

A PRACTICAL GUIDE TO MONITORING  
THE GENDER DIMENSION OF  
FREEDOM OF RELIGION OR BELIEF

GUIDE 2023

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Norwegian  
Helsinki Committee

A Practical Guide to Monitoring the Gender Dimension of Freedom of Religion or Belief

*Norwegian Helsinki Committee's Freedom of Belief Initiative*

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**Norwegian Helsinki Committee** (NHC) is an Oslo based human rights organisation established in 1977 and works internationally to strengthen the protection of human rights in practice. To this end the NHC's activities include monitoring, reporting, human rights training and supporting civil society and democratic structures. NHC's work is based on the human rights instruments adopted in the context of the United Nations, the Council of Europe and the Organization for Security and Cooperation in Europe.

**Freedom of Belief Initiative**, has promoted freedom of thought, religion, or belief as a human right since 2011. The project has been supported by the Norwegian Foreign Ministry since 2013. The Initiative's activities include monitoring, documentation, reporting, making policy recommendations and advocacy.

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## ACRONYMS

<b>CEDAW</b>	Covenant on Elimination of Discrimination Against Women
<b>CRC</b>	Convention on the Rights of the Child
<b>ECHR</b>	European Convention on Human Rights
<b>FoRB</b>	Freedom of Religion or Belief
<b>HRC</b>	Human Rights Committee
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations



**The reality of manifold and complicated conflicts in the field of freedom of religion or belief and equality between men and women has led some to the view that the two human rights norms themselves stand in opposition to one another... One of the resulting problems is that the potential for synergies between freedom of religion or belief and promoting women's right to equality remains systematically underexplored.**

**UN Special Rapporteur on  
Freedom of Religion or Belief  
Heiner Bielefeldt<sup>1</sup>**

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<sup>1</sup> The report of the UN Special Rapporteur, A/68/290, 7 August 2013, para. 32.



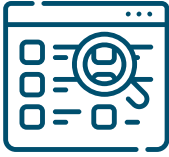


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KEY CONCEPTS







## Gender

Gender is a socio-cultural variable that refers to the comparative, relational or differential roles, responsibilities, and activities of females and males. Sex characteristics refer to each person's physical characteristics relating to sex, while gender roles are socially constructed. Gender concerns power relationships between women and men. Gender roles are culturally-based expectations about men's and women's identity and behaviour. These roles vary among and within societies and can change over time.<sup>2</sup>

## Gender equality

Gender equality refers to the enjoyment of equal rights, opportunities and treatment by women and men, and girls and boys, in all spheres throughout their lives. People's rights, responsibilities, status and access to and control over resources and benefits should not depend on whether they are born male or female. Instead, every person should be able to develop their interests and abilities and make choices that are free from limitations set by rigid expectations, responsibilities and roles based on stereotypes and discrimination.<sup>3</sup>

## Gender mainstreaming

Gender mainstreaming is a strategy aimed at achieving greater gender equality.

"Mainstreaming a gender perspective [...] is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated."<sup>4</sup>

*United Nations Economic and Social Council, agreed conclusions 1997/2.*

## Gender analysis

It is a tool to diagnose the differences between women and men regarding their specific activities, conditions, needs, access to and control over resources, and their enjoyment of their rights. It entails collecting gender-disaggregated data and gender sensitive information related to the specific situation. It is the starting point for integrating gender in human rights monitoring.

<sup>2</sup> OHCHR (2019), *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, Second Edition, New York and Geneva; OHCHR (2011), 'Integrating Gender into Human Rights Monitoring' in: *Manual on Human Rights Monitoring, Revised Edition*, New York and Geneva.

<sup>3</sup> OHCHR (2011), 'Integrating Gender into Human Rights Monitoring' in: *Manual on Human Rights Monitoring, Revised Edition*, New York and Geneva.

<sup>4</sup> *Ibid.*, p. 4.



Gender analysis indicates not only what the differences between the experiences and position of women and men are, but why these differences exist and how they affect the structure, institutions and values of a given society. It goes beyond merely describing the situation.<sup>5</sup>

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5 *Ibid.*, p. 5.



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# INTRODUCTION



Photograph: Sena Arslan



Human rights violations that occur at the intersection of gender equality and the freedom of religion or belief impact countless individuals and manifest themselves in a wide range of situations. Many such violations may actually be condoned in the name of neutrality or religion or defended as “manifestations” of religion. Human rights, including the right to freedom of religion or belief, of women and girls, men and boys and LGBTI+ may, at times, be restricted as a result of stereotyped perceptions of religion or belief and gender. A holistic approach mandates, not least, a focus on the gender dimension of freedom of religion or belief, the impact of religion and acts presented as manifestations of religion or belief on human rights, and gender equality. **This working guidance paper focuses on the gender dimension of the right to freedom of religion or belief in the context of monitoring and reporting.**

**This publication aims to provide basic guidance on monitoring the gender dimension of freedom of religion or belief.** It provides:

- an introduction to key concepts,
- a general overview of the applicable international human rights law standards,
- a brief discussion on overarching issues and
- sets of illustrative questions that could support human rights monitors as they integrate the gender dimension into processes of systematic monitoring of the components of both the right to freedom of religion or belief and key complementary rights.<sup>6</sup>

The Practical Guide to Monitoring the Gender Dimension of Freedom of Religion or Belief aims to be a resource for those who work on monitoring and reporting on human rights, including activists, experts, advocates and journalists who report on these issues.<sup>7</sup> We realise, however that these are complex issues and that we are still in the process of learning.

The purpose of human rights monitoring is to improve the protection of human rights with the ultimate objective of reinforcing, “the State’s responsibility to respect, protect and fulfil human rights”.<sup>8</sup>

<sup>6</sup> The questions are illustrative and should be adapted to the context that is being monitored. While attempting to be as inclusive as possible, to ease readability, the genders of men, women, LGBTI+, girls, and boys are not repeated in all questions. The questions should be considered, however, for all adults and children of various gender identities and sexual orientations.

<sup>7</sup> We commit to regularly reviewing and updating the guide as we continue to learn and understand more, and to reflect the ongoing evolution of this work. We welcome your input please write to us at [inancozgurlugu.info@gmail.com](mailto:inancozgurlugu.info@gmail.com).

<sup>8</sup> *Supra* 2, United Nations Manual on Monitoring Human Rights, Chapter 2, p. 4.

The primary monitors are human rights organisations that actively collect and verify information on alleged human rights violations, engage with state authorities and other stakeholders to solve human rights problems and identify possible solutions to redress human rights situations.<sup>9</sup> Monitoring duty-bearers' conduct reinforces their accountability. Monitoring work also potentially serves a preventive role through the presence of monitoring individuals or organisations.

The gender dimension of monitoring, while critical, is easily overlooked because the monitoring methodology is often assumed to be “gender neutral”. **It is important to investigate and highlight the gender dimension of human rights violations since, without a deliberate effort to do so, the gender dimension “often remains invisible”.**<sup>10</sup> **This is also the case for those monitoring the right to freedom of religion or belief. Yet, such “invisibility” can be turned into “indivisibility”.** A holistic understanding of human rights<sup>11</sup> is illustrated by the evolution of the mandate of the UN Special Rapporteur on freedom of religion or belief, who, since 1996, has been called to apply a gender perspective, amongst others, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

The gender perspective should be integrated into the monitoring cycle through information gathering – interviewing, media monitoring, collecting information on legislative, judicial and practical developments – reporting and seeking corrective action.

Integrating a gender perspective into human rights monitoring:

- helps to ensure that all violations against men and women of all ages and sections of society are recognized and accounted for;
- helps to make the experiences and concerns of women, girls, men, boys and LGBTI+ persons an integral dimension of the design and implementation of the monitoring activity;
- furthers understanding of causes and types of human rights violations and, hence, measures required for prevention and protection.<sup>12</sup>



The UN Manual on Human Rights Monitoring suggests potential questions to integrate into human rights monitoring.<sup>13</sup>

- How does a given human rights problem affect women and men differently? Why do such differences exist? What are their root causes? ►

<sup>9</sup> *Ibid.*

<sup>10</sup> *Supra 2, Manual on Human Rights Monitoring, Revised Edition*, Chapter 15, p. 15.

<sup>11</sup> Wiener, M. (2017), 'Freedom of Religion or Belief and Sexuality: Tracing the Evolution of the UN Special Rapporteur's Mandate Practice over Thirty Years', *Oxford Journal of Law and Religion*, Vol. 6, pp. 253–267, at 264.

<sup>12</sup> *Supra 2, Manual on Human Rights Monitoring, Revised Edition*, Chapter 15, p. 4.

<sup>13</sup> *Ibid.*

- ▶
  - Do women (or men) tend to be more frequently exposed to particular types of human rights violations?
  - What is the gender dimension of human rights violations?
  - Are human rights violations in the private sphere monitored? How do such violations affect women, girls, men and boys differently?
  - Do women and men, as rights holders, have different coping mechanisms and access to protection as well as to remedies?
  - Do corrective actions benefit women as well as men affected by a human rights problem?
  - Are corrective measures adapted to the specific needs of women, men, girls and boys?

Gender analysis is an additional tool that could be applied. This tool assists in identifying the differences between genders regarding their specific activities, conditions, needs, access to and control over resources, and the enjoyment of rights.<sup>14</sup> It entails collecting gender-disaggregated data and gender-sensitive information related to specific situations. It goes beyond merely describing the situation.<sup>15</sup>

#### Gender analysis

- reveals why the differences between different genders exist
- explains how they affect the structure, institutions and values of a given society
- identifies the structural causes of gender discrimination and inequality.<sup>16</sup>



#### Sources of information

Gathering information and data is a crucial stage of the monitoring process. A wide range of sources may be utilised in this process, those monitoring human rights may:

- carry out desk-based research on legal issues to identify gaps between international human rights law and national law;
- make right to information requests to public institutions;
- use semi-structured in-depth interviews to gain insight on lesser known phenomena;
- administer surveys to reach a wide range of stakeholders and obtain the possibility of comparative analysis.

<sup>14</sup> *Supra 2, Manual on Human Rights Monitoring, Revised Edition, Chapter 15, p. 5.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*



- ▶ ● conduct one-on-one interviews with individuals who prefer not to discuss their problems or needs in the presence of others;
- visit communities to observe community practices;
- organise and host focus groups to gain deeper understanding on certain issues through collective thinking.

The findings and recommendations of the following international human rights compliance control mechanisms, and the state of their domestic implementation, also provide critical input:

- UN Treaty Bodies' concluding observations on periodic reports and views on communications
- UN Special Procedures' country reports, communications and thematic reports
- UN Universal Periodic Review recommendations
- ECtHR judgments



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STANDARDS -

INTERNATIONAL HUMAN RIGHTS SOURCES





All human rights are universal, indivisible and interdependent as well as being inalienable.<sup>17</sup> In any human rights monitoring work, all applicable human rights standards should be maintained throughout the monitoring activity.

**Core human rights treaties** and their protocols set out the human rights that are to be universally protected.



**Among others these include:**

- International Convention on the Elimination of All Forms of Racial Discrimination,
- International Covenant on Civil and Political Rights,
- International Covenant on Economic, Social and Cultural Rights,
- Convention on the Elimination of All Forms of Discrimination Against Women,
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- Convention on the Rights of the Child,
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The right to freedom of thought, conscience, religion or belief is protected by international human rights law. Freedom of religion or belief and related rights are in the core international human rights treaties. Article 18 of the Universal Declaration of Human Rights (UDHR), Article 18 of the United Nations International Covenant on Civil and Political Rights (ICCPR) and Article 9 of the European Convention on Human Rights (ECHR) guarantee everyone's right to freedom of thought, conscience, religion or belief.

### **UN International Covenant on Civil and Political Rights**

**Article 2:** Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>17</sup> These are terms commonly used by bodies such as the OHCHR.





## Types of discrimination<sup>18</sup>

**Direct discrimination** occurs when a person is treated less favourably than another person is, has been or would be treated in a comparable situation on the basis of one or more protected grounds; or when a person is subjected to a detriment on the basis of one or more grounds of discrimination.

**Indirect discrimination** occurs when a provision, criterion or practice has or would have a disproportionate negative impact on persons having a status or a characteristic associated with one or more grounds of discrimination.

The prohibition of discrimination includes discrimination based on association and perception.

**Discrimination based on perception** occurs when persons are disadvantaged on the basis of a perception – whether accurate or not – that they possess a protected characteristic.

**Discrimination based on association** occurs when persons are disadvantaged on the basis of their association with another person or persons possessing a protected characteristic.

The prohibition of discrimination includes multiple (intersectional and cumulative) discrimination and recognizes the particular harm involved.

**Cumulative discrimination** takes place when discrimination occurs on two or more, separate, grounds.

**Intersectional discrimination** takes place when discrimination occurs based on a combination of grounds that interact with each other in a way that produces distinct and specific discrimination.

**Article 3:** The States parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**Article 5 (1):** Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

**Article 18:** Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion

<sup>18</sup> United Nations Office of the High Commissioner for Human Rights and Equal Trust (2023), *Protecting Minority Rights: A Practical Guide to Developing Anti-Discrimination Legislation*, New York and Geneva, p. xii, xiii.

or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

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.

**Article 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**Article 27:** In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

### **1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief**

**Article 4:** 1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or belief in this matter.

**Article 8:** Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.

### **UN CEDAW – Covenant on Elimination of Discrimination Against Women**

**Article 2:** States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

**Article 5:** States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

**Article 16:** 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

The general comments of the UN treaty bodies include critical clarifications on state obligations ensuing from the relevant human rights law provisions. They are often relevant in their entirety however we include only some of the key paragraphs.

### **Human Rights Committee General Recommendation / General Comment 22 on Article 18 of the ICCPR**

10. If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.

### **Human Rights Committee General Recommendation / General Comment 28 on Article 3 of the ICCPR**

All human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality ... States should ensure to men and women equally the enjoyment of all rights provided for in the Covenant.

### **Joint General Recommendation / General Comment no. 31 of the Committee on the Elimination of All Forms of Discrimination against Women and no. 18 of the Committee on the Rights of the Child**



Para. 7 - Harmful practices are therefore grounded in discrimination based on sex, gender and age, among other things, and have often been justified by invoking sociocultural and religious customs and values, in addition to misconceptions relating to some disadvantaged groups of women and children. Overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children. While the nature and prevalence of the practices vary by region and culture, the most prevalent and well documented are female genital mutilation, child and/or forced marriage, polygamy, crimes committed in the name of so-called honour and dowry-related violence.

**Organisation for Security and Cooperation in Europe commitments on freedom of religion or belief and gender equality and non-discrimination.**<sup>19</sup>

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<sup>19</sup> OSCE participating states have extensive commitments in the fields of freedom of religion or belief and non-discrimination. Key commitments can be found here [OSCE Commitments on Freedom of Religion or Belief, OSCE Commitments Relating to Gender Equality and Non-Discrimination](#).



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OVERARCHING ISSUES





When monitoring the gender dimension of the right to freedom of religion or belief, critical overarching issues should be taken into account. These include reservations to international human rights treaties, negative and positive obligations of states, the protection of minorities, the role of non-state actors, the public and private divide and representation versus participation.

### Reservations

Some states have, in the name of religion and religious laws, made reservations to human rights treaties that impact the human rights of women and girls.<sup>20</sup> These reservations also impact the gender dimension of the right to freedom of religion or belief.

### Negative and positive obligations of states

States have both negative and positive obligations to ensure that human rights, including freedom of religion or belief, are protected for all. Negative obligations require states to abstain from measures in law, policy or practice that would interfere with human rights. Positive obligations require states to proactively take measures to ensure full exercise of human rights.

While monitoring the right to freedom of religion or belief, those monitoring should consider whether any positive measures are needed to help ensure that women, girls, men, boys and LGBTI+ persons can fully exercise their rights. Similarly, negative measures should be considered in terms of their impact on people of various genders.

### Protection of minorities

The Special Rapporteur on Freedom of Religion or Belief has stated that:

...the abstractly antagonistic misconstruction of the relationship between freedom of religion or belief and equality between men and women fails to do justice to the life situation of many millions of individuals whose specific needs, wishes, claims, experiences and vulnerabilities fall into the intersection of both human rights, a problem disproportionately affecting women from religious minorities. The Special Rapporteur therefore emphasizes the significance of upholding a holistic perspective in conformity with the formula coined at the World Conference on Human Rights that '[a]ll human rights are universal, indivisible and interdependent and in-

<sup>20</sup> Ghanea, N. (2017), *Women and Religious Freedom*, USCIRF, p. 2, 3.



terrelated'. Based on this holistic perspective, which deserves to be defended even in complicated and tense situations, he formulates a number of practical recommendations addressed to States and other stakeholders.<sup>21</sup>

Similarly, the “Faith for Rights” framework, which was adopted by faith-based and civil society actors working in the field of human rights in March 2017, includes the following commitments:

V. We pledge to ensure non-discrimination and gender equality in implementing this declaration on “Faith for Rights”. We specifically commit to revisit, each within our respective areas of competence, those religious understandings and interpretations that appear to perpetuate gender inequality and harmful stereotypes or even condone gender-based violence. We pledge to ensure justice and equal worth of everyone as well as to affirm the right of all women, girls and boys not to be subjected to any form of discrimination and violence, including harmful practices such as female genital mutilation, child and/or forced marriages and crimes committed in the name of so-called honour.

VI. We pledge to stand up for the rights of all persons belonging to minorities within our respective areas of action and to defend their freedom of religion or belief as well as their right to participate equally and effectively in cultural, religious, social, economic and public life, as recognized by international human rights law, as a minimum standard of solidarity among all believers.<sup>22</sup>

## Restrictions

When limitations are imposed on the right to manifest freedom of religion or belief, public authorities must ensure that these are, cumulatively, prescribed by law, necessary in a democratic society, pursue a legitimate purpose, are proportionate, non-discriminatory and gender sensitive.

When establishing differentiated restrictions and exemptions, states must ensure that the practice of all religious or belief communities are considered in a gender sensitive manner. They must also assess the impact of limitations on minority religious or belief communities.

## The role of non-state actors

Human rights violations may occur because of the actions of non-state actors, often in the private sphere. This is particularly the case for the violations of the rights of women or LGBTI+ persons.

The following categories<sup>23</sup> of non-state actors may be considered:

<sup>21</sup> *Supra* 1, A/68/290, p. 2.

<sup>22</sup> Report of the UN Special Rapporteur on Freedom of Religion or Belief, A/HRC/40/58, annex II, commitments V and VI, 2019.

<sup>23</sup> *Supra* 2, *Manual on Human Rights Monitoring, Revised Edition*, Chapter 15, p. 14.

- non-state actors in the family: blood relatives (parents, siblings, members of the extended family), relatives by marriage (e.g., in-laws male and female) and partners (married, unmarried or casual);
- non-state actors in the community: neighbours as well as unknown persons, the medical profession, employers, religious leaders or educational institutions operating outside the state system;
- non-state actors in the context of conflict: de facto authorities, armed groups, mercenaries or international forces carrying out acts of sexual violence;
- non-state actors in the context of business and employment relations.

The UN Special Rapporteur has found that

Women, girls and LGBTI+ persons endure myriad forms of violence perpetrated by non-State actors, which are often implicitly or explicitly sanctioned by influential religious laws and discourse ... The Special Rapporteur is alarmed by the persistence of harmful practices and the fact that those who engage in them “justify” such acts on the grounds that they are permitted or required by religious beliefs, including female genital mutilation, dowry killings, rape, polygyny, early and forced marriage, beatings, coercive gender reassignment surgery and so-called “honour” crimes.<sup>24</sup>

### The public and private divide

The public and private divide should not be an obstacle to recognising violations where they occur. Many violations that women, girls, boys and LGBTI+ experience occur in private.

### Representation versus participation

While monitoring the gender dimension of freedom of religion or belief, sex ratios might be considered, for example in the leadership of religious or belief organisations. While these ratios are important, the International Labour Organisation (ILO) finds that they are an insufficient indicator for gender equality.<sup>25</sup> ILO points out that “gender equality is more qualitative in nature and more oriented at outcomes of policies, processes and interventions” and, as such, “adequate indicators for gender equality focus on the substance and the quality of outcomes”.<sup>26</sup>



**Representation:** Female-to-male ratios in decision-making functions (parliaments, company boards, union leadership, etc.) are important indicators for women’s and men’s access to voice and power. However, it is not

<sup>24</sup> Report of the UN Special Rapporteur on Freedom of Religion or Belief Freedom of Religion or Belief and Gender Equality, A/HRC/43/48, 2020, p. 9.

<sup>25</sup> ILO (2020), *Guidance Note 31: Integrating Gender Equality in Monitoring and Evaluation*, Vol.3, June 2020, p. 5.

<sup>26</sup> *Ibid.* p. 6.

- ▶ enough to simply count women and men. It is equally important to consider the actual outcomes of decisions taken by decision-making organs and their effects on gender equality.

**Participation:** Achieving higher participation of an underrepresented or disadvantaged sex in a given activity (training course, discussion of a new policy, etc.) is always desirable.



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4

## MONITORING QUESTIONS



Photograph: Salim Taş (AA)



## 4.1 Freedom of thought, conscience or religion

### 4.1.1 The freedom to have or change one's religion or belief

The right to freedom of religion or belief is everyone's right. It belongs to women, men, LGBTI+ persons, believers and non-believers, adults and children, citizens and non-citizens, members of majority religion or minorities and everyone else. Freedom of religion or belief "protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. Hence, the terms 'belief' and 'religion' are to be broadly construed."<sup>27</sup>

- Consider whether any existing legal restrictions on the right to have, or change, religion or belief specifically target male, female or LGBTI+ persons. In the absence of legal restrictions, are there, in practice, de facto restrictions? How do these legal or de facto restrictions impact the extent to which these individuals are able to exercise their right to freedom to have or change their religion or belief?
- Are there any measures that need to be taken to ensure full exercise of these rights? If so, what are they and who needs to take them?
- Consider especially the home, educational and religious institutional settings.

### 4.1.2 The right not to declare one's religion or belief

No one can be forced to reveal their religion or belief.<sup>28</sup>

- Are there laws that require individuals to declare their religion or belief, or that require religious organisations to share information about their members? For example, is declaration required in the exercise of associative rights, population registry, registration in educational institutions or in the context of court proceedings?
- If so, do these provisions have a disproportionately negative impact on persons of different genders?
- Are students or their parents compelled to declare their religion or belief at school, for example to exercise their right to exemption

<sup>27</sup> This is commonly quoted from [General comment No. 22\(48\)](#) on the International Covenant on Civil and Political Rights 1966 (ICCPR), Art. 18.

<sup>28</sup> UN Human Rights Committee (1993), [General Comment No. 22](#) on Article 18 of the ICCPR, CCPR/C/21/Rev.1/Add.4, para. 3.

from compulsory religious instruction? If so, is there any difference in how children of various genders are affected?

- Are conscripts compelled to declare their religion or belief in the context of military service where it is compulsory? If so, how does this affect people of different genders?

### 4.1.3 The right not to act contrary to one's conscience and convictions

While there is no explicit mention of the right to conscientious objection to military service in the international human rights treaties, the UN Human Rights Committee has found that conscientious objection could be derived from Article 18 of the ICCPR, “inasmuch as the obligation to use lethal force might seriously conflict with the freedom of conscience and the right to manifest one's religion or belief”.<sup>29</sup>

Military service is most often compulsory for men, but in some cases it is also compulsory for women.

- Consider whether there are situations where coercion to act in a manner contrary to one's conscience and convictions has a gendered impact.
- What does coercion to act contrary to one's conscience and convictions look like in the lived experiences of women and girls?

## 4.2 Freedom to manifest one's religion or belief in worship, teaching, practice and observance

### 4.2.1 The right to manifest one's religion or belief in worship

Freedom of worship includes the right to assemble for worship.<sup>30</sup>

#### Access to places of worship

The right to manifest one's religion or belief in worship includes the right to have access to places of worship.

- Consider the access of women, men and LGBTI+ and children to places of worship in light of the principle of equality. Are there legal restrictions on access to places of worship based on gender? How is the worship space used or allotted? If the space is separated, how do women's spaces compare to men's in terms of quality? Do they accommodate women's needs, for example easy access with strollers?

<sup>29</sup> *Ibid.*, para. 11. See also Zyberi, G. and S. Madrigal, E. (2022), “The practice of judicial and quasi-judicial human rights bodies on conscientious objection to military service”, in: Wiener, M. and F. Puyana, D. (eds), *A Missing Piece for Peace: Bringing Together the Right to Peace and Freedom of Conscientious Objection to Military Service*, UPEACE, pp. 121-139.

<sup>30</sup> *Supra* 28, para. 4.



- What are the roles of men and women in the management of places of worship? Are women involved, through representation and participation, in decisions about the management of the place of worship? If so, to what extent?
- If women of a particular religion or belief hold different opinions compared to the mainstream doctrine and practice on the role of women in a religious or belief community, do they have the freedom to form their own community of worship and exercise their religion or belief in line with their beliefs?
- What challenges do LGBTI+ persons face in accessing places of worship?
- What steps are being taken by public authorities to address stereotypes about women's roles in religious or belief communities?
- Are women's human rights restricted within religious or belief communities? If yes, what are these rights? Are the restrictions justified?
- Who or which organisations act in opposition to, or in support of, women's effective and equal access to worship places?

### Places of worship and status

The right to freedom of worship includes the right to establish places of worship.<sup>31</sup>

- Are there any legal restrictions on the establishment and/or recognition of places of worship that impact men, women and LGBTI+ persons differently?
- If there is a public religious body or state church or other religious body that holds monopoly over the places of worship of a particular religion or belief, does this constitute an obstacle to establishing places of worship? If so, how does this influence the gender dimension of this right?

### Public funding to religious services

Depending on the state-religion relationship in a state, there may be situations where religious services are provided as public service or where public funding is made available for religious or belief communities' activities.

- Consider if public funding is available for religious services. If so, does the policy on the allocation of funding include criteria on gender equality?

<sup>31</sup> *Ibid.*

- How are state obligations on gender equality and freedom of religion or belief upheld in the process of making public funding for religious services available?
- How is the funding managed and how does this impact people of different genders, receiving public religious services?

#### 4.2.2 The right to manifest religion or belief in teaching

The right to freedom of religion or belief extends to the rights to manifest one's religion in practice and teaching as well as to spread one's religion or belief.<sup>32</sup>

- Are there any legal or practical restrictions on teachers based on gender? Are there obstacles preventing women from teaching? If so, how does this affect women's roles in religious communities?
- Are there any measures that are needed to facilitate the formation of women teachers? Examine disaggregated data on graduates of religious schools based on sex.
- Are there barriers to women's and LGBTI+ interpretation of religion or belief?
- Are there legal or practical restrictions on sharing one's religion or belief? If so, how do these restrictions impact people of different genders differently?
- Are there any measures that are needed to help ensure that all can share their religion or belief without hindrance?

#### 4.2.3 The right to manifest religion or belief in practice and observance

##### Religious symbols and/or clothing

The right to manifest religion or belief through clothes or personal symbols is protected under international human rights law.<sup>33</sup>

- Are there legal restrictions on the use of personal religious symbols in the public sphere?
- Are there laws or practices that compel men or women to dress in a certain way?
- If not, can members of minority denominations also use religious symbols and clothing freely? Are there gendered implications of legislative or practical restrictions?

<sup>32</sup> ECtHR, *Kokkinakis v. Greece*, Application No. 14307/88, May 25, 1993, para. 31.

<sup>33</sup> *Supra* 28, para. 4.

- If yes, are restrictions for all confessions or only for minorities? What are the legal justifications for such limitations? Are there specific limitations for women or men?
- Are there religious symbols linked to women that produce double discrimination (for being women and being believers)? Examples being wearing the veil, burka, long skirts, wigs, nun's habit, etc.
- Are men and women free to choose their clothing in public spaces? Do women have specific restrictions on the use of religious symbols in public spaces?
- Are there religious norms enforced by the state, or non-state actors, that deter women who want to show their hair in public spaces?
- Consider whether there are business policies or practices that compel or prevent women or men from wearing religious symbols or clothing.

### The right to learn and use languages traditionally used in religious practice

The practice of religion or belief also includes a religious or belief group's right to use the language that is traditionally used by that particular group.<sup>34</sup>

- Are there any obstacles before men or women to learn and use the language that are traditionally used in religious practice?
- Consider disaggregated data on those who speak the traditionally spoken language. Is there a disparity between men and women? If so, consider the reasons for this disparity and identify what added measures are needed, if any, to ensure both men and women can fully exercise this right.

### The right to appoint religious officials

The right to appoint religious officials is protected under human rights law since “practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers”.<sup>35</sup>

- Are there laws and/or state practices that favour men or women in the appointment of religious leaders?
- Are any measures taken by public authorities to promote gender equality within religious or belief communities? If so, how are the

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*



rights to autonomy of a religious or belief community, and the human rights of persons of various genders affected?

- What measures are needed to uphold everyone’s human rights?

### Holidays, days of rest and days of special religious importance

The concept of worship extends to the observance of holidays and days of rest and therefore these are protected within the scope of the right to manifest one’s religion or belief in worship.<sup>36</sup>

Women might be more affected by the absence of a non-working day on religious holidays since they often carry more of the burden of food and other preparations.

- Consider whether labour law allows a non-working day for religious minorities to celebrate their holidays.

### Right of burial

The manner of burying the dead represents an essential aspect of religious practice and falls under the right to manifest one’s religion.<sup>37</sup>

- Are there situations where the right to freedom of religion or belief is restricted while burying the dead in a way that impacts women, men and LGBTI+ differently? Are there situations where rites are different for men and women and where these are not accommodated for?
- Are there situations where newly converted persons are deprived of the right to bury their dead because of the religion they converted to or because of the religion their then-passed away relatives had been converted to?
- Are people of different gender differently impacted because of state and non-state actors’ practice?

### Personal status and family laws

Discriminatory legal provisions prevail in personal status and family laws that are informed by interpretations of religious traditions.

- Consider the nature and impact of personal status or family laws. Is there a secular alternative? Do these laws prevent women from fully exercising their human rights including freedom of religion or belief?

<sup>36</sup> *Ibid.*

<sup>37</sup> ECtHR, *Polat v. Austria*, 12886/16, 20 October 2021, para. 51.

- Do public authorities enforce religious principles that promote gender-based discrimination or violence through religion or belief based personal status laws or family laws?
- Is authority delegated to religious communities to administer personal status rights? If so, what is the nature of gender-based participation in the management of these affairs?

In this context the observations of the UN Special Rapporteur on Freedom of Religion or Belief are highly relevant:

Despite recent reforms to the “guardianship system”, women and girls in Saudi Arabia continue to face systematic discrimination in law and in practice in several areas and are inadequately protected against gender-based violence. Denominational family law in Israel, to which there is no civil alternative, permits divorce only with the consent of the husband, which reportedly can coerce women to forfeit property or custody of children. Although Tunisia stands out in the Middle East and North Africa Region for many of its protections for the human rights of women and girls, the Personal Status Code of 1956, rooted in an interpretation of Islam, requires further amendment to guarantee gender equality in inheritance rights.<sup>38</sup>

### 4.3 Freedom of religion or belief and the right to association

Freedom of association is a fundamental right protected by international human rights treaties.<sup>39</sup> Freedom of association and freedom of religion or belief are interlinked.<sup>40</sup> The right to freedom of religion or belief has a collective dimension. The collective dimension of freedom of religion or belief is based, both on the acts that are protected which are exercised in community with others and the groups and collectivities -groups with or without legal entity status- that exercise these protected acts.<sup>41</sup> The rights to acquire legal personality and freedom in the internal affairs of a religious or belief community are two of the pillars of the collective dimension of freedom of religion or belief.<sup>42</sup> A holistic approach is critical to ensuring that both the individual and collective dimensions are protected in line with international human rights law.

- Are there any legal or practical gender-related restrictions to establishing a legal entity with a religious intent?
- Consider the disaggregated data on the composition of boards and chairs of public and private religious institutions. If public institu-

<sup>38</sup> *Supra* 24, p. 5.

<sup>39</sup> UDHR Article 20, ICCPR Article 22, ECHR Article 11.

<sup>40</sup> ICCPR, Article 22. Also see United Nations Special Rapporteur on Freedom of Religion, A/HRC/19/60, Dec. 22, 2011, para. 43.

<sup>41</sup> Yildirim, M. (2017), *The Collective Dimension of Freedom of Religion or Belief - the Case of Turkey*, (Routledge), Chapter 2.

<sup>42</sup> *Ibid*, Chapters 3 and 4.

tions do not report on it, a way to access this data could be to search institutional websites, check annual reports or send a survey to relevant institutions, including religious or belief communities.

- In the case of a disparity between the number of men and women in these governing bodies, consider the reasons behind this and what measures, if any, are needed to help ensure that men and women are represented and are able to participate in the lives of their communities.

- Considering the above limitations on representation, monitoring methodology to examine substantive participation should be developed and used.

### Religious institutions

States can contribute to the facilitation of gender sensitive processes initiated by religious or belief communities within a framework that allows free expression of pluralism. The UN Special Rapporteur shows the way:

59. It cannot be the business of the State to shape or reshape religious traditions, nor can the State claim any binding authority in the interpretation of religious sources or in the definition of the tenets of faith. Freedom of religion or belief is a right of human beings, after all, not a right of the State. As mentioned above, questions of how to institutionalize community life may significantly affect the religious self-understanding of a community. From this it follows that the State must generally respect the autonomy of religious institutions, also in policies of promoting equality between men and women.

At the same time, one should bear in mind that freedom of religion or belief includes the right of internal dissidents, including women, to come up with alternative views, provide new readings of religious sources and try to exercise influence on a community's religious self-understanding, which may change over time. In situations in which internal dissidents or proponents of new religious understandings face coercion from within their religious communities, which sometimes happens, the State is obliged to provide protection. **It should be noted in this regard that the autonomy of religious institutions falls within the forum externum dimension of freedom of religion or belief which, if the need arises, can be restricted in conformity with the criteria spelled out in article 18, paragraph 3, of the International Covenant, while threats or acts of coercion against a person may affect the forum internum dimension of freedom of religion or belief, which has an unconditional status. In other words, respect by the State for the autonomy of religious institutions can never supersede the responsibility of the State to prevent or prosecute threats or acts of coercion**



**against persons (e.g., internal critics or dissidents), depending on the circumstances of the specific case.**

61. In addition, freedom of religion or belief includes the right to establish new religious communities and institutions. The issue of equality between men and women has in fact led to splits in quite a number of religious communities, and meanwhile, in virtually all religious traditions, reform branches exist in which women may have better opportunities to achieve positions of religious authority. Again, it cannot be the business of the State directly or indirectly to initiate such internal developments, which must always be left to believers themselves, since they remain the relevant rights holders in this regard. What the State can and should do, however, is to provide an open framework in which religious pluralism, including pluralism in institutions, can unfold freely. An open framework facilitating the free expression of pluralism may also improve the opportunities for new gender-sensitive developments within different religious traditions, initiated by believers themselves.<sup>43</sup>

#### 4.4 Freedom of religion or belief in the education system

States have a duty to protect the right to freedom of religion or belief of teachers and other staff, students, and their parents as they carry out their duties in the education system.<sup>44</sup> Here we will focus on the students' rights.

- What are the normative frameworks applicable to personal religious symbols or clothing in the primary/secondary/high school and university settings? What are the gendered impacts of these legal frameworks on children and adults?
- Consider if public or private educational institutions discriminate based on religion or belief and gender in the process of enrollment.
- Is there a need to adopt added protection to ensure that everyone can manifest their religion or belief through clothing and the use of symbols?
- Is there a difference in the rights and responsibilities of fathers and mothers when it comes to the religious upbringing of a child?
- Do public and private educational settings accommodate the practice of religion or belief through the provision of worship places or religious celebrations? If so, is accommodation provided in a non-discriminatory manner? Do rules regarding accommodation impact girls, boys, women, men and LGBTI+ individuals differently? Are added measures necessary to ensure the ability of everyone to fully exercise their right to manifest their religion or belief in practice or worship?

<sup>43</sup> *Supra* 1, paras. 57-61, emphasis our own.

<sup>44</sup> UN ICCPR Article 18, UN ICESCR Article 13, ECHR Protocol I, Article 2.

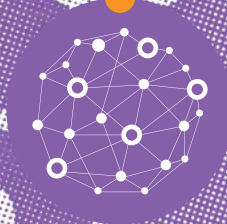
- Is there religious instruction in public schools? Is it compulsory? If so, is there a non-discriminatory exemption mechanism?
- What is the percentage of girls and boys opting out of religious instruction? How could you interpret this data? If religious instruction is offered in public schools, are courses offered representative of the religious or belief diversity in the country?
- Is there a general course or curriculum taught about religion or belief in public schools? Evaluate the content of the teaching material based on international human rights law with specific focus on freedom of religion or belief and gender equality.



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# 5

## ACTOR MAPPING





Actor mapping may be used as an analytical tool to identify key actors related to a given human rights problem, and the power relationships and channels of influence among them.<sup>45</sup>

Gender can be integrated in actor mapping for monitoring the right to freedom of religion or belief: (a) by mapping the actors on gender; and (b) by integrating a gender perspective in an actor map of freedom of religion or belief.<sup>46</sup>

### (a) Map the actors on gender

Identify who is working on gender, and the scope of their work, with a view to identify overlapping areas where synergies can be created.



The following questions can guide HROs in mapping gender actors:<sup>47</sup>

- Which institutions within the State apparatus are working on gender equality?
- Which institutions are an obstacle to gender equality?
- Are any individual influential actors and authorities ostensibly hostile towards gender equality (e.g., ministry of religion, religious police, parliament, etc.)?
- Which actors could persuade them to make a positive change? How can pressure be brought to bear? By whom, with what arguments and strategy?
- Which civil society organizations are working on gender equality? Are they influential?
- How are these organizations positioned in the civil society and human rights movement (e.g., marginal, strong, organized, present at the grass-root level or central level)? Are they part of gender networks?
- What are the positions, attitudes and behaviours on gender equality of churches, religious groups, military and paramilitary groups, non-State armed groups, public and private academic institutions?
- Are there international organizations – governmental and non-governmental – working on gender equality? Other United Nations agencies? How do they relate to the State structure and national network working on gender equality?
- Do international and regional mechanisms on gender and women's rights (e.g., Committee on the Elimination of Discrimination against Women, Special Rapporteur on violence against women, Special Representative of the Secretary-General on sexual violence in con-

<sup>45</sup> *Supra* 2, *Manual on Human Rights Monitoring, Revised Edition*, Chapter 15, p. 14.

<sup>46</sup> *Ibid.*, p.12.

<sup>47</sup> *Ibid.*

- ▶ flict, special rapporteurs on women's rights of regional organizations) play a role in the country? Can they play one? Which actors can link with them? Can other mechanisms with a strong gender dimension play a role (e.g., Special Rapporteur on trafficking in persons, especially in women and children, Special Representative of the Secretary-General on violence against children)?
  - How do they all interact with each other?

### **(b) Integrate a gender perspective in the actor map freedom of religion or belief**

Analyse how the actors identified in the mapping of freedom of religion or belief address gender issues.

Identify whether or not these actors:

- are committed to gender equality,
- have gender expertise, and
- integrate a gender-sensitive approach in their conduct and actions.

A PRACTICAL GUIDE TO MONITORING  
THE GENDER DIMENSION OF  
FREEDOM OF RELIGION OR BELIEF