

Andrew Copson



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FORB: a precious right for the non-religious

Thanks to the Foreign and Commonwealth Office and to Baroness Anelay for sponsoring today's conference.

I want to speak about how freedom of religion or belief (FORB) is a right of utmost importance to the non-religious. I will also outline its relevance to some wider debates, in particular how it is sometimes misunderstood or misused, in a way that is detrimental to resisting extremism.

FORB as a right for all

It can sometimes surprise observers who are unfamiliar with FORB that humanist organisations are among its keenest champions. Many of our campaigns at the British Humanist Association are rooted in the human rights framework. When, for example, we campaign to end compulsory religious worship for children in British schools, we are working both from FORB both in the European Convention and in the Convention on the Rights of the Child. And in the international work of humanist organisations like the International Humanist and Ethical Union (IHEU) (of which I am president), FORB is central to our advocacy work. That probably won't surprise anyone in this room, but I do think it's worth outlining why as humanists we hold FORB in such value.

First let me stress that we promote FORB as a right for everyone, equally. It protects mainstream religious adherents, it protects orthodox and established believers, and it protects the non-conformists, the reformists, the minority sects, the heretics and the splitters. It also protects humanists, atheists, agnostics, those with non-religious worldviews whether systematised or implicit. This was of course spelt out very clearly and famously by General Comment 22 [CCPR/C/21/Rev.1/Add.4] adopted at the 48th Session of the Human

Rights Committee (30 July 1993), which described “The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs)” as:

“far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief ... the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief. Article 18 [of the ICCPR] protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. ... The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community...”

There is another important category, often overlooked, but again spelled out in General Comment 22, with the words: “no one can be compelled to reveal his thoughts or adherence to a religion or belief”. This is particularly important in countries which enforce registration by religion, for example by making ‘religion’ a compulsory data field on identity papers, or for dealings with family courts. In Indonesia, a civil servant called Alexander Aan was first prosecuted after being identified as the admin on an Indonesian atheist Facebook group. He was charged not only with “insulting religion” for making the group available, but also – since he had identified himself on identity papers as a “Muslim” and yet professed his atheism through the Facebook account, he was also charged with “lying on an official form” – this despite the fact that “Atheist” would not have been an acceptable entry for his religion as Indonesia only accepts six specific terms for ‘Religion’ on these papers.

There may be many reasons for not wanting to profess any belief; some simply do not care to voice their views, or maybe have no settled worldview that they can formalize in a word. More seriously, someone might want to withhold her beliefs for fear of interference or discrimination by the state, of familial disownment, or of violent reprisal.

Violations of FORB against the non-religious

The need for this right to FORB, specifically with respect to the non-religious, is far from theoretical. In thirteen countries the mere profession of non-religious views can be deemed “apostasy” or “blasphemy” punishable by death.

The IHEU publishes *The Freedom of Thought Report*, which is an annual survey of discrimination and persecution against the non-religious, with some focus on violations of FORB and freedom of expression. I would encourage you to take a look at the report at FreeThoughtReport.com.

It contains cases that you will have heard of such as that of the Saudi liberal blogger and proponent of secularism, Raif Badawi, who was accused of “insulting religion” and at one point accused of “apostasy”, which of course is punishable by death in Saudi Arabia. It also contains many cases you may well not have heard about. One of the cases from the most recent edition is that of Mohamed Cheikh Ould M’kheitir. He is from Mauritania. His case actually first appeared in the 2014 edition of the report because he was accused of “blasphemy”, but this December will mark the second anniversary of his being sentenced to death for “apostasy” on highly political charges. As the Report notes, the trial:

“started and ended on a single day. He has been on death row throughout 2015 [and now throughout 2016, to date]. There appears to be a moratorium on carrying out death sentences in general; however, along with individuals convicted of other capital crimes, such as terrorism and homosexuality, Mkheitir remains on death row, with extremely limited prospect of a pardon. ... As a 28-year-old blogger, he had been arrested in January 2014, for allegedly publishing an article seen by some as insulting Muhammad and constituting an act of apostasy. His writing in fact sought to highlight the indentured servitude in Mauritanian society, often socially justified with reference to national cultural identity and in particular to Islamic tradition. ... Following Mkheitir’s initial arrest, there were a number of protests condemning his writing... There were numerous calls, including by imams, scholars and professors, for his execution. One preacher, Abi Ould Ali, offered EUR 4,000 to anyone who killed Mkheitir. The Mauritanian government and opposition parties supported the protests. President Mohamed Ould Abdel Aziz said, “We will apply God’s law on whoever insults the prophet, and whoever publishes such an insult.” ... After his death sentence was handed down in December 2014, there were again popular celebrations. Jemil Ould Mansour, leader of Mauritanian Islamist party Tawassoul, welcomed the conviction, saying that Mkheitir had got “the fate he deserves”.”

Several features of this case are noteworthy:

Beyond what he said in his writing, where he was critical of certain ways of using Islam to justify Mauritania’s tradition of indentured servitude of *haratin*, there is no particular confirmation of M’kheitir’s personal beliefs, whether in fact he is a Muslim who was writing critically of a particular feature of the culture in his own country, or an atheist doing likewise. Nor need there be any such confirmation! Again, the state has no right to demand to know, let alone to inflict capital punishment.

Note also how widespread is the condemnation of his writing. Everyone wanted to get behind the attack against him, to align themselves with righteous anger.

It's also worth pointing out how little attention his specific case has received in comparison to very similar FORB cases such as Raif Badawi (Saudi Arabia), Alexander Aan (Indonesia), Meriam Ibrahim (Sudan), Aasia Bibi (Pakistan). As proponents of FORB it is always worth remembering that for every Raif Badawi and Asia Bibi, there are dozens or hundreds of similarly persecuted M'kheitirs, let alone the thousands more who – out of the reach of authoritarian interference – are suffering in silence.

I'll also point out that M'kheitir fits a profile seen in many of the case studies that are featured in the Freedom of Thought Report. Many of the self-identifying atheists and alleged atheists in the report are young men, often outspoken on one or several topics of social justice, human rights, or religious criticism (in other words, they are concerned with topics of broad humanist interest; for example, promoting women's rights, LGBTI rights, offering political criticism against conservative religious elements or Islamism, demanding greater democracy or free expression, and so on). In some cases these individuals are connected with online networks, but they are often prosecuted in a very isolated way.

And this highlights an important structural difference between the way violations of FORB often occur for non-religious as opposed to religious persons. While religious groups in many parts of the world often form visible communities, sometimes ethnically distinct, even with distinct neighbourhoods or cities for example, the same is hardly ever true of the non-religious. For the religious this means it is sometimes the case that whole geographically-defined communities fall victim to marginalization. For the non-religious it means that outspoken humanists and accused atheists appear disproportionately likely to be persecuted in the form of isolated prosecution by the state.

But that does not mean that direct prosecution is the only form of discrimination. Many countries still offer only religious legal marriage ceremonies (with no civil alternatives), in effect forcing the non-religious to conform to religious beliefs in their personal expression, as well as making interreligious marriages difficult, taboo, or illegal. In other cases, the non-religious are expressly barred from public office, disparaged as a threat to national security, or denied custody rights of children...

And beyond the state, of course, the non-religious are often socially marginalized, or more often, forced by social conventions to conform.

For obvious reasons, measures of the non-religious population are notoriously difficult to attain in the countries where the non-religious are most oppressively silenced by this combination of state persecution and social exclusion – they don't legally exist. But there are, certainly, untold millions of people around the world have been successfully cowed into silence, unable to manifest or express their humanist values and other non-religious views, for fear of reprisal, abandonment, or prosecution.

Deviations from FORB

As I've said, as a humanist I very much defend, uphold and rely on the human right to freedom of religion or belief. I do want to offer a few words of caution as well, however.

Let's not be naive about FORB. Any concept is susceptible to distortion. There are deviations from the concept of 'democracy' that only superficially resemble democracy, there are debased forms of 'secularism' and 'science' and so on. FORB is not immune. And debased kinds of FORB may in fact *detract* from the realization of actual freedom of religion or belief, and hinder the good functioning of societies.

The outgoing UN Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, warned at the launch of our Freedom of Thought Report's 2015 edition last December that "the term "freedom of religion or belief" is only a kind of shorthand. The full human right is 'freedom of thought, conscience, religion or belief'." He subsequently told the IHEU:

"In all my reports (country-specific or thematic) I quote General Comment no. 22 which clarifies that article 18 of the ICCPR [International Covenant on Civil and Political Rights] protects theistic, non-theistic and atheistic beliefs as well as the right not to profess any religion or belief."

And here we get onto what I consider a debased form of FORB. Bielefeldt said

"Formulations such as "religious freedom" obfuscate the scope of this human right which covers the identity-shaping, profound convictions and conviction-based practices of human beings broadly."

So in the words of the Special Rapporteur on FORB, FORB itself is only a shorthand. We're diminishing the scope of this human right already by leaving out "freedom of thought" and "conscience". But that further redaction to "religious freedom" – while sometimes it may come from a simple desire for brevity – is particularly egregious, in my view.

And it has led to a kind of "religious freedom"-as-privilege – I sometimes think of it as the kind of 'evil twin' of FORB – wherein the right to "religious freedom" is elevated to a kind of privilege over others, or privilege for particular groups, a demand of 'group rights' (as opposed to individual rights). This debased form of FORB, the "religious freedom"-as-privilege, is not supported by the human rights framework, and in fact often quite clearly threatens the upholding of the rights of others.

I think this has particular relevance at the current time, when many countries are demographically secularizing, and debates about the demands that can be mandated by “religious freedom” frequently make headline news. Indeed the United States is one of the countries where this contrast between FORB-as-human-right and “religious freedom”-as-privilege is most stark. The constitutional protection of religious liberty in the US constitution is largely very clear and very close to the modern FORB-as-human-right. And yet “religious freedom” is widely and mistakenly being used as an excuse to demand privileges, to deny services, or to discriminate (usually against women and sexual minorities, sometimes against children, against the non-religious, against religious minorities, or along racial lines).

A recent report by the US Commission on Civil Rights on “Peaceful Coexistence” between nondiscrimination principles and civil liberties, recognised this debased version of FORB as the *weaponization* of “religious freedom”. I think it’s worth learning from the US, the western country where this bipolarization of FORB and its debased cousin “religious freedom”-as-privilege is perhaps most profound. That report concludes:

“The phrases ‘religious liberty’ and ‘religious freedom’ will stand for nothing except hypocrisy so long as they remain code words for discrimination, intolerance, racism, sexism, homophobia, Islamophobia, Christian supremacy or any form of intolerance... Religious liberty was never intended to give one religion dominion over other religions, or a veto power over the civil rights and civil liberties of others. However, today, as in the past, religion is being used as both a weapon and a shield by those seeking to deny others equality.”

[\[http://www.newamericancivilrightsproject.org/wp-content/uploads/2016/09/Peaceful-Coexistence-09-07-16-6.pdf\]](http://www.newamericancivilrightsproject.org/wp-content/uploads/2016/09/Peaceful-Coexistence-09-07-16-6.pdf)

I do not ask today that you agree with me on every possible debate around the domain of ‘freedom of religion or belief’, but I do hope you join me in recognising the existence of a debased form of FORB, which fails to uphold non-discrimination and fails to respect the rights of others.

I think this delineation of FORB and “religious freedom”-as-privilege also has relevance to the topic of radicalization and terrorism. One of the reasons that people sometimes object to FORB is that, on a naive reading, it implies that would be terrorists must be allowed to radicalize from every platform, or that every extremist should be able to inflect their values on the people around them. That mistaken reading of FORB seems, to me, to stem from the very same root as the “religious freedom”-as-privilege form which demands the right to exclude gay people or deny access to family planning or to demand legal exemptions, and so on. If FORB is properly understood, as an individual human right as conceived under the international human rights framework, including the guidance on where the right to

manifest religion or belief should be limited, then the objection to FORB that outright hateful and violent manifestations must be protected falls away.

I believe we should all then, encourage our national governments to recognise the debased form of “religious freedom” that demands privileges and inflicts discrimination, and to disown it; and instead to uphold FORB – more properly: the freedom of thought, conscience, religion or belief – as one human right, which can be consistently upheld for all.