



MEMORANDUM

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International Human Rights & Religious Liberty

The ACLJ is committed to ensuring the ongoing viability of freedom and liberty around the world. By specializing in U.S. constitutional law, European Union law, and human rights law, the ACLJ and its globally affiliated organizations are dedicated to the concept that freedom and liberty are universal, God-given, and inalienable rights that must be protected.

The American Center for Law and Justice (ACLJ), together with its global affiliate, the European Center for Law and Justice (ECLJ), is strongly committed to ensuring the maintenance of freedom and liberty in the United States and around the world. The ECLJ is actively involved in issues of religious freedom and human rights in the United Nations (UN), the European Court of Human Rights (ECHR), and various countries. The ACLJ's global work reaches across more than 35 countries and has received special recognition by the United Nations. In fact, the UN has granted the ECLJ special consultative status which enhances efforts to expand ACLJ's religious liberty and human rights work worldwide. The ECLJ regularly accesses international forums like the UN that provide important avenues of relief for Christians. Additionally, the ECLJ has consistently taken action to oppose certain UN Member States that pose substantial threats to religious freedom around the world. Such actions include international litigation, advising individuals and governmental agencies, and counseling clients on global freedom and liberty issues. The ACLJ also supports training law students around the world to protect religious liberty and safeguard human rights and dignity.

International Human Rights Law 101

Following the atrocities of World War II, countries around the world coalesced to form various global and regional organizations in order to ensure that such racist and religious persecution would never occur again. Most of these international bodies developed human rights standards which their member countries committed to uphold. Like the American Bill of Rights, these international human rights covenants outline specific positive and negative duties of countries with respect to their citizens. Foremost among these duties is the obligation of

governments to ensure that their citizens are free to believe and practice their religion without fear of persecution or discrimination. Below is an introduction to some of the premier international bodies and a summary of their laws protecting human rights and religious liberty.

A. The United Nations

Formed in 1945, the United Nations' primary purpose is to maintain peace and security worldwide, to facilitate cooperation among nations, and to promote social development and human rights.¹ The United Nations has numerous sub-parts, such as the Human Rights Council and the Office of the High Commissioner for Human Rights, among others, which deal directly with specific human rights issues.²

In addition to the UN Charter, which is the United Nations' foundational document, the UN produced three other documents that enumerate human rights and religious liberty: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³ Together, these three documents are often referred to as the "International Bill of Rights."⁴

Article 18 of the UDHR states that "[e]veryone has the right to freedom of thought, conscience and religion," including the freedom to convert, to worship either alone or with others, and to generally manifest one's belief in teaching, practicing, and observing.⁵ Also relevant to religious liberty is Article 19's guarantee of freedom of expression and Article 20's guarantee of the right to peaceful assembly and association.⁶

Articles 18 and 19 of the ICCPR largely mimic the wording of the UDHR, but expound on the very limited reasons for which governments may restrict religious freedom and expression, such as national security or public health and order.⁷ The ICESCR adds specific prohibitions on religiously-based discrimination.⁸

B. The Council of Europe

The Council of Europe (CoE), originally formed by ten countries in 1949, now encompasses nearly the entire European continent and has forty-seven member states.⁹ The CoE's primary aim is to promote human rights, democracy, and the rule of law among its members.¹⁰ The central document of the CoE is the Convention for the Protection of Human Rights and Fundamental Freedoms, often more simply called the European Convention on Human Rights.¹¹ Much like the UDHR, Article 9 of the Convention guarantees the freedom to believe and manifest one's belief either alone or with others.¹² Moreover, Article 10 protects freedom of expression, and Article 14 guarantees freedom from religious discrimination.¹³ Ratification of the Convention is a prerequisite for membership in the CoE, and it is legally binding upon member states.¹⁴

C. The European Union

The European Union (EU) is a smaller but more widely known regional organization in Europe, comprised of only twenty-eight member states.¹⁵ It is a self-described “economic and political partnership,” and is renowned for its common currency, the Euro, and its open trade and travel policies.¹⁶ Although it primarily began as an economic partnership, the EU now facilitates European cooperation regarding environmental policies and human rights.¹⁷ The Charter of Fundamental Rights of the European Union enumerates the political rights of European citizens, including the right to religious freedom.¹⁸ Similar to previously mentioned documents, Articles 10, 11, and 12 of the Charter guarantee freedom of religion, of expression, and of association.¹⁹ Article 22 also contains a general commitment to respect religious diversity.²⁰

D. The Organization for Security and Cooperation in Europe

Contrary to what the name may indicate, the fifty-seven member states of the Organization for Security and Cooperation in Europe (OSCE) represent not only the European continent, but Central Asia and North America as well.²¹ Although the OSCE is primarily a security organization, it also engages in political, environmental, and human rights concerns.²² The OSCE has echoed its commitment to human rights and religious freedom in three primary documents: the Helsinki Final Act, the Vienna Concluding Document, and the Copenhagen Concluding Document.²³ These documents collectively represent the commitment of OSCE member states to ensure religious liberty for their citizenry.

E. The Organization of American States

Established in 1948, the Organization of American States (OAS) unites all thirty-five countries of the Western Hemisphere with the goal of promoting democracy, human rights, security, and development.²⁴ The American Declaration of the Rights and Duties of Man and the American Convention on Human Rights contain the OAS’s religious freedom commitments.²⁵ A key theme of these documents is protection against religious discrimination.²⁶ Echoing other international documents, the American Convention on Human Rights guarantees the freedom to believe and to manifest one’s beliefs (Article 12), freedom of expression (Article 13), and freedom of assembly (Article 15).²⁷ The right to change one’s religion or beliefs (convert) is also protected.²⁸

¹ *UN at a Glance*, UN.ORG, <http://www.un.org/en/aboutun/index.shtml> (last visited Oct. 22, 2014).

² *United Nations Human Rights Council*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx> (last visited Oct. 23, 2014); *What We Do*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, <http://www.ohchr.org/EN/AboutUs/Pages/WhatWeDo.aspx> (last visited Oct. 23, 2014).

³ See Geoffrey A. Hoffman, *In Search of an International Human Right to Receive Information*, 25 LOY. L.A. INT’L & COMP. L. REV. 165, 169–74 (2003).

⁴ *Id.* at 170 n.28.

⁵ Universal Declaration of Human Rights, G.A. Res. 217 (III)_A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

⁶ *Id.*

⁷ International Covenant on Civil and Political Rights arts. 18–19, Dec. 19, 1966, 1976 U.N.T.S. 1178, *available at* <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>.

⁸ International Covenant on Economic, Social and Cultural Rights art. 2, Dec. 16, 1966, *available at* <http://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

⁹ *Key Dates*, COUNCIL OF EUROPE, <http://www.coe.int/aboutCoe/index.asp?page=datesCles&l=en> (last visited Oct. 22, 2014); *Who We Are*, COUNCIL OF EUROPE, <http://www.coe.int/aboutCoe/index.asp?page=quisommesnous&l=en> (last visited Oct. 22, 2014) [hereinafter *Who We Are*, COUNCIL OF EUROPE].

¹⁰ *Who We Are*, COUNCIL OF EUROPE, *supra* note 9.

¹¹ *See A Convention to Protect Your Rights and Liberties*, COUNCIL OF EUROPE, <http://human-rights-convention.org/> (last visited Oct. 28, 2014).

¹² COUNCIL OF EUROPE, European Convention on Human Rights art. 9, Dec. 10, 1948, *available at* http://www.echr.coe.int/Documents/Convention_ENG.pdf.

¹³ *Id.* at arts. 10, 14.

¹⁴ H. KNOX THAMES ET AL., INTERNATIONAL RELIGIOUS FREEDOM ADVOCACY 62 (2009).

¹⁵ *EU Member Countries*, EUROPEAN UNION, http://europa.eu/about-eu/countries/member-countries/index_en.htm (last visited Oct. 30, 2014).

¹⁶ *How the EU Works*, EUROPEAN UNION, http://europa.eu/about-eu/basic-information/index_en.htm (last visited Oct. 22, 2014).

¹⁷ *Id.*

¹⁸ Charter of Fundamental Rights of the European Union 83/02, Preamble, art. 10, 2010 O.J. (C 83) 391, 393, *available at* eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF.

¹⁹ *Id.*, arts. 10–12, at 393–94.

²⁰ *Id.*, art. 22, at 396.

²¹ *Participating States*, OSCE, <http://www.osce.org/states> (last visited Oct. 23, 2014).

²² *Who We Are*, OSCE, <http://www.osce.org/who> (last visited Oct. 23, 2014).

²³ THAMES, *supra* note 14, at 75.

²⁴ *Who We Are*, ORGANIZATION OF AMERICAN STATES, http://www.oas.org/en/about/who_we_are.asp (last visited Oct. 23, 2014).

²⁵ *See* Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123; Organization of American States, American Declaration of the Rights and Duties of Man arts. 3, 23, 1948, *available at* <http://www.oas.org/dil/1948%20American%20Declaration%20of%20the%20Rights%20and%20Duties%20of%20Man.pdf>.

²⁶ THAMES, *supra* note 14, at 91.

²⁷ American Convention on Human Rights, *supra* note 25.

²⁸ *Id.*