

Policy briefing

POLICY BRIEF | SUMMER 2016



FoRB – Recognising our differences can be our strength: Enhancing transatlantic cooperation on promoting Freedom of Religion or Belief

SUMMARY

As the global environment for Freedom of Religion or Belief (FoRB) continues to deteriorate and as more governments and organisations on both sides of the Atlantic step up their commitment to FoRB advocacy, increased coordination becomes more urgent. This policy brief seeks to build on current transatlantic cooperation on FoRB by suggesting a shift of policy emphasis: stressing the diversity of Europe and North America as a strategy to enhance transatlantic cooperation on the promotion of FoRB worldwide.

Key recommendations

- 1 Draw upon transatlantic church-state differences as an asset
- 2 'IRF' vs 'FoRB' – Be mindful of the subtle differences in language
- 3 Seek collaboration between 'religious freedom' and 'religious engagement'
- 4 Upgrading the listening mode – enhance knowledge of and training on FoRB
- 5 Build coalitions and new multilateral strategies to engage FoRB violators
- 6 Bolster the nascent multinational and transnational FoRB networks
- 7 Share stories of struggling with religious diversity

ABOUT THIS BRIEFING

This policy brief is the result of two transatlantic policy dialogues on 'Freedom of Religion or Belief and Foreign Policy', funded by a 'Bridging Voices' grant from the British Council awarded to the University of Sussex and the University of Notre Dame, in partnership with the ReligioWest ERC Project of the EUI and the Department of Law 'Cesare Beccaria' of the University of Milan. The

first dialogue was convened by Wilton Park in England in February 2015 and the second in October 2015 by Georgetown University in Washington, DC: <https://www.wiltonpark.org.uk/conference/wp1383> <https://berkeleycenter.georgetown.edu/events/international-religious-freedom-toward-a-model-of-transatlantic-cooperation>

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Global context

Millions of people, believers in different religions from different parts of the world, are subjected to persecution or serious discrimination because of their religion. And the problem is getting worse. The rise of the so-called Islamic State (ISIS) has led to mass atrocities against Christians, Yazidis, Druze and various Muslim groups, as well as escalating violence between Sunni and Shia. We must not neglect numerous other instances

of repression around the world, including the removal of crosses and destruction of churches in China, the repression of Rohingya Muslims at the hands of the Burmese government and rising Islamophobia and anti-Semitism in the West. All of these dynamics demonstrate that the global environment for FoRB continues to deteriorate. The inhumane situation that many religious believers, or atheists for that matter,

are facing at the hands of the violent extremism and oppressive states has confirmed that the principle of freedom of religion or belief is something precious and cannot be neglected internationally.

Religious discrimination is also on the rise in many different parts of the world as a result of the spread of aggressive forms of religious nationalism: Orthodox, Hindu and Buddhist nationalisms threaten a number of groups. At the same time, autocratic leaders in Central Asia and secular authoritarian states in the Far East use the pretext of security and stability to oppress religious communities and continue to control religious practice to varying degrees. In Europe and North America, there are concerns over increased Islamophobia and anti-Semitism as well as to a lesser degree over restrictions on new religious movements and marginalisation of conservative Christian groups. Religious persecutions and discriminations are global and multifaceted problems that demand a global and multifaceted response.

In some places, religious minorities are faced with brutal choices: give up your religion, or die – or leave your country. The global foreign policy community has increasingly recognised this situation. There is an almost universal recognition that such religious coercion is an unacceptable violation of a fundamental universal human right and needs to be opposed by the international community. Therefore, as more governments and organisations on both sides of the Atlantic step up their commitment to the protection and promotion of FoRB, increased coordination becomes a more urgent need.

Despite the common focus on FoRB, differences in approach among Western democracies are significant. They involve varying understandings of the meaning and reach of religious freedom, especially in its public and political manifestations. These variances derive from differing histories, views on church-state relations, and ongoing internal religious freedom controversies. There are divergent views within and between Western democracies over the potential effects of religious freedom on other goods, such as democratic consolidation, economic development, intellectual vitality, stability, and international security.

A uniformity of approach to FoRB is not possible or even necessary for effective transatlantic cooperation on this issue. Diversity is a reality and it can be an asset. But it has to be better understood and better utilized.



INSTITUTIONAL CONTEXT: TIMELINE OF KEY NATIONAL AND MULTINATIONAL FORB DEVELOPMENTS

To confront the rising tide of religious persecution, a growing number of governments, multilateral organisations and NGOs have enhanced their capacity to promote FoRB.

1986: UN Commission on Human Rights creates the Special Rapporteur on Religious Intolerance, changing the name of the position in 2000 to the Special Rapporteur for Freedom of Religion or Belief.

1998: The U.S. Congress passes the International Religious Freedom Act, creating the State Department Office of International Religious Freedom, headed by an Ambassador-at-Large, as well as the independent U.S. Commission on International Religious Freedom.

2011: The UN Human Rights Council unanimously adopts the resolution 16/18 on combating religious intolerance, bringing to an end 10 years of opposition between the Organisation of Islamic Cooperation and Western countries around the issue of defamation of religion.

2012: New FoRB-related initiatives in several European countries are launched such as the Norwegian special Ambassador-

at-Large for Minorities, the Observatoire Pharos in France and the Italian Oversight Committee for Religious Freedom.

2013: The European External Action Service (EEAS) adopts the EU Guidelines on Freedom of Religion or Belief.

2013: Canada creates the Religious Freedom Office, headed by an ambassador, within Global Affairs Canada. The U.S. State Department establishes the Secretary's Office of Religion and Global Affairs.

2014: Thirty parliamentarians from around the world meet in Oslo to establish the International Panel of Parliamentarians for Freedom of Religion or Belief.

2014: The European Parliament Working Group on Freedom of Religion or Belief (now updated to the status of Intergroup) released its first report on freedom of religion or belief in the world.

2015: This year sees the creation of the International Contact Group on Freedom of Religion or Belief, the Commonwealth Initiative on Freedom of Religion or Belief, and the Transatlantic Policy Network on Religion and Diplomacy.

Policy recommendations

The following recommendations are offered to enhance collaboration on FoRB among the diverse countries of Europe and North America.

1 DRAW UPON TRANSATLANTIC CHURCH-STATE DIFFERENCES AS AN ASSET

The countries of Europe and North America each have different church-state arrangements and this diversity is a strategic asset for FoRB promotion. Some states have established churches while others have a separation of church and state. Within Europe, the European Court of Human Rights allows states a ‘margin of appreciation’ to account for cultural, historical and constitutional differences. This principle has led to seemingly inconsistent interpretations of FoRB tailored to the local context. For instance, the Court upheld France’s ban on religious symbols and dress in public schools but also upheld Italy’s right to require the display of crucifixes in public schools. And yet, despite these kinds of differences, there is widespread agreement on the core elements of FoRB among European democracies. All 28 EU Member States approved the FoRB Guidelines. When European and North American governments collaborate on FoRB advocacy abroad, despite their internal differences, it powerfully demonstrates that a wide variety of historical paths and church-state settlements can lead to robust religious freedom. There is no singular model that all nations must embrace.

Transatlantic FoRB advocacy should also take into account which state or states are best positioned—by virtue of their history, demographics (including diaspora communities), church-state arrangement, or particular diplomatic leverage—to engage a third party country on a given religious freedom concern. As FoRB advocacy becomes increasingly internationalised, transatlantic partners should continue to expand collaboration with non-Western governments, parliamentarians and other actors that share a commitment to FoRB. There can be great value in having the countries beyond *the usual suspects* raise FoRB issues and cases.

2 ‘IRF’ VS ‘FORB’ – BE MINDFUL OF THE SUBTLE DIFFERENCES IN LANGUAGE

The right articulated in Article 18 of the Universal Declaration of Human Rights is typically abbreviated as “religious freedom” in North America and “freedom of religion or belief” in Europe. The terms reflect differences in religious history, politics, and demographics. For Europeans, the ‘B’ in FoRB is critical as it explicitly extends the freedom to non-religious beliefs, such as humanism and atheism, and embeds Article 18 within a wider human rights paradigm. However, there is a danger that the ‘B’ can be construed so widely that the particular good of religion is drowned in an infinite array of types of belief. In the United States and Canada, “religious freedom” (or “religious liberty”) is congruent with each country’s constitutional tradition and national history although recently some quarters have come to question the concept and denounce it as a partisan or sectarian agenda. At the multilateral and international level, FoRB is increasingly the standard term. For prudential reasons, American and Canadian policymakers and diplomats should consider increasingly adopting “freedom of religion or belief,” especially when engaging European and international partners but also work to ensure that the religious dimension does not become drowned out. In some contexts it may be strategic to use alternatives that help to convey the same message in culturally congruent ways. For instance, in some non-Western contexts, expressions like *inter-communal harmony* and *inter-religious respect* may be used to express genuine concern for freedom of religion or belief. Regardless of what term is used, Western democracies must not lose sight of what they are trying to advance and why.

3 SEEK COLLABORATION BETWEEN ‘RELIGIOUS FREEDOM’ AND ‘RELIGIOUS ENGAGEMENT’

Among officials who work on issues of religion and foreign affairs on both sides of the Atlantic there is something of a divide between ‘religious freedom’ and ‘religious engagement’. There can be mutual suspicion between those who focus on one or the other. FoRB advocacy is viewed by some

as a narrow, even parochial, human rights agenda that misses the complexity of the role of religion in society. On the other hand, religious engagement can be seen as little more than feel-good interfaith dialogue that avoids the urgency of combatting persecution. While the two activities have their distinct contributions, they also overlap and need to be coordinated. The added value of religious engagement is its broad-based analysis of religious dynamics and dialogue with diverse religious actors on a wide range of issues in a given context. FoRB promotion can be much more effective if it takes advantage of this analysis and dialogue, helping all parties involved to better understand the different ways the right to FoRB is or can be expressed. This might imply a more bottom-up FoRB promotion strategy and less ‘naming and shaming’ and top-down diplomacy. It can also encourage religious actors to resolve issues by engaging in dialogue with each other by, for example, making majority religions key stake-holders in protecting the freedoms of ‘minority religions’ with regard to the state.

The foreign ministries of Europe/EEAS and North America should ensure that officials (and non-government experts and practitioners) involved in religious engagement and religious freedom are in regular communication. When coordinated, their approaches can be mutually reinforcing. Some degree of religious freedom is necessary for any meaningful religious engagement, and that engagement, if done well, can lead to the trust and respect that fosters religious freedom.

4 UPGRADING THE LISTENING MODE – ENHANCE KNOWLEDGE OF AND TRAINING ON FORB

Improving the general knowledge of the world religions is foundational, as well as strengthening the knowledge of the different ways in which the universal human right of FoRB is understood and implemented in the various cultural and religious traditions of the world. Effective promotion of the legal right to religious freedom is only possible if we take into account that the notion of freedom of religion or belief is embedded in different cultural contexts. There is the need to avoid an ideologisation of FoRB and to contextualize

Policy recommendations

its application without relativizing the principle that protects religious minorities from brutal repression. Therefore FoRB promoters must make efforts to listen to local voices. Within this framework, training and awareness-raising can catalyse improved implementation of FoRB promotion strategy. This needs to cover not only Foreign Service staff, but actors back in national capitals and third party actors (journalists, civil society, academics) in countries of interest.

5 BUILD COALITIONS AND NEW MULTILATERAL STRATEGIES TO ENGAGE FORB VIOLATORS

Understandably, the persecution perpetrated by ISIS and its affiliates has consumed much of the attention of the FoRB activist and policy community. However we must not neglect persecution and discrimination under traditional authoritarian or nationalist regimes. Here, traditional coalition building and government-to-government engagement can be particularly effective. To cite just one recent example, a letter from the International Panel of Parliamentarians for FoRB to the foreign minister of Sudan was instrumental in securing the release of two Presbyterian pastors who were facing the death penalty on trumped-up charges. However, careful contextual assessment should always drive strategy in prisoner release cases, for megaphone diplomacy can be at times counterproductive whilst discrete demarches through private lines of communication and support for defence funding maybe more effective. Multinational and multilevel coalitions help to multiply pressure and undercut the argument that FoRB is a form of Western cultural imperialism. European and North American states could develop closer co-ordination with the Council of Europe and OSCE as well as make fuller use of well-embedded UN processes (like the Universal Periodic Review) for the monitoring of

human rights in general under the auspices of the General Assembly and the Human Rights Council. Furthermore, within the UN framework, the global monitoring process for the prevention of torture could serve as a model for FoRB advocacy, standing as a contrast to post hoc remedial action.

6 BOLSTER THE NASCENT MULTINATIONAL AND TRANSNATIONAL FORB NETWORKS

The creation of the inter-governmental International Contact Group on FoRB, the International Panel of Parliamentarians for FoRB, and the Commonwealth Initiative for FoRB are all welcome developments. Both foreign ministries and parliaments have an important role to play in advancing FoRB globally. Diplomats can weave FoRB into their engagements with foreign governments and foreign publics. Parliamentarians can operate with some degree of independence from their nation's official diplomatic structures, while also evaluating their government's FoRB advocacy and providing recommendations to improve that advocacy. Some are afraid that the involvement of these new actors may excessively politicize the issue of FoRB and increase the risk of tension and conflict. While this danger should not be overlooked, the involvement of political actors can strengthen FoRB promotion. For this reason, these coalitions should receive ample resources and support. Unlike some UN mechanisms, which may include members that are lukewarm or even hostile to FoRB, the members of these groups are fully committed to FoRB and bring fresh energy and credibility to the movement. As more governmental and non-governmental organisations join FoRB advocacy, communication and coordination are becoming increasingly important. For instance, when it comes to programming, many Western

countries are partnering with the same NGOs in the same countries, and need to collaborate in order to maximise resources and avoid duplication and competition.

7 SHARE STORIES OF STRUGGLING WITH RELIGIOUS DIVERSITY

The people of Europe and North America enjoy some of the strongest protections of FoRB, but it has not always been this way and even today these protections are far from perfect. It took centuries for religious freedom to take root. Some Protestant countries discriminated against Catholics until well into the late nineteenth century; some Catholic countries suppressed religious minorities up until the Vatican Council II declaration *Dignitatis Humanae* in 1965 and in a few cases even afterwards; in some Orthodox countries discrimination against religious minorities continues into the present century. Even today, in Europe and North America, religious minorities, especially Muslims, face a variety of challenges. Transatlantic FoRB advocacy will come across as more authentic and less arrogant if it acknowledges past and present shortcomings. In calling other nations to respect FoRB we not only proclaim a universal right but also share lessons from our own national experiences.



FURTHER INFORMATION

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