

POLICY BRIEF



The right to Peaceful Assembly and Freedom of Religion or Belief (FoRB)

The right to peaceful assembly

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination of the above. This fundamental right enables individuals to express themselves collectively in both public and private settings.¹ It protects the non-violent gathering of persons for specific objectives, mainly expressive ones. Various international instruments and regional instruments express the right to peaceful assembly in similar terms. Article 20(1) of the Universal Declaration of Human Rights (UDHR) and Article 11 of the European Convention on Human Rights guarantee everyone the right to freedom of peaceful assembly and association. Likewise, Article 15 of the American Convention on Human Rights, Article 11 of the African Charter on Human and Peoples' Rights and Article 28 of the Arab Charter

on Human Rights also uphold this right. Article 2(1) of the ICCPR makes it essential for States to respect and ensure the exercise of the right to peaceful assembly without discrimination. Therefore, this right is guaranteed to both citizens and non-citizens alike, including asylum seekers and refugees.²

The State has the duty to ensure that there is no unjustifiable interference with peaceful assemblies. For example, peaceful assemblies must not be prohibited, restricted, blocked, dispersed or disrupted by government without legitimate reasons. Participants or organizers cannot be penalized without legal grounds. Additionally, the State must promote and facilitate an environment for the exercise of the right of peaceful assembly without discrimination while protecting participants against abuse by non-state actors or violence by other members of the public.³

¹ General comment No. 37 (2020) on Article 21 of ICCPR – Right of peaceful assembly, para 6.

² General comment No. 15 (1986) on the position of aliens under ICCPR, paras. 1–2.

³ *Ibid*, General Comment No. 37 (2020), para 24.

Article 21 ICCPR lays out specific criteria on permissible restrictions to the right to peaceful assembly. Restrictions must be imposed as a measure of “last resort”,⁴ in conformity with the law, and “necessary in a democratic society in the interests of national security or public safety, public order [...], the protection of public health or morals or the protection of the rights and freedoms of others”.⁵ This means that not only states can only impose restrictions that are based on existing laws (no arbitrary restriction is permissible), but also such restrictions must also be based on one of the above-mentioned grounds. In its General Comment 37, the Human Rights Committee – the ICCPR monitoring body – laid out specific explanation to what each ground involves as to ensure that no state will abuse the scope of the permissible limitations. Finally, any restrictions on participation in peaceful assemblies should be based on an individualized assessment of the conduct of the participants and the assembly.⁶

Freedom of Religion or Belief

International law also recognizes the right to worship with others either publicly or privately. Collective worship is an integral part of many religions. Religion is not only considered an individual experience but it often also requires collective behavior to express itself.⁷

According to international law, everyone has the freedom to manifest their religion or belief, through worship, observance, practice, and teaching, in public or in private.⁸ Freedom of Religion or Belief (FoRB) has two components, one internal – freedom to hold or adopt a specific religion or belief – and one external – freedom to manifest such religion or belief. The former is an absolute right, meaning that it cannot be subject to any state limitation (no one can tell anyone what to believe), and the latter can only be limited if restrictions are “prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”.⁹

Freedom to manifest one’s religion acknowledges the reality that manifesting one’s religion or belief includes communal and public expressions, not just individual and private expressions, and recognizes that religious

manifestation includes not only individual activities but institutional expressions as well.¹⁰

“Legislation should not include excessive restrictions or other bureaucratic burdens that delay access to legal personality. Undue and excessive restrictions are inconsistent with FoRB, as well as freedom of assembly. The process of registration must be quick, transparent, and fair.”

The convergence of the right to peaceful assembly and FoRB

The right to freely manifest one’s religion can only fully be realized when other related and overlapping rights, notably freedom of expression, freedom of peaceful assembly and freedom of association, are also guaranteed and protected. The “in community with others” provision in Article 18(1) of ICCPR implies the right to peaceful assembly, making it a prerequisite to exercise the right to FoRB.¹¹ The two key elements of the manifestation of religion or belief are the right to worship and assemble to practice faith or belief and the right to build and maintain places of worship. Under the first right certain acts are specifically protected, such as conducting or participating in ritual and ceremonial acts that give direct expression to one’s belief.¹² The second right obliges States to ensure that religious and belief-related places, sites, and shrines are fully respected and protected.¹³

This illustrates the convergence of freedom to peaceful assembly with freedom to manifest one’s religion or belief. Furthermore, Article 6 of the UDHR has a series of specific freedoms that replicates universally agreed minimum standards in human rights related to religion and belief, including to assemble in connection with a religion or belief, and to establish and maintain places for those purposes.¹⁴

Several countries have witnessed an escalation of violence and hostilities against Christians as they gather for collective worship, albeit in distinct socio-political

⁴ *Ibid.*, para. 37.

⁵ ICCPR Article 21.

⁶ *Ibid.*, General Comment No. 37 (2020), para 38.

⁷ *U.N. Covenant on Civil and Political Rights. CCPR Commentary.* By Manfred Nowak. Kehl, Strasbourg, Arlington VA: N. P. Engel, Publisher, 1993, pp. 939.

⁸ General Comment No.22 (1993) on Article 18 of ICCPR – Freedom of Thought, Conscience or Religion, para 4.

⁹ ICCPR Article 18(3).

¹⁰ International Protocol on Documenting Violations of Religious Freedom, Open Doors International and Religious Freedom Institute, pp. 17.

¹¹ Witte, John, and M. Christian Green (eds), *Religion and Human Rights: An Introduction* (New York, 2011; online edn, Oxford Academic, 24 Mar. 2015), pp. 218–235. Available at: doi.org/10.1093/acprof:osobl/9780199733453.001.0001.

¹² *Ibid.*, General Comment No.22, para 4.

¹³ Human Rights Council, Resolution 6/37, para 9(e).

¹⁴ Lerner, N, *Religion, Secular Beliefs and Human Rights, 25 Years After the 1981 Declaration*, Brill, January 2006, pp. 1 – 19.

settings.¹⁵ While destruction of church buildings,¹⁶ disruption of church services by vigilante groups¹⁷ and arrests and detention of church leaders¹⁸ are more direct and visible forms of violations, many governments have implemented discriminatory laws and regulations¹⁹ that effectively shut down churches or limit who can lawfully gather, restrict the size of religious gatherings, or utilize surveillance mechanisms to monitor them, including house-churches.²⁰ As a result, Christians in many countries are prohibited from or restricted in their collective worship.

This policy brief will outline some of the most common violations of the right to peaceful assembly intersecting with the right to FoRB and use four countries as case studies, namely India, Rwanda, Nicaragua and Algeria.

1. MANDATORY REGISTRATION

Some countries use registration requirements for religious groups as a pretext to limit their right to freely assemble and practice their religion or belief beyond the scope set out by international law. Registration should only be required to provide legal personality and must not be a mandatory requirement to practice religion.²¹ Hence, registration cannot be a necessary requirement for the free practice of one's religion. Asma Jahangir, previous UN Special Rapporteur on FoRB, published a report in 2005 addressing the issue of registration and clearly stated that one cannot be prevented from practicing a religion because they are not officially registered.²² It follows that states cannot impose sanctions or limitations on religious groups that choose not to register.²³ In 2018, the government of

¹⁵ The top 50 Open Doors' World Watch List indicate this growing trend. For more information. Full Country Dossiers available on opendoorsanalytical.org (password: freedom)

¹⁶ Turkey, USCIRF Annual Report 2023, pp. 66. Available at: uscirf.gov/sites/default/files/2023-05/2023%20Annual%20Report_1.pdf.

¹⁷ brookings.edu/articles/technological-surveillance-of-religion-in-china/#:~:text=Video%20and%20audio%20surveillance%20of,or%20individuals%20with%20greater%20specificity.

¹⁸ articleeighteen.com/analysis/11670.

¹⁹ abc.net.au/news/2018-04-04/rwanda-closes-thousands-of-churches-in-bid-for-more-control/9619730.

²⁰ brookings.edu/articles/technological-surveillance-of-religion-in-china/#:~:text=Video%20and%20audio%20surveillance%20of,or%20individuals%20with%20greater%20specificity.

²¹ UN Doc. A/HRC/10/8/Add.4, para 23.

²² E/CN.4/2005/61, para 58.

²³ Legislation Factsheet: Registration Laws, United States Commission on International Religious Freedom, January 2019. Available at: <https://www.uscirf.gov/sites/default/files/Legislation%20Factsheet%20-%20Registration%20Laws.pdf>.

²⁴ The new regulations fall under the jurisdiction of the Rwanda Governance Board, a government body. <https://rwandalii.africanlii.org/sites/default/files/gazette/OG+no+37+bis+of+10-09-2018.pdf>.

²⁵ According to Open Doors sources.

²⁶ *Ibid* – In the last 3 months alone (May, June and July 2023), 25 church leaders were arrested on separate occasions for conducting house church prayer meetings.

²⁷ refworld.org/pdfid/3e283bd01.pdf.

²⁸ General Comment No. 22 (1993) on Article 18 of ICCPR - The right to freedom of thought, conscience and religion.

²⁹ *Ibid*, General comment No. 37 (2020).

Rwanda adopted and implemented Law 72/2018,²⁴ a new law governing churches and faith-based organizations. It mandates that religious organizations must obtain legal personality to operate (Article 7) and that places of worship are required to meet certain public health and safety standards and abide by noise pollution ordinances (Article 16). As a result, almost 10,000 churches have been shut down by the authorities.²⁵ Additionally, more than 200 people, mostly church leaders, were arrested in the last four years in relation to Law 72/2018.²⁶

Laws governing the ways that religious communities acquire legal personality to form an association, constitute limitations on the organizational manifestations of religion or belief.²⁷ Any such limitation must be in accordance with the stringent standards set forth in Articles 18 and 21 ICCPR, and elaborated in General Comments Nos. 22²⁸ and 37.²⁹ For example, the protection of “public health and safety” as a restriction may be imposed where there is an outbreak of an infectious disease and gatherings could be dangerous. According to Open Doors sources, local bureaucrats in Rwanda, for corruption related reasons, intentionally delay the process to inspect closed churches



Police officers, Rwanda (illustrative image) © Pexels

which have installed noise control systems and proper hygiene facilities.

Legislation should not include excessive restrictions or other bureaucratic burdens that delay access to legal personality. Undue and excessive restrictions are inconsistent with FoRB, as well as freedom of assembly. The process of registration must be quick, transparent, and fair.³⁰ The Église Protestante d'Algérie (EPA), the umbrella organization of all protestant churches in Algeria, have faced a high level of legal and government pressure after a new legislation governing religious associations came into force in 2012 requiring re-registration of existing associations.³¹ The EPA had obtained official recognition as a religious association in 1974. However, the provisions introduced in the 2012 law required that national associations have a presence in a minimum of twenty-five founding members from at least twelve different provinces.³² The EPA, fulfilling these requirements, applied for re-registration in 2013. They have yet to receive a response from the Ministry of Interior. As a result, the EPA still lacks official legal status, which is used as a pretext by the Algerian authorities to close EPA churches and argue that they have no right to assemble based on the

lack of legal status. Additionally, practice of non-Muslim religions in Algeria is regulated by Ordinance 06-03 of 2006 which mandates that all places of non-Muslim worship must be authorized by the National Commission for Non-Muslim Worship.³³ Applications for permission to use buildings as churches and to build new churches have never been accepted by the Commission as it does not function in practice. Without any formal approval from the Commission, non-Muslim groups are constrained either not to function or to operate on an unofficial basis and be vulnerable to closure.³⁴ Since the Ordinance was passed in 2006, none of the EPA-affiliated churches have received permission to use their premises as places of worship. Since 2017, the Government has ordered 42 EPA-affiliated churches to close.³⁵

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A church closed by the Algerian authorities

States should review registration practices in conformity with international law to ensure the right to manifest religion or belief as well as the right to establish and maintain religious, charitable or humanitarian institutions.³⁶ In Nicaragua, registration of several church-based non-governmental organizations (NGOs) such as Caritas³⁷ has been cancelled under Law No. 1040, La Gaceta No. 192, commonly known as the “foreign agents’ law”. Likewise, amendment to the General Law of Regulation and Control of Non-Profit Organizations of Nicaragua (Law No. 1115) provides broad discretion for regulatory officials to deny legal recognition.³⁸ According to Open Doors sources, the amended Law No. 115 has also been utilized to cancel the legal status of several church affiliated NGOs.

³⁰ uscirf.gov/sites/default/files/Legislation%20Factsheet%20-%20Registration%20Laws.pdf.

³¹ 2012 Law on Associations (Law 12-06 of 2012). Available at ilo.org/dyn/natlex/docs/ELECTRONIC/89142/102237/F1188083471/DZA-89142.pdf (French).

³² *Ibid*, Article 6.

³³ Ordinance 06-03 of 28 February 2006. Available at: axl.cefan.ulaval.ca/afrique/algérie_ordon-06-03-2006religions.htm (French).

³⁴ csw.org.uk/2022/03/22/report/5646/article.htm

³⁵ According to Open Doors sources

³⁶ Commission on Human Rights Resolution 2005/40 (para. 4(c) & 4(e)).

³⁷ thetablet.org/caritas-catholic-universities-in-nicaragua-shut-down-by-ortega-regime.

³⁸ icnl.org/resources/civic-freedom-monitor/nicaragua.



In November 2022, training on discipleship was held for a total of 60 pastors in Bilwi and Leon, Nicaragua

2. DISRUPTION OF CHURCH SERVICES AND DESTRUCTION OF CHURCH BUILDINGS

To recognize and fully protect right of peaceful assembly and the right to manifest one's religion or belief, States are obliged to respect and ensure the exercise of these complementary rights without discrimination. This requires States to allow peaceful assemblies to take place without undue restrictions and protect the participants attending such gatherings. States should ensure that worship places, sites, and shrines are also protected from attacks by non-state actors, not just state-led attacks. This protection also extends to establishments that are important to a religion or belief, such as community centers, cemeteries, and monasteries.³⁹

In India, vigilantes belonging to Hindutva extremist groups have physically assaulted worshippers in churches or house-churches on several occasions.⁴⁰ Common prayer meetings and religious ceremonies are disrupted under the premises of being a forced

conversion ceremony for non-Hindus, and church leaders are arbitrarily arrested and charged for engaging in alleged forced conversion activities.⁴¹ On 12 May 2023, Abraham Thomas (a local church pastor) and his wife Riba, were holding a prayer meeting in Indrapuram, Ghaziabad, Uttar Pradesh. The police halted their prayer meeting, arrested, and charged them under sections 3 and 5 of the Uttar Pradesh Prohibition of Unlawful Religious Conversion Law for forceful conversion.⁴² Although released on bail, their case is ongoing in court. There has been a steady increase in the frequency of attacks or closure of places of worship belonging to Christian minority in the last few years, based on false accusations of forcible conversions.⁴³

Similarly, the Government of Nicaragua started attacking the Catholic Church after it aided demonstrators of a peaceful protests that was repressed by the government in April 2018.⁴⁴ Since then, churchgoers and clergy have been violently targeted by civilian mobs and security forces.⁴⁵ Several Church leaders, from both Catholic and

³⁹ A/55/280/Add. 1, para. 160 (country visit to Turkey). Available at: insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/08/03/A:55:280:Add1.pdf.

⁴⁰ [washingtonpost.com/world/2023/01/31/india-chhattisgarh-christians-violence-attacks](https://www.washingtonpost.com/world/2023/01/31/india-chhattisgarh-christians-violence-attacks/).

⁴¹ Arrests, Beatings and Secret Prayers: Inside the Persecution of India's Christians, New York Times, Dec. 2021.

⁴² India's Freedom of Religion Acts or "anti-conversion" laws are state-level statutes that have been enacted to regulate religious conversions. These laws exist in 11 states in India.

⁴³ outlookindia.com/national/a-look-at-recent-attacks-against-christians-in-india-news-269813. More than 250 churches have been burned down in the ongoing ethno-religious violence in Manipur. Available at: telegraphindia.com/north-east/253-churches-burnt-down-during-continuing-unrest-in-manipur-indigenous-tribal-leaders-forum/cid/1944597.

⁴⁴ uscirf.gov/sites/default/files/2022-08/2022%20Nicaragua%20Country%20Update%20%5BUPDATED%5D.pdf.

⁴⁵ csis.org/analysis/crackdown-religious-freedom-nicaragua.



During violence in Manipur earlier this year, many churches, Christian houses and properties were burnt down, destroyed and demolished by pro-Hindutva groups

Protestant backgrounds, have been arbitrarily detained.⁴⁶ Not only they are denied Bibles in prison, but these church leaders are also prohibited from communal prayer services with their fellow prisoners.⁴⁷

“Law enforcement officials should facilitate peaceful assemblies, and not use their power to unduly restrict one’s rights.”

3. DISPROPORTIONATE USE OF FORCE BY POLICE

Article 21 ICCPR provides that any restriction to freedom of peaceful assembly should be proportionate, in conformity with the law and necessary in a democratic society. Moreover, such restrictions should be placed in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.⁴⁸ Therefore, law

enforcement officials involved in policing assemblies are required to comply to the above international standards as well as act in accordance with the respect of the fundamental rights of the attendants.⁴⁹ Law enforcement officials should facilitate peaceful assemblies, and not use their power to unduly restrict one’s rights.

In India, sections from the state-level anti-conversion laws⁵⁰ and Indian Penal Code (IPC)⁵¹ are regularly misinterpreted by law enforcement officers, who arrest or charge church leaders for conducting constitutionally protected religious ceremonies.⁵² On 30 April 2023, Vinay Sahu from Raipur, Chhattisgarh, along with 50 other Christians were attacked during a Sunday worship service⁵³ in Amleshwar, Durg district by a mob of Hindutva vigilantes from the Bajrang Dal⁵⁴ accusing them of forceful conversion. The police were bystanders to this violence. Eventually Vinay Sahu and 20 other Christians were taken to Amleshwar Police Station where they were subjected to physical abuse by the police.



While Pastor Jacob (name changed) from India and his wife were away for a prayer meeting at a fellow Christian’s house, some unknown miscreants set his church and adjoining cottage on fire. He had been receiving threats from the extremists in the village

⁴⁶ Nicaragua: Civil Society Under Siege, A report by Christian Solidarity Worldwide, Dec. 2022.

⁴⁷ uscirf.gov/sites/default/files/2022-08/2022%20Nicaragua%20Country%20Update%20%5BUPDATED%5D.pdf.

⁴⁸ General comment No. 34 (2011) on Article 19 of the ICCPR – Freedom of Opinion and Expression, para 34.

⁴⁹ *Ibid*, General comment No. 37 (2020), para 74.

⁵⁰ India’s Freedom of Religion Acts or “anti-conversion” laws are state-level statutes that have been enacted to regulate religious conversions. These laws exist in 11 states in India.

⁵¹ Sections such as 153A (promoting enmity between different groups on grounds of religion) and 295A (deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs).

⁵² indianexpress.com/article/cities/lucknow/uttar-pradesh-pastor-held-for-illegal-conversions-8241641.

⁵³ telegraphindia.com/jharkhand/chhattisgarh-attack-on-christian-service-at-home/cid/1933741.

⁵⁴ The Bajrang Dal is a Hindu nationalist militant organization.

Recommendations:

To ensure the respect of the inherent rights to manifest one's religion and the right to peaceful assembly, States should:

- » Cease making registration a mandatory requirement to respect the inherent right to peacefully assemble to manifest one's religion or belief;
- » Ensure the creations of channels to appeal the decision of the authorities with regards to restrictions to gather and worship and access remedies;
- » Revise all laws and policies regulating peaceful assembly and the right to manifest one's religion or belief that go beyond the narrowly defined limitations set out by international law;
- » Urgently condemn any act of violence and discrimination against faith adherents and their places of worship including when such acts are carried out by public officials; and hold their perpetrators to account;
- » Limit requirements of health and safety on places of worship only to what is proportionate and necessary for the purpose of public health, as elaborated by General Comments Nos. 22 and 37 of the Human Rights Committee;
- » Provide training and sensitization workshops to police and security personnel on their duty to enable peaceful assemblies and ensure that members of peaceful assemblies are not burdened with criminal prosecution.