language, political and belief backgrounds. In this way, PaRD removes barriers between secular and religious actors and lays the groundwork needed to achieve a common understanding of development and fundamentally strengthen freedom of religion or belief.

### Pooling civil society forces to work for the 2030 Agenda

PaRD believes that the Sustainable Development Goals can only be achieved in conjunction with civil society. The partnership therefore works on the basis of complementarity and promotes long-term collaboration both among its members and with other global initiatives and civil society platforms, including the Network for Traditional Religious Peacemakers.<sup>77</sup> This contributes to a coordinated approach and helps to reduce duplication of structures and minimise inefficiencies. The guiding principle of the partnership is: the

<sup>76</sup> Arigatou International, KAICIID International Dialogue Centre, World Vision International (WVI) and PaRD (2021):

“Faith-Sensitive Mental Health and Psychosocial Support (MHPSS) to Foster Resilience in Children on the Move”. Available at: [https://www.partner-religion-development.org/wp-content/uploads/2023/11/Resilience-and-Children-on-the-Move-booklet\\_Final-1\\_0.pdf](https://www.partner-religion-development.org/wp-content/uploads/2023/11/Resilience-and-Children-on-the-Move-booklet_Final-1_0.pdf) (accessed: 22 September 2023); BMZ (2022): “Religion Matters! Achieving the 2030 Agenda together”. Available at: [https://www.youtube.com/watch?v=\\_wr6jzhsYuo](https://www.youtube.com/watch?v=_wr6jzhsYuo) (accessed: 22 September 2023); Stork, J., Öhlmann, P. (2021): “Religious Communities as Actors for Ecological Sustainability in Southern Africa and Beyond”, Berlin: Humboldt-Universität zu Berlin; see PaRD (no date): “Collection: Responses to COVID-19 by Religious Actors”. Available at: <https://www.partner-religion-development.org/resources/responses-to-COVID-19-by-religious-actors> (accessed: 22 September 2023); See PaRD (no date): Religious Actors Respond. Available at: <https://www.partner-religion-development.org/resources/ukraine-religious-actors-respond> (accessed: 22 September 2023)

<sup>77</sup> See The Network for Traditional and Religious Peacemakers. Available at: [peacemakersnetwork.org](http://peacemakersnetwork.org) (accessed: 29 September 2023).



17 Sustainable Development Goals (SDGs) can be achieved only by those societies that pool all the necessary social forces and create underlying conditions that also enable civil society actors – including religious actors – to develop their potential to achieve the greatest common good.

PaRD therefore looks to the diversity of its members as a basis for achieving the common goal of sustainable development, ensuring that no one is left behind.<sup>78</sup> Its annual general assembly embodies this diversity approach. It is increasingly establishing itself as a global conference that enables PaRD members and other partners in the field of religion and sustainable development to make their successful contributions to the 2030 Agenda usable and reproducible. The largest and most diverse annual assembly to date took place in Bali, Indonesia, in November 2022. It was attended by over 160 participants from 35 countries – 41 per cent of whom were women. For the first time, representatives of Indigenous communities were also actively involved, including on the subject of environmental protection.<sup>79</sup> Over 30 new member organisations have joined PaRD in the past two years alone. Among them were organisations from religions that have so far had little or no representation, including Judaism, Hinduism and Sikhism, as well as German-based interfaith organisations and academic institutions such as the German Institute for Global and Area Studies in Hamburg (GIGA).<sup>80</sup>

The Republic of Indonesia – one of the most important global partners and the country with the largest Muslim population in the world – has been a member of PaRD since December 2022. The participation of governments is of paramount importance to the partnership. Their involvement enables civil society actors in what is known as the Global South to communicate directly with decision-makers and build trust over the long term. Conversely, government agencies can directly contact all PaRD members through the secretariat. This strengthens inclusive approaches, since development agendas and social frameworks – including a legal framework that ensures freedom of religion or belief – can be shaped in partnership with key civil society forces.

#### **Agenda-setting in an international network**

PaRD members work in various working groups on the key topics of the 2030 Agenda. The working groups have launched a number of initiatives over the past three years with freedom of religion or belief and scope for action in civil society for religious actors forming the basis for the PaRD members to use their resources effectively to achieve the Sustainable Development Goals. An example of this was the interdisciplinary cooperation on health and sustaining peace, which resulted in the production of practical booklets that explain how the resilience of children, women and minorities in existential crises such as war and (forced) displacement can be strengthened.<sup>81</sup>

78 Leave no one behind (LNOB) is the fundamental principle of the 2030 Agenda. It signifies the unequivocal commitment of all United Nations Member States to eradicating poverty in all its forms and to ending discrimination, inequality and exclusion.

79 See PaRD (2022): PaRD's Annual Forum 2022: More Diverse, Bigger than Ever. Available at: [www.partner-religion-development.org/service/news-archive/article/pards-annual-forum-2022-more-diverse-bigger-than-ever](http://www.partner-religion-development.org/service/news-archive/article/pards-annual-forum-2022-more-diverse-bigger-than-ever) (accessed: 4 April 2023).

80 PaRD (no date): Member Overview. Available at: [partner-religion-development.org/members/overview](http://partner-religion-development.org/members/overview) (accessed: 25 September 2023).

81 Arigatou International, KAICIID, WVI and PaRD (2021): "Faith-Sensitive Mental Health and Psychosocial Support (MHPSS) to Foster Resilience in Children on the Move". Available at: [https://www.partner-religion-development.org/wp-content/uploads/2023/11/Resilience-and-Children-on-the-Move-booklet\\_Final-1\\_0.pdf](https://www.partner-religion-development.org/wp-content/uploads/2023/11/Resilience-and-Children-on-the-Move-booklet_Final-1_0.pdf) (accessed: 22 September 2023).



### **PaRD creates opportunities for local dialogue and global networks**

Projects initiated through PaRD create safe spaces for dialogue to strengthen social cohesion, especially for women and young people. In 2022, PaRD members in Nigeria and Pakistan campaigned against the abuse of religion by extremists and brought together people from a wide variety of cultural, religious and belief backgrounds. Inter-faith dialogue forums in Nairobi enabled young people from different communities to share ideas with government agencies with a view to developing joint strategies to counter violent extremism and stereotypes that non-Muslims hold toward Muslims.

PaRD not only pools the diverse approaches of its members to facilitate implementation of local projects, but also raises key issues such as freedom of religion or belief and gender equality to regional, national and global significance. In the Middle East and North Africa, for example, a new regional network for freedom of religion or belief, the Network of Activists on Freedom of Religion or Belief, emerged from the training course developed by PaRD member the Adyan Foundation. A success story connected with this was the Egyptian-produced TV show entitled *A Needle and New Thread*, which ran for 39 episodes between 2018 and 2021 and exposed religious misinterpretations and stereotypical beliefs about Arabic-speaking women. Viewing figures exceeded 120,000.<sup>82</sup>

### **PaRD's commitment to gender equality**

The important and vastly diverse contributions of women as actors of change in religious and Indigenous communities in the key field of gender equality are made visible with the support of Canada, Denmark, Germany, and others. One of the forums where this work is done is the field of environmental protection and safeguarding human rights within the framework of the United Nations Commission on the Status of Women (CSW).<sup>83</sup>

Various events on this subject have taken place over the last three years, including *From the Grassroots to the Global: Why Climate Action Needs Women, Religious Actors and Local Partners*, which was organised by the Commission on the Status of Women, and *Making Menstruation a Normal Fact of Life by 2030 Agenda*, which was a collaborative effort with the World Council of Churches (WCC) and ACT Alliance (Action by Churches Together). Representatives of Indigenous communities were actively involved in PaRD's annual meeting for the first time in Bali, Indonesia, in 2022; 41 per cent of the 164 participants were women. In addition to that, local interfaith projects on women's empowerment in Thailand were supported by PaRD members and publications were produced, including a study on the role religious actors have played in promoting or disabling gender equality since the adoption of the Beijing Platform for Action in 1995 (*Looking Back to Look Forward: The Role of Religious Actors in Gender Equality since the Beijing Declaration*) co-published by the ACT Alliance, Act Church of Sweden, Islamic Relief Worldwide, Side by Side, the Joint Learning Initiative on Local and Faith Communities, the Sexual Violence Research Initiative and Goldsmiths, University of London.

### **PaRD's efforts to strengthen freedom of religion or belief**

PaRD works on freedom of religion or belief. It has formulated for the first time a common understanding of the connection between freedom of religion or belief with the Sustainable Development Goals: a requirement for peace and security is that people's dignity and their acceptance in society are not contingent on their religion and faith. Worldwide freedom of religion or belief helps to overcome the divide that exists between religious and secular actors. It facilitates inter-faith cooperation on the basis of shared social and political responsibility. A number of recommendations were presented to the International Ministerial Conference on Freedom of Religion or Belief in London in 2022, pointing out that global

<sup>82</sup> See Garff, S. (2018): DKK 1 million for women's rights, Bibelselskabet.dk. Available at: <http://www.bibelselskabet.dk/1-million-kroner-til-kvindens-rettigheder> (accessed: 21 September 2023).

<sup>83</sup> See PaRD (2021): *In Search of a Round Table: Gender, Religion and Decision-Making in Public Life*. Available at: <https://www.partner-religion-development.org/in-search-of-a-round-table-gender-religion-and-decision-making-in-public-life/> (accessed: 21 September 2023).

issues require global collaboration. It is therefore important to strengthen multistakeholder partnerships and ensure they are firmly established in the long term so that governments, multilateral organisations, religious and other civil society actors, and the academic and research communities can efficiently pool and make visible successful approaches and contributions to achieving the Sustainable Development Goals. Furthermore, linking freedom of religion or belief with other human rights and issues such as climate action, social cohesion, gender equality and food security helps to develop integrated and interdisciplinary solutions.<sup>84</sup>

The diverse approaches PaRD has taken over the last five years demonstrate the beneficial effect gained by professional global engagement and by inclusion of religion as an important factor in working together to achieve the Sustainable Development Goals.

### 2.3.2 Preventing extremism – the intercontinental network iDove

Whether politically, religiously or ideologically motivated, violent extremism is a global problem – and it evidently does not depend on the degree of freedom of religion or belief in any given situation. Prevention is most successful when strategies address the causes rather than the symptoms and when social cohesion is strengthened through the involvement of civil society. The negative experiences, especially of young people from different cultural and religious contexts, show how violent extremism can destroy entire families and tear apart circles of friends, thus massively endangering social cohesion.

In this context, the potentially peacebuilding role of religious leaders and faith-based initiatives and organisations has long been known, as many development policies demonstrate. The United Nations Development Programme is building on a multifaith network in Iraq to address violent extremism, for example.<sup>85</sup> The global threat to peace and security posed by violent extremism always requires holistic approaches to sustainably prevent the growth of local and global security risks. Security measures involve high financial and personnel costs. Moreover, they do not address the root causes of violent extremism and have the potential to exacerbate polarisation within and between societies.

The German government has recognised this problem and supports innovative measures that promote sustainable change designed to create peaceful societies. This paradigm shift is also accompanied by a recognition that the driving forces behind violent extremism are connected to structural and socio-economic factors (including social inequality, lack of prospects, exclusion, structural violence, lack of social services, access to justice). These factors in turn increase susceptibility to radicalisation and the appeal of extremist groups, which particularly young people are vulnerable to. Holistic and inclusive measures that are tailored to the needs of the target groups are called for if these issues are to be addressed with a view to prevention. If extremism is to be prevented, it is therefore essential that civil society actors – especially women and young people – be strengthened. To increase their resilience to extremist influences, they must be fully, equally and effectively involved in all social processes as peacebuilding actors.

84 See PaRD (2022): Freedom of Religion and Belief's Linkage to Sustainable Development Gains High-level Attention. Available at: <http://www.partner-religion-development.org/service/news-archive/article/freedom-of-religion-and-beliefs-linkage-to-sustainable-development-gains-high-level-attention> (accessed: 21 September 2023).

85 The project started in March 2022. The network's aim is to promote moderate religious discourse and increase awareness and support for community-based initiatives to prevent violent extremism in Iraq. See UNDP (2022): Dialogue launched for establishment of Network of Religious Leaders to Prevent Violent Extremism in Iraq. Available at: [undp.org/iraq/press-releases/dialogue-launched-establishment-network-religious-leaders-prevent-violent-extremism-iraq](https://undp.org/iraq/press-releases/dialogue-launched-establishment-network-religious-leaders-prevent-violent-extremism-iraq) (accessed: 22 September 2023).

In this regard, the intercontinental network iDove offers young people from Africa, Asia and Europe a safe dialogue space in which faith-motivated participants between the ages of 18 and 35 can network and share ideas. iDove stands for Inter-faith Dialogue on Violent Extremism and was founded in 2017 in cooperation with the African Union's Citizens and Diaspora Directorate and the German government. iDove puts young people at the centre of its activities, while trying to help them have a more powerful voice and promote them as ambassadors of a common culture of peace. This has resulted in an international learning and exchange platform consisting of young people who work with a focus on practice, conduct academic research, advise their governments and participate in political decision-making processes. They work together to develop new ideas and innovative approaches to preventing extremism and are committed to strengthening social cohesion.

iDove promotes multifaith collaboration, mutual respect and understanding. It maintains a focus on the importance of religion in preventing extremism. It not only creates and shapes the "iDovers" identity and sense of community; the religious dialogue also takes a transformative and preventive approach, acting to raise awareness of the immediate threat of violent extremism, develop counter-narratives based on scripture and build resilient communities.

Over the past three years, iDove has gradually expanded its network's engagement, particularly in Asia – for example, in Sri Lanka and the Philippines. Since the initiative was launched in 2017, participants from Europe, Africa and Asia have come together at five intercontinental youth forums to work on preventing extremism through dialogue and capacity building. More than 1,200 faith-motivated adolescents and young adults were involved in activities such as targeted use of social media, workshops on storytelling and a range of training courses in 2022 alone. In the next step, the initiative directly reached over 5,500 actors from various political, religious and civil society contexts through activities such as interfaith events and political awareness campaigns. This resulted in new collaborative arrangements, for example with the above-mentioned Network of Traditional and Religious Peacemakers, which operates worldwide.

Over 200 adolescents and young adults from 51 countries are now permanently involved in iDove, all trained through the network to play an active role in preventing violence and strengthening social cohesion.<sup>86</sup>

Not least with regard to freedom of religion and belief, iDove is particularly successful because the network constantly strives for freedom and independently creates opportunities to support the young people in creating development and peacebuilding capacities in the countries where it operates.

<sup>86</sup> See GIZ (2022): "Junge Menschen schaffen Frieden". Available at:

[https://www.partner-religion-development.org/wp-content/uploads/2023/10/Junge\\_Menschen\\_schaffen\\_Frieden\\_2022\\_iDove-1.pdf](https://www.partner-religion-development.org/wp-content/uploads/2023/10/Junge_Menschen_schaffen_Frieden_2022_iDove-1.pdf) (accessed: 21 September 2023).

### 2.3.3 Religions for gender equality – combating genital mutilation in Mali

The positive effect of cooperation with religious actors can also be seen in cases where traditional practices that violate human rights are based on religious, ideological or traditional beliefs. This applies, for example, to child, early and forced marriage and to female genital mutilation. This is practised nationwide across different religions in Mali, for example. The girls and women affected often suffer severe psychological and physical consequences – and may even die. Raising awareness, reinforcing preventive measures and averting the harmful practice of female genital mutilation – this was the aim of the multifaith cooperation project carried out by Islamic Relief and World Vision Germany in the Koulikoro region in Mali in 2020. Religious actors were recruited as key agents for social change using Channels of Hope,<sup>87</sup> a faith-sensitive, dialogue-based approach.

The project succeeded in creating safe dialogue spaces in which religious and traditional authorities, female genital mutilation practitioners and members of the community were able to address social problems – including by exploring their own religion – and to question cultural norms. The results speak for themselves: in less than a year, more than 400 religious and traditional leaders (including 26 women) have become involved in encouraging their communities to make changes in behaviour with regard to genital mutilation and gender-based violence. To this end, hundreds of multipliers at community level – including 60 mothers – received training on children’s rights and the risks of genital mutilation; they have now passed on their knowledge to another 800 women. As a result, at least 370 girls were saved from mutilation by circumcision. Mayors of the regions signed an agreement to end genital mutilation; 56 practising circumcisers endorsed it and affirmed that they would end the practice of circumcision.

When religious actors are brought on board, it can be possible – even in sensitive areas – to induce behavioural changes that help to achieve SDG 5. At the same time, this is an example of a situation that is fraught with tension on two fronts: on the one hand, when it comes to development cooperation with government and non-government actors, the question always arises as to what extent it is possible to work with local people who do not necessarily subscribe to all of German development policy’s principles. On the other hand, while this always requires a difficult case-by-case assessment, the example from Mali shows that dialogue and the resulting cooperation with religious partners can have substantial positive effects.<sup>88</sup>

### 2.3.4 Working with religious organisations to strengthen public finances in Ghana

Government and religious (Christian and Muslim) organisations have initiated a dialogue with a view to enhancing Ghana’s development opportunities through higher tax revenues and transparent government spending that is oriented to the public interest. It also aims to improve tax morale and accountability. The Ghanaian constitution prohibits religious discrimination, does not specify any official religion, and stipulates that individuals can freely profess and practise their religion. The country is predominantly Christian and Muslim, and religious actors play a key role in shaping social norms and accepted behaviours. They are therefore able, on the one hand, to draw attention to the duties of citizens while, at the same time, holding political institutions to account. Due to their far-reaching influence on society, Ghanaian government agencies – in particular the Ghana Revenue Authority, the Ministry of Finance and city and municipal councils – began to cooperate with various religious organisations for the first time in 2022, supported by Germany. Their aim was to raise awareness among citizens in selected communities about the importance of tax revenues and expenditure for society and about the need to comply with tax regulations.

87 See World Vision (no date): Channels of Hope. Available at: <https://www.wvi.org/faith-and-development/channels-hope> (accessed: 21 September 2023).

88 Öhlmann, P., Frost, M.-L., Gräß, W. (2019): “Potenziale der Zusammenarbeit mit African Initiated Churches für nachhaltige Entwicklung. Ergebniszusammenfassung des Forschungsprojekts und Handlungsempfehlungen für die deutsche Entwicklungspolitik”, Humboldt-Universität zu Berlin: Berlin. Available at: <https://edoc.hu-berlin.de/handle/18452/22338> (accessed: 21 September 2023).

A wide spectrum of partners was involved, ranging from the Catholic Bishops' Conference, the Federation of Muslim Councils, representatives of the Council of Independent Churches and the Federation of Muslim Women's Associations. The involvement of Christian and Muslim organisations was motivated primarily by the open and transparent dialogue on government spending, which foregrounds the needs of the population. The establishment of one national and three regional multifaith dialogue platforms has enabled members of the faith communities to now address other members of their community and make their interests and concerns about public revenues and expenditure heard. However, in addition to that, they collaborate with other religious organisations to promote good governance and accountability and work with the government agencies. Religious actors can also participate in discussions on budgetary planning. At the same time, the financial authorities were empowered to communicate in a faith-sensitive manner, especially with religious leaders. The results and recommendations of the cooperation to date have led to the development of a joint awareness-raising strategy for taxpayers.

### 2.3.5 Working with religious communities in Indonesia for the 2030 Agenda

Indonesia officially recognises six religions: Islam, Protestantism, Catholicism, Buddhism, Hinduism, Confucianism.

The Pancasila principle contained in the constitution<sup>89</sup> follows a more traditional paradigm of tolerance, but also provides for a certain degree of freedom of religion, stipulating in particular that the six religions fundamentally be treated equally. Pancasila includes professing belief in God. This means that people with atheistic or agnostic convictions are excluded from the constitutional consensus. There are also difficulties with regard to intra-faith pluralism. This particularly affects Muslims (such as Shias and members of the Ahmadiyya Muslim Community) who differ from the overwhelming Sunni Islam majority; the space for their religious beliefs and practices has reportedly become more constrained in recent years. The religious and spiritual practices of Indigenous peoples are, in a certain sense, covered by the term "cultural freedom," yet they are not recognised as manifestations of religion.

The exclusion and discrimination caused by these curtailments are not only of a theoretical or symbolic nature. This is particularly evident in the blasphemy laws, which have been applied in court cases in recent years, some of which attracted a great deal of attention.

Religious actors in Indonesia provide key social services – primarily in the areas of poverty reduction, health, education and environmental protection. With support from Germany, the Indonesian government has stepped up cooperation with 35 religious organisations, delivered knowledge about the Sustainable Development Goals and encouraged the organisations to make their own contributions or – if they are already doing that –

<sup>89</sup> Pancasila (from the Sanskrit for five principles) is the Indonesian state's official philosophy established during the founding of the state in 1945 as a compromise between secular and Muslim groups. The five principles of the Pancasila Constitution, along with the state principle of the one true God, are intended to ensure peaceful coexistence within the island nation's cultural and religious diversity.



to make them visible: “In view of the demographics of the Indonesian population, which are very closely affiliated to religious teachings and values, a religious approach is also essential when communicating the SDGs to the community. On closer scrutiny, the SDGs themselves are based on religious values such as the preservation of creation and service to our fellow human beings. Eliminating poverty, eliminating hunger, promoting peace and justice and preserving the environment are fundamental values that all religions teach their followers. For this reason, the role of religious organisations is very important in ensuring that the Sustainable Development Goals can be accepted and implemented by the Indonesian population.”<sup>90</sup>

Cooperation through this unique multifaith dialogue on the SDGs took place at national level and in the four pilot provinces of West Sumatra, North Kalimantan, Gorontalo and East Nusa Tenggara. Especially in poverty-stricken districts and villages, the religious organisations involved have succeeded in increasing acceptance of the Sustainable Development Goals and in jointly developing action plans on how to make active contributions to the 2030 Agenda.

A communication platform for future programmes was also established as a result of the multifaith partnership. More than 700 representatives of religious organisations (48 per cent of them women) have agreed a common set of values. The government backed this up with guidelines on communication, planning, monitoring and evaluation.<sup>91</sup> In addition, the Evangelical Christian Church in Timor in the province of East Nusa Tenggara addressed development issues from a biblical point of view in its sermons for an entire year, for example.

The collaboration among the six officially recognised religions has made one thing clear: there is a broad consensus on the Sustainable Development Goals set out in the 2030 Agenda – and these can be linked to many core religious beliefs. Lessons were learned from the collaboration which can be transferred to other contexts, including the insight that religious organisations focus most of their resources firstly on supporting their own members. However, if opportunities for participation and an exchange of ideas and views are created – for example, in the context of a multistakeholder partnership that contributes to the common good and is in line with participants’ values – it becomes possible for people to join forces across religious borders. In the case of issues that are not of a purely religious nature, this can be achieved by building trust and focusing on goals (here the Sustainable Development Goals) that are based on common principles. A great benefit that can be gained through cooperation with religious organisations is the fact that target groups often trust and follow them without exception. However, capacity building measures are needed because organisations do not automatically have the resources they need to take part in the collaboration. In joint project planning and implementation, it is also important to note that religious organisations have very different structures – especially with regard to their decision-making processes and their communication. This is another example of an area where religious literacy is essential when interacting with religious actors.

### **2.3.6 Multifaith cooperation to strengthen children’s rights in Lebanon**

In proportion to its population, Lebanon has accepted the highest number of refugees of any country in the world. Most of them live in precarious conditions and are particularly hard hit by the severe economic crisis; nine out of 10 refugees live below the poverty line.<sup>92</sup> A return to Syria, a demand frequently voiced by Lebanon, is currently out of the question for most refugees for reasons of safety. As a result, tensions between

90 Preface to SDG Communication Guideline for Religious Organisations in Indonesia by Suharso Monoarfa, Minister of National Development Planning, Head of the National Development Planning Agency, publication planned.

91 SDG Communication Guideline for Religious Organizations in Indonesia, publication planned.

92 See UNHCR (no date): Lebanon. Available at: [UNHCR.org/lebanon.html](https://www.unhcr.org/lebanon.html) (accessed: 21 September 2023).

the host population and refugees are increasing. Meanwhile, it is children, irrespective of their nationality, who are suffering most from the severe economic crisis.<sup>93</sup>

Germany has therefore supported the creation of a multifaith (youth) network on children's rights in cooperation with various religious groups in Lebanon. Dialogue formats and joint activities in 2022 were used to facilitate encounters and address common ground in order to contribute to social cohesion and open up prospects for the future. Children and young people were specifically involved as "change agents" and the representation of their interests to public bodies was strengthened. As part of their involvement in the network, young people from different religious groups were trained as youth leaders. The training played an important role in building a common identity that transcends religious boundaries. Furthermore, meetings were held with the most important religious leaders in the Akkar region, who also participated in training on children's rights. Interfaith dialogue began with a shared breaking of fast during Ramadan, followed by individual talks with the Sunni Mufti of Akkar, a representative of the Maronite Archbishop of Tripoli, the Greek Orthodox Metropolitan of Akkar and Wadi Nasara and the Alawite Sheikh of Akkar. A direct discussion with around 80 children and young people from different communities on issues relating to religion and children's rights was also held with a view to engendering a dialogue across generations. For many children and young people, this was their first encounter with members of another religion.

This is particularly important in a country that guarantees freedom of religion or belief in its constitution, but where tension-free forms of coexistence among the various religious groups are not always a reality in everyday life.

The members of the network developed a Children's Rights Charter based on a survey of 800 children carried out by the youth leaders. Among other things, the charter calls for better living conditions for children and young people in Akkar and Lebanon, greater security and the freedom to choose their own path in life. Religious leaders support the charter. There are plans to edit the charter in child-appropriate language and publish it with illustrations to ensure it is also accessible to younger children with less developed reading skills and enable them to identify with the document. In this case, religion became an element that united the children and young people despite all their differences.

### **2.3.7 Strengthening indigenous peoples and local communities through bilateral cooperation under the International Climate Initiative (IKI)**

Indigenous peoples and local communities (IPLCs) play an invaluable role in preserving biodiversity and addressing the urgent challenges posed by climate change. IPLCs are the true guardians of their natural environment, passing on through generations wisdom and sustainable practices that have maintained the delicate balance of ecosystems. The German government acknowledges this crucial role played by Indigenous peoples and local communities and has been supporting its recognition and promotion for several years.

The International Climate Initiative (IKI) is an example of how it demonstrates its commitment to and advocacy for IPLCs. IKI is currently carrying out 48 projects in which IPLCs play a role; some of them involve IPLCs participating in a project component, whereas close collaboration with and strengthening IPLCs is the key focus of others. IPLCs are involved in project implementation using different approaches in a broad variety of countries. For example, the IKI-funded Global ICCA Support Initiative has been able to directly support Indigenous and community conservation areas in 45 countries since 2014. The initiative acknowledges the role of IPLCs and supports them in continuing their important work to conserve biodiversity and mitigate climate change.

<sup>93</sup> See UNICEF (2022): "Deprived Childhoods. Child poverty in crisis-wracked Lebanon". Available at: [UNICEF.org/lebanon/media/9056/file/Deprived%20Childhood%20EN.pdf](https://www.unicef.org/lebanon/media/9056/file/Deprived%20Childhood%20EN.pdf) (accessed: 22 September 2023).

Another example is Transformative Pathways, an ongoing IKI project that deals with leadership in project implementation.

## 2.4 Religion as a factor in the German government's policy priorities

### 2.4.1 Feminist development policy – overcoming the systemic causes underlying lack of equality

The significance of development policies that focus on women and girls in the context of religion has become increasingly important in recent years. The connection between the two issues is complex and often controversial, as religions and their actors in many societies have traditionally supported – and still support – patriarchal structures, for example when they are used to control sexuality and reproductive rights and justify genital mutilation. In this context, religion can also act as an obstacle to strengthening the rights of women and girls and LGBTIQ+ people and eliminating discrimination on the grounds of sex or gender. At the same time, women as members of religious or ideological minorities are often exposed to multiple discrimination and systematic violence. Yazidi women in Iraq who were raped, enslaved and killed a few years ago by Islamic State (IS) must be cited as examples in this connection. The situation of the women who survived is still extremely difficult. Many of them still live in refugee camps, access to psychotherapy and healthcare is limited, and there is little possibility of receiving financial compensation for the crimes committed by IS.

The German government's feminist foreign and development policy makes it possible to raise awareness and counter structural injustices against women and marginalised and vulnerable groups, as well as multiple discrimination.



*Nazila Ghanea, UN Special Rapporteur on Freedom of Religion or Belief, at the BMZ international conference on the spirituality of Indigenous peoples, Berlin, 2022*

The Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development jointly published guidelines on feminist foreign policy and a strategy on feminist development policy in March 2023. Feminist foreign and development policy acknowledges that genuine equality – equal resources, equal representation and equal rights – has not been achieved in any country in the world. The aim of this feminist foreign and development policy is to overcome the systemic causes of this lack of equality. It focuses its actions on those people who are affected by marginalisation, i.e. by unjust power structures, and thus includes adherents of minority religions and beliefs. The aim of feminist foreign and development policy is to reduce legal discrimination against women and girls, as well as marginalised groups, including adherents of minority religions and beliefs.

Religious authorities are part of civil society and drivers of this process. As such they can open doors to their communities and help to promote recognition and legitimacy of rights and norms in their societies;<sup>94</sup> however, they can also hinder the process. If it is to be successful, it is therefore crucial that feminist foreign and development policy ensures the involvement of religious actors.



Foreign Minister Annalena Baerbock talking to children at the House of Coexistence, a site for intercultural interaction in Sinjar that was founded by Mirza Dinnayi

Equal representation and increased influence of women and marginalised groups, including adherents of minority religions and beliefs, are further core aspects of feminist development policy. It should also be mentioned that women can play a special role as religious actors or even leaders. For example, there are case studies demonstrating that the creation of a religious group can be an emancipation strategy for women.<sup>95</sup> At the same time, women in leadership roles gain social recognition. Religion can thus contribute to empowerment of women and greater gender equality, thereby helping to bring about urgently needed

social change in this area. Government structures, planning and decision-making processes, especially in fragile and conflict and post-conflict societies, are also extremely important.

Ultimately, feminist development policy is designed to help ensure that women and girls, including those who belong to minority religions and beliefs, have equal access to resources. This applies to education, to the formal employment market, to decent work, and to social security systems and healthcare. Members of religious minorities must not be excluded. There are still numerous reports of such multiple discrimination when it comes to accessing resources. Feminist development policy aims to counter this even more effectively, including with regard to freedom of religion and belief.

#### 2.4.2 The just transition

The survival of future generations is in jeopardy unless a paradigm shift toward sustainable development occurs. The just transition is about the mammoth task of taking on the enormous technical and social challenges required to decarbonise our economic system. This transition can only be achieved in conjunction with developing countries and emerging economies – and it must be equitable. It is vital that no-one be left behind on the path to climate neutrality and climate justice. The German government supports its partner countries in establishing close ties between climate action, sustainable economic development and social progress. The just transition also aims to compensate as far as possible for the social disadvantages caused or exacerbated by the concomitant change in economic structures. The 2030 Agenda has laid the groundwork for this, but greater efforts by the international community are needed to achieve the SDGs it defines. In

<sup>94</sup> See the previous example from Mali. SDG 5's targets include: End discrimination against women and girls (Target 5.1); Eliminate violence against women and girls (Target 5.2); Eliminate child, early and forced marriage and female genital mutilation (Target 5.3); Recognise and value unpaid care and domestic work (Target 5.4); Ensure women's full and effective participation and equal opportunities for leadership in decision-making processes (Target 5.5); Ensure universal access to sexual and reproductive health and rights (Target 5.6). See BMZ (no date): 2030 Agenda The 17 Sustainable Development Goals (SDGs), SDG 5: Gender Equality. Available at: <https://www.bmz.de/de/agenda-2030/sdg-5> (accessed: 22 September 2023).

<sup>95</sup> See Frost, M.-L. (2022): "‘I Got the Call – Not Him’. Founding an African Initiated Church as an Act of Emancipation". In: *Journal of Religion in Africa*, Bongmba, E. (ed.). Leiden: Brill Verlag. vol. 52, issue 3–4. <https://doi.org/10.1163/15700666-12340238> (accessed: 4 April 2023) pp. 444–474.



addition to technical and political solutions, the just transition needs to also focus on the social and value-driven aspects of transformation. An important role is played not least by trustworthy authorities and social movements that influence people's thinking and actions. The role religious leaders can play is illustrated by the commitment to sustainable development shown by Pope Francis, the Dalai Lama, or the Ecumenical Patriarch of Constantinople, Bartholomew I. But also religious groups themselves,<sup>96</sup> along with individuals responsible at local level, including districts and synods, testify to the politically relevant vitality of the religions in the area of faith and knowledge. Cooperation among actors at all levels who are motivated by religion and belief is crucial to achieving the collaborative partnership and equitable development described in the 2030 Agenda. The term “public religion” describes religions that are rooted in life and practise their faith on the basis of respect for human rights, including in modern societies.

### 2.4.3 Faith-based change agents

As part of its sustainable development policy, the German government is seeking to promote the necessary change by establishing an even more tightly focused partnership with religious change agents, i.e. people who have the transformative potential to advance sustainable development. These agents of change might be people who have good access to the international donor community because they are well organised and speak the language of the development community but they also include the critics of “Western values,” as seen in the debates on colonialism, neo-colonialism and decolonisation.



*Religious actors play an important part in conflict transformation. The Federal Foreign Office supports this capacity through workshops*

The German government's values-driven foreign, security and development policies are based on human dignity, empathy, tolerance and equality. The government intends to seek greater dialogue and cooperation with religious actors as a way of creating opportunities for the discussion and action needed to achieve sustainable development that respects human rights as set out in the 2030 Agenda. Development policy cannot and must not refrain from addressing the continuing importance of religion – and it must do so even more than before. If we recognise that religious actors can make a substantial contribution to achieving all the Sustainable Development Goals, then we must also be aware of the role they play in implementing gender-based principles – and also in hindering their implementation.

<sup>96</sup> See EKD (2018): “‘Geliehen ist der Stern, auf dem wir leben’. Die Agenda 2030 als Herausforderung für die Kirchen.” Ein Impulspapier der Kammer der EKD für nachhaltige Entwicklung. Available at: [www.ekd.de/ekd\\_de/ds\\_doc/ekd\\_texte\\_130\\_2018.pdf](http://www.ekd.de/ekd_de/ds_doc/ekd_texte_130_2018.pdf) (accessed: 22 September 2023). English translation available at: [https://www.ekd.de/ekd\\_en/ds\\_doc/ekd\\_texte\\_130\\_en\\_2018.pdf](https://www.ekd.de/ekd_en/ds_doc/ekd_texte_130_en_2018.pdf).

#### 2.4.4 Decolonisation

The power imbalances between countries of the “Global North” and “Global South” often have their roots in colonisation and have thus been a long time in the making. BMZ’s strategy on feminist development policy takes a critical perspective and points out that “the Global North’s economic, political, social and cultural norms and values still serve as the benchmark against which countries of the Global South are measured. The relationship between the Global South and the Global North is still highly unequal and [...] is characterised by economic inequality and ensuing relationships of dependency between “donors” and “recipients.” In light of this and based on the recognition that “colonial continuities and racist thinking are still present in German development cooperation today ... [German] development policy aspires to pursue a post-colonial and anti-racist approach. ... The aim is to eliminate these continuities and ways of thinking from development cooperation and to establish an equal partnership between the Global North and the Global South.”<sup>97</sup>

Ensuring freedom of religion or belief is a key element of a sustainable development policy. The additional benefit for development of bringing religious actors on board and collaborating with them lies in the fact that they – like civil society overall – can shape and change society. They are rooted in local communities, local culture and local civil society and in many places can be said to be a constituent part of them. Dialogue and cooperation with religious actors also offers an immense opportunity for development policy: religious actors are an essential part of civil society in many contexts in the Global South. They can contribute to the debate about what objectives development policy needs to pursue to ensure its actions respect the rights and values of the people affected. They also have important contacts and knowledge of how development policy can best be put into practice. Involving religious actors as partners and integrating their expertise can help to counteract inequalities, relationships of dependency and any colonial mindsets that still

persist. To this end, it is essential to incorporate the different religious values into a political dialogue on human rights and transformation.

## 2.5 Outlook

The German government believes that the Sustainable Development Goals set out in the 2030 Agenda can only be achieved by working in conjunction with a strong civil society, which includes religious communities and faith- and belief-based organisations. Religious and faith-based organisations and initiatives operate in a range of very different areas of development work – from education and healthcare to environmental protection and climate action – and can unlock great potential that has not been sufficiently harnessed to date.

So far, there have been some initial insights into the potential offered by religion and belief in isolated countries and regions. The aim must be to obtain a systematic overview of this potential in other partner countries of German development cooperation over the next few years. There is a need for skills development, i.e. an increase in religious literacy within the German government and in the organisations responsible for implementing development cooperation. The German government intends to further promote an increase in knowledge about freedom of religion or belief within our partner organisations.

Ensuring freedom of religion or belief plays an important role in the work of the German government and its partner organisations. The better this freedom is guaranteed, the greater the scope for action of religious and faith-based actors. As well as human rights defenders, religious and belief-based organisations and their actors are increasingly affected by “shrinking spaces,” i.e. restrictions on the scope of civil society action. The German government will take this into account in its human rights work and will address existing problems in partner countries accordingly when conducting meetings and government

<sup>97</sup> BMZ (2023): “Feminist Development Policy For Just and Strong Societies Worldwide”. Available at: <https://www.bmz.de/resource/blob/153806/bmz-strategy-feminist-development-policy.pdf>, p. 11 (accessed: 25 September 2023).

negotiations. Furthermore, it intends to intensify awareness of religion as a factor for sustainable development and for religious organisations as important elements of civil society.

With its feminist foreign and development policy, the German government has put forward a broad-based approach and a clear action plan for eliminating discrimination against adherents of minority religions and beliefs and marginalised groups and for overcoming structural inequalities. This also applies explicitly to women and girls who belong to these minorities.

In its future work, the German government aims to give greater consideration to religion as a factor in achieving a sustainable and just society. It will position itself clearly in European and international bodies and advocate more strongly with partners for the human rights of women and LGBTIQ+ people so as to prevent discrimination against them purportedly in the name of freedom of religion. With PaRD, Germany has created an appropriate framework for multilateral partnerships.

## B The country section

The choice of countries in the country section below is guided by different considerations.

The countries covered by the previous Report are included here as well. The Report's thematic priority areas are also reflected in the choice of countries. An effort has been made to strike a regional balance in the coverage.

The German missions abroad have considered both negative and positive trends in the various countries for this Report. The selection made in this Report does not imply any conclusions about the human rights situation – particularly regarding freedom of religion or belief – in countries that have not been included.

The table below provides a brief overview of the ratification status of the international and regional conventions and treaties that are relevant for the development of freedom of religion or belief in the 41 countries selected for inclusion in this Report.

For the sake of clarity, the table distinguishes between signature (signed) and ratification (ratified). Signature means that the representative of a State has declared that it intends to implement the instrument in that country. Ratification indicates that it has entered into force after being incorporated into the national legal system. This distinction is based on the classification used in the UN Treaty Collection.<sup>98</sup> A dash means that the treaty has not been signed or ratified.

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<sup>98</sup> ACHPR (1981): African Charter on Human and Peoples' Rights. Available at: <https://achpr.au.int/en/charter/african-charter-human-and-peoples-rights> (accessed: 26 September 2023); ASEAN (undated): Significance of the ASEAN Charter. Available at: <https://asean.org/asean-charter/> (accessed: 26 September 2023); Humanrights.ch (2020): Arab Charter on Human Rights. Available at: <https://www.humanrights.ch/de/ipf/grundlagen/rechtsquellen-instrumente/regionale/arabische-liga/arabische-charta/>; <https://digitallibrary.un.org/record/551368?ln=en> (accessed: 26 September 2023); ILO (undated): Ratifications of C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169). Available at: [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312314](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312314) (Accessed: 26 September 2023); OAS (undated): Signatories and ratifications. Available at: <https://www.oas.org/juridico/english/sigs/a-52.html> (accessed: 26 September 2023); UN Treaty Series (1966): 3. International Covenant on Economic, Social and Cultural Rights, vol. 933, p. 3; UN Treaty Series (1966): 4. International Covenant on Economic, Social and Cultural Rights, vol. 999, p. 171; UN Treaty Series (1979): 8. Convention on the Elimination of All Forms of Discrimination against Women, vol. 1249 p. 13; UN Treaty Series (1989): 11. Convention on the Rights of the Child, vol. 1577, p. 3.



Country	ICESCR		ICCPR		CEDAW		UNCRC		ILO 169	Regional HR conventions
	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified	Ratified	Ratified
Afghanistan	-	1983	-	1983	1980	2003	1990	1994	-	-
Algeria	1968	1989	1968	1989	-	1996	1990	1993	-	Banjul Charter (1987) ACHR (2008)
Armenia	-	1993	-	1993	-	1993	-	1993	-	ECHR (2002)
Azerbaijan	-	1992	-	1992	-	1995	-	1992	-	ECHR (2002)
Bahrain	-	2007	-	2006	-	2002	-	1992	-	ACHR (2008)
Bangladesh	-	1998	-	2000	-	1984	1990	1990	-	-
Belarus	1968	1973	1968	1973	1980	1981	1990	1990	-	-
Brazil	-	1992	-	1992	1981	1984	1990	1990	2002	ACHR (1992)
Central African Republic	-	1981	-	1981	-	1991	1990	1992	2010	Banjul Charter (1986)
China	1997	2001	1998	-	1980	1980	1990	1992	-	-
Egypt	1967	1982	1967	1982	1980	1981	1990	1990	-	Banjul Charter (1984)
El Salvador	1967	1979	1967	1979	1980	1981	1990	1990	-	ACHR (1995)
Eritrea	-	2001	-	2002	-	1995	1993	1994	-	Banjul Charter (1999)
Guatemala	-1	1988	-	1992	1981	1982	1990	1990	1996	ACHR (1978)
India	-	1979	-	1979	1980	1993	-	1992	-	-
Indonesia	-	2006	-	2006	1980	1984	1990	1990	-	Banjul Charter (2008)
Iran	1968	1975	1968	1975	-	-	1991	1994	-	-
Iraq	1969	1971	1969	1971	-	1986	-	1994	-	ACHR (2008)
Kenya	-	1972	-	1972	-	1984	1990	1990	-	Banjul Charter (1992)
Lebanon	-	1972	-	1972	-	1997	1990	1991	-	ACHR (2008)
Malaysia	-	-	-	-	-	1995	-	1995	-	Banjul Charter (2008)
Maldives	-	2006	-	2006	-	1993	1990	1991	-	-
Mexico	-	1981	-	1981	1980	1981	1990	1990	1990	ACHR (1996)
Myanmar	2015	2017	-	-	-	1997	-	1991	-	Banjul Charter (2008)
Nicaragua	-	1980	-	1980	1980	1981	1990	1990	2010	ACHR (2009)
Nigeria	-	1993	-	1993	1984	1985	1990	1991	-	Banjul Charter (1983)
North Korea/ PRNK	-	1981	-	1981	-	2001	1990	1990	-	-
Pakistan	2004	2008	2008	2010	-	1996	1990	1990	-	-
The Philippines	1966	1974	1966	1986	1980	1981	1990	1990	Not signed	-
Russia	1968	1973	1968	1973	1980	1981	1990	1990	-	-
Saudi Arabia	-	-	-	-	2000	2000	-	1996	-	ACHR (2008)
Somalia	-	1990	-	1990	-	-	2002	2015	-	Banjul Charter (1985)
Sri Lanka	-	1980	-	1980	1980	1981	1990	1991	-	-

Country	ICESCR		ICCPR		CEDAW		UNCRC		ILO 169	Regional HR conventions
	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified	Ratified	Ratified
<b>Sudan</b>	-	1986	-	1986	-	-	1990	1990	-	Banjul Charter (1986)
<b>Syria</b>	-	1969	-	1969	-	2003	1990	1993	-	ACHR (2008)
<b>Tajikistan</b>	-	1999	-	1999	-	1993	-	1993	-	-
<b>Tanzania</b>	-	1976	-	1976	1980	1985	1990	1991	-	Banjul Charter (1984)
<b>Turkey</b>	2000	2003	2000	2003	-	1985	1990	1995	-	ECHR (1954)
<b>Turkmenistan</b>	-	1997	-	1997	-	1997	-	1993	-	-
<b>Ukraine</b>	1968	1973	1968	1973	1980	1981	1990	1991	-	ECHR (1997)
<b>Viet Nam</b>	-	1982	-	1982	1980	1982	1990	1990	-	Banjul Charter (2008)

Note: (1) Years without additional information in parentheses denote the year of ratification. (2) Accession and ratification are alternative forms of being bound by a treaty, see Articles 14 and 15 of the Vienna Convention on the Law of Treaties.

## Countries A - Z

### Afghanistan

Political background conditions in Afghanistan fundamentally changed when the Taliban took over in August 2021. The Taliban effectively act as the state authority, although they are not recognised by the international community. Since they came to power, all human rights, especially those of women and girls, have been massively curtailed; the de facto government is also increasingly discriminating against ethnic, sexual and religious minorities. Many members of religious minorities have left the country for that reason. In November 2022 the Taliban reintroduced public corporal punishment for religious offences, which they last used during their first regime between the mid-1990s and the end of 2001; they have regularly carried out floggings since that time. The Taliban follow the Hanafi School of Islamic legal reasoning.

### Demographic breakdown by religious community

The UN estimates that more than 95 per cent of the Afghan population is Muslim, some 10 to 15 per cent of whom are Shiite. Muslims whom the Taliban consider to be heterodox are particularly affected by restrictions on religious freedom imposed by the Taliban. The de facto Education Ministry is said to have described Shiite Ismaili as apostates.

Other religious groups such as Sikhs, Hindus, Bahá'ís and Christians together constitute less than one per cent of the population. According to the UN, the number of Hindus and Sikhs declined from 7,000 in 2016 to less than 50 in 2022. Christianity in Afghanistan is primarily limited to a small group of converts. According to studies by the Association of Afghan Non-Religious, there are around 100 of them. There are no reliable data that would make it possible to verify the number and make-up of Christian groups. According to media reports, the only Jew still living in Afghanistan left the country after the Taliban took over.

### Legal situation of freedom of religion or belief

Afghanistan ratified the International Covenant on Civil and Political Rights (ICCPR) with no reservations on 24 January 1983. Since the Taliban took power, they have been adapting government and institutional structures to their religious and political thinking. Parallel structures, ambivalence, and legal vacuums have resulted from the ongoing restructuring of the justice system.

The Taliban consistently refer to Sharia law when adopting legislation. According to statements by the Taliban, they reserve the right to impose harsh punishments for violations of their very narrow interpretation of Sharia law. The guarantees offered by the 2004 Constitution have effectively been cancelled. Laws from the time before the Taliban took over will continue in force according to the Taliban leadership, but they will be subject to an Islamic reservation and will be reviewed to determine whether they are in accordance with Islamic law. Even before the Taliban came to power, there was an Islamic reservation in Article 3 of

the Constitution, and Hanafi jurisprudence was applied (Article 130). Taliban decrees consistently refer to Sharia law. Courts and public prosecution services have been staffed exclusively with male legal experts close to the Taliban who often selectively enforce laws from the time before the Taliban came to power on a case-by-case basis. Assemblies known as Ulema councils have also been set up; they make all legal decisions based on Sharia law or a radical interpretation of it by the Taliban and function as advisory bodies providing religious legitimacy for measures taken by the de facto authorities.

### Restrictions on freedom of religion or belief by state actors

The de facto authorities restrict religious freedom through the use of administrative practices, case law, and the use of force. The Taliban does little to take consistent action against attacks on religious or ethnic minorities by militias or other non-state groups. There is social discrimination against members of non-Muslim religions. For example, Shiites accused of failing to observe Ramadan were beaten by Taliban members in April 2022. The UN has documented 217 cases of brutal, degrading and inhumane punishment by the de facto Taliban authorities, including punishment for alleged “wrongful praying” in the mosque, “wrongful wearing” of the hijab or “wrongful” length of a beard, or failure by a woman to be accompanied by a male relative (known as a mahram). The UN Special Rapporteur on the situation of human rights in Afghanistan Richard Bennett expressed serious concerns about the situation of minorities in the country in his report to the Commission on Human Rights published in September 2022. Their places of worship and educational and medical centres have been systematically attacked, and their members have been arbitrarily arrested, tortured, summarily executed, evicted and forced to flee the places where they live.

Targeted vandalism and the misuse of symbolically important locations of the Hazara minority, most of whom are Shiites, are not isolated events. For example, the memorial in Bamyan to Abdul Ali Mazari, who was allegedly murdered by the Taliban in 1995, was replaced overnight by a Quran carved in stone. The Taliban cancelled the traditional public holiday for the Persian new year's festival Nowruz in March 2022. As justification, the de facto government spokesman stated that no occasions that are not covered by the “teachings of Islam” should be celebrated. In August 2022 Shiites were prohibited from displaying religious symbols for the festival of Ashura on storefronts, in windows and on street corners in Kabul. The de facto security authorities of the Taliban, which do not recognise the Ahmadiyya Muslim community, detained some 20 of its members, including several minors, in December 2021.

Even before the Taliban took over, opportunities for the free exercise of religion were limited by social stigma, security concerns, and the scarcity of places of worship. The Taliban have nominally assured religious minorities – particularly the largest religious minority, the Hazaras, most of whom are Shiites – that they may continue to practise their religion. However, this has not been observed in practice.

Press reports that the Taliban considered Christians to be “apostates” caused fear on the part of the Christian minority after the Taliban takeover. Even before August 2021, Christianity was considered a foreign, western religion in Afghanistan. Christians state that harassment and threats have increased – including death threats by neighbours after the Taliban took control. According to the international NGO International Christian Concern, this has caused Christians and Ahmadis to go back into hiding or attempt to leave the country.



## Social conflicts with religious components

According to the UN, the terrorist organisation IS-KP, an offshoot of Islamic State that opposes both the Taliban and foreign organisations, is present throughout the country, at least with small cells, and is also attacking the civilian population, particularly Afghans who are Shiites or members of other creeds. More than 50 Hazaras were killed when the Shiite Fatima Mosque in Kandahar was attacked on 15 October 2021. IS-KP was still primarily focusing its activities on eastern Afghanistan and Kabul during the first half of 2021, but it has expanded its operational range since then. Attacks by IS-KP against Hazara institutions continued in 2022. At least two people were killed and seven injured when IS-KP attacked a Sikh temple in Kabul on 18 June 2022. Human rights organisations believe that many victims go unreported.

There were at least 22 attacks on civilians during the year after the Taliban takeover, with many people killed and wounded. Over 70 per cent of those attacks targeted Hazaras, most of whom are Shiite.

Even before August 2021, religious scholars were frequently targeted by the Taliban and other groups. Some 50 Sunni and Shiite religious leaders were killed between the signing of the U.S. treaty with the Taliban (Doha Accord) in February 2020 and July 2021. According to the Ministry of Hajj and Religious Affairs, a total of 527 religious scholars had been killed by the time the Taliban returned to power in August 2021.

## Algeria

### Demographic breakdown by religious community

The Algerian Constitution declares that Islam is the State religion. Some 99 per cent of the population of 44.6 million people are Sunnis. Ahmadiyya, Ibadi (Mozabite) and Shiite Muslims are minorities making up less than one per cent of the population. According to a survey commissioned by the BBC (British Broadcasting Corporation) in the Middle East and North Africa, 15 per cent of respondents in Algeria stated that they were not religious or were non-practising.

Unofficial estimates of the number of Christians in Algeria range from 20,000 to 200,000; the Roman Catholic Church states that there are between 10,000 and 15,000 Catholics in Algeria. They have traditionally been foreigners living in Algeria and Algerians who have converted; the arrival of students and migrants from Sub-Saharan Africa has increased the number of Christians in Algeria in recent years. Eglise protestante de l'Algérie (EPA),

an umbrella organisation of Protestant churches, has between 5,000 and 15,000 members.

There is also a small number of Jewish residents in Algeria, estimated at less than 200.

### Legal situation of freedom of religion or belief

Article 2 of the Constitution declares that Islam is the religion of the State. "Conduct contrary to Islam" by state institutions is prohibited by Article 11. Article 234 of the Constitution provides that no constitutional amendment may undermine the position of Islam as the religion of the State. Article 37 also states that there shall be no discrimination on the basis of opinion or any other personal condition or situation but does not explicitly mention discrimination due to religious affiliation. Algeria was the first country in the Maghreb to include freedom of conscience in its constitution in 1976. However, the passage was deleted during the constitutional reform of 2020.

The collective exercise of religion, be it Muslim or non-Muslim, is subject to an authorisation requirement. Religious groups must be accredited by the Interior Ministry as “associations under Algerian law,” and registration and permits for churches and mosques must be approved in advance by the Ministry of Religion or by a State Commission for Non-Muslim Religious Groups made up of representatives of various ministries and security organisations.

A legal reservation is imposed on the fundamental right to freedom of worship in Article 51 by including the phrase “in compliance with the law.” Regulation 06-03 on the conditions and rules of practice of faiths other than Islam of 28 February 2006 governs the conditions for exercising non-Muslim religions. Article 11 of the Regulation imposes between two and five years’ imprisonment and fines of up to DZD 1 million (approximately EUR 6,923) for anyone attempting to convert Muslims to another religion. Non-Muslims are subject to disadvantages and discrimination in civil matters – particularly personal status law and family law, for example in the form of restrictions on marriage, under inheritance law and on divorce – and must often operate in a legal grey zone. The reason for this is that these legal areas are determined, or at least influenced, by the locally prevailing interpretation of Islamic Sharia law.

The Algerian Penal Code states that “anyone who offends the Prophet (peace be upon him) or the messengers of God or denigrates the precepts of Islam, whether by writing, drawing or declaration or in any other way, will be subject to three to five years’ imprisonment or a fine of DZD 50,000 to DZD 100,000.”

## Restrictions on freedom of religion or belief by state actors

In recent years, human rights organisations have criticised the increased imposition of official obstacles and administrative restrictions on non-Muslim groups and have observed crackdowns on purported “statements critical of Islam.” Christian churches have experienced bureaucratic obstacles such as long drawn-out authorisation and visa procedures.

All activities by Caritas were shut down in March 2022, citing its lack of accreditation as a foreign association as required by the Algerian law on associations. Association Diocésaine d’Algérie (ADA, an organisation of the Catholic Church in Algeria) announced on 1 October 2022 that Caritas would cease all operations in Algeria.

Members of Protestant and charismatic groups, who primarily live in the Kabylia region and are usually Algerians who have converted, are particularly affected by the restrictive measures. The Protestant Church of Algeria (EPA) has complained for years of the various impediments placed in its way by Algerian officials. It has not yet been accredited under the 2012 law on associations. Permits for places of worship have been delayed for that reason or refused based on fire protection requirements. A total of 17 EPA churches or places of worship have had to close since 2017, and several members and pastors have been imprisoned after being accused of insulting the Prophet, blasphemy or proselytisation. The president of the EPA was sentenced by a lower court to 18 months’ imprisonment for “conducting religious services in unauthorised premises.”

Members of the Ahmadiyya Muslim community have also been sporadically prosecuted by the authorities. Most of them are accused of illegal collection of donations or illegal use of places of worship.

## Social conflicts with religious components

Even after the end of the bloody conflicts between Islamic terrorists and the Algerian military during the 1990s, the battle against Islamic terrorism remains a priority for Algerian leaders. One reason is that terrorist groups from the Sahel are increasingly active on Algeria's southern border. Religious matters are therefore often viewed from the perspective of domestic security.

Increased sensitivity with regard to religious matters can be felt during Ramadan, the holy month of fasting; non-Muslims are also prohibited from eating and drinking in public.

Homosexuality is an absolute social taboo. It is considered a crime that is incompatible with the religious values of the Algerian people. Consensual homosexual acts are punishable under Article 338 of the Penal Code, and publicly recognisable LGBTIQ+ people risk becoming the victims of religiously motivated violence.

Religiously motivated hate speech against purported "Western values" is ubiquitous on social media. Law No. 20-05 on preventing and combating discrimination and hate speech was adopted in 2020, but religious convictions or beliefs were not included in the list of possible reasons for discrimination.

### Armenia

According to Armenia's constitution, it is a pluralistic, democratic, secular state; it has progressively instituted reforms to strengthen structures of the rule of law in recent years. Its constitution guarantees freedom of religion or belief in addition to other fundamental freedoms. At the same time, Armenian society is conscious of being one of the oldest Christian communities in the world since Christianity was declared the state religion early in the fourth century. The Armenian Apostolic Church is the custodian of Armenian national identity; traditional conservative values are very important, although attitudes critical of the Church are increasingly seen, particularly among the younger generation.

## Demographic breakdown by religious community

Approximately 96 per cent of the country's population are ethnic Armenian, while some 4 per cent belong to ethnic minorities, primarily Yazidis, Russians, Kurds and Assyrians. Ethnic affiliation is listed in a passport only on the holder's request. The four principal minorities were each given a reserved seat in parliament when the constitution and election laws were amended in 2015. According to the 2011 census, 92 per cent of the population belongs to the Armenian Apostolic Church, an independent Oriental Orthodox Christian Church (pre-Chaldean). Other religious groups include the Roman Catholics, Armenian United (Mekhitarist) Catholics, Orthodox Christians, Protestant Christians – including members of the Armenian Protestant Church – Seventh-day

Adventists, Baptists, and charismatic groups including Pentecostals. There are also adherents of the following faiths: Church of Jesus Christ of Latter-day Saints (Mormons), Jehovah's Witnesses, Assyrian Church of the East, Molokan Christianity, Judaism, Bahá'í and Shia and Sunni Islam, as well as people practising pre-Christian religions. Some 35,000 Yazidis live primarily in the north-western part of the country, while Armenian United Catholics and Catholics live in the north. Most Muslims in Armenia are Shiites, including Iranian citizens and temporary residents from the Middle East.

## Legal situation of freedom of religion or belief

Armenia ratified the International Covenant on Civil and Political Rights (ICCPR) in 1993. Freedom of religion in Armenia is guaranteed by the constitution (Article 41). It may be restricted only by law and only for the purpose of state security or protecting public order, health and morals. Article 17 guarantees the freedom of activity of religious organisations. The Constitution enshrines the special role of the Armenian Apostolic Church, recognising its “exclusive mission ... in the spiritual life of the Armenian people, in the development of their national culture and [in] preservation of their national identity,” although it also confirms that all religious organisations enjoy legal equality. The Constitution prohibits discrimination based on religion and states that religious organisations shall be separate from the State. Basic rights and freedoms may not be misused to incite religious hatred. Missionary activities by religious minorities are prohibited; however, no impediments are known to have been placed in the way of groups that proselytise, such as Jehovah’s Witnesses or Mormons. The Constitution guarantees national minorities the right to preserve and develop their traditions, religion and language. At the same time, there is a law requiring education in the Armenian language. Some schools in areas with a Yazidi population also offer instruction in the Yazidi language.

Sixty-five religious organisations were registered in 2019. Religious groups are not required to register, but only registered groups are permitted to distribute publications (above 1,000 copies), issue invitations to foreign visitors required to obtain a visa, and rent places of assembly. In practice, however, a member of a group may rent a space. There is no indication that registrations have been refused.

Members of the armed forces may not found religious organisations; members of the police, the military and the national security service, public prosecutors and diplomats are prohibited from using their positions to act or preach for the benefit of religious associations. The Labour Act prohibits the collection of data on the religious views of workers. It allows up to four days of

unpaid leave to celebrate national and religious holidays or commemoration days, independent of religious affiliation. The Civilian Service Act of 2014 offers the option of refusing military service based on religious convictions. Public education must be secular. Religious activities and sermons are prohibited in public educational institutions with the exception of cases specified by law. However, a course on the history of the Armenian Church is still part of the recommended curriculum.

## Restrictions by state actors

Systematic restrictions imposed by state actors have not been observed. A Yazidi human rights activist was arrested on charges of “incitement to hatred” in 2021. The proceedings are still ongoing. The charges were based on statements he made criticising the treatment of Yazidis in Armenia.

On 4 October 2021, a court found in favour of a Protestant teacher in Sevan who had been dismissed by the director of a school after an Armenian Apostolic priest had described Protestant Churches as “destructive sects, spies and a threat to national security more dangerous than the coronavirus.” The court declared in January 2021 that the teacher’s dismissal was invalid and ordered that she be allowed to return to work and be given her back pay.

A legal provision prohibits the financing of religious organisations by spiritual centres outside of Armenia, but it is rarely enforced.

## Social conflicts with religious components

The Armenian Apostolic Church traditionally plays an important role in Armenian society. The proximity of some church representatives to oligarchic structures has given rise to criticism. The relationship between the leadership of the Armenian Apostolic Church and the government is a tense one. Catholicos Karekin II, spiritual head of the Armenian Apostolic Church since 1999, has been critical of the government’s plans for reform and its policies – including in areas other than religion – and has publicly expressed opposition to reducing the number of hours of instruction



devoted to the history of the Armenian Church. He has also blamed the government for the loss of Christian cultural sites in Nagorno-Karabakh. Karekin II publicly called on the prime minister to resign in 2020. He retaliated by criticising the clergy for corruption. A working party on relations between the government and the Armenian Apostolic Church, which was created in 2019, has not yet met.

On 17 November 2022 the National Assembly approved a proposal by the Ministry of Economy to amend the Holidays and Commemoration Days Act, eliminating 5 January (Christmas Eve) and 7 January (Remembrance Day) from the list, in spite of an appeal by the Armenian Apostolic Church to retain them. Only 6 January – when the Armenian Apostolic Church celebrates Christmas – is still a public holiday.

Armenian society is traditionally conservative. For example, homosexuality is considered a sin, including for religious reasons. Lifestyles that differ from traditional role models are viewed askance and often rejected.

There are indications that societal attitudes to religious minorities such as the Seventh-day Adventists, Protestant Christian groups – like the World Life Church, which was accused of having

played a role in the 2018 revolution – and Jehovah's Witnesses have become a bit more accepting. However, members of the Jewish community reported an increase in antisemitism during the 2020 war in connection with Azerbaijan's use of weapons manufactured in Israel.

After the war over the Nagorno-Karabakh region, which had a majority Armenian population but belonged to Azerbaijan, and surrounding areas previously occupied by Armenia in autumn 2020, some 90,000 ethnic Armenians fled to Armenia; 20,000 of them have not returned to the areas where they lived.

### Structures of inter-faith cooperation

Most members of the different religious groups in Armenia live peacefully together. On the initiative of the World Council of Churches, Armenia's Round Table Foundation brings together all Christian religious communities in the country. The world's largest Yazidi temple, Quba Mêrê Dîwanê, was inaugurated in 2019 with many guests from government and civil society in attendance. The famous Blue Mosque is one of the best known sights of Armenia's capital city Yerevan. It was restored with support from Iran and is the only active mosque in Armenia, although it does not function as a structure of inter-faith cooperation.

## Azerbaijan

The Republic of Azerbaijan is a secular state. The vast majority of the population is Muslim (Shiite). The country views itself as having conservative values but as tolerant and inclusive – including in comparison with the rest of the Muslim world.

“Traditional” values can lead to serious discrimination against individuals or certain groups, such as LGBTIQ+ people or those who have converted to other religions.

Wherever the government perceives a risk of religious practices becoming politicised, those practices are restricted. All religious groups are closely monitored by the state. The 2009 Law on Religion (amended in 2021) imposes tight regulations and major obstacles on religious organisations' exercise of religion.

## Demographic breakdown

According to 2011 data from the State Religion Committee (the most recent available), 96 per cent of the population is Muslim, of which 65 per cent are Shiite and 35 per cent Sunni. The groups making up the remaining 4 per cent of the population include the Russian Orthodox Church, the Georgian Orthodox Church, the Armenian Apostolic Church, Seventh-day Adventists, the Molokan Church, the Roman Catholic Church and other Christian groups including the Protestant churches and Jehovah's Witnesses, Judaism, Bahá'í and non-religious. Most ethnic Azerbaijanis are Muslim. In terms of ethnicity, non-Muslims are primarily members of Russian, Georgian, Armenian or other national minorities. Most Christians live in Baku and other urban areas. Some 15,000 to 20,000 Jews live in Baku, with smaller communities throughout the country.

## Legal situation and restrictions by state actors

Azerbaijan acceded to the International Covenant on Civil and Political Rights (ICCPR) on 13 August 1992.

Under Article 7 of the Azerbaijan Constitution of 1995, secularism is one of the four core principles of the Republic of Azerbaijan. Article 48 guarantees the equality of all religions and all people regardless of their religious affiliation or creed.

The freedom of conscience or religion enshrined in Article 48, paras. I–III, guarantees the right to profess a religion or none at all, whether individually or as a group. The right to practise religious rituals is protected unless their exercise violates public order or public morality (para. III) or is contrary to the law (para. IV).

Missionary activities are solely permitted for Azerbaijani citizens provided they do not spread religions or subject matter that “contradict the principles of humanity” or incite “religious ... hostility.”

Azerbaijan considers itself to be a country in which different religions peacefully coexist. However, this primarily results from restrictive treatment of the free exercise of religions outside of the majority population's Muslim faith. Great care is taken to ensure that religious organisations support the state or adopt a neutral position with regard to it. The constitutional right to the free exercise of religion is constrained by laws. For example, religious organisations have been required to register with the state since 2001. This situation was compounded by the 2009 Law on Religion (with 2021 addendum), which obligates all religious communities and each congregation of a religious denomination to submit a registration application to the State Committee for Work with Religious Associations (SCWRA) – even if they were already registered. The government decides on the applications. There are grounds for rejection if a religious organisation has unconstitutional or illegal objectives, if it is not recognised as such or if details in its application documents are incorrect or unclear. Rejection of an application may be appealed. A religious organisation's registration is tied to its physical location. A new application must be submitted if a group later wishes to move or expand to other locations. Successful registration will allow a religious organisation to hold gatherings, keep a bank account, rent property, operate as a legal entity, and receive funding from the government. To register, a religious organisation must submit to the Religion Committee an application that has been certified by a notary and signed by at least 50 of its members, bye-laws and articles of incorporation, the name of the organisation's founders, and the organisation's official address and banking information.

President Ilham Aliyev signed 14 amendments to the Religious Freedom Act on 16 June 2021. Restrictions criticised by the OSCE (Organisation for Security and Cooperation in Europe), the Council of Europe Venice Commission and the United Nations have not been lifted. Government approval is required for appointments of all religious leaders of non-Muslim religious organisations – primarily the Russian Orthodox Church – particularly

when they are foreigners – relevant for the Roman Catholic Church, for example. However, the extent to which this is actually enforced remains unclear. The amendments also prohibit forcing children to practise religion. Similarly, religious upbringing of children may not have negative effects on their physical or mental health. According to a representative of the official Caucasus Muslim Board, this applies only to “certain religious movements whose participation in rituals and religious discussions is not considered appropriate by the State.” The representative clarified that this would not prevent children from practising Azerbaijan's “traditional religions,” namely Islam, Christianity and Judaism. However, exceptions of this kind are not apparent from the wording of the Act. The promotion of religious extremism is also prohibited. Religious leaders are not allowed to engage in religious activities when employed by the state. Government-approved religious centres have the sole right to grant religious titles. Religious communities are required to suspend their activities in the absence of a government-approved religious leader.

The government justified the amendments by the need for security. These amendments provide the SCWRA with more control over religious groups and are at odds with professions of support for the free exercise of religion. During the military conflict between Azerbaijan and Armenia over the Nagorno-Karabakh region in 2020, the Azerbaijani military damaged and destroyed churches, monasteries and cemeteries belonging to the Armenian minority. During the first war over Nagorno-Karabakh from 1992 to 1994, Azerbaijani heritage, culture and religious sites were destroyed by the Armenian side.<sup>99</sup>

Azerbaijani officials are concerned about possible infiltration and influence by Iranian religious actors and Azerbaijani adherents trained in Iran. Azerbaijan has placed restrictions on them for many years, and several religious activists have been arrested. Six Shiite clerics, including Ilgar Ibrahimoglu, an imam, were detained by Azerbaijan's State Security Service in October 2021.

99 Resolution on the destruction of cultural heritage in Nagorno-Karabakh (2022/2582(RSP)), [https://www.europarl.europa.eu/doceo/document/RC-9-2022-0146\\_EN.html](https://www.europarl.europa.eu/doceo/document/RC-9-2022-0146_EN.html)

The most complete, internationally recognised unofficial list of people arrested for political reasons currently contains about 80 names. Of those, 21 are considered to be religious activists, seven of whom were detained between 2020 and 2022.

President Aliyev declared an amnesty in March 2021, shortly before the Nowruz New Year holiday, during which some 31 religious activists were released, most of whom were thought to be connected to what is known as the Muslim Unity Movement. A report by the Parliamentary Assembly of the Council of Europe has nonetheless found that “officials have neither duly recognised nor appropriately dealt with the problem of po-

litical prisoners in Azerbaijan, let alone resolved it.” Officials are still putting pressure on people who pursue certain religious activities or belong to certain religious groups. People are regularly being detained in that context.

### Social conflicts with religious components

The motives behind social conflicts in Azerbaijan are not primarily religious. For example, there are no major political or social tensions between the two largest Islamic creeds, Shia and Sunni, or among Muslims, Christians, and Jews.

## Bahrain

The Constitution of the Kingdom of Bahrain, which was introduced by referendum in 2002, specifies that the religion of the state is Islam and describes Sharia as a main source of legislation.

King Hamad Al Khalifa affirmed in the Kingdom of Bahrain Declaration of 3 July 2017 that religious tolerance is one of the primary objectives of Bahraini policy. The King Hamad Global Centre for Peaceful Coexistence promotes religious dialogue all over the world. The construction of a new Catholic cathedral in Awali, restoration of the old synagogue in Manama, and the visit by Pope Francis in November 2022 are all symbolic of efforts to promote religious tolerance.

## Demographic breakdown by religious community

Bahrain has a population of almost 1.6 million people, of whom approximately 850,000 are foreigners, primarily from South Asia and the Arab world. It has approximately 750,000 citizens, 99.8 per cent of whom are Muslim according to official statistics, which also indicate that 0.2 per cent of the Bahraini population is Jewish, Christian, Hindu or Bahá'í. When considering the total population, 29.8 per cent belong to other religions, primarily Hinduism, Sikhism and Christianity (10.2 per cent). Official statistics in Bahrain do not distinguish between Sunni and Shiite Muslims. Unofficial estimates indicate that 55 to 65 per cent of Bahrain's population is Shiite.

Members of the Bahraini opposition in exile and human rights groups accuse the government of structurally discriminating against the Shiite population and attempting to change the balance between the two groups by naturalising more Sunni Muslims than other applicants. They state that discrimination against Shiite citizens is particularly prevalent in the security sector, where they are not authorised to hold management positions.

The government denies those accusations and points to the growing number of Shiites holding important positions in government and business.

## Legal situation of freedom of religion or belief

Bahrain's Constitution guarantees freedom of religion. However, that freedom is limited by the State's constitutional responsibility to safeguard the country's Islamic tradition and by the prohibition on expressions of opinion and religious activities that could violate general morality and public order or give rise to religious conflicts. Publications that call into question Islam as the state religion are prohibited. Anti-Islamic publications are also prohibited, as is the disparagement of other religions. Labour law also prohibits religious discrimination, including by private employers.

Non-Islamic religious groups must register with the Ministry of Labour and Social Development. At present, 15 Christian churches, three Hindu temples, the Jewish community, and Bahá'í and Sikh groups are registered.

Muslim groups are subject to the Ministry of Justice and Islamic Affairs (MoJIA). Sunni groups register through Waqf, the Sunni religious endowment, and Shiites register through Jaafari Waqf, the Shiite religious endowment. The structure of the two endowments was enshrined in the law in 1960 and has been regularly adapted since that time. The awqaf (endowments) are each subject to an independent council whose members are appointed by the King in consultation with the Supreme Council for Islamic Affairs (SCIA) and whose work is supervised by the responsible ministry. They receive subsidies of BHD 2.7 million (approximately EUR 6.7 million) from the state and are also financed by private donations and endowment funds.

The SCIA is made up of a chairman, a deputy chairman and eight prominent Sunni clerics and eight prominent Shiite clerics. The SCIA is a government institution whose members are appointed by the King for four-year terms. Its duties include certifying that proposed legislation is in accordance with Islam and reviewing the sermons and teaching content of the two groups. According to MoJIA, 598 Sunni mosques and

91 Sunni community centres (maatam) are registered, as well as 763 Shiite mosques and 624 Shiite community centres.

During the COVID-19 pandemic, some opposition and human rights groups complained that the practice of religion, particularly by Shiites, had been restricted. More recently, no restrictions on the practice of religion – including the traditional Ashura processions – are known to have occurred, for either Sunnis or Shiites.

## Social conflicts with religious components

Political dynamics in Bahrain have included religious elements at least since the Islamic revolution in Iran. Given Iranian territorial claims to Bahrain, the Shiite majority population's cultural affinity with religious centres in Iraq and Iran and the active promotion of Bahraini-Shiite groups (including terrorist groups) by Tehran has prompted growing mistrust. Historic patterns of discrimination have been perpetuated and exacerbated, and social conflicts have been religiously charged. At the same time, public service sectors traditionally dominated by Shiites, such as the oil sector and utility companies, have been disproportionately affected by privatisation and streamlining measures. The alienation peaked in 2011 with highly sectarian protests against the government and the royal family. The organisers of the protests, all of whom were Shiites, were detained and in many cases mistreated, after which they were sentenced to imprisonment, in some cases for life. This in turn awakened feelings of massive discrimination against Shiites.

Sectarian and societal reality is far more nuanced: marriage between people of different faiths has been accepted for decades. Religious faith does not play a visible role in everyday life and is deliberately not registered by the government. Identity documents do not indicate the religious faith of citizens. Residential districts are increasingly home to people of different religions. Some of the richest families and most successful entrepreneurs in the country are Shiite. There has always been a significant number of Shiites in



responsible positions at the royal court, although the government has been dominated for years by the House of Khalifa, Bahrain's ruling family, and a few other Sunni families.

After Prime Minister and Crown Prince Salman assumed responsibility for the government in 2020, a merit system – independent of religious affiliation – was promoted in the public sector, which also increased the number of Shiite ministers. Both chambers of the National Assembly have double-digit numbers of Shiite members (out of 40 members in each chamber). The president of the directly elected National Assembly is Sunni and the first vice president is Shia. In contrast, the chairman of the Shura Council, which is appointed by the King, is Shia and his first deputy is Sunni. The government and the National Assembly have agreed that one of the four priorities of the new legislative period will be to improve the living conditions of the population at large, thereby increasing social cohesion, which should ultimately also benefit peace between different religious groups.

## Structures of inter-faith cooperation

Bahrain considers itself a regional trailblazer in the area of religious freedom. As a traditional marketplace with relations extending notably to India, Bahrain has had a Hindu temple in its capital city Manama for 200 years, and a small Jewish community has long been established there as well. The largest Catholic church in the region was built in 2021 on land donated by King Hamad. Pope Francis's visit to Bahrain in November 2022 highlighted the country's position as the headquarters of the Apostolic Vicariate of Northern Arabia.

The King Hamad Global Centre for Peaceful Coexistence is also making Bahrain an active participant in international religious dialogue. The country regularly hosts international conferences on religious tolerance and peaceful coexistence, most recently at a very high level in November 2022 with the participation of Pope Francis and the Grand Sheik of Al-Azhar University.

## Bangladesh

Bangladesh was founded in 1972 as a secular state that assured the same status and rights to Buddhism, Christianity and other religions as to Islam in regard to their exercise. Since 1988, when Islam was declared the state religion by a constitutional amendment, the compatibility of basic secular values with an official state religion has been a subject of lively debate. Although Bangladesh traditionally had a reputation for religious tolerance, the last two decades have seen a transformation. Many of the millions of Bangladeshi migrant workers in the Gulf States have been adopting that region's Wahhabi interpretation of Islam and bringing it back to Bangladeshi society upon their return. In addition, the Kingdom of Saudi Arabia finances a large number of mosques and Quranic schools in Bangladesh.

## Demographic breakdown and situation regarding freedom of religion or belief

According to the most recent census in June 2022, the share of the Muslim population has further risen to 91.04 per cent. The share of Hindus has decreased to 7.95 per cent, Buddhists to 0.61 per cent, Christians to 0.30 per cent, and other religions to 0.12 per cent.

Bangladesh has not changed since the last reporting period with regard to the constitutional and legal situation of the various religious groups, rules for financing and registration and the legal situation of Indigenous communities. Deforestation and displacement continue to impair the religious rights of Indigenous peoples.



*Members of the Rohingya Muslim minority use boats to escape from Myanmar to Bangladesh*

Family law contains separate provisions on marriage, divorce and adoption for Muslims, Hindus and Christians. Those laws are applied before the same secular courts. Separate civil family law applies to inter-faith or religiously unaffiliated families. The family law applicable to the religion of the two relevant parties governs their marriage rituals and proceedings. A Muslim man may have up to four wives, but he must obtain the written consent of his wife or wives before he marries again. A Christian man may have only one wife.

Hindu men may have multiple wives. Hindus are officially not allowed to divorce, although informal divorces do occur. Women may not inherit property under Hindu family law. Buddhists are subject to the same laws as Hindus. Divorced Hindus and Buddhists may not legally remarry. Divorced men and women of other religions and widowed persons of any religion may remarry. To be legally recognised, Muslim marriages must be registered with the state, either by the couple or by the cleric who officiates at the wedding; however, some Muslim marriages are not registered. Registering marriages is optional for Hindus and Christians, and other faiths may set their own rules.

According to Muslim family law, a Muslim man may marry women of any Abrahamic religion, but a Muslim woman may marry only another Muslim. A widow receives one-eighth of her late husband's property if she was his only wife; the remaining inheritance is shared among the children, with each female child receiving half the share of each male child. Wives are also disadvantaged in a divorce. According to the law, a Muslim man must pay his former wife three months of support, but protection of this kind generally applies only to registered marriages. Even for registered marriages, government authorities do not always enforce the requirement to pay support.

Women and girls experience significant discrimination and are explicitly disadvantaged under family, property and inheritance law. This applies particularly to religious, Indigenous and ethnic minorities.

### **Restrictions on freedom of religion or belief by state actors**

Additional restrictions have generally been imposed on freedom of opinion and of the press over the past two years. This primarily relates to

statements critical of the head of government and her father and father of the nation, who was killed in 1975, or about the narrative of the founding of Bangladesh, as well as statements critical of religion which, in the government's view, threaten peaceful coexistence. Hundreds of journalists and bloggers have been charged and even imprisoned under the Digital Security Act of 2018. The government has admitted to errors in implementing the Act, but the promised changes to its implementing provisions have not been made.

### Social conflicts with religious components

Some one million Rohingya, most of them Muslim, who fled Myanmar live around Cox's Bazar.

The Bangladeshi government's objective is still repatriation, and there is only limited integration. Rohingyas have no access to the formal labour market. Several prominent Rohingya leaders have been killed by unknown perpetrators. Rohingya who are Christians have come under increasing pressure in this context.

There were serious clashes between Muslims and Hindus during Durga Puja, a Hindu festival, in October 2021, resulting in nine deaths and the destruction of over 300 houses and places of worship. The Prime Minister and other members of the government condemned the acts of violence. The state instituted security precautions for the Durga Puja festival in October 2022 and no clashes were reported.

### Belarus

Alexander Lukaschenko has been the repressive authoritarian leader of the Republic of Belarus since 1994. The exercise of religion is subject to strict state control. The Belarusian Constitution formally guarantees freedom of religion or belief. However, the right to the free exercise of religion and free opinion and expression, association and assembly are severely limited by repressive legislation and administrative requirements. The exercise of religion is suppressed if, from the viewpoint of the regime, it includes statements critical of current policies and governance. The Belarusian Orthodox Church, which as an exarchate is subject to the Moscow Patriarchate, is openly privileged by the state, but it is less politically and culturally important than the Russian Orthodox Church is in Russia. Societal discourse is shaped by representatives of the Christian denominations; their emphasis on conservative moral or traditional patriarchal values results in cases of discrimination, for example against LGBTIQ+ people.

### Demographic breakdown by religious community

Belarus is one of the least religious societies of the former Soviet Union. Some 60 per cent of the population describe themselves as religious (15 per cent in 1980), while 40 per cent are non-religious. Twenty-five denominations with a total of 3,409 religious communities and 173 religious associations were registered in the country on 1 January 2022. Most adherents – some 65 to 80 per cent – belong to the Belarusian Orthodox Church. The second-largest religious group is the Catholics, at 15 to 20 per cent, who are concentrated in the northern and western parts of the coun-

try. Up to 10 per cent of religious adherents belong to Protestant churches. Other religious groups include Judaism, Islam, Hinduism and Buddhism. There are still 50 Jewish synagogue communities in Belarus, which fall under three Jewish umbrella organisations. The Jewish community in Belarus was almost completely exterminated during the German occupation in World War Two.

### Legal situation of freedom of religion or belief

The Byelorussian Soviet Socialist Republic acceded to the International Covenant on Civil and Political Rights (ICCPR) on 12 November 1973.

Belarus renounced the Optional Protocol to the ICCPR, under which citizens can file complaints regarding violations of their rights to the UN Human Rights Committee, on 30 October 2022.

The Constitution of the Republic of Belarus entered into force in 1994. Its Articles 4 and 31 guarantee the right not to belong to a religion, as well as the right to exercise a religion. In an addendum to Article 16 in 1996 stating that relations between the state and religious organisations must take into account the spiritual, cultural and national traditions of the Belarusian people, the state claims the authority to interpret the form those relations take. The law on freedom of conscience and religious organisations of 17 December 1992 (amended on 4 January 2010) places all creeds and religions on an equal footing, guarantees the right to freely choose one's religion and to practise a religion, and specifies the equality of religions and beliefs before the law as well as equality before the law independent of religious affiliation. However, the law's preamble accords a privileged role to the Belarusian Orthodox Church. Religious institutions of the Roman Catholic, Protestant (Lutheran), Jewish and Islamic faiths are explicitly mentioned as "traditional religions," but the United Church is not. Other Protestant and evangelical groups are classified as "non-traditional" religions. Religions from the Far East and some other religious groups are considered to be sects. Twenty-seven Jehovah's Witness groups are registered in Belarus. The Belarusian government Commissioner for Religious and Ethnic Affairs is responsible for regulating relations between the state and religious groups.

### Restrictions on freedom of religion or belief by state actors

Religious structures are in a relationship of dependency on the state which is characterised by arbitrariness, administrative obstacles and repression on the one hand and political favour on the other. Restrictions are imposed on religious freedom based on the Religion Act of 2002, which requires all groups to register with the Commission for Religious and Ethnic Affairs if they wish to exercise freedom of religion. In practice, the registration of religious and civil society organisations is treated very restrictively. Smaller

religious groups are at a legal disadvantage when registering as religious organisations. For example, religious activities that are not registered with the state are punishable by law, as are unreported religious activities, such as group prayers or masses, in private spaces. They may not be held regularly or at most are allowed within strict limits. Religious groups may be headed only by Belarusian citizens, and their areas of activity are geographically limited. The process to obtain authorisation to conduct religious ceremonies in public spaces is very restrictive and subject to considerable fees. The charges for using places of worship that were seized in the past by Soviet government agencies are exceptionally high. The Roman Catholic Church and Protestant groups complain that work permits for foreign clergy are subject to restrictions and issued for only a few months at most. The Belarusian Orthodox Church enjoys a series of symbolic and economic privileges. Registration is refused for Orthodox churches that do not come under the Patriarchate of Moscow, including the Belarusian Autocephalous Orthodox Church and the True Orthodox Church.

### Social conflicts with religious components

The degree to which religious groups support the regime determines their scope of action. If they conduct critical political activities, they – like all other institutions of civil society – are subject to repression and are persecuted politically and subject to criminal prosecution. Clergy and adherents of various religions have been prosecuted and detained due to the stances they took after the excessive violence of the security forces following mass protests against the fraudulent presidential elections in 2020 and their condemnation of violence and the Russian war of aggression against Ukraine in violation of international law, as well as Belarus's role in it. Given the severe repression, leaders of religious groups hesitate to say anything about politics and society. After criticising the escalation of violence against protesters by the security forces following the 2020 elections, Metropolitan Pavel, the head of the Belarusian Orthodox Church, was immediately removed from office by the Patriarchate of Moscow. The Catholic Archbishop, Tadeusz Kondrusiewicz, was not allowed to return to Belarus for four months

after travelling on official business and resigned in January 2021. Government authorities limit clerical visits to prisons; some prisoners are not allowed visits by clergy. Since 2020, the authorities have been systematically ramping up the pressure they have been putting on Catholic and Protestant groups for years. The Catholic community was denied the right to manage and use the Church of Saints Simon and Helena, known as the Red Church, a landmark in the centre of Minsk, in October 2022. Requests to celebrate mass have been denied. Antisemitic grudges are sporadically encouraged by state media.

## Structures of inter-faith cooperation

An Inter-Faith Advisory Council was created in 2008 under the Commissioner for Religious and Ethnic Affairs; it is made up of 17 representatives of various religious communities and government representatives. The purpose of the Council is to promote the development of inter-faith dialogue, the preservation of traditions and the intensification of cooperation between state bodies and religious organisations in resolving issues of importance to society. The Council meets at least every six months.

### Brazil

Brazil is a federal, democratic state under the rule of law with a free press and separation of powers. The state and religion are officially separate, but religion plays a major role in politics and the daily lives of the 215 million Brazilians. The majority of the Brazilian population is Christian. The largely peaceful and tolerant coexistence of various religions – some syncretistic, some new, is part of Brazilian culture and spirituality.

## Demographic breakdown by religious community

Brazil is still the country with the largest Catholic population in the world, but it cannot be seen as a monolithic block; instead, it is divided into numerous strains with different practices. In that context, Catholic liberation theology with its dedication to justice and transformation continues to have a strong influence. The centuries-long dominance of the Catholic Church is nonetheless increasingly being called into question by the sharp rise in the number of members of churches and groups that identify as evangelical. Pentecostals and Neo-Pentecostals play a special role within the evangelical movement. Some of the Neo-Pentecostal churches are mega-churches with thousands of people attending services. They have an influence on society and are part of a global network, but they often operate independently of international or national umbrella organisations such as the World Evangelical Alliance or the national Aliança Cristã Evangélica Brasileira. Increasing numbers of Brazilians do not have a religious affiliation. There are no reliable data on

religious affiliation in Brazil. The available figures are based on estimates, surveys and the statistics reported by religious associations, so they should be interpreted with caution. According to a poll by Datafolha, a Brazilian opinion research institute, 49 per cent of the population identified as Catholic and 26 per cent identified as evangelical in 2022. Two per cent of respondents stated that they were members of Afro-Brazilian religions, while 14 per cent had no religious affiliation. As many as 25 per cent of young people between 16 and 24 years of age said they had no religious affiliation. The Jewish community in Brazil is the second largest in Latin America, with approximately 120,000 people. Estimates of the number of Muslims living in Brazil differ greatly, but they represent a small minority. The country is also home to many different spiritual communities, cults and sects and new religious movements with roots – sometimes mixed with elements of Christian belief – in the traditions and myths of Indigenous peoples, former African slaves and immigrants from non-Christian regions of the world. Approximately 800,000 Indigenous people live in Brazil, some of whom are members of uncontacted tribes.





*Sônia Guajajara, Brazil's first Indigenous minister, with President Luiz Inácio Lula da Silva*

## Legal situation

Brazil ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992. The country is a member of the major Inter-American human rights instruments; notably, it has ratified the American Convention on Human Rights (ACHR) and acceded to the authority of the Inter-American Court of Human Rights.

Freedom of religion or belief is enshrined in Brazil's Constitution. Indigenous traditions and spirituality are protected by the Brazilian Constitution and the Estatuto do Índio (legal basis for the Indigenous population of Brazil) (Lei nº 6.001, 1973). Fundação Nacional do Índio (FUNAI, the national agency for Indigenous peoples) was created in 1967 to protect and strengthen the rights of Indigenous peoples. There is no state funding for religious groups. They support their work through donations, monthly contributions (tithes) and offerings, as well as through income from companies affiliated with the churches or dona-

tions from abroad. For example, Catholic organisations in Brazil also receive support from Catholic aid organisations in Germany such as Misereor, Caritas and Adveniat. Freedom of religion or belief is respected as a matter of principle, and a lawsuit may be instituted if this principle is contravened. Brazilian criminal laws (such as Lei nº 7.716/1989) prohibit discrimination based on skin colour, race, ethnicity, national origin or religion, both in the workplace or in the area of housing. Violations are punishable by up to five years' imprisonment. The Public Prosecutor's Office (Ministério Público) also has the function of ombudsperson, giving Brazil a strong, independent institution with authority for collective action.

## Restrictions on freedom of religion or belief

State violations of freedom of religion or belief are generally limited to isolated cases. There are no known cases of forced conversion. It is easily

possible – and this frequently occurs – to change one's religion or belief (including multiple times), to advocate or proselytise for a religion or to found a new religion.

During the reporting period, the protection of Indigenous territories and rights was seriously neglected or undermined under the extremely restrictive policy on Indigenous matters of Jair Bolsonaro, the former president. This also affected their freedom of religion. Reports describe the increase in intrusions into Indigenous territories, the illegal extraction of resources, and damage to property and intangible heritage. A total of 305 cases of this kind involving at least 226 recognised Indigenous areas in 22 Brazilian states were documented for 2021.<sup>100</sup> The article by Professor Bielefeldt, “Indigene und Religionsfreiheit,” describes the effects on Indigenous people that can result from destroying their environment – in which in their worldview all natural things have a spirit or soul – and their sacred places such as ancestors' graves. It is not just the livelihood of Indigenous peoples but also their cultural way of life, their self-definition, their collective political self-determination, their intergenerational cohesion and their religious and spiritual ideas and practices that are inextricably linked to their ancestral lands.

The state and religion are functionally separate in Brazil, but politics and religion are not. For example, some 15 per cent of members of the Chamber of Deputies belong to the Evangelical Parliamentary Front (Frente Parlamentar Evangélica), a strong, active group made up of members of the Federal Senate and Chamber of Deputies from various parties. The group gained strength during the reporting period. Certain conservative evangelical Christians have been attempting for several years now to take advantage of their increased political influence to work in a coalition of other conservative players – sometimes with great success – to shape policies according to their religious views or belief systems; this relates not only to areas such as the family, abortion and sexuality but

also in some cases to press and artistic freedom or education policy. They often reject supposedly “ideological” subjects such as gender, LGBTIQ+, government-sponsored sex education, climate action or environmental protection.

### Social conflicts with religious components

Brazilian society is increasingly polarised, a situation that certain evangelical churches have also contributed to. They want to distinguish themselves from the Catholic Church as well as traditional Protestant denominations such as Lutherans, Baptists, Methodists and Presbyterians. Large evangelical churches such as Assembleia de Deus or Igreja Universal do Reino de Deus have significant financial resources and can reach large swathes of the population through their own radio and television stations and popular televangelists. Actors like the Neo-Pentecostal movement have been particularly successful at addressing various population groups, such as the many people living in poverty. At the same time, they also appear to be increasingly attractive to the middle and upper classes. A “gospel of prosperity” and the offering of direct personal experience with healing and revival appear to be factors in this. Certain evangelical leaders, capitalising on demographic changes, have turned an originally marginalised group into powerful players with a great deal of political relevance who also massively influenced the 2022 election, in which then-President Jair Bolsonaro was opposed by Luiz Inácio Lula da Silva. The openly celebrated alliance between Jair Bolsonaro and prominent conservative Neo-Pentecostal leaders had the result that all evangelical churches and groups (as well as other Protestants) were equated in the public discussion and in particular in international reports with the extremely influential mega-churches.

All Indigenous groups are threatened by the intensification of criminal activities, as shown by incidents in the territory of the Yanomami (Roraima state) and the Mundurukú. Estimates indicate that

<sup>100</sup> <https://cimi.org.br/wp-content/uploads/2022/08/relatorio-violencia-povos-indigenas-2021-cimi.pdf> p. 8: “A consequência dessa postura foi o aumento, pelo sexto ano consecutivo, dos casos de invasões possessórias, exploração ilegal de recursos e danos ao patrimônio”. Em 2021, o Cimi registrou a ocorrência de 305 casos do tipo, que atingiram pelo menos 226 Terras Indígenas (TIs) em 22 estados do país”, (author's own translation) (accessed: 3 April 2023).

more than 20,000 gold prospectors have penetrated into Yanomami territory and organised armed attacks on Indigenous communities. In Pará state, gold prospectors are threatening Mundurukú lives; they burnt down the house of a leader who had opposed mining in their territory. The result is the devastation of territories and pollution of rivers by heavy machinery used for gold prospecting, which can affect the spiritual and religious roots of Indigenous peoples.

The Guarani-Kaiowá, an Indigenous group in Mato Grosso do Sul state, known for its large land holdings and industrial agriculture, complain of religious intolerance and violent attacks against their people. During an interactive dialogue with the UN Special Rapporteur on freedom of religion or belief held by the UN Human Rights Council in March 2022, a young woman, Tatiane Sanches, denounced repeated arson attacks on her people's places of worship (ogapisy) by fundamentalist evangelicals. At least seven Guarani-Kaiowá places of worship are said to have been destroyed in this way in 2021. The ogapisy and the land where the Guarani-Kaiowá live, known as Tekohá, possess great spiritual importance for them. Efforts to proselytise Indigenous communities, also primarily by evangelical groups, have increased in recent years as well.

Human rights activists who take a position on conflicts over land or denounce the violation of Indigenous rights are subject to threats, violence and even death – as are people who act in accordance with their convictions concerning societal transformation. Organised criminals, such as illegal loggers, gold prospectors, cattle breeders, illegal fishers and drug dealers, are often behind this. Employees of the Comissão Pastoral da Terra (Pastoral Land Commission, CPT), a Catholic organisation that works in the countryside, and the Indigenist Missionary Council (CIMI), which defends the rights of people living on the land and works to protect over 300 Indigenous peoples, and even bishops, are also at risk if they take a stance and speak publicly against criminal activities of this kind. There are government programmes in some Brazilian states, such as Pará, to protect people at risk. The Catholic Church has taken its own precautions in situations involving

acute threats, including making it possible for the affected people to move to more secure locations for brief periods.

The Human Rights Ministry's national telephone number "Disque 100" receives some 500 reports each year of religiously motivated discrimination and acts of violence, which are forwarded to the local police services. Most of the reports relate to iconoclastic acts. These usually involve the places of worship of Afro-Brazilian religions – whose saints (orixás) and rituals (such as animal sacrifice) some evangelicals consider pagan and satanic – as well as figures of Catholic saints and shamanistic symbols, and sites of Indigenous groups.

Assaults on religious and sexual minorities by people from fundamentalist evangelical circles have repeatedly been reported. LGBTIQ+ people are also being insulted and attacked based on religious motives. The increasing influence of evangelical fundamentalists is making it difficult for adherents of Afro-Brazilian religions to practise their beliefs in public.

Antisemitism is uncommon in Brazil, as is hostility towards Muslims. Nevertheless, there are instances of stereotypical prejudice, occasionally also hostilities and violent incidents. Jewish people are a natural part of Brazilian society and play an active role in politics, business, sport and science. Some leading politicians or representatives of the media in Brazil are Jewish, but this is not a subject of public discussion. As part of a study by the University of São Paulo in 2021, some 650 Muslims were asked about their experience with discrimination. Muslim women reported hostility on the street and discrimination in employment, particularly when they wore traditional clothing. People who converted to Islam are also frequently rejected by their family and friends.

## Central African Republic

The Central African Republic is marked by armed conflict and violence. The subject of the conflicts is primarily the distribution of resources and political power, but they often run along ethnic and religious lines. This is exemplified by the disputes between the armed groups of the majority Muslim Séléka and the primarily Christian anti-Balaka. The militias are also very controversial among their own population, particularly the groups they claim to protect. Civilian society primarily accuses them of gang violence and organised crime. The population has been successful in recent years in reducing religious tensions, sometimes with the help of inter-faith platforms, in spite of the continuing violence. Nonetheless, freedom of religion or belief in the Central African Republic is threatened by social discrimination against minorities, political polarisation, the deliberate dissemination of disinformation and economic and humanitarian hardship.

### Demography of the religious groups

The population of the Central African Republic is about 5.5 million. According to the Pew Research Foundation, in 2019 the population was 61 per cent Protestant and 28 per cent Catholic, so the country is 89 per cent Christian. The Muslim population, which are almost exclusively Sunni, declined due to forced displacement from 15 per cent in 2011 to 8.5 per cent in 2022; the Central African Republic lost 80 per cent of its Muslim population from 2012 to 2014 alone. Islam is practised most in the far northern border areas near Cameroon, Chad, and Sudan. Most Christians and Muslims also simultaneously practise forms of traditional African spirituality. Only a small minority exclusively practise traditional spirituality, are members of smaller groups such as Bahá'í or do not belong to a religion. The Indigenous Aka Pygmies are threatened by destruction of the rainforest. A Christian mission has been attempting to convert the Aka for 40 years, and they now practise both Christianity and their traditional spirituality.

### Legal situation of freedom of religion or belief

The Constitution guarantees freedom of religion or belief as well as the separation of state and religion; political parties may not identify with a religion. The duties of president must be fulfilled without any consideration of ethnic, regional or religious affiliation. Religious groups with more than 1,000 members are required to register, for

which there is no charge; Indigenous religions are exempt from this. The required registration with the Ministry of the Interior can be refused or suspended. There are no statutory provisions on the financing of religious institutions, so many priests and religious leaders – including in the established churches – live in poverty. The law does not discriminate regarding the participation of religious minorities in basic services such as education and health. In practice, however, Muslims complain of discrimination, for example when looking for work, applying for identity documents or attempting to protect property rights.

### Restrictions on freedom of religion or belief by state actors

The Muslim population traces its roots back to population groups who have immigrated from Sudan since the 16th century or from Nigeria and Niger since the 1920s, as well as from Chad. Some media and in isolated cases representatives of public agencies and the government or members of parliament question whether Muslims belong in the Central African Republic. Since 2010, there have increasingly been confrontations between majority Muslim militias (Séléka coalition) and the government, as well as the primarily Christian anti-Balaka militia. Militia groups have carried out massacres, committed other war crimes and forced people to convert. A total of 417 of the 435 mosques in the country were destroyed in 2014, after which 80 per cent of Muslims fled, most to Chad and Cameroon. The remaining Muslim population is temporarily living in



19 enclaves guarded by UN peacekeeping troops. In April 2022, the U.S. Commission on International Religious Freedom declared the Central African Republic to be a country in which religious freedom was again being violated following progress in 2019 and 2020. The UN and human rights organisations repeatedly accused state security forces and their allies of deliberately targeting Muslims in their fight against the militias, thereby committing extremely serious human rights violations. At the same time, portions of the anti-Balaka and the Ex-Séléka militias entered into the self-styled Coalition of Patriots for Change (CPC) under former president François Bozizé in December 2020. The CPC has been the dominant rebel group since that time. Proceedings are currently pending before the International Criminal Court in which three anti-Balaka commanders are accused of killing and torturing the Muslim civilian population and destroying mosques. Christian aid organisations also report violence by anti-Balaka militias against churches and Christians as soon as they begin to oppose criminal activities, violence and raging corruption or question the status quo. Converts are under relentless social pressure.

### Social conflicts with religious components

Atheism is socially and religiously ostracised and Muslims are sometimes presented negatively in the media; prejudice is widespread. The UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), which started in 2014, has created a centre to monitor hate speech. A church in Bangui was burned to the ground in 2018, killing 16 people. The government of the Central African Republic adopted a national plan for the prevention of incitement to hatred and violence in 2018, which includes preventive efforts at the level of churches and schools, cultural activities and reforms in the areas of cybersecurity and journalism.

### Structures of inter-faith cooperation

In 2016 the Bishop of Bangui Nzapalainga, the president of the Higher Islamic Council of the Central African Republic Imam Kobine Layama, and the president of the Evangelical Alliance of the Central African Republic Nicolas Guerekoyame-Gbangou founded the interfaith Platform for Religious Confessions in Central Africa (PCRC), which focuses on inter-faith dialogue and the return of refugees. It is internationally recognised – having received the International Charlemagne Prize of Aachen – and is supported by Islamic Relief, Catholic Relief Services, World Vision and Misereor. Similar inter-faith formats for dialogue exist at the local level. Pope Francis visited Bangui in 2015 and called for reconciliation; an agreement among 13 armed groups was signed in Rome in 2017 under the aegis of the Catholic NGO Sant’Egidio but has mostly not been observed. Sant’Egidio is an active participant in mediating between various armed groups in the Central African Republic. The King Abdullah International Centre for Interreligious and Intercultural Dialogue (KAICIID), which is financed by Saudi Arabia, conducts one of its most important programmes in the Central African Republic; it includes mediation training for women, young people and Christian and Muslim clergy.



## China

The Chinese Constitution accords equal status to both positive and negative freedom of religion. However, in practice, its protection varies considerably. In general the government officially grants space to the officially recognised religious groups of Daoism, Buddhism, traditional Protestantism, Catholicism and Islam and permits the construction of churches, temples and mosques. Yet the exercise of religion must be conducted “in the framework of the state’s socialist values and core interests as well as legal principles.” Religious groups must be “actively led toward adaptation to socialist society.” Officials may take legal action against unrecognised or unregistered religious groups such as Falun Gong or Christian free churches. The legal basis for opposition to freedom of religion has been further strengthened in recent years. As a whole, these significant limitations represent a violation of freedom of religion or belief.

## Demographic information

The availability of data is inconsistent. The most recent official data from the State Council Information Office of the People’s Republic of China is from 2019; it indicates that there are 200 million believers in China. In contrast, the most recent estimates by the U.S. government indicate that about 18.2 per cent of the total population (some 250 million people) are Buddhists, 5.1 per cent are Christians (including in numerous freely organised house churches), 1.8 per cent are Muslims, 21.9 are adherents to folk religions not defined in greater detail and some 52 per cent do not belong to any of the religions mentioned. Those estimates are generally in accordance with other publicly available data from various NGOs and university databases.

## Legal situation

China signed the International Covenant on Civil and Political Rights (ICCPR) on 5 October 1998 but has not ratified it. The right to negative and positive freedom of religion and a prohibition against discrimination are enshrined in Article 36 of the Chinese Constitution, according to which the state may not discriminate against citizens based on their affiliation or non-affiliation with any religion. However, the Chinese Constitution also sets the boundaries of freedom of belief. Pursuant to Article 36, the protection extends only to “normal religious activities” that do not disrupt the public order, impair the health of citizens or interfere with the educational system

of the state. In addition, religious organisations may not be directed from abroad.

Changes have been made to the legal situation of freedom of religion or belief in China over the past few years. Supplementing the current provisions – particularly the State Council’s regulations on religious affairs, which were revised on 1 February 2018 – in December 2019 the Chinese government adopted Administrative Measures for Religious Groups that impose more detailed requirements regulating religious groups’ and organisations’ registration, authorisation and reporting to government agencies and religious umbrella organisations.

Administrative Measures for Religious Clergy, which require everyone in this group to register in a national database, were adopted on 8 January 2021. Registration in the database is subject to the requirements of loyalty to the Constitution and compliance with the “core values of socialism,” as well as a patriotic spirit, unconditional acceptance of the Chinese Communist Party’s (CCP) claim to leadership and compliance with the “movement toward the Sinicisation of religion in China.” Religious schools have also been regulated more strictly since September 2021 pursuant to the adoption of “appropriate measures.”

“Measures for the Administration of Internet Religious Information Services,” according to which religious service providers must apply to the competent authorities for official approval of all online public communication, were promulgated

in December 2021. Religious groups practising outside of state-authorised institutions, such as Christian house churches that also held services online due to restrictions on freedom of movement, have been particularly affected – in the context of the COVID-19 pandemic – since that time.

“Measures for the Financial Management of Venues for Religious Activities” entered into force in June 2022. They were adopted jointly with the National Religious Affairs Administration (NRAA), which comes under the United Front Work Department (UFWD) of the Chinese Communist Party (CCP), and the Chinese Ministry of Finance and regulate in detail all income, donations and expense structures of institutionally anchored religious organisations.

Article 300 of China’s Penal Code enables the prosecution of religious sects that disseminate “superstitious fallacies to hoodwink people.” It prescribes a prison sentence of three to seven years, and in particularly severe cases, at least seven years’ imprisonment. The Falun Gong spiritual movement, which has been banned since 1999, is particularly affected by this.

It is not possible to refuse to serve in the military on grounds of belief or conscience; exemptions are granted only for physical, psychological or political reasons.

### Restrictions on freedom of religion or belief by state actors

All public life in China was subject to severe restrictions and additional electronic and physical surveillance once the COVID-19 pandemic began. This also applied to the exercise of religion, due in particular to strict limits on freedom of movement and assembly. According to reports in the media and by the U.S. Department of State, advanced surveillance methods – including CCTV cameras in front of unregistered churches and face recognition and phone tapping – were used to identify and arrest members of unregistered or prohibited religious groups. Bans on public gatherings also applied to religious groups. Limits were also imposed on online religious services. Cases are known in which government officials

attempted to keep religious organisations from resuming their activities even after restrictions had been lifted in comparable non-religious contexts.

Restrictions on freedom of religion going beyond specific legal and administrative requirements are still being imposed under the pretexts of combating terrorism and of “de-extremification” (the “Three Evils” of extremism, separatism and terrorism). This is happening especially frequently in Muslim-majority regions such as the Xinjiang Uygur Autonomous Region. The freedom of religion of the Uygurs living there, as well as Kazakhs and other Muslim Turkic peoples continues to be restricted. The restrictions are so extensive that it must be assumed that massive human rights violations are occurring on a massive scale. There are indications that must be taken seriously of crimes against humanity involving the Uygurs and other Muslim minorities, particularly during the period from 2017 to 2019.

All forms of religious practice and identifying features of a religion which can be interpreted as a potential expression of extremism are being limited or in some cases banned. Interpretation is solely up to government agencies and severely interferes with personal rights. This can involve wearing a beard or headscarf, particularly by young people.

Access to the Xinjiang Uygur Autonomous Region was strictly limited due to restrictions related to the COVID-19 pandemic. Observers such as Michelle Bachelet, a former UN High Commissioner for Human Rights, have reported arbitrary detention in camps, torture, “re-education” and rapes, as well as constant surveillance. There are also persistent reports that Muslim infrastructure (including mosques, shrines, cemeteries and minarets on mosques) has been destroyed and pilgrimage sites (such as local shrines) have been altered and in some cases closed. Generally speaking, the collective exercise of religion has been seriously hampered since the pandemic by invoking health and hygiene requirements and preventive measures.

There have been accounts since the last Report that monasteries in the Tibetan territories outside of the Tibet Autonomous Region have been closed and monks and nuns expelled. Access to those areas has been sharply curtailed.

The provisional agreement between the Vatican and the Chinese government on the appointment of bishops, first reached in 2018, was renewed in October 2022. Its content has not been publicly disclosed. The agreement specifies that both sides will agree on appropriate candidates, but the Pope as head of the Catholic Church has the final say on appointments of individual candidates. This procedure has now been used to appoint six new bishops for China.

## Social conflicts with religious components

Official communication by the state on the subject of religion is strongly coloured by propaganda elements of the “adaptation” – either to core Socialist values or requirements of the party, or due to Sinicisation of religions considered to be “non-Chinese.” At the same time, the population remains sceptical or even dismissive of an apparent religious identity, particularly in areas without a strong religious influence. This is particularly the case for Islam and religions primarily exercised by ethnic groups in the west. Even if this is not an open societal conflict, the state uses rhetoric on “adaptation” to promote the superiority of the Han ethnicity (majority population) over ethnic minorities.

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## Hong Kong

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Freedom of religion continues for the most part in Hong Kong, although national security legislation targeting political statements made by and within religious groups is also causing uncertainty. The predominant creeds are Daoism and Buddhism, each with more than a million adherents, as well as Christianity and Islam, with some 860,000 and 300,000 adherents respectively. Cardinal Zen Ze-kiun was arrested in May 2022, accused by the Hong Kong authorities of “collusion with foreign forces.” His arrest was met with criticism all over the world, including by the German government.

In some cases there has been increased surveillance of worship services by security forces, for example after the death of Queen Elizabeth II. Large events commemorating the suppression of the Chinese democracy movement in Tiananmen Square, which were common in Hong Kong until 2019, have been prohibited by the police for the past three years, citing restrictions related to the COVID-19 pandemic. As a result, organisers have not held smaller memorial services for the victims, either. In contrast, during the opening ceremony for the new Sikh Temple in Hong Kong, Chief Executive Lee expressed his wish for a harmonious society with different religions.

## Egypt

### Demographic breakdown

Around 90 per cent of Egypt's roughly 109 million inhabitants are Sunni Muslims, and roughly 10 per cent are Christian (90 per cent of them Coptic). Only a small number of Jews still reside in Egypt today. The largest religious groups that are not legally recognised are probably Shiites and Bahá'ís. Reputable estimates by experts presume there are several hundred thousand Shiite Muslims. The Bahá'í religious minority has between 1,000 and 2,000 members. Reliable statistics on Ahmadis, Jehovah's Witnesses and other small religious groups are not available. There are no reliable estimates of the numbers of atheists or religious converts, either.

### Legal situation

The Arab Republic of Egypt signed the International Covenant on Civil and Political Rights (ICCPR) on 4 August 1967 and ratified it on 14 January 1982. Its Article 18 contains a definition of freedom of religion that is binding on the Republic of Egypt under international law. It states that "everyone shall have the right to freedom of thought" and that the freedom to manifest one's religion or beliefs is guaranteed by law. However, this freedom explicitly applies only to the three monotheistic, Abrahamic religions: Islam, Christianity and Judaism. Discrimination on the basis of religious affiliation and belief is prohibited by the constitution, but (Sunni) Islam is the State religion and Sharia is the primary legal source of civil and family law for Muslims. For Jews and Christians, their canon law is also recognised as the basis for personal status rules, religious law and the selection of spiritual leaders. Identity cards must indicate affiliation with one of three religions – Islam, Christianity or Judaism – with one exception: Bahá'í has been shown by a dash ("–") since 2009. Jehovah's Witnesses are

listed as Christians, but their activity is prohibited pursuant to a presidential decree. Changing religious affiliation is allowed by law; conversion from Islam (apostasy) is not prohibited by law, but in some cases is not recognised by government agencies. In actuality, the bureaucratic steps required to convert to Islam are simpler than when converting from Islam to Christianity. Muslim women are not allowed to marry non-Muslim men, but Muslim men may marry Christian and Jewish women. There is a blasphemy law, and it is also enforced. The particular importance of Islam is shown by the legal requirement that all death sentences must be submitted to the Grand Mufti of Egypt for confirmation before they are carried out. The prime minister may prohibit the dissemination of books that "denigrate religion." The Al-Azhar Islamic Research Academy may censor and confiscate publications that it considers incompatible with Islamic law.

### Actions by state actors

The peaceful coexistence of the three religious groups recognised in Egypt is a stated objective of the Egyptian government and President al-Sisi. This applies in particular to the numerically largest groups – Sunni Muslims and Coptic Christians – which make up around 90 and 10 per cent of the population respectively. On a symbolic level, the president is also making efforts to foster understanding with the very small Jewish community. Al-Sisi states publicly that he will also respect non-religious people and their freedom of belief, but professed atheists have faced hostility and official attacks, including imprisonment. The situation of people converting from Islam to Christianity is also a difficult one. They are subject to legal and social discrimination. The security situation of the Coptic community has stabilised thanks to enhanced security measures, and the

number of violent attacks has been declining for years. President al-Sisi swiftly responded to arson attacks on Coptic churches with public statements, promising that they would be rebuilt by the army.



*A father and a son entering Amr ibn al-As Mosque, Cairo's oldest mosque*

Imams at licensed mosques are appointed and paid by the Ministry of Religious Endowments; religious teaching and sermons at Friday mosques (congregational mosques) must be licensed. Sermons given at major mosques on Fridays are monitored by the Ministry. Imams who give sermons prepared by the ministry of Religious Endowments receive a bonus payment.

In several cases of attacks on Coptic churches and the homes of Coptic Christians from 2013 to 2015, Egyptian courts imposed or affirmed long terms of imprisonment. After the Coptic researcher Patrick Zaki published a text on discrimination, he was detained when entering Egypt and charged with “disseminating false news” and “inciting terrorism and illegal gatherings”; he has now been released on bail. The lawyer and publicist Ahmed Abdou Maher was sentenced to five years’ imprisonment in November 2021 for “denigration of Islam” in his book *How the Imams’ Jurisprudence is Leading the Nation Astray*. Egyptian courts rejected two appeals in 2021 and 2022 after the atheist blogger Anas Hassan was imprisoned. Hassan, who ran a Facebook page, “The Egyptian Atheist,” and was accused of disseminating atheistic ideas and criticizing the “revealed religions,” had been sentenced to three years’ imprisonment. Al-Azhar University has launched a social media campaign to combat the spread of atheism. Ramy Kamel, a human rights activist focusing on the Coptic community, was released in January 2022 after spending more than a year in prison. He was arrested in 2019 when he applied for a visa for Switzerland so he could give a speech on the situation of Copts in Egypt. The Quranist Reda Abdel Rahman was released in February 2022 after 18 months’ pre-trial detention. He had been charged with blasphemy.

### Social conflicts with religious components

The number of social conflicts with religious components is much lower and their intensity is far less than in the years after the revolution in 2011. However, individual cases of violent and psychological attacks with a religious background continue to occur. This applies in particular to Christians with a Muslim background or in connection with accusations of purported blasphemy. For example, a Copt in the Asyut Governorate was stabbed by his Salafi neighbour, and his wife was wounded. A pharmacist in the Sharqia Governorate filed sworn complaints against her colleagues in 2022, accusing them of harassing and making physical attacks on her due to her decision not to wear the hijab. The attacks were documented and posted on Facebook. The pharmacist was imprisoned shortly thereafter due to “membership in a terrorist association and dissemination of false news.”



The organisation known as Islamic State (IS) is still present and active in the North Sinai Governorate, where it has attacked civil and security targets. IS posted a video of the execution of the Coptic priest Nabil Habashi in April 2021, and 12 members of the Egyptian armed forces died during an attack near the Suez Canal in May 2022. Four Salafi preachers were released from prison in September 2021 after having been accused of inciting to violence and membership in a terrorist association. One of the four, Mahmoud Shaaban, was arrested again shortly thereafter and sentenced to 15 years' imprisonment in June 2022. Shaaban had declared a fatwa during a live broadcast on the Salafi television channel Al-Hafez, calling for the killing of opposition politicians.

## Structures of inter-faith cooperation

In November 2021 the Sheikh of Al-Azhar University, Grand Imam Ahmed al-Tayeb, and the Coptic Pope Tawadros II celebrated the 10th anniversary of the quasi-governmental entity Beit al-Aila (Family Home), intended to advance the principles of inter-faith understanding and peaceful coexistence. In June 2021, Al-Tayeb welcomed a suggestion by the Anglican Episcopal Church to create a centre for Islamic studies and an Islamic library in cooperation with Al-Azhar University. The Orthodox Patriarch Theodor II of Alexandria and all Africa dedicated a centre for inter-religious and inter-cultural dialogue in November 2021.

### El Salvador

The general human rights situation in El Salvador is characterised by shortcomings in the rule of law. The independence of the judicial system is being eroded. Government authorities have been cracking down on criminal gangs and the people associated with them since the state of emergency was declared on 27 March 2022; it is being extended by the Legislative Assembly every month. National challenges related to the human right to freedom of religion must be viewed in this context.

A significant majority of the Salvadoran population are of Christian faith. Hundreds of religious groups are able to exercise their faith unimpeded by direct government interference. However, religious actors also experience violence and discrimination. The Violent Incidents Database, a civil society monitoring platform, notes 55 cases of threats ranging from robbery to murder during the reporting period.

The Catholic church enjoys constitutional status. Since the 1990s, there has been an evident strengthening of evangelical communities.

### Demographic breakdown by religion

The population of El Salvador is estimated to be 6.4 million, with an additional 3.4 million people living outside the country. At least half of Salvadoran residents are Roman Catholic. About one third belong to Protestant Church groups, which in El Salvador are referred to across the board as "evangelical," even though the category also includes Lutheran and Reformed Churches. A total of 14.4 per cent of the population denies having a religious affiliation, and some 2 per cent belong to "other" religious groups – including Jehovah's Witnesses, Mormons, and adherents to Islam and

Judaism. There is hardly any traditional Indigenous spirituality in El Salvador. The few descendants of the Nahua Indigenous group who survived the 1932 massacre by the Hernández government, which was carried out to put down the peasant uprising around the Izalco volcano and estimated to have had 25,000 victims, usually practise their own Indigenous spirituality in the context of the current main religions.

## Legal situation of freedom of religion or belief

Both negative and positive freedom of religion are protected under Article 24 of El Salvador's Constitution and also guaranteed in practice. Any discrimination based on religion is constitutionally prohibited. The Constitution specifies that ministers and clergy may not hold political office. With the exception of the Catholic Church, which has constitutional status, all religious associations must be registered with the government. During this process, their charters' compatibility with the Salvadoran Constitution and laws is verified. The existence of countless churches and church-like groups demonstrates that the registration procedures are non-discriminatory.

There is extensive violence against marginalised groups – particularly women and minors – but it is not religiously motivated.

## Social conflicts with religious components

Catholic actors are very influential in Salvadoran politics and society. In certain cases, however, some in the government are increasingly critical of them, expressing this openly. Some religious actors are also critical of the government.

Religious actors, human rights activists and activists who oppose organised crime and violence based on their convictions concerning societal transformation are subject to threats, violence and even death. Eleven religious actors who had been socially and politically active, including against organised crime, were killed in El Salvador in 2022. In connection with serious shortcomings in the rule of law, criminal gang activities, as well as organised crime, continue to negatively impact people's ability to practise their religion in many areas and also determine who is free to do so.

In the wake of the government's declared war on organised crime, it has also focused on religious actors who are dedicated to getting gang members to drop out and then offering them rehabilitation.

Converting and joining a church, particularly a Pentecostal congregation, can make it much easier for gang members to drop out. However, they often remain under observation and must face consequences – including death – if a criminal organisation does not perceive their religious conversion as authentic.

Physical violence is not used specifically in the name of religion in El Salvador. There are often smear campaigns on the Internet (blogger community) against LGBTIQ+ people and against defenders of human rights working for LGBTIQ+ rights or decriminalisation of the absolute ban on abortions. Religious reasons are used to justify denial of the existence of rights of this kind.

The Catholic Church and the majority of evangelical Protestant associations oppose a right to abortion and equality of legal treatment for LGBTIQ+ people under marriage and family laws.

Against that background, many Christian – particularly evangelical – actors with nuanced opinions are fighting the blanket accusation of being misogynistic.

The numerous radio and television stations operated by religious associations are considered to have an influence on public opinion. In addition, representatives of the country's political class frequently make public statements regarding their membership in religious associations.

## Structures of inter-faith cooperation

There is no concerted action or institutionalised dialogue among the various denominations. An atmosphere of peaceful co-existence generally prevails in the religious sphere.

## Eritrea

Eritrea's politics are dictated by the country's single official party, the People's Front for Democracy and Justice (PFDJ), whose chair is simultaneously the country's president and head of government. The freedoms of assembly, opinion and expression are not guaranteed. Assemblies require a permit, and public criticism of the government can potentially lead to open-ended detention without trial. The media are state-controlled.

The PFDJ's ideology presumes that the nation is united in a collective struggle against the former occupying power of Ethiopia, and the foundation of this unity must not be impaired by any tensions amongst religions or ethnicities. The draft constitution of 1997 has not been fully implemented, so there is no constitutionally guaranteed freedom of religion or belief in Eritrea. As framed by the PFDJ, Eritrea is a secular state that acts neutrally on issues of religion. The day-to-day reality is a different story.

### Demographic breakdown by religious community

According to politically motivated statements by the Eritrean government, around half of the country's population (some 4 million) are Christian and the other half are Muslim. There are no official statistics available. Foreign research institutes estimate that 61 per cent of the population is Christian. The majority of the Christians (56 per cent) belong to the Eritrean Orthodox Tewahe-do Church; the Catholic Church estimates that roughly 4 per cent of the population is Catholic. No figures are available for other religions.

### Legal situation of freedom of religion or belief

Article 19 of the draft constitution that was passed by the Eritrean National Assembly in 1997, but still has not come into force, reads: "Every person shall have the right to freedom of thought, conscience and belief. ... Every person shall have the freedom to practise any religion and to manifest such practice."

The legal basis for the relationship between the state and religious groups is Proclamation 73/1995 of 15 July 1995, which specifies that citizens have freedom of belief and conscience and that there is a separation between religion and state. In actuality, the state recognises only four

religions: the Eritrean Orthodox Church, Sunni Islam, the Catholic Church and the (Protestant) Lutheran Church. The only government-authorized sources of income for the approved religious groups are donations from the populace and grants from the government. Funding from abroad requires approval; religious groups are not permitted to be dependent on them. The approved religious groups are equal both de jure and de facto; there are no known cases of restricted access to government services. In daily life, attendance at churches and mosques is high, and religious holidays are publicly celebrated. People of different religions are tolerant of each other.

Since 2002, the government has interpreted Proclamation 73/1995 to mean that unregistered religious groups in Eritrea are not approved. Existing facilities of the Seventh-day Adventists and Bahá'ís have been shut down, for example. According to government statements, no applications for new registrations have been submitted since then. Proclamation 73/1995 explicitly prohibits religious groups from engaging in any political activities or making statements, especially public criticism of the government. Contacts with foreign entities, including diplomatic missions, require approval by the supervisory authority. All social services are the responsibility of the state and the people; religious groups are only involved in provision in exceptional cases.

Proclamation 73/1995 established a state supervisory authority to regulate religious institutions and activities (Department of Religious Affairs), with which religious groups must annually register as non-governmental organisations, specifying their assets, in order to carry out socially minded projects.

In family and inheritance law, Sharia law is optionally applied to anyone who was married according to Muslim rites; the remaining population is subject to civil law.

### Restrictions on freedom of religion or belief by state actors

The severe restrictions on freedom of religion have the pretext of protecting national unity and resisting foreign influence. This is evident both in the government's determination of the four recognised religions and also in their regulation by the state. Other religious groups are not permitted and are at risk of persecution.

There are repeated cases of detentions on the grounds of unacceptable exercise of religion, for example gatherings of unapproved religious groups or the communication of political content in a religious setting. The UN presumes that several hundred people have been detained due to their religion or belief, including community leaders and clergy. The stated reason for these interventions is to preserve national unity by establishing a balance between the existing religions. The government views newcomer religious groups as posing a risk of fragmenting society; if they receive foreign funds, they are viewed as posing a risk of international influence.

Religious groups are prohibited from engaging in any political activities, especially criticising the government. Eritrea's Roman Catholic bishops have nonetheless published pastoral letters critical of the government on multiple occasions, most recently in April 2019. In response, on 12 June 2019 the government shut down the final 22 of the originally 40 healthcare facilities operated by the Catholic Church. The government closed one of the Catholic Church's three secondary schools and nationalised two others on 3 September 2019. It stripped the Patriarch of the Eritrean-Orthodox Church of his title due to critical statements in 2007; he has been under house arrest ever since. Protests broke out in Asmara in 2017 and 2018 when the government took control of an Islamic school. All church and Qur'anic schools were then closed. Three religious actors, including the Bishop of Segheneity, were detained in October 2022. The three people who were arrested were released in late December 2022 after being imprisoned for two months.

The restrictions on freedom of religion or belief have been regularly criticised in international human rights forums, including in a speech by Nada Al-Nashif, the UN Deputy High Commissioner for Human Rights, at the 52nd session of the UN Human Rights Council on 6 March 2023.

### Social conflicts with religious components

The state ideology presumes a unified secular nation state in which ethnic and religious differences are to play no role. Conflicts between religious groups are therefore denied by the state and few instances have been known to date.

## Guatemala

The general human rights situation in Guatemala is characterised by shortcomings in the rule of law, particularly a discrepancy between the law and actual practice. The independence of the judicial system is being eroded. National challenges related to the human right to freedom of religion must be viewed in this context. A significant majority (85 per cent) of the Guatemalan population is of Christian faith. The Catholic Church enjoys constitutional status (recognition of its legal personality in Article 37). There has been an evident strengthening of various evangelical churches and movements since the 1990s.

### Demographic breakdown by religion

As a result of Spanish colonisation, Catholicism is traditionally the dominant faith in Guatemala, although it is losing members. Protestantism is to be found throughout the country, due primarily to the large number of different Protestant and evangelical churches. According to a survey by ProDatos, some 45 per cent of the population identifies as Catholic and 42 per cent as Protestant. Both faiths have members of all ethnic groups. The majority of the Indigenous population, which makes up 43 per cent of the total population, professes the Catholic religion or belongs to one of the growing evangelical churches and movements. Masses and services are in some cases held in Indigenous languages, but this does not occur throughout the country. According to organisations for Mayan spirituality, as well as the Christian churches, many Indigenous Catholics also practise a religion influenced by the rituals and world views of the Mayan peoples. This applies to a lesser extent to Indigenous Protestants. Some actors also practise Mayan spirituality with no elements of Christianity. Mayan spirituality of many different kinds is practised primarily in the western part of the country, in the central highlands of Alta and Baja Verapaz, in the northern lowlands (Petén and Izabal), and in Guatemala City, the capital. The Xinca people also practise Indigenous spirituality. The Garifunas, who immigrated from St. Vincent 200 years ago, primarily live in the eastern town of Livingston. The majority are Catholic and speak an Indigenous language from the Arawak language family. They also practise an Afro-Indigenous spirituality.

Some 11 per cent of the Guatemalan population are not religiously affiliated. There are also small Buddhist (8,000-11,000 people), Muslim (around 2,000) and Jewish (approximately 1,000) groups.

### Legal situation of freedom of religion or belief

Guatemala ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992. Adherents of all religions and beliefs – including Indigenous – are constitutionally protected. Article 36 of the Guatemalan Constitution states that everyone has the right to practise their religion or belief in public without limits other than public order and due respect for other beliefs. Article 33, para. 2 of the Constitution explicitly includes religious assemblies as part of freedom of assembly. The freedom of expression of thought contained in Article 35 also protects thoughts related to religion and belief. There are no requirements for religious groups to register for the purpose of practising a religion. However, registration is required in order to obtain the legal personality to be granted to religious organisations under Article 37 or to request a tax exemption. For historical reasons, the Catholic Church receives those benefits without having to register. The Ministry of the Interior may refuse a request if it believes that the group is not pursuing a religious objective or that it intends to carry out illegal activities, or if public order is at risk. Most requests are approved following a lengthy procedure. In June 2021, more than 80 members of the Guatemalan Congress submitted a bill developed by the conservative Family Matters Association, the Catholic Bishops' Conference and other religious groups. It simplifies the legal situation of religious organisations.



For example, a department at the Ministry of the Interior would be created to register new religious institutions, and all religious organisations would be exempt from taxes. One extremely controversial addition – made before submission to Congress – is an article in the bill that would release religious organisations from the requirement to provide information on their finances and the sources of their donations. Civil society organisations and religious groups, including the Bishops' Conference, are critical of the proposal, stating that it could encourage corruption and money laundering.

All religious groups must obtain a permit from local authorities before holding public events. The Constitution protects the right of Indigenous groups to practise their traditions and forms of cultural expression, including spiritual practices. Mayan spiritual groups are also allowed by law to conduct ceremonies at historic Mayan sites and on government-owned property subject to written authorisation by the Ministry of Culture. The Constitution allows but does not require religious education in public schools. Private religious schools are permitted and can be found throughout the country. No legal discrimination related to religious affiliation is to be found in family and inheritance law.

### Restrictions on freedom of religion or belief by state actors

During the COVID-19 pandemic, representatives of Protestant and Catholic groups complained that measures intended to protect against COVID-19 were limiting the free exercise of religion. Mayan leaders report that the government continues – even after the pandemic – to limit access to certain religious sites on government-owned land. They also state that payment is often required before access to religious sites is granted, making visits by Indigenous groups more difficult. In many cases, the Ministry of Culture is failing to promptly issue credentials to all practitioners. According to the *Diálogo Interreligioso Guatemalteco* organisation, some local authorities in rural areas are discriminating against non-

Catholic groups when issuing building permits and collecting local tax. There are repeated threats and repressive measures against religious representatives as soon as they get involved in civil society and human rights activities based on their religious or belief-based convictions. The freedoms of opinion and assembly are guaranteed by the Constitution, but they are increasingly being restricted when the subject matter runs counter to the government's interests. There is no legal discrimination based on religious or belief-based affiliation.

### Social conflicts with religious components

Indigenous peoples continue to experience societal discrimination and marginalisation. The primary motivation is not religious; this dates back to the country's violent colonial history and the civil war from 1960 to 1996, which resulted in the marginalisation of Indigenous spirituality and ways of life. Indigenous spirituality plays only a limited role in societal discussion. Parts of the non-Indigenous population continue to perceive it as negative and in some cases to malign it. Sites important to Indigenous spirituality have also been destroyed or defiled. The OHCHR reports threats against one Mayan spiritual leader and the death of another during the reporting period which attracted international attention. The OHCHR classifies these as part of general trends of extreme religious intolerance of Mayan spiritual leaders in the Q'eqchi' Maya region in Petén and Alta Verapaz.<sup>101</sup> According to the U.S. State Department, Indigenous spirituality is also being vilified in the media and on social media. Only a few Christian authorities support Indigenous communities in opposing violations of their rights – in particular resulting from the extraction of natural resources.

Conflicts throughout society primarily result from disdain for LGBTIQ+ organisations on the part of conservative Christians. In contrast, displacement (including forced migration) is not attributable to religious discrimination. According to Aid to the Church in Need (ACN), a human rights organisation, vandalism of religious

101 A/HRC/52/23, para. 21.

buildings and symbols increased during the same period that the Catholic Church was increasingly criticising government measures and elections.

## Structures of inter-faith cooperation

Following the eruption of the Fuego volcano in 2018, Christian, Jewish and Muslim groups reported increased inter-faith cooperation under

the aegis of an inter-religious commission for humanitarian assistance. On International Religious Freedom Day in 2022, then President Alejandro Giammattei issued invitations to a multireligion round table and called for ongoing cooperation to safeguard religious freedom. The religious leaders who attended in turn praised Guatemala's efforts to safeguard freedom of religion.

## India

As the birthplace of three world religions (Hinduism, Buddhism and Sikhism), India is a country of immense religious diversity. All varieties of religious groups exist in India. The great majority of the population is Hindu, and Muslims are the largest minority. Christian churches have deep roots in the country. Jewish people have never been persecuted in India. Zoroastrians (Parsis) took refuge there after their former homeland, in what was then Persia, was Islamicised. Tibetan Buddhists have also taken refuge there, and do still. They have built large monasteries, especially in Himachal Pradesh and Karnataka, and have established the seat of their government in exile. Bahá'ís are able to practise their faith. Ahmadis are considered Muslims under Indian law.

During its history, India has repeatedly experienced religious and ethnic tensions, blatant violations of freedom of religion and serious violence, whose origin is often intertwined with social issues and injustices resulting from the caste system. The bloody partition of the former British colony into two states, India and Pakistan, along sectarian lines still places a strain on relations among Indian religious communities. A Hindu nationalist interpretation of history that blames the rule of the Muslim Mughal emperors and Christian missionaries for the country's backwardness is becoming more prominent in public discussion and is promoting acceptance of subdividing religious groups based on value judgements.

Under the governments of the Bharatiya Janata Party (BJP), India's challenges with respect to religious freedom have intensified in the view of many observers and representatives of religious minorities; they report increased restrictions in day-to-day life and violations of religious freedom in the form of hate speech and violence.

## Demographic breakdown by religion

In the most recent census of 2011, Hindus accounted for 79.8 per cent of the total population of at least 1.2 billion. India is the country with the second-largest Muslim population (14.2 per cent) in the world following Indonesia. Alongside the heterogeneous majority religion of Hinduism, India recognises Muslims, Christians (2.3 per cent), Sikhs (1.7 per cent), Buddhists (0.7 per cent), Jains (0.4 per cent) and Parsis (Zoroastrians). In addition, there are a large number of Indigenous peoples

(known as "Adivasi" or "tribals"), numerically small Jewish and Bahá'í communities and other religious groups that collectively comprise 0.9 per cent of the population. With around 1 million members, the Indian Bahá'í community is the world's largest. It is estimated that there are also about 100,000 Ahmadis in India.

## Legal situation

India acceded to the International Covenant on Civil and Political Rights (ICCPR) on 10 April 1979 and according to its 1949 Constitution is a federal and secular state. Freedom of religion is guaranteed under Articles 25-28 of the Constitution. Constitutional protection fundamentally encompasses personal freedom of belief as well as the practice and dissemination of religion. All recognised religious groups are declared equal under the law.

Maintaining the country's constitutionally enshrined secular fabric whilst respecting the religious rights of these groups constitutes a day-to-day balancing act. Six religious groups have minority status that grants them fundamental rights and assurances: Muslims, Christians, Sikhs, Buddhists, Jains and Zoroastrians (Parsis). Bahá'ís may practise their religion. Ahmadis are recognised as Muslims pursuant to a 1970 court decision. Many Adivasi identify as Christian. Neither traditional religions nor Adivasi spirituality have minority status. However, the Adivasi are officially registered as "scheduled tribes," which gives them many minority rights. Only secular holidays, such as Independence Day, are official national holidays in India.

Religious associations – like other associations – can register in India. The central government sets boundaries regarding relationships with and financial support from other countries. To receive financial support from abroad legitimately, religious groups are required to hold a government licence under the 2010 Foreign Contribution Regulation Act (FCRA), which was tightened up in 2020.

Thirteen Indian states<sup>102</sup> currently have anti-conversion laws that criminalise changing religion. Their compatibility with India's obligations under international human rights conventions is questioned by various sides. The Supreme Court of India found for the first time in 2022 that con-

version based on force, allurement or fraudulent means is not covered by the law on freedom of religion. Attempts by members of the BJP government to implement an anti-conversion law at the national level have failed due to resistance from the Ministry of Law and Justice.

Although it is unconstitutional (Article 17), marginalising, discriminating against and socially stigmatising people based on the caste system is still a reality in Indian society. It appears that many of those affected hope that by leaving Hinduism and joining other religions they can circumvent still-widespread discrimination by those in "higher castes."

Legal matters of family status are generally subject to religious legal subsystems<sup>103</sup> like the Hindu Marriage Act of 1955. They enable Hindus, Muslims, Christians, Parsis, Adivasi and increasingly also Sikhs to abide by their own respective traditions, but they also result in discrimination against women. Converting to another religion can have other repercussions, such as causing the person to forfeit claims to alimony or an inheritance. Buddhists and Jains are each demanding their own family-law system.

Under the Special Marriage Act of 1954, Indians can also enter inter-faith marriages, but in practice these marriages encounter bureaucratic obstacles, especially in rural areas. For example, the local authorities at the birthplace of one of the spouses must be notified in advance of their intention to marry. The marriage can be certified only if no objections are raised. This process gives religious and societal authorities and the families the opportunity to delay or prevent the marriage. Traditional social structures also pose an impediment. The development of a uniform civil code for all citizens is provided for under the Constitution – and advocated by the government – but has failed so far due to social resistance.

102 Arunachal Pradesh, Assam, Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Rajasthan, Uttarakhand, Haryana, Karnataka and Uttar Pradesh.

103 Such as the Hindu Marriage Act of 1955, the Hindu Succession Act of 1957 and the Parsi Marriage and Divorce Act of 1936.

## Restrictions on freedom of religion or belief

The proceedings may be lengthy, but in India under the rule of law, citizens may take legal action to defend their freedom of religion or belief as guaranteed in the Constitution. However, in day-to-day reality, there are evident limits to this, in some cases caused by state actors. Hate speech against religious minorities, particularly Muslims but also Christians and Hindus as local minorities (for example in Punjab or Kashmir), is common on social media and in political discourse. It is often driven by far-right Hindu groups. Prominent personalities and members of Parliament sometimes also exploit sectarian grudges.

The final National Register of Citizens (NRC) in the state of Assam was published on 31 August 2019. Only residents who can prove that they or their parents were living in Assam before 1971<sup>104</sup> can be listed. Critics call this a targeted measure against the Muslim minority. Government announcements that it will introduce a register of this kind throughout the country by 2021 have not yet been put into practice. The Indian Parliament passed an addendum to the Citizenship Amendment Act (CAA) on 11 December 2019. Under the new law, people who have fled to India from Pakistan, Bangladesh or Afghanistan (as of 31 December 2014) can become naturalised Indian citizens after only five years. Muslims are excluded from this law; the government argues that the law covers only groups facing religious persecution. The law triggered major protests across India. Critics fear that the law, in conjunction with the NRC, could lead to Muslims being stripped of their citizenship.

The use of the FCRA – a tool for controlling inflows of foreign money with a broad interpretive scope – has recently also affected Christian NGOs and defenders of human rights and continues to impose serious restrictions on their work. Representatives of the United Nations have criticised the law.<sup>105</sup> The German government has also urged India to review the legislation.

Muslims, the largest religious minority, remain the targets of significant discrimination in major spheres of life (health, education and employment). A contentious, decades-long dispute has centred on Hindu nationalists' proposal to build a Hindu temple on a site in Ayodhya where Hindu protesters destroyed a centuries-old mosque in 1992. The Supreme Court ruled in November 2019 that construction of the Hindu temple was lawful. It was due to be completed in late 2023 and opened in January 2024. The Varanasi High Court found in 2022 that petitions for Hindus to be allowed to use portions of mosques were admissible. This potentially calls into question a law intended to prevent religious conflicts, particularly between Hindus and Muslims (Places of Worship Act of 1991). A government-imposed ban on headscarves in schools in the Karnataka state entered into force in February 2022; critics consider it to be an expression of discrimination against Muslims. The ban was affirmed in court in December 2022 and then protested by the Muslim population. There have long been political unrest and terrorist attacks in Kashmir, which is majority Muslim; as a result, government authorities have imposed restrictions on the religious freedom of Muslims in some cases.

The data on trends in hate crimes in India over recent years is inconsistent and complicates accurate analysis. Whereas NGOs have reported a rise in attacks by Hindus on Muslims under the BJP government, official crime statistics since 2010 do not show any significant change in the total number of hate crimes based on religious or caste affiliation. Official statistics also indicate that Dalits and Muslims account for around 90 per cent of all victims. According to reports, Christian Dalits – who comprise around two thirds of Indian Christians – are also vulnerable to attack.

Christians and Muslims are sometimes accused by Hindu Nationalists of dishonest proselytising. Hindu nationalists are calling for an India-wide conversion ban, which they have so far been unable to achieve. In recent years, Hindu nationalist groups have increasingly accused Muslims

<sup>104</sup> Bangladeshi War of Independence, when millions of Muslims fled to India.

<sup>105</sup> <https://www.ohchr.org/en/hr-bodies/upr/in-index>

of “forcibly converting” Hindu girls who choose to marry a Muslim (“love jihad”). Anti-conversion laws (see above) are sometimes made so stringent that inter-faith marriages or engagements become punishable as alleged attempts to convert.

The Adivasi have also had to fight restrictions on their freedom of religion. The government has instituted reforms in recent years to protect the Adivasi community, but those concerned say that efforts to put protective measures into practice have been patchy. Hindu nationalist groups have in some cases attempted to convert Adivasi who continue to practise their traditional animistic beliefs or have been Christians for many years to Hinduism.

Restrictions are regularly imposed on the religious freedom of Christians, the majority of whom are Dalits or Adivasi. There have been incidents in the state of Chhattisgarh since December 2022 in which a number of Adivasi, protesting alleged forced conversion to Christianity, violently drove more than 1,000 other Adivasi who were Christians out of their homes. According to media reports, local officials did not allow criminal complaints to be filed and it was also alleged that Hindu nationalist groups worked in advance to incite the agitation.<sup>106</sup> There have also been reports of Christian missionary activity by foreign actors approaching the Sentinelese people, who inhabit one of the Andaman islands and refuse any interaction with the outside world. The Indian government has placed the Sentinelese people under special protective measures and prohibited any contact with them.

Meetings with German church groups and cooperation involving other churches also encountered some stumbling blocks during the reporting period. A delegation of the Evangelical-Lutheran Church of Hanover from the Emden-Leer parish and the director of the Gossner Mission were expelled from Assam and charged a fine after being accused of proselytising. Criminal proceedings are pending against two Indians accompanying the group.

The BJP party's electoral victories in 2014 and 2019 sparked an intense public discussion regarding how to strike a balance between the values of a secular Constitution and a population with deeply religious segments. The governing BJP party constantly paints a picture of India as a Hindu civilisation thousands of years old and – in spite of its secular Constitution – emphasises Hindu traditions in the country's public image. Against that backdrop, a number of representatives of Muslim and Christian groups in particular have complained of an increase in religious hatred, violence and intolerance.

### Structures of inter-faith cooperation

Because of its secular foundations, the Indian state abstains with few exceptions from engaging in inter-faith matters – including structures of inter-faith cooperation. One was when an Indian delegation led by the Minister of State of External Affairs conducted an inter-faith dialogue with Indonesia in October 2018. The delegation included representatives of the main religions present in India: Hinduism, Christianity, Islam and Buddhism. There have been no other dialogues in that format, but they are to be resumed.

The vast majority of religious actors uphold their responsibility to keep the peace and do not incite tensions between the religious groups. Isolated extremist voices – foremost on the part of Hindus but in some cases also of Muslims – can be heard. The majority of their religions' adherents do not agree with their agitation, but it increasingly has an influence on the social atmosphere in many states.

<sup>106</sup> Hindu nationalists consider the Adivasi to be part of the social and religious order of Hinduism and consequently consider Christian proselytising to be competition for their own reconversion efforts (known as “ghar wapsi”).



## Indonesia

### Demographic breakdown by religious community

According to official statistics from the Ministry of the Interior dated December 2022, 87.02 per cent of the total population of 277.75 million people are Muslim, most of whom are Sunni (almost 99 per cent), with the remainder being Shiite (almost 1 per cent) and Ahmadiyya (0.2 per cent). Nahdlatul Ulama (NU), which is estimated to have 40 million members, is the largest Muslim organisation in the world. The second-largest organisation in Indonesia is Muhammadiyah, which has about 30 million members and is primarily devoted to social, charitable and educational activities. Other religious groups include Protestants (7.43 per cent), Catholics (3.06 per cent), Hindus (1.69 per cent), Buddhists (0.73 per cent), and Confucianists (0.03 per cent). Just 0.4 per cent of the population (117,412 people) are officially registered as adherents of Indigenous religions. Official numbers for them are declining.

### Legal situation of freedom of religion or belief

The preferential treatment of officially recognised religions and the constitutional commitment to Pancasila – the “five principles” – and therefore to one God as described in the Second Report continue unchanged. At the same time, government agencies have been more open to other beliefs, including Indigenous beliefs, in recent years. The population was previously required to belong to one of the officially recognised religions, which had to be listed on identity cards, but since 2017 the religion entry on identity cards may also state “believes in one God” or it may be left completely blank. Challenges remain, and cases of discrimination when accessing public services have been reported involving school applications, recognition of marriages or burials in public cemeteries. The law was amended in 2017 to ban the fundamentalist Islamic organisation Hizb-ut-Tahrir Indonesia (HTI). Since that time the state has been authorised to dissolve any organisation

that commits prohibited acts such as blasphemy, violence and breaches of public order. Atheism is not explicitly banned, but it is associated with communism, which has been banned in Indonesia since 1966.

A comprehensive amendment of the Penal Code was adopted on 6 December 2022 and will enter into force after a three-year transitional period. It contains expanded criminal offences aimed at protecting religion and belief, and blasphemy is defined in six articles instead of only one, as was previously the case. Statements expressing hatred or enmity for a religion, belief or religious group are punishable by up to three years’ imprisonment. The violent disruption or suppression of religious activities – a common practice by Islamist vigilante groups against religious minorities – will in future be punishable by up to five years’ imprisonment. Up to four years’ imprisonment is the penalty for incitement to apostasy (“the intention to convince someone to lose faith in his religion”). The new Penal Code also includes an extensive prohibition of the dissemination of “ideologies that are contrary to Pancasila.” These blasphemy laws are incompatible with standards of human rights and the rule of law and in particular impose disproportionate restrictions on freedom of religion or belief. Moreover, in addition to their specific content in violation of human rights, their threats of punishment and their vague wording offer a basis for misuse by government actors and for legal prosecution of people with different beliefs.

### Restrictions on freedom of religion or belief

Discrimination against religious minorities in daily life continues unchanged. An inter-ministerial decree by the Ministry of Religious Affairs and the Ministry of Home Affairs in 2006 prohibits religious groups from holding services in private homes. Yet the barriers to building a place of worship are relatively high because members of other

religions must also sign a document indicating their support for construction, and religious minorities often cannot find supporters of this kind.

Also ongoing are the growing importance of strict orthodox interpretations of Islam – including ties with and massive support by the Gulf Region – and declining tolerance for differing interpretations or other faith communities. This also applies to the aggressive battle against Islamist terrorism.

Christian human rights organisations report that the situation of the Christian minority in Indonesia continued to deteriorate until 2021. They report in particular that activities perceived as missionary activity have led to attacks, including one against a Catholic church in spring 2021 that resulted in two deaths and at least 20 people injured. The violence against Christians has abated since summer 2021.

According to the Indonesian Marriage Act of 1974, marriage between members of different faiths or belief systems is not permitted, be they members of different religions, religious minorities or adherents to Indigenous religions or beliefs. Inter-faith couples and adherents to Indigenous beliefs report problems when registering their marriages with the official authorities.

There has been an increase in local regulations limiting the rights of women and girls, for example prohibiting them from leaving home or imposing dress codes or wearing of the hijab in school, including by members of non-Islamic religions or in public institutions. Female religious scholars (ulama) in Indonesia are attempting to counter this trend by developing fatwas (legal opinions under Muslim law) that focus on women and girls. The second conference of female ulama was held in Indonesia in late 2022. Elements of Sharia law that include corporal punishment are in force in the Aceh province. Other provinces in Sumatra are issuing regulations based on Sharia law which also apply to religious minorities.

## Social conflicts with religious components

Increasing cases of hate speech are to be found on the social media platforms frequently used by Indonesians. In addition to the aforementioned legal restrictions, this generally has the result that opportunities for free exercise of religion in Indonesia are to some extent unequal between religious communities.

## Structures of inter-faith cooperation

Indonesia conducted the R20 side event (Religions 20) for the first time at the G20 summit held under its presidency. Primarily organised by Nahdlatul Ulama (NU) in conjunction with the Muslim World League, it is intended to provide a platform for inter-religious dialogue. At the pilot event in Bali in early November 2022, representatives (some of them high-ranking) of various faiths from different countries conferred on approaches to inter-religious dialogue and the role of religion in solving global challenges. Indonesia considers itself a driving force in inter-religious dialogue between the Muslim world and other religious groups.

## Freedom of belief of Indigenous peoples

Indonesia officially recognises only six religions, but at least 187 Indigenous beliefs are recorded throughout the country. According to official statistics, at least 126,000 people (corresponding to 0.05 per cent of the population) practise Indigenous or hybrid forms of belief. The actual number could be much higher than that. Until 2018, adherents of Indigenous belief systems and atheists had to declare their membership in one of the six religions recognised by the state when doing official business.

The Supreme Court of Indonesia clarified in 2017 that Indigenous forms of belief have the same rights as the state-recognised religions, but society still does not consider the former to be of equal value and they still do not actually receive comparable protection from the state. Discrimination continues where public administration is concerned, for example. Those affected report

cases of discrimination involving access to public services, such as school applications, recognition of marriages or burials in public cemeteries.

From the legal viewpoint, Indigenous forms of belief, like traditional customs, are classed as “school(s) of belief/faith,” which means that – unlike religions recognised by the state – they come under the authority of the Ministry of Education and Culture, not under the Ministry of Religious Affairs. That distinction is reflected in the general public perception: forms of belief of this kind and their adherents are generally considered to be relatively backward. Hybrid Muslims who also observe traditions and practices of Indigenous origin are vilified as apostates by certain Islamic schools (including Salafism).

At the same time, changes to and destruction of the environment pose a challenge to many Indigenous communities. The example of the adherents of Kaharingan living in Kalimantan, whose traditions (including burial rites) are deeply entwined with the rainforest, illustrates the close connection among social, spiritual and environmental challenges.

## Iran

The situation for freedom of religion or belief has seriously deteriorated since the Raisi government took office. Its openly touted objective is to push ahead with the Islamicisation of Iranian society – which hardliners contend the Rohani government neglected – as part of implementation of the “second step in the Islamic Revolution.”

Shiite Islam has been the state religion in Iran since the Islamic Revolution in 1979. The exercise of all other forms of religion and the freedom to believe in them are restricted to varying degrees and in some cases systematically persecuted. Whereas rights are guaranteed to Jews, Christians and Zoroastrians – at least under the Constitution – and they are constitutionally entitled to appoint a total of five members of parliament, these groups are denied political or leadership posts. Both missionary activities and apostasy, including conversion from Islam to another religion, are penalised with severe sentences (extending as far as the death penalty).

In the 44 years since the founding of the Islamic Republic, the religious leadership has always taken care to ensure that the principles of the Islamic Revolution remain inviolate and that their political and religious interpretive authority remains uncontested. Government policies are designed to retain power and preserve the current structure, and purported religious convictions are used to legitimise repression of the Iranian population.

The persecution of members of other religions has recently increased to a considerable extent. Bahá'ís and converted Christians, as well as members of the Sunni minority, were disproportionately arrested on accusations of espionage in 2022. According to the Bahá'í National Centre, some 1,000 Bahá'ís were caught up in criminal proceedings in September 2022, more than twice the previous maximum of 443 recorded in 2014. Iranian security forces have also responded with extreme violence to protesters in the provinces where ethnic and religious minorities live.

## Demographic breakdown by religion

Of Iran's population of 82 million people, 99.4 per cent are Muslim, according to official figures. Of those, 90-95 per cent are Shiite and 5-10 per cent are Sunni. There are followers of Sufism among both Sunnis and Shiites.

The non-Muslim portion of the population is made up of Bahá'ís (approximately 300,000<sup>107</sup>), Christians (approximately 200,000<sup>108</sup>), Yazidis (also known as Kaka'i, no official data but estimated at between 500,000 and 1 million), Zoroastrians (approximately 25,000), Jews (approximately 9,000) and Mandaeans (approximately 5,000-10,000).

## Legal situation

Iran ratified the United Nations International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 24 June 1975.

Article 12 of the Iranian Constitution defines Iran as an Islamic Republic and designates the Ja'fari school of Shiite Islam (Twelver Shia) as the state religion. The Constitution stipulates that all laws and regulations must be based on the official interpretation of Sharia. According to Article 12 of the Constitution, Sunni Muslims are also recognised and respected. The four Sunni schools of jurisprudence are recognised without restriction.

The "religions of the Book" (Zoroastrianism, Judaism and Christianity) recognised by Article 13 of the Iranian Constitution are the only officially recognised non-Muslim religious minorities. They enjoy autonomy with regard to marriage and family law. Schoolchildren who belong to the recognised religious minorities can complete their religion education at a private school, although the curriculum and textbooks are pre-defined by the Ministry of Education. According to the Constitution, those religions are entitled to appoint a total of five members of parliament. They may

exercise their religion in Iran – provided they limit this to their own members – and may hold services and form religious communities; this is particularly applicable to the Armenian and Assyrian communities. In contrast, the freedom of religion of Muslim converts and members of Protestant free churches in particular is grossly violated.

All missionary activities are prohibited; infractions face punishments extending as far as the death penalty. Conversion to Christianity risks prosecution for apostasy with punishments that include execution.

## Restrictions on freedom of religion or belief by state actors

The recognised religious minorities' right to the freedom of religion or belief is systematically violated in daily life. Non-Shiites are also closely monitored by the state for the purpose of preventing missionary activities aimed at Shiite Iranians. For example, Muslims living in the country are prohibited from participating in Christian church services, and access to the Christian community is monitored. Religious minorities are also prohibited from using Persian as a liturgical language or possessing materials in that language.

Official data indicate that there are 10 Sunni mosques in Tehran. Sunni interest groups are critical of the fact that these are only rented spaces. The state has prevented the construction of a purpose-built Sunni mosque since 2015. Both Sunnis and followers of the other religions of the Book are barred from elected office in any elected body other than parliament, as well as from senior positions in the government and military. Non-Muslims are not permitted to occupy prominent political posts or senior positions in government, intelligence or the military. Citizens who are not members of one of the recognised minorities are automatically considered Muslims.

107 The latest official figure is from 1978 because Bahá'ís have been prohibited from exercise of their religion since the Iranian Revolution. The Iranian population is now 2.5 times larger than it was then, so it seems likely that the number of Bahá'ís is in the high six figures.

108 Most of them are from the Armenian/Assyrian churches; no information is available on Protestant/evangelical groups.

The extremely violent response during the second half of 2022 by security forces in the provinces where Sunnis primarily live and the particularly harsh treatment of protesters by the judicial authorities in those provinces reflect the discriminatory treatment Iranian government agencies accord to ethnic and religious minorities. The central government fears separatist campaigns in those peripheral provinces.

Of the minorities that are not constitutionally recognised, the Bahá'ís are subjected to the harshest repressive measures and to systematic persecution. They are sweepingly labelled “heretics” and have repeatedly been accused in court of endangering the state. They are subjected to multifarious discrimination in daily life that may extend to systematic persecution. This can include discriminatory treatment of schoolchildren, systematic denial of access to higher education, coercive measures against companies owned by Bahá'ís, expropriation, arbitrary arrest, long periods of detention, torture and other forms of abuse. Bahá'ís are not permitted to publicly practise their faith, for example by conducting worship services or wearing religious symbols. Since January 2020 the application form for identity cards (required for many government services) has allowed only members of the officially recognised religions to list their religious affiliation.

Dervishes (Sufis) follow Twelver Shia, but reject all forms of political Islam. They have been singled out in Iran as victims of targeted propaganda and persecution and have been subject to arrest since 2006.

The rights of the recognised Christian minorities of the Armenian and Assyrian churches are also curtailed. Evangelical Persian-speaking communities can only exist underground. The small Catholic community also has difficulties.

Religious practice in public is always controlled politically and by the regime. The religious practices of opposition groups and even Muslims have therefore in some cases withdrawn behind closed doors.

## Social conflicts with religious components

On alleged religious grounds, women are subjected to numerous social, economic and legal restrictions that do not apply to men. Religiously motivated discrimination against women is consistent with the legal environment. For example, the age of criminal responsibility is nine for women compared to 15 for men. In addition, women's testimony in court counts only half as much as men's statements. All Iranian women and girls over age nine, including members of non-Muslim groups, have been required to wear hijab (headscarf) and long dark clothing since April 1983. A “hijab and chastity” decree resulting in further restrictions on women's clothing was issued in July 2022. It requires women to wear a headscarf that covers the neck and shoulders as well as their hair. Dress codes for public spaces were primarily enforced by the “morality police” until autumn 2022.

Mahsa Jina Amini died on 16 September 2022 while in the custody of the morality police. She had been detained on the pretext that she had not been properly wearing her hijab. Her death led to protests in cities throughout the country, primarily supported by young women and men. According to estimates by international human rights organisations, the brutal repression of protesters led to the deaths of over 520 demonstrators, 70 of them minors. Some 20,000 people were (temporarily) detained, and death sentences were imposed in a dozen cases. As of August 2023, seven people were known to have been executed in connection with the protests.



Official activity by the morality police decreased after autumn 2022, although it has not been disbanded – in spite of announcements to that effect – and there has been no resulting political change of direction with respect to strict dress codes for women in public spaces. Instead, the Iranian government is relying more heavily on CCTV cameras and facial recognition technology.

A current legislative bill provides for fines and other punishments (seizure of cars, closure of shops and deprivation of social and other rights) when women violate dress codes. Activity by the morality police has recognisably increased again in various parts of the country since July 2023.



*News reports on the death of Mahsa Amini after her arrest by morality police on 18 September 2022 on charges of having violated mandatory dress codes*

## Iraq

Iraq has traditionally been home to many different ethnic and religious communities. In addition to the Arabic-Muslim majority, this includes Mandaean, Chaldaean, Assyrian, Armenian, Turkmen and Jewish groups, as well as representatives of the Yazidis, Zoroastrians, Shabaks, Kaka'i and Bahá'ís. The Iraqi Constitution of 2005 takes into account this historical heritage and explicitly mentions religions such as Islam, Christianity and the Yazidi and Mandaean faiths. Compared with other Arab states, Iraq has a fairly progressive legal environment in regard to freedom of religion or belief, although it is afflicted by numerous contradictions and shortcomings. In actuality, members of religious minorities have been emigrating from Iraq for years. The displacement of refugees has usually resulted from conflicts along ethnic and religious divides. The ability of minorities to assert themselves politically vis-à-vis the state is still limited.

Appointments to ministries and other state institutions are generally made according to the *Muhasasa Ta'ifia* (sectarian apportionment) principle, which gives precedence to the three largest groups in Iraq: Shiites, Kurds and Sunnis. Since 2003, the presidency has been occupied by a Kurd, the office of prime minister has been held by a Shiite, and the speaker of the parliament has been a Sunni. Nine of the 329 seats in parliament are reserved for representatives of religious minorities. They are to be found in senior positions in parliament and the central government, but they complain that they are barred from influential positions in the police, military, intelligence and security forces and overlooked for appointments in government and the public sector, especially at the local level.

In the Region of Kurdistan-Iraq, the regional government and the overwhelming majority of the population stress and safeguard tolerance and peaceful coexistence as part of what makes the region special. Members of religious minorities there can generally practise their faith and live largely without discrimination. Eleven of the 111 seats in the Kurdish parliament are reserved for representatives of minorities.

## Demographic breakdown by religion

A reliable data source on Iraq's demographics does not currently exist; these figures are therefore based on estimates. Presuming a current population of around 40 million in total, the share of Muslims is estimated at 97 per cent, the majority of them Shiites (approximately 60 per cent). Arab and Kurdish Sunnis, at around 40 per cent, are in the minority. The number of Christians is estimated at 250,000, of whom around 200,000 live in the Kurdistan-Iraq region and the rest on the Nineveh Plains. There is a general downward trend: some 1.4 million Christians lived in Iraq in 2003.

Around 80 per cent of Iraqi Christians belong to the Chaldean Catholic Church. Other Christian denominations in Iraq include the Syriac Catholic and Syriac Orthodox Churches (10 per cent), the Assyrian (5 per cent) and Armenian (Catholic and Orthodox) Churches (3 per cent) and other churches (2 per cent).

The number of Yazidis is estimated at 500,000, of whom 300,000 reside in the Kurdistan-Iraq region. There are around 400,000 Kaka'i, around 10,000 Mandaean and around 2,000 Bahá'ís in Iraq, as well as an estimated 100 to 250 Jewish families. No reliable data on converts is available. There is also a small group of atheists.

## Legal situation

Iraq ratified the United Nations International Covenant on Civil and Political Rights (ICCPR) on 25 January 1971.

Article 2 of Iraq's Constitution of 2005 designates Islam as the official religion of the state and as a foundational source of legislation. No law may be enacted that contradicts the established provisions of Islam, the principles of democracy or the rights and basic freedoms stipulated in the Constitution. At the same time, Article 2 also guarantees unrestricted freedom of religion to all individuals. Article 7 prohibits racism, terrorism and takfirism (declaring different interpretations of Islam to be apostasy). In Article 10, shrines and religious sites are placed under constitutional protection as religious and civilisational entities. Article 14 guarantees all religions equality before the law. Article 37 obligates the state to protect all individuals from political or religious coercion. Article 41 stipulates that personal status issues are to be resolved in keeping with a person's religions, sects, beliefs, or choices, and that the specifics are to be regulated by ordinary statutes. Article 42 guarantees freedom of religion or belief, the safety of religious institutions and the protection of religious endowments.



*Raban Yousiff and Commissioner Frank Schwabe at the Syriac Orthodox Mor Mattai Monastery in the Region of Kurdistan-Iraq*

Under Article 43 of the Constitution, the Iraqi central government maintains three religious endowments (awqaf, singular waqf): one Sunni endowment, one Shiite endowment, and one for other religions. The endowments report to the office of the prime minister and administer funds for the sake of preserving and protecting religious institutions. The Kurdish regional government maintains three analogous endowments.

The Iraqi Penal Code of 1969 does not list any punishable crimes such as apostasy (conversion of Muslims to other religions), atheism, blasphemy or proselytising, but existing legal provisions are utilised to penalise them. Article 372 of the Penal Code punishes offences that insult the religious sentiments of minorities with a fine or up to three years' imprisonment. In the past, this article has been used to prosecute journalists whose publications had allegedly insulted Islam. There are also many Iraqi laws from the time before the Constitution was amended which in part discriminate against women and do not protect them from violence.

Civil Status Law No. 65 of 1972, which is based on legal provisions of Sharia, prohibits apostasy. The automatic registration of a minor child as Muslim when the father is Muslim is problematic. As a consequence, when a Yazidi woman and a Muslim man have a child, that child is not recognised as a member of the Yazidi community.

Non-Muslim men may not marry Muslim women. People who specified their faith as Muslim during the Saddam Hussein regime, which lasted until 2003, in order to obtain identity cards continue to be considered irrevocably Muslim.

A new National Identity Card Law was passed in 2016 which prevents apostates from having their new religion listed on their identity card. Despite international criticism, both the Civil Status Law and the National Identity Card Law remain in force.

Iraqi Nationality Law No. 26 of 2006 explicitly excludes Jews (Articles 14 and 18) who lost their Iraqi nationality in the early 1950s due to de-naturalisation laws, whose property was also confiscated.

## Restrictions on freedom of religion or belief by state actors

Especially in territories involved in disputes between the Iraqi regional government and the Kurdish regional government, religious minorities suffer from wide-ranging discrimination that can even be life-threatening. The Iraqi state cannot perpetually and thoroughly guarantee the protection of religious minorities in those regions, especially the Nineveh Plains. This has led to waves of emigration and refugees and has kept internally displaced persons from returning home.

The Law on the Protection of Minorities has been in force in the Kurdistan-Iraq region since 2015; it guarantees religious minorities socio-economic rights equal to those of the Kurdish-Muslim majority. Forms of discrimination arising from the Iraqi Personal Status Law (including naming law and inheritance law) remain in place. In the interests of national security and anti-terrorism efforts, imams considered overly radical by the regional government are relieved of their duties.

With the exception of the Assembly of Presbyterian Churches and the Seventh-day Adventists, Protestant and evangelical churches are not legally recognised in Iraq. Refusal of recognition can result in legal restrictions. For example, those churches cannot open bank accounts or acquire real property.



*Commissioner Frank Schwabe at the Shrine of Imam Al-Kadhim and Imam Al-Jawad near Baghdad, Iraq, April 2023*

## Social conflicts with religious components

In Iraq, issues related to freedom of religion or belief are negotiated between representatives of moderate Islam and representatives of a strict interpretation of Islam. The tolerant spirit of the Constitution and the legal status quo have been upheld to date. Society's awareness of minorities and the value of diversity appears to have increased following the territorial victory over the self-styled Islamic State (IS). The visit by Pope Francis to Iraq in March 2021 seems to have contributed to this.





*On the cemetery of Kocho, Iraq, Foreign Minister Annalena Baerbock commemorates the victims of the genocide against Yazidis*

Yazidis were victims of targeted annihilation by IS. During the genocide – recognised as such by the Bundestag – in Sinjar in the Nineveh Plains in August 2014, more than 5,000 Yazidis were killed and more than 7,000 women and children abducted as slaves; hundreds of thousands fled. According to the UN, another 2,700 Yazidis and members of other religious minorities have been reported missing. Some 300,000 Yazidis continue to live as internally displaced persons in Iraq, some 120,000 of whom live in camps in the Kurdistan-Iraq region. A law on compensation for victims of IS which was adopted in March 2021 is intended to ensure that surviving women and minor children receive regular compensation payments and psychosocial assistance. However, women who wish to obtain compensation payments face societal and government-related barriers, including ongoing conflicts in their home regions, continued

religious and gender-based discrimination in society and slow progress in investigating and convicting IS terrorists in Iraq. The Iraqi Parliament adopted a resolution in December 2022 which allows Yazidis to acquire land rights for the first time since 1975, which should make it easier for them to return home.



## Kenya

Around 85 per cent of the Kenyan population identify as Christian and 11 per cent identify as Muslim. Of the Christians, 33 per cent are traditional Protestants, 21 per cent are Roman Catholics and 32 per cent belong to other Christian denominations, including evangelical and Pentecostal churches. Hindus, Sikhs and Bahá'ís comprise less than 2 per cent; the share of atheists is 2.4 per cent. The remainder of the population practises a variety of traditional African spirituality. Muslims live predominantly in the north-eastern part of the country and on the coast.

### Legal situation of freedom of religion

The Constitution of Kenya specifies that there shall be no state religion and includes freedom of belief and opinion with respect to religion. It specifies freedom of religion or belief for individuals and groups, as well as the right to manifest any religion and to debate religious questions. Moreover, a person may not be denied access to any institution, employment or facility, or the enjoyment of any right, because of their belief or religion.

The Constitution states that parliament shall enact legislation that recognises any system of personal and family law applicable to adherents of a specific religion. Accordingly, the Kadhi's courts provided for in the Constitution may make rulings based on Islamic law in civil cases in which all participating parties identify as Muslims. Women also have the option of choosing civil court channels, but this can often lead to being ostracised by family or society. In cases of conversion from Islam to other religions, following Islamic law can sometimes lead to the convert losing child custody rights. Conversion can also result in the loss of property. Children born outside of marriage can be disadvantaged under Islamic inheritance laws. The secular High Court of Kenya has jurisdiction over civil and criminal law proceedings and hears appeals against any ruling by a Kadhi's court.

New religious groups, institutions or places of worship as well as non-governmental organisations (NGOs) with a religious basis must apply for registration with the Registrar of Societies, which comes under the general public prosecutor's office. Traditional and Indigenous religions are exempt from this. The number of self-declared

churches and congregations is remarkably high. There has been a moratorium on the official registration of religious groups since 2014 because the amended Religious Society Rules have not been finalised. Many religious groups have protested the moratorium, considering it to be a violation of religious freedom by the state. Without registration, it is difficult for religious groups to acquire real property and conduct religious activities. Registered religious institutions and places of worship may request a tax exemption. No church tax is collected. Churches primarily support themselves through tithes and regular offerings, as well as other donations, which are not subject to taxation.

All state schools include obligatory religious education in the curriculum. In some cases, both Christian and Muslim religious education options are offered.

### Restrictions on freedom of religion or belief by state actors

Human rights organisations have regularly pointed out that compared with members of other religious groups, Muslims – particularly in regions where the radical Islamist terrorist organisation Al-Shabaab is influential and carrying out repeated attacks – are more frequently victims of human rights violations by police and security forces: extra-judicial killings, forced disappearances, torture and arbitrary detention. The government denies religiously motivated human rights violations of this kind. Many Muslims in those regions believe they are viewed with generalised suspicion or seen as being associated with the Al-Shabaab militia. They complain that anti-terrorism operations largely focus on ethnic

Somalis and Kenyan Muslims. Acts of intimidation and harassment also occur in other spheres, for example in connection with complaints against police operations or with the process of obtaining identity documents. The Supreme Council of Kenya Muslims, the umbrella organisation for Muslims in Kenya, reported 133 cases of executions or enforced disappearances of members of their faith in 2021.

Indigenous peoples in Kenya, such as the Sengwer, are also subject to state repression. Their eco-centric religion is closely tied to their environment and the territory in which they live. There have been major clashes for years over the lands where the Sengwer live: they have been killed and injured, their houses have been burnt down and families have been driven out. In 2022, the Sengwer people wrote an open letter appealing to donors not to finance conservation projects that do not guarantee the land rights of Indigenous peoples.

The African Court on Human and Peoples' Rights found on 26 May 2017 that the Kenyan government's repeated expulsions of Ogiek people, who are Indigenous hunter-gatherers, from their ancestral lands in the Mau Forest was among other things a violation of their freedom of religion. It determined that, because the Ogiek's ability to practise their religion freely is connected to the land and the environment, the evictions constituted a violation of their religious freedom. After the judgement was inadequately implemented, the Court awarded damages to the Ogiek in June 2022, ordering that the land be returned to them, that their land rights be recognised and that the Ogiek's traditions and customs be respected, along with their right to be consulted on all development, conservation or investment projects on their land.

## Social conflicts with religious components

The terrorist group Al-Shabaab, which originally operated in Somalia, has carried out repeated attacks against representatives of the security authorities and the non-Muslim population. Attacks targeting teachers have led to the closing of many schools in the border region. Recently, there have been known instances of Christians converting to

Islam and immediately radicalising. Al-Shabaab is recruiting Kenyan young people for terrorist activities in Somalia and Kenya. There have also been reports of non-Muslims discriminating against ethnic Somali Muslims. Based on accusations of rights violations by government authorities, Muslims, primarily along the coast, have carried out acts of vengeance, for example destroying Christians' property. In some cases there has also been social discrimination against Christians in predominantly Muslim areas. Conversions from Islam to other religions are generally viewed as a betrayal of family, clan or ethnic group and often lead to exclusion from society and pressure to renounce the conversion.

The LGBTIQ+ community in Kenya faces hostility from conservative Christian and Muslim organisations. Churches and the Muslim community oppose abortion, which is allowed by law only to save the life of the mother. Women belonging to certain religious groups are stigmatised if they have an abortion. Birth control is generally easily available, but its use is in some cases rejected as morally indefensible.

## Structures of inter-faith cooperation

The Inter-Religious Council of Kenya (IRCK) was founded in 1983 and represents a coalition of all major religious groups. Its objective is to intensify inter-faith dialogue and cooperation between members. In the greater Mombasa region, a majority Muslim area, the Coast Interfaith Council of Clerics also offers a forum for dialogue with representatives of all the major religious groups in the region. Representatives of the Christian and Muslim faith communities worked to oppose politically motivated violence before and during the elections in August 2022.

## Lebanon

### Demographic breakdown by religion

Some 6 million people currently live in Lebanon; around 1.5 million of them are refugees from war in Syria who have had to leave their country since 2011, according to estimates by the UNHCR (United Nations High Commissioner for Refugees). Lebanon is also home to some 180,000 people registered as refugees from Palestine, who are under the care of UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East), as well as some 10,000 refugees from Iraq who are registered with UNHCR.

The demographic trend – including migration movements over the past few years – has affected the religious composition of the population, which plays a predominant role in Lebanon’s political system. For that reason, to avoid a flare-up of conflicts, the most recent official census in Lebanon dates back to 1932. Estimates are available which are based on data sets for specific portions of the population (such as electoral registers) relating to religion. The U.S. State Department estimates the following breakdown of the Lebanese population in 2021: 64.9 per cent Muslim (32 per cent Sunni, 31.3 per cent Shiite and 1.6 per cent Alawites and Ismailis combined); 32 per cent Christian (52.5 per cent Maronites, 25 per cent Greek Orthodox and 22.5 per cent other, primarily Greek Catholic, Armenian Orthodox, Armenian Catholic and Protestant); 3.1 per cent Druze; and approximately 70 Jews.

The majority of the Syrian refugees are Sunni, while the rest are Shiite, Druze and Christian. Most of the Palestinian refugees are Muslims, while the rest are Christian.

### Legal situation of freedom of religion or belief

Positive freedom of religion is enshrined in the Lebanese Constitution. There are 18 officially recognised religious groups in Lebanon: 12 Christian groups (Maronite, Greek Orthodox, Greek Catholic, Armenian Catholic, Armenian Orthodox, Syriac Orthodox, Syriac Catholic, Assyrian, Chaldean, Copt, evangelical Protestant and Roman Catholic), five Muslim groups (in addition to Shia and Sunni Muslims, Alawite, Ismailis and Druze are also considered to be Muslims in Lebanon) and the small Jewish community. Religious groups not recognised by the government include Bahá’ís, Buddhists, Hindus and several Protestant groups.

Conversion between the recognised groups and official registration of that change of faith are allowed. In contrast, the right not to belong to a religion is not constitutionally protected. Lebanese citizens have the right to remove the customary notation of their religion from government-issued documents, but this does not change or remove their affiliation under personal status law.

All recognised and institutionalised religious communities are exempt from taxes. Sunni and Shiite muftis also receive a salary paid by the state after they have been appointed and confirmed by the cabinet, as do judges in Muslim courts, including Druze courts. The government does not pay the salaries of Christian clergy and officials of Christian groups.

An application must be submitted to the government in order to be registered as a religious group. It is the government’s responsibility to verify whether the moral principles that are listed are in accordance with general societal values and the Constitution.

There are no atheist associations having equal status with recognised religious groups.

Personal status and inheritance laws applicable to individuals – including case law – are based on religious affiliation. This can result in unequal treatment depending on the provisions that apply to each religious community, such as those relating to the minimum marriage age, the ability to divorce or inheritance rights, and can often discriminate against women. Members of unrecognised religious groups may exercise their religion, but those groups may not perform legally recognised marriages and they have no standing to determine inheritance issues. Inter-faith marriages are allowed in Lebanon only in certain cases.

### Restrictions on freedom of religion or belief by state actors

There have been reports that it is difficult for the Jewish community to import ritual objects. Lebanon is still at war with Israel, so any support for the State of Israel is punishable and importing Israeli products is prohibited; therefore, Lebanese customs officials are hesitant to allow materials in Hebrew script to be imported even if they were not produced in Israel. It is also difficult for the Jewish community to maintain their recognised legal status because government officials do not like to sign the group's documents, fearing that this could be interpreted as support for Israel.

Changing from one of the recognised religions to another is allowed – and is also done in particular to improve legal options with a view to marriage, divorce or inheritance – so there is some leeway for people to represent their own religion to members of another. However, publicly visible missionary activities are a sensitive issue. The government may also censor or ban publications and media content if they are contrary to “public morality” or classified as incitement to religious hatred – and officials have broad interpretive discretion. Agnostic or atheistic views may be expressed in public, but blasphemy and defamation or denigration of religion – which are not precisely defined – are punishable, which has led to hesitation in expressing atheist oriented opinions.

### Social conflicts with religious components

The political system and high-level positions in the public sector are subject to the principle of proportionate distribution among the major religious groups. Accordingly, seats in parliament and government posts are distributed among religious groups based on the percentages accounted for by the different groups in the population, as ascertained in the 1932 census. In practice, the president is a Maronite Christian, the prime minister is a Sunni Muslim and the speaker of parliament is a Shiite Muslim. This proportional distribution also applies to the head of security. As a result, belonging to a specific religious community is a mandatory requirement for holding a specific position.

The National Reconciliation Accord, also known as the Taif Agreement, ended the Lebanese Civil War and resulted in several constitutional amendments. Article 24 of the Lebanese Constitution now requires equal representation between Muslims and Christians. The 2017 Election Law allocates the 128 seats in parliament to the various religions according to a fixed formula.

The Taif Agreement also specifies a series of measures for overcoming important aspects of political sectarianism (such as by amending the Election Law and introducing a second chamber to parliament), but those steps have never been taken. At least a dozen candidates whose stated objective was to surmount political sectarianism were elected to parliament during the last election in 2022.

During the phase immediately after the end of the civil war, political sectarianism was primarily supposed to stabilise society, prevent violent flare-ups along political and religious divides and facilitate reconstruction. Linking high-level political offices or positions in the administration with a certain religious affiliation has disadvantaged members of smaller or non-recognised religious groups and non-religious people.

The proportional system has meant that many people are pressured into religious conformity that does not always align with how they see themselves. For example, people with firm atheist convictions must rely on and invoke their family's traditional religion in order to obtain positions in the administration or the government.

Many political parties emerged from militias active during the civil war or have been influenced by them. Different parties have formed multifaith coalitions and there is also a variety of parties within certain religious groups, but one specific faith often dominates within the larger parties. Due to these complex structures, political actors can take advantage of sectarian religious issues and specific fears that originated in the civil war to gin up their disputes. This results in an ongoing latent potential for escalating political conflicts along religious divides in Lebanon.

The role of the Shiite religious group known as Hezbollah (literally "Party of God") is noteworthy. It is involved in parliament and the government as a political party on the one hand; on the other, Hezbollah maintains a militia with an extensive stockpile of weapons which has been active in the Syrian conflict since 2012. UN Security Council Resolutions (particularly SCR 1559 and 1701) have called for all militias in Lebanon to be disarmed, but no progress has been made in this area so far. In some parts of Beirut and certain regions in the country, Hezbollah fulfils a quasi-state security function and provides welfare services. Many experts believe that Hezbollah is acting as a "state within a state." Critics and political opponents of Hezbollah have experienced threats and violence. The Special Tribunal for Lebanon, which applied Lebanese criminal law under the authority of the United Nations to investigate the assassination of Prime Minister Rafic Hariri, has sentenced three Hezbollah members to life imprisonment for his murder.

In Lebanese politics and society, a look at the rights of the large number of Syrian and Palestinian refugees and the way they are treated will reflect a sectarian religious perspective, at least in part. The question of whether refugees should be accorded the possibility of integration into society or be offered citizenship is considered highly sensitive. Many political and societal actors oppose taking steps in that direction, because this could modify the religious make-up of the population over the long term.

### Structures of inter-faith cooperation

An inter-faith dialogue is taking place at various levels in Lebanon, with all sides emphasising how important the peaceful coexistence of religious groups in Lebanon is to them. High-level representatives of the major religions have traditionally also influenced politics by taking public positions on day-to-day policy, social or legal issues and reform initiatives.

Channels of communication between religious dignitaries from different communities in Lebanon work well overall, but the public statements they issue tend to stick to the status quo and in some cases express positions that are problematic from the viewpoint of human rights. Many religious leaders oppose reforms such as the introduction of civil law on personal status and are no more than ambivalent about overcoming political sectarianism. The question of equality for LGBTIQ+ people is also highly sensitive; in autumn 2022 official representatives of various religious groups spoke out against the right of assembly for LGBTIQ+ people.

Official religious actors are generally living up to their responsibility for peace by refraining from religious and sectarian hate speech or inciting violence against people of different beliefs.



## Malaysia

Malaysia has historically been a multiethnic, multicultural and multireligious country with a long tradition of pluralism and mutual tolerance. (Sunni) Islam enjoys special protection as the official “Religion of the Federation.” Religious freedom applies in principle to other beliefs but there is a clear discrepancy between constitutional stipulations and actual practice. Social tensions between the various religious groups are interwoven with tangible tensions among ethnic groups and are the subject of public debate. Those tensions are not least to be viewed in the context of the constitutionally specified preferential treatment of ethnic Malays (known as the Bumiputra policy) which is practised by the government. Positions in the apparatus of state, including its security forces, are predominantly occupied by ethnic Malays. Parallel to the preferential political treatment of the Malay segment of the population, it can be seen that Islam is privileged. The extensive power that Muslim religious authorities enjoy and Sharia jurisdiction contribute to the dominance of Islam in the public realm and to restrictions on societal plurality.

Because it defines itself as a Muslim country, Malaysia feels a special obligation to show solidarity with other Muslim countries. The Organisation of Islamic Cooperation is an important point of reference for Malaysian foreign policy.

## Demographic breakdown by religion

Of the country's 32.7 million inhabitants, 63.7 per cent are Muslim, 17.7 per cent are Buddhist, 9.4 per cent are Christian, 6.0 per cent are Hindu and 1.2 per cent are Confucian, Taoist and adherents of other traditional Chinese religions. The remainder adhere to other religions or are non-religious.

## Legal situation

The Malaysian Constitution of 1957 names Islam as the “religion of the Federation,” but also states that other religions may be practised “in peace and harmony” (Article 3, para. 1). Article 8 governs equality, regardless of religion. Article 11 guarantees the right to exercise religion as well as the – conditional – right to propagate it. According to Article 12, para. 2, every religious group has the right to manage itself, to establish and maintain appropriate institutions and to acquire property; it is also lawful for federal territories or states to establish or maintain Muslim institutions, to assist in establishing or maintaining them, or to provide or assist in providing instruction in the religion of Islam and incur associated expenditures. Article 153 of the Constitution stipulates that Malays shall be given preferential access to educational institutions, scholarships and licenses to operate a business.

In 1996, the National Fatwa Council, established by the Conference of Rulers, declared Sunni Islam to be the faith of Malaysian Muslims. This is based on a dogmatically pure conservative version of Sunni Islam as defined by the religious authorities. The National Fatwa Council designates other sects of Islam as “deviant.” Its decisions must be implemented at the level of the states.

The tax code gives preferential treatment to Muslim organisations. Malaysian identity cards are required to list a person's religion. This also aids in determining which individuals are subject to Sharia under family law. For the Muslim population, Sharia courts render rulings on the basis of Islamic civil law. According to the Sharia law that applies to them, Muslims do not enjoy freedom of religion. Conversion or apostasy are criminally punishable. When norms of criminal law are violated (murder, rape, kidnapping, theft or homosexuality), or when a Muslim violates Islamic norms (alcohol consumption or marital infidelity), physical punishments may be prescribed by civil and Sharia courts. Malaysian criminal law includes rules that penalise blasphemy and disrupting religious gatherings or the country's harmony and unity in the name of religion.

A Muslim religious authority (the Federal Territories Islamic Religious Department, JAWI), which in recent years has also been granted executive powers and therefore serves in essence as a form of religious police, has been in place since 1974. The department's mission, by its own account, is to implement Sharia. A fatwa (legal opinion issued in response to an inquiry from a Muslim authority) from 1996 declared Shiite Islam a deviant sect; thus, Shiites were prohibited from disseminating their faith or information about it.

Conversion from Islam (apostasy) is only possible without punishment in the state of Negeri Sembilan. Conversion to Islam by members of other religions is viewed favourably and in some cases even promoted by state institutions (such as schools). In the case of marriages involving just one Malaysian Muslim, the non-Muslim spouse is de facto compelled to convert to Islam.

Missionary activities aiming to recruit Muslims to other religions are not prohibited by federal law, but are prohibited by state law in 10 out of 13 states with the exceptions of Penang, Sabah and Sarawak, as well as the three federal territories. Missionary activities there are punishable by lashings and by multi-year prison sentences.

The rights of children are restricted, particularly with respect to child marriages that are formalised with the involvement of religious institutions. In the period from 2007 to 2017, around 15,000 child marriages were registered. At least 1,500 child marriages are registered each year. The federal government pledged in 2018 to raise the minimum marriageable age to 18, but few states have held to this pledge. In 2009, a fatwa declared that female genital mutilation was obligatory for Muslim women in Malaysia unless resulting damage to health was anticipated. Some 93 per cent of Muslim women are reportedly circumcised. Islam is the primary reason given for female circumcision by those who practise it.

## Restrictions on freedom of religion or belief by state actors

Ethnic Malays are granted preferential treatment under the law in education, housing construction and civil service employment; conversely, members of religious and ethnic minorities are subject to discrimination in these areas.

Shiites and members of syncretistic Muslim sects are subjected to both legal and social discrimination, surveillance and in some cases detainment. The government has the capacity to ban events at will if it believes they would disturb "religious harmony." Meetings of the Shia and Ahmadiyya denominations are regularly prohibited on this basis.

The government restricts the dissemination of publications by non-Muslim communities and at times threatens to revoke licences on the basis of alleged infractions against publication restrictions. There are tight regulations governing the dissemination of the Bible in Malay translation as well as other materials from Christian communities.

In some states, non-Muslim communities are either entirely unable to obtain permits to build churches or temples or obtain them only with great effort. Old Hindu shrines and Christian places of worship in Malaysia have been demolished under the – sometimes unverifiable – pretext that they had been constructed without building permits.

## Change in social conflicts with religious components

The establishment of a parallel legal and judicial system and the partial codification of fatwas as law have posed regular sources of conflict in religious affairs; Muslim courts rule primarily on matters of religion, inheritance and family in accordance with Sharia. Originally, Sharia courts were restricted to civil jurisprudence among Muslim parties. Increasingly, however, civil courts have shown a trend of declaring that they lack jurisdiction in disputes over religious affiliation and referring such cases to Sharia courts for a decision. In family law, cases are frequently transferred to Sharia courts if the parties to the

dispute include both Muslims and non-Muslims. Sharia courts' rulings in such disputes usually favour the Muslim or the male party.

Despite the absence of a legal basis for doing so, many public-sector institutions require their female employees to wear a headscarf. Throughout society, there is strong pressure to conform.

## Structures of inter-faith cooperation

No institutionalised structures of inter-faith cooperation exist. The Conference of Rulers, the senior committee of state, has spoken out publicly against religious intolerance and ethnic discrimination. Some rulers participate in discussions in an effort to advocate moderation and religious tolerance.

### Maldives

Since President Ibrahim Mohamed Solih took office after the authoritarian President Abdulla Yameen was voted out in 2018, the Maldives have been following a relatively liberal course that is in accordance with the rule of law and promotes human rights. President Solih has rescinded restrictive laws adopted by the previous government, and the Human Rights Commission of Maldives can for the most part operate unrestricted.

The Maldives have the largest percentage of foreign migrant workers in South Asia. About one third of the total of 550,000 residents of the Maldives are foreign workers who belong to different religious groups and whose rights are strictly limited in practice.

Islam is the state religion of the Maldives. There is no constitutional protection of the freedom of religion or belief. According to the Constitution, Maldivians are allowed to participate in religious activities outside of Islam provided they do not contradict the teachings of Islam. The courts make the final decision on what is permissible.

Conversion from Islam to another religion is prohibited by law; violations are punishable (by fines or imprisonment) and may lead to loss of citizenship. Non-Muslims may not acquire Maldivian citizenship. Other religious groups are prohibited from running houses of worship, distributing religious material, proselytising or generally propagating a religion other than (Sunni) Islam. Violations are prosecuted as a criminal offence and may be subject to house arrest or imprisonment.

Unlike his predecessor, President Solih has instituted a resolute zero-tolerance policy with regard to violations of rights in any form committed in the name of Islam. For example, the government

responded swiftly to attacks by religious fanatics on participants at Yoga Day in June 2022, and there were many arrests. According to the Penal Code, physical violence based on religion is punishable by up to four years' imprisonment.

The Ministry of Islamic Affairs (MIA) has overarching responsibility for all aspects of religious life. No religious institution may be created and no sermons may be given publicly without approval by the Ministry. As an exception to this, imams may give Friday sermons without government authorisation, but the MIA keeps a close eye on those sermons to ensure that they respect the tenets of Islam.

The Constitution states that the national educational system must strive to "inculcate obedience to Islam" and "instil love for Islam." The MIA monitors the content of Islamic teaching in schools. The law requires teachers who offer Islamic instruction to have a university diploma as well as official accreditation from the Ministry. Islam is a required subject for all primary and secondary school students. Non-Muslim students are allowed in practice to skip this required subject. The curriculum accords broad leeway to Islam in all subject areas, so students of other faiths also receive comprehensive mandatory teaching about Islam, whether they want it or not.

The self-proclaimed atheist Mohamed Rusthum Mujuthaba was arrested on charges of blasphemy in 2019 and spent more than six months in pre-trial detention. He pleaded guilty to the charges in 2022 but the court relieved him from further imprisonment. There had previously been international protests against the charges.

## Mexico

The free exercise of religion and strict laicism are an integral part of how Mexico defines itself as a state. Eighty-nine per cent of the population are Christians. The strong Catholic influence and the widely accepted syncretistic elements of traditional Indigenous religions are a unique aspect of cultural and religious community life in Mexico.

No relevant restrictions on the exercise of religion are prescribed by law or imposed by the government. According to a 2017 study, some 7 per cent of the population have experienced discrimination based on religion.

The general human rights situation suffers from shortcomings in the rule of law – particularly a high degree of impunity – that differ greatly by region. Organised crime and disputes between cartels are responsible for the vast majority of human rights violations. National challenges with regard to the human right to freedom of religion must be viewed in this context.

## Demographic breakdown by religion

Statistics based on the 2020 census indicate that almost 78 per cent of the Mexican population are Catholic, 9 per cent are Protestant or evangelical, about 2 per cent are Christian but not evangelical (primarily Jehovah's Witnesses) and some 10.5 per cent are atheist or have no religious affiliation. Further, 0.05 per cent of the population are Jewish, 0.03 per cent are adherents of traditional Indigenous religions, another 0.03 per cent are adherents of some form of spiritualism, 0.02 per cent are one of various Eastern religions (Yazidis, Mandaean, Yarsani and Zoroastrians) and around 0.01 per cent are Muslims. Mexico had a population of around 126 million at the time of the census, which has since risen to an estimated 132.2 million people. Compared with figures from the last Report, there has been a slight relative decline in the Catholic religious group and an increase in people describing themselves as atheists or not religiously affiliated. In 2019, 82.7 per cent of the population was still Catholic, while only 4.7 per

cent of respondents stated they had no religious affiliation. In contrast, the Protestant and evangelical religious communities have grown considerably in recent years. The percentage of other religious minorities and Indigenous religions has remained constant for the most part. This makes Mexico one of the most strongly Catholic countries in the world, and the Catholic Church has not suffered a major decline in the number of believers to the extent experienced in other Latin American countries.

There were 9,827 religious associations registered with the state in 2022, a continuous increase from prior years (2017: 8,908 and 2018: 9,146). Of those associations, 9,780 are Christian. The second-largest group were Buddhist (14), followed by Jewish associations (10).

## Change in the legal situation of freedom of religion or belief

The Mexican Constitution strictly respects the separation of church and state and guarantees comprehensive freedom of religion, including the right not to adopt a religion. Church buildings and the land associated with them have belonged to the Mexican government since the reforms instituted under Benito Juárez during the 19th century.

Due to the strict separation of church and state, no church tax is collected and religious groups receive no support from the government in Mexico. There is no religious instruction in state schools and many private schools. All religious groups are financed exclusively by donations. People who wish to receive a service, such as a wedding or baptism, must pay for it themselves. Due to the strict laicism enshrined in the Constitution, there is no ordinary legislation making a distinction according to religious affiliation. For example, there are no statutory limitations on the participation of religious minorities in social rights such as education, healthcare or social care or under family and inheritance law. Those provisions did not change during the reporting period. This also applies without limitation for the Indigenous religions in Mexico, a few of which have survived.



*Tzotzil children at play. Their families have been displaced from Santa Martha, Chiapas, as a result of land conflict*

Religious groups are not obligated to register with government agencies as a religious association. This is required only for the group to enter into transactions as a legal entity or to request permits, for example to be able to practise religious customs in public.

## Changes in restrictions on freedom of religion or belief by state actors

Generally speaking, no government limitations on freedom of religion or belief can be observed in Mexico, including any imposed in the name of national security or to achieve other objectives. However, in individual cases there may be justified limitations on freedom of religion when weighing it against other fundamental rights. Mexico is distinguished by a high level of formal legal protection for vulnerable groups and by progressive legislation, particularly when compared with other Latin American countries. The following changes occurred during the reporting period: same-sex marriage has been allowed in all Mexican states since 31 December 2022, in spite of heavy resistance by conservative Christian forces, primarily from evangelical but also from Catholic circles.

A national right to abortion has also been guaranteed since a ruling by Mexico's Supreme Court on 7 September 2021. According to it, healthcare workers have a limited right to refuse treatment for reasons of religion or belief, but those limits must still be defined by legislators. Civil society organisations have criticised the limits as too one-sided in favour of the patient's right to sexual and reproductive self-determination.

## Social conflicts with religious components

Studies of the societal atmosphere in Mexico indicate that the level of discrimination based on religious affiliation is very low in society as a whole. A study by CONAPRED (National Board for the Prevention of Discrimination) in 2017 shows that the majority of Mexicans have almost no reservations about people with different beliefs. It states that one third of members of religious minorities – essentially non-Catholics, who make up about 7 per cent of the population – have



experienced discrimination based on religion. No new data on this phenomenon became available during the reporting period. Aside from rare individual cases, no incidents of physical violence in the name of religion are known, and there has been no discrimination against specific religious groups in the media, either.

There have been isolated reports of violence and reprisals against religious minorities, particularly members of Protestant and evangelical churches, in rural areas with a strong Indigenous presence (including the states of Hidalgo, Chiapas, Guerrero, Jalisco and Oaxaca).

Human rights activists – including religious actors – who oppose organised crime and violence based on an agenda aimed at societal transformation are threatened with violence, kidnapping and death by organised criminals. The Catholic Church also considers that churches bear responsibility in the fight against violence and crime in Mexico, as Pope Francis has repeatedly emphasised. Cases are known in which priests have kept quiet due to the financial support – known as “drug alms” – they receive from members of the cartels. Priests who nonetheless oppose organised crime run a serious personal risk. This was demonstrated again in summer 2022 by the murder of two Jesuits who attempted to protect a man who had taken refuge in a church from being attacked by organised criminals.

Mexico is a destination or transit country for many migrants. Most of them come from Spanish-speaking Catholic countries, and no cases of religious discrimination are known in that context. The Catholic Church is an important part of Mexican society. President López Obrador has repeatedly been critical of the role the Catholic Church played in the era of Spanish colonialism. His government adopts a reticent stance towards the Vatican.

One unusual aspect of the relationship between Mexican Catholicism and Indigenous religions is that both have many different kinds of connections which influence Mexicans’ deep-seated attachment to folk religion. For example, Día de los Muertos (Day of the Dead) celebrations on 2 November featuring large family gatherings trace back to Aztec traditions surrounding death and the afterlife. Syncretistic forms of this kind are ubiquitous and sometimes even understood as an expression of Catholicism, so there is no discrimination against them.

The fast-growing and extremely diverse evangelical churches and movements, known for their energetic missionary activity, are increasingly having an influence on religious and social coexistence in Mexico. Even if the religious messages of the free churches and evangelicals are very heterogeneous, many have a leftist and populist orientation that falls on fertile ground among Mexico’s poor, marginalised population. The Catholic church tends to be closer to elites and the upper classes, while Protestant and evangelical churches are perceived – at least in certain regions – as being close to the people. This leads to conflicts with established Catholic structures at both religious and political levels.

There is also a small, swiftly growing Islamic mission in Mexico, primarily in the southern state of Chiapas. It is having a great deal of success in converting Indigenous people to Islam. The movement is well-connected internationally. There have been isolated reports of discriminatory statements by converts to Islam about other religious minorities, particularly adherents to traditional Indigenous spirituality. The embassy is not aware of any anti-Islam or Islamist incidents.

## Myanmar

A coup d'état was carried out by the military on 1 February 2021 following parliamentary elections in November 2020. Security forces arrested thousands of political, judicial and civil society leaders during and after the coup, and hundreds of thousands of other people had to flee. The military junta under Senior General Min Aung Hlaing assumed executive, legislative and for the most part judicial authority and took control of the State Administration Council.

The coup met with fierce opposition from the population; after peaceful protests were violently put down, a broad armed resistance developed, along with what amounted to a civil war by the military against the people. The military junta's actions are exceedingly brutal, and the civilian population is suffering acts of violence including imprisonment, torture and death. The Constitution and laws still exist on paper, but lawlessness has erupted.

The situation in Myanmar during the reporting period was described during the 52nd session of the UN Human Rights Council in 2023 as displaying a pattern of human rights violations. Violence by the military regime had intensified over the course of 2021 and 2022. Moreover, the rights of Rohingya ethnic and religious groups were in no respect being safeguarded.

The objective of the military regime is to use religious authorities for political purposes and to infiltrate religious institutions with its henchmen. This is particularly the case for Buddhist organisations such as the Shwedagon Pagoda Board of Trustees, the Young Men's Buddhist Association (YMBA) and the Shwe Kyin sect, the second-largest Buddhist grouping in Myanmar.

The state has awarded honorary titles to six Muslim, seven Christian and four Hindu religious leaders which were previously reserved for Buddhists, leading to tensions in those religious communities. The awards are not an expression of the wish to promote religion and instead are blatant instrumentalisation.

## Demographic breakdown by religious community

There were no significant changes in the demographic shares of the various religious groups during the 2020-2022 reporting period. The hundreds of thousands of Rohingya (almost exclusively Sunni Muslims) who have been expelled since 2017 and have mostly fled to Bangladesh are still unable to return to Myanmar; due to high birth rates the number of Rohingya living in camps in Bangladesh has risen to more than one million.

As a result of fighting between the military and armed ethnic organisations (EAO) or other armed resistance groups (PDF), another 1.4 million people have been forced to flee to different locations in the country. This primarily affects the central areas of Magway and Sagaing, but also other states

and regions. No displacements specifically affecting ethnic and religious groups in certain areas have been observed.

## Legal situation of freedom of religion or belief

There have been few changes in the legal situation of freedom of religion or belief since the last Report. Theravada Buddhism receives preferential treatment compared with other religions, and it is also being instrumentalised for political purposes.

There are no specific requirements to register religious or atheist associations. However, it is not clear whether the law of 28 October 2022 on the registration of NGOs also applies to religious or atheist associations. It contains many criminally punishable requirements and restrictions. Enforcement by officials loyal to the regime could

result in additional repression-related challenges for religious or atheist associations similar to those confronting non-religious civil society organisations.

The current situation, which borders on civil war, is preventing members of religious minorities from accessing and participating in social rights to the same extent as adherents to Buddhism, the majority religion.

### Restrictions on freedom of religion or belief by state actors

Following brutal attacks, killings and mass displacements in 2016 and 2017, more than one million members of the Rohingya ethnic and religious minority are still living outside the country, primarily in refugee camps in neighbouring Bangladesh. An orderly, voluntary return to Myanmar is inconceivable for most families. The Rohingya remaining in the country are still experiencing systematic discrimination on an enormous scale, even if violence specifically directed against Muslims appears to be abating.

The freedom of religion or belief of other religious and belief-based groups has also come under enormous pressure. Religious actors and dignitaries are confronted with threats, physical attacks, arbitrary arrest and killings by the military. There have been reports of the systematic destruction of religious sites and facilities; Buddhist monasteries and Christian churches are equally affected. Many priests, clergy and members of the laity have been forced to flee to remote areas or other communities.

At least 65 monks and nuns throughout the country had become victims of violence by June 2022. More than 130 religious buildings – Buddhist monasteries and temples, mosques and Christian churches – have been destroyed, often by arson. Freedom of opinion and expression and of assembly were fundamentally restricted following the military coup – which also had direct effects on the exercise of basic freedoms by religious actors, such as the freedom to make critical statements. Bishop Hkalam Samson, the former head of the Kachin Baptist Convention, was arrested on 4 December 2022 on unspecified criminal charges. Bishop Samson had coordinated medical aid for

people who had been injured by an airstrike on a concert and helped arrange funerals for the victims. The cathedral in Mandalay was raided and taken over in April 2022 without a reason being given.

Discrimination against the Rohingya – the vast majority of whom are Muslim but some of whom are Christian – also continues. Representatives of Christian organisations report that baptisms have been stopped by the police. No legal limitations on the rights of vulnerable groups – particularly women, LGBTIQ+ people and children and youth – based on religious pretexts were observed during the reporting period.

### Change in social conflicts with religious components

Religious minorities, adherents of Indigenous religions and other beliefs, and atheists are experiencing social discrimination and hostility, particularly on the part of Buddhist-influenced militia close to the government and radical Buddhist monks. This applies in particular to the mostly Muslim Rohingya ethnic minority and to people who convert from Buddhism to another religion. At the same time, opposition to the military regime is tending to cause broad swathes of the population to converge and leading the various religious groups to feel greater solidarity.

### Structures of inter-faith cooperation

The common experience of threats, hardship and suffering and the collective position against the military are causing the various religious groups to come closer to each other and also strengthening the population's sense of community. There is often close cooperation between Buddhists and Christians which even extends to attending each other's ceremonies.

Particularly during the early days of the protests against the military coup, religious dignitaries made major efforts to put a stop to violence by the military and the police – even placing themselves in the way of armed forces. Christian nuns also called for non-violence and attempted to negotiate. They continue to attempt to act as a moderating influence and to bring about an end to the conflict.

## Nicaragua

The precarious human rights situation in Nicaragua is dramatically worsening. This development also includes the right to freedom of religion or belief and is affecting churches as well as charitable and religious organisations. The regime describes itself as being based on “Christian, Socialist and Solidarity” principles. In spite of that, intolerance of people with different political ideas, bishops, priests and pastors is unceasing. There have been repeated attacks on churches and clergy. Some have had to go into exile due to death threats, while others have been expelled – including the Apostolic Nuncio in March 2022. Still others have been subject to criminal prosecution. Many church institutions have been banned as part of the crackdown on civil society.

## Demographics

Some 43 per cent (1991: 90 per cent) of Nicaraguans identify as Roman Catholic, according to Borge and Associates, an independent opinion research institute. A total of 41 per cent belong to Protestant groups, the majority of them evangelical groups. There has been a continuous increase in the number of evangelicals since the 1990s with a concomitant decrease in Roman Catholic groups. Fourteen per cent state they are religious believers without affiliation. Fewer than two per cent belong to other religious groups, including Jehovah's Witnesses, Church of Jesus Christ of Latter-Day Saints, Judaism and Islam. The Moravian Church (Iglesia Morava) is most active in the autonomous regions on the Caribbean coast. Most of its members are of Indigenous or Afro-Caribbean origin. A small percentage (currently not quantifiable) of the Nicaraguan population are adherents of Indigenous religions. There are no readily available scientific data on the current situation for freedom of religion or belief of the Indigenous religions in Nicaragua.

## Legal situation of freedom of religion or belief

The exercise of freedom of religion or belief is guaranteed by the Constitution (Article 29); education is secular, but religiously oriented private schools are also allowed (Article 124). According to its Constitution, Nicaragua has no official religion (Article 14).

Worship services and religious activities are not subject to any legal limitations. No church tax is collected. The Law for the Regulation of Foreign Agents is having a restrictive effect. According to it, all organisations and individuals receiving support – and not merely financial support – from abroad must register as foreign agents and then have each transaction approved in advance. Religious legal entities are exempt from the law, but not in cases where the government alleges “interference in Nicaragua’s internal and external affairs.”

## Restrictions on freedom of religion or belief by state actors

The Catholic Church in particular is under heavy political pressure. Because of its commitment to human rights, clergy are also being persecuted and detained on purported criminal charges. There have been repeated attacks on the clergy and damage to churches. The final report of a parliamentary hearing in May 2022 calls among other things for making it possible in future to prosecute church representatives for political crimes. At least 10 clergy and seminary students have been detained, some of them without charges. Rolando Álvarez, the Bishop of Matagalpa, is a critic of the government and was placed under house arrest on charges of organising violent groups with the aim of disrupting constitutional bodies. Many radio and television stations belonging to the Catholic Church have been closed down. Universidad Centroamericana (UCA), a Jesuit university, has been excluded from receiving state subsidies. The police are repeatedly prohibiting processions and other religious celebrations in

public spaces. Regardless of international protests, the Ortega regime's persecution of the Catholic Church, which in the past acted as an intermediary, continues unabated. A total of 285 church institutions were closed in 2022 alone.

### Change in social conflicts with religious components

Following widespread unrest and protests in 2018, a dialogue between the government and representatives of companies, small farmers, students and civil society organisations was conducted under the aegis of the Catholic Church. However, the government put an end to the dialogue. Large parts of the Catholic Church were expressing opposition to the regime at that time. Today most of them remain silent, fearing further repression. Pope Francis has also been hesitant to speak out about the situation of the Church in Nicaragua,<sup>109</sup> apparently in an effort to avoid placing further pressure on people in the country.

Defamation of religious groups in the media originates at the highest political levels. Representatives of the regime regularly spread messages of hatred against people with different political opinions, including representatives of the Catholic Church. The UN and the Organisation of American States (OAS) are among the organisations critical of the Nicaraguan government's repressive actions. Criticism by the EU has worsened diplomatic relations.

The situation of the Indigenous population, including with respect to religious freedom, has further deteriorated in recent years. There are repeated reports of violent attacks on or even killings of Indigenous people, primarily due to conflicts over land or the environment. The government tolerates assaults on Indigenous peoples, including the massacre in Kiwakumbaih, during which 13 Indigenous persons were killed in September 2021. Kiwakumbaih Hill is considered a sacred place and is a traditional hunting and fishing site for the Indigenous population. Observers see land conflicts and heavy demand for commodities as the reason for targeted attacks on Indigenous peoples and their freedom of religion.

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<sup>109</sup> Nicaragua has now broken off relations with the Holy See.



## Nigeria

With a population of more than 200 million, Nigeria is by far the most populous country in sub-Saharan Africa. It is home to many ethnic groups, as well as a majority Muslim population in the north and a majority Christian population in the South. Freedom of religion is enshrined in its Constitution, which also specifies that the state shall not adopt any religion as state religion.

The different religions in Nigeria live peaceably together for the most part. However, the general level of violence and instability increased during the reporting period, particularly in northern and central Nigeria. Religious affiliation is increasingly being instrumentalised in conflicts that are not primarily based on religion. For example, conflicts over natural resources caused primarily by socio-economic factors are being aggravated by adding religion to the mix.

### Demographic breakdown by religion

The Nigerian population consists of almost equal percentages of Muslims and Christians, although a considerable number of people also practise forms of traditional African spirituality, sometimes exclusively. This is not shown in official surveys. Muslims are the majority population in the northern states while Christians make up the majority in the southern states.

The Muslim community in Nigeria is predominantly Sunni; only around 5 to 10 per cent of Muslims are Shiites, most of whom reside in north-western Nigeria. Salafism is also seen, particularly in the north.

The majority of the Christian community is Protestant (Anglican and Pentecostal); a quarter of the Christians are Catholic. Evangelical communities – including churches that preach what is known as the gospel of prosperity – are experiencing rapid growth in membership. Blending Christianity or Islam and traditional African spirituality is very common.

### Legal situation of freedom of religion or belief

Nigeria acceded to the International Covenant on Civil and Political Rights (ICCPR) on 29 July 1993. It had already transposed the African Charter on Human and People's Rights into national law in 1983. The 1999 Constitution prohibits naming a specific religion as the state religion (Article 10),

both at the federal level and in individual states. Article 15 specifies that non-discrimination – including based on religion – is a fundamental principle, which is also defined in Article 42. Under Article 15, the state also has a duty to encourage both inter-faith marriages and the formation of associations that contribute to national integration. There is a general ban on political parties that restrict membership based on religious affiliation or whose names have religious meanings. Article 38 guarantees freedom of thought, conscience and religion, defined as the freedoms to choose, exercise, propagate, leave or freely change one's religious affiliation or beliefs. The Constitution guarantees the right to education in one's own religion. Under Nigeria's Constitution, freedom of religion also includes protection against mandatory instruction in a religion other than one's own, as well as the right of religious groups to provide religious instruction to their members. As a prerequisite, these freedoms must be compatible with the state's interests in defence, public safety, public order, public morality or public health and the rights of others (Article 45, para. 1).

Religious groups are required to register with the Corporate Affairs Commission in order to be granted the legal status required to enter into legal transactions. However, many Christian groups, particularly in the southern part of the country, participate in public life without registering.

A large share of the Muslim population is highly accepting of Sharia law. Local Sharia criminal law was reintroduced in the 12 northern states (out of a total of 36) in 2000 and 2001. Until then, Sharia law had only been applied in the realms of civil law and Muslim personal status law. Sharia law applies only to Muslims. Following a verdict under Sharia law, an appeal may be brought before a higher Sharia court or a secular appeals court. In any event, the Supreme Court, which is secular, is always the court of final appeal, independent of which system led to the appeal. Sharia criminal law is rarely applied. However, there have repeatedly been convictions that grab attention.

Blasphemy is prohibited in both legal systems: secular law and Sharia law. Section 204 of the Nigerian Penal Code makes “insult to religion” punishable by up to two years in prison. In states with Sharia criminal law, even more severe punishments for blasphemy – including the death penalty – could theoretically be imposed. The case of Mubarak Bala, the president of the Humanist Association of Nigeria, was particularly notorious. The Kano State High Court sentenced him to 24 years’ imprisonment for blasphemy in 2022. The German Federal Government Commissioner for Freedom of Religion or Belief met with Bala’s lawyer and family during his trip to Nigeria. The verdict is not yet final, and appeals are underway. A Sharia court sentenced Sufi singer Yahaya Sharif-Aminu to death at the beginning of the reporting period, although the sentence was overturned on appeal. His case against the Kano state’s blasphemy law is currently being heard by the Supreme Court, and he remains in prison.

### Restrictions on freedom of religion or belief by state actors

To avert religiously charged tensions, the Nigerian government maintains equal treatment of the country’s two principal religions. It does this by practising roughly proportional representation in national political posts, by including prayers from both creeds before important events, by building mosques and churches in equal numbers and by providing government subsidies for religious pilgrimages (to Mecca and Jerusalem) in equal

amounts. The security forces make an effort in some but not all cases to protect people suffering religious persecution and discrimination.



*Commissioner Frank Schwabe exchanging ideas with Archbishop Ignatius Ayau Kaigama in Abuja, Nigeria*

In practice, the religious freedom of non-Muslims in the northern states can sometimes be limited by administrative requirements that do not consider religious affiliation. For example, there are perennial complaints that applications for permits to build churches and religious community buildings run into bureaucratic hurdles that sometimes delay these construction projects or prevent them from being completed. Northern Christians also complain that they are sometimes discriminated against or even excluded when appointments are being made to public sector positions.

The rights of religious minorities outside the two major religious groups (Christians and Muslims) are in some cases highly curtailed. In sporadic instances, professed atheists are socially stigmatised and sometimes even persecuted by security forces on the basis of the blasphemy law. There have been repeated reports in the majority Muslim north about attacks on alleged and actual converts by members of their original religious communities. However, conversion is common in other parts of the country, primarily among the Yoruba population group in the south-west.

## Social conflicts with religious components

The problem of religious conflicts in Nigeria is a highly-charged subject. The attack on a church in Owo state in south-western Nigeria in June 2022, which killed many people, recently caused international outrage. None of the perpetrators has been brought to justice. In fact, many people of all beliefs fall victim to religiously motivated attacks. Nigerians are often victims of conflicts that are not primarily based on religion, such as conflicts over resources between farmers, who are primarily Christian, and herders, who are primarily Muslim. A growing population and increasingly scarce natural resources, as well as climate change, threaten to further exacerbate conflicts of this kind.

The radical Islamist terrorist organisations Boko Haram and ISWAP (Islamic State West Africa Province) are causing unspeakable suffering across religious lines, including by displacing millions of people. It is young men above all who tend to join the two groups, motivated not just by ideological and religious ideas, but also by a lack of economic prospects and a feeling that they have no alternative. Steps were taken in Borno state in November 2021 to reintegrate people associated with Boko Haram, an effort supported by the international community, including Germany. Some 100,000 people previously associated with Boko Haram have left the movement since that time.

## Structures of inter-faith cooperation

Both the government and some NGOs have established institutions dedicated to inter-faith dialogue and conflict resolution.

In addition, numerous inter-faith platforms and dialogue forums – some of them with funding from abroad – are contributing to ongoing communication between the two major religions. The focus of inter-faith peace projects is usually on the dialogue between Islam and Christianity. Many religious representatives are highly aware of their social responsibility and are very prudent in their interactions with other religious groups.

The New Era Educational and Charitable Support Foundation has been committed to peace and cooperation among the religions in Nigeria for many years. It successfully conducted the Building Bridges Across Faiths: InterCommunity Dialogue for Peace in Nigeria in 2022 with support from PaRD (International Partnership on Religion and Sustainable Development).

## North Korea

North Korea has almost completely sealed itself off from the outside world since early 2020, when the COVID-19 pandemic began. Most foreign embassies in Pyongyang, including the German Embassy, were temporarily closed, and employees of international organisations left the country. Therefore, independent information about the situation in the country – including the situation for freedom of religion or belief – is nearly impossible to obtain.

The final report of the UN Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea, issued in 2014, described the extent and type of human rights violations in North Korea as unprecedented in the modern world. According to the report, this includes the almost complete denial of liberties such as freedom of religion or belief and freedom of opinion and assembly. The former UN Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea, Tomás Ojea Quintana, emphasised at the end of his six-year term (from 2016 to 2022) that the human rights situation in North Korea had further deteriorated during that period.

North Korea is officially an atheistic country ideologically based on the personality cult surrounding the country’s founder Kim Il Sung, later expanded to include his son Kim Jon Il and grandson Kim Jong Un. Expressions of reverence for the many statues and portraits of Kim Il Sun and Kim Jong Il in public spaces are obligatory. The Constitution guarantees freedom of religion in principle, but also limits it. For example, it states that religion must not be used as a pretext for drawing in foreign forces or for harming the social order. Autonomous activities by religions such as those traditionally practised in North Korea or according to the teachings of Buddhism and Confucianism as well as Christianity and the Chondo religion are viewed as competition to veneration of the “Kim Dynasty,” which is also enshrined in the Constitution, and have been suppressed. Today they are rarely to be seen or are kept behind closed doors. Therefore, it is impossible to make reliable statements about the demographics of the religious groups.

### Restrictions on freedom of religion or belief by state actors

The few religious activities allowed in North Korea are managed and controlled by the state. These include one state-run Protestant and one state-run Catholic association and one Catholic, one Russian Orthodox and two Protestant church buildings, all in Pyongyang. There are also a state-run Buddhist federation and a Buddhist theological seminary that trains monks. Buddhist temples in North Korea tend to be monuments rather than places to practise a faith. Only the Chondo religion, which originated in Korea, is recognised. It has a political arm, the Chondoist Chongu Party. As one of the North Korean block parties, it is represented in the Supreme People’s Assembly and loyal to the Kim Dynasty. The internationally controversial Unification Church, also known as the Moon movement or Moon sect, runs the World Peace Centre in Pyongyang; no further

information is available about its activities. The founder of the Unification Church, Sun Myung Moon (1920-2012), maintained a good relationship with the Kim family during his lifetime.

All of community life in North Korea is closely monitored. The autonomous expression of beliefs or religious or secular viewpoints that might even slightly relativise the Kim cult’s claim to absolute authority is strictly prohibited and fiercely sanctioned. For example, possessing and importing a Bible is a punishable crime. According to reports by human rights organisations, prisoners have been sent to political camps due to their religion, public professions of religion or possessing Bibles or for other reasons associated with the autonomous exercise of religion. The most severe human rights violations take place in these camps. There are no reliable data on people who have been detained on religious grounds.

## Pakistan

### Demographic breakdown by religion

According to Pakistan's Constitution, the state religion is Islam, to which some 96 per cent of the population belong. The most recent data on the number of adherents to the various religions come from a census taken in 2017. It shows that the non-Muslim portion of the Pakistani population is made up of Hindus (1.6 per cent), Christians (1.6 per cent), Ahmadis and other religious groups such as Bahá'í, Parsi/Zoroastrians, Sikhs, Buddhists, Kalasha and Jains. Most of the Muslim population is Sunni; estimates indicate that Sunnis account for 80 to 85 per cent of Muslims, while the share of Shiites is between 15 and 20 per cent. The census was boycotted by the Ahmadiyya community, but estimates assume that between 500,000 and 600,000 Ahmadis live in Pakistan, equal to 0.2 per cent of the total population.<sup>110</sup>

### Safeguarding religious freedom

The Pakistani Constitution guarantees religious freedom and protects the rights of minorities. However, freedom of religion or belief is contingent on legislation. The Senate Standing Committee on Religious Affairs and Interfaith Harmony rejected a legislative initiative intended to protect the rights of minorities in early 2021, contending that minorities in the country already enjoyed comprehensive religious freedom.

### Access to education

A single national curriculum (SNC) for all schools was developed and introduced in some places during the reporting period. It includes mandatory courses in Islamic studies for all Muslim students in years 1 to 12. Islamic studies were previously offered as an independent subject starting in year 3. The SNC is being introduced in phases, starting with years 1 to 5 in 2021. According to the government, non-Muslim children

are to be offered the option of religious studies. However, information in the media indicates that textbooks for this subject have not yet been printed. Human rights groups have criticised the SNC's strong focus on Islam. They state that the SNC also includes Islamic religious aspects in subjects other than Islamic studies, including English and Urdu lessons.

### Legal discrimination in family law

Marriage and divorce law in Pakistan is governed by legislation at the national level based on the laws of each religious community. A marriage is not registered with local officials until after the wedding. This legal situation causes problems for the Ahmadiyya, a religious minority. They consider themselves Muslims, but according to the Pakistani Constitution they are not. Ahmadis repeatedly report problems in registering their marriages with local authorities because they do not come under Muslim family law. A decree issued in Punjab in 2021 requires that when a marriage is registered a declaration must be made stating that Muhammad is the final prophet in Islam. This contradicts fundamental principles of the Ahmadis, who believe that there was another prophet after Muhammad.

### Actual discrimination against religious communities

Five per cent of all positions in the government have been reserved for minorities since 2009. However, only 2.8 per cent of such positions have been filled by minorities so far. Moreover, 80 per cent of those jobs are in the cleaning and sanitary sector, one of the lowest paid jobs within the government. These hiring practices and working conditions for minorities were highlighted in a 2022 joint report by the National Commission for Human Rights (NCHR) and the European Union.

<sup>110</sup> Other data assume a much higher number, however.



Work by NGOs and the NCHR has contributed to convincing the Punjab, Khyber Pakhtunkhwa and Balochistan provincial governments to abandon their longtime practice of advertising vacancies in the cleaning and sanitary sector only to non-Muslims.

Blasphemy is a punishable crime in Pakistan. The blasphemy law was enforced more actively during the current reporting period than in previous years. According to the Centre for Social Justice, an NGO, 84 people were accused of blasphemy in 2021 and 208 people were accused of blasphemy in 2020. This is an obvious increase from previous years (36 cases in 2019 and 61 in 2018). Blasphemy is punishable by death in Pakistan. Last year at least 16 people accused of blasphemy were sentenced to death. However, Pakistan has not carried out executions for blasphemy since 2019. Even the accusation of blasphemy can be life threatening: people accused of blasphemy were killed by enraged mobs or individuals during the reporting period, with a disproportionate number of Ahmadis and members of non-Muslim groups losing their lives.

### Hostility against the Ahmadi religious group

A third of blasphemy accusations have been against members of the Ahmadi religious group for decades – a strikingly high proportion given the fact that they make up only about 0.2 per cent of the Pakistani population. One cause of this appears to be recent concerted efforts by lawyers' cooperatives among others to make accusations of blasphemy focused on Ahmadis.

Legal proceedings against Ahmadis reflect the societal hostility the group faces.

### Threats to young women

Young women, particularly Hindus and Christians, were repeatedly victims of kidnapping, forced conversion and forced marriage – or attempts at them – during the reporting period. The government is generally failing to ensure the safety of the victims and ensure that the authorities proceed with prosecutions.

## Violence in the name of religion

Various potentially violent groups from Muslim circles were active in Pakistan during the reporting period, including the political party Tehreek-e-Labbaik (TLP, a single-issue anti-blasphemy party), the Pakistani Taliban terrorist group Tehreek-i-Taliban Pakistan (TTP) and the self-styled Islamic State Khorasan Province (IS-KP). The groups belong to Sunni Islamic movements.

Both TTP and IS-KP carried out attacks during the reporting period. The attacks by TTP are rooted in a religious agenda but they are overwhelmingly motivated by politics. In contrast, the attacks by IS-KP target religious minorities – particularly Shiites – and include attacks on mosques. The number of terrorist attacks with deadly outcomes decreased between 2013 and 2019, but data from the South Asia Terrorism Portal (SATP) indicate that the number of deadly attacks increased considerably in 2020 and 2021. The increase appears to be inspired by the Taliban's success in Afghanistan – even though they belong to various Sunni Islamic movements – and also to express the greater willingness of extremists in certain sections of the Pakistani population to use violence. In contrast, the TTP is a movement with considerable potential for mobilisation which has drawn attention in past years due to violent mass protests.

### State structures for cooperation in the area of religion and minorities

The National Commission for Human Rights (NCHR) is an important state actor that is supposed to review compliance with human and minority rights. It was able to resume its work in late 2021 after the post of head of the NCHR was filled. The NCHR was created in 2020 to oppose religion-based discrimination and promote inter-religious harmony in the country. It includes members of some minorities, including Hindus, Christians and Sikhs, as well as representatives from the Sunni majorities. Other minorities such as Ahmadis and Shiites are not included. Religious minorities complain that the Commission is not independent and does not have an adequate legal basis because it was created by decree without the involvement of Parliament.

## The Philippines

With some 110 million inhabitants, the Philippines is the largest Christian-majority country in South-East Asia and the country with the largest Catholic population in Asia. Parts of the island of Mindanao, in the southern Philippines, have a Muslim majority. With the establishment of Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) in 2019, a new, largely autonomous regional entity was created with the goal of permanently overcoming decades of conflict and religious tensions.

On the whole, Filipino society is tolerant towards LGBTIQ+ individuals, who also have public visibility as part of the spectrum of the population (particularly in the capital region); at the same time, legal discrimination remains enshrined in the law.

Since the declaration of independence in 1898, the Philippines has had freedom of religion, which is also constitutionally protected. Other rights and freedoms are enshrined in numerous laws. In addition, the country has ratified the principal agreements in international law concerned with human rights protection.

## Demographic breakdown by religion

Extrapolating from the most recent official figures available published in 2015, the population is estimated to have grown from 101 million at that time to over 110 million in 2022 based on an average population growth of 1.7 per cent annually. The majority of the population professes a Christian faith. The Roman Catholic Church constitutes the largest religious group in the country by far, accounting for 79.5 per cent of the population. Another 9 per cent belong to one of the numerous other Christian churches, primarily Protestant and evangelical, that are active throughout the country, such as Iglesia ni Cristo (Church of Christ), Philippine Independent Church (Aglipayan), Members Church of God International and The Kingdom of Jesus Christ, the Name Above Every Name. Among the independent churches, Iglesia Filipina Independiente plays a prominent role in terms of adherent numbers. Independent international churches, including evangelical ones, receive support in some cases from parent institutions abroad, for example in the United States or South Korea.

Muslims are estimated to make up about 10 per cent of the population. For historical reasons, Muslims reside in the western part of the southern island of Mindanao, as well as on the islands of the Sulu archipelago south-west of it, which have ties to Brunei, Indonesia and Malaysia. Due

to internal migration, Muslim communities have also emerged in the Cebu City metropolitan region and the capital region.

Another statistically small percentage is divided among other religions, including Indigenous religions, or is officially considered religiously unaffiliated. Indigenous religions are estimated to amount to only 2 per cent. The main movement within the Indigenous religions is animism, but most of the 11 million members of the Indigenous population, like the majority population, are Christians.

## Legal situation

The Philippines' Constitution of 1987 guarantees freedom of religion in Article 3, section 5. The church and state are separate, according to the Constitution; the state promotes the exercise of freedom of religion via legislation and policy. No religion is prescribed by the government; the Constitution allows citizens to choose, exercise or leave their religion freely. Religious education is not provided at state schools, but religious groups have the option of offering religious instruction, provided they pay for it themselves; participation is voluntary. It is possible to leave the church or to change religions – although both are rare in practice – and these processes are subject to the rules of the religious groups in question.

The legal system exhibits some unique aspects that are attributable to the country's majority Catholic heritage and the social and cultural role of the Catholic Church. Divorce is not allowed in the Philippines, for example. Family law applies to everyone except Muslims, for whom family and inheritance matters are governed by Islamic law, under which women are disadvantaged where questions of inheritance and property are concerned.

The year 2010 saw the establishment of the National Commission on Muslim Filipinos, under the supervision of the Office of the President. Its aim is to advise the president and the government on policies affecting the concerns of Filipino Muslims and serve as their point of contact for any petition to the government. There are 51 first-instance and five second-instance Sharia courts, which exclusively decide on disputes between Muslims related to family and inheritance law. Quranic schools (madrasas) exist in the regions inhabited by Muslims and receive government funding as part of the education system, provided that they register officially. Muslim women have the right to wear the hijab in government institutions.

The Penal Code contains two provisions against blasphemy. Disrupting religious ceremonies and offending the feelings of believers are criminal offences.

For tax reasons, organised religious groups and churches must register with the financial supervisory authority and the tax office. There are no known cases of discrimination by the government in connection with registration or of threatened punishments or other sanctions for failing to register or doing so belatedly. It is safe to assume that many unregistered religious groups practise their faiths without hindrance.

## Restrictions on freedom of religion or belief by state actors

The practices of the Philippine civil service give religious groups a free hand. For foreign representatives of religious groups, there is a special "missionary visa" that officially authorises them to dwell in the country for the purpose of exercising their religious profession. The Muslim population feels discriminated against by the state in large parts of the country, in part through decades of economic discrimination against the Muslim provinces in the south. They point out that it is impossible for them to hold or exercise a public office, as the state usually appoints members of the Catholic population to official positions.

The non-Muslim population are frequently prejudiced against Muslims in the Philippines, although they often know nothing about the religion. The National Commission on Muslim Filipinos (NCMF) alleges general discrimination by government offices. According to NCMF, this particularly affects Muslims who fled Marawi for other parts of the country in 2017 and have been unable to return home. Only a few specific cases are known, including situations in which the National Housing Authority and the Pasig River Rehabilitation Commission were allegedly very reluctant to allocate government-subsidised housing to Muslims.

The Catholic Church with its massive membership traditionally has considerable power to influence opinions on social questions; government authorities have largely abided by this to date. Members of the Catholic Church also feel affected by shrinking spaces for civil society, especially when they take political stances.

In spite of views on LGBTIQ+ people being more open-minded than elsewhere in the region, legislators invoke the country's Catholic tradition to justify their rejection of same-sex marriage, abortion and a law to protect LGBTIQ+ people.

## Social conflicts with religious components

The BARMM autonomous region was created in 2018 as part of the process of establishing peace with the Muslim minority on the southern island of Mindanao. The date for election of the regional parliament and government, originally set for 2022, has been postponed until mid-2025 due to delays in the transition process.

## Structures of inter-faith cooperation

In the Philippine chapter of the international Religions for Peace (RFP) movement, there is an institution specially dedicated to inter-faith cooperation. Although members of all world religions participate there, Christian and Muslim religious groups are the primary actors due to their demographic distribution.

### Russia

Russia has massively expanded its authoritarian structures since launching its war of aggression against Ukraine in violation of international law. Increased repression and extensive censorship, as well as limitations on the rule of law imposed by the political system are having a negative effect on all fundamental freedoms – including freedom of religion or belief. In his attempt to develop a narrative that will bring cohesiveness to the Russian people, President Putin is also using elements taken from the teachings and culture of the Russian Orthodox Church (ROC) to create a new, still incomplete (state) ideological construct, which will also incorporate structures of the other “traditional” religious communities that are associated with the state, such as Islam in the North Caucasus or Tatarstan.

## Demographic breakdown by religion

The proportion of members of the ROC varies considerably (between 60 and 75 per cent) in polls, but this is most likely due to uncertainty about the specific criteria that establish membership in the ROC, since there are no formal requirements for joining.

Surveys indicate that the Muslim population increased from 6 per cent in 2019 to 7 per cent in 2022, corresponding to the demographic trend in Russia's majority Muslim regions. Other small religious groups each constitute 1 per cent or less of the population. The number of Jews is most likely trending downward given increased emigration, although Jewish synagogues report that attendance is up since the war of aggression in Ukraine began. The Statistics Office counted 82,644 Jews in the 2021 census. Other estimates range as high as 200,000.

The number of Indigenous peoples is said to be 44 according to the Russian unified register of small Indigenous groups; added to that are a few more

peoples that have not been registered. It is estimated that there are about 270,000 members of Indigenous groups. Some of them belong to the ROC, some practise shamanism and some identify as belonging to syncretistic religions.

## Legal situation of freedom of religion or belief

Russian law related to religious groups has not changed much in recent years. The separation between church and state formally continues; a reference to God was incorporated into the 2020 Russian Constitution, but laws on religion have not otherwise been changed. The new wording of the Constitution, according to which “the Russian Federation, [...] maintain[s] the memory of ancestors who transferred ideals and the belief in God to us, as well as continuity in the development of the Russian State [...]” expresses the close connection among church, state and tradition that was long typical of Russia.

The primary aim of amendments to the Law on the Freedom of Conscience and Religious Associations in 2016 and 2021 was to limit the activity of foreign employees of religious organisations, specifically by requiring special certificates and application procedures for them. Certain groups of people – for example, foreigners who have been declared “undesirable” or found guilty of extremism – have been prohibited from joining a religious organisation since spring 2021. Employees of religious organisations who received their religious education abroad have been required since 2021 to undergo “re-certification” or to obtain additional professional training.

The distinction between traditional religions (Orthodoxy, Islam, Judaism and Buddhism) and those described as non-traditional (such as Catholic and Protestant churches) has been maintained. Religions identified as traditional may offer religious instruction in Russian schools, but non-traditional religious groups are not allowed to do so.

### Restrictions on freedom of religion or belief by state actors

The enforcement of laws on religion differs greatly from the standards set forth in the texts of those laws. The ROC is privileged in many respects. It has particularly close ties with government agencies, is consulted about legislative bills relating to religious and ethical issues and implements many publicly financed projects, such as those related to the maintenance and construction of churches. In the area of military chaplaincy, the Russian Defence Ministry cooperates much more closely with the ROC than it does with other traditional religions.

Islam, the second largest religious group, considers itself to be greatly disadvantaged in comparison. For example, there are very few mosques in Moscow to serve the considerable number of Muslim residents, who include Russian citizens as well as many emigrants from the central Asian states. The construction of mosques is unpopular with the Orthodox-oriented majority population, so building permits are rarely issued.

The ongoing persecution of individual small religious groups highlights the obvious limits of religious freedom in Russia. This is particularly obvious in the case of Jehovah’s Witnesses, who face prosecution since they are classified as an extremist organisation. A person who joins this religious group runs the risk of being charged and severely punished. According to research by Memorial, an NGO that has now been banned, 39 Witnesses had been sentenced to prison by spring 2022, and 48 were in pre-trial detention due to membership in the group in early 2022. Several hundred investigations of Jehovah’s Witnesses are in progress. Russia has not complied with the decision of the European Court of Human Rights (ECtHR) in July 2022 ordering its ban on Jehovah’s Witnesses to be overturned.

A series of other religious organisations were declared undesirable in 2021, including four coming under the New Generation Church of Evangelical Christians, a Protestant free church based in Lithuania and Ukraine. Other religious groups such as Falun Gong and some Muslim groups such as Tablighi Jama’at and followers of the theologian Said Nursî are being accused of extremism – or terrorism in the case of Nursî’s followers – and prosecuted. There are radical Muslim movements and organisations in the northern Caucasus, and terrorist activities date back many years: an attack on the Saint Petersburg underground in 2017 is suspected to have an Islamist background.

Indigenous religious actors have reason to fear repressive measures, which are often associated with the destruction of ancestral territories due to mining activities in the northern part of the country. The most prominent case is Alexander Gabyshev, a Yakut shaman, who has been sentenced to involuntary confinement in a psychiatric hospital multiple times.



## Restrictions of fundamental rights using religion as a pretext

The government was noticeably more active in proceeding with prosecutions for injuring religious feelings (a criminal offence) during the reporting period, mostly to protect the ROC. Criminal prosecutions have often been based on allegedly obscene photos and videos shared on social networks, in which religious – usually Orthodox – objects could be seen in the background.

The ROC supports and promotes the increase in government actions against LGBTIQ+ people and promotes both societal stigmatisation and legal discrimination against them.

## Effects of the Russian war of aggression against Ukraine

Repressive measures against critics of the government have intensified since the war of aggression against Ukraine began. The law that makes “discrediting the Russian armed forces” punishable by up to 15 years’ imprisonment also affects religious groups.

The ROC – more precisely the Patriarchate of Moscow and all Rus’, which also considers Ukraine, the Republic of Moldova and Belarus to be its canonical territory – is very active in supporting the Russian war of aggression against Ukraine. Patriarch Kirill I has dedicated an icon to the Russian national guard fighting in Ukraine and also emphasised that Russian soldiers who die in the line of duty there will have their sins forgiven. He has also adopted the Russian government’s justification for the war, which is that Russia is engaged in a cultural war against the West and is merely defending itself. He also contends that Russia has never started a war and that the Church is on the side of the defenders this time, too. The ROC and the Patriarch have thus become key pillars for Putin’s war policy.

Leading representatives of the Muslim communities in Russia have supported the war against Ukraine in different ways. Ravil Gainutdin – Chairman of the Russian Council of Muftis, the largest Muslim association – has done this using relatively moderate language (“understanding for the president’s decision”), while Talgat Tadzhuddin – Grand Mufti and Chairman of the Central Spiritual Administration of the Muslims of Russia, based in Ufa – has emphasised the common fight against the West.

Religious leaders who do not fulfil the government’s expectations and refuse to offer clear support for the war or at least remain silent have had to face the possibility of harsh responses. Some have left Russia since the war began, including Pinchas Goldschmidt, one of the two Chief Rabbis of Moscow, and Dietrich Brauer, Archbishop of the Evangelical Lutheran Church in Russia.

Article 59, para. 3 of the Constitution has become more important in the context of the partial mobilisation ordered by President Putin in September 2022. It states that “in the event that their convictions or religious beliefs run counter to military service [...] citizens of the Russian Federation shall have the right to replace it with alternative civilian service.”

## Saudi Arabia

Saudi Arabia views itself as a Muslim, non-secular monarchical state whose laws are based on Sharia. Sunni Islam is the state religion; the Quran and the Sunna – account of the life and works of the Prophet Muhammad – serve as the foundation of the legal system. The head of state and government is the king, who bears the title “Custodian of the Two Holy Mosques,” referring to the great mosques in Mecca and Medina. Human rights apply only to the extent that they are compatible with Sharia. The right to freely choose and exercise one’s religion or belief is not guaranteed, although steps have been taken towards adopting a more tolerant interpretation of Islam. The public exercise of other religions is prohibited.

Since 2017, there has been a palpable move away from the previously dominant extreme Wahabi understanding of Islam in almost every sphere of society. Despite Crown Prince Mohammed bin Salman’s pledge in 2017 that he would “return” the country to a moderate and restrained interpretation of Islam, Sharia remains the most important source of its system of values and laws. Due to Saudi Arabia’s self-image as the home of the two holiest sites of Islam, this is not expected to change in the foreseeable future, even during the current period of reform and of society opening up.

The announcement of a religious paradigm shift by the state leadership is also beginning to be reflected in the financing of Sunni communities all over the world.

## Demographic breakdown by religion

Saudi Arabia has some 33.5 million inhabitants (as of late 2021), at least 12 million of whom are of foreign origin. Some 85 to 90 per cent of Saudi citizens are followers of the Sunni faith (predominantly the Hanbali school of jurisprudence), while 10 to 12 per cent are Shiites. More than 2 million Christians of various denominations also reside in Saudi Arabia; most of them are South and South-East Asian migrant workers. In addition, at least 700,000 Hindus, 100,000 Buddhists, 70,000 members of other religions – including a few thousand Jews – and around 250,000 religiously unaffiliated people reside in the country.

## Legal situation

To the extent Saudi Arabia has ratified UN Conventions, this has been done with general reservations making their application contingent on Sharia law. Saudi Arabia did not accede to the International Covenant on Civil and Political Rights (ICCPR), whose Article 18 contains the right to freedom of thought, conscience and religion.

Saudi Arabia’s Basic Law of Governance, from 1992, enshrines Islam as the state religion in Article 1. The Quran and Sunna serve as the foundation of the legal system. Sharia is traditionally applied in a specifically Saudi interpretation (often designated Wahhabi outside Saudi Arabia) within the Hanbali school of Sunni jurisprudence. Article 23 states that “the State shall protect the Islamic Creed and shall cater to the application of Sharia. The State shall enjoin good and forbid evil, and shall undertake the duties of the call to Islam.” According to Article 26, “the State shall protect human rights in accordance with Islamic Sharia.”

Sunni Islam is the only officially recognised and funded religion in Saudi Arabia. The public practice of other religions is not permitted; their religious symbols may not be worn openly, nor may their sacred texts or symbols be imported into the country. The practice of Shiite rituals is restricted and is not tolerated in every region.

Operating non-Muslim places of worship, converting a Muslim to another religion, and non-Muslim missionary activity are prohibited. The Wahhabi doctrine on the relationship between religions in Saudi Arabia is rooted in a hadith, that is, a traditional saying of the Prophet Muhammad regarding legal interpretation: "The Arabian Peninsula cannot hold two religions." The religious establishment, which due to the overlap of religion and law traditionally also dominates the judicial system, interprets this hadith literally; it is said to be the Prophet's will that no religions besides Islam be practised in the country. However, Crown Prince Mohammed bin Salman has recently called into question the religious establishment's monopoly on interpretation. In an interview in April 2021 that attracted a great deal of attention, he announced that Islamic law would be supplemented and in some cases replaced by secular law. He stated that most haditha cannot reliably be traced back to the Prophet and must therefore be questioned. It is unclear whether, in his opinion, the cited saying applies to this. The first laws (applicable to family matters and civil procedure) to noticeably restrict judges' previously almost unlimited scope for interpretation – solely by creating binding, fixed written provisions – entered into force in 2022. A comprehensive penal code that could have a similar effect in the area of sentencing (including for violations of prohibited religious actions) will soon be adopted.

### Restrictions on freedom of religion or belief by state actors

When there is no right to freedom of religion, the result will necessarily be limitations to freedom of religion. The threat of punishment is sufficient to keep non-Muslims from publicly exercising their religion, independent of whether government institutions are actually prepared to enforce prohibitions on doing so.

The question of the willingness to enforce arises on the one hand because there certainly are examples of overt non-Muslim religious practice: an Orthodox Jewish rabbi from Jerusalem has regularly visited the Kingdom since mid-2021 to offer his spiritual support to the Jewish community there. In spite of a highly Orthodox appearance (clothing, hat, beard) and intense activity on

social media, he reports that all of his interactions with Saudis have been positive.

On the other hand, the Crown Prince's reform policies in the area of religion have been aimed for years at encouraging the Saudi population – previously raised to feel religious intolerance – to take a new path: both the Crown Prince and the Secretary General of the Saudi-controlled Muslim World League (MWL), Mohammed Al-Issa, are tirelessly stressing their plans to return to a moderate interpretation of Islam and their intentions to crack down severely on Islamist groups and extremist forms of Islam. In practice this is leading to stricter control of imams and preachers by the government. Reforms to the educational system, revisions of various textbooks, the legal reforms described above and in particular the extensive cultural liberalisation (music festivals, concerts and parties) that has occurred show that the monarchy's retreat from a rigid Wahhabi outlook on Islam is gathering pace. It began in 2017 with the reorientation of the MWL, the disempowerment of the religious police and the arrest of many preachers. In 2014, the Muslim Brotherhood was among those listed as a terror organisation in Saudi Arabia, and its members have since been prosecuted accordingly. The freedom of religion or belief of even non-violent adherents of political Islam is being limited due to criminalisation under the anti-terrorism law.

King Abdullah issued a decree back in 2011 allowing Christians in the country to exercise their faith privately. The Catholic Church employs priests in Saudi Arabia who hold their services in different private settings as discreetly as they can. According to the Church, the Saudi authorities know about the gatherings and allow them. Other limitations are noticeably diminishing: Christmas trees and decorations can increasingly be purchased at different locations.

### Social conflicts with religious components

Sectarian tensions and violence between Sunni and Shiite groups have noticeably decreased in the past few years, not least due to public calls for greater tolerance. Shiite minorities do continue to experience systematic social discrimination.

As a rule, they are not confirmed for high government posts and are likewise under-represented in lower civil service grades. They also have trouble gaining access to university places and to the labour market. There is also discrimination against Shiites when appointing professors and selecting administrative staff. The percentage of Shiite professors at universities in the eastern province is well below their percentage in the Shiite population. Shiites are also under-represented among the management of primary schools. At about 50 per cent, Shiites were over-represented among the 81 convicts who were executed in March 2022 in Saudi Arabia on charges of terrorist acts and murder.

### **Structures of inter-faith cooperation**

There are still no structures for inter-faith cooperation. The government is using the MWL to try to influence international dialogue forums. The MWL has also been increasingly making (symbolic) inter-faith efforts: following adoption of the Charter of Makkah in 2019, which was written to create a pan-Islamic set of principles and supports tolerance of other religions, dialogue and diversity, and the visit by Dr Al-Issa to Auschwitz in late 2019, the MWL organised a Forum for Promoting Common Values Among the Followers of Religions in Riyadh on 11 May 2022. Leaders from the Islamic world were joined by high-level representatives of Christian, Jewish, Hindu and Buddhist groups and even representatives of the agnostic movement in Saudi Arabia for the first time.

## Somalia

Somalia's Provisional Constitution of 2012 designates (Sunni) Islam as the state religion. The legal system in Somalia, especially in its practical application, is shaped by the prevalence of customary law (xeer)<sup>111</sup> and the interpretation of Sharia common in the region. Wahhabi influences have gained considerable prominence since 1991. In the territories of central and southern Somalia, the population is being coerced by the fundamentalist Islamist terrorist militia al-Shabaab (AS) that controls those areas to apply its particularly fundamentalist interpretation of Islam.

Freedoms related to religion and belief are generally highly restricted in Somalia. There is strong social pressure to belong to and publicly practise Sunni Islam. Converting to a religion besides Islam is a punishable crime in the entire country and anyone doing so is ostracised by society. It is impossible to practise non-Sunni religions in public in Somalia. Strong, visible restrictions on the rights of women, children and minorities based on cultural and religious considerations can still be observed.

Hopes for greater freedom of religion or belief in Somaliland after it unilaterally declared independence have not been fulfilled. Article 33 of Somaliland's Constitution prohibits conversion, and there have been government persecution and arrests of Christians.

## Demographic breakdown by religion

Estimates of Somalia's population range between 15 and 18 million. According to statements by the Ministry of Religious Affairs – which cannot be independently verified, but are credible – Somalia's population is comprised almost exclusively of Sunni Muslims. A small number of people who have converted from Islam to Christianity live and practise their faith in secrecy. There is also a very small share of religious minorities primarily made up of foreigners (employees of international organisations), as well as an unknown number of Shiite Muslims.

## Legal situation

Somalia acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1990.

Somalia's Provisional Federal Constitution of 2012 designates Islam as the state religion in Article 2. The Constitution provides for the right to freedom of religion, the individual right to practise one's own religion and the equality of all people under the law. However, the "propagation" of any religion

other than Islam is prohibited. Conversion to other religions is indirectly banned because Somali laws must be consistent with the principles of Sharia; no exceptions to its application are specified for non-Muslims.

In most territories of Somalia, legislation is based on xeer, the regionally prevalent interpretation of Sharia, and the National Penal Code of 1962, which in principle continues to apply. The national Penal Code of 1962 applies to all regions of Somalia and criminalises male homosexual activities, apostasy, blasphemy, "bringing the religion of Islam into contempt" and missionary activities. Violations are punishable by up to two years' imprisonment. Based on that standard, converts are also criminally prosecuted. There are reports of vigilante justice being carried out within families and clan communities in cases of apostasy. In the territories controlled by AS, apostasy or blasphemy usually lead to execution.

The Constitutions of Somaliland and Puntland designate Islam as the state religion, profess compliance with the principles of Sharia and prohibit

<sup>111</sup> Xeer is traditional or customary law.



the dissemination of other religions. Unlike the Provisional Constitution of 2012, they explicitly forbid conversion to another religion besides Islam. The Constitution of Puntland also bans all laws and cultures that run contrary to Islam, as well as protests against Islam itself.

### Restrictions on freedom of religion or belief by state actors

The active exercise of religions other than Sunni Islam is practically impossible. There is strong social pressure to publicly practise Islam. Close family members frequently contact government institutions to denounce conversions.

Religious schools and formal houses of worship are subject to various licensing requirements, which, however, are seldom enforced by all accounts. The national Ministry of Education has been legally mandated to regulate Islamic religious education. In areas controlled by AS, religious instruction features the militant group's strict Wahhabi interpretation of Islam.

The Constitutions of Somaliland and Puntland restrict freedom of religion for their president – who is obliged to be Muslim – and with regard to the establishment of political parties and religious organisations.

In territories controlled by the fundamentalist Islamist terrorist militia AS, there is no freedom of religion or belief of any kind, neither *de jure* nor *de facto*. AS unrelentingly punishes any violations of the strict Wahhabi interpretation of Islam that prevails there. Conversion to another religion and blasphemy are often punishable by death.

In general, the restrictions to the rights of women, children and teenagers and social minorities such as LGBTIQ+ individuals in Somalia have religious dimensions as well as traditional cultural ones. This applies to the practice of female genital mutilation – extremely widespread (99 per cent) in Somalia – as well as the prevalence of marriages involving minors (including forced marriages) and the condemnation of homosexuality. Many of these practices take place outside the formal framework of the law or in the context of local customary law. In Somaliland, for example, there

is no legally codified minimum age to marry. The minimum legal age of marriage in Somaliland is 15, but there are regular reports of younger girls being married.

Somalia has no legal requirement for women to cover up in public but there is a stringent expectation that they do so. In effect, Somali women have no free choice on the matter.

### Social conflicts with religious components

In Somalia, there is intense social pressure to uphold traditional Sunni Muslim norms. This pressure has intensified over the past two decades in the context of growing Wahhabi influence, a trend that continues today.

The discourse around the radical and militant school of Islam that is embodied by the fundamentalist Islamist AS sets the terms of the debate in Somali society. The rights of women, children and teenagers and social minorities are even more severely restricted in territories under AS control. Adherents to more liberal interpretations of Islam that do not match the terrorist militia's views are considered apostates by AS, which persecutes them accordingly. AS views international aid organisations and the United Nations as “supporters of the apostate regime”; there have been repeated cases of kidnappings and attacks targeting those groups. The Somali government, in an attempt to change perceptions of the terrorist group in the country, in turn describes AS as a sect that has deviated from the path of belief (Khawarij).

Christian aid organisations are accused of spreading propaganda about the Christian faith. AS also prohibits recreational activities and media that it considers to be Western, such as sporting events, films, television, music and the Internet. Furthermore, it regards smoking and the consumption of drugs as “un-Muslim.” In contrast, consumption of khat, a drug widely used in Somalia, is tolerated.

The dominant position of Islam in Somali society is not questioned in political and societal discussion.

## Sri Lanka

The coexistence of the predominantly Hindu Tamils and the predominantly Buddhist Sinhalese – who rarely engage with each other – is still being influenced by the decades-long civil war that ended in 2009. The government in office from 2015 to 2019 – in which the current president, Ramil Wickremesinghe, served as prime minister – declared national reconciliation of the various religious groups to be a priority. Following violent clashes between Buddhists and Muslims in 2018 and the terrorist attacks on churches and hotels on Easter Sunday 2019, the government and leading representatives of all religions repeatedly made joint appeals for peace and reconciliation. The terrorist attacks did not directly affect freedom of religion in Sri Lanka, but they favoured the election of Gotabaya Rajapaksa as president. He took office with a Buddhist nationalist agenda and obstructed the activities of religious minorities. President Wickremesinghe is once again taking a conciliatory tone and is reaching out to minorities. He has created a Commission for Truth, Unity and Reconciliation headed by the prime minister which is intended to give a new impetus to efforts to address the past and promote reconciliation following the civil war, which had stalled. At the same time, the OHCHR continues to criticise shortcomings in the way past human rights violations have been addressed.

Many of the predominantly Hindu Tamils consider themselves to be an oppressed minority on the Sinhalese/Buddhist-dominated island. Meanwhile, the Sinhalese population views itself as a minority in a Tamil-dominated region – in light of the 70 million Tamils in the nearby southern Indian state of Tamil Nadu. There are members of Christian religions in both ethnic groups. The Muslim population group has largely integrated into the broader population in Colombo and the Sinhalese-majority regions, while maintaining its religious principles. The coexistence of Muslims and Tamils in northern and eastern Sri Lanka has not always been amicable.

Although general freedom of religion enjoys constitutional protection, Buddhism is privileged under the Constitution and also benefits from this in day-to-day reality. Particularly problematic is the major influence of radical Buddhist monks, who in some cases provoke conflicts. This is seldom criminally prosecuted; the government and authorities often behave passively in the aftermath of attacks.

### Demographic breakdown by religion

Approximately 70 per cent of the population are Buddhists, 13 per cent are Hindus, 10 per cent are Muslims and 7 per cent are Christians. The majority of Muslims are Sunni, and the Christian population is mostly Roman Catholic. Religion holds great importance for the majority of Sri Lankans.

### Legal situation of freedom of religion or belief

Freedom of religion or belief is protected by Sri Lanka's Constitution. Article 10 states that "every person is entitled to freedom of thought, conscience and religion, including the freedom to

have or to adopt a religion or belief of his choice." Article 14, para. 1 guarantees each person the right "either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching." The Constitution does not place any explicit restrictions on freedom of religion. However, the freedoms of opinion, association and assembly can be restricted by laws to preserve religious harmony. In Sri Lanka, blasphemy is punishable by up to two years' imprisonment (Articles 290 and 291 of the Penal Code). Article 9 accords a special role to Buddhism and obligates the state to protect it, but does not make Buddhism the state religion. Religious/ethnic minorities often do not perceive the state as a neutral party.

Amendments of the national Prevention of Terrorism Act and changes to government surveillance practices are repeatedly criticised by the UN and civil society.

### Restrictions on freedom of religion or belief by state actors

In general, religious groups have no obligation to register with the government. However, registration as a trust, society, NGO or company is required before obtaining a building permit for a new house of worship, to open a bank account or to purchase property – which can be perceived as an administrative barrier. Evangelical Christian communities, primarily in rural areas, complain of official harassment, for example when applying for building permits for churches or schools. A 2020 study by the National Christian Evangelical Alliance of Sri Lanka identified the use of threats, intimidation and force by state actors as a recurrent problem.

Religious organisations receive highest-level government recognition and authorisation to freely operate schools if they are recognised by a parliamentary vote, which requires a simple majority. Aspects of personal status and family law are still regulated differently for each population group.

### Social conflicts with religious components

Because the ethnicities are closely linked to religions, nearly every ethnic conflict in Sri Lanka also has a religious dimension. In particular, the role of the Buddhist monks should not be underestimated: they have been increasingly involved in politics since independence and have promoted the interests of Sinhalese Buddhism at minorities' expense. They view themselves as guardians of Sinhalese (majority) culture. Buddhist radicals exploit the conflation of Buddhism and (Sinhalese) national identity in order to stoke the Sinhalese majority's primal fears of being outnumbered by outsiders. These attitudes are primarily aimed at Tamils but increasingly also at Muslims.



*At the Tirukoneswaram Shiva Temple in Trincomalee, couples wishing for children have placed small cradles in a tree, symbolising their prayer for offspring*



With the growing influence from abroad, especially from Saudi Arabia and the Gulf States (Wahhabi preachers and the construction of mosques and an Islamic university), the Muslim community in Sri Lanka has grown more conservative over the past 20 years. This trend has increased the establishment of madrasas in recent years, which means some Muslim children no longer attend state schools. The Education Ministry's supervisory authority over all schools is to be stepped up so as to guarantee a uniform curriculum.

There is now little reporting in the media on religiously motivated attacks on Tamils. At the same time there are complaints that more and more Buddhist temples are being built in majority-Tamil areas. Singhalese-Buddhist nationalists are repeatedly criticising and defaming other minority groups and in some cases also attacking them.

## Sudan

### Demographic breakdown by religion

The most recent official census in Sudan was conducted in 2008 before South Sudanese independence. The latest estimate of the population assumes there are about 46.8 million people in Sudan and that the vast majority of the Sudanese population are Sunni Muslims (91 per cent), with smaller Shiite communities, especially in the Khartoum metropolitan area. Approximately 5.4 per cent of the population are Christian (Coptic, Orthodox, Catholic, Anglican and Presbyterian as well as Pentecostal communities, evangelicals and Seventh-Day Adventists) and 2.8 per cent belong to Indigenous religious groups. Since the secession of South Sudan, the majority of Christians have lived in the larger cities and in regions bordering South Sudan, principally in the Nuba Mountains and the Blue Nile, North Darfur and South Darfur states.

### Legal situation of freedom of religion or belief

The Sudanese Constitution of 2005 specified Sharia as the source of legislation for the northern states (today's Republic of Sudan). The Transitional Constitution of August 2019 no longer contains any reference to Sharia as a source of legislation. The preamble affirms the equality of all Sudanese before the law, equal rights for men and women and respect for human and political rights.

As part of the political dialogue following the military coup on 25 October 2021, the Sudanese Bar Association (SBA) was able to unite various groups behind a draft of the new Transitional Constitution in 2022. The draft includes the coexistence of religions in its general principles and mentions rights and duties based on citizenship without discrimination due to ethnic origin or religion. A political framework agreement among actors from the different civilian and military camps signed on 5 December 2022 strengthens items related to freedom of religion or belief. After armed conflict broke out in Sudan in 2023, it is unknown whether the political transition process will resume and if so whether it can be successful.

The Transitional Constitution of 2019 no longer mentions Sharia as a source of legislation, but it does influence legislation and case law, particularly in family law and criminal matters. The 1991 Penal Code contains provisions based on Sharia. Reforms of penal law were adopted in July 2020 under the civilian/military transitional government, including changes to the legal situation for selling, possessing and consuming alcohol. All citizens could previously be punished for this, but the law now makes a distinction between Muslims and non-Muslims. The article on what is known as apostasy (renouncing a faith) has also been revised. Muslims used to be subject to the death penalty for apostasy and inciting to it if they did not express remorse in time, but this

crime no longer exists following the revision. New Article 126 now makes it punishable to defame others as “infidels.” The reforms in 2020 also added a new article that for the first time makes female genital mutilation (FGM) punishable by fines or imprisonment.

The prohibition of what is referred to as blasphemy remains and can be punished by prison or a fine but is no longer subject to corporal punishment. The number of crimes for which flogging can be and has been administered was reduced by the reforms. Disturbing the peace, for example by protesting, or committing obscene or indecent acts are still punishable but are no longer subject to flogging.

### Restrictions on freedom of religion or belief by state actors

No information is available about the active persecution of religious groups. However, discrimination against non-Muslims – for example based on Islamic law – and individual obstacles – such as delays in issuing permits to build new churches – do occur. Systematic monitoring by the security services of sermons given by imams, which used to be common practice, appears to have ceased.

The implementation and enforcement of administrative regulations and the way criminal acts are prosecuted do not always reflect amendments to laws. State actors continue to violate freedom of religion or belief to a certain extent in spite of the new legislation. For example, officials detained four young converts to Christianity in June 2022, accusing them of apostasy, and prosecuted them in proceedings that could have led to the death penalty – even though the offence of apostasy had been abolished. The competent court dismissed the proceedings in September 2022, and the charges were dropped based on the new legal situation.

### Social conflicts with religious components

Family and inheritance law discriminate against women of all religions. Female genital mutilation is punishable with fines and imprisonment throughout Sudan. Sudan prohibited type III FGM back in 1946, but explicitly allowed other forms of it. At present some 89 per cent of women between 15 and 29 have undergone the procedure. There have been no prosecutions, even in the few Sudanese states in which FGM was made criminally punishable in recent decades.

Media coverage of social conflicts among different religions and systems of belief is limited. There are hardly any defamatory statements about specific religious groups in the media, either. Most hate speech and the resulting violence relate to ethnicity and are generally based on prolonged conflicts over natural resources such as water and land.

### Structures of inter-faith cooperation

The Sudan Interreligious Council (SIRC), which was founded in 2003, is made up of different religious associations, including the Sudan Council of Churches (SCC). The aim of the SIRC is to promote inter-faith understanding in Sudan. Its executive bodies are made up of equal numbers of Christian and Muslim representatives. The SIRC has primarily focused on the protection of Christian groups at the local level but has also held workshops on religious tolerance and conflict management.



## Syria

The situation in Syria is marked by the ongoing conflict, a disastrous economic situation and the increasing need for humanitarian aid. There continue to be sometimes egregious human rights violations in all parts of the country; human rights, international human rights law and the laws of war are constantly being violated during the fighting. There seems to be no prospect of a political solution to the conflict.

The German Embassy in Damascus and the Honorary Consulate in Aleppo have been closed since February 2012, so it was impossible to get a picture of the situation based on Germany's own local knowledge. This section is therefore primarily based on publicly available sources such as the Report on International Religious Freedom: Syria by the U.S. State Department, the national report on religious freedom by Missio, and information from the Middle East Forum and Syrian Network for Human Rights (SNHR).

## Demographics

The conflict that has been raging since 2011 has caused obvious demographic shifts. Of the approximately 21.3 million Syrians who lived in the country before the fighting began, it is estimated that more than 6.6 million people have left the country and sought safety primarily in neighbouring countries, where some 5.6 million refugees are registered with UNHCR (United Nations High Commissioner for Refugees). Another 6.8 million Syrians are considered to be internally displaced persons.

The predominantly Alawite government presents itself as the guarantor of a secular state and a multiethnic Syrian nationalism in which religious and ethnic affiliation are irrelevant. It is taboo even to mention the demographic distribution. Therefore, there are no statistical data in Syria about the detailed religious composition of the population.

It must be assumed that before 2011 some 10 per cent of the population living in Syria were Christian, primarily members of 11 different denominations: Syriac Orthodox, Syriac Catholic (Jacobite), Greek Orthodox, Greek Catholic (Melkite), Maronite, Chaldean, Assyrian Church of the East, Armenian Apostolic, Armenian Catholic, Roman Catholic and Protestant. Sunni Islam accounted for 74 per cent, while 13 per cent came from other Muslim groups – particularly Alawite, but also Ismaili and Shiite – and 3 per cent were Druze.

There were also very small Jewish groups and a Yazidi population of approximately 80,000, according to the U.S. State Department.

As a result of displacement during the conflict, the composition of the population has changed radically both in absolute terms and with regard to regional distribution. It is therefore impossible to furnish reliable information about the composition of the population currently living in Syria. It seems the majority of Syrians who have fled to other countries are Sunni Muslims; the Christian population living in the country has also declined precipitously. It is estimated that only 300,000 to 680,000 of the 2.2 million Christians formerly living in Syria remain in the country; the Christian share of the population has plummeted, particularly in the areas now occupied by IS. It must also be presumed that almost all Jews have left the country and that the number of Yazidis living there has declined considerably.

Shiite communities have traditionally been concentrated in rural regions of the Idlib and Aleppo governorates and in and around Damascus, as well as in Homs, while Sunni Muslims were distributed all over the country. Most Alawites originally lived in rural mountainous communities in the coastal governorates of Latakia and Tartous; many of them moved to Homs and Damascus after the Assad family came to power. Most Christian groups reside in Aleppo and Damascus, as well as in Homs and Wadi an-Nasara, also known

as the Valley of Christians. Many Ismailis live in the Hama governorate and in Damascus; the Druze population has traditionally lived primarily around the region commonly known as Jabal al-Druze in the southern governorate as-Suwayda. Most members of the Yazidi community live in the northern part of the country.

### Legal situation of freedom of religion or belief

Based on the International Covenant on Civil and Political Rights (ICCPR), which entered into force on 23 March 1976, the Syrian Arab Republic is bound to support freedom of religion or belief pursuant to its Article 18. Syria has not ratified the Optional Protocol to the ICCPR, under which individuals can file complaints regarding violations of their rights to the UN Human Rights Committee.

According to Article 3 of the Constitution of 2012, the president must be a Muslim, and Islamic jurisprudence is “a major source of legislation.” There is no state religion. Article 23 of the Constitution expressly states that women will be provided all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life; however, they do not actually have full equal rights because Sharia or church courts have jurisdiction over personal status matters. For example, a divorced mother will lose custody of her children to the father as soon as the children reach the age of 13 (sons) or 15 (daughters). Neither is a Muslim woman allowed to marry a Christian man, while Christian women may marry Muslim men.

It is mandatory for members of religious groups recognised in Syria to have their religious affiliations recorded on their birth certificates. Accordingly, not belonging to a religion is not in reality an option, which means there is no negative freedom of religion as in the German understanding of fundamental rights.

Religious groups are required to register with the government. If they are recognised by the state, they will receive tax advantages and a free basic supply of electricity and water for their properties. It should be noted at this juncture that the

Ministry of Justice rejected the request by the Yazidi community for state recognition and its own jurisdiction over personal status in February 2021. Other groups, such as some Protestant churches, Jehovah’s Witnesses, Buddhists and Hindus, still do not have a secure legal status.

### Restrictions on freedom of religion or belief by state actors

The regime does not tolerate the activities of a free civil society and keeps religious communities and their representatives under tight control, including influencing appointment to public office.

The government is legally allowed to prohibit gatherings of religious groups, for example for security reasons, unless they are regular worship services or gatherings on recognised holidays. This is only one of several tools being used to repress unwanted political movements within faith communities.

Possibilities for conversion and missionary activity are limited by law; Muslims are not allowed to convert to a religion outside of Sharia law. In contrast, converting from other religions to Islam is allowed.

Provoking disputes or tension between faith communities is also prohibited by law. Against that background, publication of content critical of religion in the media is restricted; as a result, certain television broadcasts are subject to approval by the responsible religious authorities, for example. Publishing material that could threaten national security or unity is not allowed.

Government agencies are using this provision – with the involvement of a Council of Islamic Jurisprudence – to ban the activities of Salafists and adherents of Wahhabism. The dissemination of views that are associated with the Muslim Brotherhood is also prohibited. Aggressive rhetoric by members of the Assad regime concerning extremist Sunni groups has been observed in connection with this. The criminal offence of “provocation of tension between religious groups” has been used for decades to criminalise political dissent in general and to persecute members of the opposition.

## Social conflicts with religious components

Religious affiliation, like other social conflicts, plays an important role in the ongoing conflict in Syria. Since the 1970s, the Alawite community has formed a dominant minority that supports the state in the executive branch, the army and the public administration and for the most part has been loyal to the Assad regime. For example, the Alawite community has more influence in the cabinet than the Sunni majority population does. There were episodes of armed violence between Alawite government elites and members of the Sunni Muslim Brotherhood in the 1970s.

Repeated cases of targeted violence and war crimes by the regime against the civilian population have been documented during the conflict that has raged since 2011. President Assad has spoken to loyal groups about “cleansing” given the demographic changes caused by the conflict.

Also noteworthy is the public presence of Shiites. They make up a relatively small percentage of the population, but there are reports of many posters showing Shiite and pro-Iranian slogans in Damascus and other territories controlled by the regime. Symbols of the Shiite Hezbollah militia, which has given extensive support to the Assad regime since late 2012 – including with fighters – are also to be seen.

At that same time and with the approval of the Assad regime, the Iranian side has made increasing efforts in recent years to convince Syrian Sunnis to accept the Shiite faith. For example, 15 Iranian cultural centres have been opened in Syria, and the number of Iranian universities has also risen to six since the conflict began. There are also reports that Shiites are settling in formerly Sunni areas and that in some cases abandoned property has been seized or appropriated by the Syrian government for this purpose. Iran is paying particular attention to the Aleppo governorate, which is of particular importance to Teheran for historical and strategic reasons.

Accordingly, various commentators believe that religious affiliation is becoming an increasingly important factor and component of the war and of societal conflict in general. The dominance of members of the Alawite community in the army, security forces, and intelligence services is particularly relevant in that regard. The Assad regime has recently been particularly reliant on units made up of a large percentage of Alawites, although members of other faith communities are not actually being excluded from the officer corps. One example of this is the Fourth Division, which was jointly deployed with pro-Iranian militias.

Conflicts with religious components are also taking place outside of areas currently controlled by the Syrian regime. Increasing discrimination against women – particularly those working in the civil service, in civil society organisations, or in the media sector – has been reported in parts of Idlib in north-western Syria which are controlled by Hayat Tahrir al-Sham (HTS), an Islamic militia that the UN and EU have listed as an Islamist terrorist organisation. Repressive measures are also being taken against members of Christian groups in the country, and many homes and businesses of Christians who have fled are said to have been appropriated.

Attacks primarily involving the Yazidi population are said to have occurred in areas in the northern part of the country occupied by Turkey. Reports indicate that Islamist militias have forced religious minorities in Afrin, a majority-Kurdish region in northern Syria, to convert to Islam. It is said that people have been displaced and that religious sites have been plundered and destroyed.

## Structures of inter-faith cooperation

Under the dictatorial system of the Syrian regime, the state claims absolute control, which faith communities view with suspicion. Given that repressive environment, there are no structures of inter-faith cooperation worth mentioning.

## Tajikistan

### Demographic breakdown by religion

Ninety-eight per cent of Tajikistan's population of some 10 million at the end of 2022 are Muslim; of those, around 95 per cent are Sunni, 3 per cent are Shiite/Ismaelite and 2 per cent are of other beliefs.

### Legal situation of freedom of religion or belief

The Tajik Constitution formally guarantees neutrality of belief and freedom of religion. In practice, the government strictly limits freedom of religion or belief in the name of national security, monitors all religious groups and rigorously prosecutes real or alleged Salafist activities. Muslim clerics trained in other countries may not work as imams, and sermons must be approved in advance by government offices.

The Jehovah's Witnesses are still not registered as a religious group, and some members complain of harassment. Since 20 January 2021, a new law on military service has allowed men to fulfil their obligation without active duty by paying a fee and completing one month of training as a reservist. Jehovah's Witnesses refuse this because it does not include an exemption based on religious convictions. Even before the law entered into force, a Witness was sentenced to three and a half years in prison for refusing to serve. He was released in September as part of a general amnesty. Most Christian groups are registered with the government; the largest of these is the Russian Orthodox Church. There are also small groups of evangelical Christians, Lutherans, Baptists, Seventh-day Adventists, Roman Catholics and Jews. Those faiths are tolerated as long as they do not appear in public and in particular do not proselytise. This also applies to non-registered groups.

### Restrictions on freedom of religion or belief by state actors

The security services and public prosecutors cast a wide legal net in the name of national security, vigorously pursuing people or organisations considered to be extremist – and fundamentalists are constantly being accused of extremism. A total of 119 people accused of membership in the Muslim Brotherhood, an Islamist organisation, were sentenced to between five and 23 years' imprisonment in April 2021. That year, 339 people were arrested for membership in or support of an extremist organisation, according to the Ministry of Internal Affairs.

Conflicts erupted again between state security forces and the local Pamiri ethnic and religious minority population (Ismaili Shiites) in the Badakhshan Mountainous Autonomous Region (Gorno-Badakhshan) in mid-May 2022. Following the violent removal of a roadblock near Rushan by special forces in May 2022, NGOs report that as many as 40 people were killed (16 according to official reports) and that 150 people were injured and some 200 arrested. Since that time, numerous activists, journalists and lawyers have been sentenced – following mostly non-public trials – to many years' imprisonment for forming a criminal association, inciting a riot or overthrow of the government.

People younger than 18 are not allowed to participate in public religious activities. Religious instruction for children continues to be limited to facilities licensed by the state, subject to signed permission by both parents. An article was added to the Penal Code on 23 December 2022 according to which unauthorised religious education – including over the Internet – will be punishable by a fine equivalent to EUR 4,600 to 6,900 or

imprisonment for up to three years. According to government sources, 80 unauthorised cases of religious education were detected and penalised between July 2020 and July 2021. Ismaili instruction in schools in Gorno-Badakhshan was suspended on 1 February 2021.

Formal religious training in other countries is governed by a separate law. According to the Freedom of Conscience Act, obtaining formal

religious training in other countries is subject to authorisation by the government's Committee on Religion. A prerequisite for authorisation is having completed religious studies in Tajikistan and obtaining written permission to study abroad from the Committee on Religion. People avoid discussing religion in public due to the ongoing – and increasing – general repression of freedom of opinion, the press and assembly.

## Tanzania

Tanzania is a highly tolerant country where religion and ethnic aspects are concerned. At the same time, negative societal trends can be observed which are related to the increased influence by government on religion. The state guarantees freedom of religion in Mainland Tanzania with all of the inherent limitations due to major challenges to the rule of law, weak institutions and endemic corruption. Freedom of religion is also a reality in society – including the right to change one's religion or to have no religious affiliation. The peaceful coexistence of religious groups is generally guaranteed. There is no persecution of specific religions or ethnic groups. Religious leaders act responsibly and call meetings of inter-faith peace councils when conflict threatens at the local level. Since Tanzania was founded in 1961, the political intention has been for religious groups on the mainland to be of the same size, and this is also reflected in the official figures on religious affiliation.

Zanzibar, a semi-autonomous archipelago with a majority Muslim population, must be considered separately.

## Demographic breakdown by religion

Only estimates of the actual figures are available. For political reasons, the Tanzanian government promotes the idea that the country is evenly divided into one third Christians, one third Muslims and one third other religions, including traditional African spirituality. However, it is likely that this three-way split is not accurate for either the mainland or Zanzibar. Christians predominate on the mainland, while Muslims are in the majority in Zanzibar. A survey by the American organisation Pew Forum in 2020 arrived at the following estimates for Tanzania as a whole: 63 per cent Christians, 34 per cent Muslims and 5 per cent adherents of other religions.

There are two major Christian associations: the Tanzania Episcopal Conference (TEC) represents all Catholic groups and the Christian Council of Tanzania (CCT) represents the Protestants, including the Evangelical Lutheran Church of Tanzania. These organisations in turn come under an umbrella organisation, the Christian Social Services Commission (CSSC).

Most Muslims are Sunnis. There are also significant minority groups, including Ismailis, Ibadi Muslims, Twelver Shiites and Ahmadis. Large Muslim communities on the mainland are concentrated in coastal areas, while some Muslim minorities live in urban areas in the interior of the country. The largest Muslim organisation is



BAKWATA (Baraza Kuu Waislamu Watanzania or National Muslim Council of Tanzania). Another association is BARAZA KUU (Baraza Kuu la Jumuiya na Taasisi za Kiislamu Tanzania, Supreme Conference for Islamic Associations and Institutions in Tanzania), an organisation that was no doubt created to compete with BAKWATA.

Other groups include Buddhists, Hindus, Sikhs, Bahá'ís, animists and people who do not express a religious preference. A 2010 report by the Pew Forum estimates that more than half of the population practises elements of traditional African religions.

The U.S. government estimates that 99 per cent of the population in Zanzibar are Muslim, two thirds of them Sunni. The remainder are made up of multiple Shiite groups, usually of Asian origin. Islam is in reality the state religion of Zanzibar. The Grand Mufti is appointed by the president of Zanzibar, making the Mufti's Office a government institution.

### Legal situation of freedom of religion or belief

Tanzania is a party to the International Covenant on Civil and Political Rights.

Both positive and negative freedom of religion or belief are guaranteed by the Constitutions of Tanzania and Zanzibar. Equal rights – including of Indigenous religious groups – are guaranteed. Religious groups must register with the Ministry of Home Affairs. They must finance themselves independently. Organisations run by the state and by religious groups are open to all citizens; religion is not a criterion for exclusion. There is no legal discrimination based on religious affiliation in the areas of family and inheritance law. In addition to general civil provisions of family and inheritance law on the mainland, there is also the option to apply Islamic or traditional rules.

Muslims in Zanzibar have the option of bringing cases to a civil or qadi (Islamic court or judge) court for matters of divorce, child custody, inheritance, and other issues covered by Islamic law. Traditional and Islamic standards are generally disadvantageous to women.

### Restrictions on freedom of religion or belief by state actors

Freedom of religion or belief is not being restricted by state actors. Churches, mosques and other places of religious assembly remained open during the COVID-19 pandemic. There can be limitations when religious gatherings are suspected to be politically motivated. Religious gatherings otherwise enjoy particular protection and freedom of opinion and expression.

All civil society organisations must register every five years. This provision has been used to put pressure on religious organisations and to intimidate them.

There is no legal discrimination against people on the mainland based on their status as a religious or belief-based minority. In contrast, the rights of marginalised groups – particularly women, LGBTIQ+ people, children and teenagers – are being limited, although the reason is usually cultural. Religion influences culture, so religious and cultural arguments often coincide. For example, women's right to inherit is often the subject of disputes in Muslim families, even though the law on the mainland gives them that right. According to reports by civil society organisations, the Maasai in the northern part of the country have been displaced since the 1950s. Government plans could now lead to the displacement of up to 150,000 Maasai. Those who oppose displacement report violence by security forces and arrests, particularly of political leaders.

### Social conflicts with religious components

Social discrimination or hostility against local religious minorities, members of Indigenous religions or atheists occur occasionally on the mainland. There have also been isolated Islamist terrorist attacks in the southern part of the country and in Dar es Salaam. The Christian minority in Zanzibar is particularly affected. Converts from Islam to other religions can experience social ostracisation by their communities. Christian aid organisations also report cases of expropriation in that context.

Inter-faith committees and councils have been set up in Zanzibar – as well as the mainland – and are in dialogue with each other on both the social and religious levels. All religious groups and subgroups of various faiths are represented on those committees and councils. Joint positions are prepared and defended together before the government and society.

There is no religiously motivated displacement or forced migration in Tanzania. There have been reports that many people believe in witches. Ritual killings of people with albinism have recently abated following government efforts to oppose the practice, although they do persist.

The influence of transnational religious actors (for example through educational institutions) is changing the coexistence of religious groups, particularly in Zanzibar. The Christian minority there is growing as people move to the island to work. Christian aid organisations report that Islamic religious education has in some cases been made mandatory for non-Muslim children.

The growing Christian minority in Zanzibar has stimulated inter-faith dialogue, to some extent because there have been isolated cases of discrimination, hostility or aggression.

## Structures of inter-faith cooperation

Structures of inter-faith cooperation (governmental and non-governmental) are well established in Tanzania and are of vital importance for the freedom of religion or belief. Interfaith Committees are made up of the various associations of the different religious groups – the National Muslim Council of Tanzania, (BAKWATA), the Christian Council of Tanzania (CCT), the Tanzania Episcopal Conference (TEC) and the like – and are working at all levels – local authority, municipality, district, region and nation – for peaceful coexistence. The growing number of evangelical and Pentecostal groups do not participate in these structures.

## Turkey

The overwhelming majority of the Turkish population (around three quarters) are Sunni Muslims. According to a Turkey's narrow interpretation of the Treaty of Lausanne (1923), the only other recognised religious groups are the Jewish community, the Greek Orthodox Church and the Armenian Apostolic Church, although they have no independent legal status.

Since the electoral victory of the AKP (Adalet ve Kalkınma Partisi, Justice and Development Party) in 2002, Sunni Islam has re-entered public life to an extent unprecedented in the modern Republic of Turkey. At the same time, relations between the state and religious minorities have improved, and the trend has been positive overall, in spite of some persistent discrimination. It is now possible to create foundations, property has been returned, churches have been restored and reopened, non-Muslims have been exempted from Islamic instruction, the Alevis have been able to build some new places of worship (cemevis) and attendance there is now allowed. In addition, gestures such as public appearances by government representatives alongside the leading clerics of several minorities as well as festive official statements on minority holidays have helped to improve the relationship between the state and religious minorities and have increased acceptance among the majority society.

Since the coup attempt on 15 July 2016, the government has cracked down severely on followers and sympathisers of the Muslim Gülen movement, which it classifies as a terrorist association.

### Demographic breakdown by religion

More than 98 per cent of the Turkish population (85 million) are officially classified as Muslims. The overwhelming majority (roughly three quarters) are Sunnis of the Hanafi school of jurisprudence. Roughly 4 per cent of the Muslims are Shiite.

Alevis, estimated to make up 15 per cent of the population, are not recognised as a religious minority and are therefore not accorded minority rights.

The Turkish government classifies Alevism as a tradition within Sunni Islam, so Alevis are officially classified as Muslim by the registration offices.

Some 60,000 Armenian Apostolic Christians also live in Turkey, most of them in Istanbul. There are also communities of the Armenian Catholic, Greek Orthodox, Syriac Orthodox, Syriac Catholic and Chaldean Catholic churches and numerous evangelical churches. It is estimated that some 18,000 Jews and fewer than 1,000 Yazidis live in

Turkey. Some 2 per cent of the Turkish population describe themselves as atheist, according to polling organisations.

### Legal situation

Turkey ratified the UN International Covenant on Civil and Political Rights (ICCPR) on 23 September 2003. Turkey does not have a state religion enshrined in its Constitution, which postulates secularism as a fundamental principle. Turkish secularism as it actually exists is oriented to protecting the state against direct attacks by religious authorities. At the same time, however, it claims the monopoly on controlling and regulating religious life. According to the traditional Kemalist understanding, Turkish identity is also directly linked with Sunni Islam.

The Constitution guarantees “freedom of conscience, religious belief and conviction” (Article 24) and prohibits discrimination and the abuse of religious feelings or objects that a religion holds sacred. It guarantees freedom of religion, yet makes this contingent on the “indivisible unity” of the Turkish nation.

Specific challenges related to freedom of religion in Turkey are decisively influenced by ongoing political trends affecting society – for example authoritarian tendencies, the erosion of the rule of law and interference in the independence of the courts. This makes it increasingly difficult to assert actionable human rights.

The state exerts control over (Sunni) Islam via the Directorate of Religious Affairs (Diyanet İşleri Başkanlığı), which reports to the Presidency. The Directorate of Religious Affairs has around 130,000 employees and is responsible for some 90,000 official mosques in the country. Religious minorities (other than the aforementioned exceptions) have no independent legal status and rely on numerous (religious and non-religious) foundations in organisational matters. Associations are monitored by the Ministry of Interior, while the foundations are monitored by the Ministry of Culture and Tourism. New guidelines issued in 2022 mean that minority religious foundations can elect their governing boards for the first time since 2013. Lists of candidates must be submitted to the government.

Mandatory religious education at state schools is strongly Sunni/Hanafi and does not meet pluralistic standards. A 2022 judgement of the Constitutional Court of Turkey found that it is not in accordance with the Constitution, but the judgement has not been implemented.

The European Court of Human Rights (ECtHR) ruled against the Turkish state in this connection back in 2007 in the *Zengin v. Turkey* case, which involved an Alevi family that had asked for a daughter to be exempted from mandatory religious instruction. The option of exemption is not available to non-believers.

Conversions are not subject to any legal restrictions. However, converts face pressure from their families and communities. Since 2016, religious affiliation no longer appears on identity cards, but its disclosure remains mandatory for the records of the personal status registry, which are retrievable by government officials and the police. The ban on religious missionary activities was lifted in 1991. There are still penalties for insulting religious values, disrupting religious ceremonies

or desecrating religious sites. Noteworthy examples include the prosecution of the pop singer Gülşen for having made a joke about Imam Hatip religious schools in August 2022 and the now-suspended proceedings against the geologist Celâl Şengör, who stated during a television broadcast in April 2022 that there is no evidence for the existence of the historical figure Abraham. Conscientious objection to military service for religious reasons is not possible.

### Restrictions on freedom of religion or belief by state actors

In spite of isolated improvements, there is still discrimination against representatives of non-Sunni and non-Muslim religious groups, as confirmed by relevant rulings of the ECtHR.

Members of Muslim denominations besides Sunni Islam now enjoy individual liberties and – since the 1990s – have also increasingly enjoyed actual collective freedoms. However, due to the Kemalist concept of the “indivisible unity” of the (Sunni Muslim) Turkish nation, they are not recognised as religious groups. Their places of worship are not recognised as such, so – unlike the Sunni mosques – they do not receive any government funding. President Erdoğan announced in October 2022 the creation of a separate office within the Ministry of Culture and Tourism with responsibility for Alevi groups (Alevi Bektashi Culture and Cemevi Directorate), through which state funding for Alevi cemevis is to be available for the first time, although they will not be explicitly recognised as places of worship. A presidential decree to this effect has already been issued and implementing legislation has been adopted. Some Alevi associations are very critical of this development because they fear government control of Alevitism.

The state strongly intervenes in the affairs of the three non-Muslim – known as “Lausanne” – religious groups: the Ministry of Interior approves the selection of each community’s leader and claims a veto power. The leaders and clergy (and election bodies) of the three “Lausanne” communities are required to be Turkish citizens. The naturalisation process was simplified for the people in question in 2011. Training of new clerics

has been officially prohibited for all minorities since 1971. For that reason, too, reopening the seminary in Halki (also known as Heybeliada), closed since 1971, is a matter of great concern to the Greek Orthodox Church. The difficult situation of non-Muslims has been intensified by the continual emigration of the younger generation and the ageing of the remaining community members. This makes the diaspora very important, particularly in terms of financing. It is difficult for non-Sunnis to gain access to careers in the civil service.

In recent years, several foreign Protestant pastors who have proselytised have had their visas revoked, while others have been prevented from re-entering the country. However, arrests are rare. A prominent exception was the case of the U.S. pastor Andrew Brunson, who was convicted of “supporting a terrorist organisation” in October 2018; after intense pressure, including sanctions, he was finally allowed to travel back to the U.S. There have not been any attacks on foreign missionaries for some years.

Muslim brotherhoods are legally banned, but the government continues to tolerate them, and they are not categorically impeded from conducting their economic or political activities. The purported followers of the preacher Fethullah Gülen, who has lived in the U.S. since 1999, are another matter. They have been targeted by the Turkish state since the attempted coup of 15 July 2016, which the government attributed to the Gülen movement. The Turkish state classifies it as a terrorist organisation – an assessment not shared by the international community. Hundreds of thousands of people have been arrested, convicted, released, placed on do-not-hire lists, prohibited from leaving the country and stripped of their entitlements to state benefits. The Turkish government’s persecution explicitly targets not only ostensible rebels, but all (purported) followers of Gülen. Turkish actions abroad against followers of Gülen and institutions that support him have also been documented. The Turkish state also does not shy away from abducting individuals from abroad whom it classifies as key figures in the Gülenist movement. NGOs have reported the targets undergoing abuse and torture.

## Social conflicts with religious components

Alongside official discrimination in regard to the private and collective exercise of religion, (unofficial) personal discrimination against members of religious minorities remains widespread. Anti-semitic and anti-Christian grudges appear in the (government-aligned) tabloid press and are part of the standard repertoire on social media. In fact, even high-ranking politicians, including the head of state and the opposition leader, draw on antisemitic or anti-Armenian conspiracy theories on occasion in their public remarks.

The conservative AKP government’s “forays into Islamicisation” (funding religious schools, expanding the remit of the Directorate of Religious Affairs, raising taxes on alcohol, installing imams in student accommodation, etc.) are at odds with the continuing secularisation of society being seen as a result of modernisation, which especially applies to urban youth.



## Turkmenistan

Turkmenistan has been governed by the repressive, authoritarian Berdimuhamedov dynasty since 2007. Serdar Berdimuhamedov succeeded his father as president in March 2022, but there has been no lasting improvement in the standard of living or civil liberties. Instead, there has been greater reliance on traditions and Turkmen (and Muslim) norms. The strong personality cult around the current president and his predecessor and father (who was officially entitled “Arkadag,” meaning protector) leaves little room to publicly practise a religion. Turkmenistan defines itself as a secular state; its Constitution guarantees freedom of religion or belief, although in actuality this is subject to strict government control. Representatives of Christian groups describe their opportunities for the free exercise of religion as persistently poor. The rights to free expression and freedom of information and assembly are severely limited by repressive legislation and administrative requirements. Turkmenistan is one of the most isolated countries in the world, and the government uses technical means and requirements to restrict access to information over the Internet or in other media.

### Demographic breakdown by religion

According to official figures – based on the 2012 census – Turkmenistan has a population of 5.8 million people; there are no reliable figures on individual religious groups. At least 90 per cent of the population are Muslim (primarily Sunni), while the share of Russian Orthodox Christians is estimated to be no more than 8 to 9 per cent. Around 2 per cent are divided among smaller communities, such as various Protestant churches (Pentecostal communities, Seventh-day Adventists, New Apostolic Church), Catholics, Jehovah’s Witnesses, Jews, Báhá’ís, Hare Krishna and Shiite Muslims.

### Legal situation of freedom of religion or belief

The Constitution of Turkmenistan, in the 2016 amended version, defines Turkmenistan as a secular state; it guarantees freedom of religion or belief and provides for the separation of religion and state. Religious organisations are prohibited from interfering in matters of state. The education system is secular. According to the Constitution, the ideology of religious organisations, political parties and other associations should not be binding; it also contains a ban on discrimination. The rights to freely choose one’s religion and to participate in religious observances and ceremonies are guaranteed. It is also possible to profess no religion; in other words negative freedom of religion is also guaranteed: according to

the Constitution, “no one can be forced to express his/her opinion or belief, or renounce them.” The limits on the exercise of religion are defined in such a way that the exercise of one’s civil rights and liberties “must not violate the rights and freedoms of others, as well as the requirements of morality, law, [or] public order, [or] cause damage to national security.”

After a 2016 revision of the Law on Religious Organisations and Religious Freedom, all religious groups, including those that were previously registered, are required to re-register. The rules have been considerably tightened: the registration process now requires at least 50 founding members above the age of 18 to submit extensive personal information and documentation. According to official figures, 133 religious organisations, 110 of them Muslim, were registered in 2021. Some smaller communities are not registered and are considered illegal; they face fines or arrests. Religious organisations are entitled to own property that has been donated by individuals or legal entities, transferred by the state to the religious organisation or acquired in another manner that “does not contradict the laws of Turkmenistan.” The receipt of contributions from foreign entities requires authorisation and their use must be documented. The Penal Code imposes penalties on religious gatherings or events if they are not registered and approved. This includes weddings, baptisms and funerals, for example. Participation in pilgrimages or regular attendance at houses

of worship can be sanctioned on this basis; they are subject to government control in any event. Turkmen law does not provide any legal option for conscientious objection to military service. Refusal to serve is punishable by up to two years' imprisonment or confinement in a work camp.

### Restrictions on freedom of religion or belief by state actors

The secular nature of the Turkmen state is specified in the Constitution, but Sunni Islam is the most common religion and it is represented as being the religion of all Turkmen and their ancestors. Sunni Islam is interpreted or reinterpreted in accordance with state ideology. The government has declared two Muslim holy days, Oaza Bairam (breaking of the Ramadan fast) and Kurban Bairam (feast of sacrifice), to be national holidays. Although the Ruhnama (Book of the Soul) serves the purpose of ruler worship, it is based on works of divine origin and must be displayed and used in every place of worship.

In practice, the registration of religious and civil society organisations is treated very restrictively. The administrative obstacles put in place are formidable, and their actual implementation is opaque. The government exerts control over the exercise of religion. The government is particularly afraid of radical Islam gaining a foothold in the country. In this context, the definition of extremism was expanded during a revision of the Penal Code. The exercise of religion, even by registered organisations, is subject to close surveillance. The Council on Religious Affairs has to approve appointments of religious leaders and does so under the leadership of the (government-appointed) Grand Mufti. In recent years, many churches and mosques have been demolished because they ostensibly lacked building permits. Representatives of religious minorities report that ethnic Turkmen who abandon Islam or are members of a non-Muslim religious minority are more frequently investigated or interrogated by the authorities than others. There are no reports of specific religious groups being publicly defamed in the (state-run) media. Social media is blocked in Turkmenistan. Social discrimination (for example,

in response to someone converting from Islam to another religion) is not actively prosecuted by the government.

### Social conflicts with religious components

Turkmen society is characterised by religious tolerance. No conflicts with religious components between members of different religious groups have been observed. However, there is currently a trend among the (Muslim) population of feeling more strongly bound by religious traditions and of strict fasting during Ramadan, participating in official Friday prayers, and the like.

## Ukraine

The current situation for freedom of religion and belief in Ukraine is being impacted by the Russian war of aggression, which is having considerable effects on demographics and religion in Ukraine. The Orthodox Church landscape was in a state of upheaval even before 24 February 2022. Many believers had spent years hoping for the autocephaly (independence) of the Orthodox Church of Ukraine (OCU), which was also supported by former President Petro Poroshenko. The OCU has been autocephalous since January 2019, when it was recognised by the Ecumenical Patriarchate in Constantinople. Relations with the Ukrainian Orthodox Church (UOC), which is affiliated with the Russian Orthodox Church (ROC), were initially tense, but the predicted violent clashes did not occur, with a few exceptions. Many churches in Crimea had to close following the illegal annexation by Russia in 2014. After the Russian war of aggression against Ukraine began, the UOC held a council in May 2022 and, according to it, amended its statutes so that it was no longer formally affiliated with the ROC. However, government officials have not been notified of the new statutes of the UOC, except by a posting on the UOC website. A subsequent state review was unable to confirm the UOC's independence from the Moscow Patriarchate.

### Demographic breakdown by religion

Ukraine does not collect official data on the membership numbers of religious groups. However, the responsible government agency does publish reliable annual data about the number of parishes in each religious group. They indicate (as of 1 January 2021) that the UOC, with 12,406 parishes, is the largest religious community, followed by the OCU with 7,188 parishes and then Pentecostal groups (5,037), the Ukrainian Greek Catholic Church (UGCC, 3,670), and Baptist groups (377).

The sizes of groups and parishes varies greatly, so no reliable conclusions can be drawn about the number of members. The vast majority of the Ukrainian population consider themselves to be Orthodox. About one third do not identify with any church, stating that they are “simply Orthodox.” The number of members of the OCU grew after it was founded in 2018-19 and increased again after 24 February 2022, so it is likely that the OCU now has more members than the UOC.

Numbers for the smaller churches and religious groups are more reliable. About 8 per cent of Ukrainians belong to UGCC, 2 per cent are Protestant, 1 per cent are Roman Catholic, and 2 per cent belong to other groups. Some 10 per cent of the population are not religiously affiliated.

Demographics have changed drastically since the last reporting period due to civilian and military casualties, displacement and abductions since the war began. The distribution of religious groups varies greatly by region. There are more members of the UOC than any other churches in the Russian-occupied or disputed regions.

### Legal situation

The Ukrainian Constitution guarantees freedom of religion or belief. With the exception of zones occupied by Russia, religious communities are not subject to any constitutional restrictions.

Ukraine ratified the International Covenant on Civil and Political Rights (ICCPR) on 12 November 1973. Article 35 of the Ukrainian Constitution guarantees freedom of religion or belief in both positive and negative senses, separates religion and state and prohibits a state religion. In addition, the same article stipulates that “no one shall be exempt from his duties to the State or refuse to abide by laws on religious grounds.” It is possible to obtain an exemption from military service for religious reasons.

The principle of the separation of religion and state is affirmed in the 1991 Law on Freedom of Conscience and Religious Organisations. To obtain the status of a legal entity, religious groups must register as both religious and non-profit organisations.

Despite its name, Law No. 2662/19 regarding changing the names of religious organisations having their administrative headquarters outside Ukraine and in countries classified as an aggressor, exclusively requires the UOC and its parishes to include a reference to their affiliation in the ROC in their names. A Ukrainian religious group whose leadership is located there must include Ukraine in the name of that religious group. The UOC calls the law discriminatory and accuses the government of attacking freedom of religion and intervening in the internal affairs of the church. The Constitutional Court of Ukraine confirmed on 27 December 2022 that Law No. 2662/19 is constitutional.

The National Security and Defence Council of Ukraine proposed to the government on 1 December 2022 that draft legislation on preventing the activities in Ukraine of religious organisations with ties to centres of influence in the Russian Federation be submitted to the Verkhovna Rada (parliament). The State Service for Ethnopolitics and Freedom of Conscience was also asked to review the statutes of the UOC to determine whether the church is dependent on the Moscow Patriarchate, which would make Law No. 2662/19 applicable to it. The State Service does not consider the amendment of the UOC's statutes dissolving the affiliation with the ROC which was approved in May 2022 (see above) to mean that the UOC is independent of the Moscow Patriarchate.

Sanctions have been imposed on a series of hierarchs and supporters of the UOC. On 29 December 2022, on the initiative of the Ministry of Culture, the UOC was prohibited from holding services in the Dormition Cathedral and one other church. The Minister of Culture also announced that the lease for the UOC headquarters in the Kiev Monastery of the Caves would be terminated.

### Social conflicts with religious components

The creation of the autocephalous OCU in late 2018 was peaceful. Independent observers report isolated cases of vandalism and attempts to intimidate institutions and members of the UOC by OCU members, and vice versa.

Antisemitic incidents are vanishingly rare. VAAD, the Association of Jewish Organisations and Communities of Ukraine, which regularly documents such incidents, lists a total of 12 incidents of vandalism in 2018 across the whole country and no attacks on individuals. From 20 May to 29 August 2019, following the election of Volodymyr Zelensky as president, Ukraine was the only country in the world besides Israel to have both a head of state and head of government who were Jewish.

### Effects of the Russian war of aggression

At least 494 religious sites – most of them Orthodox churches – have been seriously damaged or destroyed by Russian air raids, artillery strikes or plundering during the Russian war of aggression.<sup>112</sup> The Metropolitan of the OCU reports killings of Orthodox priests by the Russian military. Reports indicate that UOC clergy have also been persecuted and killed. All religious groups in the country take pro-Ukrainian positions, remain in contact with the government, are providing humanitarian aid for victims of the war and condemn the Russian aggression.

<sup>112</sup> As of 31 January 2023, IRF (Institute for Religious Freedom), which operates in Kiev, regularly publishes updated figures (see <https://irf.in.ua/p/105>, most recently accessed: 22 June 2023).

The UOC is in the midst of the greatest crisis in its history. Many of its priests are loyal to Ukraine and express their opposition to the Russian war of aggression by refusing to include the commemoration of Patriarch Kirill in the liturgy. According to information from the UOC, it formally withdrew from the ROC during the council meeting in May 2022 and is in dialogue with the OCU, which for its part reports over 400 member churches switching allegiance. The UOC states that at the council it adopted new statutes in which – except for a historical reference – there is no mention of the ROC and that commemoration of the patriarch has been abandoned. The UOC has been acting like an autocephalic church since that time (although it says it has not formally requested the status of autocephaly and that this has not been granted to it, either).

Russian regulations on religious activities are enforced in the Autonomous Republic of Crimea, which was illegally annexed and is occupied by Russia. Even before the founding of the OCU, churches there had been violently taken over by the UOC; 38 out of 46 parishes that belonged to other Orthodox churches had to close. The number of religious organisations has declined by around 45 per cent since annexation. The human rights situations of the Crimean Tatars in Crimea has also deteriorated. The number of political prisoners is up since the annexation of Crimea in violation of international law in 2014.

There is no freedom of religion in any of the areas occupied by Russian troops. Only the UOC has the status of a quasi-state church. Adherents to the OCU and other Ukrainian groups must remain behind closed doors. Jehovah's Witnesses, which the Russian Supreme Court has found to be extremists, are banned. Their places of worship have been seized, and members must remain in hiding, fearing persecution. The freedom of belief of evangelical Christians is also limited. The Roman Catholic Church in Luhansk was temporarily shuttered in late 2018 and early 2019. Islamic clergy have been arrested, and there are no more Islamic groups are to be found.



## Viet Nam

The political system is still dominated by the exclusive claim to power of the Communist Party of Viet Nam (CPV). Formally, the Constitution guarantees numerous basic rights, such as freedom of the press, opinion, expression, assembly and religion or belief. In practice, however, basic rights are curtailed in almost all spheres of political and public life. This particularly pertains to the exercise of freedom of religion. Provisions of the Law on Belief and Religion of 2018 have been exploited by national, regional and municipal authorities to repress and exert control over religious groups, both registered and unregistered.

Religious people in urban, economically developed areas can practise their faith openly. In contrast, ethnic and religious minorities, especially in rural areas, are not only in difficult socio-economic circumstances, but may also experience discrimination from local authorities and from many ethnic Vietnamese (known as Kinh).

Small improvements in the way the government deals with registered and unregistered religious groups must be seen against the backdrop of ongoing repression and attempted intimidation against religious groups and strict enforcement of government registration and reporting requirements for religious groups. The general crackdown since the most recent CPV party conference in early 2021 has also negatively impacted the situation of religious groups, particularly those in certain provinces in southern and northern Viet Nam as well as the Central Highlands.

## Demographic breakdown by religion

Viet Nam is a multiethnic country. In addition to ethnic Vietnamese (known as Kinh or Viet), 53 ethnic Indigenous minorities are recognised, who at 14 million make up about 14 per cent of the total Vietnamese population of some 99 million. The ethnic minorities typically live in outlying rural or mountainous areas, far from the two largest cities: Hanoi and Ho Chi Minh City. The largest ethnic minorities are the Tai, Muong, Hmong, Khmer and Hoa.

Belonging to one of the ethnic minorities often also means being a religious minority. Many ethnic minorities do not adhere to Mahayana Buddhism, which tends to be apolitical, and instead belong to religious movements such as Theravada Buddhism, Protestantism, Catholicism, Cao Dai or Hoa Hao.

Statistics about religious affiliation vary. It is difficult to evaluate them because many Vietnamese do not disclose their religious affiliation, fearing adverse social consequences. According to government statistics, the total number of people who adhere to a religion has declined.

The government census of 2019 indicates that there are about 13 million religious adherents (about 13 per cent of the population). Roman Catholics, with 6 million followers, are the largest religious group. Five million Vietnamese are Buddhists. This does not include approximately 10 million followers of Buddhist teachings who do not belong to a registered religious organisation. Within the Buddhist community, Mahayana Buddhism is the dominant affiliation, while the second largest is Theravada Buddhism, almost all of whose members are from the ethnic minority Khmer group (1 million people). The third largest religious group is made up of the approximately 1 million members of Protestant and evangelical churches. Most of them are also ethnic minorities. Evangelical movements are the fastest growing religious groups and are primarily popular in the Central Highlands. Estimates also indicate that 1.16 per cent of the population are adherents of the Cao Dai syncretistic belief and 1.47 per cent belong to the Buddhist group Hoa Hao.



*Ceremony at the Cao Dai Temple in Tây Ninh*

## Legal situation

The 2013 Constitution (Article 24), the Law on Belief and Religion (LBR) and the associated Implementing Decree 162/2017 are the legal pillars of religious freedom in Viet Nam. The ongoing revision of two other decrees provides for stricter regulation of registered and unregistered religious groups, expands the requirement to apply for permits for religious events and imposes sanctions for violations of the LBR.

Promulgation of the two decrees would allow the imposition of severe penalties and fines and would also lead to both recognised and unrecognised religious institutions being shut down. Civil society organisations are particularly critical of the wording of the drafts, which they say is too vague and overly broad.

### Restrictions on freedom of religion or belief by state actors

According to information from the Government Committee on Religious Affairs (GCRA), 43 religious organisations that affiliate with 16 distinct religions are recognised. Organisations that do not

successfully complete the complex registration procedure are denied significant rights, including the status of a legal entity, the right to publish religious texts and authorisation to produce, import or export religious and cultural objects. Many groups refuse to register because they fear losing their independence.

Members of religious groups are sometimes subject to surveillance, interrogation or imprisonment, and forced underground by dilatory processing of their applications for registration. It must also be assumed that many other repressive measures falling below the (international) radar have been taken. Generally speaking, unregistered religious groups experience more repression than registered ones do. No new religious group successfully completed the process for obtaining government recognition in 2021 or 2022.

Government agencies keep a particularly close eye on religious groups that are politically active or express their criticism of official actions to the international community. Smaller unregistered groups such as Cao Dai, Hoa Hao, the Protestant Hmong, Montagnard Christians, the Buddhist Khmer Krom Temple and the Unified Buddhist

Church of Vietnam (UBCV) are being monitored; pagodas such as those belonging to the UBCV are being seized and demolished, and places of worship such as those of the Hoa Hao are being defiled.

Religious groups in the Central Highlands and North Viet Nam have been hard hit by government measures in recent years. At least 56 members of Duong Van Minh, a predominantly Hmong religious group, were detained at the funeral of their founder Duong Van Minh in December 2021. Several followers reported that police beat them during the raid and after they were detained for questioning in an attempt to pressure them to renounce their faith. A total of 15 people who had been arrested were sentenced to prison on charges of “acting against a person on duty” in May 2022.

As the number of Protestant groups has grown, repression by state actors has also increased. These include the Vietnam Baptist Church, the Good News Mission Church, the United Presbyterian Church, the Full Gospel Church and Montagnard Christians. The government has targeted the Protestant Montagnard Christians in the Central Highlands with repressive measures. Three Montagnard Christians asked state officials for advice when attempting to register collective religious practices in May 2022. Shortly thereafter, they were detained and interrogated about their inquiry; they were also threatened with fines and imprisonment and instructed to refrain from purportedly “illegal” inquiries in the future.

There have also been disputes about land between government agencies and religious groups (such as those relating to the Thien An Benedictine Monastery and the Buddhist Thien Quang Pagoda in Vung Tau). The reason is appropriation by government agencies for social and economic projects without (adequate) compensation. The Holy See has been trying for years with no success to establish diplomatic relations. The Catholic Church is proceeding cautiously.

### Freedom of religion of Indigenous (minority) groups

Members of ethnic and religious minorities often find themselves subject to multiple threats. Due to their position as double minorities, they frequently

experience discrimination by members of the Kinh ethnic majority and are also displaced from their land due to economic interests (including in land) and harassed by government agencies and repression and attempts to intimidate them.

Reports indicate that more than 250 members of ethnic and religious minorities have been detained in the Central Highlands because they practise their religions. Ethnic and religious minorities there have also had to tolerate state surveillance, threats, unjustified interrogations, harassment and damage to religious sites (which is tacitly approved). The government has traditionally viewed members of ethnic minorities in South Viet Nam and the Central Highlands with suspicion because many of them are alleged to have collaborated with the South Vietnamese Army and with American forces during the Viet Nam War. Ethnic and religious minorities who are Protestants have recently been victims of government repression, in some cases because certain Protestant groups maintain close contacts with Western evangelical communities and are supported by them, both with human and financial resources. In that context, the government continues to rely on violence, threats and intimidation to repress the unregistered Christian churches of the Montagnard and Hmong Christian groups in the Central Highlands. Registration officials have increasingly employed aggressive interrogation methods against religious minorities in the country recently in an attempt to block their contacts with international institutions and human rights organisations.

### Social conflicts with religious components

There are still conflicts between unregistered and registered religious groups. State actors use propaganda campaigns and continued unequal treatment to deliberately cause or exacerbate them. Specifically, government agencies support registered religious communities in recruiting new members, while they openly deny the legitimacy of unregistered religious groups.

# C Measures by the German government

The German government's Third Report also finds that freedom of religion or belief is being violated in many countries. Systematic persecution, attacks, forced displacement, mass rape, enslavement, internment and the murder of entire ethno-religious or religious communities have caused concern to Germany and the international community. The crimes against the Yazidis in Iraq, the Uyghurs in China, and the Rohingya in Myanmar are a stark illustration of how the human rights of individuals and groups are violated on the basis of their religion or belief. Many religious groups are marginalised – inadequately visible, politically under-represented and not socially integrated. They experience societal and (quasi) state discrimination. Members of religious minorities are exposed to diverse forms of discrimination in daily life that may extend to systematic persecution. They sometimes undergo arbitrary arrests and convictions and, in extreme cases, are subjected to violence that can lead to death in individual cases. This applies, for example, to Shiites in Afghanistan, Christians in Pakistan, Bahá'ís in countries such as Iran and parts of Yemen and converts and atheists in many Muslim-majority countries.

## Against this backdrop, the German government will:

1. Advocate for global freedom of religion or belief as part of its human rights-based foreign and development policy. This applies to systematic violations of freedom of religion or belief by governments, lack of state protection against the violation of this right by third parties, including militant religious or belief-driven actors.
2. Take a clear stance affirming the interdependence between freedom of religion or belief and other human rights (e.g., the rights of women, children and youth) and recognising multiple discrimination in Germany, Europe and international bodies (such as the International Contact Group on Freedom of Religion or Belief) and processes (such as the Human Rights Council's Universal Periodic Review).
3. Continue to implement the 1998 UN Declaration on Human Rights Defenders and, in cooperation with European partners, actively use its missions and cultural institutions abroad to give targeted support to human rights defenders whose causes include the right to religious freedom; they also provide support in protecting their "shrinking spaces" for action.



In recent years, the viewpoint on discrimination as a human rights violation has evolved: the various factors underlying discrimination against individuals are no longer viewed in isolation or separately. The German government's feminist foreign and development policy has committed to the goal of pursuing a gender-transformative and intersectional approach, and of thus dismantling the structural and systemic causes of inequality. Intersections among mutually reinforcing discrimination factors are identified so as to counteract asymmetrical power structures and causes of discrimination as holistically as possible, thereby improving the situation of particularly marginalised individuals – such as women who are also members of religious minorities. This Report considers this approach and includes positions on the situation of women and LGBTIQ+ individuals in the context of freedom of religion or belief.

### The German government will:

4. Foster international exchange and cooperation with European and like-minded partners in the realm of freedom of religion or belief, bolster recognition of the right to freedom of religion or belief – including as part of its feminist foreign and development policy – and advocate in particular for the protection of women and girls from forced conversion and forced marriage.

The importance of religious freedom for Indigenous peoples has received limited attention in research and policy. The German government aims to help close this gap and has therefore commissioned a Scholarly Assessment on Indigenous peoples and the right to freedom of religion or belief as an annex to this Report. Addressing the immense complexity and the largely non-institutional nature of Indigenous religions poses a political challenge. There is also a need to deepen discussions at international level regarding the legal enforcement of freedom of religion for Indigenous peoples whose belief systems are based on spirituality and a cosmivision.

### The German government will:

5. Work jointly with Indigenous peoples, religious communities and UN special rapporteurs to better respond to the needs of Indigenous peoples and individuals within the discourse around religion and belief. This includes, among other things, recognising spirituality, cosmivisions and a belief system that is closely intertwined with Indigenous ancestral territory, their natural and social environment and ancestors. The government will continue to pursue the goal of giving greater consideration to land (use) rights in its human rights policy.
6. Advocate at national, European and international levels within relevant bodies (for example, at the Permanent Forum on Indigenous Issues, with the UN Special Rapporteur on Freedom of Religion or Belief and the Special Rapporteur on the Rights of Indigenous Peoples) and within other formats to ensure that Indigenous peoples' and individuals' freedom of religion or belief is fully respected, protected and realised worldwide.



**In light of the relevance of ILO Convention 169, the protection of land rights, and the FPIC (free, prior, and informed consent) principle regarding Indigenous peoples' freedom of religion or belief, the German government will:**

7. Continue to advocate for the implementation of ILO Convention 169 and the comprehensive protection of the rights of Indigenous peoples. To this end, it will further promote the establishment of structures, such as advisory and grievance mechanisms, in partner countries and selected regions.
8. Recognise the role of Indigenous peoples in biodiversity conservation and climate policy, continue to support them in a variety of development cooperation projects, and advocate for further measures to promote Indigenous peoples' potential for conserving biodiversity.
9. More closely align development policy activities with the rights and specific situation of Indigenous peoples, and take into account aspects of freedom of religion or belief.
10. Further advance and support the application of the FPIC principle as an important contribution to protecting Indigenous peoples' human rights. At the same time, it will encourage partner countries to ensure respect for the rights of Indigenous peoples and local communities to consent to and participate in nature conservation measures.

Cooperation with a strong civil society, including religious communities as well as faith- and belief-based organisations and initiatives, is indispensable to the implementation of the 2030 Agenda. This Report presents specific examples and descriptions of work abroad, showing the areas in which the German government is already active and how the potential is being harnessed within the framework of German development cooperation. The "shrinking of spaces" for civic society to operate in, which is being observed in many countries, is also having a negative impact on the implementation of the 2030 Agenda – in addition to the human rights implications.

**Therefore, the German government will:**

11. Increase awareness and understanding of human rights, including freedom of religion or belief, within the German government and the organisations responsible for implementing development cooperation, and pursue continuing cooperation with civil society, including human rights organisations and religious communities, thus countering the effect of shrinking spaces on civil society;
12. Advocate, in its human rights work, for the civic spaces available to religious actors and human rights defenders to be protected and expanded;
13. Pay greater attention to the distinct role of women and youth in all their diversity as religious stakeholders, also within faith- and belief-based organisations;
14. Maintain existing partnerships with religious actors and organisations and use these for dialogue with governments and societies in partner countries worldwide;

15. Remain active in the field of religion and development and systematically mainstream the issue in bilateral development cooperation activities.

In this Report, the German government also presents the specific situation of freedom of religion and belief in 41 countries, particularly focusing on changes since the previous reporting period and, where possible, making reference to the status of Indigenous peoples' freedom of religion or belief.

With the appointment of Markus Grübel (2018 to 2021) and Frank Schwabe (since 2022) as commissioners, the German government established a political mandate and created capacities for the protection of freedom of religion or belief. It will resource these capacities appropriately.

### The German government will:

16. Continue to monitor the status of human rights, including freedom of religion or belief, worldwide and, accordingly, maintain its values- and human rights-based foreign and development policy, advocate consistently for the protection of human rights globally, and pursue sustainable peacebuilding and crisis prevention, including by implementing the Women, Peace and Security agenda;
17. Harness the potential of freedom of religion or belief and its significance towards achieving the SDGs set out in the 2030 Agenda and use interreligious dialogue in the context of reconciliation processes;
18. Take appropriate measures to ensure that funding recipients that do not respect, protect and ensure human rights, including freedom of religion or belief and the principle of non-discrimination, are excluded from funding.

### The German government will:

19. Assign greater weight to selected complex topics of freedom of religion or belief in European and international discussions and conferences;
20. Maintain its focus on the worst affected religious communities and belief-based groups, as well as on individuals suffering severe persecution, and work to promote special protective measures.

# D Scholarly Assessment

Fundamental ethnological and human rights issues for consideration in connection with the Federal Government's Third Report on the Global Status of Freedom of Religion or Belief

Scholarly Assessment by Professor Heiner Bielefeldt and Dr Volker von Bremen (August 2023)

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# I A politically charged topic for Germany as well

At first glance, the issue of freedom of religion or belief for Indigenous peoples and individuals might seem rather “remote.” After all, there are no ethnic groups in Germany with the typical traits of Indigenous peoples.<sup>1,2</sup> However, in an increasingly interconnected world marked by diverse interdependencies, this subject has come much closer to home. Germany’s ratification of the relevant ILO Convention 169<sup>3</sup> (ILO stands for International Labour Organisation) in 2021 signals a clear shift in political consciousness. Indeed, the imperative of respecting the rights of Indigenous peoples poses a challenge across various areas of German policy and should thus be seen as a cross-cutting remit. This applies not only to foreign and development policy but also to economic, agricultural and trade policy; environmental and climate policy; and social, financial, transport, research and education policy.

This issue is particularly pressing in regard to human rights policy, which itself cuts across a number of policy areas. Indigenous peoples and individuals suffer from severe violations of their human rights in many places. Since their claims to collective ownership of the land they traditionally inhabit and cultivate are often not legally recognised or are legally ambiguous, they can readily be deprived of their land and thus of the economic, cultural and religious foundation of their lives. This often results in displacements or forced relocations to the advantage of various interests ranging from industrial agriculture or natural resource extraction to state-sponsored development programmes.<sup>4</sup> Due to their lifestyles, which are often closely linked to nature, Indigenous peoples are disproportionately affected by the consequences of climate change and other environmental destruction, despite contributing the least to global warming. This is compounded

by the racist stigmatisation and exclusion that confront Indigenous peoples almost everywhere. In many places, individuals who challenge violations of their rights through political and legal channels frequently become targets of hateful smear campaigns in the media, intimidation tactics, death threats and physical violence.

However, Indigenous peoples are by no means merely “victims” of human rights violations. Numerous human rights defenders emerge from their ranks, particularly engaging in issues at the intersection of environmental concerns and human rights. Also, they are now better represented than before at the human rights forums of the United Nations. Some observers contextualise Indigenous peoples’ demands and contributions within the endeavour to further “decolonise” international human rights policy.<sup>5</sup> In recent decades, influences from the Global South have

1 Further explanations can be found in *Section II: Basic information about Indigenous peoples*.

2 Recently, the Sorbian Parliament (Serbski Sejm) unsuccessfully issued an ultimatum to the German government that invoked ILO Convention 169 in demanding recognition of the ethnic groups of the Sorbs and Wends in Germany as Indigenous peoples. See *Anerkennung als Indigene? Was hinter der angedrohten Klage des Sorbenparlaments gegen die Bundesregierung steckt?*, rbb24 (last accessed: 17 July 2023).

3 Explanations can be found in *Section III, 2: The rights of Indigenous peoples: A long-neglected subject in human rights*.

4 See *Section V, 2: Land conflicts as a core issue of Indigenous freedom of religion or belief*.

5 Explanations can be found in *Section III, 3: The rights of Indigenous peoples versus human rights: Widespread misunderstandings*.



already considerably revised the approach to human rights, which was initially very dominated by Western Europe and has certainly not always been free from the narrowness of the Eurocentric perspective. The debate has broadened thematically. Any concerns about the inherent risks should not be a reason to categorically resist this process of opening up. Greater consideration to the long-neglected experiences of Indigenous peoples is giving the progress of international human rights policy a fresh burst of forward momentum. This development also raises new and challenging questions – such as how to preserve and shape the consistency of the universalist and freedoms-based approach to human rights by incorporating specific rights for Indigenous peoples. Thus, engaging with the rights of Indigenous peoples is not only of paramount practical relevance; it also carries profound symbolic value for crafting a credible and inclusive human rights policy that is attuned to the demands of our era.

Many conflicts over the rights of Indigenous peoples also concern the human right to freedom of religion or belief, which is at the heart of the German government's Third Report. Here are just a few examples. Disputes over the land rights of Indigenous peoples invariably relate to the possibility of maintaining and cultivating a religious-cultural way of life that is inextricably linked to the land a given people has traditionally inhabited. The human right to education notably includes addressing religious/cultural diversity, of which Indigenous religious traditions are a part. Where the requisite sensitivity is lacking, for example in schools, this can easily lead to violations of the freedom of religion or belief of Indigenous children and their families. Religious/cultural aspects always play a role in development cooperation

projects, which primarily address economic and social issues. Even in instances where Indigenous peoples resist the pressure to assimilate culturally, aspects of freedom of religion or belief are almost always at play.

It is therefore all the more surprising that Indigenous peoples' and individuals' freedom of religion or belief has garnered so little attention to date in the discourse around human rights policy.<sup>6</sup> Scholarly literature on this topic is relatively scarce. In the extensive jurisprudence on the human right to freedom of religion or belief, the concerns of Indigenous peoples and their members have tended to be peripheral. In jurisprudence on the rights of Indigenous peoples, freedom of religion or belief may often be *implicitly* implicated, such as in cases adjudicating access to religiously and spiritually significant lands, but it is rarely invoked *explicitly*.<sup>7</sup>

This Scholarly Assessment does not claim to fill this gap. Rather, its goal is to raise fundamental questions, reveal stereotypical premises, spark interest and at least outline the next political steps towards consistently enforcing the rights of Indigenous peoples – including their freedom of religion or belief. The discussions largely draw on relevant scholarship and original United Nations (UN) documents, particularly the publications of the UN Special Rapporteur on the Rights of Indigenous Peoples and insights gained from that work. This approach is also fitting because the Rapporteurs in question, whom we have cited, are personally members of or descended from Indigenous peoples.<sup>8</sup> *Section II* first provides general information on the topic, including estimates of the number of Indigenous individuals, their distribution across different regions and their

6 This is certainly true of the international discourse on human rights, which is the focus of this description. This may occasionally vary from country to country at the national level.

7 The publications by the UN Special Rapporteurs display a similar pattern. While Indigenous peoples' concerns have occasionally been raised in the thematic and country-specific reports by the Special Rapporteurs on Freedom of Religion or Belief, they have not been considered systematically until recently. This is mirrored in the reports on the rights of Indigenous peoples. Specific issues of religious relevance, such as sacred sites, are frequently discussed but are usually not addressed as systematic challenges to freedom of religion.

8 The UN post of Special Rapporteur on the Rights of Indigenous Peoples was created in 2001 and has been occupied by Rodolfo Stavenhagen (2001-08), James Anaya (2008-14), Victoria Tauli-Corpuz (2014-20) and José Francisco Calí Tzay (since 2020).

self-perceptions, which are reflected in efforts to find appropriate terminology that demonstrates how they are politically and socially perceived. Next, *Section III*, which is more theoretically oriented, lays out the human rights basis for both freedom of religion or belief and the rights of Indigenous peoples. The aim is to clearly demonstrate that the rights of Indigenous peoples must be situated within the overall context of the global protection of human rights and interpreted systematically on that basis. This also applies to any kind of legal document related to Indigenous peoples' religious/spiritual ways of life that serves to specify how the universal right to freedom of religion or belief contextually applies to the needs and vulnerabilities of Indigenous peoples, while also further developing the substance of that right. *Section IV* attempts the tricky task of describing key aspects of the rich and varied Indigenous spirituality and religious practices, aiming to foster an appropriate sensitivity to the subject by delving into various dimensions of lived spirituality. This poses a particular challenge, not least because the conventional categories of theology, religious studies and legal studies are not readily compatible with Indigenous peoples' perspectives on themselves and the world. *Section V* then examines several areas of conflict as illustrative examples. While conflicts over missionary activity are always framed with reference to religion, the religious relevance of conflicts over land rights is often sidelined, although such disputes often involve aspects of freedom of religion or belief.

*Section VI* highlights several current trends that can facilitate the discourse around the rights of Indigenous peoples. In particular, the rise in awareness of environmental problems has drawn increased attention to Indigenous concerns in recent times. Not only are Indigenous peoples disproportionately affected by the impacts of the environmental wrong turns that have been taken worldwide; with their unique experiences and sensitivities in dealing with nature, they can make important contributions to solving these problems. The growing interest in Indigenous peoples in general also offers the opportunity to raise awareness, more specifically, about the issue of their freedom of religion or belief.

## II Basic information about Indigenous peoples

Indigenous peoples and communities live on every continent. Throughout history and up to the present day, a variety of terms have been used to describe individuals, communities and peoples living, in the past and now, in regions subsequently colonised and dominated by others: “*indios*/Indians,” “natives,” “Aborigines,” First Nations (or *originarios*),” “tribal peoples,” “hill tribes,” “nature peoples” (*Naturvölker*), and “Indigenous peoples” or even offensive slurs such as “savages,” “barbarians,” “naked ones” (*Nackte*), “primitives” and “heathens.”

All these words were coined during the colonial encounter as externally imposed labels for “the Other” from the vantage point of the people using the words. All the people designated by these terms have their own names for their communities and peoples. Thus, cultures, cosmovisions, social and political institutions and practices only become “Indigenous” once they are contrasted with those designated “non-Indigenous” in the context of the broader social and political structures in which people live and experience colonialism. In the course of decolonisation and in the context of international debates at the United Nations on human rights issues writ large, “Indigenous peoples” has now largely prevailed as the most appropriate term.<sup>9</sup>

However, despite years of discussion, this term has no universally accepted definition. The multiplicity of Indigenous peoples is so vast that a comprehensive, general definition would not do justice to the diversity of their circumstances and living conditions, including wide disparities in some cases. Nevertheless, a characterisation of Indigenous peoples and their rights would be incomplete without comprehensive reference to their right to self-determination, their collective and cultural rights and their rights to land, territories and associated resources. This is expressed

in the Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007.<sup>10</sup> In part, this diversity is reflected in cultural forms and principles, languages, worldviews, religions, social and economic forms of organisation, which take widely varied manifestations and have roots extending back to pre-colonial times. This diversity includes the descendants of non-sedentary peoples with scarcely any socio-political hierarchies as well the descendants of former kingdoms and imperial empires – insofar as they survived and were not brutally annihilated. At the same time, colonial conquest and penetration involved very different strategies and practices with disparate impacts on the local, colonised population.

This section will highlight two fundamentally distinct historical patterns, the effects of which are tangible to this day and must therefore be acknowledged in regard to policy:<sup>11</sup>

a) Beginning in the 15th century (primarily in North, Central, and South America, later also in Australia and New Zealand), European settlers entered regions with Indigenous populations and established their own economic, social and cultural systems there. Descendants of these colonial rulers founded nation-states and remained in

9 Adam Kuper, *The Reinvention of Primitive Society*. London/New York: Routledge (2005), p. 223.

10 United Nations, United Nations Declaration on the Rights of Indigenous Peoples (13 September 2007): [https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf).

11 See Victoria Tauli-Corpuz, “The Concept of Indigenous Peoples at the International Level: Origins, Development, and Challenges”, in: Christian Erni, ed., *The Concept of Indigenous Peoples in Asia: A Resource Book*. IWGIA documents no. 123. Copenhagen/Chiang Mai: IWGIA and Asia Indigenous Peoples Pact Foundation (2008), pp. 77–99, p. 79ff.

political and economic control. Many Indigenous peoples were completely eradicated, others drastically decimated. Their descendants henceforth lived mostly as minorities in their territory or constituted a segment of mainstream society as *mestizos*, who were usually underprivileged and marginalised. Postcolonial governments promoted the immigration of primarily European settlers to Indigenous territories. Even in postcolonial countries where European immigrants remained in the minority, they constituted the ruling class dominating these nation-states (for example, South Africa).

b) In various countries and regions, primarily in Africa and Asia, colonial powers established themselves as the ruling class and set up colonial governance systems. However, no large flows of migrants settled there. In addition, many of the settlers left the countries after their independence and the establishment of nation-states. During the colonial period, Indigenous individuals were in some cases integrated into and assimilated by the colonial system of governance. They constituted these countries' ruling class in the postcolonial era. However, various Indigenous peoples and communities resisted assimilation and continued to live on the basis of their Indigenous, precolonial systems. To this day, these peoples and communities face systematic racism and ongoing discrimination by postcolonial governments and the assimilated ruling population. Especially in these countries, the political system rejects the concept of Indigenousness as a designation for segments of the domestic population. The postcolonial dominant society, whose members fought for independence from colonial powers, still finds it difficult to recognise the non-assimilated population within the nation-states as distinct Indigenous peoples. Instead, efforts are made to establish *one* nation with *one* culture and *one* language within the national borders. Indigenous territories and peoples have been “integrated” and are viewed as belonging to the national territory

and its legal system. Mainly for this reason, the countries in question still have not ratified ILO Convention 169. Only in recent years have Indigenous peoples in Africa received some attention after being granted specific rights.<sup>12</sup>

For all the vast and far-reaching diversity of Indigenous peoples and communities and the differences in their historical experiences with colonialism, they also share much in common. They have maintained their identities as independent peoples. In most cases, they speak their own languages and live in their territories – although often only partially. Likewise, they mostly practise their own forms of subsistence and maintain their own relationships with the natural environment. Although the degree of destruction varies widely, all strive to preserve their identities and promote and cultivate their cultures, territories and languages, or at least what is left of them.

There are around 5,000 Indigenous peoples on Earth, comprising an estimated 476.6 million individuals in total. They constitute 6.2 per cent of the world population, and 70.5 per cent of them live in the Asia-Pacific region, 16.3 per cent in Africa, 11.5 per cent in Latin America and the Caribbean, 1.6 per cent in North America and 0.6 per cent in Europe. Only about 15 per cent live in the 24 countries that have ratified ILO Convention 169 of 1989. Thus, more than 30 years after its adoption, the vast majority of Indigenous peoples still do not enjoy the protections granted by this Convention.<sup>13</sup>

12 In 2010, the African Commission on Human and Peoples' Rights (ACHPR) recognised the land rights of an Indigenous people (Endorois, Kenya) for the first time. That same year, the Central African Republic ratified ILO Convention 169, thus strengthening the rights of the Indigenous Baka people.

13 International Labour Organization, *Implementing the ILO Indigenous and Tribal Peoples Convention No. 169: Towards an Inclusive, Sustainable, and Just Future*. Geneva: ILO (2019): [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_735607.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_735607.pdf)

# III Foundations in human rights

## 1 Defining freedom of religion or belief

Unlike the rights of Indigenous peoples, which have only recently gained broad recognition in the human rights context, freedom of religion – under the official title of “freedom of thought, conscience and religion or belief”<sup>14</sup> – is one of the “classic” human rights. Some accounts even rank it as one of the first human rights ever to be guaranteed by a state.<sup>15</sup> Today, it is not only enshrined in the constitutions of numerous countries, such as [Article 4](#) of the Basic Law for the Federal Republic of Germany, but also in various global and regional human rights conventions. The most important guarantee within the United Nations framework is provided by [Article 18](#) of the International Covenant on Civil and Political Rights of 1966.<sup>16</sup> This Covenant is based on the Universal Declaration of Human Rights of 1948,<sup>17</sup> which also contains a clause about freedom of religion in Article 18, although it is rather terse and not legally binding. Noteworthy instruments

for regional human rights protection include the Council of Europe’s European Convention on Human Rights ([Article 9](#)),<sup>18</sup> the American Convention on Human Rights ([Article 12](#))<sup>19</sup> established by the Organisation of American States (OAS); and the African Charter on Human and Peoples’ Rights ([Article 8](#)).<sup>20</sup> The Charter of Fundamental Rights of the European Union, which reaffirms freedom of religion ([Article 10](#)), also became legally binding upon the signing of the European Union’s Treaty of Lisbon in 2009.<sup>21</sup> Despite some differences in the details, the formulations of this human right are generally quite similar.

14 This has become the standard wording for the concept at the UN level. The term “belief” also encompasses comprehensive worldviews that are non-religious and is thus rendered in German as *Weltanschauung*. The French version of the text uses the term *conviction*. For the sake of readability, this Assessment often shortens it to “freedom of religion” while retaining this broader definition.

15 On “classic”: Georg Jellinek, “Die Erklärung der Menschen- und Bürgerrechte”, in Roman Schnur, ed., *Zur Geschichte der Erklärung der Menschenrechte*, Darmstadt: Wissenschaftliche Buchgesellschaft, 2nd ed., 1974, pp. 1–77. Available in English as Georg Jellinek, *The Declaration of the Rights of Man and of Citizens*, trans. unspecified, Essen, Germany: Neue Impulse Verlag, 2022.

16 International Covenant on Civil and Political Rights (1966): [www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights](http://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights). The years listed here and below always refer to the date a given document was adopted, not when it entered into force.

17 Universal Declaration of Human Rights (1948): [www.un.org/en/about-us/universal-declaration-of-human-rights](http://www.un.org/en/about-us/universal-declaration-of-human-rights).

18 European Convention on Human Rights (1950): [eur-lex.europa.eu/EN/legal-content/glossary/european-convention-on-human-rights-echr.html](http://eur-lex.europa.eu/EN/legal-content/glossary/european-convention-on-human-rights-echr.html).

19 American Convention on Human Rights (1969): [www.oas.org/dil/treaties\\_b-32\\_american\\_convention\\_on\\_human\\_rights.pdf](http://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf)

20 African Charter on Human and Peoples’ Rights (1981): <https://achpr.au.int/en/charter/african-charter-human-and-peoples-rights>.

21 EU Fundamental Rights Charter (2000): [www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)



## Article 18 of the International Covenant on Civil and Political Rights

- (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
- (2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
- (3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
- (4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Despite being thus broadly enshrined at different levels, freedom of religion remains politically contentious. It is not only frequently disregarded in practice, as evidenced by numerous violations worldwide.<sup>22</sup> Conceptually, too, it is subject to misunderstandings or even deliberate distortions that can obscure its character as a human right. As a result, clarifying it has proven necessary time and again. Most of all, it is crucial to understand that freedom of religion does not grant legal protection to religions as such. It does not establish protections for religious traditions' continued existence or their reputations, and neither does it serve as a vehicle for promoting religious values in society. Rather, as a secular human right, it protects the freedom of human beings within the broad realm of religious and philosophical convictions and associated individual and communal life practices.

The systematic relevance of this consistent focus on individuals as the primary legal subjects of freedom of religion is often overlooked, leading repeatedly to political misjudgements.<sup>23</sup> Certainly, freedom of religion broadly pertains to religion, which is included in the title of this right for good reason. However, strictly speaking, freedom of religion invariably approaches issues of religion indirectly, by way of individual people who are considered the holders of this right. It is up to individuals to decide their own relationship to religion – and therein lies the kernel of freedom at the centre of freedom of religion. Thus, freedom of religion applies to conventional or traditional religious practices just as much as it applies to reformist projects, such as a feminist reinterpretation of religious sources. It explicitly includes an individual's freedom to change their religion: whether by converting to another religion or by renouncing religion altogether, for example by adopting atheism or agnosticism. It also extends to hybrid or syncretic<sup>24</sup> forms of religiosity.

<sup>22</sup> These violations have been documented in a variety of formats, each with their own strengths but also limitations. One noteworthy example are the US State Department's International Religious Freedom Reports on individual countries, which are published on a nominally annual basis and compiled using information received from each US embassy according to a set rubric: [www.state.gov/international-religious-freedom-reports](http://www.state.gov/international-religious-freedom-reports)

<sup>23</sup> For a detailed picture, see Heiner Bielefeldt and Michael Wiener, *Religious Freedom under Scrutiny*, Philadelphia: University of Pennsylvania Press, 2019.

<sup>24</sup> This unusual adjective was chosen deliberately to avoid the negative connotations of the “-istic/ism” suffixes found in the more common terms “syncretistic/syncretism”.

In the context of Indigenous peoples' rights, it is important to keep in mind that freedom of religion does not safeguard the integrity of religion as such or immunise it against change. Given that involuntary assimilation constitutes the primary threat to the rights of Indigenous peoples, the goal of enabling self-directed community development, which includes the religious/spiritual way of life as a key component, is a central concern of the peoples in question. This is also manifested in the relevant formulations of Indigenous rights, as this Assessment will elaborate below. It would be a misunderstanding to conclude that the primary aim is to preserve or even restore a "primordial" Indigenous religiosity to be maintained free of change. It is advisable to exercise great caution in the face of ideas of primordiality that are often projected onto Indigenous peoples by outsiders.<sup>25</sup> In fact, over time, a diverse range of overlaps have developed between Indigenous worldview and spirituality on one side and influences from Christianity, Islam, Buddhism and other world religions on the other. Such syncretic or hybrid forms of religious practice are, of course, also protected by freedom of religion, as long as they have been chosen by the individuals in question as the holders of this right. The religion-related rights of Indigenous peoples, likewise, are systematically embedded in the overall context of freedom as a human right. This means that it is up to Indigenous people to decide autonomously how they define, develop, practise and seek respect for their religious/spiritual practice and likewise decide what state support or protection they consider necessary to those ends. The freedom of religious minorities or individual dissenters within Indigenous peoples is also covered by the right to freedom of religion.

As touched upon earlier, freedom of religion is not limited to matters of faith and confession; it also pertains to individual and communal life practices underpinned by such beliefs, both in private

and public (and thus also political) spheres. In many cases, these practices relate to themes such as communal worship services, initiation rites, religious socialisation of children and youth, training institutions for religious leaders, the construction of places of worship, conducting funerals, maintaining burial grounds, establishing charitable organisations and how to properly engage with nature ("creation"). The jurisprudence also deals with matters such as food and drink, dietary taboos, rules regarding fasting, and religious dress codes.<sup>26</sup> There is no exhaustive list of relevant topics; it would be impossible to compile a comprehensive overview because new problems and conflicts are continually arising, necessitating decisions. As decisions are taken on a case-by-case basis, the specific contours of freedom of religion evolve accordingly; thus, this freedom remains open to new developments like other human rights. The same is true of claims by Indigenous peoples and individuals, which have been the subject of comparatively few legal rulings related to freedom of religion. Their increased integration into the practical application of freedom of religion is likely to lead to further changes in the understanding of this human right. Structurally, freedom of religion is certainly amenable to this.

Like other human rights, freedom of religion is characterised not only by its dimension of freedom, which is invoked in the very title of this right; it also has a dimension of equality that is no less important. On a concrete level, the principle that all people are equal in regard to their fundamental freedoms is implemented by banning discrimination, i.e. unjust unequal treatment. Corresponding provisions are found in all far-reaching human rights documents. As an example of this paradigm, Article 2, para. 1 of the Universal Declaration of Human Rights states that the guarantees mentioned in the Declaration apply to all people, "without distinction of any kind, such as race, colour, sex, language, religion, political or

25 This is also stressed, specifically in reference to the Inuit, in Barbara Schellhammer, "Dichte Beschreibungen" in *der Arktis: Clifford Geertz und die Kulturrevolution der Inuit in Nordkanada*, Bielefeld, Germany: Transcript-Verlag, 2015, p. 321.

26 See Paul M. Taylor, *Freedom of Religion: UN and European Human Rights Law and Practice*, Cambridge: Cambridge University Press, 2005.

other opinion, national or social origin, property, birth or other status.”<sup>27</sup> The list of criteria for what constitutes unequal treatment remains open-ended for possible additions.<sup>28</sup> In any case, such lists regularly include the characteristic of religion – and more recently, belief. Article 3 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief<sup>29</sup> declares in no uncertain terms: “Discrimination between human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations [...]”.

In the context of human rights, equality does not imply a goal of superficial homogeneity, let alone uniformity. In other words, “equality” does not mean “sameness.” Instead, it is about according *equal respect* to people *particularly in the diversity* of their different situations, orientations, needs or vulnerabilities. Enacting this ambition is no easy task. Nowhere are the challenges of equitably considering relevant differences as acutely evident as in the realm of freedom of religion or belief.<sup>30</sup> This is largely due to the unmistakable multiplicity of religious convictions and practices. For example, a hypothetical proposal to allow all religious communities equally the right to ring bells on Sundays would obviously be absurd; more so, it would be an offensive caricature of the equality demanded by human rights. Instead, in the interest of properly conceived equality, it may be appropriate to exempt members of specific

minorities from otherwise applicable general rules. This would be reasonable in cases when the general rules at play inherently reflect dominant religious/cultural perspectives, which are often viewed unquestioningly as “normality” and treated as yardsticks for measuring it.

In human rights discourse, the concept of “reasonable accommodation” has become established for this sort of flexible consideration of the particular situations of minorities.<sup>31</sup> Contrary to a common misconception, this is not a matter of granting “privileges,” but about fairly compensating for the fact that religious or other minorities are often subjected to regulations that contradict how they see themselves and burden them disproportionately. As Gérard Bouchard and Charles Taylor emphasised in their report on “reasonable accommodation” for the government of the Canadian Province of Quebec, “differential treatment” does not serve the goal of “preferential treatment.”<sup>32</sup> The practice of “reasonable accommodation” does not violate the framework of equality; on the contrary, it engages in a quest for a suitable contextual translation of the principle of equality. Therefore, this approach is ideally suited to systematically accommodating the special situations, needs and interests of Indigenous peoples within the overall context of egalitarian human rights. This has already happened on occasion. One example is the authorisation, created within the US jurisprudence and legislation on freedom of religion, to use certain otherwise

27 The use and appropriate German translation of the English term “race” has long been a subject of controversies that cannot be described in greater depth here. Some organisations, such as the German section of Amnesty International, have chosen to replace the problematic word *Rasse* with *rassistische Zuschreibung* (literally “racist ascription”).

28 In more recent documents on human rights, the list has been expanded to include factors such as disability, age and sexual orientation, for example in Article 21 of the EU Charter of Fundamental Rights.

29 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981): [www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-all-forms-intolerance-and-discrimination](http://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-all-forms-intolerance-and-discrimination).

30 See W. Cole Durham, Jr., “Religion and Equality. Reconcilable Differences?,” in W. Cole Durham, Jr. and Donly Thayer, eds., *Religion and Equality: Law in Conflict*, London/New York: Routledge, 2016, pp. 185–202.

31 This principle was enshrined on a binding basis in Article 5, para. 3 of the UN Convention on the Rights of Persons with Disabilities (2006): [www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities](http://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities). “Reasonable accommodation” is explicitly situated in the context of the ban on discrimination, which is thus elaborated with greater complexity. In the official German version of the Convention, “reasonable accommodation” is rendered using the term *angemessene Vorkehrungen*. The important aspect of creating space (“accommodation”) is lost in this translation.

32 Gérard Bouchard and Charles Taylor, *Building the Future. A Time for Reconciliation: Abridged Report*, Government of Québec, 2008, p. 25.

prohibited narcotics such as the peyote plant within Indigenous religious practices.<sup>33</sup> This topic will be discussed more thoroughly in the section on conflicts below.

Although the scope of freedom of religion must be broadly defined, it is not unlimited. “Absolute” protection applies only to the “forum internum,” that is a person’s interior realm of personal convictions, which should manifest free from any coercion and be allowed to change.<sup>34</sup> The prohibition on coercion within the *forum internum* covered by freedom of religion is stated in terms just as categorical as those used to condemn torture and outlaw slavery.<sup>35</sup> External manifestations of freedom of religion, which primarily include practical matters of religion-based individual and communal ways of life, may be restricted for the sake of protecting legal rights of the same order – particularly competing human rights claims – in the absence of an alternative solution. Although the protection of freedom of religion within the “forum externum” is not absolute, according to this principle, it remains high priority. At any rate, it would be fundamentally wrong to treat the relevant limitation clauses – such as Article 18, para. 3 of the International Covenant on Civil and Political Rights<sup>36</sup> – as a blank cheque for countries to impose restrictions on freedom of religion at their discretion.<sup>37</sup>

Properly understood, the limitation clause serves the opposite purpose: it attaches state-imposed restrictions to binding and verifiable criteria.<sup>38</sup> Within German legal literature, this critical function has coined the very fitting term *Schranken-Schranken* (“limitations on limitations”): the idea that government’s ability to

impose restrictions should itself be restricted. The goal is to prevent arbitrary interventions into civil liberties and to uphold their importance even in cases of conflict. Therefore, restrictions on freedom of religion require detailed government justification, which, in turn, must meet specific predefined criteria. The criteria include a clearly articulated legal basis, the purpose of safeguarding high-priority objects of legal protection (such as public order, public health or the human rights of others) and adherence to the principle of proportionality, which in turn encompasses several subcategories (suitability, necessity and proportionality in the narrow sense). This full set of criteria, whose application requires empirical scrupulousness and precision, constitutes a complex legal standard that restrictive laws or measures must meet to be justifiable. Furthermore, individuals who perceive their right to freedom of religion as violated must have access to legal recourse.<sup>39</sup>

The distinction between the *forum internum* and *forum externum* within freedom of religion becomes relevant, for example, in the context of missionary activity targeting Indigenous peoples. Whereas personal conversion to another religion or belief falls within the absolutely protected realm of the *forum internum*, missionary activity lies within realm of external manifestations. The protection of freedom of religion is not unconditional here, yet it must always serve as a binding starting point, dictated by the high importance of the human right to freedom of religion. By contrast, coercive missionary activity would plainly be incompatible with freedom of religion. Similarly, coercive measures taken with the purpose of preventing a personal change in belief would also

33 See René Kuppe, *Indianische Sacred Sites und das Recht auf Religionsfreiheit in den Vereinigten Staaten von Amerika*. Post-doctoral dissertation submitted to the Faculty of Law at the University of Vienna, November 2003 (typescript), pp. 205–224.

34 See Article 18, para. 2 of the International Covenant on Civil and Political Rights.

35 See Articles 7 and 8 of the International Covenant on Civil and Political Rights.

36 Similar clauses regarding possible limitations can also be found in other guarantees of the freedom of religion or belief.

37 Saba Mahmood fails to recognise this, for example, when she writes about the treatment of the external manifestations of freedom of religion or belief, arguing that the state has “a legitimate right to regulate and limit” these manifestations. Saba Mahmood, *Religious Difference in a Secular Age: A Minority Report*, Princeton: Princeton University Press, 2016, p. 156.

38 See T. Jeremy Gunn, “Permissible Limitations on the Freedom of Religion or Belief”, in John Witte, Jr. and Christian Green, eds., *Religion and Human Rights: An Introduction*, Oxford: Oxford University Press, 2012, pp. 254–268.

39 These criteria were detailed by the UN Human Rights Committee, responsible for monitoring the International Covenant on Civil and Political Rights, in section 8 of its General Comment No. 22 (1993). See UN doc. CCPR/C/21/Rev.1/Add.4 (30 April 1993).

constitute a clear violation of freedom of religion. Aside from the use of overt or covert coercion, cases perennially arise whose human rights implications are not immediately obvious and require careful contextual scrutiny.

Thus, freedom of religion proves to be a complex human right. With its focus on human dignity, freedom and equality, it embodies the same normative principles that characterise the overall human rights approach. In practice, it also frequently overlaps with other human rights, such as freedom of opinion and expression, freedom of assembly and the rights of cultural minorities. Such partial overlaps do not pose a problem but rather underscore that the various human rights standards are intrinsically linked and complement one another.<sup>40</sup> Therefore, it is possible, and indeed common, for individuals to invoke several human rights at once when voicing their concerns. Such invocation of multiple, possibly “adjacent,” human rights can also be helpful in enforcing the rights of Indigenous peoples.

## 2 The rights of Indigenous peoples: A long-neglected subject in human rights

The United Nations Declaration on the Rights of Indigenous Peoples, adopted on 13 September 2007<sup>41</sup> (abbreviated as UNDRIP), marks the provisional culmination of the process of systematically integrating the legal claims of Indigenous peoples into the international framework of human rights. Of course, this was not always the case. The Universal Declaration of Human

Rights, dated 10 December 1948, which initiated the codification of human rights standards at the global level, does not mention Indigenous peoples or individuals. The same was true, at first, of the various legally binding conventions that emerged in the wake of the Universal Declaration, including the two extensive human rights covenants of 1966: the International Covenant on Economic, Social and Cultural Rights<sup>42</sup> and the International Covenant on Civil and Political Rights.<sup>43</sup>

The omission of Indigenous peoples did not prevent the treaty bodies responsible for monitoring compliance with the respective conventions from considering the concerns of Indigenous individuals, groups or peoples in their work and developing, at the very least, elements of jurisprudence about the rights of Indigenous peoples over time. For example, the UN Human Rights Committee, tasked with monitoring the International Covenant on Civil and Political Rights, explicitly invokes the land rights of Indigenous peoples in 1994 in its commentary on Article 27 (i.e. the rights of minorities).<sup>44</sup> In 1997, the treaty body that oversees the International Convention on the Elimination of All Forms of Racial Discrimination<sup>45</sup> clarified that the rights of Indigenous peoples generally fall within the scope of the Convention.<sup>46</sup> However, it was not until the 1989 adoption of the UN Convention on the Rights of the Child<sup>47</sup> that Indigenous people – specifically Indigenous children – were directly mentioned in the text of the convention itself (in Article 30).

Meanwhile, the existing internationally binding agreements on the rights of Indigenous peoples at the global level were developed under the auspices of the International Labour Organisation

40 The concept of the “indivisibility” of human rights, suggesting that rights are intrinsically interconnected, has established itself in the international discourse.

41 United Nations Declaration on the Rights of Indigenous Peoples (2007): [www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](http://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).

42 International Covenant on Economic, Social and Cultural Rights (1966): [www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights](http://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights).

43 See footnote 16, above.

44 See UN doc. CCPR/C/21/Rev.1/Add.5 (8 April 1993), section 7.

45 International Convention on the Elimination of All Forms of Racial Discrimination (1965): [www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial](http://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial)

46 See CERD, Gen. Rec. No. 23 (18 August 1997).

47 Convention on the Rights of the Child (1981): [www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child](http://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child).



(ILO). This independent context of their genesis might give the problematic impression that the standardisation of human rights on the one hand and the rights of Indigenous peoples on the other have been two parallel, not systematically interconnected, developments. This notion has repeatedly been voiced in the political discourse.<sup>48</sup> ILO Convention 107 of 1957 cautiously avoids referring to Indigenous groups as “peoples,” a term associated with more extensive claims to collective self-determination, and instead speaks of “indigenous and tribal populations.”<sup>49</sup> It was not until ILO Convention 169 of 1989 that an international legal instrument invoked the rights of “indigenous and tribal peoples” in its title.<sup>50</sup>

To this day, the ILO Convention 169 represents the most important legally binding guarantee of the rights of Indigenous peoples at the global level. However, it has only been ratified by 24 states to date – mostly in Latin America. Germany acceded to the Convention in 2021.<sup>51</sup>

The context of this lengthy and somewhat convoluted process reveals the enormity and particularly clarifying significance of the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Although not legally binding, UNDRIP boasts high political and legal authority: the Declaration was adopted by the overwhelming majority of countries, with only four votes against and 11 abstentions; the four countries that voted against the Declaration at the time have since revised their position and expressed their support for the document.<sup>52</sup> UNDRIP thus represents a now solidified consensus by the international community regarding the import and substance of the rights of Indigenous

peoples and thus holds significant sway.<sup>53</sup> James Anaya, the former UN Special Rapporteur on the Rights of Indigenous Peoples (2008-2014), praises UNDRIP as the most important document on the rights of Indigenous peoples now in place at the global level, the outcome of an international consensus cultivated over the course of decades: “The Declaration on the Rights of Indigenous Peoples is the most important of these developments globally, encapsulating as it does the widely shared understanding about the rights of indigenous peoples that has been building over decades on a foundation of previously existing sources of international human rights law.”<sup>54</sup>

As Anaya stresses in his tribute quoted above, UNDRIP also makes clear that the rights of Indigenous peoples are systematically situated within the overall context of human rights and must be interpreted on that basis. In principle, this is also upheld by ILO Convention 169;<sup>55</sup> however, the formulations in UNDRIP are more detailed in this regard. For instance, Article 1 of UNDRIP underscores that human rights fully apply to Indigenous peoples and their individual members: “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.” This comprehensive clarification naturally encompasses the freedom of religion or belief.

Their systematic integration into the overall context of human rights is also evident in other parts of the Declaration. For example, the principle of equality between men and women, already

48 See Section III, 3. *The rights of Indigenous peoples versus human rights: Widespread misunderstandings*

49 [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C107](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107).

50 [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169).

51 See [https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/WCMS\\_807508/lang--en/index.htm](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/indigenous-and-tribal-peoples/WCMS_807508/lang--en/index.htm).

52 See Jessica Eichler, *Die Rechte indigener Völker im Menschenrechtssystem: Normen, Institutionen und gesellschaftliche Auswirkungen*, Baden-Baden: Nomos, 2022, p. 83.

53 Of course, this does not mean that they recognise and respect the rights of Indigenous peoples within their own jurisdictions. Some countries have changed their national laws following UNDRIP, however. See Eichler, *Die Rechte indigener Völker im Menschenrechtssystem*, op. cit., p. 96, which specifically mentions Ecuador, San Salvador, and Kenya.

54 UN doc. A/HRC/9/9 (James Anaya, 11 August 2008), section 18.

55 See, for example, Article 3, para. 1 of ILO Convention 169.

enshrined in the UN Charter of 1945, is reaffirmed in Article 44 of UNDRIP: “All the rights and freedoms recognised herein are equally guaranteed to male and female indigenous individuals.” Gender equity concerns must therefore always be consistently ensured in the interpretation and implementation of the rights of Indigenous peoples. One can easily imagine that this frequently gives rise to controversies and political conflicts.

The final article of UNDRIP, Article 46, contains a limitation clause similar to those found in relation to various human rights. The same article indicates the human rights-based structure of the Declaration on the Rights of Indigenous Peoples. As with the limitation clause on freedom of religion (in Article 18, para. 3 of the International Covenant on Civil and Political Rights), the idea is not to issue a blank cheque for countries to restrict the rights of Indigenous peoples. Quite the contrary, it is about making any limitations that a country deems necessary contingent upon strict criteria; the country then bears the burden of proof that these criteria have been met. This critical function can again be described using the term *Schranken-Schranken*, or “limitations on limitations,” as described above in the section about freedom of religion. According to this principle, restrictions can only be justified if they have a sound legal foundation and are compatible with international human rights obligations. Restrictions must also serve to secure the rights of others or to enforce the justified and “most compelling” concerns of a democratic society, and they must be strictly necessary for these purposes. Moreover, their structure must be non-discriminatory. All these conditions apply in conjunction, collectively setting a very high bar. The relevant passage in Article 46, para. 2, second and third sentences, reads: “The exercise of the rights set forth in this Declaration shall be subject *only* to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting

the just and most compelling requirements of a democratic society.” Especially important within this provision is the word “only” (emphasis added), which clarifies that when in doubt, restrictions are illegitimate. Only under narrowly defined conditions can an exception be made justifying restrictions.

### International instruments to protect the rights of Indigenous peoples

- ILO Convention 107 (1957), ratified by 27 countries
- ILO Convention 169 (1989), ratified by 24 countries (including Germany)
- UN Declaration on the Rights of Indigenous Peoples (2007)
- EMDRIP (Expert Mechanism on the Rights of Indigenous Peoples, implementing the UN Declaration of 2007)
- UN Permanent Forum on Indigenous Issues (since 2000)
- UN Special Rapporteur on the Rights of Indigenous Peoples (since 2001)

On the regional level, the most significant breakthroughs have occurred in Latin America, within the framework of the Organization of American States (OAS). Based on the OAS American Convention on Human Rights of 1969,<sup>56</sup> the Inter-American Commission on Human Rights in Washington, D.C. (USA) and the Inter-American Court of Human Rights in San José (Costa Rica) have made key decisions and thus developed jurisprudence that can serve as a model for other regions. Anaya refers to the “path-breaking role” of the Inter-American Commission on Human Rights

<sup>56</sup> American Convention on Human Rights (1969): [www.oas.org/dil/treaties\\_b-32\\_american\\_convention\\_on\\_human\\_rights.pdf](http://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf)

and the Inter-American Court of Human Rights in developing the rights of Indigenous peoples.<sup>57</sup> The focus here is primarily on land rights, which are not only fundamental to the economic basis of survival but also integral to social structure, culture, spirituality and religion. In 2016, the OAS adopted an American Declaration on the Rights of Indigenous Peoples; the United States and Canada, which had previously expressed reservations about the Declaration, also signed it.<sup>58</sup> There is currently no comparable declaration in other regions. The fact that Latin American states are among the pioneers in recognising and promoting the rights of Indigenous peoples is evident in the list of countries that have ratified ILO Convention 169, which is overwhelmingly dominated by signatories from the region.<sup>59</sup>

Recently, however, interesting regional contributions to the development of Indigenous rights have also come from Africa. A working group of the African Commission on Human and Peoples' Rights, established in 1999, has since presented several reports, in which it has developed a definition of Indigenous communities tailored to African countries.<sup>60</sup> Key elements of the definition include a communal way of life unlike that of the majority society, a special connection to the land they have traditionally used, the existence of real risks of discrimination and marginalisation and how the people concerned see themselves. African states had previously asserted, almost unanimously, that the matrix of factors in North and South America, Australia and New Zealand, where the countries' occupation by European colonial powers is seen as the decisive historical rupture, did not apply to their own situation; indeed, based on this matrix, almost the entire population would have to be considered "Indigenous," which obviously makes little sense.<sup>61</sup>

The clarifications by this African Commission working group are all the more remarkable against the backdrop of such scepticism. They can contribute to a more open, arguably more "fluid" definition of Indigenous people beyond the African context, one that relies less on pre-colonial "origins" as has often been the focus to date, and instead pays greater attention to particularly vulnerable situations (namely the pressure of involuntary assimilation) and to the identities of the people concerned. Not only does a strong focus on pre-colonial "origins" repeatedly lead to difficulties establishing concrete documentation; it can also give rise to romanticising origin myths and exoticising stereotypes, which are problematic from a human rights perspective. An emphasis on particularly vulnerable situations, by contrast, aligns with the human rights approach; it is also familiar from other contexts – such as the rights of cultural and linguistic minorities or the treatment of refugees.<sup>62</sup> Thus, the recent innovations from Africa hold promise for future progress in Indigenous rights.

### 3 The rights of Indigenous peoples versus human rights: Widespread misunderstandings

The integration of Indigenous peoples' rights into the overall framework of human rights has now been clearly formulated, culminating on a global level in the UN Declaration of 2007. Nevertheless, the political discourse remains rife with antagonistic characterisations suggesting that these are two fundamentally different, perhaps even antithetical, categories of rights. The following three arguments are most commonly put forward by sceptics contending that human rights and the

57 UN doc. A/HRC/9/9 (James Anaya, 11 August 2008), section 28.

58 American Declaration on the Rights of Indigenous Peoples (2016): [www.oas.org/en/sare/documents/DecAmIND.pdf](http://www.oas.org/en/sare/documents/DecAmIND.pdf).

59 Of the 24 countries that have ratified it, 15 are located in the region of Latin America including the Caribbean (as of December 2022). See [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312314](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312314).

60 The committee's name, Working Group on Indigenous Populations/Communities and Minorities in Africa, seems to be intentionally avoiding the term "peoples," to which broader claims of self-determination are attached.

61 See also the discussions above under *Section II: Basic information about Indigenous peoples*.

62 See Alexander H.E. Morawa, "'Vulnerability' as a Concept in International Human Rights Law", *Journal of International Relations and Development*, vol. 10 (2003), pp. 139–155.

rights of Indigenous peoples are not truly compatible: (3.1) Whereas human rights primarily serve to protect individuals, the rights of Indigenous peoples are about collective entitlements. (3.2) Whereas human rights claim universal applicability for all people, the rights of Indigenous peoples have the character of “special rights,” incompatible with the universalism of human rights. (3.3) Unlike modern human rights, the rights of Indigenous peoples are oriented towards pre-modern ways of life and legal concepts. Upon closer examination, however, these abstract, antagonistic interpretations can be readily debunked, as the following subsections will briefly illustrate.

### 3.1 Collective rights versus individual rights

Indisputably, most human rights centre on protecting individuals. However, it would be a mistake to extrapolate from that an abstract opposition to collective concerns. Ultimately, human rights always have collective dimensions. One obvious example is the freedom of assembly and association. It is up to each individual to decide whether or not to take part in an assembly, such as a political demonstration; therein lies the kernel of individual rights at the centre of freedom of assembly.<sup>63</sup>

However, this right can only be meaningfully exercised together with other people. Furthermore, people who want to sustain specific collective activities over a longer term have recourse to the freedom of association, which underpins the establishment of civil society organisations, for example. Thus, an institutional dimension also comes into play, as also seen in other human rights. Traditionally, appeals for freedom of opinion and expression<sup>64</sup> have most often invoked “freedom of the press” – making reference to an important social institution. This is telling. Besides granting the option to express individual opinions freely, freedom of opinion and expression primarily

serves the purpose of enabling a community forum for liberal discourse, for which institutions – such as a pluralistic media landscape – are essential prerequisites. Hence, this freedom inherently entails significant community and institutional aspects. As already illustrated, freedom of religion exhibits a similarly complex structure. It would certainly be a mistake to allow freedom of individual belief and creed to fully overshadow its collective, institutional and infrastructural aspects. Matters such as building synagogues, churches, temples or mosques; arranging pilgrimages and public holidays; and organising cemeteries have always been important to the practice of freedom of religion.<sup>65</sup> The legal structures these matters necessitate cannot be adequately captured from a narrowly conceived individual rights approach. There are numerous examples demonstrating the direct or indirect community-based or institutional dimensions of all human rights.

By contrast, the specific rights of Indigenous peoples, invoked in the very title of UNDRIP, are decisively group-oriented by design. However, they are also explicitly intended to protect Indigenous individuals from discrimination, marginalisation or exclusion. UNDRIP’s wording is unambiguous in this respect. As mentioned earlier, Article 1 affirms all the human rights of Indigenous people(s) in both dimensions, “as a collective or as individuals.” The subsequent articles refer either to “indigenous peoples” or “indigenous individuals,” or they link both aspects using the phrase “indigenous individuals and peoples.” Gender equality is reaffirmed in Article 44 with a clause stipulating that all rights recognised in the Declaration are guaranteed to “male and female indigenous individuals” equally. The list of examples could go on. Hence, the component of individual rights must always be borne in mind alongside the collective dimension.<sup>66</sup>

63 See Article 21 of the International Covenant on Civil and Political Rights.

64 See Article 19 of the International Covenant on Civil and Political Rights.

65 For more details, see Heiner Bielefeldt, Michael Wiener and Nazila Ghanea, *Freedom of Religion or Belief: An International Law Commentary*, Oxford: Oxford University Press, 2016, pp. 117–143, 166–179, 223–232.

66 See the critique by Eichler, *Die Rechte indigener Völker im Menschenrechtssystem*, op. cit., p. 85, which asserts that “the continuing prioritisation of individual rights” could “largely undermine vernacular expressions of law” (translation for this Assessment).

Certainly, tensions and conflicts may arise between individual and communal legal claims, which are sometimes difficult to resolve. Within the context of freedom of religion, the individual right to freedom of choice in religious practice may collide with the interest in sustaining a collective religio-cultural identity. However, it would be a fallacy to categorise such conflicts summarily into boxes, always grouping “classic human rights” in the individual category and Indigenous rights in the group category. Even within the “classic” human right of freedom of opinion and expression, for example, the interests of individual journalists may clash with the standards of the organisation they work for (a collective, an institution or a particular news desk). In such cases as well, individual and group-specific legal entitlements are occasionally at odds.<sup>67</sup> The quest for appropriate resolutions to these conflict situations has always been part of human rights practice. Naturally, that applies to freedom of religion, which likewise encompasses individual, community and institutional aspects. Conversely, within the rights of Indigenous peoples, individual and group-specific concerns can collide, for example, in the use of land, settlement questions, or when electing political representative bodies.

Thus, the political construct of an ostensibly intrinsic opposition between human rights and the rights of Indigenous peoples within the matrix of individual rights versus collective rights is overly simplistic and not at all useful in understanding existing problems and conflicts. Just as it is unacceptable to associate human rights writ large with a narrowly conceived individual rights approach (or even with an individualistic, “Western” lifestyle), it is equally inappropriate to pit the rights of Indigenous peoples and individuals against them, sweepingly declaring them to be collective rights.<sup>68</sup>

### 3.2 Group-specific “special rights” versus universal human rights

Individuals are inherently entitled to their human rights simply by virtue of their humanity; thus, human rights apply to all people equally. This is the basic approach underpinning the normative universalism of human rights. The preamble of the Universal Declaration of Human Rights of 1948 invokes the “equal and inalienable rights of all members of the human family,” grounded in everyone’s “inherent dignity.” Most articles of the Universal Declaration begin with the word “everyone”: everyone has the right to life, freedom of opinion and expression, freedom of religion, health, education, etc. By contrast, each article of UNDRIP specifically refers to Indigenous peoples, groups or individuals. This difference in wording could give the impression that the specific rights of Indigenous peoples lie outside the matrix of universal human rights and are perhaps even at odds with it. Rather than being concerned with the fundamental rights of all people, it might seem to be about “special rights” reserved from the outset for certain groups of people.

However, the universalistic, normative structure of human rights does not preclude special consideration for vulnerable situations; quite the contrary. While human rights advocacy ultimately benefits all people, it must always engage with specific contexts and has always differentiated between varying nuances and degrees of need, urgency and vulnerability. Therefore, the special attention deserved by people in high-risk situations – such as refugees, internally displaced persons and those in pre-trial detention – does not contradict the universalism of human rights. One illustrative example is the Convention on the Rights of Persons with Disabilities, adopted by the UN General Assembly in December 2006.<sup>69</sup>

67 Another example: When exercising their right to freedom of assembly, the organising teams of demonstrations are regularly confronted with the question of how to address individual statements that run counter to the event’s overall purpose.

68 Along these lines, see also Janne Mende, *Kultur als Menschenrecht? Ambivalenzen kollektiver Rechtsforderungen*, Frankfurt am Main: Campus, 2015, p. 225.

69 Convention on the Rights of Persons with Disabilities (2006): [www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities](http://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities).



The Convention does not set out to establish new rights for a specific group of people – apart from the universal human rights – but instead assesses the entire landscape of human rights through the experiential lenses of people with various disabilities in order to identify necessary amendments and modifications. As opposed to “special rights,” this is about systematically considering the experiences of people with disabilities who had long been marginalised in human rights discourse. Thus, far from constituting a “particularistic” foil to universal human rights, the Convention on the Rights of Persons with Disabilities helps to sharpen human rights’ claim to universalism in context, frame it more inclusively and thus enact it as consistent policy.

James Anaya undertakes a similar systematic categorisation for UNDRIP. In his 2008 report for the UN, he applauds the UN Declaration on the Rights of Indigenous Peoples, adopted a few months previously, as an important historic breakthrough. In his view, its relevance lies primarily in its consistent manner of linking Indigenous rights back to universally applicable human rights. Rather than establishing “special rights” or “new rights” for Indigenous people(s) that contradict that universalism, the Declaration advances those human rights to accommodate previously neglected circumstances. Anaya’s report culminates in the following clarification, which holds systematic importance: “Accordingly, the Declaration does not attempt to bestow indigenous peoples with a set of special or new human rights, but rather provides a contextualised elaboration of general human rights principles and rights as they relate to the specific historical, cultural and social circumstances of indigenous peoples.”<sup>70</sup>

Thus, rather than being “special rights” (let alone special privileges), the rights of Indigenous peoples are a matter of according due attention to extreme injustices that were long neglected within the human rights discourse. The so-called “discovery” of foreign territories by European colonisers, who labelled these areas “terra nullius” (land belonging to no-one) and simply swept

aside the claims of Indigenous peoples, marked the beginning of centuries of injustice characterised by racist stigmatisation, genocidal violence, the systematic deprivation of rights, cultural estrangement and forced assimilation. From this perspective, proclaiming the rights of Indigenous peoples constitutes a form of restitution; Anaya refers to the “essentially remedial character” of UNDRIP: “The standards affirmed in the Declaration share an essentially remedial character, seeking to redress the systemic obstacles and discrimination that indigenous peoples have faced in their enjoyment of basic human rights.”<sup>71</sup> From this point of view, incorporating the specific human rights concerns of Indigenous peoples is by no means at odds with universal human rights. One could go so far as to say that, in light of Indigenous experiences of injustice, it is indispensable if continuing to frame and politically defend the universalism of human rights as an inclusive concept is to remain credible.

### 3.3 Traditional way of life versus emancipation by human rights

Human rights are a modern legal concept with an emancipatory orientation. It is no coincidence that many of these rights include the notion of freedom in their titles: freedom of opinion and expression, freedom of religion, freedom of assembly, and so forth. The purpose of human rights is to enable people to free themselves from cultural, religious and political authoritarianism and to take charge of their own lives, both as individuals and in community with others. Both historically and as a system, human rights are also closely linked with modern liberal democracy. In contrast, the rights of Indigenous peoples focus on preserving their cultural and spiritual heritage, which is often associated with the land they have traditionally used. Does this not present an apparent contradiction in objectives? At first glance, it might seem so.

However, the explicitly developmental orientation of Indigenous rights controverts that sort of antagonistic perspective. The goal of UNDRIP

70 UN doc. A/HRC/9/9 (James Anaya, 11 August 2008), section 86.

71 Ibid., section 86.

and similar instruments designed to protect Indigenous rights is not to preserve, as though in a museum, a “primordial” way of life – which often turns out to be a stereotypical myth – and disengage it from modern development. Rather, the aim is to ensure that Indigenous peoples have the opportunity for self-directed and independent development. In the words of John Borrows, “Freezing the development of Aboriginal rights at the ‘magic moment of European contact’ is [...] contrary to the broad framing of rights found in UNDRIP, as illustrated in Article 1.”<sup>72</sup> Indeed, the rights of Indigenous peoples always do make reference to traditions, that is, ideas and practices transmitted across generations, but they are also oriented towards the future, one in which human rights provide a critical benchmark. In this conjunction, Borrows identifies challenges for Indigenous peoples to find their own self-determined paths towards a culture of Indigenous human rights that also makes space for individual freedoms as required by UNDRIP: “It would be tragically ironic if nation-states began recognising and protecting the rights of indigenous individuals, while indigenous governments did not take the same action.”<sup>73</sup> Brenda L. Gunn is even more direct when she cautions against romanticising the status quo of Indigenous traditions and shielding them from change. In her eyes, the true task is to ensure ongoing development so that Indigenous worldviews and modern human rights – explicitly including equality between men and women<sup>74</sup> – can be intertwined. This, in turn, requires Indigenous people to be open to reform. “Finally, where Indigenous legal traditions did not historically meet contemporary human

rights standards, the traditions must continue to evolve.”<sup>75</sup> The “evolution” she is calling for implies that Indigenous peoples have the self-determination to find and shape their development path, which is not the same thing as being subjugated by Western, Eurocentric norms and standards.

The endeavour to forge an autonomous Indigenous approach to universal human rights corresponds to the crucial understanding that paths of development towards emancipation as a human right can vary and need not be modelled on Western societies, as was long implicitly assumed. This is also true for legal entitlements to gender justice, which have only recently been integrated into the human rights discourse. Different approaches can also lead to the goal of gender equality, although the equality enshrined in Article 44 of UNDRIP must not be compromised. The project “to decolonise the colonised Indigenous peoples”<sup>76</sup> merges with the broader interest in “decolonising” the very concept of human rights, critically opening it up beyond Eurocentric appropriation and constriction.<sup>77</sup> Viewed from such a panoramic perspective, Indigenous rights can bolster the plausibility of the human rights approach as a whole by decoupling it from its implicit or even explicit ties to a particular model of development and progress, namely a Eurocentric one. For all its relevance, this critical function of Indigenous rights for advancing the decolonisation of human rights’ semantics and conceptual vocabulary has been raised far too infrequently. In other words, just as Indigenous rights must be understood within the full context of human rights, the converse is also true: human rights writ large can only be

72 John Borrows, “Revitalizing Canada’s Indigenous Constitution: Two Challenges”, in *UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws*, Waterloo, Canada: Centre for International Governance Innovation, 2017, p. 22.

73 Ibid., pp. 25f.

74 See Article 44 of UNDRIP.

75 Brenda L. Gunn, “Beyond Van der Peet: Bringing Together International, Indigenous and Constitutional Law”, in *UNDRIP Implementation*, op. cit., p. 37.

76 In the words of James (Sa’ke’j) Youngblood Henderson, “The Art of Braiding Indigenous Peoples’ Inherent Human Rights into the Law of Nation-States”, in *UNDRIP Implementation*, op. cit., p. 13.

77 This process has long been under way, yet it is far from being finished and will likely never reach a definitive conclusion. For more on this, see Kathryn Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century*, Princeton: Princeton University Press, 2017. Sikkink invokes a “creolisation” of human rights, which, thanks to long-standing contributions from Latin America, can no longer be considered an exclusively Western legal concept. Additionally, the decolonisation process experienced by African societies in the 1960s played a significant role, leading in part to the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination. See Steven L.B. Jensen, *The Making of International Human Rights: The 1960s, Decolonisation, and the Construction of Global Values*, Cambridge: Cambridge University Press, 2016.

properly interpreted today if they include the human rights concerns of Indigenous people(s). The rights of Indigenous peoples, therefore, are not one “marginal issue” within human rights policy; they play a vital role in defining a contemporary understanding of universal human rights.

In summary, the notion that universal human rights and the rights of Indigenous peoples are flat-out mutually contradictory is misguided. While specific conflicts may arise from time to time, requiring a search for appropriate resolutions,<sup>78</sup> such conflicts are normal in human rights practice; tensions sometimes emerge even within the “classic” framework of human rights – for instance, between freedom of opinion and expression, on one side, and the fight against racist hate speech, on the other.<sup>79</sup> Certainly, it would be wrong to look at specific conflicts and infer from them an abstract, “intrinsic” antagonism between human rights and the rights of Indigenous peoples.

#### 4 Advancing the freedom of religion or belief in regard to Indigenous peoples

The issues discussed above regarding the compatibility of universal human rights with legal guarantees for Indigenous peoples naturally arise in the context of freedom of religion as well, where they can become even more explosive, due to additional issues that largely hinge on the concept of religion itself.<sup>80</sup> Is it true that the term religion, as used in the context of the human right to freedom of religion, took shape based on the model

of “classic world religions” (Christianity, Islam, Buddhism, etc.)?<sup>81</sup> Does that imply that freedom of religion, so conceived, is innately unsuitable for encapsulating the specific features of Indigenous spirituality? Does this freedom of religion even function as a tool of cultural assimilation? Must we, therefore, surmise that freedom of religion tends to be on the “wrong side” in the unfinished struggle for the decolonisation of Indigenous peoples? The answers to these questions depend in large part on whether we can broaden and expand our definition of freedom of religion to take the concerns and needs of Indigenous peoples adequately into account.

In his report on freedom of religion in the context of Indigenous peoples, Ahmed Shaheed, who was then the UN Special Rapporteur on Freedom of Religion or Belief (2016–2022), notes that Indigenous peoples often avoid the term “religion” and likewise the word “belief,” instead preferring to speak of “spirituality”: “‘Spirituality’ is the preferred term of many indigenous peoples in characterising their religion or belief identity.”<sup>82</sup> However, this choice of terminology is not set in stone by any means: “Indigenous peoples employ broader terms interchangeably with ‘spirituality,’ including ‘worldview,’ ‘way of life,’ or ‘culture.’”<sup>83</sup> It is up to the people in question, first and foremost, to choose the most appropriate terminology. It is also their prerogative to claim their right to freedom of religion or belief in conjunction with other human rights, such as cultural self-determination, and indeed this often occurs.<sup>84</sup> In other domains as well, more often than not people tend to lodge human rights claims on the basis of more than one legal title.

78 The limitation clause in Article 46, para. 2 of UNDRIP may become relevant in this context.

79 In this regard, adhering to the limitation clause on freedom of opinion and expression (in Article 19, para. 2 of the International Covenant on Civil and Political Rights) is crucial.

80 As explained above, the term “freedom of religion” serves as a shorthand for a human right more comprehensively titled “freedom of thought, conscience, religion and belief.”

81 Vociferous critiques of freedom of religion can be found in Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, Saba Mahmoud and Peter G. Danchin, eds., *Politics of Religious Freedom*, Chicago: University of Chicago Press, 2015. Several of the essays in this anthology implicitly or explicitly reject the entitlement to freedom of religion as a human right.

82 UN doc. A/77/514 (Ahmed Shaheed, advance unedited version, 10 October 2022), section 11.

83 *Ibid.*, section 12.

84 See *ibid.*, section 19: “Incidentally, indigenous peoples primarily cite cultural rights in complaints to the Human Rights Committee regarding spiritual practices.”

International documents concerning the rights of Indigenous peoples also feature complex semantics, expanding the scope of the word religion to include both spirituality and culture. For example, Article 5 of ILO Convention 169 calls for the recognition and protection of Indigenous peoples' "social, cultural, religious and spiritual values and practices." The notion of what "religious" means is situated here in the context of other adjectives, which can complement each other in the interest of creating space for Indigenous practices and ways of viewing themselves. Article 7, para. 1 of the ILO Convention also includes the goal of promoting the "spiritual well-being" of Indigenous peoples. Finally, Article 13, para. 1 demands respect for the special importance "for the cultures and spiritual values" of Indigenous peoples of their relationship with the lands they occupy or use.

Similar semantic complexity, linking religion with spirituality and culture, can be found in the relevant articles of the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Article 12, para. 1 provides for a range of legal entitlements related to spiritual and religious practices, mentioning religiously relevant sites and objects: "Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and

religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains." Article 11, para. 2 deals with the restitution of stolen property and the possibility of reparations. Here again, the term "religious" is couched within the context of neighbouring adjectives. The text refers to "cultural, intellectual, spiritual and religious property taken without [Indigenous peoples'] free, prior and informed consent or in violation of their laws, traditions and customs." In addition, Article 25 of UNDRIP addresses the special relationship Indigenous peoples maintain with their natural environment and the lands they have traditionally used, again using the adjective "spiritual": "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."

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## UN Declaration on the Rights of Indigenous Peoples (2007), excerpts:

### Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

### Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

### Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

### Article 11

1. Indigenous peoples have the right to practise and revitalise their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

### Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

### Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

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The formulations quoted above clearly diverge from the wording of freedom of religion in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Does this suggest that when it comes to the spectrum of religion, belief and spirituality, we are ultimately dealing with different, or even opposing, conceptions? Is this pitting a concept of freedom of religion or belief, conceived as a fundamental freedom, against a notion in the context of rights of Indigenous peoples that places greater emphasis on the preservation of traditional spiritual values?

Yet this line of argument is belied by the clear embeddedness of Indigenous rights within the overall context of human rights. This embeddedness is apparent in ILO Convention 169<sup>85</sup> and even more so in UNDRIP. Article 1 of UNDRIP, quoted above, states that all human rights apply in full to Indigenous peoples and individuals. That same article cites by name the Charter of the United Nations, the Universal Declaration of Human Rights and the international human rights law that subsequently evolved. The use of the phrase “full enjoyment” in UNDRIP reaffirms that international human rights cannot be watered down: they are relevant to people in both dimensions, i.e. “as a collective or as individuals.” This clarification doubtless also encompasses freedom of religion, as included in Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights, among other places.

Thus, the religion-related clauses in ILO Convention 169 and UNDRIP cited above should not be read as *replacing* the human right to freedom of religion, but rather as *elaborating upon it* with respect to the particular needs of Indigenous peoples. Far from constituting a conceptual alternative to the human right of freedom of religion, they build upon it for the sake of its critical advancement. For instance, the recognition of spiritual and religious traditions, customs and ceremonies, as required by Article 12 of UNDRIP, cannot be achieved behind the backs of the people involved.

It requires full respect for the individual and collective freedom of religion, or else it would merely promote a museum-style definition of what preserving identity is about, which is incompatible with freedom and equality under human rights. At the same time, Article 12 of UNDRIP calls for advancing freedom of religion by drawing attention to Indigenous peoples’ hitherto largely neglected needs, vulnerabilities and entitlements. Section V of this Assessment, which deals with typical situations of conflict, illustrates the importance of further expanding the scope of freedom of religion to ensure it addresses the human rights concerns of Indigenous peoples adequately.

Freedom of religion is inherently open to elaboration to take account of specific contexts. The contours of this right have continually evolved in legal practice to date, typically in the direction of greater openness. Moreover, many of the religion-related entitlements addressed in ILO Convention 169 and UNDRIP are not altogether foreign to the practice of freedom of religion. Issues like access to religious sites (such as burial grounds within restricted military zones), the proper enactment of communal rites and ceremonies (such as in the context of religious ritual slaughter) and the restitution of religiously significant objects (such as from monasteries or temples located on disputed property) have engaged the judicial and reporting systems in regard to freedom of religion for many years.<sup>86</sup> It would be possible to draw upon this experience when addressing legal claims from Indigenous peoples. At the same time, increasing consideration of Indigenous peoples’ rights may raise new fundamental questions that cannot all be answered within the scope of the established work on freedom of religion, once again testing the established categories of this right. This could also lead to novel overlaps with other rights, such as the rights of cultural minorities, land-related (collective) property rights or the recently emerging human right to a healthy and liveable environment.

<sup>85</sup> See Article 3, para. 1 of ILO Convention 169.

<sup>86</sup> See Bielefeldt, Ghanea and Wiener, *Freedom of Religion or Belief*, op. cit., pp. 128–133, 115f., 140f., 461–465.

# IV Characterising Indigenous religion

## 1 Difficulties and possible approaches

The challenges involved in ensuring Indigenous peoples' freedom of religion can only be identified by substantively examining typical characteristics of Indigenous religiosity. This chapter will only have the scope for a brief outline of these features. The descriptions are primarily based on investigations of Indigenous culture, religion and spirituality in the Latin American context.<sup>87</sup> However, many aspects of the Indigenous worldviews and practices mentioned here are likely to be found in similar basic forms in other continents.

The vast multiplicity of Indigenous peoples and communities mirrors the breadth and variety of their cultures, including the domain known and conceptualised, in Western terms, as "religion." Peoples living without ongoing contact with the dominant society of a country, who are legally designated "peoples living in voluntary isolation,"<sup>88</sup> maintain values, norms and spirituality as they have arisen and developed from within over the course of generations based on their experience of living in relationship with the natural environment, their territory. Colonialism and encounters with its representatives had an influence on most Indigenous peoples, leading to changes that also extended to their religion/spirituality. Many

peoples did not survive this collision, and those who did survive were decimated. Traditional religious leaders/authorities perceived the usually violent "encounter" with the intruders into their territory and their lives as the end of the world, the end of *their* world. To this day, the process of impoverishment is unmistakable among many Indigenous peoples. This is not simply the physical and material impoverishment that accompanies expulsion from their territories and the destruction of their natural environment. Their survival is under threat on a spiritual level as well: the forces and beings that are existentially crucial to their way of life often retreat or change as living conditions shift, disturbing or even terminating familiar and vitally necessary avenues of communication. In places where Indigenous peoples managed to survive the threat posed by colonialism, Indigenous spirituality has remained manifestly alive, even if external living conditions have changed drastically.

## 2 Religion, spirituality, cosmivision

The concept of "religion" has been established worldwide through colonialism and globalisation, along with the associated missionary activities. This is particularly true for the regions of Latin

<sup>87</sup> The focus on the Latin American example was chosen in part because the concept of Indigenous rights has been recognised for a longer time in the region and is also a subject of research.

<sup>88</sup> Inter-American Commission on Human Rights, *Indigenous Peoples in Voluntary Isolation and Initial Contact in the Americas: Recommendations for the Full Respect of Their Human Rights*, p. 4: <https://www.oas.org/en/iachr/indigenous/docs/pdf/report-indigenous-peoples-voluntary-isolation.pdf>: "Indigenous peoples in voluntary isolation are indigenous peoples or segments of indigenous peoples who do not maintain sustained contacts with the majority non-indigenous population, and who generally reject any type of contact with persons not part of their own people. They may also be peoples or segments of peoples previously contacted and who, after intermittent contact with the nonindigenous societies, have returned to a situation of isolation and break the relations of contact that they may have had with those societies."

America in the foreground here. The debate on religious freedom has, importantly, also promoted the de-facto universalisation of the term religion. However, if Indigenous and other colonised peoples have adopted it, that does not necessarily mean that they have applied its parameters to their own worldviews and their own psychological and spiritual belief system. Many peoples have no equivalent in their languages for what missionaries, colonisers and scholars associate with “religion.” José Francisco Calí Tzay, the UN Special Rapporteur on the Rights of Indigenous Peoples, prefers to speak of “Indigenous spirituality” rather than religion, drawing a contrast to universal religions such as Christianity or Islam, which Indigenous perspectives closely associate with colonialism.<sup>89</sup>

Despite fundamental conceptual differences, Indigenous religions or spirituality have been analysed and interpreted using terms developed within the contexts of other religious practices and traditions. This has resulted in shifts in meaning and reinterpretations by non-Indigenous outsiders, which are not always well-matched to real Indigenous concepts and practices; often, these interpretations served the purpose of colonisation and assimilation (“acculturation”). These shifts in meaning continue to pose obstacles for intercultural encounters on equal footing. This is apparent in terms such as “priest,” “god,” “Satan/devil,” “creation,” “spirit,” “soul,” and even “religion” or “spirituality” when considering the role of these elements in the community/society. Beginning in the age of colonialism, the spiritual lives of Indigenous peoples were interpreted from the vantage point of a modern world, associated with “tortured images”<sup>90</sup> and terminology that served more to strengthen the colonisers’ own ideas about themselves than to understand Indigenous societies. Designations such as “archaic,” “primitive,” or “nature religions”

(*Naturreligionen*), used to categorise Indigenous religiosity, contain polemical, derogatory, or romanticising connotations.

When the conquest of the Americas was just beginning, colonisers even engaged in an extended debate over whether the “indios” had souls or could be classified as human in the first place.<sup>91</sup> Ultimately, religious orders were enlisted in the papal and imperial mission of converting the “heathens” to Christianity. The Indigenous population was expected to renounce their own beliefs and be baptised, bringing them into the fold of a new faith. Although Christian missionaries had widely varied ideas and preconceptions regarding Indigenous people, they generally all projected one basic notion onto their prospective converts: an existing belief system equivalent in principle, form and structure to their own. Under that premise, this existing framework would “merely” need to be repopulated with new content. To this day, some missionaries’ approaches follow this essential premise, although strategies for conversion have evolved. Missionaries tend to interpret superficially familiar subject matter, events and other phenomena from their own perspectives and simply shoehorn them into their own set of categories. This gives rise to countless misunderstandings, as it neglects the reality that, especially in the Indigenous context, religious and spiritual ideas and practices exist as integral and integrating elements of culture and society and cannot be viewed in isolation from it. Indeed, these ideas and practices cannot be understood at all without reference to all the broader cultural categories and levels within which the people in question analyse and interpret their world.<sup>92</sup>

When asked their religion, many members of Indigenous peoples and communities will identify as Protestant, Catholic or Christian. In Latin America, the term “Christian” ( *cristiano*) often signifies not only religious affiliation but also that the

89 See also Section III, 4: *Advancing the freedom of religion or belief in regard to Indigenous peoples*

90 Lawrence E. Sullivan, *Icanchu’s Drum: An Orientation to Meaning in South American Religions*, London/New York: Macmillan, 1987, p. 2.

91 Elke Mader, “‘Seelen’, Kräfte und Personen”, in J. Figl and H.-D. Klein, eds., *Der Begriff der Seele in der Religionswissenschaft*, Würzburg: Königshausen & Neumann 2002, p. 64.

92 José Braunstein, “Die indigenen Religionen im Gran Chaco”, in Mark Münzel, ed., *Indigene Religionen Südamerikas*, Stuttgart: W. Kohlhammer 2021, p. 185.

person is “civilised,” as opposed to an “uncivilised,” or “primitive” person. In other words, it indicates that they are affiliated with large, universal religious communities. However, their faith-related practices and concepts reveal a great diversity with regard to what membership in a religious or faith community means. “Most contemporary descendants of the original inhabitants of Latin America are Christian. However, their Christianity is shaped in many ways by their pre-Christian roots. Hence, they are by no means ‘pagans’ in the sense of a religion parallel to Christianity, but they are not Christians in the European sense either.”<sup>93</sup>

This section will highlight some aspects and principles related to these “roots” that continue to significantly influence the religious beliefs and practices of Indigenous peoples today,<sup>94</sup> before proceeding to examine how that has been affected by Christian missionary activities.

## 2.1 Orally transmitted religions/spirituality

Indigenous spirituality, across the globe, is almost exclusively based on a spiritual, orally transmitted and applied practice at a local level. Thus it stands in stark contrast to a paradigm of religion that focuses on written texts, emphasises the role of doctrine and central theological messages and has a centralised organisational structure, in some cases based on clerical hierarchies. “In pre-European times, there were at least gestures towards centralised religious power in the Central Andean region [...], but the European conquest replaced this independent centralisation with a Christian centralism of European origin, which only veiled and influenced, but did not supplant, the Indigenous developments. Today, individual developments within religions of pre-European origin, whether in the Andes or to the east of them, are not overseen by a church, but by individual small

communities.”<sup>95</sup> Similar observations apply to the descendants of the advanced Indigenous civilisations of Central America (the Maya and Aztecs).

Indigenous spirituality exists without a written canon and without an established hierarchical order (such as a church). It is confined to a single locale, manifesting and exerting its influence within the territory where the peoples and their communities live. Thus, it is closely linked to life in a specific geographical space and local environment. It forms a unified whole with the community’s everyday life, unlike religions that become an independent, autonomous and usually institutionalised social factor in the course of their universalisation, textualisation and canonisation. Contrary to the cliché of “rigid” adherence to tradition, Indigenous spirituality is remarkably fluid, contextual and capable of change. “In this context, religion is not an authority with its own power to sanction. Rather, it relies on a continuously renewed consensus and can therefore integrate divergences from tradition relatively quickly. This, in turn, is in keeping with the lack of a fully and systematically elaborated theology. As a result, heresies are thus virtually unheard of in autochthonous religions because divergent opinions are integrated into the tradition rather than being shunned. Locally delimited religions’ particular strength lies in their adaptability.”<sup>96</sup>

## 2.2 Dynamics of Indigenous myths

Indigenous myths serve as expressions of Indigenous peoples’ worldviews and explanations of the world they live in. Myths provide reasons for the origins of things and lay the foundations for the rules of living together as a community. Although they refer to past events, they explain not only the existence of the cosmos, human beings, flora and fauna but also contemporary institutions and customs whose roles and meanings are integrated

93 Mark Münzel, ed., “Indigene Religionen Südamerikas”, Stuttgart: W. Kohlhammer 2021, pp. 11–12. Quotation translated for this assessment.

94 The focus here is on South America.

95 Münzel, op. cit., p. 11.

96 Karl-Heinz Kohl, “Ein verlorener Gegenstand? Zur Widerstandsfähigkeit autochthoner Religionen gegenüber dem Vordringen der Weltreligionen”, in Hartmut Zinser, ed., *Religionswissenschaft. Eine Einführung*, Berlin: Reimer, 1988, p. 266.

into the myth in its currently recited form.<sup>97</sup> As myths are orally transmitted, recited and passed on, they are continuously updated, adapting to the shifting present moment. New occurrences and experiences are integrated and linked to the constituent elements. For example, all Indigenous mythologies include explanations of the origin and role of non-Indigenous people with whom contact was established. Elements introduced into people's personal worlds beginning with colonialism were integrated into the mythology,<sup>98</sup> and saints from the Catholic context found their place in the Indigenous spiritual context.<sup>99</sup>

### 2.3 Concepts of “soul”

Unlike the Christian European conception of a person having a *single* soul, Indigenous peoples – not only in the Americas but in many world regions – consider each person to have several souls, each with different functions, situated in different parts of the body. Some souls are closely tied to earthly life, while others leave the body after death and transition to other realms. For example, the Guarani in Argentina, Bolivia, Brazil, and Paraguay distinguish between a bodily soul (*ã*) and a spiritual soul (*ñe'ẽ*). During life on Earth, a person possesses both. “The spiritual soul is expressed in language and resides in the throat. After death, it leaves the body to return directly to its ‘heavenly home’ – one of the seven levels of heaven. The bodily soul is envisioned as having three layers. It resides in blood and breast milk and is expressed in a person's shadow, although the word for ‘shadow’ (*ra'anga*) can also mean ‘shape’ depending on the context. At the beginning of Creation, animals lived on Earth inhabited by both their spiritual

and bodily souls, just like people. Now, in the second Creation, animals' spiritual souls reside ‘in the outer heaven of our father.’ The animals on Earth are only inhabited by bodily souls. For the Guarani, this is the difference between humans and animals.”<sup>100</sup>

In general, the body and the spirit or soul are not sharply demarcated but are seen as a continuum.<sup>101</sup> The capacity for change and transformation associated with this concept of soul can be seen as one of the central foundations of an Indigenous cosmivision. This mutability shapes the understanding of life and death, and of a life before and after life on Earth; it also affects the earthly life of individuals and the community, and their physical and social worlds (*umwelt* and *mitwelt*), extending into everyday life.<sup>102</sup> This becomes particularly evident during crises and conflicts when the order is disturbed and souls are not in their proper places. In cases of illness, the task is to locate the soul that has detached from the body and bring it back using suitable healing forces and techniques. In the Andean region, for example, a detached soul can be captured by specific beings (such as Pachamama, the “Earth Mother” goddess), or its loss is attributed to a terrifying event. If the soul is not returned to the individual, this invariably results in death.<sup>103</sup>

### 2.4 Shamanism

Shamanism is closely associated with Indigenous peoples. Shamanism is not so much a belief or religion of its own as a set of practices employed by special figures known as shamans,<sup>104, 105</sup> who are part of a community and interact between it

97 Maria Susana Cipolletti, *Kosmospfade. Schamanismus und religiöse Auffassungen der Indianer Südamerikas*, St. Augustin: Studia Instituti Anthropos 59, 2019, p. 24.

98 Volker von Bremen, “Zwischen Anpassung und Aneignung. Zur Problematik von Wildbeute-Gesellschaften im modernen Weltssystem am Beispiel der Ayoréode”, *Münchener Amerikanistik Beiträge* 26, Munich: anacon-Verlag, 1991, pp. 250ff; Eva Gerhards, *Mythen im Wandel, Hohenschäftlarn*: Klaus Renner Verlag, 1981, Ch. 7.

99 Alicia M. Barabas, “Cosmovisiones y Enoterritorialidad en las Culturas Indígenas de Oaxaca”, in *Antipoda, Revista de Antropología y Arqueología* no. 7, Bogotá 2008, pp. 119–139.

100 Friedl Grünberg, *Indianische Naturbeziehung und Projekte der internationalen Zusammenarbeit. Reflexionen über die Praxis*, 2003.

101 Mader, op. cit., p. 65.

102 See Section Section IV, 2.5: *Cosmovisions*.

103 Cipolletti, op. cit., p. 33.

104 See <https://en.wikipedia.org/wiki/Shamanism>.

105 Although most shamans are male, female shamans exist in some cultures.



and the spirit world. Shamans have to go through a typically long and arduous process culminating in their initiation before they can take on their duties. Depending on the culture, they are either called to this mission by specific powers/forces/beings or they choose this path of their own volition. Shamans differ from other members of their community, including those who are healers and perform ritual tasks. Unlike these individuals, they have the capacity to embark on deliberate out-of-body journeys, during which they communicate with beings from the spirit world and seek to propitiate them and consult them on questions and problems that occupy the shamans in their work within their communities. Depending on their authority and ability, they can also influence the actions of the beings in the spirit world. As intermediaries between worlds/spheres, shamans give their community guidance on how to restore equilibrium that has been disturbed. This can relate to the wellbeing of an individual, the community, the environment or the wider world. The balance of nature and society is also viewed as delicate and must be constantly monitored and reassessed. Although shamans are “specialists,”<sup>106</sup> particularly in their ability to travel through consciousness and provide psychological and spiritual healing, they do not have a monopoly on their extensive body of knowledge. Each member of the community possesses a large portion of this knowledge, and there are various specialists in the context of the relationship with nature – such as people with special skills as hunters, who usually possess personal hunting magic, or people who know special songs and dances for festivals of fertility and thanksgiving and instruct the group in these dances.<sup>107</sup>

## 2.5 Cosmovisions

The diversity of peoples goes hand in hand with a diversity of cosmovisions, shaped both by the cultural foundations of their own traditions and by experiences with colonialism and missionary activity (Christianisation/Islamisation). As an illustration, let us consider some basic principles

of Indigenous worldviews from the South American lowlands, drawing on that set of traditions (“roots”).<sup>108</sup>

Indigenous peoples’ view of nature is based on each specific people’s worldview and not on a purely scientific analysis. The natural world is teeming with spirits and consists of a multitude of different beings, each empowered with their own free will and the capacity for independent decision-making. Humans, as thinking and acting creatures, are not positioned as superior to them. Instead, they live in community with those beings – in a world they perceive as relational (mitwelt) rather than simply surrounding them as a separate world (umwelt). Their economic actions become socio-spiritual actions. Thus, they are less liable to view themselves as in a position of dominating and shaping objectified matter (“resources”) through the force of their will and their analytical insights. Instead, they engage in a social relationship (between empowered subjects) with their physical/relational worlds and the beings acting within them, striving to propitiate them so that they meet their needs and thus participate in that world. This applies not only in the context of the traditionally familiar physical/relational worlds but also extends to relationships and life within a regional, national and international society. Thus, Indigenous hunting rights, for example, become part of a religious/spiritual practice.

Because nature and matter are not subjected to domination, human behaviour is shaped by the constant dynamic ebbs and flows of adaptation and learning: adapting to the living conditions shaped by the free will of various beings and acquiring the blessings that the given conditions have granted. Thus, “management of natural resources” by humans and their force of will can occur to a lesser extent; the focus is rather on maintaining social connections and relationships that encompass respect for the other party’s free will. This sheds light on the holistic worldviews of Indigenous peoples and communities. A clear

<sup>106</sup> Sullivan, op. cit., Ch. 7.

<sup>107</sup> Grünberg, op. cit., p. 13

<sup>108</sup> See Volker von Bremen, *Orientierungsrahmen zur Kooperation mit indigenen Völkern und Gemeinschaften in Lateinamerika*, Berlin: Brot für die Welt/Aachen: Misereor, 2018.

delineation between religion, economy, culture and socio-political organisation familiar to us is not present. This also poses concrete challenges for development cooperation; neglecting these differences can give rise to numerous misunderstandings.<sup>109</sup>

## 2.6 Space and time

Indigenous notions of space and time are integral to each cosmovision but are among the most difficult to grasp for someone unfamiliar with the specific worldview, both on a conceptual level and in practice. Indeed, these concepts operate in all areas of life yet are rarely explicitly voiced during the dialogue and cooperation accompanying intercultural encounters. Instead, each person takes their own concept as a given and applies it as though it went without saying; this frequently leads to projections and misunderstandings and poses significant challenges in regard to the right to freedom of religion. The diversity of Indigenous conceptions of space and time cannot be explored in detail here. However, the following examples may serve to raise awareness of this politically important aspect.

When considering space and time, a fundamental question lies in a group's specific understanding of "primordial time" and the corresponding explanation of what has constituted the world in its characteristics and design. All Indigenous cultures distinguish between different spaces or spheres that originated during primordial time or ancient times. Delving into the nuances, depending on the culture, various stages may have been traversed before the current world was constituted. The various cosmic levels are explained through corresponding transitions, but in many cases also through cataclysms, a fate for which the current world is also destined. Thus, global cataclysms are inherent to these cosmovisions.

Many Indigenous peoples' worldviews include the figure of a Creator god. Unlike in Abrahamic religions, however, this god assumes the role of a transformer: the entity who laid the foundations and bestowed the principles for the world's development and order. However, the specifics are left up to others, both other deities and often also figures considered to be founders of the respective culture, known as "culture heroes." None of these deities are omnipotent or omniscient. They are not perfect and also make mistakes before the (ideal) order can be established.

Other Indigenous peoples' worldviews do not include a figure of a single primordial Creator god. For these peoples, the current world grew out of the transformation of the many different members of a (primordial) community. Through their special character and the associated capabilities and traits, these members dissociated from the (primordial) community and transformed into the individual phenomena that constitute the contemporary world in its multiplicity. However, they remain connected to the human community, enabling it to gain access to their traits and abilities by way of various rules and formal behaviours, by way of songs, mantras and rituals. Those who remained in the community form the (human) communities of the given Indigenous people to this day. They come alive not only on special occasions, but also in day-to-day life through an ongoing social relationship with the (natural) world, which is constituted by the people's ancestors, former members of their (primordial) community, with whom they are linked through a range of spiritual practices and also practical, physical and material activities.<sup>110</sup>

This reveals a distinct understanding of time. Although the world of the ancestors lies in the past – in a time when they were still direct members of the community – it is not over and done with. Through their transformation, the ancestors have shaped the physical/relational world as it exists today, which is animated and formed both

109 Further details in *Section V, 6: Freedom of religion for Indigenous people(s) and development cooperation*.

110 See, among others: von Bremen (1991), op. cit., p. 245f.; Volker von Bremen, "Acerca de la utilización del saber indígena en la cooperación de desarrollo de orientación ecológica", in *Desarrollo Agroforestal y Comunidad Campesina*, vol. 6, no. 27, 1997, pp. 2–7; Salta, Argentina; Bernd Fischermann, "Zur Weltsicht der Ayoréode Ostboliviens", Dissertation, University of Bonn, 1986

by them and by the human beings who are currently alive. Thus, the ancestors are part of the present moment and, with their unique and special character, they are also a potential part of the future.

### 3 Religious missions, Indigenous churches, syncretic and hybrid manifestations

Missionary activities, trade or other types of (typically asymmetrical) encounters have left their mark on Indigenous peoples with the result that their religious and belief-based practices often contain elements from other religions.<sup>111</sup> Whereas Islam has gained influence predominantly in parts of Africa and Asia, as have Hinduism and Buddhism in South Asia, Christian missionaries have operated all around the world. Due to this Assessment's chosen focus on Latin America, it will predominantly consider the role of Christianity and the Christian missionary endeavour. Indigenous communities have had diverse and very disparate experiences in their encounters and clashes with colonial forces, missionaries, institutions and representatives of church, state and economic power at different historical stages. They have interpreted and evaluated these experiences through the lens of their spirituality and in adaptation to shifting conditions. The forms and substance of their religious practice have evolved based on specific experiences with missionaries: the type of contact, presence and even individual personalities, in conjunction with the past and present historical moments these peoples have lived through.

Aside from the specifics of their theological orientations, the past and present practices of Christian missions operating among Indigenous peoples have demonstrated their highly disparate roles and functions within social contexts, which span from ethnocentrism to inculturation

to efforts at mutual, respectful learning with the aim of cultivating a shared future. Understanding these roles and functions can be crucially significant when assessing specific situations in regard to the implementation of the right to religious freedom.<sup>112</sup> The typology below is intended primarily for heuristic purposes. The point is not to categorise specific cases but, on the contrary, to call attention to the broad spectrum of missionaries' practices and perceptions of themselves. The numerous potential intersections between these categories should be acknowledged from the outset.

#### a) The missionary endeavour as an instrument of (neo-)colonialism with the goal of eradicating Indigenous spirituality

This type of religious mission deems Indigenous spirituality, its substance and its practical manifestations to be "heathen" and "the devil's work," associated with the actions of Satan. Consequently, all of this is combated in word and deed, which can sometimes extend as far as the use of violence. Indigenous holy places are destroyed or taken over, then exploited for their missionary purposes and integrated into conversion attempts. Elements of Indigenous cultures that contradict and oppose the missionary goal are ignored, discriminated against and vilified (labelled "idolatry," "witchcraft," etc.). Meanwhile, the orientations of the missionaries' own beliefs serve as models to guide others on the path to conversion. Proselytised converts, or "neophytes," achieve salvation by disassociating themselves from and renouncing traditional spirituality and culture, by undergoing Christian baptism, by becoming an integrated member of the Christian denomination or church being championed and by participating in the acculturation process, which is correspondingly adopted as offering the prospect of salvation.

<sup>111</sup> Regarding the Inuit, this is also emphasised by Schellhammer, "Dichte Beschreibungen" in *der Arktis*, op. cit., pp. 195–200.

<sup>112</sup> The aspects itemised and merely touched upon here are most pronounced in connection with different historical moments of missionary attitudes and activity. Different churches and missionary societies have since undergone historical developments, in some cases involving sometimes fundamental changes. Nevertheless, all these aspects can generally be observed in missionary practices to this day.

**b) The missionary endeavour as a bulwark against (neo-)colonialist, destructive forces/entities**

Unlike the type of (neo-)colonial missionary activity outlined above, this type of mission is critical of the earthly world of emperors, crowns and (neo-)colonialism, which is viewed as a threat to the mission's work and to the lives (or survival) of the Indigenous communities being proselytised. The physical and socio-economic space of the mission, together with its infrastructure, serves a number of, albeit largely paternalistic, purposes: offering refuge, ensuring that the community's basic needs are met and presenting paths to salvation and redemption for these communities, distinct from the surrounding (neo-)colonial society.

**c) The missionary endeavour as a tool for reinforcing Indigenous peoples' understanding of their own position in the context of the dominant society**

A religious mission of this type faces in two directions at once. In one direction, it seeks to bolster Indigenous communities' awareness of themselves as a (special) part of the national/colonial society (conveying an awareness of dominant societal values and principles, and thus enabling Indigenous people(s) to locate and orient themselves within that broader society). In the other direction, the mission takes on responsibilities vis-à-vis the dominant society, advocating for the state and society to recognise existence and rights of Indigenous peoples.

**d) The missionary endeavour as a promoter of Indigenous people(s) as protagonists**

This type of missionary activity centres on promoting and strengthening Indigenous communities' collective processes and empowering them to act as autonomous units within the national society. Instead of missionaries acting as advocates on behalf of the Indigenous communities, they emphasise projects initiated by Indigenous people(s) themselves. In a conscious rejection of paternalistic notions of protection, missionary activity is therefore limited to advisory support.

**e) The missionary endeavour as a way of promoting, recognising and integrating Indigenous spirituality and wisdom/knowledge as a component and expression of the church and society**

In this type of mission, Indigenous spirituality is neither discriminated against nor demonised. On the contrary, it stands at the centre of respectful missionary activity, as an expression and element of Creation. Consequently, Indigenous peoples are not merely seen as targets of missionary activity. Instead, with their spirituality, they serve as agents of the mission in their own right, bringing its impact into the postcolonial society. The previously unilateral doctrine transforms into mutual (dialogue-based) learning.

The specific experiences Indigenous people(s) have during this encounter are crucial in shaping their reception of it, which simultaneously amounts to a transformation by the Indigenous peoples themselves. The vast dynamic potential of Indigenous spirituality, paired with these communities' and peoples' generally flat socio-political hierarchies, has always allowed them to integrate selected aspects and elements of missionary teachings and practices into their own spirituality. This adaptation is in response to what they have experienced (and suffered) in their lives. Thus, Indigenous mythologies have evolved through a history of contact with non-Indigenous populations. Contrary to common assumptions, in most cases this does not lead to Indigenous people(s) outright abandoning their own spirituality since myths and mythologies are very flexible and adaptable in their form and content (see above). "Change processes affect multiple dimensions. They extend to content elements such as motifs or mythemes, to the scenarios of the narrative, the forms of presentation, the ways [myths] connect with ritual and everyday life, to spatial and (trans-)cultural dissemination and to the media of circulation and transmission. Changes in content and interpretations are a product of the creativity of the storytellers, who are constantly reshaping the myths; they also go hand in hand with cultural and social transformations. In such

processes, the narratives adapt to new social realities while simultaneously commenting on, reflecting and shaping them.”<sup>113</sup>

Thus, various hybrid formations and syncretisms<sup>114</sup> between content and meanings develop. Biblical narratives are integrated into local mythical traditions and reformulated and reinterpreted in that context. Missionaries, for their part, are inclined to blending their theological concepts with myths whenever they come across even slight resemblances between Indigenous traditions and Christian beliefs. For example, flood myths that describe and justify the destruction of a previous world are hastily equated with the biblical Flood. It should not be surprising that such projections occasion numerous misunderstandings – and lead onward to disappointment and frustration.

A further interpretation is evident among Indigenous peoples who have established their own churches. These have various designations but are usually called *iglesias nativas* (“Native/Indigenous churches”), although this label is typically applied by non-Indigenous outsiders. This is the case in the Gran Chaco region of South America, where the members of such churches, formed as a result of Pentecostal missionary activity, personally describe themselves as “evangelical.” One of these churches, which has exclusively Indigenous members, is the *Iglesia Evangélica Unida* (IEU, United Evangelical Church), which merges traditional forms of Indigenous spirituality with charismatic Christianity. Members of this church identify with the tragic fates of various prophetic Indigenous movements that promised salvation, all of which

ended in persecution and massacres.<sup>115</sup> “In the eyes of the Indigenous people, their new forms of Christianity help to dissolve the former antagonism between [so-called] ‘Indians’ and ‘Christians’

The ‘chosen ones’ are both genuinely Christian and genuinely Indigenous. All Native Christian churches in the Chaco have adopted ideas from shamanism (varying by ethnicity) about the cosmos and the place of the body with it, therapeutic techniques, biblical figures and elements of colonial Christianity.”<sup>116</sup> Thus, in a quest for ways to carry on living in a drastically changed world, different spiritual traditions and practices merge. “Pablo Wright affirms that the founding of the IEU represents a societal legitimisation of certain aspects of the spirituality of the Toba/Qom. With the help of a legally recognised institution, they found a way to continue distinguishing themselves from their non-Indigenous surroundings. Meanwhile, the use of Pentecostal vocabulary allows them to garner respect from their predominantly Catholic neighbours as fellow believers in Jesus.”<sup>117</sup>

In Guatemala, where Indigenous people comprise 40 to 60 per cent of the total population depending on the survey, very high rates of conversion have been observed, particularly from Catholicism to Protestant Pentecostal churches. Within Catholicism itself, there is also a noticeable shift to charismatic Catholicism, a grassroots Catholic movement with doctrines very similar to those of the Pentecostal churches. Moreover, a multitude of associations and organisations are currently attempting to institutionalise various forms of Indigenous Maya spirituality. In their efforts,

113 Elke Mader, *Anthropologie der Mythen*, Vienna: Facultas-Verlag, 2008, pp. 217f. Quotation translated for this Assessment.

114 The following proposed definition may be helpful to those seeking a general understanding of this term: “In religious studies, the concept of ‘syncretism’ aims to group together and characterise phenomena of beliefs and worldviews that tend to emerge from encounters between groups of people who have different previous histories and whose religions have different histories. They are mainly found among the dominated Indigenous population.” (Quotation translated for this footnote from Thiemer-Sachse, 2017, “Synkretismus heute – Beobachtungen bei den Mixe in Oaxaca, Mexiko”, *AmerIndian Research*, vol. 12/3 (2017), No. 45, p. 170. For the controversies surrounding the use of the “syncretism,” see Charles Steward and Rosalind Shaw, eds., *Syncretism/Anti-Syncretism. The Politics of Religious Synthesis*, London/New York: Routledge 1994; Anita Maria Leopold and Jeppe Sinding Jensen, eds., *Syncretism in Religion: A Reader*, London: Routledge, 2004.

115 José Braunstein, “Die indigenen Religionen im Gran Chaco”, in Mark Münzel, ed., *Indigene Religionen Südamerikas*, Stuttgart: W. Kohlhammer, 2021, p. 187.

116 Braunstein, 2021, op. cit., p. 221. Quotation translated for this Assessment.

117 Willis G. Horst, “Anfänge und Entwicklung einer eigenständigen indianischen Kirche. Über die indianische Spiritualität der Toba/Qom im argentinischen Chaco”, in Ute Paul and Frank Paul, eds., *Begleiten statt erobern: Missionare als Gäste im nordargentinischen Chaco*, Schwarzenfeld: Neufeld Verlag, 2010, p. 158. Quotation translated for this Assessment.



these groups confront religious institutions such as the Catholic Church and younger Protestant churches with demands that challenge the core premise of a universally valid claim to Christian identity, defining Maya spirituality as the genuinely Indigenous belief system and situating it in opposition to other, non-Indigenous ways of seeing the world.<sup>118</sup>

## 4 Embeddedness in the Indigenous world: Land and territory

Indigenous concepts of territoriality usually cannot be equated with the physical space as the state defines it in the context of recognising Indigenous land rights. Rather, these concepts express people's special relationship to a geographically, socially and ecologically defined territory that also holds strong spiritual associations, with which communities feel connected in their own unique way. An exclusive legal claim to the land as property may not necessarily exist, although this varies from case to case. It depends on the way of life of each Indigenous people and the principles they live by; gatherer-hunter peoples and nomadic pastoralists, who usually have a very loosely defined sense of territory, differ, for example, from settled farmers with clearer territorial boundaries or even individually demarcated plots.

Although the land and territorial rights of Indigenous peoples and communities are usually enshrined in the constitutions and legislation of countries with Indigenous populations, in many cases – such as in Argentina – they are still not implemented in practice to this day. According to official data from the Argentine National Institute of Indigenous Affairs (Instituto Nacional de Asuntos Indígenas, INAI), surveys have only been completed for the territories of 779 of the 1802 registered communities. Furthermore, there is not a single procedure in place for transferring

land title, as planned, for those areas defined in the surveys as land of traditional use (areas from which the communities were displaced, but which they continue to claim their right to).<sup>119</sup>

The situation is similar in other regions and countries. Many communities live under very precarious conditions and are at the mercy of the goodwill of outsiders, constantly under threat and facing potential displacement. This applies not only to communities living in “voluntary isolation” but also to a multitude of communities that have ongoing contact with the broader national society.

Indigenous people typically derive the legitimacy of their presence in their territory from their cosmologies rather than from rights enshrined in the constitutions of the nation-states on whose territory they live. Their spirituality is closely linked to their sense of territory and their relationship with their natural and social worlds as experienced in their reality (see the section on Cosmovisions above). This is also recognised in relevant legal documents such as UNDRIP. Spirituality is not only cultivated during periodically occurring ceremonies, festivals and rituals in the context of the annual cycle. It is also encountered and manifested in their activities of daily living such as gathering and harvesting fruits and honey, hunting, working the fields, fishing, weaving, knotting and dyeing textiles, pottery, making objects and more. What appears superficially to be using available natural resources is much more than a merely mundane activity for “securing their subsistence.” These activities sustain the reciprocal relationship with the spiritual world. They are all embedded in a culturally determined framework of rules, which is not only explained and justified by mythology and spirituality but is renewed and maintains its vibrancy through repeated encounters with spiritual beings. Knowledge about the correct ways to craft one's relationship with the natural world (*umwelt*) and relational world (*mitwelt*) – while taking into account taboos,

118 Andrea Althoff, *Religion im Wandel: Einflüsse von Ethnizität auf die religiöse Ordnung am Beispiel Guatemalas*. Dissertation at the University of Halle-Wittenberg (MLU), 2005, p. 8; see the dissertation for more details. Heinrich Wilhelm Schäfer, *Die Taufe des Leviathan*, Bielefeld, Germany: Bielefeld University Press, 2021, Ch. 5.

119 Centro de Estudios Legales y Sociales, 2023, Examen Periodico de la ONU – Argentina 2023: <https://www.cels.org.ar/especiales/examenonu/#pueblos-indigenas>

sacrificial duties and other ritual actions – draws on an intimate familiarity with those worlds, their environmental and geographical characteristics and the beings living there with their individual characters, potentials and dispositions, and the conditions that permit a reciprocal relationship with humans to be sustained. This knowledge has developed over generations and is continually updated. Thus, the territory is also an expression of human beings' extensive network of material and spiritual relationships with their natural and relational worlds. Just as the existence of humans and the spiritual world is dependent on the territory, conversely, the existence of the territory with all its specific characteristics is tied to the life and ongoing maintenance of this network of both people and elements of the spiritual world.

In addition to these universally fundamental, spiritually grounded relationships between Indigenous peoples and their territories, there are also *special places*, sacred locations and sites, where spiritual powers with magical, curative and protective forces dwell and act. Their existence is usually rooted in a mythical, historical event. These are sacred places in nature (a mountain, a tree, a spring, a cave, specific rock formations, etc.). Distinct prayers, offerings, ceremonies and rituals, as well as observance of taboos, serve to sustain relationships of goodwill with and support from corresponding forces. This helps to preserve and progress people's lives as well as life in the natural/relational world.

Various regions within an Indigenous territory in Oaxaca, Mexico, for example, are home to powerful spiritual beings.<sup>120</sup> These are the guardians of the forest, mountains, water, wind, thunder, etc. Each of these places “belongs” to a spirit being with power and authority in that territory. When taboos are broken, humans must perform rituals and offer sacrifices to appease the wrath of these beings, thus restoring health and wellbeing. The guardians are considered to be very sensitive sacred beings, easily offended and hurt if people fail to offer them sacrifices. Then, they send diseases and deny the community access to the elements under their control, which are important to the wellbeing of humans and the environment. The communities' fate and future are bound up with the way they live together with nature, protect it, care for it and communicate with its guardians, who are closely connected to specific places and spaces. Among some peoples (such as the Triqui people), a strong link has developed between the guardians of a place and certain Catholic saints. This underscores the capacity of Indigenous spirituality to absorb external elements into its own frame of reference or even meld them into it almost seamlessly.

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120 For more details, see: Alicia M. Barabas, “Cosmovisiones y Etnoterritorialidad en las Culturas Indígenas de Oaxaca”, in *Antípoda, Revista de Antropología y Arqueología* no. 7, Bogotá 2008, pp. 119–139.

# V Indigenous peoples' freedom of religion or belief: Conflicts, obstacles, breakthroughs

## 1 Systemic conflict

In all regions, Indigenous communities are confronted by the rapidly advancing globalisation of markets and associated products and value systems, which penetrate, transform and enormously influence their daily lives. This often results in profound conflicts at both the personal/individual and community levels, conflicts that are always characterised by structural power asymmetries at the expense of Indigenous people(s). Alcoholism, drug addiction and violence within the community and even within the family, which can extend as far as homicide or suicide, are drastic expressions of this asymmetrical, innate conflict. Not only do such experiences bring changes to communities, they also lead outsiders to perceive and interpret the activities of the affected peoples and their varied ways of facing this situation.

Missionary activities aimed at Indigenous peoples is among the most difficult and controversial issues in the context of freedom of religion or belief. It is no coincidence that this topic takes up the most space in this chapter about conflicts. As described above,<sup>121</sup> there are many different types of religious mission. This must be repeatedly emphasised to counteract generalisations. Nevertheless, it must be acknowledged that the missionary endeavour in the service of colonialism, as

the vehicle for inquisitorial discourses, has perpetrated grievous harm against Indigenous peoples, notably in Latin America. Throughout the colonial period, and even after the establishment of the nation-states of Latin America, repeated acts of violence were committed against communities and their leaders, who resisted displacement and the destruction of their knowledge and beliefs. Despite significant changes at the level of national and international legal principles that have since entered into force, such violence persists to this day.<sup>122</sup> This manifests not only in physical acts of violence but also in structural violence, for example in the destruction of Indigenous cosmologies, Indigenous spirituality and Indigenous knowledge. Indigenous crops and farming methods are replaced by “refined,” hybrid cultivars and industrial forms of production; communal forests are converted into nature reserves and soy fields; ancestral culture and knowledge is folklorised and commercialised.

In many cases, the destruction has become so extensive that spaces for Indigenous people(s) to operate autonomously according to their own cultural and spiritual principles have been greatly diminished and are often little more than cages created by external institutional structures. For example, education takes place in schools or European-style boarding schools, health is

121 See Section IV, 3: *Religious missions, Indigenous churches, syncretic and hybrid manifestations*

122 In Guatemala alone, 20 spiritual leaders have been murdered in the past two decades, see Silvel Elias, “La violencia epistémica contra los pueblos indígenas”, 1 August 2020, <https://debatesindigenas.org/notas/59-violencia-epistemica.html>.

organised around Western medicine and health-care facilities,<sup>123</sup> the economy operates through market-oriented companies and structures, and political representation within government and society is mediated by organisational structures formalised by law. Last but not least, spirituality exists primarily in the guise of Christian churches and missions.

Indigenous systems are often ignored outright or replaced by other parameters and principles that were developed elsewhere. Non-Indigenous actors often justify this by claiming to be promoting the wellbeing of the people in question. These types of institutional arrangements, developed by outsiders, render the autonomous, self-determined development of Indigenous peoples highly contingent and limited. The fact that Indigenous people often feel compelled to join Christian churches, to convert and to publicly testify to their “joy” at having left behind paganism, witchcraft and long-standing customs is an indication of the outside pressure and destruction of their bases for survival they are subject to. In Guatemala, many sacred Maya sites were occupied by evangelical groups, who hold their own ceremonies and services there.<sup>124</sup>

However, as national and international legal standards increase recognition of Indigenous peoples’ rights to self-determination, this goes hand in hand with a people’s right to determine for itself how it preserves and develops its own autonomous norms and institutions. Under the autonomy statutes that are part and parcel of multiethnic and plurinational statehood, Indigenous authorities and institutions are increasingly being recognised as part of the public order in various countries. That includes, for example,

the role of the *mamos* (“sages”) as institutions of Indigenous self-governance in the Sierra Nevada de Santa Marta in Colombia.<sup>125</sup>

The recent rise in recognition of Indigenous self-determination also extends to Indigenous conflict resolution systems, which primarily seek ways to restore the world order in each specific case where the equilibrium has been lost. This is less about enforcing abstract normative rules and laws than about meeting the needs of the conflicting parties and the affected community. Alongside social components that may bring intra-communal balance, these systems also involve spiritual/religious elements that contribute to community members’ sense of identification, be it through prayers, ceremonies or other healing processes.<sup>126</sup>

## 2 Land conflicts as a core issue of Indigenous freedom of religion or belief

Many political and legal disputes related to the rights of Indigenous peoples feature a strong territorial component. The issue so often revolves around land: access to it, settlement on it, its use and collective ownership claims. Not only are Indigenous peoples’ economic livelihoods inextricably linked to their traditional areas of settlement, but also their cultural ways of life, the ways they see themselves, their collective political self-determination, their intergenerational cohesion and their religious/spiritual beliefs and practices. This underscores the literally foundational importance of land rights to the overall human rights of Indigenous peoples.<sup>127</sup>

123 For example, Indigenous midwives and therapists often must defer to and subordinate themselves to the public health system.

124 For example, this happened at Cerro Quemado, a sacred ancient Maya site in Almolonga, Guatemala, where 90 per cent of a K’iché community converted to join a Protestant congregation. (Elias 2020, op. cit.).

125 René Kuppe, “Religionsfreiheit und Schutz der kulturellen Identität im Widerspruch? Das Erkenntnis SU-510/1998 des Verfassungsgerichtes Kolumbien”, *Österreichisches Archiv für Recht und Religion*, vol. 47/1, 2000, pp. 48–81.

126 René Kuppe, “Der Schutz von ‘Sacred Sites’ traditioneller indigener Religionen und die Dekolonisierung des Grundrechts auf Religionsfreiheit”, in B. Schinkele, R. Kuppe, et al., eds., *Recht Religion Kultur: Festschrift für Richard Potz zum 70. Geburtstag*, Vienna: facultas, 2014, p. 338.

127 See Alexandra Xanthaki, *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land*, Cambridge: Cambridge University Press, 2007.

Thus, it is no coincidence that international documents on the rights of Indigenous peoples engage with this issue in depth. Article 26 of UNDRIP affirms Indigenous peoples' rights to the land they have traditionally owned or otherwise occupied and used, and calls on states to respect Indigenous peoples' customs and traditions in regard to their collective land ownership. Likewise, land rights often play a central role in relevant court decisions. Reflecting on her practical experiences as the UN Special Rapporteur on the Rights of Indigenous Peoples (2014-2020), Victoria Tauli-Corpuz notes: "The most common complaints brought to the attention of the Special Rapporteur are precisely violations of indigenous peoples' collective rights to their lands, territories and resources."<sup>128</sup> Similar observations have been made in reports by civil society organisations such as the Society for Threatened Peoples,<sup>129</sup> the International Work Group for Indigenous Affairs (IWGIA),<sup>130</sup> Survival International<sup>131</sup> and the Minority Rights Group.<sup>132</sup> Their publications frequently centre on disputes over land.

Even beyond places of special religious importance – such as grave sites, ritual sites and sacred places – land holds religio-spiritual significance in the worldview of Indigenous peoples. For instance, the Guaraní in South America refer to their territories as *tekohá* – "places of being" bestowed upon them by divine entities. These are places where they as a community are able to enact their *tekó porã*, their way of life established by divine forces. The good life (*tekó porã*) in all its bounty is linked to the social community and the divinely provided space (*tekohá*). Without *tekohá*, there is no *tekó porã*. In other words, according to their worldview, their right to land derives from the divine order of things.

The religious-spiritual dimension of the land is explicitly recognised in Article 13 of ILO Convention 169 and in Article 25 of UNDRIP. UNDRIP

emphasises Indigenous peoples' "distinctive spiritual relationship" to the land they have traditionally used, elaborating that the concept of land should be interpreted broadly and also encompasses bodies of water and other elements of the natural world. While the treatment of "sacred sites" or burial grounds generally falls within the established scope of freedom of religion or belief, this broad understanding of a relationship to the land with religious or spiritual significance poses entirely new practical and conceptual challenges to the practice of freedom of religion or belief.

Threats to or violations of the land rights of Indigenous peoples have varied causes, including state or private economic development projects that frequently entail the "relocation" (often a euphemism for "expulsion") of Indigenous peoples from their ancestral lands. These situations might involve the building of dams and roads, mineral extraction or the expansion of agricultural industry. There are numerous examples from virtually every corner of the world: the USA, Canada, Argentina, Brazil, Chile, Paraguay, India, Bangladesh, the Philippines, Viet Nam, Australia, etc. In particular, James Anaya laments the often devastating effects of the mining industry on the lives and livelihoods of Indigenous peoples.<sup>133</sup> The affected individuals are often inadequately consulted, let alone offered a fair share of the profits. Notable examples include the current conflicts between lithium mining companies and local Indigenous communities within the "lithium triangle" of Argentina, Bolivia and Chile.<sup>134</sup> Moreover, the designation of new conservation areas – albeit indispensable for environmental reasons – frequently comes at the expense of Indigenous peoples, potentially leading to forced relocations with severe impacts on culture, language and identity, according to the findings of an international conference organised by José Francisco Calí Tzay, who has served as the UN Special Rapporteur on the Rights of Indigenous

128 UN doc. A/72/186 (Victoria Tauli-Corpuz, 21 July 2017), section 52.

129 See [www.gfbv.de](http://www.gfbv.de).

130 See [www.iwgia.org](http://www.iwgia.org).

131 See <https://www.survivalinternational.org/>.

132 See [www.minorityrights.org](http://www.minorityrights.org).

133 See UN doc. A/HRC/24/41 (James Anaya, 1 July 2013), section 1.

134 See the documentary film: *En el nombre del litio*, dir. Tian Cartier and Martin Longo, 2021. <https://vimeo.com/579971152>.



Peoples since 2020: “Participants highlighted that the eviction of indigenous peoples from protected areas or the denial of the access thereto leads to the loss of irreplaceable lands, sacred places and resources and of the transmission of knowledge systems, culture, language, identity and livelihoods.”<sup>135</sup> Calí Tzay cites the eviction of Massai groups in Tanzania, soon to be further extended, and the impending displacement of millions of Adivasis in India as drastic examples.<sup>136</sup>

The particular vulnerability of Indigenous peoples regarding their land ownership has deeper historical roots, stretching back to the “discovery” of Indigenous territories by European conquerors and settlers. In line with the colonial ideology of “terra nullius” – supposedly “uninhabited” areas – land was seized without regard for the people who traditionally lived on it and was largely transferred into private ownership. Lack of recognition of Indigenous peoples’ collective ownership rights, for which property titles often cannot be presented as required by positive law as used in the modern economic system, is an issue that persists to this day. Apart from gaping power asymmetries and the continued privileged status accorded to modern individual property titles framed under positive law, endemic corruption in many countries also proves to be a formidable obstacle to enforcing the rights of Indigenous peoples. The recognition of Indigenous property claims grounded in customary law, demanded by Article 26 of UNDRIP, is thus repeatedly undermined even though the corresponding rights have been enshrined in the constitutions of many countries.

Still, there have been some notable judicial breakthroughs in recent years. For some time, the Inter-American Court of Human Rights in San José (Costa Rica) has been leading the way, issuing rulings on these matters that have long had an impact beyond the region. In a 2001 landmark

judgement against Nicaragua, the Inter-American Court demanded the recognition of collective property claims in accordance with the customary law of Indigenous peoples. This was new. A key sentence from the ruling emphasises the “communal” form of property and land use characteristic of Indigenous peoples: “Among indigenous peoples, there is a communitarian tradition regarding a communal form of collective property of the land, in the sense that ownership of the land is not centred on an individual but rather on the group and its community.”<sup>137</sup> The Court also reaffirmed the “close ties” Indigenous peoples have with their territory, which should be respected “as the fundamental basis of their cultures, their spiritual life, their integrity and their economic survival.”<sup>138</sup> Although this judgment does not explicitly rely on the religious freedom of Indigenous peoples, instead foregrounding their collective property rights, the religio-spiritual relevance of land rights is clearly addressed, if only in passing. Similar formulations have appeared in various rulings by the Inter-American Court from subsequent years. For instance, in a ruling against Paraguay, the Court explicitly linked the issue of land rights to the requisite respect for the cultural and spiritual values of Indigenous people(s), referring to Article 13 of ILO Convention 169.<sup>139</sup>

Whereas references to religious freedom in the relevant judgments of the Inter-American Court of Human Rights tend to be made in asides, the African Commission on Human and Peoples’ Rights based a 2010 decision on the land rights of the Endorois, an Indigenous community in Kenya, on freedom of religion or belief. The Commission found that the Kenyan state’s “forced eviction” of the Endorois from their ancestral lands interfered with their religious freedom guaranteed by Article 8 of the African Charter on Human and Peoples’ Rights (the Banjul Charter), and indeed held that this interference was “severe.” The African Commission, which repeatedly references

135 UN doc. A/77/238 (José Francisco Calí Tzay, 19 July 2022), para. 20.

136 *Ibid.*, para. 24 and 27.

137 *Awas Tingni Mayagna (Sumo) Indigenous Community versus Nicaragua* (Judgment of the Inter-American Court of Human Rights, 31 August 2001), para. 149.

138 *Ibid.*

139 See *Yakye Axa Indigenous Community versus Paraguay* (Judgment of the Inter-American Court of Human Rights, 17 June 2005), para. 136.

the jurisprudence of the Inter-American Court of Human Rights in its decision, views the religious freedom of the affected community as not merely impaired. It goes much further than that: "The African Commission is of the view that the Endorois' forced eviction from their ancestral lands by the Respondent State interfered with the Endorois' right to religious freedom and removed them from the sacred grounds essential to the practice of their religion, and rendered it virtually impossible for the community to maintain religious practices central to their culture and religion."<sup>140</sup> This decision by the African Commission, issued in clear and strong terms, marks another important breakthrough in enforcing Indigenous peoples' freedom of religion or belief and its inextricable connection to their lands.

It is unsurprising that conflicts frequently arise between Indigenous peoples' claims to their ancestral lands, on one side, and the state's interests in economic development of the land or the establishment of new conservation areas, on the other. Such situations are subject to the principle of free, prior and informed consent, which is designed to prevent forced relocations, typically associated with severe human rights violations, and instead to pursue consensual solutions. In this spirit, Article 10 of UNDRIP stipulates: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."<sup>141</sup> As the wording makes clear, the consent of Indigenous peoples as intended can only be considered genuine if it is made freely, i.e. without external pressure or force, and is based on a decision made at an appropriate time and with full information.

The principle of free, prior and informed consent (FPIC) does not grant Indigenous peoples an absolute veto power, but it does afford them a strong negotiating position. Article 46, para. 2 of UNDRIP addresses the conditions under which states may impose restrictions on the rights listed in the declaration. As discussed above, this provision aims to pin any such limitations or interventions to strict criteria. Therefore, it would be incorrect to view it as a blank cheque for governments to subordinate the concerns of Indigenous peoples to the primacy of public- or private-sector economic development. Quite the contrary. The rights of Indigenous peoples are and remain the benchmark; under Article 26, para. 2, infringements on these rights are only possible within a "narrow scope of permissible exceptions," in Anaya's words.<sup>142</sup> In each case, states bear a complex burden of justification. They must demonstrate, among other things, that planned interventions have a legal basis, that they serve "just and most compelling" interests of a democratic society, and that they are compatible with international human rights standards. In Anaya's words, "the state has the burden of demonstrating either that no rights are being limited or that, if they are, the limitation is valid."<sup>143</sup> Thus, while UNDRIP does not provide absolute protection for the land rights of Indigenous peoples, it sets a high bar for potential interventions by the state. If such interventions do occur, the principle of free, prior and informed consent enshrined in UNDRIP provides a basis for criticism and complaints.

In summary, Indigenous peoples' deep connection with their territories, along with the fact that their spiritual life depends on their relationship and interaction with these territories and their specific characteristics, lies at the heart of Indigenous cultures and ways of life. Thus, it is impossible to decide which geographical territories and environmental conservation areas Indigenous

140 See *Endorois versus Kenya* (Decision of the African Commission on Human and Peoples' Rights, 2 February 2010), para. 173.

141 The principle of free, prior and informed consent is further enshrined in Article 19 of UNDRIP, which addresses all governmental measures affecting Indigenous peoples and is thus broader than the more specifically targeted Article 10. See Article 19: "States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."

142 UN doc. A/HRC/24/41 (James Anaya, 1 July 2013), heading above para. 31.

143 *Ibid.*, para. 33.

peoples and communities have legal claims to merely on the basis of quantitatively identifiable criteria; some calculation based on a ratio of inhabitants per hectare cannot define the conditions and prospects for community development. Given the right of Indigenous peoples to freedom of religion or belief, criteria related to religious and spiritual matters, which have implications for the communities' way of life and development, must also be taken into account.

### 3 A focal point of controversies: The missionary endeavour among Indigenous peoples

One of the most contentious human rights issues in the context of Indigenous peoples relates to the possibilities of and limitations on missionary activities specifically targeting these groups. These activities are primarily, though not exclusively, carried out by certain Christian churches and missionary societies. The interest in preserving, strengthening and advancing Indigenous religio-cultural identities in the face of centuries of pressure to assimilate – pressure that often persists to this day – may clash with the distinctly liberty-oriented kernel of the human right to freedom of religion. Conflicts take assorted manifestations and come in various forms. In addition to confrontations between Indigenous groups and missionaries coming from the outside, they are also evident in *internal* fault lines that may emerge within Indigenous peoples as well as debates around basic principles within churches or religious communities.

As briefly explained above, freedom of religion does not protect religion itself, but rather the *people* who – either individually or in community with others – are empowered to find their footing, evolve and actively live out their beliefs within the broad domain that is religion. This is a fundamental freedom under human rights,

not a legal guarantee of the integrity of religious traditions as such – be they Christian, Islamic or – the case in point here – Indigenous. The emphasis on liberty is particularly evident in an individual's right to change their own religion or belief system. In addition to the ability to maintain an existing religious affiliation or belief system and to continue practising it as traditionally accustomed, freedom of religion also opens up options for change – including a conscious conversion to another religion or to atheism or agnosticism. This possibility is clearly stipulated in international guarantees of freedom of religion. Article 18 of the International Covenant on Civil and Political Rights has replaced the concept of “change,” which is contained in the corresponding Article 18 of the Universal Declaration of Human Rights, with a somewhat more complicated formulation (“to have or adopt a religion or belief of his choice”); however, this new wording does not, in practice, revoke or downplay this right.<sup>144</sup> On the contrary, the guarantee of the right to maintain, nurture, develop, modify or even completely change one's religious affiliation or belief system unencumbered by any form of coercion is one of the few human rights standards that do not permit any restrictions or interventions whatsoever – not even in the interest of public order or other important objectives.<sup>145</sup> There is absolute legal protection for freedom from coercion within the *forum internum* of freedom of religion.

Furthermore, freedom of religion encompasses the individual's right to bear witness to their own religious position or belief system, to actively promote it and to invite people of other persuasions to convert, in other words, to carry out missionary activities. Unlike the absolutely protected *forum internum*, missionary activities are classified within the *forum externum* of freedom of religion, which pertains to the outward manifestations of religious practice that can directly or indirectly affect the interests and rights of others. The effects of this can be quite severe in some cases within the context of Indigenous communities. Government restrictions or interventions in this area are not categorically ruled out; however, they

144 For extensive detail on this topic, see Bielefeldt, Ghanea, Wiener, Freedom of Religion or Belief, op. cit., pp. 55–91.

145 See Article 18, para. 2 of the International Covenant on Civil and Political Rights.

must meet stringent conditions and be justified in detail based on specific criteria. In addition to a clearly formulated legal basis, they must set certain important objectives, namely to “protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”<sup>146</sup> Furthermore, when assessing proportionality, it must be demonstrable that measures restricting freedom are appropriate, necessary and proportionate for achieving such objectives. The UN Human Rights Committee, responsible for monitoring compliance with the International Covenant on Civil and Political Rights, has further clarified these criteria.<sup>147</sup> Even with respect to the *forum externum* of religious practice, which includes missionary activities, freedom of religion thus holds a high-priority legal status and enjoys corresponding protection.

The centuries-long history of injustice against Indigenous peoples has been marked by forced conversion, looting of religious objects, destruction of the foundations of their culture and religion, the desecration of sacred sites, racist stigmatisation of “pagan” and “superstitious” practices and various attempts to deliberately alienate younger generations from their ancestral religions. This explains the continued sensitivity surrounding issues of religious conversion and missionary activities.<sup>148</sup> Identifying and pursuing viable paths through this thorny and emotionally charged terrain requires considerable sensitivity and meticulousness. Difficult to resolve conflicts are par for the course. However, freedom of religion is non-negotiable here. This is also clear from Article 1 of UNDRIP, which reaffirms that international

human rights standards are fully applicable to Indigenous people(s). Although collective aspects are often foregrounded in the context of Indigenous peoples and hold existential importance in light of the prevalent power imbalances, freedom of religion also protects individual dissenters and those who have personally decided to change their beliefs; this is one of its core functions.

Similarly, the pressure exerted upon Indigenous members of religious minorities by local Indigenous majorities in some places is also cause for concern. For example, based on field research and interviews with affected individuals, Dennis Petri has reported that individuals or groups within certain Indigenous communities in Colombia who are affiliated with evangelical Christianity experience systematic reprisals extending as far as threats, imprisonment, physical abuse and exclusion from healthcare.<sup>149</sup> An October 2022 report by Christian Solidarity Worldwide (CSW), which addresses freedom of religion among Indigenous people(s) in various Latin American and Asian countries, draws similar conclusions.<sup>150</sup> Alongside cases from Colombia, where Indigenous individuals with specific Christian beliefs report reprisals from their communities, the report also covers comparable experiences from Mexico. The CSW report describes Indigenous individuals who are members of religious minorities within their communities as doubly marginalised and thus particularly vulnerable. These individuals clearly set great store by continuing to be recognised as Indigenous and participating in the life of their people, while also practising their faith.<sup>151</sup> The difficulties they face from various quarters

146 Article 18, para. 3 of the International Covenant on Civil and Political Rights.

147 See UN doc. CCPR/C/21/Rev.1/Add.4, 30 April 1993, para. 8. The UN Human Rights Committee also clarifies in this paragraph that the objective of “morals” is based on pluralistic standards and must not be used to justify monolithic concepts of morality.

148 This Assessment’s chosen regional focus on Latin America implies a concentration on Christian forms of mission. As previously mentioned, the emphasis on the missionary endeavour is by no means exclusive to Christianity. For example, Indigenous peoples in Malaysia are under pressure to convert to Islam – an unacceptable circumstance with a view to freedom of religion. Upon converting, these individuals also lose their de-facto ethnic identities when they are registered as “Malays” by the government. See Pierre Auzerau, “From ‘First People’ to Malay: The Islamisation of the Orang Asli in Malaysia”, unpublished master’s thesis, Faculty of Law, University of Vienna (supervisor: René Kuppe), Vienna, 2021. It is worth noting here that many Muslims reject such pressured conversions as incompatible with the Qur’an.

149 Such were the findings of studies by Dennis P. Petri based on interviews with affected individuals, published as *The Specific Vulnerabilities of Religious Minorities*, Bonn: Verlag für Kultur und Wissenschaft, 2021, pp. 129–167, especially p. 144.

150 The report, titled “Belief and Belonging: Indigenous Identity and Freedom of Religion or Belief”, addresses cases from Colombia, Mexico, India and Viet Nam. See <https://www.csw.org.uk/2022/12/07/report/5882/article.htm>.

151 See CSW, *ibid.*, p. 2.

– including from within their own Indigenous communities – are problematic from the perspective of freedom of religion. The specific manifestations of these issues within the communities must be carefully examined, especially in terms of the political, social, economic and cultural contexts.

Representatives of Indigenous peoples also emphasise this point. As quoted above, John Borrows has noted the almost tragic irony that the protection of Indigenous individuals, which has gradually found its way into the practice of national governments, might be disregarded by Indigenous self-governments.<sup>152</sup> In reference to UNDRIP, James Anaya also highlights Indigenous peoples' responsibility to human rights, particularly in regard to their self-governments: "Therefore, wide affirmation of the rights of Indigenous peoples in the Declaration does not only create positive obligations for States but also bestows important responsibilities upon the rights-holders themselves. This interaction between the affirmation of rights and the assumption of responsibilities is particularly crucial in areas in which the Declaration affirms for Indigenous peoples a large degree of autonomy in managing their internal and local affairs."<sup>153</sup> The extensive explanation quoted here implicitly encompasses the responsibility to ensure freedom of religion.

While the personal right to convert falls under the absolute protection of freedom of religion, the legal status of missionary activities is somewhat different. Restrictions to this are not inherently out of the question but remain subject to stringent conditions, as described above. In this domain, once again, general prohibitions would be incompatible with the status of freedom of religion as a human right. Instead, any restrictions seen as necessary must be individually assessed for their proportionality. It is clear from the outset that forms of missionary activity involving coercion

can never be legitimate; such practices would contradict the absolute protection of freedom of religion in its *forum internum*.<sup>154</sup>

Aside from direct coercion, drastic asymmetries in political, economic or cultural power must not be exploited for the purposes of missionary activities. Unfortunately, examples of this still exist within the very broad gamut of missionaries' practices and perceptions of themselves.

To this day, numerous missionary organisations make it their business to specifically seek out Indigenous peoples and groups, most of whom live isolated in environmental conservation areas, to preach the Gospel to them and convert them to Christianity.<sup>155</sup> Many of these organisations are part of the broader, internally diverse range of evangelical churches and faith communities; they operate in numerous regions globally and are internationally well-connected and well-resourced.<sup>156</sup> They regard their biblically derived mandate as a divine duty that must be fulfilled at all costs, even in the face of opposition from certain forces they believe to have been led astray by the devil.

Many of these organisations share similar methodologies. Typically, the first step involves figuring out how to make contact with an isolated Indigenous community in the first place. Often, gifts are used to spark curiosity among the group. Even at this stage, during which there has been little direct contact, Indigenous people frequently fall ill from diseases introduced to them, with many even dying as a result. As a tool for the initial encounters, missionaries also offer medical care, which brings them recognition and esteem. After actively seeking out and establishing somewhat more sustained contact, cultural and linguistic studies are conducted to select elements of Indigenous narratives and rituals that allow for an "encounter between Indigenous and Christian theology." Elements

152 See John Borrows, *Revitalizing Canada's Indigenous Constitution: Two Challenges*, in UNDRIP Implementation, op. cit., pp. 20–27, here pp. 25–26.

153 UN doc. A/HRC/9/9, James Anaya, 11 August 2008, para. 75.

154 See Arvind Sharma, *Problematizing Religious Freedom*, Dordrecht, Netherlands: Springer, 2012, p. 89.

155 Examples from various regions are available at: [https://www.survivalinternational.org/about/evangelical\\_missionaries](https://www.survivalinternational.org/about/evangelical_missionaries)

156 See, for example: [www.frontierventures.org](http://www.frontierventures.org); [www.joshuaproject.net/global/progress](http://www.joshuaproject.net/global/progress)



of Indigenous cosmovision and spirituality are used in their original terminology to intertwine them with content from the Christian Bible. The next stage focuses on strategic efforts at conversion – ultimately aiming to establish a genuine Indigenous Christian church among each people. Medical care continues to play a significant role, as the introduced diseases create dependencies on treatments unknown to the Indigenous people. The provision of medicine may be accompanied by exorcisms, Christian hymns and prayers. A cure is then often presented as the effect of divine action. Programmes to cultivate young Indigenous pastors, literacy courses and Bible translations are used to further ingrain Christian faith within Indigenous peoples and purportedly “contextualise” it, although such contextualisation is imposed unilaterally from the outside. To further spread the missionary project, Indigenous leaders who have already been converted are trained to establish churches in their own villages and enlist other converted Indigenous individuals to arrange expeditions to communities of their own people or even of neighbouring peoples that have not yet been reached. These efforts draw on logistical and theological support from the missionary society. This approach is known as “cumulative evangelism”<sup>157</sup> or the “pyramid model.”<sup>158</sup> It enables missionary activities to expand even into remote areas that remain partly inaccessible to non-Indigenous missionaries due to legal regulations. When conflicts and disputes arise with the contacted Indigenous communities, missionary societies actively advocate for the Indigenous missionaries. This is also done by invoking the right to freedom of religion, which, however, is applied unilaterally for the missionaries’ own interests, disregarding the fact that freedom of religion subjects missionary activities to strict conditions of non-coercion and forbids exploiting existing power asymmetries for conversion.

The model of missionary activities described, characterised by externally directed “contextualisation,” is considerably different from the “inculturation” model, which is strongly influenced by Latin American liberation theology.<sup>159</sup> Whereas inculturation involves an interpretation of God that is internally “acceptable” within the particular Indigenous culture and can achieve a level of internal plausibility, the “external contextualisation” model tends to frame the Christian message as antithetical to the local Indigenous culture. It presumes that people have been tainted by sin within their current socio-cultural surroundings, implying that salvation can ultimately only come from the outside.<sup>160</sup> The incorporation of values and concepts from an Indigenous culture, if it happens at all under this approach, is very limited – and only to the extent that these do not conflict with the principles of biblical theology promoted by the missionary society. Whenever there are contradictions, the missionary doctrine clearly prevails over the Indigenous frameworks of “sin.”

In Indigenous communities where Pentecostal churches and other Christian-fundamentalist groups have established themselves, portions of the community who are still living according to their traditional spirituality are often demonised. This frequently exacerbates discord and adds fuel to open conflicts.

An extreme incident took place in June 2020 in Guatemala, where a well-known Maya healer was burned alive in his community. His reputation as a spiritual leader extended far beyond his local community, and he had collaborated with universities on research into remedies and healing methods based on Maya spirituality. His murderers, who celebrated the “death of this witch doctor,” were devout members of evangelical

157 Catherine Vaughan Howard, *Wrought Identities: The Waiwai expeditions in Search of the “Unseen Tribes” of Northern Amazonia*, Chicago: University of Chicago, 2004.

158 Dominique Gallois and Luis D. Grupioni, “O índio na Missão Novas Tribus”, in Robin M. Wright, ed., *Transformando os Deuses: Os múltiplos sentidos da conversão entre os povos indígenas no Brasil*, Campinas, SP: Editora da UNICAMP, 1999, pp. 77–130.

159 See, for example, Regina Reinart, *Die Amazonien-Synode: Chance und Herausforderung der Mission*, Siegburg: Franz Schmitt Verlag, 2021; C. James MacKenzie, *An Interstitial Maya: The Life, Legacy and Heresies of Padre Tomás García*, *Anthropos* 109.2014/1, pp. 119–134.

160 Ronaldo Lidório, *Antropologia missionária*, São Paulo: Instituto Antropos, 2008, p. 19.

churches. Along with other factors, the openly expressed discrimination against practices of Maya spirituality and associated medicinal techniques, perpetrated by conservative and fundamentalist religious groups with political and economic clout, led members of the village community to distance themselves from their communal culture. Under the influence of these groups, they actively combated the right to freedom of religion. The outrage over this act of violence was felt well beyond the region. Domingo Hernández Ixcoy, a prominent Maya authority in Guatemala, commented, “This is a crime promoted by religious fanaticism, which stems from the notion of superiority – the idea that the spirituality they profess is better. This is the result of all the propaganda against the Maya cosmivision, which calls them witch doctors and sorcerers.”<sup>161</sup>

In Brazilian Guarani communities, there are reports of physical assaults, arson attacks on traditional prayer houses (*casas de reza*), destruction of small altars (*mbae marangatu*) at the entrances of prayer houses, or theft of ritual rattles (*mbaraka*), through which supposedly “Satan speaks.” This behaviour is sometimes justified using the argument that people should not look back, but “only ahead, to where our future lies.” While slander and physical “admonitions” extending to banishment predominantly come from representatives of evangelical groups, those who live by their traditional spirituality tend to withdraw and vocally complain that their relatives have betrayed the “good way of living” (*teko porã*). Similar incidents and tendencies are reported from many other regions.<sup>162</sup>

Indigenous organisations and communities undertake a variety of efforts to resist such externally directed, asymmetric missionary endeavours. This is exemplified by a 2018 manifesto signed by 15 Indigenous organisations and 28 Indigenous leaders in Brazil, which reads in part: “Today, we witness the emergence of new crusades of intolerance, especially by Protestant and Evangelical missions. They align with the enemies of the Indigenous Peoples [...] in order to extract not only precious elements from their lands but also from their souls. [...] Some interpret the Bible messages as orders to invade the whole world and to forcibly preach the gospel to all creatures, understanding that whoever does not convert will burn in the hell that their very religion has invented. [...] The spirits of the forest are angry, crying for help, as for every tree felled, every polluted river, they come closer to extinction. So a wise shaman [*pajé*] once said, the forest is a crystalline portal, and all of us humans need it. If the forest is gone, so will our spirit. The shamans must exist, and to exist, they must be respected. Before it is too late and the world is emptied of its spirituality and Skies may fall upon our heads!”<sup>163</sup>

Missionary practices that do not take into account vulnerable living situations and exploit existing power asymmetries in order to unilaterally dominate their Indigenous “targets,” clearly violate the spirit and letter of the right to freedom of religion, which – like all human rights – is based on respect and equality. It is in the interest of freedom of religion itself to emphasise this clearly and correct any misunderstandings. As a human right, freedom of religion can only encompass forms of promoting a faith and recruiting new adherents that are free from coercion. Most representatives

161 See: <https://www.culturalsurvival.org/news/celebrating-life-tata-domingo-choc-che-and-demanding-justice-his-assassination>; <https://prensacomunitaria.org/2020/06/cual-fue-la-causa-del-crimen-contra-domingo-choc-che-aj-ilonel2/>. In reference to this incident, see also René Kuppe, *Von Raubbau und indigener Weltsicht: Indigene Völker Lateinamerikas durch Religionsfreiheit schützen*, Aachen: Forum Weltkirche 6/2021, pp. 23–27.

162 The film *Ex-Pajé* (Ex-Shaman) by Luiz Bolognesi documents the life of a shaman of the Paiter-Surui from Rondonia, Brazil, who was stripped of his community role and identity as a result of missionary activity. The very moving film was presented at the 2018 Berlin Film Festival <https://www.berlinale.de/de/2018/programm/201811624.html>.

163 Excerpt from the manifesto “Mais pajés, menos intolerância, 2018”: [https://site-antigo.socioambiental.org/pt-br/noticias-socioambientais/liderancas-indigenas-lancam-manifesto-contra-onda-de-intolerancia-religiosa?utm\\_medium=email&utm\\_source=transaccional&utm\\_campaign=manchetes%2540socioambiental.org](https://site-antigo.socioambiental.org/pt-br/noticias-socioambientais/liderancas-indigenas-lancam-manifesto-contra-onda-de-intolerancia-religiosa?utm_medium=email&utm_source=transaccional&utm_campaign=manchetes%2540socioambiental.org), in the translation published by Filipe Milanez on the Entitle Blog, 26 February 2018. <https://entitleblogdotorg3.wordpress.com/2018/02/26/more-shamans-less-intolerance-an-indigenous-manifesto-at-berlin-film-festival/> (Accessed: 16 April 2024)

of Christian churches of various denominations – whether Catholic, Protestant or evangelical – would likely agree firmly with this assessment today. In a 2011 document titled *Christian Witness in a Multi-Religious World*, the World Council of Churches, the Pontifical Council for Interreligious Dialogue and the World Evangelical Alliance jointly committed to a concept of mission based on respect and formulated corresponding recommendations for conduct.<sup>164</sup> The document's preamble rejects unjust missionary practices from the outset: "If Christians engage in inappropriate methods of exercising mission by resorting to deception and coercive means, they betray the gospel and may cause suffering to others." This critical stance is also characteristic of Christian churches in Germany and their aid organisations with which German political institutions have engaged in trust-based collaboration in areas such as development for many years.

As previously noted,<sup>165</sup> missionary activities are multifaceted and have highly diverse and often contradictory manifestations. They can also take the form of practices of solidarity with Indigenous peoples, of which there are numerous examples. This requires an intercultural and interreligious dialogue on equal footing. Roberto Zwetsch, a representative of Latin American liberation theology, appeals for such ecumenical openness towards Indigenous peoples: "Only a profound transformation of the mindset, an ecumenical and anthropological openness, respect for the *other* and solidarity with the indigenous peoples will allow the missionary presence among them to become beneficial and liberating."<sup>166</sup> Across various denominations, many representatives of the discipline of missiology today similarly critique aggressive or insensitive missionary practices towards Indigenous peoples and advocate for the development of a culture of remembrance that documents the centuries-long injustices associated with these practices. Some explicitly draw on a

tradition associated with Bartolomé de las Casas (1474-1566). Las Casas, a member of the Dominican Order and later Bishop of Chiapas, was one of the first Christian theologians to denounce the genocidal violence against the Indigenous peoples of the Americas. He also condemned the folly of attempts at forcible conversion, which he explicitly described as satanic practices by the European conquistadors.<sup>167</sup>

Regardless of the multiplicity of institutions involved in missionary activities and their wide range of creeds, identities, motivations and not least economic and political power, it will always be crucial to observe each situation in detail in order to assess whether and to what extent the right to freedom of religion of Indigenous peoples is being violated by any party. It is important to recognise that people from Indigenous communities, whose lives are deeply embedded in their spiritual traditions and who are continually updating them, are at a significant disadvantage overall, compared to missionary societies, when it comes to articulating their concerns and interests within the framework of the state and society. They have far fewer connections relevant to legal issues, let alone contacts in political and legal decision-making bodies. Additionally, significant challenges exist within the prevailing communication structures, both due to language barriers and because spiritual content in many crucial matters is taboo and certain concepts cannot be readily discussed in all situations and circumstances. By contrast, missionary societies tend to be far more familiar with established legal norms and practices. Through their cultural and social embeddedness, they have access to decision-making bodies that are often harder for Indigenous peoples to access, if not entirely out of their reach. Are these resources being used to support and strengthen the Indigenous communities and their role as protagonists, goals that many missionary societies pursue with great fervour – or are they

164 See [https://www.vatican.va/roman\\_curia/pontifical\\_councils/interelg/documents/rc\\_pc\\_interelg\\_doc\\_20111110\\_testimonianza-cristiana\\_en.html](https://www.vatican.va/roman_curia/pontifical_councils/interelg/documents/rc_pc_interelg_doc_20111110_testimonianza-cristiana_en.html).

165 See above, *Section IV*.

166 Roberto E. Zwetsch, *Intercultural Theology and the Challenge of the Indigenous peoples in Latin America*, *Missionalia*, vol. 43, issue 2 (2015), pp. 526–544, here p. 534.

167 See Bartolomé de Las Casas. *A Short Account of the Destruction of the Indies*. London: Penguin, [1542] 2004.

primarily being used to cement the missionaries' own position? The question must be assessed in each individual case.

## 4 Inclusion versus alienation: Freedom of religion for Indigenous peoples in the educational context

Violations of the human rights of Indigenous individuals, groups and peoples in the realm of education, particularly formal schooling, come in many forms. These include structural discrimination within the mainstream education system, neglect of educational infrastructure in areas inhabited by Indigenous peoples, the persistence of racist stereotypes in textbooks and learning materials, indoctrination of children and adolescents with religious and belief-based content against their or their parents' will and an inadequately addressed history of forcibly alienating children from their families, among many other issues. Martha Nussbaum's remarks about the tyranny that Native Americans have suffered across generations in the United States are similarly applicable to the treatment of Indigenous peoples in other countries: "This tyranny has included theft, violence, forced removal of children from parents, and the forced 'reeducation' of these children so as to Christianize them and remove traces of their tribal religious beliefs and practices."<sup>168</sup> Violations of freedom of religion, past and present, in the context of school education affect not only the individual rights of students and their parents; in addition, Indigenous peoples' options for religio-cultural development are critically contingent on the quality, functionality and inclusive structure of the school system.<sup>169</sup>

In the context of schooling, religion is altogether a sensitive issue in regard to human rights. From the perspective of freedom of religion, there are two distinct scenarios at play here: one involves academic teaching *about* religion, and the other concerns instruction *in* religious belief and religious practice.<sup>170</sup> In the first scenario, the duty is to ensure that knowledge is taught in a manner that is objectively appropriate and fair. It is essential to dismantle negative stereotypes in order to enable pupils to engage openly with the plurality of religions and belief systems on the basis of correct information. Provided these conditions are met, there is no reason not to include such lessons as part of the compulsory curriculum – and indeed there are many reasons to do so. In the second scenario, however, it must be ensured that students are not given religious instruction against their own or their parents' will. Because school is a place in which authority is exerted and where significant decisions about future opportunities are taken, it must not be used for purposes of religious proselytising. Therefore, religious classes that aim to impart religious messages or instruct pupils in religious practice must not be required parts of the curriculum; at the very least, such classes must be accompanied by an easily accessible path to exemption. The same applies to holding prayers or religious ceremonies at school. There, too, care must be taken to ensure that no one is forced to participate against their own or their parents or guardians' will.<sup>171</sup>

These stated requirements for handling religious subject matter appropriately in schools naturally apply to students who belong to Indigenous peoples. Given Indigenous students' heightened vulnerability, special care is warranted here. To this day, however, textbooks covering religious topics for the purpose of imparting knowledge only make passing, if any, mention of the religious beliefs and practices of Indigenous peoples. When Indigenous spirituality is addressed at all, it is

168 *In Defense of America's Tradition of Religious Equality*, New York: Basic Books, 2008, p. 147.

169 The human rights standards relevant to this set of issues include Article 13 of the International Covenant on Economic, Social and Cultural Rights, Article 14, para. 2 of the UN Convention on the Rights of the Child, Article 18, section 4 of the International Covenant on Civil and Political Rights, Article 5 of ILO Convention 169 and Articles 12, 13, 14 and 15 of UNDRIIP.

170 See UN doc. CCPR/C/21/Rev.1/Add.4 (30 April 1993), para. 6.

171 See UN doc. A/HRC/16/53 (Heiner Bielefeldt, 15 December 2010), paras. 47–56.

most often classified in categories such as “natural religions” – in contrast to “world religions,” which are credited with intellectual and cultural value. This reflects the old dichotomy of “civilisation versus barbarism” or “culture versus nature.” In his philosophy of history, Hegel, for example, described the Indigenous peoples of the Americas as purely “natural” peoples without history whose extinction was a foregone conclusion as soon as they came into contact with “the spirit” – in the form of European conquerors. Ultimately, the Indigenous peoples “vanished at the breath of European activity,” he wrote.<sup>172</sup> The cynical attitude with which Hegel presents the reality of systematically committed genocides as a historical “necessity” due to the supposed superiority of the European spirit or mind (which share a word in many European languages, such as German *Geist* and French *esprit*) is not an isolated incidence. The racist reduction of Indigenous peoples to merely “natural peoples” (*Naturvölker*), who are seen as fundamentally inferior to European/Europeanised “civilised peoples” (*Kulturvölker*) and therefore without prospects of a future, persists to this day. To systematically dismantle such dehumanising views and stereotypes, it is imperative that members of Indigenous peoples be involved or at least extensively consulted when textbooks and educational materials are prepared. The goal must be to better respect the ways in which Indigenous peoples conceptualise their own religions and cultures. With this in mind, the UN Committee on the Rights of the Child advises: “States parties should ensure that the curricula, educational materials and history textbooks provide a fair, accurate and informative portrayal of the societies and cultures of indigenous peoples.”<sup>173</sup>

Children and adolescents from Indigenous communities must also be protected, like other students, from being forced to participate in religious

education that intentionally or unintentionally alienates them from their family’s religious traditions. Reports suggest that this requirement is frequently disregarded or at least not implemented consistently. In many cases, the authorities most likely lack an awareness of the problem. For instance, a UN inspection in Paraguay revealed that Indigenous children in a region dominated by Mennonites of German descent had scarcely any alternatives to attending majority-Mennonite schools. In the religiously conservative milieu of the dominant Mennonites, a paternalistic attitude towards Indigenous people still appears to prevail, with little openness to Indigenous religious and spiritual concerns. This was also evident in the schools run by Mennonites, where Indigenous religious practices were reportedly discredited as “pagan superstitions.”<sup>174</sup> This, furthermore, threatens to damage the already fragile intergenerational cohesion of the local Indigenous communities even more deeply. The Indigenous people(s) scarcely seem to receive any government support that would enable them to develop alternatives. In the Chittagong Hill Tracts, a border region of Bangladesh, reports indicate that Indigenous students have occasionally been assigned to attend the regional schooling for the national Hindu minority due to a lack of suitable options, even though the local Indigenous people do not identify as Hindu.<sup>175</sup> Even in the absence of explicitly discriminatory intentions, such a practice violates not only the individual freedom of religion of the children and their parents but also the collective freedom of religion of the Indigenous peoples.

The possible extremes of the severe disregard for the human rights of Indigenous peoples within the education system became widely known during the visit of Pope Francis to Canada in July 2022. At a meeting with Indigenous peoples, he publicly asked for forgiveness for countless crimes

172 Georg Wilhelm Friedrich Hegel, *Vorlesungen über die Philosophie der Geschichte*, vol. 12, Frankfurt am Main: Suhrkamp, 1979, pp. 107f. Translated into English (during the nineteenth century) as: “Of America and its grade of civilisation, especially in Mexico and Peru, we have information, but it imports nothing more than that this culture was an entirely [natural] one, which must expire as soon as Spirit approached it. [...] For the aborigines, after the landing of the Europeans in America, gradually vanished at the breath of European activity.” As first published in “New World” in: *Lectures on the Philosophy of History*, translated by J. Sibree, London: Henry G. Bohn, 1861, p. 85.

173 UN doc. CRC/C/GC/11 (12 February 2009), para. 58.

174 See UN doc. A/HRC/19/60/Add.1 (Heiner Bielefeldt, 26 January 2012), para. 47.

175 See UN doc. A/HRC/31/18/Add.1 (Heiner Bielefeldt, 22 January 2016), paras. 48f.



committed at Catholic-run residential schools for Indigenous students. These schools evidently took on the characteristics of “total institutions,” at which countless Indigenous children suffered physical and psychological abuse. The victims of this abuse included not only the individuals and their families but also their peoples. The Pope explicitly referred to this as a “genocide.”<sup>176</sup> For many members of Indigenous peoples, this admission of guilt by the Pope was an important gesture, albeit one that must be followed by further actions.

## 5 Conflicts between religious practice and the law of the land: The case of peyote

Religious minorities often face the problem that the generally applicable laws of the countries in which they live take little account of their specific religious needs and practices. Even if the prevailing national laws were not expressly crafted with discriminatory intentions, they can impose particular hardships on religious minorities. This is especially true when ostensibly “neutral” laws take as their baseline religious and cultural notions that seem “normal” to most members of society but impose burdens on minorities. Consider, for example, professional dress codes, weekly and holiday schedules at schools and workplaces, or rules about diet and fasting.<sup>177</sup> From the perspective of freedom of religion, it may therefore be necessary to make specific concessions for minorities within the framework of generally applicable national laws.<sup>178</sup> In the human rights discourse, the term “reasonable accommodation” has become established for this; a suitable German translation of the term is still lacking. The concept combines the components of deliberate “accommodation” with the standard of pragmatic reasonableness: any concessions should be in line

with transparent, comprehensible and fair criteria, and they must not jeopardise the integrity of the legal system as a whole.<sup>179</sup> Naturally, the scope and limits of “reasonable accommodation” are often bones of contention and must be perennially adjusted within the political and judicial spheres.

As is well known, Indigenous peoples place great importance on being recognised as distinct peoples and as a rule are vociferously opposed to being labelled minorities. The concept of a people, to which broader claims of collective self-determination are attached, is of central importance to them. Nevertheless, there are some apparent structural parallels to the circumstances of religious minorities. This is particularly true for the tensions that can arise between religious practices and the laws passed by central governments that apply across the board to the entire population. These tensions are often much more pronounced in regard to Indigenous peoples than with other religious minorities. For example, legal regulations on hunting or fishing, which may entail only minor restrictions for other population groups, can profoundly affect the daily lives of Indigenous peoples and endanger their economic and cultural survival. The same applies to legal restrictions for the sake of environmental conservation. These rules are undeniably reasonable on the whole, yet they can pose significant problems for Indigenous peoples if they cut them off territorially from everything their survival depends on. All these issues also invariably raise questions about religio-spiritual identities and corresponding practices.

One example that both illustrates the potential for conflict and indicates possible solutions is the use of peyote, a cactus fruit consumed during some Indigenous religious ceremonies. Due to its hallucinogenic effects, the consumption of peyote conflicts with the anti-drug laws of some (but not all) US states.<sup>180</sup> The question of how to balance

176 See <https://www.dw.com/de/papst-taten-an-kanadas-indigenen-waren-genozid/a-62659860>.

177 See, for example, Cécile Laborde, “Religious Accommodation and Inclusive Even-Handedness”, in: Marie-Claire Foblets, Katayoun Alidadi, Jørgen S. Nielsen and Zeynep Yanasmayan, eds., *Belief, Law and Politics: What Future for a Secular Europe?*, London: Ashgate, 2014, pp. 67–69.

178 Nussbaum, *Liberty of Conscience*, op. cit., pp. 115–174.

179 See Bielefeldt and Wiener, *Religionsfreiheit auf dem Prüfstand*, op. cit., pp. 88–95.

180 See “Legal status of psychoactive cactus by country”, [www.en.wikipedia.org/wiki/Legal\\_status\\_of\\_psychoactive\\_cactus\\_by\\_country](http://www.en.wikipedia.org/wiki/Legal_status_of_psychoactive_cactus_by_country).

the concerns of Indigenous peoples' freedom of religion against the government's anti-drug policies has occupied US jurisprudence and policy in particular for decades. The complex trajectory towards explicitly permitting peyote for religious purposes provides an instructive lesson; its relevance as an illustration of principles transcends the specific context of the United States.

A 1962 decision of the California Supreme Court marked an initial breakthrough in favour of the freedom of religion of Indigenous people(s). Members of the Navajo Nation had been prosecuted by the authorities for violating anti-drug laws when they consumed peyote within a communal ritual ceremony. However, in its decision "The People versus Woody," the California Supreme Court later waived the penalty, finding that freedom of religion took precedence.<sup>181</sup> A crucial aspect of the court's published opinion was the high religious significance held by peyote within the religious practices of some Indigenous groups. The court compared the role of peyote to that of bread and wine in the sacramental practices of Christian churches and pointed out that the importance of peyote goes even further, for the fruit is ascribed a divine quality – comparable to the Holy Spirit in the Christian tradition.<sup>182</sup> Furthermore, the opinion noted that the tradition of consuming peyote traces back hundreds of years and was documented as early as the 16th century; it is also geographically widespread.<sup>183</sup> Importantly, the court also noted that the religious use of peyote by Indigenous peoples follows strict rules. Consumption of the fruit outside specific rituals is expressly rejected and seen as "sacrilegious."<sup>184</sup> In light of such rules, the California Supreme Court saw no reason

to fear that allowing peyote within Indigenous peoples' religious rituals could pose a serious threat to national drug policy. When balancing freedom of religion against the state's interest in effectively combating drug use, freedom of religion was clearly deemed to hold more weight in this case: "We have weighed the competing values represented in this case on the symbolic scale of constitutionality. On the one side we have placed the weight of freedom of religion as protected by the First Amendment; on the other, the weight of the state's 'compelling interest.' Since the use of peyote incorporates the essence of the religious expression, the first weight is heavy. Yet the use of peyote presents only slight danger to the state and to the enforcement of its laws; the second weight is relatively light. The scale tips in favor of the constitutional protection."<sup>185</sup>

Within the US judicial system, however, the "People versus Woody" decision represents only one end of a spectrum. Other courts have reached opposite conclusions, emphasising that government anti-drug policy takes precedence above the considerations of freedom of religion. The disputes made it all the way up to the US Supreme Court, which, by a narrow majority, issued an April 1990 ruling in favour of a particularly restrictive approach.<sup>186</sup> The case "Employment Division versus Smith" involved Indigenous employees of a private drug rehabilitation centre who were fired for consuming peyote. The decision by Oregon's employment authority, which granted state unemployment benefits to the two dismissed employees, was overturned by the US Supreme Court because it was deemed too accommodating to the interests of religious minorities. In its ruling,

181 SCOCAL, "People v. Woody", 61 Cal.2d 716, <https://scocal.stanford.edu/opinion/people-v-woody-24460>.

182 Ibid.: "Although peyote serves as a sacramental symbol similar to bread and wine in certain Christian churches, it is more than a sacrament. Peyote constitutes in itself an object of worship; prayers are directed to it much as prayers are devoted to the Holy Ghost."

183 Ibid.: "Peyotism discloses a long history. A reference to the religious use of peyote in Mexico appears in Spanish historical sources as early as 1560. Peyotism spread from Mexico to the United States and Canada; American anthropologists describe it as well established in this country during the latter part of the nineteenth century. Today, Indians of many tribes practice Peyotism. Despite the absence of recorded dogma, the several tribes follow surprisingly similar ritual and theology; the practices of Navajo members in Arizona practically parallel those of adherents in California, Montana, Oklahoma, Wisconsin, and Saskatchewan."

184 Ibid.: "On the other hand, to use peyote for nonreligious purposes is sacrilegious."

185 Ibid.

186 See US Supreme Court: Employment Division, Department of Human Resources of Oregon et al. versus Smith et al, 494 U.S. 872 (17.04.1990): [oui.doleta.gov/dmstree/uipl/uipl90/uipl\\_4290a.htm](http://oui.doleta.gov/dmstree/uipl/uipl90/uipl_4290a.htm).

the US Supreme Court concluded that de facto discrimination against religious minorities with regard to their religious practices was ultimately unavoidable within a democracy; three justices vehemently dissented. Taking that reality in stride was deemed preferable to the anarchic alternative of allowing too much scope for each individual's conscience: "It may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself or in which judges weigh the social importance of all laws against the centrality of all religious beliefs."<sup>187</sup>

The "Employment Division versus Smith" decision provoked massive and lasting criticism from broad sections of the politically engaged public.<sup>188</sup> The court was accused of nonchalantly accepting religious discrimination and not doing justice to the important status accorded to freedom of religion by the US Constitution. Some critics even viewed freedom of religion at large to be at risk in the country. Consequently, the US Congress took action. One of its responses was to pass in 1994 an expanded version of the American Indian Religious Freedom Act (originally from 1978). In it, Congress affirmed its recognition of peyote as a component of traditional Indigenous religious practice with sacramental significance: "The Congress finds and declares that [...] for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures."<sup>189</sup> In an unusually blatant rebuttal of the Supreme Court's "Employment Division versus

Smith" ruling, Congress thus declared that the use, possession and distribution of peyote in the context of Indigenous religious practice was indeed lawful and should not be prohibited by either the federal or state governments.<sup>190</sup> Thus, the conflict was ultimately resolved at the level of national legislation.

The formal recognition of peyote as a component of Indigenous religious practice demonstrates that political and legal solutions can be found that provide adequate space for Indigenous religion without endangering the integrity of the overall legal order. However, this example also serves as a lesson illustrating how complex and contradictory the paths to a satisfactory solution can be. Issues like peyote are undoubtedly also fraught with societal fears that can only be dispelled in a culture of open communication. To prevent any misunderstanding, it should also be noted that Indigenous peoples in the United States have been far less successful with other religion-related concerns; this is particularly true for disputes over religiously significant land, where Indigenous people have repeatedly suffered bitter legal defeats.<sup>191</sup>

A major obstacle to finding appropriate solutions often lies in the misguided notion that the concerns of Indigenous peoples involve "privileges," in other words essentially unfair preferential treatment of certain groups over the majority population. This continues to affect even the rights explicitly guaranteed under UNDRIP, as UN Special Rapporteur Calí Tzay notes with regret: "The view that the implementation of rights enshrined in the Declaration amounts to bestowing unjustified privileges on a certain group is a serious concern."<sup>192</sup> It is therefore often necessary to set this matter straight. It should be clear that

187 Ibid.

188 See Nussbaum, *Liberty of Conscience*, op. cit., pp. 115–174.

189 American Indian Religious Freedom Act Amendments of 1994, Section 3 a.1.

190 Ibid., Section 3 b.1: "Notwithstanding any other provision of the law, the use, possession, or transportation of peyote by an Indian who uses peyote in a traditional manner for bona fide ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States or by any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs."

191 Extensively discussed in Kuppe, "Indianische Sacred Sites und das Recht auf Religionsfreiheit in den Vereinigten Staaten von Amerika", op. cit.

192 UN doc. A/76/202 (José Francisco Calí Tzay, 21 July 2021), para. 13.

the rights of Indigenous peoples are part of the ongoing effort to achieve substantive equality within a network of relationships still marked by widespread power asymmetries.

## 6 Freedom of religion for Indigenous people(s) and development cooperation

The right to freedom of religion plays a wide range of roles in development cooperation. Cooperation with and on behalf of Indigenous peoples presents distinct challenges. Indigenous spirituality and religion cannot be confined to a limited “religion sector” within which partnerships with religious stakeholders and institutions are built. As previously described, Indigenous spirituality permeates all aspects of life, even those that seem to involve purely technical, economic or organisational matters. Special challenges arise in regard to partners and sectors, but also methodology.

In all programmes and projects with explicit connections to Indigenous peoples, the question of how the cooperation affects their right to freedom of religion invariably arises. This is most obvious in the realms of health and education as well as in issues surrounding the conservation and sustainable management of Indigenous territories. In these areas, Indigenous peoples always contribute their own concepts and practices as immediate partners or target groups.

Experience in these areas indicates that often Indigenous people(s) are still confined to the role of the intended beneficiaries of specific measures designed on the basis of non-Indigenous concepts. The objective is to alleviate or overcome specific needs, which are identified and explained based on external analyses and parameters. Possibilities for and objectives of development are linked to indicators that scarcely align with or take into

account Indigenous concepts and cosmologies. Instead, Indigenous partners and target groups are themselves expected to adapt before they can participate in these projects. Potential misunderstandings and conflicts can arise as early as the stage of planning and identifying projects and measures, and may further persist during project implementation, prompting confusion and disappointment among everyone involved. Thus, issues such as the neglect of distinctly Indigenous concepts of space and time and principles of organisation and representation, paired with the inadequate identification of problem areas and their roots in Indigenous spirituality, also affect the freedom of Indigenous people(s) to hold distinct worldviews and pursue distinct practices. In addition, the search for participatory methods at various stages of project design always raises the issue of how to consciously acknowledge and take into account Indigenous modes of and principles for being-in-the-world.<sup>193</sup>

Ina Rösing notes that development cooperation projects promoting small businesses, which introduce principles of individual profit generation and maximisation, can pose dangers to religions in the Andean region of South America. “The infiltration of thinking in terms of individual profit maximisation undermines the value of reciprocity and by extension the concept of sacrificial debt. It promotes a kind of ritual activity in which everyone tries to win over as many deities as possible simultaneously with the least outlay of time and money – in other words, with the smallest offerings. As the rituals are shortened and hollowed out, the idea of becoming a porter in the city seems preferable to, and more rewarding than, performing religious rituals of sacrifice. At the same time, [this shift] distances people from agriculture, to which all Andean religious ritual is ultimately connected, and from social embeddedness in the village community, which always collectively underpins Andean religion.”<sup>194</sup>

193 Regarding Indigenous strategies for dealing with the contradictions that arise from such misunderstandings, see Volker von Bremen, “Indigenous Deals – Cosmologies Negotiated in Environmental and Development Projects”, *Sociologus* vol. 67/1, Berlin: Duncker&Humblot 2017.

194 Ina Rösing, *Die heidnischen Katholiken und das Vaterunser im Rückwärtsgang: Zum Verhältnis von Christentum und Andenreligion*, Heidelberg: Universitätsverlag C. Winter, 2001, p. 67.

Projects aimed at innovative, sustainable concepts for the future consider and promote forms of land use whose significance lies not only in their provision of direct subsistence but also in their marketability. With the focus on economic and environmental issues, these partnerships usually fail to consider aspects arising from the role and significance of the spiritual world in Indigenous peoples' ability to maintain their lifestyles in the future. This applies not only in the context of cooperation partnerships on Indigenous territories but even more so in regard to broader development policy issues oriented towards the Sustainable Development Goals (SDGs) adopted by the United Nations.

Conflicts come into even sharper relief in connection with projects that do not directly incorporate Indigenous people(s) as partners and target groups, yet affect their livelihoods and ways of life. When Indigenous territories are affected by projects in realms such as regional development, infrastructure, agriculture and forestry, climate change, conservation and regional economic development, to name but a few, the associated interventions and measures often have significant impacts on Indigenous communities and territories, including with regard to their cosmologies. Mining, dam building and road construction projects alter the ecological structure of a region and affect the relationship of Indigenous peoples to their spiritual as well as physical surroundings. Deforestation by logging, fires and flooding causes spiritual guardians to retreat from the affected areas. When sacred sites are commercialised for tourism,<sup>195</sup> and the rituals and ceremonies associated with them become mere performances devoid of religious meaning, the lines of communication with the spiritual world and human beings' embeddedness within their physical and spiritual territories are disrupted or destroyed.

After all, spirituality and territoriality are closely linked and mutually contingent, as the following quote expresses: "If [a sacred] area is destroyed, marred, or polluted, my people say, the spirits will leave the area. If pollution continues not only animals, birds, and plant life will disappear, but the spirits will also leave. This is one of the greatest concerns of Indian people."<sup>196</sup>

Increasingly, Indigenous organisations are therefore demanding that their rights and experience be systematically incorporated and taken into account, even when it comes to general issues of conservation and sustainable lifestyles. These organisations point out that, given the trends towards deforestation and desertification, Indigenous people(s) have proven to be better stewards of nature and forests. With the development of SDG strategies in recent years, Indigenous concepts for sustainable development adapted to local environmental conditions are drawing increased attention.<sup>197</sup> The right to freedom of religion is always affected, directly or indirectly.

195 See Ollantay Itzamná, "América Latina: los sitios arqueológicos y el racismo cotidiano", cited in Elisabeth Steffens, "Indigene und Religionsfreiheit in Abia Yala – Lateinamerika. Überlegungen aus einer europäischen Sicht", in: Volker Kauder and Hans-Gert Pöttering, eds., *Glauben in Bedrängnis. Religionsfreiheit als Menschenrecht*, Freiburg im Breisgau: Herder-Verlag, 2017, p. 42.

196 John Snow, Assiniboine elder, quoted in Elizabeth G. Pianca, "Protecting American Indian Sacred Sites on Federal Lands", *Santa Clara Law Review*, vol. 45, no. 2, article 4 (2005), p. 465, <https://core.ac.uk/download/pdf/149258553.pdf>

197 For example, the *Global Indigenous Agenda for the Government of Indigenous Lands, Territories, Waters, Coastal Seas and Natural Resources*, presented by Indigenous organisations at the 2021 IUCN World Congress in Marseilles, [https://portals.iucn.org/union/sites/union/files/doc/global\\_indigenous\\_agenda\\_english.pdf](https://portals.iucn.org/union/sites/union/files/doc/global_indigenous_agenda_english.pdf).



## VI New opportunities and new risks: Prospects for policy

Interest in Indigenous peoples and their basic rights has noticeably risen again in recent years,<sup>198</sup> thanks in large part to the growing environmental awareness among large segments of the public. Media reports on issues such as the ongoing destruction of the Amazon rainforest, controversial dam-building projects in Ethiopia and China or the rapid climate-induced changes to Arctic habitats frequently highlight the severe impacts on local populations, especially members of Indigenous peoples, whose issues are at least now drawing more public attention in the process. Furthermore, the conclusion that the disproportionate impact of climate change and other environmental disasters on Indigenous peoples represents an injustice of global magnitude grows more and more unavoidable, especially since, as Special Rapporteur Victoria Tauli-Corpuz writes, “Indigenous peoples are among those who have contributed least to the problem of climate change, yet they are the ones suffering from its worst impacts.”<sup>199</sup>

However, as the Special Rapporteur emphasises, Indigenous peoples are not merely “victims” of climate change and environmental degradation. They make significant contributions to actively addressing these urgent environmental challenges.<sup>200</sup> This is likely another reason for the rise in interest in Indigenous peoples, their experiential knowledge and their skills during recent years. Due to their distinct lifestyle, which is deeply connected to nature in religiously and spiritually meaningful ways, Indigenous peoples have developed an especially keen sensitivity to emerging environmental crises. Beyond their skills at presciently identifying environmental problems at an early stage, their respectful relationship with nature serves as a role model.<sup>201</sup> Additionally, the territories inhabited by Indigenous peoples contain an estimated 80 per cent of our planet’s biodiversity.<sup>202</sup> Given that the impacts of accelerating biodiversity loss on humans, society and nature may well be as severe as those of climate change, the role of Indigenous peoples in this area cannot be overstated.

198 The 2023 Ecumenical Report on Freedom of Religion, issued jointly by the German Bishops’ Conference and the Protestant Church of Germany, addresses the freedom of religion of Indigenous Peoples for the first time in a dedicated chapter.

199 See UN doc. A/HRC/36/46 (Victoria Tauli-Corpuz, 1 November 2017), para. 6.

200 See *ibid.*, para. 15: “Indigenous peoples are, however, not simply victims of climate change but have an important contribution to make to address climate change. Due to their close relationship with the environment, Indigenous peoples are uniquely positioned to adapt to climate change. Indigenous peoples are also repositories of learning and knowledge about how to cope successfully with local-level climate change and respond effectively to major environmental changes such as natural disasters. Indigenous peoples play a fundamental role in the conservation of biological diversity and the protection of forests and other natural resources, and their traditional knowledge of the environment can substantively enrich scientific knowledge and adaptation activities when taking climate change-related actions.”

201 David R. Boyd emphasises this in *The Rights of Nature: A Legal Revolution that Could Save the World*, Toronto: ECW Press, 2017. Boyd has been serving as the UN Special Rapporteur on human rights and the environment since 2018. See [www.ohchr.org/en/special-procedures/sr-environment](http://www.ohchr.org/en/special-procedures/sr-environment)

202 See [www.bmz.de/de/aktuelles/aktuelle-meldungen/weltnaturkonferenz-de-staerkt-indigene-voelker-beim-naturschutz-135510](http://www.bmz.de/de/aktuelles/aktuelle-meldungen/weltnaturkonferenz-de-staerkt-indigene-voelker-beim-naturschutz-135510).

The close link between the rights of Indigenous peoples and environmental issues is exemplified by the environmental activism of local human rights defenders, among whom Indigenous people are prominently represented. This topic, too, has drawn greater attention recently. For example, Indigenous activists uncover environmental scandals, demand detailed governmental information about the harmful impacts of resource extraction and protest against forced relocations to accommodate dam building projects, thereby raising public awareness of these issues within their societies.

Strategically supporting local human rights activism has long been a focus of international human rights policy. On the initiative of Germany, the United Nations adopted a declaration on the rights of human rights defenders in 1998, marking the 50th anniversary of the Universal Declaration of Human Rights.<sup>203</sup> Based on this declaration, the UN soon appointed an official with a mandate to report on this topic. Michel Forst, the former UN Special Rapporteur on human rights defenders (2014–2020), elaborates at length in one of his reports on the alarming situation of activists working on environmental issues, who almost inevitably come into conflict with powerful political and economic interest groups.<sup>204</sup>

The report details numerous acts of violence including hate campaigns, threats, blackmail, kidnappings and assassination attempts. Within the highly vulnerable group of environmental human rights defenders, according to Forst, Indigenous individuals are additionally threatened

due to widespread racist prejudices, economic deprivation, and sometimes also language barriers.<sup>205</sup> Moreover, it is more difficult for the human rights defenders to access protection in the remote rural areas where many Indigenous people live. Forst calls upon governments and the international community to systematically address and lend political support to this issue. He considers his report to be an international wake-up call sounding the alarm about this situation.<sup>206</sup>

One welcome factor in the advancement of the rights of Indigenous peoples is the increased attention to the intersection of economics and human rights. The endangerment of Indigenous land rights is intimately connected with the economic interest in using land – which is increasingly scarce globally – for industrial agriculture, and with the exploitation of natural resources. Experts largely have a critical view on the Guiding Principles on Business and Human Rights,<sup>207</sup> adopted in 2011, because they are not legally binding – a situation that they stress urgently needs to change.<sup>208</sup> However, they do represent an example of the ongoing efforts to define corporations' human rights obligations more precisely without diluting governments' basic responsibility to guarantee human rights. Intensifying the discussion around this set of issues is also indispensable from the perspective of Indigenous peoples.<sup>209</sup>

Another notable development is the current debate about the return of looted art from the colonial period, which has recently gained traction in Germany. The objects in question include

203 See [www.ohchr.org/en/civic-space/declaration-human-rights-defenders](http://www.ohchr.org/en/civic-space/declaration-human-rights-defenders).

204 See UN doc. A/71/281 (Michel Forst, 3 August 2016), para. 40.

205 See *Ibid.*, para. 56.

206 The UN Special Rapporteur on the Rights of Indigenous Peoples addressed this issue two years later in her own report: UN doc. A/HRC/39/17 (Victoria Tauli-Corpuz, 10 August 2018). In her view, the key to understanding the problem and solving it lies in the land rights of Indigenous peoples, which in many cases are still not ensured: "A crucial underlying cause of the current intensified attacks is the lack of respect for indigenous peoples' collective land rights and the failure to provide indigenous communities with secure land tenure, as this in turn undermines their ability to effectively defend their lands, territories and resources from the damage caused by large-scale projects." (*Ibid.*, para. 30).

207 See [www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](http://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf).

208 Markus Krajewski, "A Nightmare or a Noble Dream? Establishing Investor Obligations Through Treaty-Making and Treaty-Application", *Business and Human Rights Journal*, vol. 5 (2020), pp. 105–129.

209 Similar considerations apply to the current discussion about updating the OECD Guidelines for Multinational Enterprises and the associated implementation procedures. The International Indigenous Peoples' Rights Initiative (IPRI) has articulated comments and recommendations for this process. See [www.iprights.org](http://www.iprights.org).

a variety of items of religio-spiritual importance. While Germany's remembrance culture justifiably engages to an intensive degree with the crimes against humanity committed under the Nazis, the massive human rights violations committed in the context of colonialism are only gradually entering the public discourse more forcefully. One focal point of this discussion is what to do about artistic artefacts from former colonies. The growing sensitivity to this long-neglected issue can also advance the debate around Indigenous rights, the recognition of which is part and parcel of the "decolonisation" of political ideas. German terms such as *Naturvölker* (literally "nature peoples" as opposed to "cultivated peoples") or the designation of museums of *Völkerkunde* (an outmoded word for ethnology whose name literally translates to "study of peoples") need to be relegated to the past. The same applies to the stigmatisation of Indigenous religious practices as "superstitions" or the designation of religious objects as "fetishes."

Beyond any doubt, the heightened attention to the concerns of Indigenous peoples is a welcome development, and is indeed long overdue. However, it also poses new risks. Political criticism of the flaws in globalised capitalism may lead people to project their general anti-capitalist desires onto Indigenous peoples, with their distinct ways of life and economic systems. The interest in showcasing the Indigenous approach to nature as a positive alternative to modern industrial exploitation of natural resources could typecast Indigenous peoples as guardians of archaic traditions, an imposed role that tacitly denies them certain options in the face of major changes to their living conditions. Occasionally, Indigenous traditions are also used as benchmarks for radical criticisms of (real or perceived) biases in "Western, rational thought." All this can lead to reproducing old stereotypes and forging new ones. Moreover, the increased attention to Indigenous knowledge and spirituality could also result in cases of intellectual appropriation, and it might occasionally

intersect with the commercial interests of the growing market in esotericism. In short, even the largely welcome interest in Indigenous traditions, cultures, lifestyles and forms of knowledge can cross red lines, which is why exercising critical care remains vital.

It is all the more important that the rights of Indigenous peoples are respected *for their own sake*, in keeping with the human rights approach. For all the positive side-effects that consistently implementing these rights may hold for society at large – in the realm of environmental policy, for example – the respect for the fundamental rights of each individual is directly derived from the value of human dignity, which underpins human rights altogether. The rights of Indigenous peoples fit into that broader context. The first indication that majority societies have the requisite respect for the dignity and rights of Indigenous people(s) will be when they take Indigenous peoples' self-determined identities seriously and when they engage politically with the interests, needs, proposals and contributions they voice.<sup>210</sup> The recent growth in interest in Indigenous peoples and their rights may well have improved the conditions needed for this.

Munich and Erlangen, August 2023

210 This is exemplified by a book about worldviews, education and how to treat one another and nature. The volume, entirely in the form of dialogues, was co-authored by a member of the Cree First Nation from Canada and a German philosopher: Stan Wilson & Barbara Schellhammer, *Indigegogy: An Invitation to Learning in a Relational Way*, Darmstadt: Wissenschaftliche Buchgesellschaft, 2021.

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