

Promoting Religious Freedom and Peaceful Coexistence

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Part 1: The Global Resurgence of Religion in International Relations and the Politics of Religious Freedom

1. As Elizabeth Shakman Hurd and Winnifred Fallers Sullivan have aptly pointed out in the brief introduction to their recent collective blog space hosted by *The Immanent Frame* and devoted to the politics of religious freedom, ‘talk of religious freedom, or a lack thereof, is always only part of a much larger story’. In order to understand the dynamics and act wisely and effectively on the promotion of this critically important fundamental human right, the broader historical and geopolitical picture needs to be better brought into focus.
2. Against the prediction of the theorists of modernization on the inescapable secularization of advanced societies, today it is beyond any doubt that religion is back on the center stage of domestic and international politics in many parts of the Western and non-Western world. In the predominant academic and public discourse, this global resurgence of religion in world politics has primarily come in the form of violent politics and has been often associated with the recurrent violation of fundamental human rights, including the right of freedom of religion or belief. At times this has taken place through the imposition of religious law upon a community of people, as in the cases of assertive ‘religious nationalism’. And at other times through the association of religion with ‘fundamentalism’ and ‘terror’, through its supposed inclination to generate extreme – even indiscriminate – political actions; or even in scenarios involving religious-driven persecution of members of religious communities because of their religion or, more apocalyptically, as the driving force behind a coming ‘clash of civilizations’. Some

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of the examples often mentioned are the conflicts in Bosnia, Algeria, Kashmir, Palestine, Sudan, Nigeria; but also the rise of world-wide Islamism and Hindu Nationalism and the effects on different religious minorities; or the role of the Christian Right on the American domestic and foreign policy agenda, or that of Orthodoxy on the Russian state; and of course the events of September 11 came as a seal to unequivocally confirm such a worrying and destabilizing trend. In a nutshell, it is as if there is only “terror in the mind of God”, to paraphrase a recent contributor to this growing field of analysis. But what if this reading is actually shaped by a secularist bias? Or based, in the words of William Cavanaugh, on the myth of religious violence? Is there perhaps a broader and more balanced story that can be told on the contemporary global resurgence of religion in world politics?

3. It is increasingly recognized that the above-mentioned reading of the contemporary role of religion in world politics is based on a set of often implicit secularist/Westphalian assumptions, according to which politics with reference to religious identity comes to the fore only *qua* ultimate threat to order, security, and civility, and its politicization is always an inescapable threat to security, inimical to ‘modernity’ and to the resolution of conflicts. This view is very strong in Western academia and political circles, but it fails to grasp that the role of religions is, at the least, politically ambivalent or ambiguous: religions can, on the one hand, promote political violence and conflicts, but, on the other, also non-violent civic engagement, conflict-resolution and reconciliation. In other words, the positive role which politicized religion can play in the modernization, democratization and even peace-building of several countries of the so-called Western and non-Western world must not be overlooked - something which is finally being recognized by the growing revisionist literature on the role of religion in politics and international relations.
4. The most clear exemplification of this new trend is perhaps the recent philosophical position articulated by Jürgen Habermas, one of the most well-known contemporary representatives of the Enlightenment’s tradition of rationalism and secularism in politics. Habermas has argued that our modern societies need to develop a new post secular sensitivity and draw on religion as a source of public reasoning to cure the pathologies of modernization, including the crisis of an individualistic system of relations which prevents the construction of real and strong communities. In other words, this new post secular approach would call for a

critique of predominant secular worldviews, on the grounds that values such as democracy, freedom, equality, inclusion and justice may not necessarily be best pursued within an exclusively immanent secular framework.

5. But how can we explain this visible resurgence of religion in world politics, which is also the context for growing international concern on the issue of religious freedom? These are questions of great topicality, especially in the light of how religion and politics have recently been interacting both in the Islamic and the Western world as well as in their precarious relationship. Some interesting insights – with reference to the issue of religious freedom also – can be gained from reading the global resurgence of religion as part of the broader epoch-making process of transformation of contemporary international society beyond its modern and Western-centric matrix. In other words, the resurgence can be understood within the context of change of the ideational structure of international society, which is happening at the same time as the much more recognized structural-material change of the economic and power shift towards the East and the BRICs countries. More specifically it can be argued – and in this regard Samuel Huntington’s argument retains part of its validity – that the resurgence of religions in world politics has to be read in the context of *civilizations*, defined in a fundamentally *religious-culturalist* sense, reasserting themselves as *strategic frames of reference*, not as direct protagonists, of international politics. This development is in a sense a typical post-Cold War fact, to the extent that civilizational claims and religious references now play a more important role in the global ideological context than was the case when the rival secular universalisms of the Cold War era dominated the scene. It has, however, also to be read as part of a longer term process of challenge to Western dominance, intensified from WWII and what Hedley Bull called the ‘Revolt against the West’. According to Bull, the revolt against Western dominance comprised five waves: firstly what he called the struggle for equal sovereignty against the ‘regimes of capitulation’; secondly the anti-colonial revolution; thirdly the struggle for racial equality; fourthly the struggle for economic justice; and finally the struggle for what he called cultural liberation. This last stage of the revolt against the West takes the form of a search for the cultural authenticity of the non-Western world and the fight against Western cultural neo-imperialism. Its most politically visible cases have been the Iranian Islamic revolution of 1979 and the worldwide emergence of political Islam, but also the new assertiveness of Asian countries in the name of so-called ‘Asian values’. It can

be argued that today we are still living largely within this wave of cultural revolt and that this process has intensified since the end of the Cold War implied the political necessity for a common liberal (political, economic, and social) and Western model for the entire planet. In this new context, religion has become one of the key vectors of the political resistance and struggle in the name of the social ethics of ‘really existing communities’ and of the arguments which resonate in the everyday life of people. In other words, religions have provided the framework for a radical critique against the globalization of a Western-centric and liberal order. To use the recent and effective sentence of Régis Debray, the once-Marxist revolutionary and friend of Che Guevara, ‘religion turns out after all not to be the opium of the people, but the vitamin of the weak’.

6. This new development is made even more clear and pressing by the new centrality acquired by the issue of democracy and democratization on the post-Cold War international agenda, and in particular in the post-9/11 context. Contrary to what many supporters of democracy-promotion have been arguing, the spreading of democracy is not likely to reduce the growing contestation of the Western-dominated nature of contemporary international society, but rather it could reinforce it as there seems to be growing evidence that the most recent successful cases of democratization are those driven by the indigenization and cultural re-interpretation of democracy, as recent developments led by Islamic-inspired parties in the Arab world also seem to prove. This process of ‘democratic inculturation’ seems to be the most appropriate way to root democratic institutions and forms of political participation into stable and lasting regimes – definitively more likely to succeed than an externally-promoted (if not coercively imposed) strategy of liberal-democracy promotion. They can be considered significant examples of the ‘multiple modernities’ paradigm and prove the concrete possibility of merging ‘modern’ political values and practices with traditional local references and ways of living often rooted in religious traditions.
7. This broader context outlined in the above paragraphs may provide some useful insights for understanding the *politics of religious freedom*. For example, there are identifiable *historical* and *geopolitical* reasons which explain the diverging approaches to the issue of freedom of religion between Western and Islamic countries – differences that have become more visible in the context of the recent discussion and negotiation on religious freedom at the UN and in other

international fora. These disagreements cannot be reduced only to the often-mentioned differences in the understanding of religion: on the one hand, religion as a belief (a Western modern conception) and on the other, religion as belonging i.e. as culture, ethics and even politics (in the Islamic world). For example, as Jose Casanova has argued, the principle of individual religious freedom is politically - and this is not at all a religious matter - in contrast with the right of indigenous people to protect their culture from external pressure, something which is increasingly felt to be essential for the survival of communities in the current era of globalization and cultural homogenization; or, as Saba Mahmood has recently shown with reference to the history of religious liberty in the late Ottoman Empire, from its very inception religious freedom has been tied to the exercise of sovereign power, regional and national security, and the geopolitical strategy of European control in the Middle East, a legacy which the West can only forget at its own risk in the contemporary discussion on the topic with Muslim-majority countries.

Part 2: Comparing constitutional frameworks and law arrangements concerning freedom of religion or belief

1. According to the Pew Research Center report of 2009, 70% of the world population lives in countries where freedom of religion or belief is severely restricted. Millions of people are subject to persecution or serious discrimination because of their religion. This happens to the faithful of different religions and in different parts of the world, Western countries included. This critical situation has not escaped the attention of States and international organizations, which have created commissions, observatories, and special representatives to monitor the state of freedom of religion or belief and denounce its violations. Is it a matter of substance or perception? That is, is freedom of religion or belief increasingly violated or has it always been so and is the difference that today we are more sensitive to such infringements? Probably both explanations are valid but this conclusion is not comforting. But why, notwithstanding the strong protection in international covenants and national constitutions, is the right to freedom of religion or belief so often violated? Is there something wrong with the legal tools or political strategies aimed at granting citizens and residents this right?
2. To answer this question, we first need to understand why freedom of religion or belief is at stake today. There can be many explanations, but two of them require special attention. The first focuses on the increased visibility of religion in the public space. “Revanche de Dieu” or “de-privatization of religion” are some of the expressions that have been coined to describe this process. Religion is again a significant factor in international and national politics, affecting security issues, attracting media interest and so on. These developments question the notion of secular public space that has dominated Western philosophical and legal thought for the last two centuries, and raise problems of freedom of religion or belief in areas that were previously unaffected by them. *The scope of liberty of religion/belief* issues is much broader today than a few decades ago. The second explanation is based on the increasing religious diversity of many countries. Due to migration and globalization, regions of the world that were previously relatively homogeneous from a religious point of view today host a population made up of people of different faiths: the growth of Islamic communities in Europe and that of Christian communities in the Arabic Peninsula or in Africa are just a few examples of this transformation. As a consequence, religious faith is manifested through

symbols and behaviors that are unusual for and sometimes unintelligible to the majority of citizens, as is the case with some religious dress codes in Europe. The *form taken by liberty of religion/belief* issues is much more diversified today than a few decades ago.

3. Due to these transformations, a new dictionary of freedom of religion or belief and its violations is taking shape. Some of the new (or possibly old) words that make up this dictionary are listed below. They include apostasy, blasphemy, proselytism, places of worship, registration of religious communities.
 - a) *Apostasy*. Changing religion is a right in some countries and a crime in others (sometimes punished with the death penalty). Behind this dramatic gap there is a different conception of religion: a matter of believing for some and of belonging for others (obviously the two terms are not mutually exclusive). In the Western tradition religion is primarily a matter of conscience and personal choice, while in other cultural traditions it is more a matter of belonging, of being part of a community. In this latter case, leaving a religion may be seen as a betrayal of the group into which an individual was born. In times when religious, cultural and political identities tend to overlap, changing religion is seen less as an individual right and more as a matter of collective interest, that can be subject to limitations. This change may result in a dangerous regression in the protection of freedom of religion or belief. What can be done to prevent this outcome?
 - b) *Blasphemy*. Blasphemy seemed to be a problem solved once and for all, but now it is back. Blasphemy laws have been repealed in many countries but are still in force in others. What should be protected, religion itself or the religious sensitivities of people? What should be prohibited, religiously motivated hate crimes (as in the US) or also religiously motivated hate speeches (as in many European States)?
 - c) *Proselytism*. Proselytism is also a right in some countries and a crime in others. International courts and organizations have tried to find a middle ground, protecting ‘proper’ and forbidding ‘improper’ proselytism i.e. proselytism that employs violent or deceitful means or takes advantage of the proselytizer’s position of superiority (see the ECtHR decision in the Kokkinakis vs. Greece case). But the dividing line between the two is often blurred and difficult to locate and even the legitimacy of ‘proper’ proselytism is not unquestioned.
 - d) *Places of worship*. Places of worship and cemeteries have become a primary target of destruction and desecration in many parts of the world. Even where

such attacks are infrequent, building a place of worship may be the subject of legal restrictions and popular hostility (as is the case of building mosques and minarets in some European countries). Places of worship are powerful religious symbols: they are very visible, can attract a large number of faithful individuals, and can change the traditional landscape of a place. These elements can explain why a place of worship of a religious minority can cause feelings of uneasiness among the majority, however they cannot justify undue restrictions on the right to have an adequate place of worship, which is an integral part of the right to freedom of religion.

e) *Registration of religious communities.* Religious communities need to perform some basic activities: rent or buy premises, open bank accounts, receive donations from their congregation etc. In many countries such activities can be performed only by religious communities that are registered or recognized at a local or national level. For this reason registration/recognition can be a matter of life or death for a religious community. States enjoy some discretion in this field, but particularly when no State support is involved (financially or otherwise), unduly denying registration/recognition of a religious community can result in a violation of the collective right to the freedom of religion of its members. There is still much work to be done in this field, to grant clear rules and fair procedures protecting religious minorities' rights.

4. This list of problems concerning freedom of religion or belief could be much longer (consider the issues connected to religious symbols in the public space or religious discrimination in the workplace). However they are numerous enough to show that some of the traditional models of State-religion relations – and particularly those based on a rigid separation of State and religious organizations or a strict identification of the State with one religion – are no longer working smoothly. Confronted with the presence of different religions in the public sphere, we need to learn how to ground social cohesion on religious and cultural diversity. In this area both States and religions are called upon to make their contributions, provided each of them respects its role: providing a hospitable and safe habitat for dialogue between different religions and beliefs by the former, and engaging sincerely and respectfully in such dialogue by the latter.

Part 3: Understanding freedom of religion or belief and freedom of expression in different social and cultural contexts: where do we stand?

1. The debates following the 2006 publication of a series of cartoons of the Prophet Mohammad by a Danish newspaper, and more recently those fueled by a US movie depicting the life of the Prophet Mohammad in a negative light, mostly revolve around the clash between two fundamental rights: freedom of religion and belief on the one hand and freedom of expression on the other. This approach has led to a no-win situation: protecting freedom of religion and belief requires limiting freedom of expression and vice-versa. In both cases human rights are on the losing side. Framing the issue in terms of individual vs. collective freedom, i.e. everybody's right to criticize religion on the one hand and a religious community's right to have its beliefs respected on the other, does not lead to better results. A different approach is needed. In order to understand the complexity of this topic and to formulate a few ideas that can contribute to overcoming this *impasse*, a few remarks on the historical roots of the laws protecting religion and their scope of application may be helpful.
2. Blasphemy laws are among the oldest and most widespread laws of the world. The need to protect the 'divine' – God(s), religious symbols, sacred books etc. from human offences goes far back in time and concerns all regions of the world, including the West. In recent years, blasphemy laws have been particularly associated with Islamic countries like Pakistan, but according to the 2011 Pew Forum report, laws penalizing blasphemy are not restricted to these countries: for example they are also in force in India, South Africa and a number of European countries. In Europe these laws underwent a process of transformation that started after the Second World War: in some countries they were simply repealed and religion ceased to enjoy special protection in criminal law (this can be considered a consequence of the secularization of the European legal systems), while in others blasphemy laws were maintained but ceased to protect a single religion (the majority one) and were extended to protect different manifestations of faith equally (this can be interpreted as an answer to the increasing religious diversity of the European population). At the same time a number of European countries, in compliance with art. 20(2) of the International Covenant on Civil and Political

Rights, started punishing hate speech directed against members of religious groups, as part of a broader system of protection that concerns individuals and groups identified according to characteristics such as color, disability, ethnicity, gender, nationality, race, and sexual orientation. Although some lawyers have likened these laws to a new form of blasphemy laws, they are essentially different because what is protected by hate speech laws is not God or religion itself but individuals or groups professing a religion, whose freedom of religion is unduly limited by being targeted as an object of hate. Moreover, differently from blasphemy laws, hate speech laws can be applied only when social peace is endangered by speeches that incite violence or prejudicial actions against a person or a group. The United States is an exception insofar as hate speech laws are uncommon there (while blasphemy laws are still in force in some of its states).

3. At the end of this process of transformation, blasphemy laws remain in force (although are seldom applied) in a few European countries while the majority have shifted to laws penalizing hate speech (including hate speech against religion). This shift has not taken place in most countries with a Muslim background, where traditional blasphemy laws still prevail. This different approach has been evidenced in recent years by the conflict that took place at the United Nations between a coalition of States (led by Muslim countries) that pressed for a resolution condemning the defamation of religion, and another group of States (among them most Western countries) that resolutely opposed it. Defamation of religion aims to penalize words or actions directed at denigrating or criticizing a specific religion or religion in general. It comes closer to blasphemy than to hate speech, in the sense that it aims to protect religion instead of people professing a religion. Once this difference is considered in the light of the different legal traditions of Western and Muslim countries regarding the issues discussed in this paper, the roots of this conflict become clear.
4. As stated in the opening lines of this paper, the need for a new approach to the relation between freedom of religion and expression is widely felt among politicians, academics and representatives of international organizations. Some have underlined that from a human rights perspective, freedom of religion and freedom of expression are located on a legal continuum rather than standing in opposition to each other: both freedom of religion and freedom of expression are central components of a democratic and pluralistic society. In this perspective the

unavoidable tensions between these two rights (and the ensuing limitations on each of them) should be approached from the angle of the contribution that both rights can offer to the functioning of a tolerant, plural and democratic society. Respect of the “rights and freedom of others” (art. 9 ECHR) is the pivotal principle in determining the interplay between freedoms of expression and religion or belief. However the practical roll-out of this promising approach has still to be more precisely identified.

5. Based on these remarks it is possible to formulate a few questions that could serve as a starting point for the discussion:
 - a) to protect freedom of religion and belief, are general provisions required that criminalize forms of speech which are offensive to religions or religious believers?
 - b) is freedom of religion and belief sufficiently protected by limitations of forms of expression which have the potential to cause harm to individuals and endanger social peace?
 - c) are hate speech laws an excessive limitation of freedom of expression?

Part 4: Combating Religious Intolerance and Promoting Mutual Understanding: The Crucial Role of the Media

1. Today's present international situation of great cultural tensions and growing religious intolerance and political turmoil, calls for the need to pursue a politics of mutual inter-religious and inter-civilizational understanding: engaging in intercultural dialogue is crucial for peace as it cannot be ignored that since September 11, in the very year the United Nations designated the 'Year of Dialogue of Civilizations', global political violence and conflicts have reached a critical new level both quantitatively and qualitatively, and the shadow of a future clash of civilizations has been hammering down on the world and, very worryingly, in the collective psychologies of its peoples. This overall political context of growing cultural misunderstanding and mistrust, which has prompted some to speak of a real danger of a clash of ignorance, has also been amplified by the lack of international consensus on the legitimate boundaries between freedom of religion and freedom of expression. In this respect, the link between civilizational and interreligious dialogue, mutual understanding and peace is becoming more widely acknowledged. The ideal of 'building bridges of mutual understanding' in order to learn (or re-learn) how to live together among different cultural and religious communities is being increasingly recognized as critical for the future of world peace.
2. The mass media (including the so-called new media) plays a crucial role in channeling and amplifying the complex flows of information and communication populating the growing transnational public sphere between the Western and Islamic worlds. Its role has been underlined and has become the object of scrutiny on the occasion of a number of crises, such as the Danish cartoon controversy, the papal address in Regensburg, the recent US movie on the Prophet Mohammed, and the initiative to burn the Holy Quran, as well as in the context of the Arab revolts.
3. One of the most recurrent questions posed to Muslim leaders since 9/11 – and the other terrorist attacks perpetrated by Islamic extremists – has been why there have not been more Muslim voices and Islamic religious authorities and institutions publicly condemning such attacks (i.e. in the media). This is a rather disturbing rhetorical question that has been repeated over and over again in the media by Western analysts, politicians and journalists, and has become a sort of unchallenged common sense in the public sphere of Western countries. Is this a true and fair

picture and assessment of the mainstream Muslim reaction to the terrorist attacks and other forms of religiously-inspired political violence? This is clearly not the case. All the major mainstream Islamic institutions and Muslim leaders worldwide have unequivocally condemned 9/11 and the other terrorist attacks. Only a tiny minority of radical and mostly not religiously-respected organizations and leaders have not done so. Why then has there been such a huge misperception? One possible answer deserving serious examination relates to the role that the major media outlets have played in amplifying and giving voice to the radical and violent minority, while de facto silencing the mainstream Islamic leaders and authorities representing the largest majority of believers.

4. Similarly, why, when a small American church announced its plan to commemorate 9/11 by burning the Holy Quran, did the news spread rapidly worldwide through the social media and mainstream media outlets? While the growing efforts by ordinary people of all faiths and traditions to engage in dialogue and work together to bridge differences and increase mutual understanding – sometimes also on an impressive scale, such as in the case of the interreligious gathering organized in the so-called ‘spirit of Assisi’ – fail to make the headlines. Is there the need for a serious discussion on the ethical responsibility of the media in combating religious intolerance and fostering mutual understanding?
5. How can governments and other political bodies, in conjunction with the essential help of the media, promote the flourishing of common initiatives (cultural, social, communicative and political) to build new transversal practices of solidarity, cooperation and mobilization, involving groups from different cultural backgrounds and religious affiliations acting together on the basis of the common good?
6. A final important aspect which has not yet enjoyed adequate integration in the policy process to combat religious intolerance and promote mutual understanding, relates to recent sociological analyses of the types of religious identity (religiosity) more likely to produce violent political behavior. This seems to suggest a rather different picture from that assumed by the predominant assumptions according to which, in a schematic manner, stronger religious identities are more violence-prone. It has in fact been found that religious-inspired political violence, which has also been described as *politically* ‘strong religion’, is often characterized by *doctrinally* ‘weak religions’. In other words, superficial religious identities i.e. religious

identities that are uprooted and trivialized and have often not been sustained by an inter-generational process of transmission of tradition – if not religious ignorance and indifference – would be the most conducive substratum to the violent politicization of religion by political entrepreneurs or radical preachers. Interestingly, such a pattern has been observed in the personal and religious background of the Al-Qaeda terrorists who committed the 9/11 attacks: contrary to expectations, they came from relatively wealthy typical middle-class families which were not particularly religious, and they seemed to have had weak religious literacy (i.e. limited in scope and depth) gained mainly through a late radicalization process. Conversely, doctrinally ‘strong’ religious identities – rooted in a culture and nurtured by an inter-generational process of transmission of tradition – would seem to be more common in religious actors committed to processes of conflict-resolution and peace-making. This is why it has been argued - to the shock of the secularists and the predominant public view - that *more religious literacy and education* might be required to decrease the likelihood of easy manipulation of religious doctrines by political entrepreneurs or ideologues. So, how can governments and other public bodies, with the crucial help of the media, develop policies and communicative and educational strategies which build on these new counter-intuitive findings and facilitate a proactive role for religious actors and institutions in combating religious intolerance and building mutual understanding?