

## Editorial

### *Limitations to Freedom of Religion or Belief in Theory and Practice*

Freedom of religion or belief is a fundamental human right. It is enshrined in universal and regional human rights treaties. It enables persons from all beliefs and none to express themselves according to their conscience. However, freedom of religion or belief is also a qualified right, meaning that in exceptional circumstances—and in strict accordance with the limitations regime—manifestation of religion or belief may be limited by State authorities. The rationale for the need to allow for limitations to manifestation of religion or belief is generally well understood by scholars, practitioners, and even lay people, so why does it prove so controversial in practice?

Despite the extensive number of books and articles on freedom of religion or belief and its limitations, domestic and supranational courts, as well as UN treaty-based bodies still struggle to translate this theory into practice. Therefore, the articles in this special issue narrowed down precisely on the point of how various domestic and international bodies have imposed limitations on freedom of religion in practice. These articles stem from the initiative of the Oslo Coalition on Freedom of Religion or Belief inviting experts on several jurisdictions, in order to evaluate together whether the theoretical knowledge about limitations to freedom of religion or belief was applied in practice. The results are staggering and can be found in detail in all articles in these special editions.

Broadly speaking, three main issues emerged from the studies. First, only a few cases dealing with limitations to freedom of religion or belief reach domestic courts, and an even smaller fraction of these cases are decided by international bodies. Second, when cases are decided by courts, there is a noticeable discrepancy between theory and practice. Courts tend to privilege majoritarian and traditional religious groups over members of minority religious and non-religious groups. The grounds for limiting freedom of religion or belief are expanded in practice, and general issues regarding the rights of vulnerable persons are often overlooked. Thus, despite limitations being exceptional in nature, they become “the rule” in many contexts. Third, the range of justifications for limitations is overly wide. Though every case is *sui generis*, several decisions extrapolate the framework provided by international law on the topic, leading to a lack of legal certainty in this field.

The special edition opens with an introduction by Heiner Bielefeldt calling for “limiting limitations” in order to preserve the substance of religious freedom. This theoretical introduction is followed by an analysis of the UN Human Rights Committee’s test on limiting the freedom of religion or belief. Given the universal scope of the Human Rights Committee, three domestic jurisdictions from diverse continents and contexts are subsequently examined, namely Indonesia, Nigeria, and Brazil.

The second part of this special issue is narrower in territorial scope, but not in terms of case-law. It starts with an in-depth examination of the jurisprudence of the European Court of Human Rights on freedom of religion or belief. Then it moves on to the analysis of three domestic jurisdictions under the supervision of the European Court of Human Rights; but once again with different demographic contexts, namely Denmark, Georgia, and Turkey. T Jeremy Gunn brings the special edition to a close, briefly summarising the articles and further problematising how the European Court of Human Rights handles questions regarding evidence.

Finally, it is important to emphasise that this project would not have been possible without the generous support of the Norwegian Ministry of Foreign Affairs and all those involved in the consultations of the Oslo Coalition for Freedom of Religion or Belief, as well as those directly involved in the research, writing, and revision of the articles in these special editions.

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