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Discrimination on the Basis of Religion or Belief in Education

FAITH

AND

A

FUTURE



Cover photo: Child in Nehemiah IDP camp, southern Kaduna, Nigeria

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*This report is dedicated to Rev Stuart Windsor (1943-2017),
CSW Special Ambassador and a passionate advocate for
religious freedom for all.*

EXECUTIVE SUMMARY



A child's right to freedom of religion or belief (FoRB) is guaranteed under Article 18 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as under Article 14 of the United Nations Convention on the Rights of the Child (UNCRC, or CRC). All UN Member States (with the exception of the United States) have ratified the CRC. And yet, in practice, children and young adults across the world face varying degrees of discrimination because of their religion or belief, including in educational settings.

"I was beaten with sticks approximately twice a week throughout nursery and prep. After that the manner of the abuse changed. As well as physical punishment, I was mentally abused and tortured by consistently being told to convert."

Gurinder Singh, Sikh, Pakistan, 17 years old

This report seeks to stimulate vital conversations about the intersection between FoRB and the right to education, encouraging further research and action. As with the right to FoRB, the right to education is 'a human right that is crucial to the realization of a wide array of other human rights.'¹

Education can either create a culture of tolerance or fuel stereotyping, animosity and extremism. It can provide opportunities for social mobility, or entrench disadvantage.

Christian Solidarity Worldwide (CSW) has conducted research in five countries, spanning five regions, and has found that discrimination based on religion or belief and violations of FoRB in educational settings can take many forms. For instance, in Pakistan children from minority faith communities are regularly subjected to psychological and physical abuse by fellow students and teachers; Christian children from Chin State in Burma have been enticed into government-run Buddhist monastic schools by promises of education, where they are prohibited from practising their faith and forcibly converted, and Baha'i children in Iran find their access to education blocked by state policies. Through

"If Baha'i individuals, at the time of enrolment at university or in the course of their studies, are identified as Baha'is, they must be expelled from university."

A letter from Iran's Ministry of Science, Research and Technology to the management of 81 Iranian universities, 2006

¹ Report of the Independent Expert on Minority Issues, Gay McDougall, 'Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development', 2009, UNGA/A/HRC/10/11/Add/ 5/3/2009

verified case studies this report further highlights that the right to education cannot be fully realised if FoRB is not respected within the educational setting.

Any violation of FoRB in an educational setting is a serious issue and must be addressed effectively. As well as breaching the UDHR, the ICCPR and the CRC, FoRB violations in an educational context infringe on the right of the child to education without discrimination, as guaranteed by Article 26 of the UDHR and Articles 28 and 29 of the CRC.

While the right to education has generated significant interest in the international community, the right to FoRB in educational settings has received insufficient attention. For instance, the Sustainable Development Goals (SDGs) include a commitment to 'leave no one behind'; however, the lack of focus on religious minorities means that the goals fail to address discrimination on the basis of religion or belief in the area of educational rights. Similarly, during the first two cycles of the UN Universal Periodic Review (UPR) process only 31 out of more than 55,000 recommendations referred jointly to the right to education and the right to FoRB.

FoRB violations in the educational setting can take a number of forms:

Bias

Biased education, including intolerance from teachers and discrimination in school textbooks, creates a toxic mix, leaving students from minority religious communities isolated and reviled. Curriculum reform must be an urgent priority in countries where religious bigotry is fostered through bias in textbooks and stereotypes, and teachers should receive training to enable them to understand and promote respect for other religious traditions.

Discrimination

CSW found that discrimination and intolerance on the basis of religion or belief is a significant factor undermining the right to education, including in Rakhine State, Burma, where Rohingya children are unable to access education on account of their religion and ethnicity. Effective action must be taken to protect the rights of children in countries or communities where they are barred from attending school because of their religious beliefs or those of their parents.

Abuse

The psychological impact of abuse received by children at school cannot be overstated. Many interviewees told CSW of the 'mental torture' they have suffered as a result of religious discrimination and intolerance in educational settings. Rejected by their peers and teachers, this suffering can have lasting consequences.

Governments must address and end these violations, ensuring that perpetrators are held to account for their actions. For the sake of the children who suffer the consequences of religious discrimination in educational settings, the international community must act immediately to address violations and invest resources into examining further the interaction between FoRB and the right to education. It is hoped that this report will encourage governments, civil society actors and key international bodies and officials to work towards ensuring that every child has the right to a faith and a future.

Recommendations

To UN Member States and UN Mechanisms:

- Ensure full ratification and implementation of relevant international treaties embedding the right to education and the right to freedom of religion or belief. Governments should also be urged to withdraw reservations to articles in international human rights instruments guaranteeing non-discrimination, the right to education and the right to freedom of religion or belief
- Enact and enforce national legislation prohibiting discriminatory policies and practices that mitigate against the realisation of the right to education, and promote the embedding of the right to freedom of religion or belief and the right to education in national laws, ensuring that any existing constitutional or national provisions pertaining to these rights are respected
- Be proactive in increasing efforts to address intolerance and discrimination based on religion or belief and FoRB violations in educational settings, and demonstrate political commitment and leadership to promoting FoRB and the right to education without discrimination on the basis of religion, belief or any other factor



Two Muslim and two Christian children outside their school in Nigeria

- Eliminate stereotyping, false narratives and prejudices from educational materials and processes by amending school curricula and teaching methods where required, and ensuring that training in human rights, including in freedom of religion or belief, is part of school curricula
- Facilitate and maintain a national environment in which all religious, belief and non-faith communities can take part in the development, implementation and monitoring of school curricula and relevant education policies and strategies. The meaningful participation of minority faith communities is essential for devising non-discriminatory education policies and strategies
- Strengthen the monitoring of FoRB violations in the educational setting by developing data collection systems and providing thorough evaluation and assessment of the impact of education programmes on religious minorities. Increasing the availability of information on access of religious minorities to education is vital in order to uncover potential vulnerabilities, and to develop clear human rights indicators to track progress
- Formulate and support initiatives promoting both FoRB and the right to education. Such initiatives could include teacher training programmes focusing on FoRB and wider human rights, classroom interfaith initiatives, and projects aimed at reviewing or reforming biased education materials
- Demonstrate a commitment towards providing a safe educational environment for all children by endorsing and urging governments to endorse and effectively implement the Safe Schools Declaration²
- Promote the full implementation of the Toledo Guiding Principles on teaching about religions or beliefs by Member States and relevant UN and regional actors
- Ensure that all relevant UN mechanisms – such as the UN Human Rights Council (UN HRC, or HRC) resolution on education – consider the interrelatedness of the right to education and FoRB and pay adequate attention to ensuring non-discrimination on the basis of religion or belief
- Member States should ensure FoRB and the right to education are consistently raised in every appropriate international platform, including during high-level visits and other bilateral exchanges, as well as at multilateral fora such as the UN General Assembly, UN HRC sessions and during the UPR process.

² The Safe School Declaration, adopted in 2015, is an inter-governmental commitment to protect students, teachers, schools, and universities from violent attacks.

INTRODUCTION

The importance of the right to education has been acknowledged for some time in national and international legislation, and in many countries great progress has been made towards achieving universal primary education and increased secondary and tertiary attendance. However, despite significant focus by the international community on the right to education, millions of children are still not able to enjoy this right fully. The UN Secretary General's report of 2016 on the progress towards the Sustainable Development Goals (SDGs) highlighted that 'In 2013, the latest year for which data are available, 59 million children of primary-school age were out of school. Estimates show that, among those 59 million children, 1 in 5 of those children had dropped out and recent trends suggest that 2 in 5 of out-of-school children will never set foot in a classroom.'³ An even larger number of children are denied access to the quality of education that would provide them with greater opportunities later in life.

The right to education can be undermined by a number of factors. Abject poverty forces some

children out of education and into child labour; conflict leaves millions of children in camps for internally displaced persons (IDP) where education is inadequate; and discrimination based on ethnicity and gender is a worldwide phenomenon.⁴

A factor which is yet to receive adequate attention is the impact of violations of freedom of religion or belief (FoRB) within educational settings. Human rights are interrelated, interdependent and indivisible, yet the relationship between FoRB and the right to education is seldom examined. Information received from Christian Solidarity Worldwide's (CSW's) in-country contacts, and recorded by CSW during fact-finding assignments, suggests that children often experience violations of the right to FoRB in educational settings and face discrimination in accessing education due to their religion or belief.⁵ From Burma to Mexico, CSW's work has uncovered evidence that children from across the world are affected.

CSW has specialised in the right to FoRB since 1979, focusing on more than 20 countries in Africa, the Middle East, South Asia, East Asia and

"A few of the children in my school knew that I am Ahmadi and what they did was to go and tell the other students, 'She is Ahmadi, don't play with her or eat with her, and stop treating her normally.'"

Farzana Khan, Ahmadi, Pakistan, 15 years old

"Freedom of religion or belief and school education, however, require very careful handling. The main reason is that the school, besides providing a place of learning and social development, is also a place in which authority is exercised. It is during their school education that young people receive, or fail to receive, crucial diplomas on which their future life and work opportunities may depend to a large extent. Moreover, especially for young children, the teacher may represent an authority with an enormous influence...Hence school life can put persons in situations of unilateral dependency or particular vulnerability."

Professor Heiner Bielefeldt, former UN Special Rapporteur on freedom of religion or belief, in his report to the UN Human Rights Council, 15 December 2010

'All children deserve a good-quality education but typically those who enter school carrying the weight of disadvantage receive the worst.'

Reaching the Marginalized report, UNESCO, 2010

3 UN ECOSOC, 'Report of the Secretary General: Progress towards the Sustainable Development Goals', 2016 E/2016/75, p. 7 <https://unstats.un.org/sdgs/files/report/2016/secretary-general-sdg-report-2016--EN.pdf>

4 The World Inequality Database highlights the influence of circumstances such as wealth and gender in shaping opportunities for education www.education-inequalities.org/

5 This report uses the term 'educational setting' to refer to any setting that provides an educational experience. This of course includes schools, but can refer to other institutions that provide tuition, training or instruction.

Latin America. Before undertaking this research, concerns relating to FoRB violations within education had already been discovered by CSW in at least one country within each of these regions. Recognising this, CSW decided to undertake initial research in order to draw attention to FoRB violations within educational settings, to highlight how the right to education and right to freedom of religion or belief are intrinsically linked, and to propose recommendations that can ensure the protection and promotion of FoRB in education.

Overview of concerns

While the right to education has received significant international focus through the adoption of strong legal guarantees, and some measure of progress has been made in extending access to education since the adoption of the Millennium Development Goals (MDGs), minority communities continue to be sidelined. Despite the 2030 Agenda commitment to ‘leave no one behind’ and the adoption of the Sustainable Development Goals (SDGs), the lack of focus on minority faith communities has meant that the SDGs fail to reveal discrimination on the basis of religion or belief in the area of education. Furthermore, as several case studies within this report illustrate, even when children are able to access school, they continue to experience a number of human rights violations in educational settings – including FoRB violations – which undermine their right to education.

Discrimination based on religion or belief is one factor preventing children from attending school in almost all of the countries of research in this report. This discrimination can take many forms. For example, in Iran, Baha’i children experience difficulties in accessing higher education as a result of discriminatory policies designed to target them on the basis of their religion. Similarly, in Mexico, school officials often collaborate with local government officials to prevent children from minority faith communities from attending.

In some countries, funding for education is allocated in a discriminatory manner, meaning that minority faith communities are not provided with education or educational facilities. Decades of neglect by the military junta in Burma left the infrastructure in the majority Christian Chin state severely lacking; while in some states in northern Nigeria, predominantly Christian areas have no schools nearby.

Biased education can leave children from religious minority communities feeling isolated, reviled and deeply despondent. Derogatory content in textbooks, and intolerant teachers, create a toxic mix for children from vulnerable communities, such as the Baha’i in Iran and the Ahmadi in Pakistan. In the shari’a states of northern Nigeria, there have been occasions when the safety of non-Muslim students has been compromised by unproven accusations of blasphemy that have given rise to violence. Forced conversion, or pressure to convert, in educational settings are also serious issues that occur in a number of countries.

Students can experience **physical and emotional abuse** at the hands of teachers and fellow pupils. The psychological impact of such abuse should not be underestimated. Several interviewees informed CSW of the ‘mental torture’ they experienced as a result of religious intolerance in educational settings. Rejected by their peers and teachers, this suffering often has lasting consequences.

In an interview with CSW, a young Ahmadi woman in Pakistan described her own experiences in school and those of her siblings. Her interview exemplifies the multi-layered violations that can occur in the educational setting. She said that people used to say to her:

“You are kafir [an infidel], you are not Muslim. We are Muslim so we can’t be with you. It will destroy our religion if we eat with you. If we drink with you then it will be against our religion.”

Her brothers were abused physically and psychologically:

“Physically they used to hit my brothers with sticks, and then with hands.”

“My elder brother was 13 years old when he had to leave the school due to abuse...Even his teachers used to torture him both physically and mentally. They used sticks and words and they did not allow him to study. My parents sent him to one of our uncles’ house in another city far away, to complete his studies.”

She lost friends because of religious intolerance, and described how her best friend at school attempted to persuade her to convert:

“...Even my best friend refused to be with me until I changed my religion, then we could be best friends again.”

Towards the end of the interview she revealed that the way in which she was treated had had long-term psychological effects:

“Obviously you get mental trauma, psychological trauma, you get disturbed. Both my brothers and I had to leave our own home to continue our studies, because we could not continue over there because of religion. We had to leave our parents.”

The case of these Ahmadi children provides an illustration of the interrelatedness, indivisibility and interconnectedness of human rights and of how violations of the right to education on the basis of religion or belief take a variety of forms and can have an impact on the enjoyment of other rights. Not only was the children’s right to education severely and negatively impacted by religious discrimination and intolerance; as a result of the abuse from teachers and pupils, these minors were also obliged to leave their parental home prematurely in search of education.

Methodology

The relationship between the realisation of the right to education and FoRB is yet to be thoroughly examined, and there is insufficient disaggregated data on FoRB violations in educational settings, or on the access of religious and belief communities to education.

This report provides information about FoRB violations in educational settings in Burma, Iran, Mexico, Nigeria and Pakistan, and seeks to:

- Outline the human rights framework relevant to the intersection of FoRB and the right to education and existing interpretations of the intersection of these rights.
- Identify some of the key challenges to the enjoyment of FoRB by children within the educational setting and restrictions to the right to education experienced by children from minority religious or belief and non-faith communities in selected countries.
- Provide verified case studies of FoRB violations within educational settings and

restrictions on education experienced by children from minority religious or belief and non-faith communities.

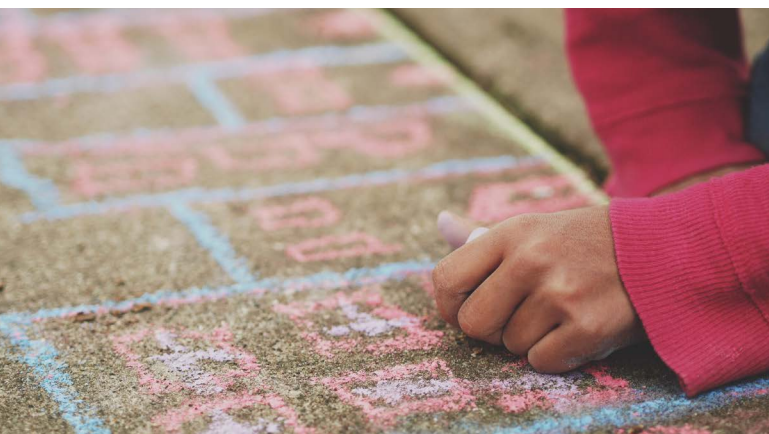
- Provide preliminary analysis of some of the key challenges in selected countries.
- Formulate clear and actionable recommendations for national governments and the international community to take forward.

In addition, the report hopes to inspire action to promote FoRB in educational settings.

The report draws primarily from documentation and research conducted by CSW’s partners. Information received from questionnaires distributed in early 2017 has formed the basis of the report, and in some cases partners were contacted for additional information. Information and advice was received from the Ahmadiyya Muslim Community UK and Pakistan, the Baha’i Community of the UK, the Cecil and Iris Chaudhry Foundation, Children on the Edge, the Chin Human Rights Organisation, CSW-Nigeria, Impulso18, the Institute for Development Research and Corresponding Capabilities (Pakistan), and the National Commission for Justice and Peace (Pakistan). This was supplemented by desk research and consultation with Father Bonnie Mendes and Cheery Zahau. CSW would also like to express gratitude to Ellis Heasley and Johnny Patterson for their assistance with this project.

The report begins with an overview of the international human rights framework relating to the right to education, the right to FoRB, and non-discrimination and the nexus between FoRB and the right to education, urging greater research into this area. It includes country case studies, and makes a series of recommendations for national governments, international organisations and the rest of the international community to take forward.

CSW acknowledges that this report does not address the full scope of the challenges within the countries of focus or in other countries, and that further and more comprehensive analysis and research is still needed. While the report is limited in scope and does not purport to provide comprehensive information or quantitative data on this issue, it does seek to raise greater awareness of the intersection between FoRB and the right to education, to provide initial analysis and to highlight areas requiring immediate action or further investigation.



INTERNATIONAL LEGAL FRAMEWORK: THE RIGHT TO EDUCATION AND THE RIGHT TO FREEDOM OF RELIGION OR BELIEF (FORB)

The right of the child to education has received considerable attention both in human rights treaties and monitoring bodies, and in the work of United Nations (UN) bodies. For example, education features prominently in the Sustainable Development Goals (SDGs), adopted in 2015. Comparatively, the right of the child to FoRB has received far less attention. The reduced attention to this right has been recognised by relevant UN Human Rights Council (HRC) Special Procedures mandate holders. Consequently, successive Special Rapporteurs on FoRB have focused increasingly on the rights of the child, providing essential guidance on the intersection between FoRB and other rights, including the right to education.

In addition, the intersection between FoRB violations and violations of the right to education has received

limited attention in the international human rights system. FoRB violations in educational settings, discrimination on the basis of religion or belief, and the violation of the right to education because of the religious identity of the child or their parents or legal guardians, all have a detrimental impact on the development of the child. The immediate impact of such violations is obvious; however, the possible long term consequences as children move into adulthood are incalculable. It is therefore vital that these restrictions are recognised and systematically addressed at the international, regional, national and local levels.

International human rights treaties

The right to FoRB, the right to education, and the rights of the child specifically have developed through international human rights instruments, with guidance from their monitoring bodies and from relevant Special Procedures mandate holders, such as the Special Rapporteur on FoRB and the Special Rapporteur on the right to education.

The **Universal Declaration of Human Rights (UDHR)** set out for the first time fundamental and universal rights to which all are entitled. The UDHR recognises the ‘inherent dignity and... the equal and inalienable rights of all members of the human family’,⁶ which implicitly includes the child. The UDHR acknowledges that the idea of ‘inherent dignity’ is unconditional, and is therefore not derived from contracts nor accorded through the admission of legal agency. Adding depth to this is the fact that, along with motherhood, childhood is ‘entitled to special care and assistance’: affirming that the child, as a vulnerable member of the human family, requires special consideration within international human rights standards. Article 2 of the UDHR states that everyone is entitled to the rights and freedoms articulated in the Declaration without distinction on the basis of ‘race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’ Article 18⁷ sets out the right to freedom of religion or belief, while Article 26⁸ details the right to education, emphasising that it should

6 Preamble, Universal Declaration of Human Rights, 1948

7 Article 18, Universal Declaration of Human Rights, 1948

8 Article 26, Universal Declaration of Human Rights, 1948

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

be geared towards promoting ‘understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.’ Article 26 also stipulates the ‘prior right’ of parents ‘to choose the kind of education that shall be given to their children.’

The **International Covenant on Civil and Political Rights (ICCPR)** reiterates the principle of non-discrimination under Article 2, and builds on the definition of freedom of religion or belief outlined in the UDHR. It states that the right to freedom of religion or belief includes the right to have or adopt a religion or belief of your choice, to manifest your religion or belief individually or with others, in public or in private. This manifestation can be in worship, observance, practice and teaching, and the ICCPR sets stringent circumstances in which States can limit the manifestation of religion or belief. Article 18 (4) introduces the rights of parents and legal guardians to educate their children in conformity with their own convictions.

The right to education is articulated more fully in Article 13 of the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**. The ICESCR recognises the right of every person to education, stating that education ‘should be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.’ The ICESCR recognises the benefits of education in enabling all persons to participate in free societies and in promoting understanding and tolerance among nations, racial, ethnic and religious groups and maintain peace. Article 13(2) gives practical guidance as to how the right to education is to be realised, including through the provision of compulsory and free primary education, of available and accessible secondary education in diverse forms, and of higher education that is equally accessible to all. Similar to the provisions in Article 18(4) of the ICCPR, Article 13(3) of the ICESCR requires States to respect the right of parents and legal guardians to ensure that their children’s education conforms with their own religious and moral convictions. The ICESCR also reiterates the principle of non-discrimination in Article 2.

UNESCO Convention against Discrimination in Education

The Convention against Discrimination in Education was adopted at the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1960. The Convention, which came into effect in 1962, asserted the principle of non-discrimination and the right to education. In Article 1, discrimination is defined as ‘distinction, exclusion, limitation or preference’ which is based on a number of protected characteristics, including religion, and which has the ‘purpose, or effect of nullifying or impairing equality of treatment in education’, including depriving a person or persons from accessing education, limiting a person or persons to accessing education of an inferior standard, or maintaining separate systems of education.

The Convention does allow for the existence of separate education in three specific circumstances:⁹ in establishing or maintaining separate educational institutions for boys and girls; in establishing or maintaining separate education systems for religious or linguistic reasons; or in establishing or maintaining private education institutions. Where schools are created to separate genders, the quality and standard of education must be equitable or equivalent. The kind of education offered to religious or linguistic groups should be in keeping with the wishes of parents or legal guardians, while private institutions should not be created ‘to secure the exclusion of any group, but to provide educational facilities in addition to those provided by the public.’

Article 3 places a duty on States to eliminate and prevent discrimination by ensuring that legislation and administrative practices, in schools and public authorities, do not discriminate against or restrict a particular group from accessing education. Additionally, unlike other international instruments, Article 9 prevents States from placing reservations on any part of the Convention. Possibly as a consequence of this, acceptance and ratification of the Convention is low in comparison with the ICCPR, ICESCR and similar instruments.¹⁰ Of the five countries of focus in this report, only Iran and Nigeria have accepted the Convention. However, principles contained in the Convention have been adopted in part in the ICESCR, without specific reservation on the right to education.

⁹ Article 2 articulates situations that would not be deemed to constitute discrimination.

¹⁰ United Nations Treaty Collection, ‘International Covenant on Economic, Social and Cultural Rights’

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&lang=en Pakistan is the only country covered in this report that placed a reservation on the ICESCR: ‘Pakistan, with a view to achieving progressively the full realization of the rights recognized in the present Covenant, shall use all appropriate means to the maximum of its available resources’. On a prima facie reading, the reservation does not directly apply to the provisions on the right to education; however, there may be an impact with regard to discrimination in resource allocation in schools.

Regional instruments and declarations

The rights to education, to FoRB, and the principle of non-discrimination are also articulated in regional human rights instruments. The **African Charter on Human and People's Rights (ACHPR)** recognised the right to education in Article 17, freedom of conscience, profession and practice of religion in Article 8, and the principle of non-discrimination in Article 2.¹¹ The **African Charter on the Rights and Welfare of the Child (ACRWC)** was adopted in 1990 and came into force in 1999. It focuses on the rights of and obligations towards the African child in a similar manner to the Convention on the Rights of the Child, outlining the principle of non-discrimination in Article 3, the right to FoRB in Article 9 and the right to education in Article 11.¹²

The **American Convention on Human Rights (Pact of San Jose Costa Rica)** recognises 'freedom of conscience and of religion' in Article 12. The principle of non-discrimination is articulated in Article 1.¹³ The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights 'Protocol of San Salvador' articulates the 'Obligation of Non-Discrimination' in Article 3. Article 13 recognises the right to education, stating that education should, inter alia, 'enable everyone to participate effectively in a democratic and pluralistic society... and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.'

Article 3 of the **Arab Charter on Human Rights (Revised)** recognises the principle of non-discrimination, while FoRB and the right to education are articulated in Articles 30 and 41 respectively. In terms of education, the charter urges States Parties to ensure compulsory and free primary education. Further, in Article 41(6), States Parties are enjoined to 'guarantee the establishment of the mechanisms necessary to provide ongoing education for every citizen and [to] develop national plans for adult education.'¹⁴ The Charter also recognises in Article 25 the rights of minorities to use their own languages and enjoy their own cultural and religious practice.

However, it opens the way to potential restrictions on these practices by adding that 'the exercise of these rights shall be governed by law.'

The Association of Southeast Asian Nations (ASEAN) signed a human rights declaration in 2012 which was adopted unanimously. The Declaration was welcomed by the United Nations High Commissioner for Human Rights; albeit with some reservations, due to the failure to include such internationally recognised rights as freedom of association and assembly, and attempts to utilise cultural relativism with regard to the realisation of rights instead of affirming the universality of human rights. Despite its shortcomings, the Declaration does recognise the principle of non-discrimination, FoRB, and the right to education, in Articles 2, 22 and 31 respectively.¹⁵

The child as the rights holder

While interpretation of the ICCPR, ICESCR and relevant international human rights instruments make it clear that the child is included within the definition of 'all persons', the **Convention on the Rights of the Child (CRC)** was the first human rights instrument to articulate civil, political, economic, social and cultural rights and apply them directly to the child. The preamble of the CRC states that the child requires 'special safeguards and care including appropriate legal protection'.¹⁶ It explicitly presents the child as a rights holder, and draws out practical examples.

As a rights holder, the child has the right to freedom of religion or belief and to education. Article 14(1) enjoins States Parties to 'respect the right of the child to freedom of thought, conscience and religion.' Additionally, Article 30 asserts that 'in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or which is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.'

Correspondingly, the child also has the right to education. Article 28(1) affirms that 'States Parties

11 African Charter on Human and People's Rights, Article 8 www.achpr.org/instruments/achpr/#a8

12 African Charter on Human and People's Rights, Article 3 www.achpr.org/instruments/child/#a3

13 Organization of American States, American Convention on Human Rights www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

14 League of Arab States, Revised Arab Charter on Human Rights www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Revised_Arab_Charter_Human_Rights_2004_Em.pdf

15 ASEAN Human Rights Declaration www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf

16 Preamble, Convention on the Rights of the Child, 1989

recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity.’ Article 28(1)a-e detail the tenets of the right to education for the child, which include requirements for States Parties to make primary education compulsory and available free to all, to develop diverse forms of secondary education (including vocational education), and to make higher education accessible on the basis of capacity.

The preamble to the CRC recognises that the full development of the personality of the child entails living in a family environment. International human rights law recognises that the State is the primary duty bearer in terms of protecting the rights of the child, and in ensuring that parents or legal guardians fulfil their primary duties in the upbringing and development of the child.

The CRC notes that the realisation of the rights of the child requires a supportive environment in which the interest of the child are paramount. Article 18(1) urges States to ‘use their best efforts to ensure recognition of the principle that both parents have common responsibility for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.’

The CRC takes a notable departure from the language of the ICCPR and the ICESCR with regard to the rights of the parent or legal guardian facilitating the right of the child to FoRB and to education. In the ICCPR,¹⁷ States are obliged to respect the right of parents or legal guardians to ensure the religious and moral education received by the child is in conformity with their own beliefs. Similarly, the ICESCR requires States to respect the rights of parents and guardians to select their children’s schools and to ensure that religious and moral education is in conformity with their own convictions.¹⁸

However, the CRC places the child at the centre of the right. Article 18(1) asserts that ‘States Parties

shall use their best efforts to ensure recognition of the principle that...parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.’ As such, ‘in all actions concerning children...the best interest of the child shall be a primary consideration.’

The child’s ‘evolving capacities’ in the context of FoRB

In an interim report delivered during the 70th session of the UN General Assembly, then-Special Rapporteur on FoRB Heiner Bielefeldt¹⁹ stressed the importance of the child’s capacity to form and express his or her views in the context of freedom of religion or belief, emphasising that the child will not succeed without an ‘enabling environment.’²⁰ Although international law designates the family environment as the *sine qua non* for the child to fully enjoy his or her rights, the mandate holder cautioned that reliance should not lead to an occasion where a child’s parents or legal guardians ‘override, ignore or marginalise’²¹ his or her rights.

Central to respecting the child as a rights holder is the term ‘evolving capacity of the child’, found in Article 5,²² and notably expounded upon in a report by the United Nations Children’s Fund (UNICEF).²³ The capacity to evolve is central to the human rights-based approach of the child’s right to develop and flourish. The law assumes that children will reach a stage of development where they can freely and independently form personal views, and be able to express these views freely.²⁴ General Comment 12 (2009) of the Committee on the Rights of the Child asserts that States Parties must take steps ‘to assure to every child the right to freely express his or her views’ and have their views on religion taken into account without discrimination. Nowhere in the CRC is the child’s ‘evolving capacity’ reiterated

17 ICCPR, Article 18(4) 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.

18 ICESCR, Article 13(3): The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

19 United Nations General Assembly, Resolution adopted by the General Assembly on 17 June 2016, Cross-cutting issues <https://undocs.org/A/RES/70/286>

20 *ibid.*, para 23

21 *ibid.*, para 23

22 CRC, Article 5 ‘States parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacity of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.’

23 UNICEF (2005), The Evolving Capacities of the Child www.unicef-irc.org/publications/384

24 CRC, Article 12 ‘States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.’

other than with regard to his or her right to freedom of religion or belief.²⁵

The CRC requires the State to respect the right to education, and to ensure that education is directed towards development of respect for parents, which contrasts with the provisions in the ICESCR.²⁶ The contribution of the CRC to both the right to education and FoRB is to ensure that States consider the child's voice and evolving capacity to express their own ideas and manifest their religion, and in their educational development. The Committee on the Rights of the Child clarified that the right of parents and legal guardians to educate their children in accordance with their own religious beliefs is maintained in the CRC, in response to the reservations to Article 14 made by the Syrian Arab Republic.²⁷

In his 2015 report to the General Assembly, the then Special Rapporteur on FoRB highlighted the fact that FoRB provisions contained within earlier international legal instruments remain valid, and that the CRC should be understood 'in continuity with' other FoRB-related international standards. 'Rather than eroding parental rights in the sphere of freedom of religion or belief, Article 14 corroborates, and at the same time further qualifies, those rights by acknowledging their significance from the specific perspective of the rights of the child. Moreover, the Convention gives the child, his or her parents and other family members a strong position in pursuing their human rights-based interests. When it comes to families belonging to religious minorities, Article 30 of the Convention can be used in combination with Article 14 in order to strengthen further the claims of persons belonging to minorities against unjustified interventions.'²⁸

In General Comments 7 and 20 the Committee on the Rights of the Child expanded its opinion on the rights of the parent and the child with regard to Article 14 of the CRC. The Committee's interpretation of the article is that parents do have the right to provide religious guidance to

their children, including religious education. However, the child is the rights holder of FoRB. Regarding early childhood, the Committee stated: 'Parents (and others) should be encouraged to offer "direction and guidance" in a child-centred way, through dialogue and example, in ways that enhance young children's capacities to exercise their rights, including...their right to freedom of thought, conscience and religion (art. 14).'²⁹

When considering the rights of adolescents the Committee stated: 'It is the child who exercises the right to freedom of religion, not the parent, and the parental role necessarily diminishes as the child acquires an increasingly active role in exercising choice throughout adolescence.'³⁰

This change in the emphasis of the right as detailed in the ICCPR is important to note. For the most part, the articulation of a child-centred approach is a vital addition to the international human rights instruments. However, given the predominant focus on the child, at times the parent and child may not be in agreement, and therefore circumstances may arise when the child's right may have to be protected.

T. Jeremy Gunn argues that in order to understand religion within the context of persecution and discrimination one must 'see religion as belief, religion as identity, and religion as way of life'.³¹ Gunn goes on to state that religion as a set of beliefs is more readily understandable; however, religion as identity is more likely to be an underlying cause of religious discrimination and persecution in the world.

But it is important to assess the role of the parents, the child and the child's evolving capacity when it comes to discrimination in educational settings. The narrow interpretation of the rights only being engaged when a child is exercising their right to religion or belief misses an important aspect of the child's identity.

The committee recognises that the child can be discriminated against on the basis of their religion;

25 CRC, Article 14(2) 'States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.'

26 CRC, Article 29(1)c

27 Committee on the Rights of the Child, Fourteenth session SUMMARY RECORD OF THE 360th MEETING CRC/C/SR.360 At paragraph 26 its concern that Article 14 might be so interpreted as to restrict the right of parents to give religious education to their children seemed unjustified. In fact, paragraph 2 of that article stated that the States Parties must respect the rights and duties of the parents to provide direction to the child. The right to give religious education was therefore neither prohibited nor at risk and that reservation should perhaps be reconsidered.

28 A/70/286

29 Committee on the Rights of the Child, General Comment No. 7 (2005) 'Implementing child rights in early childhood' CRC/C/GC/7/Rev.1 20 September 2006 at para 17

30 Committee on the Rights of the Child, General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence CRC/C/GC/20 at para 43

31 T. Jeremy Gunn (2003), 'The Complexity of Religion and the Definition of "Religion" in International Law', Harvard Human Rights Journal, Volume 16 www.stoa.org.uk/topics/religion/Complexity%20of%20the%20Definition%20of%20Religion%20-%20Harvard%20Human%20Rights%20Journal.pdf

and so religion, or the religion of the parents, is seen as a protected characteristic. However, this aspect has not been developed further. Judgements given by the European Court of Human Rights in the case of *C.J., J.J. and E.J. v Poland* provides insight into how courts have litigated such cases.³²



The case in question refers to an application by a father who directed that his daughter was not to receive religious tuition in her primary school in Warsaw. Religious classes were taught in the middle of the school day, and as a result the child spent her time sitting in the corridor during the class. While sitting outside she was repeatedly questioned by passing teachers as to why she was not in class. At one point a teacher suggested that it would be better for her to attend the class, while her classmates asked her incessantly why she was not attending. Eventually the pupil decided to attend religious classes against the wishes of her parents. The court ruled that the right to FoRB had not been violated because the religious instruction was not compulsory, and the child had chosen to attend the class voluntarily.

Applying the interpretation of evolving capacities described by the Committee on the Rights of the Child in General Comment 20, the conflict could be interpreted as being between the child's decision to take religious instruction and the parent's direction to the contrary. Based on the guidance of the Committee the parent's right can only be exercised together with the child, and where there is conflict between the child's wishes and the parents', then the child's right to FoRB is paramount. However, this approach does have its limitations.

Firstly, as Langlaude (2007) commented, the court failed to adequately consider the circumstances that caused the girl to break her resolve and join in the classes.³³ The court assessed whether the severity of the child's suffering by having to sit outside the classroom during religious instruction amounted to inhuman and degrading treatment, which is prohibited under Article 3 of the European Convention on Human Rights;³⁴ but failed to consider the impact that authority figures, in this case teachers, may have exerted on the child in urging her to make a decision to alleviate discomfort, rather than her having made an independent decision to attend the class as an expression of her choice.

The case highlights the vulnerability of the child in the educational setting, and the impact that peers, teachers, school leaders and indirectly the state can have on children. Even when authority figures and peers are not intentionally directing a child to participate in religious instruction that is contrary to their parents' wishes, school is an environment where the child is introduced to societal norms, and where the state is under a duty to protect them and respect parental wishes.

An alternative reading of the *C.J., JJ, and EJ v Poland* case is that the conflict between the parent and child was not due to the child's desire to receive religious instruction in school, but was the result of the child wanting to avoid being the odd one out, singled out and treated as different by her peers and those in authority. The desire not to be treated differently, to conform to the norm and to fit in with peers and society is felt acutely by children and adults alike. However, special attention should be paid in educational settings to ensure that the child's best interests and parents' rights are not restricted.

32 Application No. 23380/94 by C.J., J.J. and E.J.V Poland, heard by The European Commission of Human Rights sitting in private on 16 January 1996 <http://echr.ketse.com/doc/23380.94-en-19960116/view/>

33 Sylvie Langlaude (2007), *The Right of the Child to Religious Freedom in International Law*, p.216

34 Op Cit fn 24 The second applicant finally complains under Article 3 of the Convention that she had been subjected to degrading treatment through psychological pressure by her peers and teachers, resulting in depression, nervousness and a feeling of being rejected.

The significance of school education

As early as 1995, the UN Special Rapporteur on religious intolerance of the Commission on Human Rights recommended the ‘essential and priority role of education in combating intolerance and discrimination.’³⁵ He said:

‘Education can make a decisive contribution to the internalization of values based on human rights and to the emergence, both at the individual as well as the group level, of attitudes and behaviour reflecting tolerance and non-discrimination, thus constituting an element in the dissemination of human rights culture. The school, as an essential component of the educational system, can provide a primary and fertile occasion for lasting progress with respect to tolerance and non-discrimination in connection with religion.’

It is therefore the State’s duty to ensure that the child is presented with a conducive environment for development.

Article 29 of the CRC requires education afforded to the child to be respectful of the child’s parents and their cultural identity. It should also prepare the child for life in a free society in the spirit of peace, tolerance, and equality among sexes; enabling them to build friendships among all ethnic, national and religious groups and persons of indigenous origin.

International human rights instruments articulating the right to education provide a binary understanding of the right; either a child has access to primary, secondary or tertiary education, or they do not. Compared to FoRB, which often requires a deeper analysis of the facts of a particular case in order to make an assessment of a violation, the right to education on a prima facie basis is easier to assess. However, access to education is just one aspect of the right – former UN Special Rapporteur on the right to education, Katarina Tomasevski, outlined the 4 As of education, namely **acceptability, accessibility, availability and adaptability**.³⁶

Acceptability focuses on the content of education and biases in the syllabus, for example in educational materials, which should be non-discriminatory, culturally appropriate and relevant.

The school environment should also be, and feel, safe. **Accessibility** means that the education system should be non-discriminatory and accessible to all, including the most marginalised. **Availability** refers to the state’s obligation to guarantee free education to all children, and adequate infrastructure and trained teachers supporting education delivery. **Adaptability** means that education should be able to respond to the emerging needs of society and challenge inequalities such as gender discrimination.

The importance of diversity in school education has been noted by former Special Rapporteur Bielefeldt, as it provides a space where interactions become possible. It brings together members of different ethnic, religious, economic, social and cultural communities into a common setting that will be crucial ‘during the formative years of a young person’s development.’³⁷ This is in keeping with Article 29(1)d of the CRC, which asserts that ‘States Parties agree that the education of the child shall be directed to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.’

In assessing the right to education and the decisiveness of an environment that will contribute to the development of a child in the context of FoRB, the emphasis must always be on the vulnerability of the child. The Framework for Communication used by the Special Rapporteur on FoRB refers to children as those who are likely to find themselves in a situation of vulnerability. A notable consideration includes the inherent nature of FoRB. While it affords free choice to manifest one’s own religion or belief, the contraposition is that the freedom should not be used to put pressure on someone else’s free will, regardless of whether this pressure is exerted by the state, by a legal institution, by groups or by individuals. Similarly, a teacher, who represents authority in the classroom, has immense influence over the child, who is almost entirely dependent on the teacher for guidance. The situation becomes more pronounced when dealing with children belonging to minority communities.

Within the school environment, former Special Rapporteur Bielefeldt emphasised that a distinction

³⁵ United Nations General Assembly A/50/440, paras 35-36 <http://undocs.org/A/50/440>

³⁶ Right to Education Project, ‘Education and the 4 As’ <http://r2e.gn.apc.org/node/226>

³⁷ United Nations General Assembly, ‘Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt’, 15 December 2010 www.undocs.org/A/HRC/16/53

should be made between religious instruction and religious information in education:³⁸

‘Whereas religious instruction aims at familiarizing students with their own religious tradition, i.e. with theological doctrines and norms of their particular faith, information about religions, by contrast, serves the purpose of broadening the students’ general knowledge about different religions and beliefs, in particular those religions and beliefs they may encounter in the society in which they live.’

A key consideration as regards religious instruction in schools is the need for safeguards to protect children of minority religious communities from being pressured into receiving religious instruction that may go against their convictions. Article 18(4) of the ICCPR requests that States Parties ‘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 conviction.’ The Human Rights Committee noted that ‘public education that includes instruction in a particular religion or belief is inconsistent with Article 18(4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.’ In other words, religious education must accommodate the convictions of parents and legal guardians; if not, the parents or legal guardians may exercise their right to prevent their child from taking part in the religious education, or be given an alternative whereby their child can attend religious education in line with their convictions.

The forceful exposure of a child to religious instruction that is not in conformity with their own conviction is a contravention of the character of Article 18, which articulates the freedom ‘to have or to adopt’ a religion as an intrinsic right (*forum internum*) that cannot be derogated under any circumstances, including during public emergency.³⁹ Limitations on the right ‘to have or to adopt’ a religion or belief that are imposed through coercive practices, laws or policies are also invalid under international human rights law.

Article 18(2) states that ‘no one shall be subject to coercion which would impair his freedom to have or to adopt a religion of belief of his choice.’

Information about religion refers to situations where the child is exposed to an environment where they receive lessons about other religions in a non-biased and neutral manner. The mandate holder observed that reports from many countries regarding the content of textbooks used for providing information about religions, fell far below the requirement of neutrality, and reinforced stereotypes against minorities.⁴⁰

The intersection between FoRB and the right to education

The intersection between the right to FoRB and the right to education has hardly been analysed by non-FoRB specialists: in its entire catalogue of General Comments there are only a handful of references to religion by the Committee on the Rights of the Child. The UN HRC has published a resolution on the right to education every year since 2008, and although these resolutions occasionally refer to the need to take diversity and minorities into consideration, none specifically mentions FoRB issues or the rights of religious or belief minorities. The annual reports of the UN Special Rapporteur on the right to education sometimes refer in passing to the rights of religious minorities, including religious biases in curricula, as one issue among many. However, the reports have not devoted more than a few paragraphs to the intersection between the rights.

The Committee on Economic, Social and Cultural Rights last referenced the issue in 1999, when it devoted a paragraph to biased education.⁴¹ Furthermore, during the first two UPR cycles, more than 55,000 recommendations were given, yet only 31 referred jointly to the right to education and right to FoRB, or focused explicitly on religious minorities and their right to education.⁴² The three countries receiving the highest number of recommendations on the issue were France (seven), Ireland (six) and Iran (four). That countries such as Pakistan or Nigeria, where

38 *ibid.*, para 31

39 International Covenant on Civil and Political rights, Article 4; also Human Rights Committee, General Comment 22, para 1

40 United Nations General Assembly, ‘Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt’, 15 December 2010 www.undocs.org/A/HRC/16/53 para 32

41 Committee on Economic, Social and Cultural Rights, ‘General Comment 13’, 8 December 1999 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f10&Lang=en

42 Search on UPR Info’s database of recommendations in August 2017 www.upr-info.org/database/

there is widespread religious discrimination in schools, have not received a significant number of recommendations regarding this area illustrates that it has been underreported.

The role of national laws in ensuring respect for the right to education and the right to FoRB remains crucial: incorporating international guarantees for FoRB, the right to education and the principle of non-discrimination within domestic legal structures such as the constitution, is an important prerequisite for the effective realisation of these rights. Many challenges remain in this area. According to UNESCO, the right of the child to education is still not incorporated in the constitutions and laws of many countries.⁴³ Furthermore, many national constitutions fail to reflect the commitment to the right to FoRB. Thus, further efforts are needed to ensure that national legal frameworks are in compliance with international guarantees of the right to education and also of FoRB. In addition, as legislation is not an end in itself; any international or domestic legal framework has to be assessed in terms of its implementation.

FoRB violations in educational settings

Discrimination and intolerance on the basis of religion or belief

The Committee on Economic, Social and Cultural Rights addressed the issue of non-discrimination in General Comment 20, where it recognised that the principle of non-discrimination applies specifically to a number of rights, including the right to education.⁴⁴ In the context of FoRB, discrimination arises when persons belonging to a religious minority, or even a repressed majority, are denied equal access to universities, employment, or health services on the basis of their religion.⁴⁵ 'The principle of non-discrimination is generally perceived as one of the most important in the field of human rights; it is overarching and therefore applies to all human rights, including the right to freedom of religion or belief.'⁴⁶

Given the significance of the principle of non-discrimination in the right to education regardless of one's religious background, international

human rights law demands that the child is protected from all forms of discrimination. Article 5(3) of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states:

'The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.'

Article 2 of the 1981 Declaration states that 'intolerance and discrimination based on religion or belief means... any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.' As the principal duty bearer, the state is responsible for ensuring that legislation, regulations and policies enable the child to be 'brought up in the spirit of the ideals proclaimed by the Charter of the United Nations, and in particular, in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.'⁴⁷

The CRC clearly states the significance of the state as a duty bearer in providing education that prepares the child for a society characterised by the ideals contained within the UN Charter. Article 29(1)(d) states:

'States Parties agree that the education of the child shall be directed to...the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all people, ethnic, national and religious groups and persons of indigenous origin.'

These international instruments clearly prohibit discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origin, property or other status. Similar

⁴³ UNESCO (2016), Implementing the Right to Education: A compendium of practical examples based on the eighth consultation of Member States on the implementation of the convention and recommendations against discrimination in education (2011-2013), p.14

⁴⁴ Paragraph 4, Committee on Economic Social and Cultural Rights, General Comment 20 'Article 13 recognizes that "primary education shall be compulsory and available free to all" and provides that "higher education shall be made equally accessible to all"'

⁴⁵ *ibid.*, para 22

⁴⁶ United Nations General Assembly, Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, 6 January 2009 www.undocs.org/A/HRC/10/8 para 30

⁴⁷ Preamble to the Convention on the Rights of the Child (CRC)

provisions are contained in Article 2 of the ICCPR, and Article 2 of the ICECSR. The CRC adds to the principles of non-discrimination that the child is not to be discriminated against or punished on the basis of 'the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'⁴⁸

The Human Rights Committee's General Comment 18 states that non-discrimination, equality before the law and equal protection of the law without discrimination form a basic and general principle relating to the protection of human rights.⁴⁹ The Committee also stated that within the ICCPR the word 'discrimination' should be understood as referring to 'any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.'⁵⁰ The definition shows that whether the distinction or discrimination was intentional or accidental, if the result was a restriction on the enjoyment of the right, then a violation has occurred.

In this regard, it was noted by the Committee in their reports that States had mainly focused on legislation, administrative measures and judicial decisions that protected citizens from discrimination in law and there were few, if any, mentions of instances where discrimination had in fact occurred.⁵¹ The latter observation illustrates that it is not enough for States to pass legislation on non-discrimination or for the courts to make findings of discrimination. States need to look at areas of practice where discrimination may be occurring, and outline measures to reduce or eliminate it.

General Comment 20 of the Committee on Economic, Social and Cultural Rights raised the importance of a state's obligation to eliminate discrimination that is formal⁵² and substantive,⁵³ and to 'immediately adopt the necessary measures

to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination.'⁵⁴ States can also be complicit in allowing discriminative practices that fester into intolerance. Special Rapporteur on FoRB Ahmed Shaheed warned of concerns that governments played a role in 'exacerbating, fuelling and enabling an environment in which...extremism can flourish.'⁵⁵ Dr Shaheed added that such an environment can lead to vulnerable members of society experiencing 'alienation' and 'victimization'.⁵⁶

The school can also be an environment where intolerance and discrimination fester, causing children from minority communities to be ostracised. Discrimination on religious grounds in educational settings has been documented extensively since the establishment of the FoRB mandate. As early as 1987, Special Rapporteur Ribeiro found that discrimination caused children to be ostracised, expelled and prohibited from attending school.⁵⁷ Commenting on discrimination in education against persons belonging to religious minority groups, the former Special Rapporteur on the right to education, Mr Villalobos, observed that hostilities toward minorities arise when they are 'out of step with the dominant culture. They are treated as second class citizens with fewer rights and privileges, or their patriotism is questioned or their contribution to society is ignored.'⁵⁸ Such negative stereotyping and prejudices can have extremely detrimental effects on children belonging to religious minority communities.

Manifestation of religion

The freedom to manifest religion or belief encompasses the concepts of worship and observance. Paragraph 4 of General Comment 22 of the Human Rights Committee clarifies that worship entails the 'display of symbols' and observance includes the 'wearing of distinctive clothing or head coverings.' From an international human rights law perspective, the manifestation of

48 CRC, Article 2

49 CCPR General Comment 18: Non Discrimination, para 1

50 *ibid.*, para 7

51 *ibid.*, para 9

52 General Comment 20, paragraph 8(a): '...Eliminating formal discrimination requires ensuring that a State's constitution, laws and policy documents do not discriminate on prohibited grounds; for example, laws should not deny equal social security benefits to women on the basis of their marital status...'

53 General Comment 20, paragraph 8(b): States must also remove substantive discrimination, where a group in society has historically or persistently experienced prejudice.

54 Paragraph 8, General Comment 20

55 United Nations General Assembly, Elimination of all forms of religious intolerance, 28 August 2017 www.undocs.org/A/72/365 para 4

56 *ibid.*, para 5

57 E/CN.4/1987/35

58 E/CN.4/2005/50, para 100

FoRB, which is articulated under the second tier of Article 18 of the ICCPR, is subject to interventions that limit the freedom in order to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. However, 'such limitations can only be justified if they satisfy all the criteria laid down in Article 18, paragraph 3, of the International Covenant on Civil and Political Rights, and reiterated in Article 14 of the Convention on the Rights of the Child.'⁵⁹

On the issue of the right to religious apparel, Arcot Krishnaswami, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, observed that challenges can arise in formulating rules that regulate the wearing of religious apparel, in circumstances where the person's faith requires it. The challenge involves determining who should ultimately be competent to determine this aspect of an individual's right to FoRB. A member of the Human Rights Committee, Rosalind Higgins, insisted it was not the Committee's responsibility 'to decide what should constitute a manifestation of religion' and opposed the idea that 'States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves.'⁶⁰ Special Rapporteur Bielefeldt observed that in the school setting the subject requires 'diligence, precision and precaution',⁶¹ while Special Rapporteur Jahangir noted that the subject needs 'to be considered on a case-by-case basis and take into account the other human rights aspects that may be at stake in the situation concerned.'⁶²

FoRB mandate holders have highlighted that there is no single solution in international human rights law on this issue. The subject must be considered carefully, particularly where it involves vulnerable groups such as women and children where, for instance, failure to abide by regulations may have resulted in students in primary school or higher education facing expulsion or the denial of graduation certificates. Solutions must take into account the need to protect the freedom to manifest one's religion or belief, and the freedom from coercion to comply, exerted by the state or by other authorities. Special Rapporteur Jahangir developed two sets of general criteria to assess whether or not the wearing of religious symbols

would contravene international standards. Governments are advised to use these as a guide in formulating administrative action and legislation.

The following 'aggravating indicators' are not compatible with international norms in the context of human rights and FoRB:

- The limitation amounts to the nullification of the individual's freedom to manifest his or her religion or belief;
- The restriction is intended to or leads to either overt discrimination or camouflaged differentiation depending on the religion or belief involved;
- Limitations on the freedom to manifest a religion or belief for the purposes of protecting morals are based on principles deriving exclusively from a single tradition;
- Exceptions to the prohibition of wearing religious symbols are, either expressly or tacitly, tailored to the predominant or incumbent religion or belief;
- In practice, State agencies apply an imposed restriction in a discriminatory manner or with a discriminatory purpose, e.g. by arbitrarily targeting certain communities or groups, such as women;
- No due account is taken of specific features of religions or beliefs, e.g. a religion which prescribes wearing religious dress seems to be more deeply affected by a wholesale ban than a different religion or belief which places no particular emphasis on this issue;
- Use of coercive methods and sanctions applied to individuals who do not wish to wear a religious dress or a specific symbol seen as sanctioned by religion. This would include legal provisions or State policies allowing individuals, including parents, to use undue pressure threats or violence to abide by such rules.

On the other hand, these 'neutral indicators' may not be seen as contravening international standards:

- The language of the restriction or prohibition clause is worded in a neutral and all-embracing way;

59 United Nations General Assembly, Elimination of all forms of religious intolerance, 5 August 2015 www.undocs.org/A/70/286

60 United Nations Office of the High Commissioner for Human Rights www.ohchr.org/EN/Issues/FreedomReligion/Pages/standards13c.aspx

61 United Nations General Assembly, Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, 15 December 2010 www.undocs.org/A/HRC/16/53

62 E/CN.4/2005/61, para 70

- The application of the ban does not reveal inconsistencies or biases vis-à-vis certain religious or other minorities or vulnerable groups;
- As photographs on ID cards require by definition that the wearer might properly be identified, proportionate restrictions on permitted headgear for ID photographs appear to be legitimate, if reasonable accommodation of the individual's religious manifestation are foreseen by the State;
- The interference is crucial to protect the rights of women, religious minorities or vulnerable groups;
- Accommodating different situations according to the perceived vulnerability of the persons involved might in certain situations also be considered legitimate, e.g. in order to protect underage school children and the liberty of parents or legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.⁶³

Summary

This chapter has provided a listing of international instruments relating to the right of education in the context of FoRB. It has also presented excerpts and extracts of findings reported by various special procedure mandate holders on FoRB and on the right to education.

The UDHR established the rights of the child to FoRB and articulated the right to education. Under this overarching and important Declaration, the international community adopted several key multilateral treaties, including the ICCPR and the ICESCR, which reaffirmed the right of all to FoRB and to education. Complementing and subsequent to these treaties, the adoption of the CRC changed the manner in which children are viewed, designating them as rights holders, as opposed to the passive recipients of direction and guidance. In this context, the CRC sets out commitments that State Parties are obligated to fulfil in order to ensure the child enjoys his or her right to education and to FoRB.

This chapter also highlighted the existence of a strong framework of multilateral treaties, ratified by a large number of UN Member States, that underpins the rights to education and to FoRB. While this is indeed laudable, the lack of attention

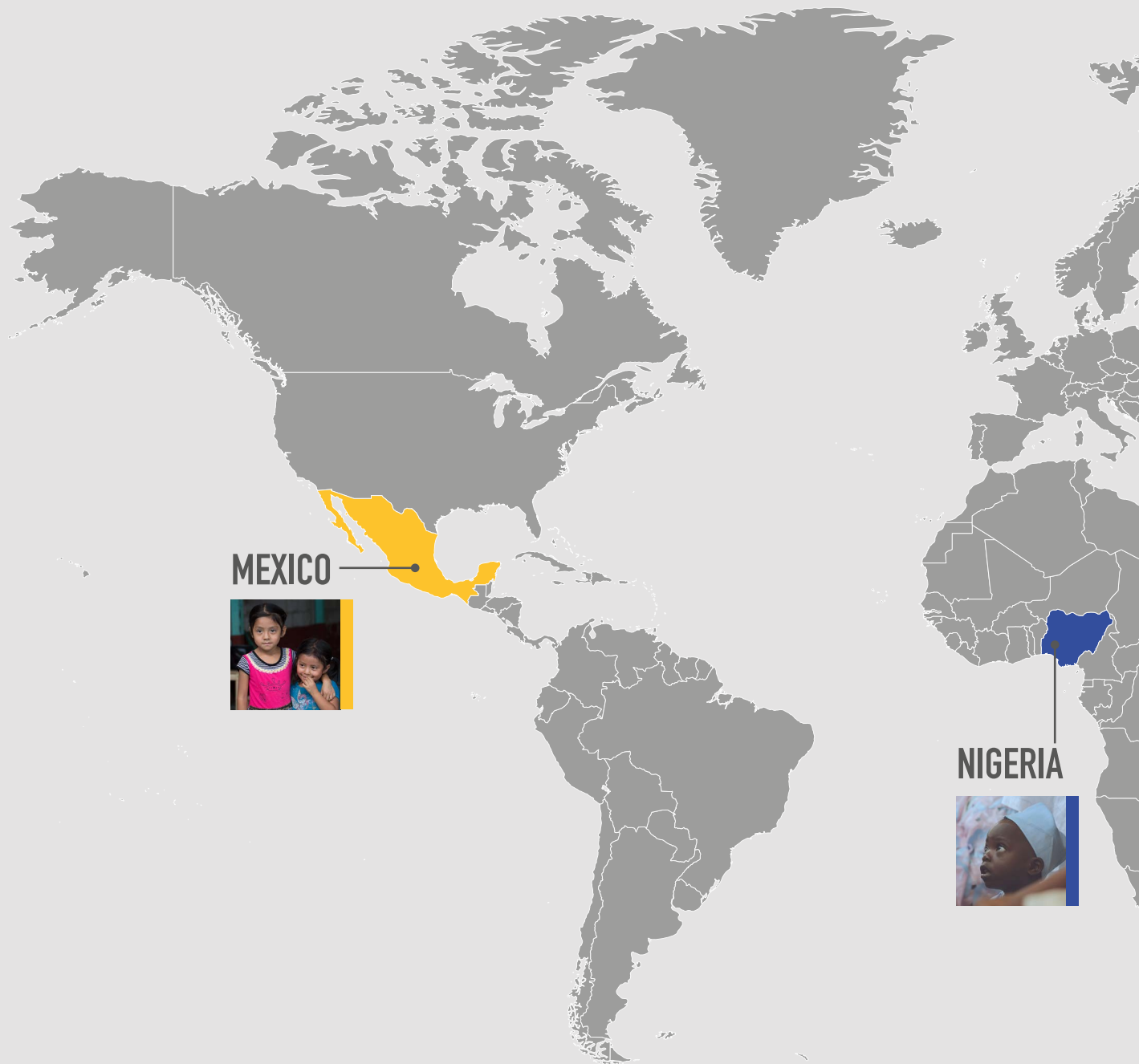
to the right of the child to FoRB in international targets established for the 2030 Agenda for Sustainable Development is concerning, and the intersection between FoRB and the right to education still requires further attention. Special procedure mandate holders have made attempts to bridge this gap in international human rights law by providing essential guidance on the matter, and in particular on the intersection between FoRB and the right to education. These efforts are and have been duly recognised.

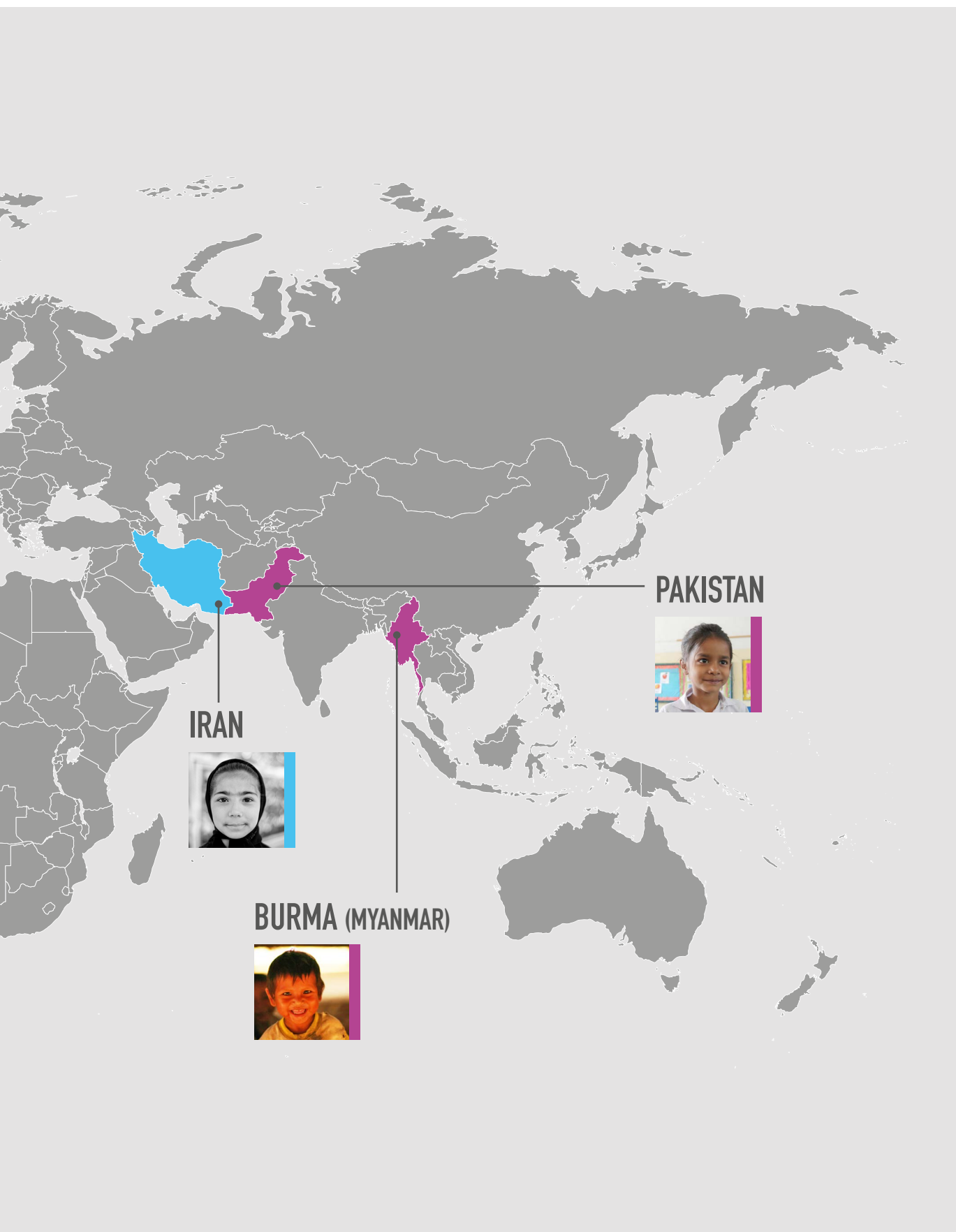
However, legislation and guidance are not an end in themselves. There is still a need for these international human rights treaties to be assessed in terms of implementation, and the efficacy of their application and ratification.



63 Toledo Guiding Principles on Teaching about Religions and Belief in Public Schools, OSCE, 27 November 2007 www.osce.org/odihr/29154

COUNTRIES OF FOCUS







Child from the Pa-o ethnic group. Credit: Toby Madden.

BURMA (MYANMAR)



Summary

The constitution guarantees the rights of the child, but religious intolerance is a key barrier to the realisation of the right to education for all. Educational reform is a key priority for the current National League for Democracy (NLD) government, which appears sincere in its articulation of a 'new vision' for child rights, and in its desire to implement new policy in this area. However, the recent National Education Strategic Plan (NESP), co-authored by the government and UNICEF, did not include references to the problem of religious intolerance.

It is vital that as Daw Aung San Suu Kyi's government undertakes educational reform, it prioritises tackling discrimination based on religion or belief. CSW has found multiple examples of violations of freedom of religion or belief in the educational setting.

- **Access:** Chin Christians struggle to access education due to inadequate infrastructure.
- **Bias:** Biases towards Buddhism exist in the syllabus and textbooks.

- **Abuse:** Some are forced to attend Na Ta La schools run by Buddhist monks, where children are often forcibly converted and physically abused.
- **Denial of freedom of movement:** Rohingya people are not recognised as citizens, so their children do not enjoy freedom of movement. As a result, many are unable to travel to school.
- **Forced displacement:** Violence against Rohingya and Kachin communities, motivated by a combination of religious and ethnic hatred, has led to mass displacement. Schooling in IDP camps is utterly inadequate.
- **Destruction of schools:** Religious nationalists have destroyed Muslim schools in acts of communal violence in which officials have sometimes been complicit. The government has not repaired these schools.

Legal framework

Constitutional commitments

Article 366(A) of the 2008 constitution states that every citizen has the right to education, and Article 366(B) that every citizen 'shall be given basic education which the Union [of Myanmar] prescribes by law as compulsory.'⁶⁴

64 Online Burma/Myanmar Library, Constitution of the Republic of the Union of Myanmar (2008), Article 366 www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf

Article 28(A) provides a commitment on the part of the Union to ‘earnestly strive to improve the education and the health of the people’, while Article 28(C) includes a commitment to ‘implement free, compulsory primary education.’

Although Article 34 appears to protect freedom of religion or belief (FoRB) for all, it is undermined by a set of qualifying conditions: religious freedom is guaranteed as long as religion does not undermine ‘public order’, ‘morality’, ‘health’ or ‘other provisions of this constitution’. Article 361 states that ‘The Union recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union’. Writing the special status of Buddhism into the constitution legitimises policies that discriminate against religious minorities in the name of the protection of Buddhism.

The result is that a vaguely defined idea of ‘public welfare’ takes precedence over full FoRB.

International commitments

- CRC ratified on 15 July 1991⁶⁵
- ICESCR signed on 16 July 2015. Not yet ratified
- ICCPR not signed or ratified.

In the 2011 UPR Burma accepted a recommendation from New Zealand which called upon it to ‘ensure the effective implementation of the Convention on the Rights of the Child, especially the rights to education and health.’⁶⁶

Access

Successive military regimes in power between 1962 and 2015, neglected the education system for decades. Annual expenditure on education under the military regime was just 1.3% of the national budget, insufficient for the maintenance of a high quality education system.⁶⁷

Although the vast majority of citizens enrol for primary education – the UNESCO Institute for

Statistics suggests that 99% of citizens were enrolled in 2014 – there is a high drop-out rate.⁶⁸ 25% of children do not complete primary education, and only 51.3% subsequently enrolled into secondary schools in 2014.⁶⁹ 3.6 million children were out of school at the time of the 2014 national census, which amounts to almost one quarter of the school-aged population.⁷⁰ At least half of children reach adulthood without a complete education.⁷¹ The NESP states that prospects for entry to middle school are weakest for disadvantaged groups,⁷² and ethnic minority children are disproportionately likely to find their access to quality education inhibited.

For generations, ethnic minorities including the Kachin, Chin, Rohingya and Karen, have been either neglected by, or actively at war with, the Bamar-dominated government. As a consequence, infrastructure has been neglected and educational standards are extremely low. In addition, the ethnic groups speak a variety of languages, yet education is predominantly in Burmese. This is a further barrier to effective schooling for ethnic minorities.

Religious intolerance

Ethnic and religious minorities are inextricably linked. The vast majority of Bamar, the largest ethnic group, are Buddhist. By contrast, most religious minority communities are found among the ethnic minorities, and they suffer twice over because of their status as ‘double minorities’. In Rakhine State, intolerance towards the Rohingya, who are almost all Muslims, is motivated by both race and religion. The same is true of Chin, Kachin, Naga, Karenni and Karen Christians. In Hakha, the capital of Chin State, 90% of the population is Chin and Christian, and yet all but two of the local departments are headed up by Bamar Buddhists.⁷³

65 UN Office of the High Commissioner for Human Rights, Convention on the Rights of the Child www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx

66 UN Office of the High Commissioner for Human Rights, Human Rights Council, Report of the Working Group of the Universal Periodic Review, 24 March 2011 www.ohchr.org/EN/HRBodies/UPR/Pages/MMsession10.aspx

67 Oxford Business Group, ‘Changes to Myanmar’s education sector needed’ www.oxfordbusinessgroup.com/overview/learning-curve-changes-are-needed-revitalise-country-s-schools

68 UNESCO Institute for Statistics, Country Profile: Myanmar <http://uis.unesco.org/en/country/mm> It is worth underlining that this figure will exclude the Rohingya in Rakhine State, as they are not considered citizens.

69 UNESCO (2015), *Myanmar: Education for All 2015 National Review* <http://unesdoc.unesco.org/images/0022/002297/229723E.pdf>

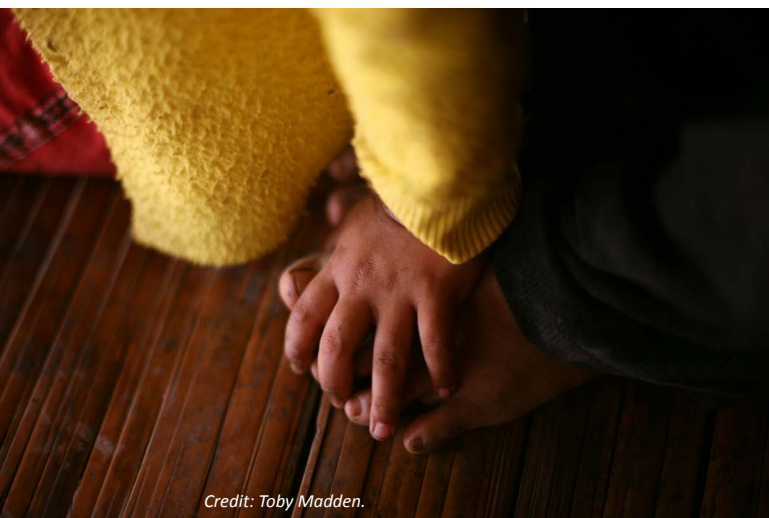
70 UNICEF (2017), *Delivering results for children 2016: Programme of Cooperation between the Government of the Union of Myanmar and UNICEF* [www.unicef.org/myanmar/Delivering_results_for_children_2016_\(Final_preview_version\).pdf](http://www.unicef.org/myanmar/Delivering_results_for_children_2016_(Final_preview_version).pdf)

71 *ibid.*

72 The Government of the Republic of the Union of Myanmar, Ministry of Education, *National Education Strategic Plan 2016-21* http://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/myanmar_nesp-english.pdf

73 United States Commission on International Religious Freedom (2016), *Hidden Plight: Christian Minorities in Burma* www.uscifr.gov/sites/default/files/Hidden%20Plight.%20Christian%20Minorities%20in%20Burma.pdf

The denial of the right to education to religious minority communities constitutes a significant FoRB violation, and contributes to existing inequality and tensions between communities.



Credit: Toby Madden.

Chin State

The Chin are predominantly Christian and one of the poorest minorities. In 2014 the Chin Human Rights Organisation (CHRO) reported that 25% of the population lives below the food poverty line, meaning they spend all their income on food. This poverty level is five times higher than the national average.⁷⁴ The result is that children are far more likely to drop out of school in order to take up manual work.

There are no state-run universities in Chin State, and relocating to other regions is a complex and prohibitively expensive process.⁷⁵ Many ethnic Chin therefore choose to study at private Christian-run institutions within their home state. However, the government refuses to officially recognise degrees from these institutions, thereby reinforcing institutionalised discrimination against Christians.

Rakhine State

In 2017 over half the Rohingya population fled across the border to Bangladesh as a result of a military campaign described by the UN High Commissioner for Human Rights as “a textbook example of ethnic

cleansing”. More than 800,000 Rohingyas are currently in camps in Bangladesh, with a further 150,000 in dire conditions in camps in Sittwe, capital of Rakhine State. While the Rohingyas have faced persecution for decades, since 2012 the violence and hatred towards them has intensified to levels described as amounting to crimes against humanity, ethnic cleansing and, in the view of some experts, genocide.

The root of the Rohingyas’ suffering is the fact that they are not recognised as citizens of Burma, having had their citizenship removed under the 1982 Citizenship Law. As a result they are legally obliged to abide by the 1940 Foreigners Act. This requires anyone wishing to move between different towns or villages to apply for permission from local authorities.⁷⁶ These restrictions severely impede access to education, particularly for those without schools in their villages.

Sixty percent of Rohingya have never attended school because their families cannot afford school supplies, and an estimated 80% are illiterate.⁷⁷ Sources state that in northern Rakhine virtually no children have access to education.

Violence has only compounded and intensified these problems. In 2001 mobs attacked at least 28 mosques and religious schools. State security did nothing to stop the attacks, instead participating in the destruction.⁷⁸ More recently, mass violence in 2012 and 2016 forced hundreds of thousands of Rohingya into Internally Displaced Persons (IDP) camps, where the provision of schooling is utterly inadequate.

Kachin State

A similar story is true in Kachin State, where the conflict has forced hundreds of thousands of the Kachin people, who are mainly Christian, to flee to IDP camps. Children impacted by the conflict have limited access to education; UNICEF estimates that 60,000 children in Kachin State and northern Shan State are in need of educational assistance.⁷⁹

74 Chin Human Rights Organization, ‘Poverty: a pressing human rights issue for the Chin’, 9 February 2014 www.chro.ca/index.php/resources/chro-in-the-news/459-poverty-a-pressing-human-rights-issue-for-the-chin

75 United States Commission on International Religious Freedom, 2016:11

76 Allard K. Lowenstein International Human Rights Clinic, Yale Law School (2015), *Persecution of the Rohingya Muslims: Is Genocide Occurring in Myanmar’s Rakhine State?*

77 Voice of America News, ‘Myanmar: Rohingya Children Losing Future Without Education’, 23 February 2016 www.voanews.com/a/myanmar-rohingya-children-losing-future-without-education/3203595.html

78 Allard K. Lowenstein International Human Rights Clinic, Yale Law School, 2015:11

79 UNICEF (2015), *Ensuring Access to and Improving Quality/Relevance of Education for Children in Internally Displaced Persons (IDP) Camps, Host Communities, and Surrounding Communities in Rakhine, Kachin and Northern Shan States*, www.unicef.org/myanmar/04_Concept_Note_-_Education.pdf
Children on the Edge, ‘Support for displaced Kachin children in Myanmar’ www.childrenontheedge.org/kachin-state-burma-support-for-displaced-children.html

Religious nationalism

Another factor that has blocked access to education for religious minorities in recent years has been an increase in religious nationalism. In addition to the violence in Rakhine State, there have been multiple incidents across the country where Buddhist nationalists have forced Islamic schools to shut down, leaving hundreds of children without access to a school:

- 17 February 2013: A group of 300 Buddhists demolish an Islamic school in Tharkayta Township, Yangon Region.
- 2015: Worship is banned in eight Islamic schools in Tharkayta Township.
- 23 June 2016: A mob in Bago region demolishes a mosque and an Islamic school.
- 13 December 2016: Two Islamic schools near Yangon are closed down by the local authorities.⁸⁰
- Late April 2017: A group of Buddhist ultra-nationalists disrupt prayer at a *madrassa* and pressure police into allowing them to seal the schools shut.⁸¹

Bias

Curricula are controlled by the government and written in the spirit of the 'unifying of the nation' programme, endorsed by the State and Peace Development Council (SPDC) and stemming from the long-standing conflict between the military and ethnic rebels.⁸² Textbooks focus on Buddhism, and do not acknowledge the country's sizeable religious minorities.⁸³ Consequently the country's ethnic and religious diversity is written out of history.

Cheery Zahau, Chin human rights activist and Chin Progressive Party Parliamentary candidate told CSW:

'When we were young, teachers intimidated that only Buddhism was a religion authentic to Myanmar. That is the message they gave to children. For the other religions it is very difficult to have a sense of belonging in this nation. It is still a challenge...the message to young people is that Buddhism is more important than other religions.'

She continued to say that:

'The curriculum is an out of date curriculum...No government reform whatsoever on this...It is too dangerous to talk about Buddhism.'

The NESP contains many important recommendations, including that ethnic languages are incorporated into the curriculum, but it fails to mention religious belief or diversity in the curriculum.⁸⁴



Burmese children in Mae La refugee camp, Thailand

Forced conversion

Perhaps the most extreme example of biased education occurs in Na Ta La schools, where Christian children from ethnic states are regularly forcibly converted. This is particularly prevalent in Chin, Naga and Kachin States where poor families are often offered the opportunity to send their children away for a 'free education'. The children are then taken to a Buddhist monastery or monastic school (Na Ta La school) without their parents' permission, and forced to regularly participate in Buddhist worship or even to become novice monks.

Na Ta La schools present themselves as boarding schools, providing free education and accommodation for orphans and children from single parent or poor families. However, children at Na Ta La schools are systematically prevented from practising the religion in which they were raised and are effectively required to convert to Buddhism. Buddhist literature

⁸⁰ Burma Human Rights Network, 2016

⁸¹ Burma Human Rights Network, 'Report: Several Anti-Muslim Incidents Signal Worrying Trend in Yangon', 15 May 2017 www.bhrn.org.uk/en/report/18-report-several-anti-muslim-incidents-signal-worrying-trend-in-yangon.html

⁸² Oxford Burma Alliance, Education in Burma www.oxfordburmaalliance.org/education-in-burma.html

⁸³ The Irrawaddy, 'In Myanmar's Schools, History's in the Making', 16 September 2013 www.irrawaddy.com/news/burma/in-myanmars-schools-historys-in-the-making.html

⁸⁴ The Government of the Republic of the Union of Myanmar, Ministry of Education, *National Education Strategic Plan 2016-21* http://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/myanmar_nesp-english.pdf p.122

and culture is taught on Saturdays.⁸⁵ The Ministry of Border Affairs has incentivised conversion by guaranteeing prestigious jobs to Na Ta La graduates who have officially converted to Buddhism. In one case a recent Na Ta La graduate was fast-tracked to an important position in the Hakha local government, ahead of Christian workers who had served for decades.⁸⁶



Children at a makeshift school at an IDP camp, Kachin State

A senior Naga church leader told the United States Commission on International Religious Freedom (USCIRF) that the schools were the military's 'strategy to convert people to Buddhism. Children become Buddhist and later on they get government positions. It's a systematic process and it must be exposed.'⁸⁷

Case study

Physical abuse of Chin children in U Thuzana Charity School

The Border Areas and National Races Youth Development Charity Monastic School (U Thuzana Charity School) is in Naypyidaw. Monks from this school engage in missionary activities in border areas. The school offers free education up to the national matriculation exams, after which children are promised government jobs or, for those children who may fail the matriculation, vocational courses. In poorer, mountainous areas where education is limited, the offer of free education, with all costs covered including food, lodging and school materials, is very attractive.

The majority of children at the school are Christians from Chin and Naga communities. On arrival at the school, the reality is very different to what was promised. Children are primarily engaged in forced labour: collecting alms, maintaining the school, gardening, cooking, cleaning and looking after younger orphans residing at the school. Any mistakes made in these duties result in extreme physical abuse. There is minimal education provision – once or twice a week children are sent to the local government school for the morning classes only.

Ko Phwe, a 22-year-old Chin man, described his experiences between 2006 when he arrived at the school and 2013 when he ran away. Ko Phwe is from Kalay, a town in Sagaing State on the border with Chin State. A large proportion of the population in Kalay is ethnic Chin and Christian. Ko Phwe left home for the U Thuzana Charity School when he was 11 years old and had just finished fifth grade. The Head Monk and the Chief Administrator of the school visited his parents and discussed the possibility of a free education for him, with all costs covered. He left Kalay with eight other Chin children.

On arrival Ko Phwe was given the robes or *samanera* that novice monks wear, and had his head shaven. The day typically began at 4am and usually students did not reach bed until 10pm, although the older children had cooking duties that went on well into the night. Exams took place at the local government school, but given the daily fatigue Ko Phwe struggled to do any revision.

"We would be promised a job after we reached tenth grade, but nobody gets to that stage in the school, due to the fact that there is not enough food or time to sleep, the school is so bad. They do not want the children to reach this level, they would then be in situation where a job would have to be found. No one gets up to tenth grade."

Ko Phwe reported to the CHRO that beatings took place daily. Behaviour that provoked physical punishment included things such as slowness in a given task, or simply spilling some rice at mealtimes. Spilling food in front of visitors, or returning from alms collection activities with certain curries that

85 United States Commission on International Religious Freedom, 2016:20

86 *ibid.*

87 United States Commission on International Religious Freedom, 2016:21

they were told not to accept from the local villagers, would also result in physical abuse.

"You cannot be late for a meal, you are beaten while you are eating and if you are last to finish a meal you will be beaten."

Any reference to cultural background, or speaking in the local Chin or Naga dialects, was strictly forbidden. Ko Phwe was beaten and slapped by the headmistress for speaking in Chin dialect by accident, in the early stages of his time at the school. This also applied when parents called the school to speak to their children.

"They would be forcing children to speak in Burmese so no information could be passed over. Parents do not speak Burmese sometimes, so no information can be passed on. Also, headmistress would assemble children before people arrived and instruct them not to say anything bad about the school. And instruct some kids to spy on the child who has the parent coming and make sure nothing bad about the school is being spoken about."

The headmistress had two sons who helped her in supervising and punishing the students. At mealtimes the children would sit in a row. The headmistress's sons walked up and down the row, and, if a child dropped some food, they would be beaten on the back. The last person to finish their food would also be beaten. Ko Phwe described how students would have to receive such beatings and resist moving, trying to ignore it.

"Even if you show a face of dissent or dissatisfaction, then you get beaten again, and that is why people left. Rebelling, they would be slapped or beaten. If facial expression is such that a rebellious look is shown, then punishment."

A frequent form of punishment was forcing a child to wrap their arms around a pole in the courtyard, while other children were instructed to hold his arms and pull his feet and legs apart. The child would be held in this way while the rest of the children were ordered to strike his buttocks with sticks.

"The beatings, if a kid gets punished, if there are ten kids in total, all the ten kids would have 15 strokes each to beat that one kid. They are ordered to give 15 strokes each to one kid. Over time the stick would break. They would use plastic black pipe, which even broke."

This punishment was supervised by the headmistress, and any child who was deemed to be delivering blows with insufficient force would be punished themselves.

"He would be naked and the rest of the children would be ordered to beat the kid with the sticks, after the beating each kid giving 15 strokes each, the child would be bleeding, the skin around the buttocks would be peeled off."

After this punishment, the headmistress would typically order a mixture of salt, turmeric and chilli to be applied to the wounds. In one such instance, a new student was beaten so badly that he was given the nickname *pyin pyi*, which translates as 'broken butt'. According to Ko Phwe, students would generally refer to each other using nicknames. Only outside the school premises, during trips to the local government school for example, did they ever find out each other's birth names.

Ko Phwe ran away from the school in 2013, having been a student there for seven years. He was friendly with a local monk who was once part of the school, and Ko Phwe has been living with the monk in his monastery for three years. "A lot of people get sent to other monasteries because they are afraid to send them back to the village as they will know what happened. Headmistress would take them, she would drop them off in other monasteries. Transfer them. There are more people who have just ran away and escaped than people being transferred, generally people ran away."

There were around 40 students at the school when Ko Phwe left. He has been back to visit



his parents once in three years. “Of course, I understand that they wanted me to have an education. But I am not happy with the decision that was made to send me away.”

Conclusion

The NESP is Burma’s first joint policy framework to guide education investments.⁸⁸ It will lead to a complete overhaul of the national education system: it will update the national curriculum, train more teachers and shift the culture from rote learning to a more critical agenda.⁸⁹

These changes in policy provide an opportunity for the government to remove the religious discrimination that goes right through the educational system. As it implements the NESP, the government should identify strategies to improve access to education for religious minorities, and to stop the forced conversion of minors.



Child at school in Hpa-An, Kayin State. Credit: Peter Hershey

Recommendations

To the government of Burma

- Use upcoming educational reforms as an opportunity to remove entrenched religious discrimination from the education system
- Shut down Na Ta La schools and provide a viable alternative to Chin and other ethnic minorities for their education
- Recognise the right of Rohingya children to education and ensure that schooling is provided to them

- Immediately re-open Islamic schools which have been forced to close as a result of Buddhist nationalism
- Ensure that all children in IDP camps have access to adequate education.

To the international community

- Urge the government of Burma to take steps to address the religious intolerance at the heart of the education system, and to promote FoRB and religious diversity in the education system
- Urge the government and UNICEF to use the NESP as an opportunity to address institutionalised religious intolerance
- Urge the government of Burma to end the system of Na Ta La schools and practices of forced conversion
- Urge the government of Burma and relevant UN agencies to address the treatment of children in IDP camps.

⁸⁸ UNICEF, 2017:2-9

⁸⁹ The Government of the Republic of the Union of Myanmar, Ministry of Education, *National Education Strategic Plan 2016-21* http://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/myanmar_nesp-english.pdf ChildFund Australia, ‘Report on state of education in Myanmar reveals complex challenges facing children and educators’, 30 May 2017 www.childfund.org.au/release/report-state-education-myanmar-reveals-complex-challenges-facing-children-educators/



Iranian girl in a school run by a local mosque for Afghan orphans and refugees. Credit: Simon Monk <http://bit.ly/2CTbxh0>



IRAN

Summary

On 13 July 1994 Iran ratified the UN Convention on the Rights of the Child (CRC), but with the following reservation: 'If the text of the Convention is or becomes incompatible with the domestic laws and Islamic standards at any time or in any case, the Government of the Islamic Republic shall not abide by it.' This reservation has effectively enabled violations of freedom of religion or belief (FoRB) in educational settings, some of them severe.

The Baha'i are the largest and one of the most persecuted religious minorities, and are the focus of this section. The Baha'i faith is not recognised in the constitution and therefore Baha'is cannot benefit from the rights afforded to recognised religious minorities. Baha'is face systematic discrimination, both within the education system and in wider society. A government memorandum published in 1991, setting out a strategy in response to what was termed the 'Baha'i Question', has had far reaching implications.

Research by the UK Baha'i Community⁹⁰ and by CSW uncovered the following violations occurring within educational settings:

- **Access:** Baha'i children have been denied access to some schools, and are often totally denied access to higher education.

- **Bias:** Textbooks on nearly every subject are geared towards discussing topics from a Shi'a perspective. This negatively impacts children from all religious minorities. Baha'i children are particularly affected due to a government memorandum that instructed Baha'i 'should be enrolled in schools which have a strong and imposing religious [Shi'a] ideology.'⁹¹
- **Discrimination:** Article 1 of the Supreme Cultural Revolution Council's student qualification regulations (1991) states that students taking the national enrolment exam for university must be either Muslim or adherents of other recognised religions. Article 3 adds that a student must be expelled if found to be Baha'i after having enrolled in university.
- **Abuse:** Some Baha'i children have suffered physical abuse in school, while others have been incarcerated with their parents.

Legal framework

Constitutional commitments

Article 30 of the constitution states, 'The government must provide all citizens with free education up to secondary school, and must expand free higher education to the extent required by the country for attaining self-sufficiency.'⁹² Articles 3(3) and 43(1) make similar commitments regarding the provision of universal education.

The state religion is Ja'fari Shi'a Islam. The constitution adds that other schools of Islam are 'accorded full respect' and can 'act in accordance with their own jurisprudence in performing religious rites.'

Article 13 states that 'Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.' Article 14 states that the rights of these non-Muslims must be respected, provided they are not engaging in activities against Islam or Iran.

90 CSW is grateful to the UK Baha'i Community for providing an in-depth report into the violations experienced by the Baha'i community in Iran within the education system.

91 'Iran's secret blueprint for the destruction of the Baha'i community', <http://news.bahai.org/human-rights/iran/education/feature-articles/secret-blueprint>

92 Constitution, Iran (Islamic Republic of) 1979 (rev. 1989) www.constituteproject.org/constitution/Iran_1989?lang=en

Importantly, the rights of unrecognised religious minorities such as the Baha'i are not protected by the constitution.

International commitments

- CRC ratified on 13 July 1994, with the following reservation: 'If the text of the Convention is or becomes incompatible with the domestic laws and Islamic standards at any time or in any case, the Government of the Islamic Republic shall not abide by it.'⁹³
- ICCPR ratified on 24 June 1975
- ICESCR ratified on 24 June 1975

In the 2014 UPR cycle⁹⁴ Iran partially accepted a recommendation from Bahrain to guarantee full enjoyment of the right to education to all minorities, a recommendation from Chile to promote higher education for religious minorities in particular,⁹⁵ and a recommendation from Slovakia to 'take all appropriate measures to end discrimination and intimidation against persons belonging to ethnic and religious minorities.'⁹⁶ Despite this, a number of similar recommendations were rejected, such as Lithuania's call to 'end discrimination in law and in practice against religious and ethnic minorities, including the Baha'i community.'⁹⁷ Iran also accepted recommendations to ensure FoRB and to increase protections for religious minorities.

The religious curriculum effectively promotes Shi'a Islam and is determined by the Ministry of National Education. The Ministry's self-professed aim is 'strengthening and stabilising student's spiritual and religious fundamental beliefs by explaining religious teaching, Islamic and Shiite principles and culture on the basis of the Holy Quran, the Prophet's tradition and his 13 innocent family members' actions (PBUTY).⁹⁸ All school curricula must include a course on Shi'a Islamic teachings. Textbooks of every kind

are geared towards discussing topics from a Shi'a perspective; thus 'social studies, history, Farsi and science textbooks discuss religious, Islamic, and political-ideological issues either directly, by insinuation, or by using metaphors'.⁹⁹

Consequently, and despite constitutional recognition, while children from the large Sunni religious minority community can access religious instruction consistent with their denomination, the de-secularisation and Islamisation of education after the 1979 Revolution means these children and those from other recognised religious minority communities are still exposed to the teachings of the majority religion in textbooks, lessons, and extra-curricular activities due to 'the extensive Shi'ite presence of religious topics in non-religious textbooks (e.g., Persian language, history and social studies)'.¹⁰⁰

Sunni leaders have also reported that the authorities have banned Sunni religious literature and teachings from religion courses in public schools, even in predominantly Sunni areas.¹⁰¹ In an indication of the pressures, Sunni cleric Molavi Abdolhamid Ismaeelzahi wrote a letter to the Supreme Leader calling for greater attention to the rights of religious minorities. The Supreme Leader responded by urging citizens not to discriminate between Iranians from different ethnic or religious backgrounds.¹⁰² It remains to be seen if these words will translate into action.

Other recognised minority faith communities have also reported discrimination. In 2015 the Tehran Jewish Committee reported that although five Jewish schools and two kindergartens were operating in Tehran, their principals were required to be Muslim.¹⁰³ While the main language for school instruction is Farsi, the government reportedly allows Hebrew instruction, but limits the distribution of Hebrew texts – particularly non-religious texts – making it difficult to teach the

93 Library of Congress, Children's Rights: Iran www.loc.gov/law/help/child-rights/iran.php

94 United Nations General Assembly, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran', 22 December 2014 www.upr-info.org/sites/default/files/document/iran_islamic_republic_of/session_20_-_october_2014/a_hrc_28_12_e.pdf

95 United Nations General Assembly, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran, Addendum', 2 March 2015 www.upr-info.org/sites/default/files/document/iran_islamic_republic_of/session_20_-_october_2014/a_hrc_28_12_add.1_e.pdf

96 United Nations General Assembly, Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: Islamic Republic of Iran', 22 December 2014 www.upr-info.org/sites/default/files/document/iran_islamic_republic_of/session_20_-_october_2014/a_hrc_28_12_e.pdf

97 *ibid.*, p.18

98 University of Gdansk (2007), Cited in 'Education at the juncture of cultures: 'The Education of Minorities in Iran', Magdalena Prusinowska www.academia.edu/423519/Education_at_the_Juncture_of_Cultures, University of Gdansk, 2007

99 Freedom House (2008), *Discrimination and Intolerance in Iran's Textbooks* <https://freedomhouse.org/report/special-reports/discrimination-and-intolerance-irans-textbooks>

100 Legatum Institute (2012), 'Education in the Islamic Republic of Iran and Perspectives on Democratic Reforms', Professor Saeed Paivandi, November 2012, The Future of Iran: Educational Reform, http://www.li.com/docs/default-source/future-of-iran/iran_ed_paivandi.pdf

101 United States Department of State, International Religious Freedom Report for 2016 www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper

102 Mehr News Agency, 'Leader urges all to avoid discrimination between Iranians', 6 September 2017 <http://en.mehrnews.com/print/127593/Leader-urges-all-to-avoid-discrimination-between-Iranians>

103 *ibid.*

language. However, in a seeming breakthrough, Jewish children who attend public schools were reportedly allowed to stay at home on Saturdays if they wished to observe the Sabbath.¹⁰⁴

While pupils from recognised minority faiths have access to religious instruction designed by members of their religious communities but approved by the Ministry of Education, those from unrecognised faiths are obliged to study Shi'a Islam. This includes children from the Baha'i community.

Moreover, since all teaching is in Farsi, children from linguistic minority communities, which often equate with religious minority communities, are deprived of adequate opportunities to learn their mother tongues, despite stipulations within the constitution permitting the use and teaching of literature of 'regional and tribal languages'.¹⁰⁵

Finally, although the enrolment form for government universities does not expressly ask students about their religious affiliation, it gives them the option of answering questions on a faith, with Islam, Christianity, Judaism and Zoroastrianism being the only choices on offer.



Girl attending a religious education class in Bandar Abbas, Iran.
Credit: UNICEF Iran, Shehzad Noorani <http://bit.ly/2m72Mog>

Access

According to UNESCO statistics published by the World Bank, Iran in 2014 spent 2.95% of its GDP on education at all levels.¹⁰⁶ This figure represents 19.7% of all government expenditures – a relatively high percentage compared to the global average of 14.25%. The net enrolment rate at elementary level (percentage of pupils

in official school age group) was also high by regional standards: 99.1 percent in 2015.

Despite these positive statistics, access to education is still problematic. In the case of unrecognised religious communities, and particularly the Baha'i community, the nation has consistently fallen short of this obligation.

During 2017, second generation Christian children whose families belong to the Church of Iran denomination and who attend primary and secondary schools in the cities of Rasht and Shiraz came under pressure from school authorities to either take Quranic studies or repeat the school year. The children had previously been exempted from having to sit exams in Quranic Studies after presenting a letter from their denomination attesting to their faith. However, school authorities began to reject the letter on the grounds that the denomination, one of several house church networks, was an 'illegal organisation'.

While all of the children from this denomination are under pressure, so far only one has been turned away from school. When the child's parents sought legal redress, a judicial commission eventually ruled that the child should be given a pass score in Quranic Studies and be allowed to progress to the next year. However, the carefully worded ruling does not exempt the child from taking the module; he will still have to sit in the classroom, albeit in a non-participatory capacity. Moreover, the ruling has been drafted in a manner that does not set a legal precedent: "it does not guarantee the same resolution for a similar situation next year. They have been very careful to craft their response in a way that only allows this child in this situation to finish his last few years of study, with no implication for other similar cases."¹⁰⁷

The new policy appears to be a means of punishing parents by proxy for having converted from Islam, constituting a violation of article 2 of the CRC and article 18 of the ICCPR.

104 Deutsche Welle, 'Jewish life in Iran was "always better than in Europe"', 15 May 2017 www.dw.com/en/jewish-life-in-iran-was-always-better-than-in-europe/a-38847143

105 Taylor & Francis, *The Constitution of the Islamic Republic of Iran* (1989 Edition) www.tandfonline.com/doi/abs/10.1080/00210862.2013.825505 *The Constitution of the Islamic Republic of Iran*, (1989), Article 15

106 United Nations Educational, Scientific, and Cultural Organization (UNESCO) Institute for Statistics, 'Government expenditure on education, total (% of GDP)' <https://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS?locations=IR>

107 Mansour Borji, Director of Article 18, during a conversation with CSW on 8 February 2018

The Baha'i Community: An in-depth case-study

The United Kingdom Baha'i Community compiled the following in-depth report on the repression experienced by Baha'i children in Iran in educational settings:

The Baha'i community has faced repression since its inception in the mid-19th century, and systematic state-sponsored persecution dating from the Revolution of 1979. There are believed to be over 350,000 adherents today in Iran: according to some figures the Baha'is constitute the largest religious minority group in the country.

Since the revolution the authorities have employed a wide array of tactics to repress the Baha'i community, ranging from executions and 'disappearances' of its leaders to denial of access to employment. Consequently, the early lives of Baha'i children and youth are marred by the denial of their individual rights or the undermining of their family and parental unit through religiously-motivated abuse.



Schoolchildren in Tudehk, Isfahan County, Iran.
Credit Bruno Vanbesien <http://bit.ly/2CTRLkq>

Discrimination

The situation of the Baha'i community can be viewed through the lens of several specific policy statements of high organs of the state that detail official measures to 'block the progress and development' of the Baha'is.¹⁰⁸ These measures include policies that impact the lives of children and youth and even policies that are specifically designed to target Baha'i children and single them out for pressure due to their religious identity.

In 1991 the Supreme Cultural Revolution

Council, acting under the direct instruction of Supreme Leader Ayatollah Khamenei, drafted a confidential memorandum on the 'Baha'i Question'. This document might have remained secret had it not been divulged to Reynaldo Galindo Pohl, the Salvadorean diplomat who served as the United Nations (UN) Special Rapporteur on the situation of human rights in Iran between 1986 and 1995. Professor Galindo Pohl disclosed the document in 1993 during a session of the United Nations Commission on Human Rights (now replaced by the Human Rights Council). The contents of the memorandum were significant because as Baha'i International Community spokesperson, Diane Alá'i, noted: "It documented how the highest levels of the Iranian government had devised a plan to completely block the development of the Baha'i community in ways that would draw less attention than the executions and imprisonments carried out in the 1980s – but which would still eventually result in the end of the Baha'i community as a viable entity."

The overall aim of this policy, which remains in effect to this day, is to block the 'progress and development' of the entire Baha'i community. It is important to observe that the largest single section of the memorandum, Section B, is wholly devoted to 'educational and cultural status', with six separate lines of policy action which held significant and adverse implications for Baha'i children and youth.

In the years since the document was written into policy, Baha'i offices across the world have learned to discern the levels of nuance and meaning in the memorandum, and to understand the strategic ambition of this document, an ambition which is nothing less than to extirpate a viable Baha'i community in Iran.

All Baha'i schoolchildren were initially banned from classes shortly after the 1979 Revolution, but were gradually allowed to re-enrol after several years. However, the 1991 memorandum makes clear that Baha'i children do not access schools as a right.

Section B.1 of the memorandum reads: 'They [Baha'is] can be enrolled in schools provided they have not identified themselves as Baha'is.' This is followed by Section B.2, which further develops how the state should discharge its duties towards Baha'i children: 'Preferably, they

108 Baha'i World News Service, 'Arrests are part of official campaign to block development of Iranian Baha'is', 25 May 2011

should be enrolled in schools which have a strong and imposing religious ideology.’

The language of policy B.1 – ‘can be’, ‘provided they’ – contains clear conditionality. It does not recognise an inherent right for a Baha’i child to enrol in primary and high schools. The condition of enrolment stipulated is that ‘they have not identified themselves as Baha’is.’ The provisions of Section B.2 that call for Baha’i children to be enrolled in schools with ‘an imposing religious ideology’ isolate Baha’i children further by utilising the class-room as a space for propagandising against their religious identity.

How these policies impact children in their daily lives can be understood from a 2007 report issued by the New York office of the Baha’i International Community. In a 30 day ‘snapshot’ from mid-January to mid-February 2007, some 150 incidents of insults, mistreatment, and even physical violence by school authorities against Baha’i students were reported as occurring in at least 10 Iranian cities. Spokesperson Bani Dugal commented, “The fact that school-aged children are being targeted by those who should rightfully hold their trust – teachers and school administrators – only makes this latest trend even more ominous.”¹⁰⁹

This policy framework remains in effect to this day, and Baha’i offices continue to receive regular reports of Baha’i schoolchildren experiencing exclusion, harassment and abuse. In February 2017, for example, a music school in Karaj entered a number of its students to perform at a concert in a venue under the direction of the Alborz Islamic Culture and Guidance Department. Ahead of the concert the Department highlighted the names of two Baha’i children and instructed the school to remove them from the list of performers.

The ability of authorities to identify Baha’i children in schools and Baha’i youth in universities links to another facet of the government’s systematic repression of the religious community. A 2005 confidential letter by another senior figure in Iran was divulged by Asma Jahangir, in her previous role as UN Special Rapporteur on freedom of religion or belief. This document was authored by Major General Seyyed Hassan Firuzabadi in his capacity as Chief of the Headquarters of the Armed Forces of Iran. His letter is addressed to a range of military

and security agencies, including the Commander of the Revolutionary Guard, the Commander of Basij militias, the Commander of Law Enforcement and the Commander of the Armed Forces inter alia. The letter instructs these agencies to ‘acquire a comprehensive and complete report of all the activities of these sects (including political, economic, social and cultural) for the purpose of identifying all the individuals of these misguided sects. Therefore, we request that you convey to relevant authorities to, in a highly confidential manner, collect any and all information about the abovementioned activities of these individuals and report it to this Headquarters.’¹¹⁰

In short, the highest authorities of the military, intelligence and security agencies of Iran are under instruction to identify members of the Baha’i community and monitor their activities. This extends to children and students, and individual children and young people are identified by their religious beliefs and targeted for ideological harassment, exclusion from education, abuse and even physical assault on some occasions.

In one notorious case in Shiraz that was reported in 2011, a Baha’i child in first grade was physically assaulted by her ethics teacher after she declined to participate in the congregational prayer. The teacher hit the girl’s hand hard with a utensil, then heated up a spoon in the kitchen and put it on the child’s hand. When her mother objected to this assault, the ethics teacher, in the presence of the principal and other teachers, expressed pride at having committed such a deed. The teacher was eventually reprimanded, but only after the child’s parents protested to the authorities.

These stories are examples of the wider problems facing Baha’i children and youth across Iran, and each specific story is illustrative of patterns of abuse against young Baha’is that are common across Iran and have been ongoing for a number of years.

Restrictions on accessing higher education

One of the most damaging policies targeting the Baha’i community is Section B.3 of the 1991 memorandum, which reads, ‘They must be expelled from universities, either in the admission process or during the course of their studies, once

109 Iranian.com Archives, ‘Harassment of Baha’i School Children in Islamic Republic of Iran’, 10 November 2010, <https://iranian.com/main/blog/faryarm/song-harassment-bahai-school-children-islamic-republic-iran.html>

110 Translation of letter from Command Headquarters of the Armed Forces, dated 29 October <https://www.bic.org/sites/default/files/pdf/iran/29%20October%202005%20letter%20from%20Command%20Headquarters%20of%20Armed%20Forces%20ENG.pdf>

it becomes known that they are Baha'is.'

In a special report on the denial of access to higher education from the Baha'i International Community, entitled *Closed Doors*,¹¹¹ the facts make plain that the efforts of the government to deny Baha'is access to higher education can only be seen as part of a coordinated effort to eradicate the Baha'i community as a viable entity within society.

In the immediate aftermath of the 1979 revolution a large number of Baha'is were expelled from educational facilities ranging from primary schools to universities, where the ban was virtually total. By the 1990s, and partly in response to international pressure, primary and secondary school children were permitted to re-enrol, but the ban on entry to institutions of higher education has been maintained. In the years since the promulgation of the 1991 policy the government has used increasingly nuanced means of blocking Baha'is from accessing higher learning, and the authorities have worked in an increasingly systematic manner to deprive an entire section of its population from receiving an education.

Prior to the 1979 Revolution the Baha'is were one of the best-educated communities in the country, and had established a number of notable schools, including some of the first schools for girls. Since the Revolution the vast majority of an entire generation of the community has been denied access to university or has been expelled from studies on the basis of their religious beliefs. All Baha'is who served on faculty or as administrators in universities were also summarily dismissed from their jobs.

In 1987, in a creative and peaceful response to this policy, Iran's Baha'i community established the Baha'i Institute for Higher Education (BIHE), drawing on the abilities of 150 skilled academics who had been dismissed from state universities. In an extraordinary effort to preserve their communal need for higher education, by 1998 the BIHE was able to offer ten subjects to degree level for over 900 students. Impressive an achievement as this is, the numbers do not compare with the figures of 13,000-15,000 Baha'i youth who are believed to have entered universities per annum prior to the Revolution.

Since 1998 the authorities have made repeated

attempts to close down the BIHE, raiding its classes, pressuring students to sign documents stating they would no longer cooperate with it, seizing equipment and material, and arresting and imprisoning members of the faculty for the 'crime' of teaching young Baha'is. The award-winning 2014 documentary 'To Light A Candle' by Iranian journalist Maziar Bahari chronicles the most recent attacks on the BIHE through the story of three generations of Bahá'is, including a young boy whose parents were imprisoned for serving the educational needs of their community.

The mechanism by which the government excludes Baha'is from university is a simple device that works in conjunction with Section B.3 of the 1991 policy. The national university entrance exam requires every applicant to declare their religion, and anyone who does not identify with one of the four religions recognised in the constitution – Islam, Christianity, Judaism and Zoroastrianism – is denied entry by default. This policy came under pressure, again thanks to sustained interventions from members of the international community, notably the human rights organs of the UN, which have consistently called for an end to religious discrimination against Baha'i students.

In an apparent response to this pressure, in late 2003 the authorities announced that they would drop the declaration of religious affiliation on the university entrance examination. Some 1,000 Baha'i accordingly applied to university. The entrance examination included a mandatory examination on religion and most chose to do a test on Islam, the religion with which they are most familiar after their own. When the examination results were mailed out, authorities had printed the word 'Islam' in a data field listing a prospective student's religion. When Baha'i students sought to correct this through the Education Measurement and Evaluation Organisation (EMEO), they were advised that 'the incorrect religion would not be corrected.'¹¹² At the end of that academic term, although 800 Baha'i students had passed the examinations required to enter university, EMEO published the names of only ten admitted to university. All ten declined to take up their places in solidarity with their peers who had been discriminated against.

In the years since these changes to admissions

111 *Closed Doors: Iran's Campaign to deny Higher Education to the Baha'is*, Baha'i International Community, 2005, https://www.bic.org/sites/default/files/pdf/cd_all.pdf

112 Cited in "The Baha'is of Iran: Socio-Historical Studies", Dominic Parviz Brookshaw, Seena B. Fazel (ed), 2008

examinations, the overwhelming majority of Baha'i youth have been denied access, often with their applications being returned with the phrase 'Bah – file incomplete'. At least 15 Baha'i students are reported to have been expelled from universities between December 2016 and January 2017.¹¹³ More recently, two Baha'i students reported being offered university placements by the University Evaluation Organisation (UEO) on condition they renounce their faith,¹¹⁴ and on 4 November 2017, Judge Mohammad Moghiseh of Branch 28 of the Tehran Revolutionary court sentenced three Baha'i students who had complained to local officials in 2014 about being denied access to university to five years in prison each.¹¹⁵ At least 100 Baha'is were reportedly rejected by universities despite passing entrance exams in 2017.¹¹⁶ Meanwhile diplomats continue to inform critics of Iran's human rights record that Baha'i students have the opportunity to apply to university.

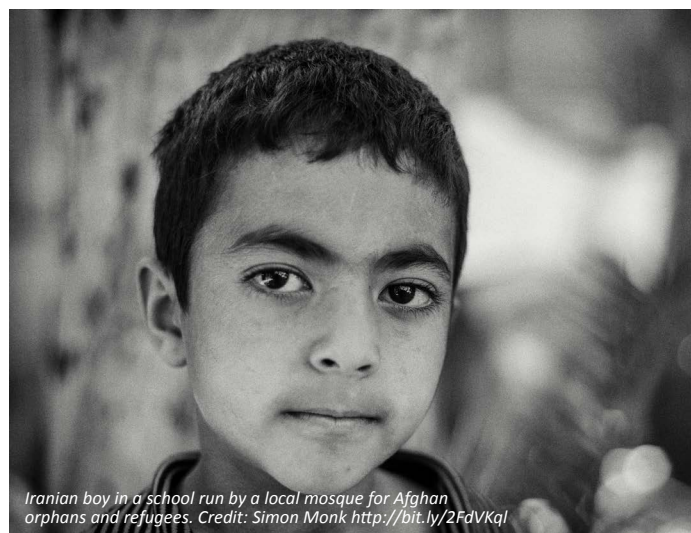
There are, however, a small number of Baha'is studying at universities, another point that authorities often cite when claiming that Baha'i complaints of denial of education are untrue or exaggerated. Yet the admission of this limited number of students, and their subsequent treatment, is entirely coherent with the 1991 policy. The reality is that many of these students are summoned for interrogations about their religious beliefs during the course of their studies and 'once it becomes known that they are Baha'is', they are expelled.

One of many such cases is that of Shohreh Rowhani, who applied to study languages in 2011. She was ranked 151st in the entire country, placing her in the top 1% of prospective students nationwide. Yet her application was returned, marked 'incomplete file'. Ms Rowhani went to the regional EMEU office to find a solution, where she was told, 'Since you are a Baha'i you do not have the right to enter university. The Ministry of Intelligence has identified your family and all of the Baha'is already.'

The other dimension of this policy can be seen in the more recent case of Niloufar Moussavi, again one of many instances of a Baha'i student

being admitted to university and then expelled after 'identifying' as a Baha'i. Ms Moussavi was studying English Language and Literature at Payam-e-Nur University and was barred from continuing her studies on 4 January 2017 during her first semester examinations. The EMEU had written to the university and instructed it to prevent Ms Moussavi from continuing with education.

Ms Mousavi's plight is emblematic of the experiences of many young Bahá'is who are blocked from full development due to the EMEU's policy of expelling the few Bahá'is who are admitted to higher education. In 2007 another confidential letter from the authorities was made public by human rights organisations. A letter from the Ministry of Science, Research and Technology was addressed to the management of 81 universities in 2006, reiterating that: 'If Baha'i individuals, at the time of enrolment at university or in the course of their studies, are identified as Baha'is, they must be expelled from university.'¹¹⁷



Iranian boy in a school run by a local mosque for Afghan orphans and refugees. Credit: Simon Monk <http://bit.ly/2FdVKqI>

The situation for any young Baha'i seeking higher education, therefore, is as follows: they may be turned away at the application stage if they are known to be Baha'i; they may have their examination application returned to them, marked 'file incomplete' and be unable to enter university; they may begin their studies and then be summoned to renounce their religious belief or face expulsion from a university for

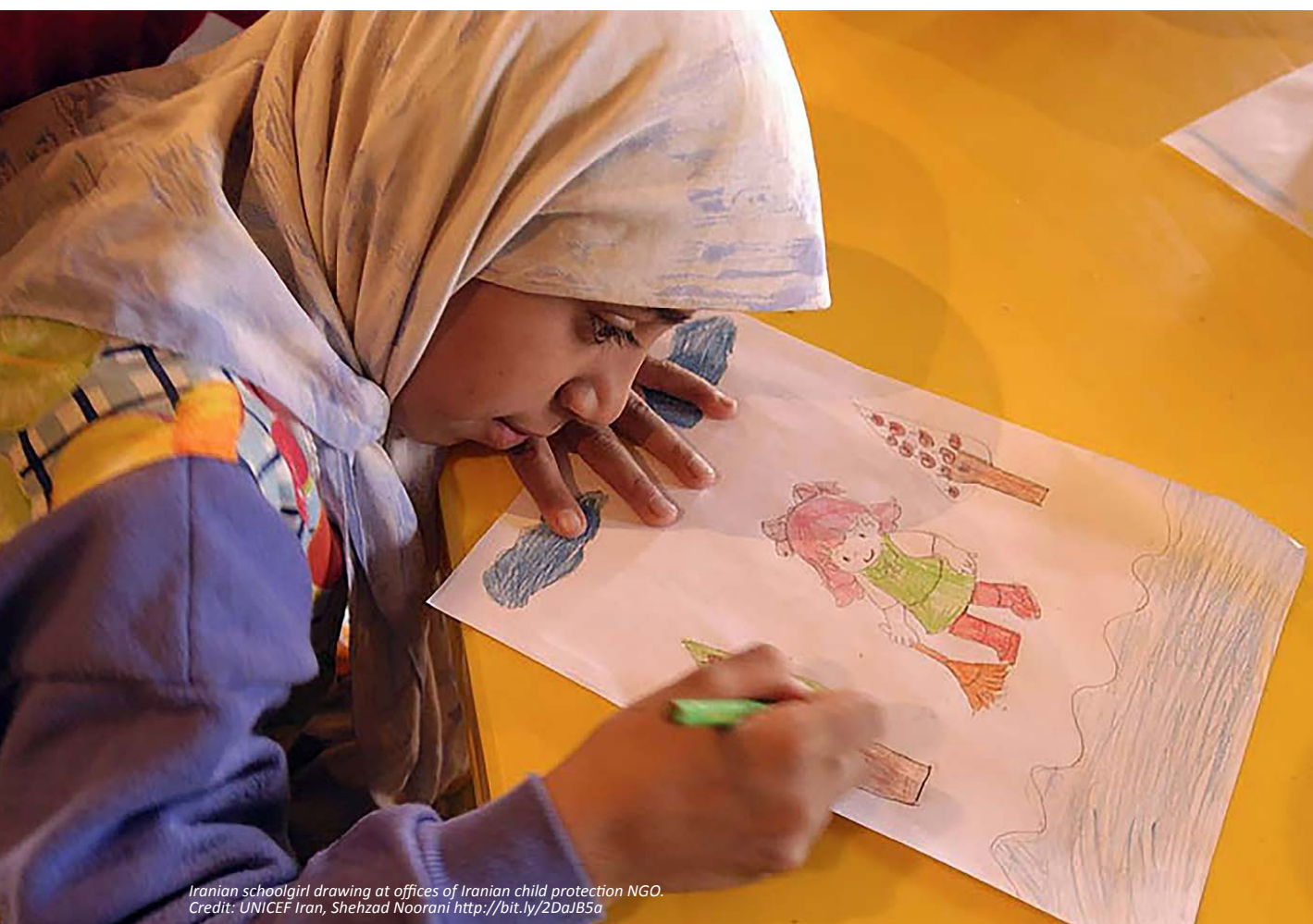
113 Centre for Human Rights in Iran, 'Iranian University Conceals Evidence of Expelling Baha'i Students for Religious Beliefs', 26 January 2017 www.iranhumanrights.org/2017/01/bahai-deprived-of-education/

114 Centre for Human Rights in Iran, 'Iranian Baha'i Students Offered University Enrollment [sic] in Exchange For Renouncing Their Faith', 25 September 2017 www.iranhumanrights.org/2017/09/iranian-bahai-students-offered-university-enrollment-in-exchange-for-renouncing-their-faith/

115 'Three Baha'is barred from university in Iran sentenced to five years in prison' 10 November 2017, <https://www.iranhumanrights.org/2017/11/three-bahai-is-barred-from-university-in-iran-sentenced-to-five-years-in-prison/>

116 *ibid.*

117 Bahá'í World News Service, 'Confidential Iran memo exposes policy to deny Baha'i students university education', 27 August 2007, www.news.bahai.org/story/575



*Iranian schoolgirl drawing at offices of Iranian child protection NGO.
Credit: UNICEF Iran, Shehzad Noorani <http://bit.ly/2DaJB5a>*

‘identifying’ as Baha’i; and those who seek alternative education provision through study at the BIHE face raids, arrests and repression for the ‘crime’ of seeking knowledge.

Incarceration and separation

A number of Baha’i children suffer some of the harshest mistreatment when infants are occasionally incarcerated with their parents, or when they are deprived of the presence of both parents who are imprisoned for being active in the Baha’i community. The story of Artin Rahimian offers both a powerful indictment of the impact of official prejudice against Baha’is, and a sign of hope of how things might change for the better.

Artin was four years old when his mother, Faran Hesami, and his father, Kamran Rahimian, were imprisoned for their services as faculty staff at the BIHE, where they both taught courses in psychology. They were arrested in September 2011, and Artin was left in the care of his paternal grandmother – his paternal grandfather having been executed for his adherence to the Baha’i faith

in the period immediately after the Revolution. His uncle, Kayvan Rahimian, was imprisoned during the same time frame, also for teaching at the BIHE. Kayvan’s wife and Artin’s aunt, Fereshteh Sobhani, died of cancer during this time. Artin’s parents each received sentences of four years imprisonment. Kamran was incarcerated until August 2015 and Farah until April 2016, depriving an infant of the care and attention of both parents for four years of critical childhood development.

However, within the wider society a number of courageous voices are beginning to speak up in defence of the Bahá’ís. These include people of significance, who in almost every case adhere to Shi’a Islam.

On 15 July 2013, Mohammad Nourizad, a former Islamist hard-liner and journalist, who has become an outspoken critic of the government, visited the home of the Rahimian family. In an act of profound symbolism, he kissed Artin’s feet, and asked for his forgiveness for the injustices visited upon him and his family. Some years later Mr Nourizad repeated

this gesture, kissing the feet of a six year old boy named Bashir whose parents, Azita Rafizadeh and Peyman Kushak Baghi had been sentenced to four year prison terms for teaching at the BIHE.

The practice of imprisoning not one but both parents of young children constitutes a particularly insidious violation, depriving a number of Bahá'í children of their right to family life during formative infant and schooling years. One may take some hope, however, in the fact that a number of influential voices from within the Shi'a majority are beginning to challenge the unwarranted injustices suffered by a generation of young Bahá'is.

Conclusion

Children from every religious minority community face some degree of discrimination and indoctrination within the education system, particularly through modules and textbooks that address issues with reference to the Shi'a worldview. However, the government's repression of the indigenous Baha'i community stretches from cradle to grave in the most literal sense: even the graves of dead Baha'is have been targeted for attack and desecration.¹¹⁸ All Bahá'is, even infants and newborns, may be subject to the scrutiny of the intelligence and military agencies that are under instruction to identify them and monitor their activities. With this comprehensive and invasive intelligence mapping of the community various agencies of the state, from primary school teachers to those facilitating university entrance examinations, are able to carry out the ideological agenda of the regime to block the progress and development of Bahá'is across the country, through actions ranging from harassing and abusing a school child to expelling a student from a degree course.

Recommendations

To the government of the Islamic Republic of Iran

- Respect constitutional and international obligations upholding freedom of religion or belief and the right of children from ethnic and religious minorities to education

- Formulate a new curriculum that eliminates 'all forms of intolerance, discrimination (religious, gender and ethnic) and exclusion'¹¹⁹
- Develop teacher training programmes that promote respect for all religious traditions and values
- Respect the rights of unrecognised minority faith communities such as the Baha'i, in line with international commitments
- Allow Baha'í students full and equal access to state universities on the basis of academic merit
- Release imprisoned BIHE teachers and reopen BIHE institutions
- Withdraw discriminatory directives closing off tertiary education to Baha'i students, and end the harassment and abuse of Baha'i children in primary and secondary schools
- Ensure that children from all minority faith communities are able to study their faith, and are not coerced into studying Shi'a Islam
- Address religious intolerance within the educational setting, which particularly targets the Baha'is and is increasingly targeting second generation Christians
- Encourage and enable children from minority communities to learn their mother tongue.

To the international community

- Encourage the Iranian authorities to end discrimination against students from minority faith backgrounds in educational settings
- Urge the Iranian authorities to ensure that children from minority faith communities are able to study their own faith, and are not obliged to study a religion or belief that is not theirs or that of their parents or legal guardians
- Emphasise the importance of formulating a new curriculum that promotes an inclusive national identity.

¹¹⁸ Baha'i World News Service 'Shiraz cemetery destruction resumes', 6 August 2014, <http://news.bahai.org/story/1013/>

¹¹⁹ Legatum Institute (2012), Education in the Islamic Republic of Iran and Perspectives on Democratic Reforms www.li.com/docs/default-source/future-of-iran/iran_ed_paivandi.pdf



Children who fled religious persecution in Leyva Vázquez community, Chiapas, Mexico

MEXICO

Summary

Mexico is a secular (*laico*) state with a Roman Catholic majority, and has a number of religious minorities, including a rapidly growing Protestant community. On paper there is a strong separation between church and state, and freedom of religion or belief (FoRB) is protected under law. In practice, however, religious minorities have suffered varying degrees of discrimination and persecution throughout Mexico's history up to the present day. The culture is deeply influenced by both Roman Catholicism and pre-Columbian religious beliefs (sometimes a mix of the two), and this often crosses over into public life. For example, federal and state government officials, as well as public employees, sometimes participate in (in their official capacity) or actively promote Roman Catholic festivals or holidays – and when challenged, justify this as a 'cultural' activity.

In some states, particularly in the south-west of the country, FoRB violations are extremely high in number and frequency. These violations tend to be experienced by members of religious minorities on the very local level, and the state and federal governments rarely intervene to uphold FoRB or protect minorities. Some of these violations occur in the educational setting:

- **Forced participation:** Children are sometimes forced to participate in overtly religious activities against their will under the guise of 'cultural education.' In some areas of the country, members of a religious minority are often pressured by local authorities either to convert to the majority faith, or to participate actively in activities such as religious festivals linked to the majority faith, through financial support or physical involvement. When they refuse to participate, the local leaders often strip them of basic services including education, by barring their children from school.
- **Forced displacement:** In extreme cases, discrimination results in forced displacement. Children who have been forcibly displaced frequently lack the required paperwork to enrol at a school in their new place of residence, meaning that they are more likely to be deprived of their right to an education.

Legal framework

Constitutional commitments

Article 3 of the constitution guarantees 'compulsory' elementary education and states: 'The education imparted by the Federal State shall be designed to develop harmoniously all the faculties of the human being and shall foster in him at the same time a love of country and a consciousness of international solidarity, in independence and justice.'¹²⁰

Article 24 guarantees freedom of religion or belief, stating: 'Everyone is free to embrace the religion of his choice and to practice all ceremonies, devotions, or observances of his respective faith, either in places of public worship or at home, provided they do not constitute an offense punishable by law.'¹²¹

Referring specifically to the relationship between education and religious observance, Article

120 Constitution of Mexico, Article 3, https://www.oas.org/juridico/mla/en/mex/en_mex-int-text-const.pdf

121 Ibid., Article 24

3(1) states: ‘Freedom of religious beliefs being guaranteed by Article 24, the standard which shall guide such education shall be maintained entirely apart from any religious doctrine and, based on the results of scientific progress, shall strive against ignorance and its effects, servitudes, fanaticism, and prejudices.’

International commitments

- Ratified the UN Convention on the Rights of the Child on 21 September 1990
- Ratified the ICESCR on 23 March 1981
- Ratified the ICCPR on 23 March 1981

Although the constitution is secular and protects FoRB, the widespread influence of Roman Catholicism and pre-Columbian religious beliefs strongly influence public life, especially at the local level. The Law of Uses and Customs,¹²² which is in place in parts of the country with a significant indigenous population, guarantees local and regional autonomy to members of indigenous communities and delegates considerable power to local authorities. This law has been abused to justify violations of FoRB.

Access

Education for all is guaranteed under Article 3 of the constitution and public education is, in theory, available to all children without discrimination. The current education budget is approximately £10 billion, approximately 5% of GDP. However, the education system is extremely corrupt and numerous attempts at reform have failed. Despite its relatively high expenditure, Mexico ranks last in education out of the 35 Organization for Economic Cooperation and Development (OECD) countries. Complicating the situation even further, the first and often only language of around 1.3 million children is an indigenous language or dialect. The 2002 Law of Linguistic Rights was established to protect these languages and to encourage bilingual and intercultural education, and 55,000 teachers speak an indigenous language; but only 60% of these teachers work with children who speak the same indigenous language. Over 80% of children in indigenous schools do not qualify for the next

stage of education and one in four indigenous 15-year-olds are illiterate.¹²³ Indigenous children experience the most severe FoRB violations affecting education.

In some of the most serious cases children are prevented from attending school because of their religious beliefs or the beliefs of their parents. Over the past six years CSW has documented numerous such cases, all involving Protestants and Jehovah’s Witnesses, in the states of Chiapas, Hidalgo and Oaxaca. These cases are rooted in a more general and deeply entrenched FoRB problem in the region linked to the misapplication of the Law of Uses and Customs.¹²⁴

Article 2 of the constitution affirms that Mexico is a ‘pluri-ethnic’ nation and affords a number of rights to its indigenous peoples, including the right to implement their own social, economic, political and cultural organisation and the right to maintain and enrich their language and culture; with the caveat that this must be practised in accordance with constitutional law and that human rights and gender equality must be respected. Despite these safeguards, cases of gender discrimination and violations of fundamental human rights, including FoRB, occur frequently in many of the areas where the Law of Uses and Customs is in effect. There is often little or no response from state or federal governments to FoRB violations.

Discrimination

While many Mexicans recognise the clear separation of church and state under the law, FoRB as a basic right is not generally well understood. There is significant overlap between religion – in particular Roman Catholicism and pre-Columbian beliefs – and culture and tradition. Mexicans at all levels of society often fail to recognise that members of religious minorities may not wish to participate in activities with a religious aspect, no matter how deeply these activities are entrenched in the culture. This thinking is present in all parts of society including the education system, and discrimination against religious minority children is common, especially outside of major urban areas.

¹²² See below

¹²³ The Guardian, ‘The help never lasts’: why has Mexico’s education revolution failed?, 15 August 2017, <https://www.theguardian.com/inequality/2017/aug/15/the-help-never-lasts-why-has-mexicos-education-revolution-failed>

¹²⁴ It should be noted that in states where the Law of Uses and Customs is in effect, even non-indigenous communities that do not qualify to be governed under the law sometimes invoke it to enforce religious conformity.

As village and municipal leaders attempt to pressure the adult members of the minority religion to renounce their faith and participate in majority religion activities, one of the first and most common tactics is to bar their children from attending school. Schools are state institutions and should therefore be strictly secular; however, in these cases, school officials often collaborate with local government officials to prevent minority children from attending.

Oaxaca State

In August 2014 the Oaxaca State Ombudsman (Defensoria) published a report stating that the right to FoRB of eight children at the Cinco de Mayo school in Salina Cruz, Tehuantepec Municipality had been violated, after the children were barred from attending because of their religious beliefs. The children were all from families who are practising Jehovah's Witnesses – a group that has reported persistent discrimination in state schools because of their refusal to salute the flag and sing the national anthem. Systematic discrimination against Jehovah's Witnesses in schools across the country is ongoing despite equality recommendations issued in 2003 by the National Human Rights Commission (CNDH). These recommendations to all state governors and to the Minister for Public Education instructed authorities of educational institutions that they should not punish or discriminate against children who, because of their religious beliefs, do not participate in the flag salute and singing of the national anthem.

The Oaxaca State Ombudsman stated that while they were dealing with one specific case, they found that the problem is endemic in municipal schools across the state. The Ombudsman went on to say that non-Roman Catholic children in Oaxaca are frequently expelled from school, and thereby denied their right to an education, because of their beliefs.¹²⁵ In San Juan Ozolotepec Municipality, for example, at least one Protestant child has been expelled from the municipal school, and the other approximately 50 Protestant families have reported sustained pressure to withdraw their children from the same school, since violence against the Protestant minority erupted in late 2013.

Chiapas State

Children from minority religious groups in the state of Chiapas, which has one of the largest indigenous populations and is one of the most religiously diverse states in the country, also experience frequent FoRB violations. As in Oaxaca, many are routinely barred from attending school in an effort to pressure their parents to return to the local majority faith or to participate in related activities.

Even when the state has intervened to protect the rights of religious minorities, the rights of children are still often overlooked or blatantly violated. In 2015 the government negotiated an agreement to allow the Protestant minority in Buenavista Bahuitz village to return to their homes – they had been forcibly displaced three years earlier. However, the agreement itself, signed and stamped by numerous state government officials, contains an unconstitutional provision that explicitly bars the Protestant children from 'talking about their religion' outside their home. This opens up the possibility that the children could be punished if they mention their faith anywhere in the community, including at school.

Forced participation

Religion in and of itself is not a part of the national education curriculum, which is resolutely secular, apart from studying the beginnings of major religions as part of history lessons. However, there have been numerous cases of teachers at the state and local level promoting a specific religion, usually Roman Catholicism: for example by encouraging children to pray to the patron saint of Mexico, the Virgin of Guadalupe, or to participate in activities linked to the Virgin of Guadalupe Day in December.

One of the most difficult days in the school year for religious minority children is the Day of the Dead, which falls on 2 November and which is believed to have roots in the veneration of the Aztec goddess Mictecacihuatl. Schools celebrate the Day of the Dead as a cultural event, supposedly for educational purposes, often encouraging children to build shrines to deceased family members and to make offerings in the form of flowers, paper decorations and other objects. Members of religious minorities, including Protestants and Muslims, but also

¹²⁵ *El Sol del Istmo*, 'Confirma Derechos Humanos Intolerancia Religiosa en Escuelas', 22 August 2014
<http://www.noticiasteocraticas.org/confirma-derechos-humanos-intolerancia-religiosa-en-escuelas/>

some Roman Catholics, object to their children being forced to participate in what they view as an overtly religious activity under the guise of cultural education.

More recently, some schools in the state of Oaxaca are including the practice of transcendental meditation, complete with candles, incense and statues of Hindu gods as part of a course on 'Conscious Based Education'. Legal experts were told by government officials that the course is voluntary, but parents reported that it was difficult or impossible for their children to opt out. This is another example of how general ignorance within the education system on the topic of FoRB, and a confusion of religious activities with 'cultural' activities, can lead to children being forced to participate in religious activities against their and their parents' wishes.

Forced displacement

As mentioned earlier, many of the cases of religious intolerance under the Law of Uses and Customs often end in forced displacement of the minority. Most of these victims wait years for their cases to be resolved, if they ever are.

The act of displacement itself causes a disruption to the children's education. Some parents are reluctant to enrol their children in a new local school, hoping that their displacement is only temporary. Most lack a permanent residential address – another obstacle to enrolling their children in a local school. In other cases the violent nature of the forced displacement, with families fleeing their homes and leaving their belongings behind, often means the parents lack the necessary paperwork to enrol their children in a new school; and they are unable to return to their community to obtain the documents.

Case studies

Case study 1: El Mosco community

In recent years in the El Mosco community in the Santiago Ixayutla Municipality, Jamiltepec District, Oaxaca, there have been serious tensions between Roman Catholics and Protestants. In December 2015 local leaders prohibited the Protestants from reading the Bible after Roman Catholic priests complained about their practices. In February 2016 the authorities banned the Protestants from holding religious activities on



Ruth Susana Quiroz Hernandez, 13-year-old daughter of Pastor Miguel Quiroz.

community property, claiming the land could not be used for activities of other religions since it had already been used to celebrate Roman Catholic Mass. Death threats have recently been made against some of the Protestant leaders.

The children have also suffered. For example, CSW's contact in the region said, "The 13-year-old daughter of Pastor Miguel Quiroz, Ruth Susana Quiroz Hernandez, was ridiculed by her geography teacher, who joked that [Protestant] Christians like Ruth believe that the earth, mountains and all geography was created by God, even though science indicates otherwise. Ruth defended herself and told the teacher that she believes this, that he should respect that, that he should not laugh at those who believe differently, and that religion is not a part of the material he teaches. Ruth suffers jokes and contempt from her classmates because her own teacher does it as well."

Case study 2: Yaltzi village

On 21 August 2017 seven Protestant families from the village of Yaltzi, Tres Lagunas in Comitán Municipality, Chiapas were forcibly displaced.

Prior to this, the families had had their water and electricity cut off because of their refusal to contribute funds to the travel costs of a visiting Roman Catholic priest. In the days before their displacement, many of them, including children, had been arbitrarily imprisoned in an effort to force them to renounce their religious beliefs. Others were placed under house arrest. When the illegal detentions did not have the desired effect, the families were violently expelled from the village by a mob led by two village leaders. The families sought refuge in a nearby city, but over one month later only three of the 17 children had been able to enrol in a local school. The others remained unable to continue with their studies.

Case study 3: Yashtinín village

In 2015 CSW interviewed a group of forcibly displaced parents and children from the non-indigenous Protestant community in Yashtinín, San Cristóbal de las Casas Municipality, Chiapas. Village authorities had orchestrated mob violence in 2012 against the group, all members of the Living Faith denomination. Roman Catholic Church leaders who attempted to intervene on behalf of the Protestants were threatened with expulsion, while some community members were threatened with fines if they did not join the mobs and participate in the violence. Most of the Protestant men and boys were arbitrarily detained and imprisoned in an attempt to force them to renounce their faith. Village authorities tried to compel them to sign a document affirming their expulsion. When the group was finally expelled, they began the journey to the municipal capital of San Cristóbal de las Casas on

foot – with one young man carrying a 90-year-old man on his back.

As the families could not produce paperwork from the school in Yashtinín the children were blocked from enrolling in schools in the city of San Cristóbal de las Casas. No allowances were made for the condition under which the group had been forced to leave Yashtinín, and the government made no attempt to assist them. As a result, at the time of CSW's interview the children had gone three years without being able to attend school. Some of the older children were working full time as housemaids and in construction to help their families make ends meet. Over the three years of their displacement, some of the children had aged out of school and would be unlikely to have a chance to make up the education they missed. In addition, Impulso¹⁸ pointed out that once children begin to work and contribute financially to the family, the family becomes dependent on the income, so the children are even less likely to be able to return to school even if given the opportunity to do so.

Case study 4: Oaxaca State Secondary School

CSW's contact in the region described 'Conscious Based Education':

"In the Oaxaca State Secondary School (*Colegio de Bachilleres del Estado de Oaxaca*) there is an obligatory subject, which they claim is voluntary but is not, named "education based in conscience" in which students are made to participate in Transcendental Meditation.

"This involves a teacher asking the students to close their eyes while she lights candles and incense and takes out a small idol which they worship. After investigating this type of meditation, it has been discovered that it has its origins in Hinduism. There are a number of Christian parents that refuse that their children should take this subject; however, if they don't participate it affects their grades. We have copies of two complaints made by parents in August 2017."

Conclusion

There are no official figures on the number of children who have been denied an education because of their religious beliefs or those of their parents, in areas under the Law of Uses and Customs. This is partly because these cases usually occur in tandem with forced displacement or the



Father and his children who fled Yashtinín Village, Chiapas.

deprivation of other basic services, for example water and electricity, and are rarely reported as a separate violation.

State governments have a tendency to play down FoRB violations in their state, discouraging victims from reporting their experiences in an effort to keep official numbers low. When violations are reported, they are often intentionally misclassified as family or social disputes, and state officials often side with the majority for the sake of 'peace'.

In August 2015 at least one child from a Pentecostal family was barred from attending the local school in Tepeolol, Huejutla de Reyes Municipality in the state of Hidalgo, because the child was not Roman Catholic. The parents were told that the child would be enrolled if they converted to Roman Catholicism. The case only came to light when 17 Pentecostal families in Tepeolol, who had been threatened with forced displacement if they did not convert, made an appeal to the state government.

In response to the Tepeolol case, the government official responsible for the region, Alejandro Ramírez Furiati, told journalists from *La Jornada*: "Since [the Pentecostals] belong to another religion they cannot cooperate [in Roman Catholic activities] because some belief of theirs says so; however, in meetings with [the Pentecostals] I have explained that they must participate...in order not to disrupt harmony."¹²⁵ Mr Ramírez Furiati's view that the onus is on the minority religious group to conform is unfortunately not unusual, and demonstrates a fairly typical low understanding of FoRB and constitutional rights among state officials.¹²⁶

The federal and state human rights commissions maintain better numbers on FoRB violations but rely on the victims to self-report, which results in inconsistent records. The victims themselves are almost always from impoverished indigenous communities, often speak little or no Spanish and have low levels of literacy – making it difficult for them to pursue legal remedy themselves or to secure legal representation. In some cases they view religious persecution as 'normal' and are unaware that they should report FoRB violations. The combination of factors makes it impossible to know exactly how many children are affected across the country but it is believed that the numbers are high, especially in states where the Law of Uses and Customs is in effect.

Similarly, there are no figures on how many children experience religious discrimination at school or are compelled to participate in religious activities across the country. While the National Council to Prevent Discrimination (CONAPRED) has produced materials to promote religious tolerance, these have been mostly aimed at an educated urban audience and specifically at children and their parents. There has been no campaign, according to Impulso18, aimed at teachers and school administrators to educate them on FoRB and their responsibilities to protect the rights of all their students. Such a campaign would be a major step forward in improving the rights of religious minority children in schools across the country.

Recommendations

To the government of Mexico:

- Uphold freedom of religion or belief (FoRB) for all. Where other laws apply, for example in communities governed by the Law of Uses and Customs, practise these in accordance with Mexico's constitution and its international human rights obligations.
- Give regular training in mediation and in human rights law, particularly pertaining to FoRB, and sufficient resources to carry out their duties, to government officials at the state and federal levels responsible for religious affairs, and in particular those in regions where there are frequent violations of FoRB or conflicts between religious communities.
- Actively pursue legal action against all individuals and groups responsible for FoRB violations and other fundamental rights, and hold them to account for their actions. Individuals and groups who have committed criminal acts should be charged and prosecuted according to the law.
- Provide training to teachers and school administrators on FoRB, and promote awareness-raising campaigns within the state education system on tolerance and respect for religious diversity.
- Closely monitor at the state level the right of all children to receive an education and intervene to protect this right in any case where children are barred from attending school because of their religious beliefs or those of their parents.

¹²⁶ *La Jornada*, 'Acusan amenazas por diferencias religiosas', 30 August 2014 www.jornada.unam.mx/2014/08/31/estados/028n3est



José Gabriel fled religious persecution in Leyva Vazquez community and can't access school in his new neighbourhood.

- Promote awareness-raising campaigns and provide training on FoRB and intersectionality with the right to an education to local authorities, community leaders and teachers, in areas where the Law of Uses and Customs is in effect.
- Put in place mechanisms to respond swiftly to cases of forced displacement to ensure that any children involved are not deprived of their right to an education during the period of displacement.
- Ensure that FoRB- and education-related court decisions and recommendations issued by the National Human Rights Commission and state human rights commissions, for example those upholding the right of Jehovah's Witnesses not to be forced to

participate in activities that conflict with their beliefs, are disseminated to teachers and administrators throughout the state education system.

To the international community

- Encourage and promote initiatives to increase understanding of FoRB and religious tolerance at all levels, especially targeting the education system, both in terms of students as well as faculty and staff.
- Raise FoRB and religious tolerance with Mexico at every opportunity, and encourage and support efforts to address the specific impact of violations of FoRB and forced displacement on children and their right to an education.



Child in Ikorodu, Lagos State

NIGERIA

Summary

The constitution protects the right to education and to freedom of religion or belief (FoRB), as well as the rights of the child. The Child Rights Act (CRA) of 2003 is a particularly important piece of legislation, which incorporates the rights articulated in the Convention on the Rights of the Child (CRC) into national law. Despite these constitutional, national and international protections, a variety of violations of FoRB occur in educational settings.

Although Article 10 of the constitution states that ‘the Government of the Federation or of a State shall not adopt any religion as State Religion’, 11 of Nigeria’s 36 states have contravened this provision, effectively creating a state religion by instituting the shari’a penal code or ‘full shari’a’, under which both blasphemy and apostasy¹²⁷ are punishable by death. This has also had the effect of legitimising the second class status accorded to other religions or beliefs in these areas, endowing a form of legality on an informal system of discrimination and marginalisation that has persisted since the colonial era.

While there are problems elsewhere in the country, the vast majority of violations in educational and other settings occur in shari’a states. Religious minorities are discriminated

against in schools, and with the advent of terrorism, schools and teachers have faced religiously-motivated attacks.

- **Discrimination:** In several shari’a states children from religious minority communities face discrimination, abuse and sometimes even expulsion. Reported violations include the denial of access to specific courses, non-release of final results, being compelled to study a religion different from their own, and the denial of admission or scholarships.
- **Forced conversion:** The education of Christian schoolgirls is frequently truncated by abduction, forcible conversion and underage marriage without parental consent.
- **Impact of terrorism:** Violence by the Islamic State (IS, Daesh) affiliate *Wilayat al Sudan al Gharbi* (better known as Boko Haram), which has a declared and abiding antipathy towards Western education, puts both students and teachers at risk. Displacement as a result of attacks by this terrorist group in the north east and by Fulani herder militiamen in central states has disrupted the education of many thousands of children.

Legal framework

Constitutional commitments

In Article 18.1 of the 1999 constitution, the government commits to ensuring ‘equal and adequate educational opportunities at all levels’. Article 18.3 includes commitments to provide free primary, secondary and university education where practicable, the first of which is compulsory.¹²⁸ In 2004 the government passed the compulsory, free Universal Basic Education (UBE) Act.

Article 38.1 protects freedom of thought, conscience and religion, including the rights to change, manifest and propagate one’s religious beliefs.

Article 38.2 states, ‘No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction, ceremony or observance relates to a religion other than his own, or religion not approved by his parent or guardian.’

¹²⁷ Apostasy is the act of abandoning or renouncing a religious or political belief

¹²⁸ Constitution, Nigeria 1999 www.constituteproject.org/constitution/Nigeria_1999?lang=en

Article 38.3 states, 'No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.'¹²⁹

Chapter IV Sections 42(1) (a), (b), (2) and (3) stipulate non-discrimination, including on the basis of gender, religion and ethnicity. Sections 13-15, 16(1) (b), 17-18 and 42 give the executive, legislature and judiciary the competency to ensure the promotion and protection of, among other things, democracy, social justice, equality and non-discrimination.

International commitments

- CRC ratified 19 April 1991
- ICCPR ratified 29 July 1993
- ICESCR ratified 29 July 1993
- CEDAW ratified 13 June 1985

During the 2009¹³⁰ and 2013¹³¹ Universal Periodic Reviews (UPRs), Nigeria accepted recommendations from a number of countries to continue to improve equal access to education. In 2013 Nigeria also accepted a recommendation from Slovakia to extend the UBE to secondary schools, as well as numerous recommendations addressing the need to eliminate religious intolerance and violence, and to promote coexistence between religious groups.¹³²

Nigeria is party to various regional human rights instruments including the African Charter on Human and Peoples' Rights (ACHPR), which recognises the right to education in Article 17. Nigeria has also ratified the African Charter on the Rights and Welfare of the Child (ACRWC), which articulates in Article 11 the right of the child to education, urging signatory states to 'take all appropriate measures to achieve its full realization', and highlighting, among other issues, the duty of signatories to provide 'free and compulsory basic education' and make higher education accessible to all. In addition, Aspiration

6 of the AU's Agenda 2040 is that 'every child benefits fully from quality education.'¹³³

Article 8 of the ACHPR recognises the right to freedom of conscience and guarantees the free practice of religion. Article 9 of the ACRWC recognises the child's right to freedom of thought, conscience and religion, placing the onus on parents and legal guardians to guide and direct children in the exercise of these rights. The 11-member African Committee of Experts on the Rights and Welfare of the Child (ACERWC) promotes, protects, interprets and monitors implementation of the ACRWC's provisions by examining state reports, considering individual communications, issuing General Comments and undertaking investigations.

In addition Nigeria has passed the Child Rights Act (CRA) which brings the CRC into domestic law.

- In Part II of the CRA, Article 15 articulates the rights of every child to 'free, compulsory and universal basic education', and states that the government has a duty to provide such education. Article 15 also stipulates that boys and girls should have equal access to education.
- The CRA provides for freedom from discrimination on the grounds of ethnicity, gender, community, disability or religion. Article 7 articulates the child's right to 'freedom of thought, conscience and religion', stating that parents or legal guardians should provide 'guidance and direction' in the exercise of this right and that their guidance should be respected by 'all persons, bodies, institutions and authorities.'
- By the time Nigeria sent its Initial and First Periodic Report to the ACERWC, ten states, mostly from southern Nigeria, had promulgated the CRA into law.¹³⁴ This has since risen to 24 states.¹³⁵

¹²⁹ *ibid.*

¹³⁰ UN General Assembly, Human Rights Council, Universal Periodic Review: Report of the Working Group on the Universal Periodic Review, Nigeria, 3 March 2009 www.upr-info.org/sites/default/files/document/nigeria/session_4_-_february_2009/ahrc1126ngae.pdf

¹³¹ UN General Assembly, Human Rights Council, Universal Periodic Review: Report of the Working Group on the Universal Periodic Review, 16 December 2013 www.upr-info.org/sites/default/files/document/nigeria/session_17_-_october_2013/a_hrc_25_6_nigeria_e.pdf

¹³² *ibid.*, pp.17-18, p.21

¹³³ African Committee of Experts on the Rights and Welfare of the Child, 'AU adopts Agenda 2040', 2 August 2017 www.acerwc.org/au-adopts-agenda-2040/

¹³⁴ African Committee of Experts on the Rights and Welfare of the Child (2006), *Nigeria's Initial and First Periodic Report*, www.acerwc.org/download/nigeria_initial_report_under_the_acrwc/?wpdmdl=8784 p.38

¹³⁵ The CRA has been promulgated into law in Abia, Akwa-Ibom, Anambra, Benue, Cross River, Delta, Ebonyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nassarawa, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Niger, Bayelsa, Kogi and Taraba. However, Adamawa, Bauchi, Borno, Enugu, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe and Zamfara are yet to take similar action.



Out of school child in village, Nigeria

Access

Children under 15 years of age account for 45% of the estimated 171 million population,¹³⁶ and World Bank research in 2015 revealed that only 72.8% of youth were literate.¹³⁷ Access to basic education at primary, junior and secondary levels has improved in recent years, but further improvements are necessary, as the quality of education at these levels is still considered below standard.¹³⁸ The education sector lacks quality teachers and adequate infrastructure, furniture, toilets and sanitation facilities. Nigeria has 10.5 million out-of-school children – the highest number in the world¹³⁹ – yet in the proposed 2018 national budget only 7.04% was allocated to education, a figure markedly below the 26% recommended by UNESCO.¹⁴⁰ The shortfall means there is little chance of significant improvement in the near future in this already struggling sector.

According to UNESCO enrolment remains a significant problem, particularly in northern states where 60% of out-of-school children are found.¹⁴¹ Problems surrounding school enrolment in the north of the country are generally viewed as emanating from early marriage and a reticence towards educating the girl-child in a deeply traditional Muslim society and

in a region where only 4% of girls finish secondary school,¹⁴² and the propensity of less well-off families to send young boys to Almajiri schools.

An estimated nine million children in the north of the country are in the Almajiri education system, a network of religious boarding schools. Known as Almajiris, many of these students hail from poor rural families across West Africa. Some are as young as six when they are sent to these schools. Once there, most receive no formal education, have no source of income, and are obliged to beg for food during the day when there are no classes. In an indication of the shortcomings of the Almajiri system, Nigeria's highest ranking Muslim traditional and religious leader has described it as representing hunger and poverty rather than Islam and its teachings.¹⁴³

The Almajiri system demands and enforces unquestioning obedience, a trait which renders students susceptible to radicalisation and manipulation. Reforming this system would therefore have the added benefit of assisting counter-insurgency efforts and forestalling any potential abuse of these students. In 2012 the Jonathan presidency attempted to reform the system, constructing schools teaching a specialised curriculum designed to enable Almajiris of school age to access basic education. The stated aim was 'to provide an enabling environment for effective integration of Islamic discipline into the basic education programme [and] to improve school enrolment for the dispossessed and destitute.'¹⁴⁴ Almajiri schools were subsequently created in Adamawa, Borno, Gombe, Bauchi, Yobe, Jigawa, Kaduna, Sokoto, Zamfara, Kebbi, Oyo, Osun, Lagos, Ondo, Ekiti, Edo, Rivers, Kogi, Niger, Katsina, Taraba and Nasarawa States, with 165 built under the Jonathan administration.¹⁴⁵ However, "while most of these schools are poorly managed, others have not been opened for academic activities since they were built," and several state governments have remarked on the prohibitive running costs.¹⁴⁶

¹³⁶ UNICEF Nigeria, The situation www.unicef.org/nigeria/education.html

¹³⁷ Naij, 'Education in Nigeria: old and new curriculum' www.naij.com/1114178-education-nigeria-curriculum.html

¹³⁸ UNESCO (2015), *Nigeria: Education for All 2015 National Review Report: Nigeria* <http://unesdoc.unesco.org/images/0023/002310/231081e.pdf>

¹³⁹ UNICEF Nigeria, The situation www.unicef.org/nigeria/education.html

¹⁴⁰ *Premium Times*, '2017 Budget: Again, Nigeria fails to meet UN benchmark on education', 16 December 2016 www.premiumtimesng.com/news/top-news/218097-2017-budget-nigeria-fails-meet-un-benchmark-education.html

¹⁴¹ UNICEF Nigeria, The situation www.unicef.org/nigeria/education.html

¹⁴² 'Education for the Girl Child in Northern Nigeria', 2017, <https://africacheck.org/wp-content/uploads/2017/03/July-info-graphic.pdf>

¹⁴³ The Vanguard, 'Almajiri practice not representing Islam – Sultan of Sokoto', 21 May 2017

www.vanguardngr.com/2017/05/almajiri-practice-not-representing-islam-sultan-sokoto/

¹⁴⁴ Naij, 'I Built 9 Universities & 50 Almajiri Schools In 20 Months: Jonathan' www.naij.com/354839-i-built-9-universities-50-almajiri-schools-in-20-months-jonathan.html

¹⁴⁵ *Daily Post*, 'Jonathan reveals why he built 165 Almajiri schools in North', 8 September 2017

<http://dailypost.ng/2017/09/08/jonathan-reveals-built-165-almajiri-schools-north/>

¹⁴⁶ Ventures Africa, 'Can a public-private partnership save Almajiri schools in Nigeria', 9 September 2016 <http://venturesafrica.com/can-a-private-public-partnership-save-the-almajiri-schools-in-nigeria/>



Schoolchildren in Lagos

Bias

Despite strong prohibitions of discrimination on any grounds contained within the constitution, the CRA, the CRC and other international legislation to which Nigeria is party or has enacted, there are regular reports of children from non-Muslim communities in shari'a states facing hindrances to education on account of their religion or belief, and experiencing pressure to study a religion that is not their own.

Christians in shari'a states regularly report that while public schools supply and pay for teachers of Islamic Religious Knowledge (IRK; also known as Islamic Religious Studies, IRS), there is a lack of government-funded teachers of Christian Religious Knowledge (CRK, likewise also known as Christian Religious Studies, CRS). This complaint is particularly prevalent in rural areas. In 2009 CSW visited a farming community in Kano where parents were obliged to pool resources from their respective harvests in order to hire a CRK teacher, whose salary was equivalent at that time to GBP240 per annum, a sum which for them was "a lot of money". During a 2012 visit to an area in Katsina State, CSW was informed that CRK was not being taught, and students had not even seen the syllabus, yet they were expected to sit the examination.

Such complaints are not limited to rural areas; in 2017 Christian sources in Dutse, the capital of Jigawa State, reported that CRK is only taught in public schools "if parents are ready to pay for the teachers."¹⁴⁷ They also alleged that every government primary and secondary school was obliged to close for a month during

Ramadan 2017, disrupting children's education. Such school closures during Ramadan are reported to be common practice in Kano State.

In 2017 the alleged details of a revised version of the nine-year Basic Education Curriculum (BEC), which was due to come into force in September 2017, caused consternation among the main religious communities, and particularly among Christians. It was initially rumoured that CRK had been removed from the unpublished new curriculum and that Arabic had been made a compulsory subject. The Christian Association of Nigeria (CAN) demanded the suspension and publication for review of the draft of the curriculum, citing the disturbing case of a secondary school student from Kwara State, who was caned by the Arabic teacher at her school for refusing to study IRK, as evidence that Christian students were already under pressure to study a religion that was not their own.

According to another report, this time from Delta State, there was no separate CRK paper during the last Junior West African Examinations Council (WAEC) exams; instead, questions on CRK were intermingled in a paper containing other subjects. Similarly, it was reported from Kwara State that no CRK exam was scheduled on the 2017 Basic Education Certificate Examination (BECE) timetable, which ran from 4 to 13 July, while there were IRK, Arabic and Islamic History exams slated for 13 July. It was also alleged that "in some states Christians are told that if anyone wants to study Law or any such courses at university, the person MUST choose Islamic and Arabic studies as subjects in secondary school [and] that CRK would no longer be studied."¹⁴⁸

Amid mounting criticism, including from influential Christian figures, the Ministry of Education eventually published a curriculum in which both CRK and IRK were subsumed into a civic education course entitled 'Religion and National Values', and which gave students the option of studying either Arabic or French. The latter was considered by members of the Christian community to be a subtle attempt to oblige non-Muslim school children to study Arabic, due to the country-wide shortage of French teachers. In addition, merging the two religions into one compulsory course would have meant Muslim and Christian children would have been obliged

¹⁴⁷ CSW and/or CSW Nigeria have either received information or undertaken research on this issue since 2005 in every shari'a state.

¹⁴⁸ *Nigeria World*, 'Religion is not a civic education', <http://nigeriaworld.com/articles/2017/jun/262.html>

to study each other's religions, something to which both faith communities objected, citing constitutional and other legal provisions detailing a child's right not to be coerced into studying a religion other than that of his or her parents or legal guardians.

In July 2017 the House of Representatives unanimously rejected the inclusion of CRK and IRK in Civic Education, suggesting the latter should be made an optional subject for Senior Secondary School, while CRK and IRK should continue to be taught separately. Introducing the motion, Representative Beni Lar of Langtang North and South constituency in Plateau State pointed out that the revised curriculum had been introduced "without due consultation with parents and stakeholders," adding that "Section 10 of the 1999 Constitution makes Nigeria a secular state, and, therefore, Religion should be separated from national values."¹⁴⁹ By the end of July the government had reinstated IRK and CRK as separate subjects, and had also bowed to pressure for History to be returned to the curriculum.

However, while children from the two largest religious communities are able to study their faith, the needs of those from atheist backgrounds and the nation's sizeable number of followers of traditional beliefs, remain unmet.

Discrimination

In several shari'a states parents have alleged their children were obliged to change their names to Muslim-sounding names, and in some instances, adopt Muslim practices, including worship, in order to receive state education, but risked expulsion if discovered.

In Kano State non-Muslim schoolgirls have worn the hijab in state schools since it became mandatory in 2003¹⁵⁰ even for private schools. Some have reported being prohibited from praying together or discussing their faith. In addition, free primary education is often difficult to access. In 2008 CSW found that over 3,000 children in Rogo Local Government Area (LGA), Kano State, had no access to primary education; the indigenous population in this area is 95%

Christian. Similar findings were made in other areas of Kano State where indigenous Christians are in the majority, such as Wudil, Tudun Wada, Samaila, Kura, Kabo and Gworzo. In some reported cases, when community schools were constructed with the assistance of NGOs, these were refused recognition on technicalities or spurious grounds.

In July 2009, a Christian girl from Maikwatshi Government Girls' Secondary School in Fage LGA, Kano State, successfully passed examinations, qualifying for a scholarship for further education. She was subsequently informed that she did not qualify because she was not from Kano State, despite being a member of an indigenous tribe. In another case, also in Kano State, a pastor's daughter was asked about her father's profession. After responding truthfully, she was asked what a pastor's daughter was doing in school. Although she was subsequently allowed to complete her education, she never received her final results, and this effectively prevented her from continuing her education.

In 2012, Katsina's indigenous Hausa Christians informed CSW that many children from their community were not being admitted into government secondary schools even after passing the requisite examinations. There have also been consistent reports of non-Muslims experiencing difficulties in accessing higher education. Hausa Christians in Katsina informed CSW that children from their community were rarely admitted to state universities, and that out of the few who had been admitted into the School of Health Technology, even fewer had been allowed to study midwifery or nursing. In other shari'a states there were regular reports of Christians who access higher education effectively being barred from studying courses such as Law or Medicine, or being impeded in other ways. The 2015 US State Department report on Nigeria appears to corroborate this, stating that some administrators of government-run universities and technical schools in several northern states refused to admit Christian students or delayed issuing their degrees or licences.¹⁵¹ While its 2016 report highlights this phenomenon once again and states that this complaint was made by students from both major faith communities,

149 *The Vanguard*, 'School curriculum: Why Reps returned CRK as independent subject', 12 July 2017 www.vanguardngr.com/2017/07/school-curriculum-why-reps-return-crk-as-independent-subject/

150 IRIN News, 'Kano state directs all school girls to wear Muslim scarf,' 1 September 2003 www.irinnews.org/news/2003/09/01/kano-state-directs-all-school-girls-wear-muslim-scarf

151 US Department of State, International Religious Freedom Report for 2015 www.state.gov/documents/organization/256269.pdf

the sole example provided within the report is an illustration of discrimination against Christian students: “In Borno State, Christians stated that they had been marginalized due to their faith and that Kanuri Muslims had been given preferential treatment for...admission to higher education.”¹⁵²

There have been several instances where allegations of blasphemy or insulting Islam, the Prophet Mohammed or the Qur’an have been made against Christian students, who were subsequently attacked and expelled from school. One such incident took place at Sumaila Secondary School in Kano state on 29 January 2008, when papers were discovered that were deemed to blaspheme against Muslims or Islam, and a Christian student was blamed. Muslim students and townsfolk armed themselves and began to hunt Christian students. In the ensuing violence a policeman died, the police station was set on fire and a student was almost beheaded, but was rescued and rushed to hospital, where he later recovered.

In November 2009 eight Christian students were expelled after a piece of paper containing blasphemous words was allegedly placed under a prayer mat in a mosque at Rimi Secondary School in Kano State. When representatives of the Kano State chapter of CAN visited the school, the principal informed them that the expulsions followed a directive from the zone educational office. Such accusations and expulsions often occur when students are due to take examinations vital for further education.

Atheists also report experiencing discrimination at school in communities where individuals who do not believe in a divine being are ostracised.¹⁵³

Discrimination against Muslims appears less common, although some cases have been reported in southern states. In 2014 the High Court in Lagos upheld a ban on wearing the hijab in public primary and secondary schools outside of religious classes and times set aside for prayer.¹⁵⁴ The judge rejected a lawsuit filed two years earlier by the Muslim Students Society of Nigeria, which lodged an appeal. On 21 July 2016 a specially constituted panel of the Court of Appeal sitting in Lagos unanimously set aside the judgement of the Lagos High Court, and on 7 February 2017 the Appeal Court threw out a motion seeking an injunction

to stop the use of the hijab in the state, thereby permitting them to be worn in public primary and secondary schools unless the Supreme Court rules otherwise.¹⁵⁵

Abduction and forcible conversion

In most shari’a states, and particularly although not exclusively in rural areas, the education of Christian schoolgirls is frequently curtailed by abduction, forcible conversion and forced marriage. Parents seeking the release of their abducted daughters are generally informed they have converted and married, or are in the custody of Muslim traditional rulers or shari’a commissions and have no desire to return home. Appeals to law enforcement agencies for assistance generally prove fruitless amid false claims by abductors that the girls are not minors, and fear on the part of the police of provoking large-scale social unrest.

According to domestic law, anyone below the age of 18 is a minor. They cannot convert or marry without parental consent as they are deemed under Section 38(ii) of the constitution to be adherents of their parents’ religion until they reach the age of majority and can make an informed choice. The penal code punishes child abduction and carnal knowledge of minors with jail terms, and there are also penalties for anyone implicated in child betrothal and child marriage. The CRA stipulates a fine of NGN500,000 (approximately GBP1,056) or a five-year prison sentence or both, for anyone involved in child betrothal and child marriage. The Act also specifies a ten-year sentence for abducting a child from lawful custody if the abductee remains in Nigeria, and a maximum life term for sexual relations with children.

Although strong, these legal provisions are rarely enforced, giving rise to impunity as abducted children remain in the hands of their captors, curtailing the children’s education despite their parents’ best efforts to retrieve them.

Abduction, forcible conversion and forced marriage constitute multiple and gross violations of the rights of a girl child. In his 2015 interim report to the General Assembly, a former Special Rapporteur on FoRB highlighted the fact that the

¹⁵² US Department of State, International Religious Freedom Report for 2016 www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper

¹⁵³ US Department of State (2015), *Nigeria 2015 International Religious Freedom Report* www.state.gov/documents/organization/256269.pdf

¹⁵⁴ US Department of State (2014), *Nigeria 2014 International Religious Freedom Report* www.state.gov/documents/organization/238460.pdf

¹⁵⁵ *Daily Post*, ‘Appeal Court upholds use of Hijab in Lagos public schools’, 8 February 2017 <http://dailypost.ng/2017/02/08/appeal-court-upholds-use-hijab-lagos-public-schools/>

phenomenon “massively violates a number of the rights of the affected child, including freedom of religion or belief, freedom from discrimination on the basis of sex or gender, the right to physical and psychological integrity and the right of the child to be cared for by his or her own parents, [and] simultaneously violates the rights of the parents, including the right to ensure a religious and moral education of the child in conformity with their own convictions.”¹⁵⁶

Impact of terrorism

One of the abiding beliefs held by Boko Haram is that Western education is a threat to Islam. Consequently, the sect has been responsible for a campaign of violence against schools and universities that has negatively impacted the education of children from every faith community. The targeting of educational settings is aimed at restricting education both directly, through the destruction of places of learning, and indirectly, through the creation of fear and insecurity.

Many of these attacks are well documented, including:

- The destruction of school buildings¹⁵⁷
- The 2012 gun and bomb attack on Bayero University in Kano State as Christian students held Sunday worship services¹⁵⁸
- The burning and shooting of 46 students at their boarding school in Yobe State in 2013¹⁵⁹
- The kidnapping of around 200 female students from a school in Chibok in Borno State in April 2014¹⁶⁰
- Multiple and continuing attacks on Maiduguri University.

According to UNICEF almost 1,400 schools have been destroyed and over 2,295 teachers have been murdered by the group since 2009.¹⁶¹ In addition, ‘more than 19,000 teachers and almost 1 million school-age children have fled the violence.’ In some instances Boko Haram has compelled forcibly conscripted children to

return to their homes and murder their former teachers.¹⁶² After losing territory it once held, Boko Haram has reverted to guerrilla tactics and is increasingly weaponising young children, for example, by using 83 minors as suicide bombers during the first seven months of 2017, 55 of whom were female.

Case studies

CASE STUDY 1: Habiba Isiyaku

In 2016 the Christian Association of Nigeria (CAN) raised the alarm over the abduction of 14-year-old Habiba Isiyaku from Wawar Kaza village in Kankara LGA, Katsina State. At the time of her disappearance Habiba had just passed her Junior Secondary School Certificate Examination (JSSCE) “with flying colours”, and was starting Senior Secondary School (SSS1).



According to Habiba’s parents, she was abducted on her way home from school on 16 August 2016. Subsequently, she was forcibly converted and obliged to marry her abductor, Jamilu Lawal, with the reported endorsement of the Emir of Katsina, Alhaji Abdulmumini Kabir Usman, who is alleged to have received NGN50,000 (approximately GBP106) in dowry for her. When Habiba’s father went to the Emir’s palace to try to retrieve his daughter, he was made to sit on the bare floor and humiliated. Eventually the Emir sent an aide to inform him that Habiba could not be released to him because she had

¹⁵⁶ Heiner Bielefeldt, A/70/286

¹⁵⁷ Human Rights Watch, ‘Nigeria: Boko Haram Targeting Schools’, 7 March 2012 www.hrw.org/news/2012/03/07/nigeria-boko-haram-targeting-schools

¹⁵⁸ Christian Solidarity Worldwide, ‘Nigeria: Boko Haram Target University Campus’, 30 April 2012 www.csw.org.uk/2012/04/30/news/1223/article.htm

¹⁵⁹ Guardian, ‘Boko Haram leader calls for more schools attacks after dorm killings’, 14 July 2013

www.theguardian.com/world/2013/jul/14/boko-haram-school-attacks-nigeria

¹⁶⁰ Christian Solidarity Worldwide, ‘Ongoing Concerns for Missing Schoolgirls’, 17 April 2014 www.csw.org.uk/2014/04/17/news/2051/article.htm

¹⁶¹ UNICEF Nigeria, ‘Education is key: Malala visits schoolgirls displaced by the Boko Haram crisis in northeast Nigeria’, 18 July 2017

www.unicef.org/nigeria/media_11585.html

¹⁶² LA Times, ‘In Nigeria, schoolboys turned killers and came after their ex-teachers and students’, 3 December 2016

www.latimes.com/world/africa/la-fi-nigeria-boko-haram-teachers-20161020-story.html

converted voluntarily and left home willingly. At a court hearing that took place in January 2017 after a suit had been filed on her behalf, a paper was presented, ostensibly from Habiba, in which she claimed to be 18 years of age. The case continues.

CASE STUDY 2: Unity School, Kachako

In November 2010 CSW met Martha,¹⁶³ who was then aged 18. Three weeks earlier she and every other Christian student at Unity School in Kachako, Kano State, had run away from the school in fear of their lives after having been accused of writing a letter that insulted the Prophet Mohammed, even though the letter was in Arabic – a language none of the Christian students know.

Following the accusation a matron known as Hajiyya was so incensed that she said she would give knives to female Muslim students so they could kill the Christian pupils. When the Christian students heard this, they were terrified. Some tried to escape, but were caught and brought back to the school. All their notebooks were seized by school authorities, ostensibly to compare the handwriting with the writing on the letter, and the girls were told the books would all be taken to the Ministry of Education for an investigation.

Four days later, another letter was found – this time in English. It contained similar insults and the statement that before Muslims kill one Christian, Christians would kill three Muslims. After the authorities checked the notebooks, a student named Rebecca was informed the handwriting on the second paper was similar to hers. She began crying uncontrollably. The students were all told to kneel, close their eyes and keep their hands in the air as punishment for insulting the Prophet Mohammed, a position they were forced to maintain from 2pm until 8pm.

The next day was a Saturday. The notebooks were checked yet again, and the Christian students were all placed in one classroom. From there they were taken one by one to see the teachers, and were asked what they knew about the letters and if they had written them. After being interrogated they were locked in the school library, which they were told was their ‘prison’.

As evening fell, one of the girls asked for permission to use the toilet. A teacher named Mr Awal responded by saying, “Do you know how prisoners ease themselves in jail? Do it in

the hall!” As he said this, one of the students began shouting for divine intervention while others began weeping loudly or shouting. A girl named Grace declared that she was “tired of this rubbish”. The teacher overheard this remark and reported Grace to the principal.

Grace was taken from the room, beaten with a whip made of animal hide, and her hair was shaved off. The others were called to see what had happened to her, and told, “You heard what Grace said? She will find out what ‘rubbish’ really means on Monday, when the results of the investigation come out. Anyone who insults God, either their throats will be cut or they’ll be burnt to death, or they’ll be expelled from school.” A matron insisted that the children should not be allowed to leave under any circumstances: “They have insulted God, so there can be no forgiveness: they should be killed.”

That night every Christian student in classes JS1 to SS3 broke out of the library, jumped over the school fence and fled the premises, never to return.

CASE STUDY 3 Unguwan Kanti Primary School

Unguwan Kanti Primary School in Igabi LGA was initiated by a welfare group led by a woman from the USA in response to local need, and constructed by the local community. In 2005, the government of Kaduna State sought permission to take possession of the school, and after discussions the community agreed.



The river that students from Kwate village must cross to reach their school in Maigigiya

Previously the school had had many pupils, including children from the local Fulani community and from neighbouring Kwate village. As numbers grew, the community decided to build an extra set

¹⁶³ Names of students withheld to protect identities

of classrooms, and asked for government assistance with roofing materials. The government promised to supply some, but failed to do so, and three years later the structure erected by the villagers collapsed. The school has been in a state of disrepair ever since, and as the situation deteriorated children from Kwate began to leave the school. Fulani students were withdrawn by their families just before members of the herdsmen militia began attacking nearby farming communities.

Parents from Kwate village decided to send their children to another public school situated around 10km away from their community, in the hope of ensuring a better education. That school has eight teachers and around 200 students, with 21 pupils per class. However, it too has its problems:

"Our school is in Maigigiya. We trek for around one hour before reaching it. On a day when there is rainfall, we forfeit going to school because the river we cross before reaching the school will be filled up so much that we cannot cross. They usually mark us absent as a result of that. Also, instead of teaching us in English, they mostly teach us in Hausa language, which means me and my friends are not sound academically."

15-year-old Primary 6 student, October 2017

The student added that although she was currently in Primary 6, she still was unable to read.

Only seven children from Kwate attended the school in Maigigiya; a significant number of school-age children in the community are not attending school, remaining at home due to the distance they have to travel. Any children in the locality who manage to complete primary school also remain at home. While there is a secondary school in a village situated some distance from Unguwan Kanti and Kwate, parents are reluctant to send their children there, fearing attacks by Fulani herdsmen, and financial constraints mean they cannot afford to send them to boarding schools in safer locations.

When a team from CSW-Nigeria visited Unguwan Kanti Primary School in February 2017, it found that around 150 children were enrolled in six classes. However, there were and are only two teachers, who rotate classes, and pupils often received instruction only every other day. One of the teachers lives in the village where the school is

located and works every day. The other lives some distance away, and often fails to turn up for work for an entire week, as the road to the community is rough at the best of times and becomes almost impassable during the rainy season. Moreover, at that time, pupils were obliged to sit on a dirt floor because the community lacked the funds to cover it with concrete, or to purchase chairs and desks.



Teacher at Unguwan Kanti Primary School

During a follow-up visit in November, CSW-Nigeria found that a team of students from Kaduna Polytechnic had visited the area in or around April 2017 to construct a dam. Upon completion of this project the team had decided to use excess bags of cement to plaster the floor and walls of the school building. They later brought makeshift desks painted in different colours and constructed from car tyres and wood for the children to use. However, the school continues to lack adequate doors, windows, and staff.

Thus there is still an urgent need to fully renovate and equip the primary school in Unguwan Kanti, and to ensure teachers are paid and attend to their duties. Solutions are also needed for older children who wish to access secondary education in a safe environment.

KANO, KATSINA AND ZAMFARA STATES

As background to the report, CSW-Nigeria conducted in-depth research into the intersection between freedom of religion or belief and the right to education in three northern states – Kano, Katsina and Zamfara – where full shari’a law has been implemented.

Around 50 questionnaires were sent in each state, receiving more than 300 responses from teachers, students, parents and officials from each state. Using the framework provided by the Four As (see Introduction), CSW-Nigeria found that:

Availability

In all three states a significant number of respondents raised concerns about the availability of education. In some areas the costs are prohibitive and government funding is inadequate. Furthermore, the admissions process in some schools discriminates on the basis of religion.

Accessibility

Concerns were raised by a significant number of respondents in all three states that the education system is not accessible due to poor quality, and inappropriate teaching methods which discriminate against religious minorities. Religious minorities in Kano and Katsina states reported that children from their communities are arbitrarily marked down. CSW-Nigeria was also informed that religious minorities are written out of the curriculum.

Acceptability

The majority of respondents from Kano and Katsina complained that education was not culturally appropriate, and was biased against religious minorities. The situation was better in Zamfara, where only 13% of respondents reported biases in the syllabus.

Adaptability

More than half of the respondents from all three states agreed that education is not adaptable, as religious minorities suffer various forms of harassment, including bullying by other children or teachers; compulsion to participate in religious ceremonies; being barred from participating in their own religious ceremonies; and forcible conversion.

CSW-Nigeria’s detailed findings are available on request.

Conclusion

In a statement issued jointly by the AU and EU on 16 June 2017 to mark the Day of the African Child, the two organisations reaffirmed ‘that children’s rights are indivisible, universal and inalienable.’ While noting that progress had been made on the realisation of the rights of the child on the African continent, the statement added that ‘millions of children are missing out on basic services not only because of poverty, but also because they may face discrimination.’¹⁶⁴

This is certainly the case in parts of northern Nigeria. The failure to ensure equal opportunities, including in education, and an inability or unwillingness to protect children from minority faith communities (which generally correlate to minority ethnic communities) from violence both inside and outside of the educational setting, is depriving them of the opportunity of becoming ‘the greatest agents of change and contributors to sustainable development in their communities and in their countries.’¹⁶⁵ This is despite the existence of comprehensive legal protections for the rights of the child contained within the constitution, at local level and at international level, including the right to education and FoRB.

The constitution states that one of the country’s foreign policy objectives is to respect international law and treaty obligations, some of which have binding force. It is therefore vital that during dialogues with the government, key members of the international community emphasise the importance of upholding international and regional agreements stipulating the rights of the child, and of ending ongoing violations of the right to education for children from diverse faith communities.

Recommendations

To the government of the Federal Republic of Nigeria

- Allocate 26% of the national budget to the education sector, as recommended by UNESCO, and closely monitor delivery and outcomes in each state.
- Closely monitor states to ensure their practices and policies are in line with constitutional, local, regional and international obligations

164 Delegation of the European Union to the African Union, ‘EU-AU Joint Statement on the Day of the African Child’, 16 June 2017 https://eeas.europa.eu/delegations/african-union-au/28305/eu-au-joint-statement-day-african-child_en

165 *ibid.*

that stipulate the right to access education without discrimination.

- Uphold the right to freedom of religion or belief and formulate awareness-raising and human rights training programmes for teachers and community leaders.
- Ensure access to basic education for every child, regardless of religious background, either funded by the state or at reasonable cost.
- Ensure an end to discrimination on religious grounds in educational settings, including during admission, module selection, examinations and results stages; and swiftly address incidents of religion-related bullying and harassment.
- Ensure the return of CRK to the examination schedule in all states, and take action against teachers and school authorities who compel students to study a religion other than their own.
- Ensure training, payment and deployment of sufficient CRK teachers to all public schools, and particularly those in rural areas of northern states.
- Ensure that the new curriculum caters for all religious communities, and that the History module includes mention of their positive contributions to the nation.
- Urgently address the abduction, forced conversion and marriage without parental consent of underage non-Muslim girls, taking firm action against individuals, officials and organisations implicated in such activity.
- Ensure the return of abducted female minors to their parents or legal guardians in accordance with Article 15(5) of the CRA and, if they have fallen pregnant, enable them to continue with education after giving birth should they wish to do so.
- Ensure that as well as teaching the importance of national unity, civic education courses highlight the benefits of respect for and promotion of FoRB and pluralism.
- Continue the restructuring of the Almajiri system to ensure that as well as obtaining quality religious education, these children receive adequate food, shelter and basic education.

- Continue to encourage the education of the Muslim girl child in northern Nigeria.

- Ensure a safe educational environment for children of all faiths, acting swiftly to end outbreaks of religious violence, should they occur.

To the African Committee of Experts on the Rights and Welfare of the Child

- Initiate an investigation into violations of the right to education of children from minority faith communities in northern states
- Work with the government to formulate the best and most cost-effective means of restructuring the Almajiri education programme
- Encourage the federal government to allocate a larger percentage of the nation's annual budget to the education sector.

To the international community

- Reiterate, during bilateral dialogues and in relevant international fora, the need for Nigeria to ensure that practices and policies of individual states are in line with the country's constitutional, local, regional and international obligations with regard to the right of the child to education
- Continually reiterate the need for federal and state governments to be proactive in ending discriminatory practices and policies in the education sector, and to disburse funding and scholarships in an equitable manner
- While commending efforts to rescue and assist female minors abducted by Boko Haram, encourage the federal authorities and state governments to take prompt action to secure the release of abducted Christian minors in shari'a states, holding accountable anyone found to be involved in abductions, and enabling and assisting former abductees to continue with their education, should they wish to do so
- Encourage the federal government to allocate a larger percentage of the nation's annual budget to the education sector.



PAKISTAN



Summary

“Our curriculum must ensure that our children are brought up educated as good Pakistanis and good Muslims. They must imbibe the lofty ideals and principles of Islam.”

General Zia-ul-Haq

Pakistan’s curricula, textbooks and education system have been the subject of considerable criticism for fostering intolerance and discrimination towards religious minorities. Muslim majoritarianism has created an environment in which non-Muslims are considered second-class citizens with lesser rights and privileges, their patriotism is called into question and their contribution to society is ignored.¹⁶⁶ Curricula and textbooks were rewritten to ‘create a monolithic image of Pakistan as an Islamic state and Pakistani citizens

as Muslims only’,¹⁶⁷ which excludes non-Muslim students from the national identity and fails to celebrate Pakistan’s religious and ethnic diversity.

During the 1980s the then president General Zia-ul-Haq initiated a process of Islamisation. His policies reshaped the syllabus, ‘reorganising the entire content around Islamic thought and giving education an ideological orientation so that Islamic ideology permeates the thinking of the younger generation and helps them with the necessary conviction and ability to refashion society according to Islamic tenets’.¹⁶⁸

Despite recent attempts at reform, and a constitution that protects freedom of religion or belief (FoRB), the effects of General Zia’s policies are still felt throughout society and especially within Pakistan’s education system.¹⁶⁹ Sikhs, Hindus, Christians, Ahmadi and other religious minorities report suffering severe FoRB violations in educational settings which include:

- **Bias:** The syllabus is replete with derogatory content and language about religious minorities, who are portrayed as inferior or second-class citizens. The syllabus is also biased towards Islam, and Islamic Studies classes are mandatory.
- **Discrimination:** Teachers and non-minority students often have discriminatory attitudes and attempt to forcibly convert students from minority faiths.
- **Abuse:** Minority students are routinely subjected to severe physical and psychological ill-treatment including being segregated, bullied, teased and beaten on multiple occasions by both teachers and other students.

Legal framework

Constitutional commitments

The right to education is protected by Pakistan’s 1973 constitution:

Article 25A Right to education: The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.¹⁷⁰

166 Sustainable Development Policy Institute (2005), *The Subtle Subversion: The State of Curricula and Textbooks in Pakistan* www.sdpi.org/publications/files/State%20of%20Curr&TextBooks.pdf

167 *ibid.*

168 Saigol, R. (1994) ‘The Boundaries of Consciousness: Interface between the Curriculum, Gender and Nationalism’, in Khan, N., Saigol, R. & Zia, Afiya S. (eds.), *Locating the Self: Reflections on Women and Multiple Identities*

169 Lall, M. (2008), ‘Educate to hate: the use of education in the creation of antagonistic national identities in India and Pakistan’, in *Compare: A Journal of Comparative Education*, 38 (1), pp.103-119

170 National Assembly of Pakistan (2012), The Constitution of the Islamic Republic of Pakistan, Article 25 http://na.gov.pk/uploads/documents/1333523681_951.pdf

Article 37 details the promotion of free secondary education for all, and of more accessible higher education.¹⁷¹ In Article 37(a) the state is obliged to “promote, with special care, the educational and economic interests of backwards classes or areas” and in Article 37(b) to “remove illiteracy and provide free and compulsory secondary education within minimum possible period.”

ForB in an educational setting is also protected by the constitution:

Article 2 asserts that Islam is the state religion.¹⁷² Article 20 guarantees the ‘freedom to profess religion and to manage religious institutions’ for all and grants every citizen the right to profess, practice and propagate his religion, and Articles 26 and 27 ensure the right to non-discrimination against religious minorities in access to public spaces and services.¹⁷³

Article 22 specifically addresses ForB in an educational setting. Article 22(1) states that, ‘No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.’¹⁷⁴ Article 22(3)(a) guarantees the rights of religious communities to provide religious education for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination and Article 22(3)(b) states that individuals should not be denied admission to education institution on the basis of their race, religion, caste or place of birth.¹⁷⁵

International commitments

- CRC ratified 12 November 1990
- ICESCR ratified 17 April 2008
- ICCPR ratified 23 July 2010

In the 2012 Universal Periodic Review (UPR), Pakistan accepted at least 18 recommendations¹⁷⁶ to continue to enhance access to education and to eradicate discriminatory practices from the



Students at a Christian school in Youhanabad, an impoverished Christian community that has suffered terrorist attacks

education system,¹⁷⁷ including to ‘review public school curricula in order to eliminate prejudice against religious and other minorities’.¹⁷⁸ Pakistan also accepted a number of recommendations to tackle religious discrimination and religiously-motivated violence, although recommendations to repeal the blasphemy laws were rejected.¹⁷⁹

Access

Enrolment in primary school is low. Over 6.5 million children are currently not in primary school and another 2.7 million are not in lower secondary school.¹⁸⁰ In 2014 UNESCO reported that just 68.5% of children of primary school age are enrolled in school, and drop-out rates are high. The National Plan of Action, developed in 2013, aimed to increase this to 91% by 2015/16 – a goal which was not achieved. UNESCO also reported that education is often of extremely low quality, and that there was a need to increase expenditure on education in order to reach the aforementioned goal. Pakistan spends around 2.83% of GDP on education, according to Alif Ailaan, an organisation that campaigns for education reform in Pakistan, an additional Rs 400 billion on education is needed this year to increase spending to 4% of GDP, bringing the education budget to Rs 1.2 trillion.

¹⁷¹ *ibid.*, Article 37

¹⁷² *ibid.*, Article 2

¹⁷³ *ibid.*, Articles 26 and 27

¹⁷⁴ *ibid.*, Article 22

¹⁷⁵ *ibid.*, Article 22

¹⁷⁶ UPR Info, Database of Recommendations www.upr-info.org/database/index.php?limit=0&f_SUR=130&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly

¹⁷⁷ United Nations General Assembly, Human Rights Council, Report of the Working Group of the Universal Periodic Review: Pakistan, 26 December 2012 www.upr-info.org/sites/default/files/document/pakistan/session_14_-_october_2012/ahrc2212pakistane.pdf

¹⁷⁸ *ibid.*, p.24

¹⁷⁹ United Nations General Assembly, Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Pakistan, 6 August 2012 www.upr-info.org/sites/default/files/document/pakistan/session_14_-_october_2012/ahrcwg.614pak1e.pdf

¹⁸⁰ UNICEF Pakistan (2013), *Out-of-School children in the Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh Provinces of Pakistan* www.unicef.org/pakistan/OSC_UNICEF_Annual_Report.pdf

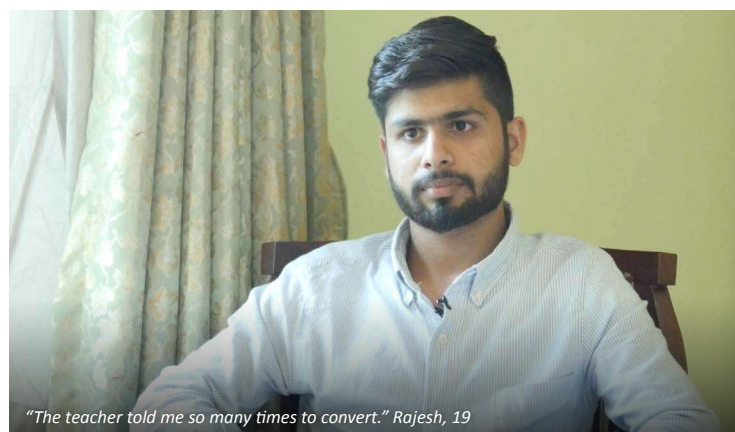
Primary and secondary education is provided by public and private schools as well as *madrassas* or Islamic religious schools. Though the number of schools is insufficient, where schools exist they are open to children of all faiths, sects, denominations and ethnicities. However, problems of accessibility are common.

The public sector formal school system is the largest service provider in Pakistan and consists of 12 academic years. It starts from Primary and ends at Intermediate level or Higher Secondary School Certificate (HSSC). Primary education from grades 1 to 10 (ages 5-16 years) is free. Children from low income families who live in mainly rural and semi-urban areas, attend public schools offering free education which are usually characterised by poor quality education due to lack of physical facilities, a shortage or absence of teachers and unavailability of suitable learning materials.

Private education providers range from non-profit community-based schools and trust schools to the more prevalent for-profit school, managed by an individual or a corporation.¹⁸¹ The most common private school models found throughout the country are low-fee private schools (LFPS), high fee charging schools, public-private partnership schools such as the ones run by the Sindh Education Foundation and the Punjab Education Foundation, non-governmental organisation- (NGO-) run schools, schools run by *madrassas* (religious schools), and community-run schools.¹⁸² The rise of private schools has been actively encouraged by the state, whereby public funds are increasingly diverted towards the expansion of private schools and public-private partnerships in education. It has been argued that the government cannot carry alone the burden of the education process at a heightened pace given its commitments to the global development agendas.

Other than public and private schools, there are *madrassas* offering free religious education with free board and lodging. There have been legitimate concerns regarding the role of *madrassas* in the promotion of extremism. However, they are not the only educational institutions that foster intolerance and a distorted world view. Textbooks in government-run schools also promote misconceptions, hatred and inculcate militancy,

often to a greater extent than *madrassas*. A study looking at three different types of schools; *madrassas*, Urdu Medium schools (which cater for the majority of society in the lower income and lower middle class) and English Medium schools (for the more affluent class) found that across the schools a considerable number of students condoned violence and war and did not think equal rights for women and minorities were necessary.¹⁸³ These parallel systems of education have perpetuated inequalities and economic stratifications, and are the root cause of behavioural division and social conflict.¹⁸⁴



The main national policy statements for education are the National Education Policy of 1998-2010; the National Education Policy (NEP) 2009 and the Education Sector Reforms (ESR). These policies were developed with the consensus of a range of stakeholders including education officials from federal and provincial governments, academia, private sector, NGOs and international development partners. These documents aim to ensure universal primary education, and the NEP 2009 document identifies policy actions in pursuit of two overarching objectives: (i) widening access to education; and (ii) improving quality. The Education Sector Reforms (ESR: 2001-06), focused on nine key areas including Early Childhood Care and Education (ECCE), universal primary education of good quality, literacy, and improved technical and vocational education. In addition, the Gender Reform Action Plan seeks to address gender gaps through reform at the national and provincial levels.

181 Save the Children (2002) *Private Sector Involvement in Education: A perspective from Nepal and Pakistan*

182 Pakistan Coalition for Education (2017), *Privatised Education in Pakistan and the Right to Education: A right out of reach?* <http://www.pcepak.org/en/publications/publications-3#>

183 Oxford University Press, *Denizens of Alien Worlds: A Survey of Education, Inequality and Polarization in Pakistan*

184 Ministry of Education, Trainings and Standards in Higher Education Academy of Educational Planning and Management Islamabad, Pakistan (2014), *Education for all 2015 National Review Report: Pakistan* <http://unesdoc.unesco.org/images/0022/002297/229718E.pdf>

Islamisation and the curriculum

General Zia's 'Islamisation process' in the 1980s sought to integrate Islam and Pakistani national identity through changes to the education system, legal and judicial system, the introduction of Islamic laws, the creation of religious seminaries, and greater influence given to Islamic clerics in government affairs. Through education, General Zia set out to Islamise the youth; this was detailed in a major policy document called National Education Policy and Implementation Programme (GOP 1979) which, it states, aimed to:

- Foster in the hearts and minds of the people of Pakistan in general and the students in particular a deep and abiding loyalty to Islam and Pakistan and a living consciousness of their spiritual and ideological identity thereby strengthening unity of the outlook of the people of Pakistan on the basis of justice and fairplay.
- Create awareness in every student that he, as a member of the Pakistani nation, is also a part of the universal Muslim *Ummah* [Muslim community] and that it is expected of him to make a contribution towards the welfare of fellow Muslims inhabiting the globe on the one hand and to help spread the message of Islam throughout the world on the other.
- Produce citizens who are fully conversant with the Pakistan movement, its ideological foundations, history and culture so that they feel proud of their heritage and display firm faith in the future of the country as an Islamic state.
- Develop and inculcate in accordance with the Qur'an and *Sunnah* [the practices, customs and traditions of the Prophet Muhammad] the character, conduct and motivation expected of a true Muslim (GOP 1979:1).

Zia's policies to Islamise education reshaped the syllabus, and are still evident throughout the education system today, despite various attempts at reform.

Curriculum reform

Curriculum reform efforts in Pakistan have been underway since 2001 after a long period of neglect.

In 2004, in response to mounting criticism, then president General Pervez Musharraf set in motion a comprehensive curriculum reform process of all grades and subjects (I to XII), which was undertaken in a manner to keep the extremist religious lobby (within and outside the government) at arm's length. This resulted in the National Curriculum of 2006.¹⁸⁵ Later the 2007 National Textbooks and Learning Materials Policy removed the responsibility to write textbooks from the textbook boards and instead provincial governments would select winning textbooks from submissions by private publishers with the idea that competition would produce better textbooks.

In 2010 the 18th Amendment to the Constitution was enacted which has had a huge impact on the roles of the provincial and federal governments in the education sector. Article 25-A was added to the Chapter on 'Fundamental Rights' which declares free and compulsory education to be the fundamental right of all children between the ages of 5 and 16.¹⁸⁶ Prior to this, education was included as a 'Principle of Policy', under Article 37 which refers to social justice and the state's obligation to remove illiteracy and provide free and compulsory secondary education.¹⁸⁷

Implementing the provisions of Article 25-A became the responsibility of the provinces, which have been slow in developing the necessary laws and mechanisms to enforce the right to education.¹⁸⁸ Following the 18th Amendment, key responsibilities including planning, policy and curriculum were devolved to the provinces and new curriculum authorities were formed which could write their own curricula. The magnitude of devolved functions presented challenges for the provinces, which had to carry out more key roles with limited finances, capacity and resources. In practice, the provinces largely followed federal curriculum guidelines and have yet to write their own comprehensive curriculum documents.¹⁸⁹ Under this system private publishers of textbooks need not have any subject knowledge and may be driven by profit from lucrative government contracts which can undermine the quality of the textbooks. Unfortunately the reforms fell into disarray and failed to effect any real change

185 United States Institute of Peace (2015), *Special Report: Education and Attitudes in Pakistan: Understanding Perceptions of Terrorism* <https://www.usip.org/sites/default/files/SR367-Education-and-Attitudes-in-Pakistan.pdf>

186 National Assembly of Pakistan (2012), The Constitution of the Islamic Republic of Pakistan, Article 25 http://na.gov.pk/uploads/documents/1333523681_951.pdf

187 Ibid., Article 37

188 25 Million Broken Promises The crisis of Pakistan's out-of-school children http://asarpakistan.org/document/learning_resources/2014/Alif%20Ailaan%20District%20Ranking%20Report/Alif_Ailaan_report_25_million_broken_promises.pdf

189 Madiha Afzal, 'Pakistan under siege Extremism, Society and the State', 2018

resulting in minimal improvements. As a result biased textbooks continue to be produced, and hate content, including discriminatory language and attitudes are still present.

The curriculum has drawn considerable local and international criticism from progressive educationists, human rights activists and non-governmental organisations, as promoting learning that is discriminatory, parochial, bigoted, myopic, irrelevant and stereotyped. Most notably, public schools have poor instruction related to science and mathematics and overall content that is considered outdated and resistant to change.¹⁹⁰ The major forms of bias manifest as: a negative presentation of religious minorities, the distortion or omission of factual information and the absence of the contribution of religious minorities to Pakistan's history.

Negative presentation of religious minorities

The curricula and textbooks used in government schools and *madrassas* are replete with biases against religious minorities, focusing on Pakistan's fundamental Islamic identity and the need for unity within the Muslim community, to the exclusion of religious minorities. A study by USCIRF in 2011, *Connecting the Dots*, found 'significant Islamic content' in non-religious textbooks, and a construction of Islamic identity which promotes discrimination against religious minorities.¹⁹¹ Throughout the curriculum, religious minorities are presented as inferior or second-class citizens, and textbooks contain recurring derogatory references to all religious minorities.

Hindus, for example, are described as enemies of Pakistan and of Muslims and are portrayed as 'evil, misguided and heretical'.¹⁹² Textbooks include ideas that incite violence and hatred towards religious minorities; for example, a Pakistan Studies textbook for Grade 9/10 states: 'Hindu leadership has not only shown their religious hatred but also expressed their political hatred by opposing to celebrate their independence day on the same day.'¹⁹³

In March 2017, CSW interviewed students who described the nature of inaccurate and negative content about their religion in textbooks including those for Islamiyat Studies. A Christian student, Jacob Gill¹⁹⁴, said it stated that Jesus was not crucified on the cross, but someone who looked like him took his place; in contradiction of Christian belief. Hindu and Sikh students also identified mistakes about their beliefs. A 17-year-old Sikh student, Gurinder Singh¹⁹⁵, said that stories about their first and last prophets were changed in Pakistan Studies. Both the textbook and the teacher said their prophets died, in contradiction of Sikh belief. In multiple instances, where students challenged teachers or the school principal about inaccurate content, the students were ignored or teachers said they were not interested.

Historical and factual inaccuracies

Textbooks also contain factual inaccuracies or omissions that distort the significance of key events and 'retell' Pakistan's history since independence, so as to leave a false understanding of national experience. For example, the country's first Governor-General, Muhammad Ali Jinnah, delivered a speech on 11 August 1947 that envisioned a secular Pakistan. This speech no longer features in school textbooks – although in 2015 the Sindh government announced that the speech would be included in its entirety in the curriculum.¹⁹⁶

Absence of contributions by religious minorities

The contribution of religious minorities to the development of Pakistan is conspicuous by its absence. This exclusivist approach has reinforced Pakistani nationalism and prevents non-Muslims from being considered as Pakistani nationals and good citizens. The first constitutional body assembled by Muhammad Ali Jinnah had three non-Muslims out of six. There is no mention of the three non-Muslim members: their names and roles have been deliberately hidden from historical accounts and the syllabus at all levels of education.

190 Interview with Amjad Nazeer, Executive Director IDRAC.

191 USCIRF (2011), *Connecting the Dots: Education and Religious Discrimination in Pakistan* www.uscifr.gov/sites/default/files/resources/Pakistan-ConnectingTheDots-Email%283%29.pdf

192 Interview with Amjad Nazeer, Executive Director, IDRAC

193 National Commission for Justice and Peace (2013) *Education vs. Fanatic Literacy: A Study on the Hate Content in the Textbooks in Punjab and Sindh Provinces* <http://archive.paxchristi.net/MISC/2014-0251-en-ap-GE.pdf>

194 Name changed to protect identity

195 Name changed to protect identity

196 DAWN, 'Quaid's Aug 11 speech to be included in school curriculum', 24 March 2015 www.dawn.com/news/1171436

Similarly, members of the Ahmadiyya community who played eminent roles in the creation of Pakistan are excluded. Sir Zafarullah Khan was the first Foreign Minister, President of the UN General Assembly and President of the International Court of Justice in the 1950s. He was sent into obscurity, mainly after 1974; because he was an Ahmadi. The Nobel Laureate, Dr Abdus Salam, the Prime Minister's advisor on the 'advancement of science and technology project', and Ahmad Aziz, Minister for Foreign Affairs and Defence in 1974, rarely feature in textbooks as they are Ahmadi. Other minorities omitted from textbooks include eminent jurists A.R. Cornelius and Dorab Patel, former Justice of the Supreme Court and Chief



A family from Joseph Colony, a Christian neighbourhood that was the subject of a large-scale violent attack in 2014. Credit: Saad Sarfraz Sheikh

Justice of Sindh High Court; and military hero and human rights activist, Cecil Chaudhry Sr. The absence of minority heroes strengthens contempt and biases against non-Muslims, which the entire educational system sets out to achieve, in the name of developing an Islamic identity.¹⁹⁷

Islamiyat (Islamic Religious Studies)

Islamiyat is a compulsory subject at the primary and secondary levels for every Muslim student; children study Islamic faith and Islamic education (including articles of faith, Qur'anic verses, Hadith and some Arabic). The educational material attempts to inculcate Islamic thinking in all the students irrespective of their faith through the compulsory subjects of Social/Pakistan Studies, Urdu and English. More disturbing is that non-Muslim students read the Qur'an, not in Islamiyat which they are not required to learn, but in the compulsory subject of Urdu. Urdu textbooks from Class I to III, which are compulsory for students of all faiths, contain lessons on learning to read the Qur'an, which clearly violates the rights of

religious minorities.¹⁹⁸ Even subjects such as English or Urdu will be Islamic in character, with little or no religious education provided about other faiths. Non-Muslim students are unable to choose instruction about religious books from their own faith; meanwhile, a Muslim student who can recite the Qur'an by heart (a '*Hafiz-e-Quran*') is eligible for 20 extra marks to get admission into college or university.

The curriculum does have an alternative course, called Ethics, for non-Muslim students. As only non-Muslim students take Ethics, once they choose this subject they are immediately identified as being from a religious minority background, which makes them vulnerable to discrimination. In reality, particularly in rural areas, textbooks and qualified teachers for these subjects are unavailable at many schools, and therefore non-Muslim students are often compelled to take Islamic Studies. CSW interviewed students who reported that they had learned Islamic Studies from as early as nursery, but that Ethics courses were not available until the 9th and 10th grades. Teachers reported to CSW that where Ethics courses are available, they are often taught by Muslims.

Discrimination

Some school teachers have an extremist mindset and directly or indirectly try to influence non-Muslim children to convince them that their faith is illogical, and contrary to the universal truth and Islam as the divine faith. A Christian student said that in Class 6 (age 12 to 13), twelve Christians left because of the "aggressive discrimination and pressure to convert". It was a government school. Student interviews indicated that teachers often instructed non-Muslims and especially Ahmadi and Christian students to eat, sit, and play separately from other students; this response is a combination of teachers' attitudes or ideology, the school curriculum, parents and the *madrassa* education (many children attend the mosque or *madrassa* in the morning or evening for religious instruction along with regular school).

Discrimination is observed throughout all levels of the education system. The US State Department reported that Christian, Hindu, Sikh, and Ahmadi communities face restrictions in securing admission to college and university.¹⁹⁹

197 Sustainable Development Policy Institute, 2005

198 *ibid.*

199 United States State Department (2015), *Pakistan 2015 International Religious Freedom Report* www.state.gov/documents/organization/256527.pdf

One Ahmadi female, Bushra,²⁰⁰ told CSW that while studying for her MSc in Economics, there were lecturers who were good to Ahmadi students and others such as her lecturer of Islamic Studies, who were unfriendly and discriminated against her. When students asked the teacher about Bushra's religion he said, '*Qadiyani* (a derogatory term for Ahmadis) is no religion, they have a different God and a different prophet, not what we talked about, there is no need to talk about them. They are heathens, *kafir* [non-believers].'

It emerged from our interviews that many students felt that negative concepts and discrimination shown by classmates were learned behaviour that came from the home, environment and wider society. A Hindu student, Ajay Kumar²⁰¹, described it in this way: "If their parents are extremist, the children are extremist. If the parents are good to us the children are good to us."

Denial of educational opportunities

In interviews with CSW, some students from religious minorities reported receiving lower marks than classmates; others were told if they converted to Islam they would get better grades and more support from teachers; still others were refused scholarships or entry onto higher courses. When Sandeep Singh²⁰², a 17-year-old Sikh, tried to gain admission to college in Punjab he was refused on the grounds that he was a foreigner and not a Pakistani. He was eventually admitted once he showed proof of his academic history and No Objection Certificate (NOC). Maqsood,²⁰³ a 17-year-old Christian, was told by his teacher when he was in class 8 that he would receive good grades if he followed Islam. When he refused to change his religion she beat him twice a week and marked down his grades. Joseph Sethi²⁰⁴, an 11-year-old Christian, reported that his teacher said, "If you were a Muslim I'd happily help you with your course and syllabus, homework and assignment."

All the Christian girls studying at a girls' public high school in Khanewal, Punjab Province, failed their annual examinations one year. Based on their grades from previous examinations, it was

clear that this was active discrimination, and not because the girls were all academically poor.²⁰⁵

In another case, a Muslim teacher named Miss Fatima was appointed to teach science in a school in Punjab in August 2010. On her first day in class, she started asking questions about Christianity and told the students that their religion was not a true religion and that all Christian beliefs were false. She forbade the Christian students from coming to school wearing crosses around their necks and told the students that *Hazrat Issa* (Jesus) will come back to this world as a Muslim. After her lecture against Christianity, she started asking questions related to science, the course she was hired to teach. A Christian girl named Nadia told the teacher that the students had not been taught science before because there had not been a science teacher. This prompted the teacher to beat Nadia.²⁰⁶

Abuse

In 2017 CSW interviewed children from religious minority groups who described how they were routinely subjected to severe physical and psychological ill-treatment including being segregated, bullied, teased and beaten on multiple occasions by both teachers and classmates. Students from each faith group reported that they were made to sit separately from other students, and were insulted and humiliated by students and teachers because of their religion. Many reported being subjected to psychological torment, mental abuse, humiliation and routine taunts, and felt they had to accept this discriminatory treatment as part of their education. In the 2011 USCIRF report one boy reported that teachers and classmates refused to eat and drink with him.²⁰⁷

Physical abuse

There were similar accounts of students suffering physical abuse throughout school life, with many compelled to abandon their studies at various stages as a result. Teachers often severely punished religious minority students who mispronounced words. Gurinder Singh²⁰⁸, a 17-year-old Sikh student, recounted his treatment

200 Name changed for security reasons

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203 Name changed to protect identity

204 Name changed for security reasons

205 USCIRF, 2011

206 *ibid.*

207 *ibid.*

208 Name changed to protect identity

if he made mistakes reciting the *kalimas* (the Muslim proclamation of faith).²⁰⁹ “Often we were beaten with a stick. The worst punishment was when the teacher made me stand on the bench and assume a position with my head between my knees, my wrists under my thighs so that my hands touched my ears, and the teacher would beat me with a stick. This happened approximately twice a week, throughout nursery and prep.” A 10-year-old Ahmadi student and his sister told CSW that their teacher would beat them across their hands until their hands were swollen.

The 2011 USCIRF report presented a case in which a Christian student, along with a few other Muslim students could not complete their homework, along with a few other Muslim students. His teacher inflicted corporal punishment on him – but not the Muslim students – so severely that the signs of lashes were visible on his body.²¹⁰

Psychological abuse

Ahmadi, Hindu, Sikh and Christian children gave accounts of being mocked and ‘mentally tortured’ by teachers and classmates because of their religious beliefs. Christian students were accused of worshipping idols or statues and told that all non-Muslims are infidels. A Hindu student, Vinay Kumar (19),²¹¹ said that when he was younger, his classmates knew he was not Muslim because of his name and told him he should go to India



Schoolgirl in Youhanabad, a Christian community that suffered terrorist attacks in 2015. Credit: Saad Sarfraz Sheikh

because he is not Pakistani. Sikh students reported that classmates would comment on or make fun of their turban, try to touch it or remove it from their heads. The turban is intrinsic to Sikh culture.

CSW interviews revealed that the children of religious minorities were repeatedly urged to convert to Islam by their classmates and teachers; in some cases, when they refused, they were beaten. AK, a 17-year-old Sikh, reported that his classmate told him, “If you don’t convert, we will kill your father, mother, take your home, destroy your temple. Anything that’s attached to you, we will attack.” Imran Masih,²¹² a 17-year-old Christian, recounted that, “No Muslim classmate wanted to be my friend.” He said that 12 Christians from class 6 (ages 12 to 13) left because of ‘the aggressive discrimination and pressure to convert’.

Teachers also pressure students to convert to Islam. USCIRF details a case in which a Christian boy was treated harshly by the teacher at the government-run primary school he had previously attended. His teacher used abusive language towards him, calling him “dirty” and “dirty Christian” (*chuhra easi*). He also used to beat him more than any other student in his class.²¹³

Religious minority students are put through academic and ideological courses and procedures that prove detrimental to their future political, social and professional progress. Despite some reforms to the education system, the government is falling desperately short in revising and eradicating religious tolerance and discriminatory attitudes from the curricula and schools.

Case studies

CASE STUDY 1: Ajay Kumar²¹⁴, Hindu, 18 years old

Ajay lives in Lahore and is studying Chartered Accountancy. He did not experience any problems in his primary school, as the pupils were 50% Muslim and 50% religious minorities. Issues began to arise when he entered further education at the age of 15. He wished to apply for a scholarship, but his application was unsuccessful, as he was from a minority. The school principal, when pushed about this, put him off telling him that the application was being processed, but Ajay heard nothing further. He experienced a similar phenomenon when he

209 Proclamation of faith in the oneness of God and as Mohammed (peace and blessings of Allah be upon him) as his servant and messenger.

210 USCIRF, 2011

211 Name changed for security reasons

212 Name changed for security reasons

213 USCIRF, 2011

214 Name changed for security reasons

applied for jobs, and said he is often rejected because he is a minority. Though he was accepted onto the Chartered Accountancy course, he notes that there are no reserved seats for those from minority communities or underdeveloped areas.

He took issue with the education system itself and the attitude of his classmates. When taking Islamiyat Studies at school, he found that learning about other religions was often coloured by a certain level of prejudice. For example, one book described the practice of sati (when a man is dead, his wife will also sacrifice herself) as a practice that Hindus continue to do today, instead of it being a historical practice. The book also said that Hindus believe in idols and false gods. He felt discriminated against by his teachers as they were friendly with Muslims but not with Hindus. In particular, his Physics teacher never looked at, talked to or acknowledged him. Ajay said, “Why do they think I’m different?”

Once when he was playing cricket with his friends in the playground, he applauded a Muslim boy for hitting a shot. The boy turned around and told Ajay, “You’re a minority, who the hell are you applauding? If you say anything else, your face, my gun.” Ajay said this type of incident happened often. On another occasion a man from outside came to the classroom, saw Ajay talking to three or four of his friends (also minorities), and told him, “Tomorrow if you talk like this to anyone else, saying you’re a Hindu, I will beat you,” which silenced him.

A friend of Ajay’s who lives in Quetta, Balochistan, was doing well in his studies. The friend received a letter telling him that if he continued his studies, he would be kidnapped in a few days and that he would be ‘no more’.

Ajay said he tries not to think about these things too much when he is not in school: “If we keep these things in our mind, it’s not good for us, for our health, studies, progress.” After telling his parents, they suggested that he leave if he is facing violence in his surroundings. Ajay believes in his right to an education but his parents told him, “If you talk about your rights, who will listen? The same people doing these things are those who can stop it. They will never go against their communities.”

CASE STUDY 2: Jacob Gill,²¹⁵ Christian, 17 years old

Jacob is a student at MU College, a government school in Lahore. He has faced and is still facing discrimination and numerous issues surrounding practising his faith in school. Jacob recounted an incident in the 6th grade, where another student referred to him as a *jamadar*, or someone who cleans the gutters. He lost his temper because he felt this to be an attack on his religion, culture, family and background.

In Islamiyat Studies which he studied up to 9th grade, he was told things that directly contradicted his own faith – for example that Jesus was not crucified on the cross, but someone who looked like him was crucified instead. At this stage, Jacob reported that many of his friends treated him well, as they “thought that ‘He’ll convert...he’ll be inspired by studying this.’”

After 9th grade he switched to studying Ethics, where he was able to study other religions such as Hinduism and Sikhism. However, some of the course content was derogatory towards other religions. In addition, the Muslim preacher who taught Islamiyat treated him badly and taunted him for his decision to abandon the subject, asking, “Why don’t you convert, why don’t you study Islamiyat, you will go to heaven not hell.” Jacob told his father about the incident but still felt disturbed by what had happened. He was offered incentives to convert to Islam, including being told he would be sent abroad to study, given financial support and government jobs, and would become part of a higher social class.

Jacob said he still faces taunts: “You’re not supposed to drink from the same cup as us. You’re not supposed to sit at the same desk as us. You’re not supposed to use the same glass as us, play with us, and sit beside us at the same desk – because you’re *kafir*.” He was accused of worshipping idols and statues, and was told that his religion had many sects. Jacob kept silent when this happened and would avoid arguments. This led to him isolating himself from the others, and bringing his own cup and soap into school to avoid complaints from the other students. Nowadays, they tend to leave him alone. He wanted to leave school, but convinced himself that he should not give up but should raise his voice for his nation and for himself. He was referred to a psychologist, and with the support of his parents he completed his studies.

215 Name changed for security reasons

CASE STUDY 3: Farzana Khan,²¹⁶ Ahmadi, 15 years old

The Ahmadiyya community suffers grave FoRB violations, and Farzana's is only one of many tragic cases that CSW heard during the creation of this report. She began by describing bullying she experienced from other students: "A few of the children in my school knew that I am Ahmadi and what they did was to go and tell the other students, 'She is Ahmadi, don't play with her or eat with her, stop treating her normally.'" Her teachers encouraged this and abused her both physically and psychologically. "They punished me, they used to strike me with sticks, and tell me not to sit with the other kids because I am Ahmadi and I am not allowed to do that."

She went on to describe biases in the public school curriculum. During Islamic Studies Ahmadi were described in discriminatory terms: "I go to a government school and have to study Islamiyat. When they teach Islamiyat they actually talk about Ahmadi...and they use very abusive language."

She continued to tell CSW about the distress and 'mental torture' that this social isolation at such a young age has caused her. She was recently forced to move school as a result of her treatment. She has decided not to tell her new friends that she is Ahmadi: "I have not disclosed it [my Ahmadi religious beliefs] in my current school. None of my friends know that I am Ahmadi so everything is fine."

CASE STUDY 4: Gurinder Singh,²¹⁷ Sikh, 17 years old

"We were teased so much we resolved not to go to school and that's why we left our studies. We tried to remain at home in free time rather than go out."

Gurinder works as a granthi²¹⁸ in a Gurudwara or Sikh temple in Lahore. Despite loving his studies, Gurinder was bullied because of his religion and left school in 8th grade with no qualifications, due to the teasing that he received and attempts by his fellow students to convert him to Islam. They kept insisting that he should leave his language, culture and traditions. On a number of occasions, Muslim boys tried to remove his turban. Gurinder

said, "Removing our turban is so serious, it's as serious as removing our head. This turban is a crown in the Sikh community, we don't allow anyone to touch it." The Muslim boys made excuses that they wanted to adopt the practice of wearing a turban, which is why they were touching it and asked him to remove his turban as it bothered them because it makes you sweat and it makes you itch and scratch your head.

The boys also asked Gurinder why he wears a bracelet, saying bracelets are for girls. The bracelet is one of the five sacred objects that Sikhs must wear according to their beliefs: their uncut hair/beard, a comb, a bracelet, a sword and underwear.

He became afraid to leave his house, as he was being beaten many times when the boys tried to disturb his turban. This did not only occur in Peshawar, where he was at school, but also in Lahore. In April 2017 a shopkeeper at a juice corner stall also touched his turban and mocked him. Gurinder said he is constantly teased and referred to in a derogatory manner as *sikhra*²¹⁹ rather than Sikh or *sardar*.²²⁰

"From Class 1 onwards we learned only Islamic Studies. And as the other studies began at 9th and 10th, I never reached that. In 7th class, in Pakistan Studies, we studied Sikhism."

In Pakistan Studies, Gurinder found that the sole chapter on Sikhism displayed what he felt to be incorrect information related to his faith. The book stated that all the Sikh prophets are dead, contrary to Sikh beliefs that the first and last prophets were taken to heaven. Gurinder pointed out these errors to his teacher. Despite him insisting that the story he had learned since childhood about *Baba Guru Nanak*²²¹ was portrayed incorrectly, his teacher denied any error and scolded him, saying, "You're just a kid and know nothing about your history."

There was a picture in the book of Guru Nanak, and the other children often defaced this picture by drawing on moustaches and making fun of it. He strongly protested against this and took the books to his teacher and even to the principal of the school, but nobody listened. "You can imagine yourself how bad it is to make fun of

216 Name changed for security reasons

217 Name changed to protect identity

218 A priest who acts as custodian of the Guru Granth Sahib, the sacred scripture of the Sikhs.

219 Derogatory name for a Sikh

220 A Sikh (often used as a title or form of address)

221 The founder of the Sikh religion and the first Guru of Sikhs.

anyone's religion or religious figures." When his teacher asked him to collect the books he did so during break and found that half of the class had defaced the Guru's image. He was so upset that, without asking anyone, he took all the books home without returning them to the students.

Gurinder learnt Islamic Studies since nursery but nothing positive about other religions. He described how every Muslim teacher has a duty to teach Islam to every child whether they understand it or not. Once a child turns seven, if he or she still does not understand the religion then the teacher would punish them. Some of the words were difficult to pronounce and the children were punished when they wrongly pronounce a word.

From early on Gurinder was asked to change his religion and was regularly beaten by the teachers for refusing to recite the kalimas. Initially he felt that if he recited the kalimas, he would become a Muslim. As he grew up, he realised that simply reciting the kalimas does not change someone's religion, so he recited it in order to avoid being beaten.

Gurinder told CSW about the physical abuse he suffered in which he was regularly beaten with a stick. He recalled the worst punishment: "The teacher made me stand on the bench and assume a position with my head between my knees, my wrists under my thighs so that my hands touched my ears then the teacher would beat me with a stick. This happened approximately twice a week throughout nursery and prep. After that the manner of the abuse changed. As well as physical punishment, I was mentally abused and tortured by consistently being told to convert."

Conclusion

From a young Sikh boy being beaten to a young Ahmadi girl being socially ostracised, religious minorities face systematic discrimination in Pakistan's education system. Since the predominant academic and intellectual discourse reinforces Islam and Islamic identity with little or no reference to other faiths, religious minorities are subject to a religious and political ideology within the education system that discriminates against them. The syllabus portrays them as second-class citizens, teachers display discriminatory attitudes, and children are subject to severe physical and psychological abuse. It is vital that these violations stop.

Provincial governments must ensure they do not fund hate, by taking practical steps such as investing in less biased textbooks, and training teachers in the beliefs of religious minorities, tolerance and the importance of diversity. The international community must apply pressure in order to ensure that this happens: the UK Government, US State Department and other international funders must ensure their money funds education that is not biased against minorities. According to a report by the Jinnah Institute, if Pakistan continues to ignore the critical issue of quality of education, which when poor, propagates the socio-economic divide, the country will continue to face a series of social challenges which are already manifest in terms of radicalisation, increasing violence,²²² intolerance and discrimination.

Recommendations

To the government of Pakistan

- Guarantee the right to freedom of religion or belief (FoRB) in its fullness for all religious minorities, and uphold Pakistan's constitutional provisions with particular reference to educational institutions in respect of religion as detailed in Article 22.
- Establish a National Education Advisory Board with an overview of education policy, planning and provision.
- Intensify positive efforts to fully implement the 2006 curriculum reform, revising and eliminating bias from textbooks and ensuring uniform implementation of unbiased curricula in all provinces.
- Improve and rewrite the curricula and textbooks to remove discriminatory language and religious and historic inaccuracies and omissions. The new curricula and textbooks should be based on scientific and empirical principles of thought and inquiry, and incorporate lessons on peace, tolerance, diversity and respect for human rights.
- Incorporate human rights into academic modules.
- Include in the curriculum the contributions of religious minorities to the founding and development of Pakistan.

222 Jinnah Institute Papers (2011), *Pakistan's Eight Great Education Debates*
<http://jinnah-institute.org/images/ji%20education%20policy%20brief.pdf>

- Offer provisions to religious minority students from Ahmadi, Hindu, Christian, Sikh and other religious groups for the study of their own religions.
- Develop teacher training programmes to sensitise teachers and which demonstrate respect for all religious traditions and values. Teacher training should incorporate elements of analysis, critical thinking, and promote tolerance.
- Introduce interfaith activities in schools to encourage understanding and dialogue between students from different religious backgrounds.

To the international community

- Continue to support improvements in the public education system through the development of non-discriminatory curricula for schools and colleges across the country; these should promote a culture of religious and social tolerance and include the positive contributions of religious minorities.
- The United Kingdom's Department for International Development (DfID) must ensure that its funding provides inclusive education for religious minority students and that funding is not sponsoring the publishing of textbooks containing bias, derogatory or hate content.
- Foreign governments which provide financial contributions must more closely monitor the disbursement of funds to ensure they are not supporting the production of curricula and textbooks with biased content.

CONCLUSION

Violations of freedom of religion or belief (FoRB) in educational settings are diverse and are experienced by children in many countries across the world, including Ahmadi children suffering physical and psychological abuse in Pakistan, children barred from school in Mexico in an effort to compel their families to renounce their faith, Baha'i students in Iran being denied access to university, or young Christian girls facing the threat of abduction in Nigeria.

It has been beyond the scope of this report to provide quantitative data detailing every instance of these violations. Instead, the report seeks to draw greater attention to them, encourage action, and prompt more extensive research into the intersection between violations of FoRB and the right to education.

Although these violations occur across the world, the issue remains underreported. As stated in an earlier chapter, while the SDGs include a commitment to 'leave no one behind', the lack of focus on the experiences of religious minorities has meant that discrimination on the basis of religion or belief in the area of education has not been fully recognised, acknowledged or addressed. Similarly it has not received sufficient attention at UN level, either during the UPR process or by the Committee on the Rights of the Child or the Special Rapporteur on education.

In her 2004 report for the Economic and Social Council's Commission on Human Rights, Katarina Tomasevski wrote of the need for data on the religious and ethnic backgrounds of children:

'There is, however, a paucity of quantitative data that are both desired and necessary for the monitoring of the right to education and human rights in education. These include the child's mother tongue as well as religious and ethnic background.'²²³

Although general data are available for a significant number of countries, these data fail to reveal vulnerabilities or potential discrimination on the

basis of religion or belief. There is a considerable lack of attention to monitoring the experiences of religious minorities in accessing education. Initiatives such as the SDGs, which have set global and universal goals aimed at eradicating inequality, fail to refer to religious identity in connection with education. Specifically, SDG 4, which articulates the need for governments to ensure inclusive and quality education for all, including equal access to education, and requires states to collect and disaggregate data on factors such as gender, disability, indigenous status, rural/urban divide and wealth, makes no mention of religious identity (or lack thereof) in the monitoring of educational disparities.²²⁴ Moreover, the landmark UNESCO Education for All report of 2010 entitled *Reaching the Marginalized* did not examine potential discrimination on the basis of religion or belief. While the report stated that 'the failure to address inequalities, stigmatization and discrimination linked to wealth, gender, ethnicity, language, location and disability is holding back progress towards Education for All',²²⁵ there is a concerning lack of reference to problems experienced on account of religious status.

One of the challenges is that national data on access to education and educational disparities often do not provide information about religious minorities. National bodies responsible for the collection of statistics may have limited capacity, or the underlying problem may be that governments do not prioritise data relating to some of the most disadvantaged sections of society.²²⁶ Disaggregation of sensitive data – such as information on faith identity – holds potential risks; thus any data disaggregation efforts should rest firmly on a human rights-based approach to data.²²⁷

In the same report, Ms Tomasevski noted that 'the sensitivity of recording religion or political affinity of parents, and thus their children, is based on, inter alia, the possible victimization that this may entail.' It is vital that where disaggregated data

223 Economic and Social Council Commission on Human Rights, 'The Right to Education: Report submitted by the Special Rapporteur, Katarina Tomasevski', 15 January 2004, E/CN.4/2004/45 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G04/103/32/PDF/G0410332.pdf?OpenElement>

224 Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. Target goal 4.5 and indicator 4.5.1 <https://sustainabledevelopment.un.org/sdg4> Sustainable Development Knowledge Platform

225 UNESCO (2010), *Reaching the Marginalized: EFA Global Monitoring Report*, p.2

226 *ibid.*, p.8

227 OHCHR, 'Guidance Note to Data Collection and Disaggregation', 2016 www.ohchr.org/Documents/Issues/HRIIndicators/GuidanceNoteonApproachtoData.pdf

is sought, it does not put the rights and safety of individuals or communities in greater jeopardy. Whilst being mindful of these sensitivities, it remains important to improve the disaggregation of data where appropriate, and to increase analysis and qualitative data in order to shed light on potential vulnerabilities of religious and belief communities in the educational setting.

There are clear but under-recognised synergies between the promotion of FoRB and the right to education. The case studies from across the world included in this report illustrate that ensuring the full realisation of the right to education for all without discrimination also requires the realisation of FoRB.

In turn, the right to education can provide a gateway to accessing other rights. It is 'a human right that is crucial to the realization of a wide array of human rights.'²²⁸ It can equip people with the skills and knowledge which render them less vulnerable. UNESCO has estimated that 'achieving universal primary and secondary attainment in the adult population would help to lift more than 420 million out of poverty, thus reducing the number of poor worldwide by more than half.'²²⁹

Education can also assist in fostering inclusive and mutually respectful communities. Research by the United States Commission for International Religious Freedom (USCIRF) on religious education found that:

'Education, religious or otherwise, can be the bulwark against extremist ideologies, sectarianism, discrimination and stereotypes, which can all pull on the delicate threads of the social fabric of a country.'²³⁰

However, while education can play a critical role in encouraging tolerance, respect for human rights and inter-religious harmony, it can also be utilised to foster and sustain division, as was highlighted by Ms Tomasevski:

'Retrospective studies of genocide and inter-ethnic or inter-religious warfare have often identified school textbooks as a factor leading to warfare or genocide. Failure to address such issues can thus be deadly.'²³¹

In countries with biased curricula or where religious minorities cannot access quality education, discrimination and intolerance are often embedded in the social fabric. Buddhist nationalist groups in Burma have recently developed religious education for Buddhist 'Sunday Schools', which portray Muslims and other religious minorities in a demeaning manner.²³² Initiatives such as these are partly responsible for increased inter-religious hatred and divisions within Burmese society. Thus education can either assist in creating a culture of tolerance, or fuel stereotypes and religious extremism. It can provide opportunities for social mobility, or entrench disadvantage.

CSW's hope is that this report will encourage further research into the intersection between FoRB violations and the right to education. The right of the child to non-discriminatory education not only protects the health and wellbeing of the child, but also protects a country's stability by mitigating against the emergence of inter-religious hatred in the future. For the sake of the children who have or are currently suffering violations in educational settings, and to ensure the unity and stability of societies, it is essential that further research into the intersection between FoRB and the right to education takes place, and that policies are formulated and enacted to bring violations to an end.

With regard to the nations highlighted in this report, CSW is calling on the governments of Burma, Iran, Mexico, Nigeria and Pakistan to guarantee the right to FoRB in educational settings, and to ensure that no child suffers any form of discrimination on account of their religion or belief or that of their parents or legal guardians. These nations and others where violations are occurring must be encouraged by the wider international community to uphold their respective constitutional, national and international obligations with regard to the right to education and to FoRB, and to take urgent measures to eradicate abuses.

228 UNGA/HRC/10/11/Add/ 5/3/2009 Report of the Independent Expert on Minority Issues, Gay McDougall 'Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development', 2009

229 UNESCO, 'Reducing global poverty through universal primary and secondary education', Policy Paper 32, Fact Sheet 44, June 2017 <http://unesdoc.unesco.org/images/0025/002503/250392E.pdf>

230 USCIRF (2015), *Compulsory Religious Education in Turkey: A Survey on Assessment of Textbooks*

231 Economic and Social Council Commission on Human Rights, 'Progress report of the Special Rapporteur on the right to education, Katarina Tomasevski', 1 February 2000, E/CN.4/2000/6 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G00/104/58/PDF/G0010458.pdf?OpenElement>

232 Matthew J. Walton and Susan Hayward, 'Contesting Buddhist Narratives: Democratization, Nationalism, and Communal Violence in Myanmar', 2014 www.eastwestcenter.org/sites/default/files/private/ps071.pdf

Recommendations

To EU Member States and institutions

- Promote in all multilateral fora the right of all children to learn about the religion or belief of their parents, and the right of children to access education without discrimination on the basis of their religion or belief.
- Encourage third-party States to ratify and implement relevant international treaties embedding the right to FoRB and the right of the child to education.
- Urge third-party States to enact and enforce domestic legislation that ensures individuals are able to enjoy the right to FoRB and the right to education without discrimination.
- Encourage Member States to submit recommendations on the intersection of FoRB and the right to education to relevant UPR processes.
- Ensure that FoRB and the right of the child to education are consistently raised in all appropriate international platforms, including but not limited to overseas delegation visits, bilateral human rights dialogues and UN HRC sessions.
- Fully implement the EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief and the EU Guidelines on the Promotion and Protection of the Rights of the Child, as these relate to the right of the child to education without discrimination.
- Condemn and take appropriate action where the right to FoRB and right of the child to education are violated.
- Urge third-party States to ensure equal access to education for children of all faiths and none.
- Monitor the implementation of the right to FoRB and the right of the child to education in third-party States, and include reporting on the right to FoRB and the right of the child to education in Human Rights Country Strategies, including detailing measures the EU will use to respond to challenges.
- Address the right to FoRB and the right of the child to education in the EU Annual Human Rights Report.
- Conduct training within EU institutions on the right to FoRB and the right of the child to education, linking this to development and the SDGs.
- Mainstream the importance of the right to FoRB and the right of the child to education within EU policy as enhancing democracy, pluralism and participation in public life and as contributing towards peace and stability.
- Consider generally in EU policy the inter-related nature of FoRB, the rights of the child and the right to education, and raise awareness of this within the EU and beyond.
- Support and fund initiatives promoting both the right to FoRB and right of the child to education, in particular through providing technical assistance to third-party States to train teachers and review curricula and teaching materials (including textbooks) to ensure that content and practices are non-discriminatory.
- Actively ensure the meaningful participation of religious, belief and non-faith communities in devising education policies and strategies, in particular by urging third-party States to create enabling environments for all religious, belief and non-faith communities to take part in the domestic development, implementation and monitoring of school curricula and relevant education policies and strategies.
- Urge Member States to review their own practices on the right to FoRB and the right of the child to education, and where necessary take steps to ensure these comply with international legal commitments and the EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief. Examples of best practices should be disseminated to promote inclusion and foster improvements across the EU.

To the government and parliamentarians of the United Kingdom

To the Foreign and Commonwealth Office (FCO)

- Commit to monitoring the implementation of the right to FoRB and the right of the child to education in States, including detailing measures the FCO will use to respond if these rights are violated.
- Condemn and take appropriate action when the right to FoRB and right of the child to education are violated, in particular by raising urgent cases through appropriate diplomatic channels.
- Ensure that FoRB and the right of the child to education are consistently raised and promoted in all appropriate international platforms, including but not limited to overseas delegation visits, bilateral dialogues and UN HRC sessions.
- Encourage States bilaterally to ratify and implement relevant international treaties embedding the right to FoRB and the right of the child to education, and to enact and enforce domestic legislation that ensures individuals can enjoy these rights without discrimination.
- Mainstream the importance of the right to FoRB and the right of the child to education within UK foreign policy as enhancing democracy, pluralism and participation in public life, and as contributing to peace and stability.
- Enhance religious and FoRB literacy among Embassy staff and all country-specific civil servants, including country desk officers, to provide officials with the necessary skillsets to protect this right.

To the Department for International Development (DfID)

- Identify FoRB as a strategic priority, recognising the right to FoRB, the right of the child to education and their intersection as vital to the UK achieving its international development strategic objectives, and to third-party States realising the SDGs.
- Ensure that UK aid is channeled to organisations and programmes that support

and demonstrate a clear understanding of FoRB by tracking and auditing current funding and investment streams in education. Aid should be granted where there is demonstrable support and a clear understanding and strong respect for FoRB.

- Encourage States that are recipients of UK aid to review their own practices on the right to FoRB and the right of the child to education and, where necessary, take steps to ensure these comply with commitments to FoRB under international law.
- Support and fund initiatives promoting both the right to FoRB and the right of the child to education, in particular through the provision of technical assistance to train teachers and review curricula and teaching materials (including textbooks) to ensure that content and practices are non-discriminatory.
- Actively ensure the meaningful participation of religious, belief and non-faith communities in devising education policies and strategies, in particular by encouraging States to create enabling environments for all religious, belief and non-faith communities to take part in the domestic development, implementation and monitoring of school curricula and relevant education policies and strategies.

To parliamentarians

- Continue to highlight the importance of FoRB and of the right of the child to education wherever possible through relevant Parliamentary mechanisms, including but not limited to parliamentary debates, oral and written questions and letters to Ministers.
- Actively engage in All Party Parliamentary Groups (APPGs), which provide strong platforms for members to collectively consider and raise issues surrounding FoRB. This can be done either through individual country groups or through relevant thematic groups.
- Work with the Foreign Affairs Committee (FAC) and the International Development Committee (IDC) to scrutinise the FCO and DFID respectively, contributing to their work in holding the government to account on its policies, including promoting and securing FoRB and the right of the child to education.

- Continue to monitor violations of FoRB and the right of the child to education, and to raise urgent cases through relevant parliamentary mechanisms.
- Promote the visibility of local organisations working on FoRB, for example by hosting or supporting public events on this issue, with emphasis on involving different religious and belief communities.

To the government of the United States

Burma

- Maintain the designation of Burma as a Country of Particular Concern (CPC), and support initiatives that promote tolerance and FoRB for all at every level, but especially in the education system.
- Monitor and raise concerns regarding ongoing FoRB violations, including forced conversion of children, with Burma at every opportunity.

Iran

- Maintain the designation of Iran as a CPC and continue to speak out at every opportunity about FoRB violations in Iran, in particular the severe discrimination against Baha'i children and youth in denying them a right to an education; and highlight the need for the international community to hold authorities accountable in specific cases.
- Use funds appropriated to advance internet freedom by supporting the development and accessibility of new technologies and programmes to counter censorship, create innovative alternative educational opportunities, and facilitate the free flow of information in and out of the country.

Mexico

- Encourage and promote initiatives to increase understanding of FoRB and religious tolerance at all levels, especially targeting the education system both in terms of students as well as faculty and staff.
- Raise FoRB and religious tolerance with Mexico at every opportunity, and encourage and support efforts to address the specific impact of violations of FoRB and forced displacement on children and their right to an education.

Nigeria

- Ensure the promotion of FoRB, tolerance and human rights is included in all US-funded education initiatives to improve access to schools and reform traditional Islamic schools.
- Ensure that educational institutions benefiting from US funding do not discriminate in any way with regard to religion or gender, and do not use books or other resources that contain discriminatory material.
- Designate Nigeria as a CPC for engaging in and tolerating systematic, ongoing and egregious violations of FoRB.

Pakistan

- Facilitate and encourage efforts to ensure that national textbook and curricula standards actively promote FoRB and tolerance towards members of all religions and none, including in government schools and the *madrassa* system overseen by the Ministry of Religious Affairs.
- Designate Pakistan as a Country of Particular Concern (CPC) for engaging in and tolerating systematic, ongoing and egregious violations of FoRB.



Christian Solidarity Worldwide is an organisation working for religious freedom through advocacy and human rights, in the pursuit of justice.

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