Workshop Presentation Outline

Workshop 4: The Propagation of Religion or Belief

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Article 18 ICCPR:

- Everyone shall have the right 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 belief 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.

Article 20 ICCPR:

- Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Inherent tensions:

- When does propagation become coercion?

A narrow interpretation of the notion of coercion is called for, since otherwise you can completely nullify the practical meaning of the freedom to manifest one’s religion or belief. Trying to convince others is often an essential element of a religion: you want to share what you think of as being the ultimate truth. However, the bottom line is that what you do supports the rights of others to define their own choice. Ultimately, they have to feel free to agree with you or not.

In the UN this issue has been extensively discussed. Everybody agreed about the prohibition of visible forms of coercion, e.g. violence, threats, blackmail.
Similarly, it has been considered coercion if the State forces people to adhere to a particular religion or belief and discriminates against other religions or beliefs. Coercion by the State can therefore be direct (enforced recantation of belief) or indirect (discriminatory practices).

What about rewards? E.g., giving money or benefits in exchange of conversion? In the context of the travaux préparatoires, many delegations expressed their doubts about this practice. In reality, however, it is not always possible to make a clear distinction between, for example, humanitarian activities of faith-based ngo's and their missionary activities.

As far as the limitations of the concept ‘coercion’ are concerned, reference can be made to the report issued by the UNSG in 1955 (when new instruments on freedom of religion were discussed) in which he stated that moral or intellectual persuasion are not generally considered ‘coercion’. In its General Comment 22 on the freedom of religion the Human Rights Committee also favours a narrow interpretation of this concept: it refers in this respect to ‘the use of threat of physical force, penal sanctions, or discriminatory practices’.

By way of conclusion, one could state that you may attempt to persuade, but you may not force people to adopt a certain religion or belief.

- How to interpret the various limitation grounds?

The limitation grounds mentioned in article 18 of the ICCPR have been formulated in a restrictive manner: for example, the more general notion of ordre public has not been used here, but the more limited notion of public order in the sense of prevention of disorder.

It is interesting to have a look at the concept of ‘public safety’ as one of the grounds for limiting the scope of the freedom to manifest one’s religion or belief, insofar as propagation is concerned. In her advice to the Sub-Commission, Daes mentions as legitimate limitations necessary to protect public safety ‘provisions to ensure, within a country, public peace, social harmony, respect for just law and the legitimate decisions or orders of the public authorities’. For example, if tensions between various religious groups are mounting, social harmony is threatened and therefore the government may, under these specific circumstances, temporarily limit the freedom to manifest one’s religion or belief. But no limitation may nullify this freedom altogether: so, governments can call for restraint, but cannot prohibit propagation altogether. Moreover, limitations have to be proportionate and non-discriminatory.

- When does propagation become incitement to discrimination, hostility or violence? And when is it justified for the promotion of tolerance in matters relating to religion or belief to curtail the propagation of (certain) religions or beliefs?