‘Ah, my friend, my friend’, he said, drawing back and thumping his chest, ‘I have a heavy feeling in here. I feel as if I have a stone in my heart. I wonder what’ll become of us all’.

‘I think we’ll be divided’, said Mehmetçik sadly. ‘Suddenly it matters that I am a Christian, where it mattered only a little before’.

—–Louis de Bernières (2004, p. 265)

This conversation is from Birds Without Wings, a novel set in an Anatolian village during the transition from Ottoman to Turkish governance amidst the upheaval of the First World War and the Greek-Turkish population exchange. It documents the staggering costs imposed on the local inhabitants of the village as the state assigned religious identities and relied on them to determine civil and military status. This exchange between two childhood friends, one Muslim and the other Christian, took place on the eve of the former’s departure to fight with Atatürk’s forces. Only Muslims were enlisted; Christians were not trusted as soldiers.

How much does religious identity matter in public, legal, and political contexts? Is religion always, or ever, solely a matter of individual choice? What happens when religious affiliations become the basis of public administration, legal decisions, and government conduct? Do legal guarantees for religious freedom offer a solution? This chapter explores these questions through a discussion of the promise and perils of one of most celebrated ideals of our time: international religious freedom.

To join the community of civilized nations, governments today are encouraged to guarantee religious freedom. Efforts to promote it globally have gathered steam, with the United States at the helm. The US International Religious Freedom Act, 1998 (IRFA) established an Office on International Religious Freedom in the State Department headed by an Ambassador-at-Large for International Religious Freedom. The office prepares an annual report on the status of religious freedom in every country in the world except the United States and advises the president on which countries should be designated as “Countries of Particular Concern”. IRFA also created a watchdog agency, the US Commission on International Religious Freedom (USCIRF). The United Nations, Canada, several European states, and the European Union also have supported external religious freedom promotion. The UN Office of the Special Rapporteur for
Freedom of Religion or Belief has promoted religious freedom for decades, focusing on state compliance with international and regional human rights conventions. The British and the European Union promote religious freedom through the Foreign and Commonwealth Office (FCO) and European External Action Service, respectively. The FCO’s 2018 Human Rights and Democracy report states that denial of the right to freedom of religion or belief was a “matter of increasing international concern”, and in 2019 the UK government created a special envoy for religious freedom (UK Human Rights and Democracy Report, 2018). Italy and Germany have made advocacy for faith communities integral to their foreign policy agendas.

Religious freedom enjoys support across the political spectrum. Proponents include liberal internationalists, human rights advocates, advocacy groups for whom some form of Christianity serves as the foundation of democracy and freedom, American nationalists for whom the “city on a hill” narrative resonates with ideals of American exceptionalism, European rights advocates concerned with the fate of persecuted Christians, and missionaries for whom religious liberalization signals a newfound openness to their calling. Religious freedom is celebrated as a fundamental human right and legal standard that can be measured and achieved by all political collectivities. It is a matter of persuading citizens and governments to comply with a universal norm. States and societies are perched on a spectrum of progress, inclined either toward the achievement of religious freedom as a social fact, or slipping backwards into persecution and violence. The US IRFA legislation attributes the failure to achieve religious freedom to a lack of social and cultural maturity: “In many nations where severe violations of religious freedom occur . . . there is not sufficient cultural and social understanding of international norms of religious freedom” (International Religious Freedom Act, Sec. 501)

This chapter steps back from the celebration of religious freedom as an unalloyed good to assess its promise and perils as a global political project. Rather than ask what is religious freedom and how can it be promoted, it asks: what kind of world does religious freedom create? I suggest that religious freedom is a particular mode of governing social difference that implicates religion in complex and variable ways. Guarantees of religious freedom neither magically instantiate a stable and universal norm, nor do they realize the promise of any single religious tradition in a secular world. Rather, “governmentalizing” religion – making it an object of state regulation and reform – shapes how people live out their religion (Slotte, 2010, p. 54). When religious identity becomes a matter of political concern, as it did for the Turkish boys in the epigraph, it increases the odds of conflict and violence along religious lines. Religion is politicized.

This chapter makes three arguments. First, governing through religious rights singles out individuals and groups for legal protection as religious individuals and groups. It defines them in religious or sectarian terms rather than on the basis of other affinities and relations – for example, as groups based on social class, political leanings, historical and geographical ties, neighborhood affiliations, kinship networks, or socio-economic status. In positioning religion as prior to other identities, religious rights heighten the political salience of whatever the authorities designate as “religion”. This deepens religious-religious and religious-secular divides, leading to an “ecology of affiliation” (Shields, 2009, p. 218) grounded in religious difference.

Second, governing through religious rights shapes how states distinguish citizens from each other, often via the law. It identifies groups as “religions” and locates them on a political field in which they are presumed to represent a common type – religious groups – and to operate as equals. It legally consecrates these groups as faith communities with identifiable leaders and bounded orthodoxies. It calls forth official spokespersons to represent these communities, privileging leaders who enjoy friendly relations with the authorities. Not only are particular hierarchies and orthodoxies strengthened, but dissenters, doubters, those who practice multiple traditions, and those on the margins of community become invisible. Some violations of human
dignity fail to register at all, languishing beneath the threshold of recognition as governments devote scarce resources to rescuing persecuted religionists and defending faith communities that enjoy political legitimacy. This is the politics of religious freedom. Certain questions recur: What counts as religion? Which religions merit protection? Which leaders to engage?

Third, international religious freedom prioritizes belief as the core of religion. To be religious today is to believe in one of a few major belief systems, skewed towards Christianity as the template of what it means to be “religious”. This reflects an understanding of religion and the religious subject that emerged out of European Christianity and is not universal. To treat belief as the core of religion sanctifies a particular religious psychology that relies on the notion of an autonomous subject who chooses beliefs and enacts them. It prioritizes individual subjects for whom believing is taken as the defining characteristic of what it means to be religious, and the right to choose one’s belief as the essence of what it means to be free. Those who subscribe to a modern liberal understanding of faith and those willing and able to reform their religion to conform to such an understanding are privileged. Other ways of relating to communities beyond the self are excluded.

The logic of religious rights

Governing through religious rights singles out individuals and groups for legal protection as religious individuals and collectivities. There is an imperative to define identity in religious terms: “are you this or are you that?” You need to know what you are to know how you fit in. Individuals with multiple affiliations or mixed backgrounds are uneasily accommodated in these strict rubrics of identity and difference. Those who do not identify with orthodox versions of protected religions fall between the cracks. Families that include multiple traditions under the same roof must choose a side. Individuals can either make political claims on religious grounds, or have no ground from which to speak (Castelli, 2007, p. 684). This occurred in Bosnia in the 1990s, when many who described themselves as atheists before the war woke up to find themselves identified – and divided – by a newly salient religious identity (Campbell, 1998).

Second, singling out religion from among the different given and chosen affiliations makes religious-religious and religious-secular divides seem natural and fixed. Individuals and groups are expected to identify along religious lines rather than on the basis of other ties – whether socio-economic, geographic, familial, professional, or political. This lends political agency and authenticity to religious groups. As religious groups come to occupy what Castelli (2007, p. 684) describes as “the full terrain of the thinkable vis-à-vis freedom”, it creates the world that religious freedom purports merely to describe. Religions become tractable, alienable commodities, in the sense described by Jean and John Comaroff (2009) in their work on ethnicity, and by Samuli Schielke (2010, pp. 4–5) in his discussion of world religions as entities with agency. As the Comoroffs explain, the commodification of ethnicity “has the curious capacity to conjure a collective imagining and to confer upon it social, political, and material currency – not to mention ‘authenticity’, the spectre that haunts the commodification of culture everywhere” (2009, p. 10). Governing citizens as Christians, Muslims, or Hindus conjures a collective imagining of stable categories of religious affiliation and grants them political currency. It diminishes the possibility of cross-cutting, non-sectarian forms of politics.

Third, governing through religious rights reduces complex social, historical, and political structures and histories into a problem of religion. It “discourages recognition of the complexity of the phenomena to which it is purportedly relevant” (Peletz, 2013, p. 626). It collapses a bewildering array of social, economic, historical, political, and geographical considerations into...
an emphasis on religion, deflecting attention from issues of caste, class, colonialism, economic justice, and land rights.

An example is the international community’s response to the plight of the Rohingya of Myanmar. A population of roughly 800,000 living primarily in northwestern Burma bordering Bangladesh, the Rohingya claim Burmese citizenship but are effectively stateless, having been denied citizenship by the Burmese state, classified by the government as “Bengali immigrants” and subjected to “persecution, discrimination and intrusive restriction on their rights to marry and have families” (Akram, 2013, paragraph 10). Though many have lived in Rakhine state for generations, the Rohingya have suffered a long history of oppression. As Hodal (2012) explains, “large-scale Burmese government crackdowns on the Rohingya – including Operation Dragon King in 1978, and Operation Clean and Beautiful Nation in 1991 – forced hundreds of thousands to flee to Bangladesh. Thousands of others have left for Thailand, Malaysia, and Indonesia, many of them by boat”. State-sanctioned violence has worsened, with Rohingya driven out of their villages, separated from their families, and confined to squalid refugee camps. Those who remain in their villages cannot leave, even to go to the hospital. According to Elliott Prasse-Freeman, “local media, citizen bloggers, Buddhist monks all rallied around the Rakhine. Or more accurately, rallied against the Rohingya”, describing them as illegal immigrants, a threat to Buddhism, a threat to security, and “simply aesthetically unpleasant”.

In 2012 USCIRF called for religious freedom for the Rohingya as persecuted Muslims. Yet the Rohingya are not excluded from Burmese society exclusively with religious slurs, but also with racist, classist, and other insults. Prominent monks have turned against the Rohingya, calling for their exclusion along the lines of apartheid in South Africa or segregation in the southern United States (Head, 2013). A leaflet distributed by a monks’ organization described the Rohingya as “cruel by nature”. Ko Ko Gyi, a democracy activist and former political prisoner, said the Rohingya are not Burmese. A loosely organized Buddhist activist group composed of monks and laity called “969”, and its most prominent spokesperson, a Mandalay-based monk named U Wirathu, call for the total exclusion of the Rohingya from Burmese society. Claiming to work on behalf of the “religious rights and freedoms” of the majority Buddhist population, 969 reportedly “enjoys support from senior government officials, establishment monks and even some members of the opposition National League for Democracy (NLD), the political party of Nobel peace laureate Aung San Suu Kyi” (Marshall, 2013). Another 969 affiliate, the Organization for the Protection of Nation, Race and Religion – or, in the Burmese acronym, Ma Ba Tha, is also led by well-known Buddhist monks and oriented around pro-Buddhist, pro-Burman activism.

Understanding the Rohingya’s plight requires situating them in a broad analytical field that includes but is not reduced to religious discrimination. Three factors are crucial. The first intertwines colonial history, geography, and elite political competition. Rakhine (Arakan) state, where many Rohingya live, was independent from Rangoon and Mandalay until the Burman conquest in 1785, and a strong sense of territorial identity distinguishes the region from the rest of Burma. Muslim-Buddhist “divide and rule” policy dates to the British colonial era (1824–1948) and was exacerbated throughout the twentieth century and into the present. During the Japanese occupation, which began with the Imperial Army’s invasion in 1942, the British armed Rohingya “Force V” militias while the Japanese armed a variety of Buddhist-led groups, with the two sides pitted against each other in a proxy struggle (Schonthal, 2016). In 1962, the Burmese military seized power in a coup and sought to impose ethnic purity by marginalizing minorities and non-Buddhists, increasing tensions. In recent times, according to one Burmese dissident, the conflict with the Rohingya and the Kachin has served as a “useful distraction” from Burmese grievances against China and power struggles within the governing elite (Zaw, 2013, paragraphs 5–6).
Second, the Burmese economy is under pressure as a result of economic competition due to the relaxation of military rule and heightened competition for jobs and natural resources. The Rohingya are easily scapegoated as illegal immigrants and threats to job or rent-seekers. These tensions have been exacerbated by state interest in the securitization of border areas. The government oversees security for a multi-billion-dollar China-Burma oil and gas pipeline that stretches over 1,500 miles from the Indian Ocean through Burma to the southwestern Chinese city of Kunming. The pipeline, bringing gas from the Shwe fields off the coast of Arakan state, allows China to bypass the Malacca Strait, one of the world’s busiest shipping lanes. After decades of conflict, there is a heightened securitization of Myanmar’s borderlands as neighbors seek economic opportunities that require “constructive engagement” and “borderland stability” (Smith, 2010).

A third consideration is the rise of linguistic violence and de-humanization campaigns. The Rohingya have been stripped even of their name, and are increasingly referred to as “Bengalis”. This is significant in that the name “Rooinga” had been recognized as early as 1799, before the First Anglo-Burmese War. Today security forces compel Rohingya to refer to themselves as Bengalis (Prasse-Freeman, 2013, p. 2; Ferrie, 2013) to qualify for the government’s resettlement plan. As Ferrie (2013) reports, “when officials tried to survey displaced people in camps around Theak Kae Pyin village, protests broke out with women and children chanting, ‘We are Rohingya’”. Prasse-Freeman (2013, p. 3) reports that, “those who are killed are arguably not even killed as an identity group, but rather as so much detritus falling outside of a group, and hence outside of the political community entirely”.

Discrimination against the Rohingya is complex and multifaceted: it is ethnic, racial, economic, political, environmental, post-colonial, and statist. One cannot isolate a single factor as the definitive cause of violence. To speak of the Rohingya as a persecuted religious minority singles out religious identity from the vast web of discriminatory forces in which they are suspended. It misrepresents the crisis. It deflects attention away from the Rohingya’s comprehensive exclusion from Burmese society, masks economic and political interests that profit from their subordination and repression, and hides the role of political and economic disagreements among the governing elite concerning the speed and content of proposed reforms. It ignores the anti-immigrant and xenophobic basis of the discrimination, as well as the economic insecurities and power dynamics accompanying Burma’s tense and tentative opening to foreign investment.

But the problem runs deeper. To depict the violence as fundamentally “religious” reinforces 969’s contention that Muslim-Buddhist tensions are the most salient aspect of the crisis. Foregrounding religion strengthens the hand of violent nationalist movements that depend on hard-and-fast lines of Muslim-Buddhist difference and immutable ties among majoritarian (Buddhist) religion, race, and Burmese identity. The logic of religious rights empowers those for whom the Rohingya are subhuman. By reinforcing their status as Muslims rather than as Burmese citizens, lobbying for the religious rights of the Rohingya makes it less likely that the Burmese government – or the democratizing monks – will include the Rohingya in Burmese society as humans, rather than as (subordinated) Muslims.

Nearly a decade ago, former US Ambassador John Campbell urged policy-makers not to describe the violence in Nigeria as religious. “Are people [in Nigeria] being killed because they’re Muslim, herders, or Hausa? It is often very hard to say” (Campbell, 2013). Are the Rohingya being killed because they are Muslim, immigrants, or because they are perceived as an economic or political threat to the former junta? It is hard to say. Many factors lead to discrimination and violence, including local histories, class disparities, disputes over resources, urban–rural tensions, family grievances, outside interventions, colonial legacies, land disputes,
and economic rivalries. Reducing all of these to religious intolerance means that the multidimensional tapestry of human sociality is lost from sight, and the problems faced by persecuted groups become intractable. Imposing a religious rights framework heightens the socio-political salience of Muslim-Buddhist difference. Rather than defanging 969 and its allies, it aggravates perceived religious chasms while deferring the potential of alternative, cross-cutting movements that could challenge those who profit from genocide.

These dynamics are not unique to Burma. The logic of religious rights entrenches differences between groups defined as “religions”. It eclipses other axes of being and belonging. The rise to prominence of religious rights is transforming the plight of groups all over the world who are subject to pressure to constitute themselves legally as faith communities with clear boundaries, identifiable leaders, and neatly defined orthodoxies. The next section examines the consequences and costs of these designations.

**Empowerment and exclusion**

The logic of religious rights funnels individuals into discrete faith communities and empowers their spokespersons. It requires that religious identity be stable and singular in order to be politically legible. It compels those who identify with more than one tradition to choose one over the others. Boundaries solidify. Lines between groups become more salient, a process described by political theorist William Connolly (1995, p. 167) as “overcoding”. Religious rights overcodes the boundaries between religions and sharpens the line between religion and non-religion. It endows particular communities with agency and authenticity. This “assumption of strong boundaries and clear identities within the community” means that “rather than breaking down these boundaries the policy aims to work within them and to build on the assumed solidarity of the community itself” (Stringer, 2013, p. 137).

Faith communities need representatives. Governments and other power holders expect and encourage religious leaders to step forward as political actors. The US Agency for International Development Program Guide on Religion, Conflict and Peacebuilding informs practitioners:

> Engagement with top religious leadership is critical to engagement at the local level. Without buy-in at this level, leaders at the local level may be reluctant to participate in the program even if they are interested and personally supportive of the program. As a result, organizing at the community level requires a great deal of groundwork and relationship building with senior leaders.


Senior leaders meet with governments, non-governmental organizations, inter-governmental organizations, and other authorities. The United States relies on them to secure access to local populations and garner support for American strategic objectives. For instance, a Pentagon contractor paid Sunni religious scholars in Iraq $144,000 to assist in its public relations campaign. The contractor, “The Lincoln Group”, was paid to “identify religious leaders who could help produce messages that would persuade Sunnis in violence-ridden Anbar Province to participate in national elections and reject the insurgency” (Cloud and Gerth, 2006). Because such programs are sect-preferential, they would violate the Establishment Clause if undertaken domestically in the United States (Hayden, 2006). The logic of religious engagement empowers religious groups that have friendly relations with the authorities. It enacts a mini-religious establishment.
At the same time, less established religions and those that do not qualify as religions become politically invisible. Violations of human dignity that fail to register as religion infringements languish beneath the threshold of recognition. To see these dynamics requires expanding our field of vision beyond mainstream legal and political understandings of religion and religious freedom to include a broader and more diverse variety of religiosities. It requires understanding local practices on their own terms, even or especially when they appear as odd or illegible. To fail to do so is to miss or to misconstrue a whole field of contentious politics.

A case in point are the K’iche’, a Mayan ethnic group living in the western highlands of Guatemala. Tensions between the K’iche’ and the Guatemalan state increased in the wake of the K’iche’ People’s Council’s (KPC) unanimous rejection of mining and hydroelectric projects proposed in the wake of the North American Free Trade Agreement and other treaties. Foreign companies responded with offers to pay the KPC a higher percentage of profits, failing to understand that the K’iche’ refuse to allow the destruction of the earth for religious and cultural reasons. The KPC’s refusal has led to discrimination, dispossession, and violence, including massive violations of K’iche’ cultural heritage and land rights facilitated by Canadian and multinational mining corporations, the police, and the Guatemalan state.

But officially there is no violation of religious freedom. K’iche’ attachment to the land does not register legally as religious. This makes it impossible for them to avail themselves of legal protections for religious freedom. Their persecution is invisible to legal instruments guaranteeing religious freedom, because, in an important sense, they are perceived as having no (recognizable) religion. The 2012 International Religious Freedom Report for Guatemala confirms this interpretation, with “no reports of abuses of religious freedom” in the country that year. Violations of K’iche’ religio-cultural heritage fall below the threshold of legibility.

The politics of non-recognition is also a factor in the Central African Republic (CAR) where, in 2010, the State Department’s Religious Freedom Report noted that as many as 60% of the imprisoned women in the country had been charged with “witchcraft”, a form of African traditional religion considered a criminal offense by the government. But discrimination against African traditional religion does not count as religious discrimination and is not protected under the umbrella of religious freedom. Women imprisoned for witchcraft cannot suffer from violations of religious freedom because, in the eyes of the government and the authors of the State Department report, they have no religion. The State Department concluded that the CAR “generally respected religious freedom in practice”, and gave the government a good ranking. Like the K’iche’, imprisoned women in the CAR fail to appear on the radar screen because abuses of their traditional practices do not count as violations of the right to believe that is protected by international religious freedom. These instruments favor a religious economies model that privileges consumers of religion for whom believing is taken as the defining characteristic of what it means to be religious, and the right to believe as the essence of what it means to be free.

Those identifying with more than one religion also find themselves in a perilous position. At the time of its creation in 2011, the new state of South Sudan guaranteed religious rights for minority citizens, including Muslims. Yet the government struggled because in South Sudan, as elsewhere, it can be difficult to classify citizens as believers in a single faith tradition (Salomon and Walton, 2012, p. 406). Many South Sudanese practice both African traditional religions and Christianity or Islam, and do not distinguish sharply between these and other traditional practices. Under a regime of religious freedom, those who identify with several traditions are compelled to choose between (now, different and discrete) religious traditions or they become religiously invisible – even as officially recognized religions gain newfound political standing. The result is a striated political field organized by and through government-defined religious
difference. In these circumstances, Hackett explains, “African indigenous or traditional religions are hampered by being part of a generalized and heterogeneous category with no clear designation or centralized leadership”. Indigenous religions become “religious freedom misfits”. The solution, Hackett concludes, is not to assimilate them into international protections because “recent moves to grant institutional, protective space to indigenous expressions of ‘spirituality’ not only essentialize and objectify traditional forms of belief and practice but also translate and recast them to appeal to cultural outsiders who formally or informally adjudge these rights’ claims” (Hackett, 2015, pp. 90–91, 96).

Religious freedom is a specific, historically located technique of modern governance located within, and not above, history and politics. It requires that the government decide what constitutes religion (and non-religion), who counts as a legitimate religious subject or association, and who is authorized to represent them. This entrenches divisions by enforcing the interests and identities of groups defined in religious terms. It strengthens the hand of those in a position to determine what counts as religion, and whose religion counts most. It encourages states to approach religions in “cookie-cutter” fashion as static bodies of tradition and convention, and objects of regulation and reform. Practices that fall outside of the tradition are pushed aside or suppressed. Robert Orsi identified this dynamic in the tense relationship between the Catholic Church and the southern Italian popular religion of Italian Harlem’s Catholic community. Forms of religion that have “little to do with the Church”, do not “look like religion”, or are deemed politically undesirable or unorthodox – perhaps they challenge caste hierarchies, threaten entrenched material interests, or cast doubt on the legitimacy of social order in new ways – are cast out as “pagan and primitive” (Orsi, 2010, pp. 220–221).

These dynamics of empowerment and exclusion cannot be overcome with a more informed understanding of religion or a more effective legal regime. Patchen Markell (2003) challenges the equation of recognition with justice, showing how the conception of justice employed by recognition obscures the dynamics of subordination. Correspondingly, the politics of recognizing faith communities and their leaders contributes to fixing politically authorized religious difference while straining and subduing alternative forms of subjectivity and agency. Analyzing the legal and affective practices and social effects of liberal multiculturalism in Australian indigenous communities, Elizabeth Povinelli (2002) has shown that the insistence that colonized subjects identify not with the colonizer but with authentic traditional culture actually reinforces liberal regimes of governance rather than opening them up to difference. In the case at hand, the authorities marginalize those that resist or subvert the clean taxonomies and neat hierarchies of the secular–religious and religious–religious divides instantiated through regimes of religious freedom. They fall between the cracks. Exploring the diverse political possibilities in the lead-up to the establishment of Pakistan and Israel as a “Muslim Homeland” and a “Jewish National Home”, respectively, Maria Birnbaum traces the ways in which “Muslim” and “Jewish” references became differentiable and politically recognizable – in the process subsuming and suppressing a multitude of ambiguous, and sometimes contradictory, political possibilities. Uncovering the reifying tendencies of recognition, Birnbaum gestures toward alternative religio-political sensibilities that animated debates over partition (Birnbaum, 2020, 2014).

There are also parallels between religious rights and the politics of recognition of sexual and religious minorities. Joseph Massad (2002), in his famous critique of the “Gay International”, argues that this global movement reifies boundaries and risks imposing western sexual ontologies and categorizations in diverse contexts (Massad, 2002, p. 363). Adapting his terms, one could say that a “Religious Freedom International” engenders “religions” in the terms described in this chapter while rendering invisible diverse and multiform religious practices that
cannot or refuse to be assimilated into its frame. The next section discusses the forms of social and religious being and belonging excluded by a focus on belief as the essence of religion.

Believing in religious freedom

Governing through religious rights regulates religious activity along particular lines and in accordance with the logic of the free-religious marketplace. As Janet Jakobsen explains, “Freedom in this sense – and this market-based sense of freedom becomes dominant in modernity – is not the repression of activity, but it is the regulated enactment of activity along particular lines” (2005, p. 285). Religious freedom is the regulated enactment of religion along particular lines. Privileging some forms of religion over others, it excludes modes of living in the world, and ways that individuals are beholden to communities beyond the self, that do not take belief as the essence of religiosity.

International authorities have struggled to define religion or belief for the purposes of protecting religious freedom. For the UN Human Rights Committee, religion or belief includes “theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief”. For the UK FCO, whether a belief is protected depends on its “cogency, seriousness, cohesion and importance”:

The word “religion” is commonly, but not always, associated with belief in a transcendent deity or deities, i.e. a superhuman power or powers with an interest in human destiny. The term “belief” does not necessarily involve a divine being; it denotes a certain level of cogency, seriousness, cohesion and importance. So not all beliefs are covered by this protection. For example, if someone believed that the moon was made of cheese, this belief would not be likely to meet the test above.

(UK Foreign and Commonwealth Office, 2010, p. 4)

The guidelines elaborate: “The following are examples of beliefs considered to fall within the protection of this freedom: druidism, veganism, pacifism, the divine light mission, scientology, Krishna Consciousness Movement, humanism, atheism and agnosticism” (UK Foreign and Commonwealth Office, 2010, p. 4).

This anguished attempt to define religion for the purposes of international legal regulation contrasts sharply with the fact that scholars of religion gave up long ago on an exclusive focus on belief as the essence of religion. Over the past three decades, explains Constance Furey, “attention to body and society corrected the Protestant-style tendency to equate religion with interiority and belief . . . . This course correction led to a “fundamental change in the way many religionists now think about the religious subject . . . this scholarly trend in religious studies strongly undermined the assumption that the object of the religionist’s inquiry is (and should be) a freely volitional subject” (Furey, 2012, pp. 8–9). Yvonne Sherwood agrees that religion scholars “have spent most of their energy in the last 30 years decoupling religion from belief” which has been “kicked into the sidelines as a Christian/colonial imposition” (Sherwood, 2015, p. 34). This shift permitted scholars of religion to catch up with the vagaries of lived religious practice and experience.

Religious affiliation has always involved more than a choice between belief and disbelief. Citing a colonial American minister from the Carolina backwoods, historian Jon Butler reports that the minister “observed religious bewilderment, fascination, repulsion, confusion, and a distanced evasion, including indifference, rather than unbelief or a choice between belief and unbelief, or atheism” (Butler, 2010, pp. 206–207). Butler concludes that “the presence in
modern times of choice to believe, as well as choice about what to believe, is the modern representation of long difficulties and complexities of belief itself, certainly in the West” Butler, 2010, p. 215). The difficulty with equating belief and religion is that “the laity have seldom phrased their own views about religion in such dichotomous and essentially exclusive ways” (Butler, 2010, p. 211). T.M. Luhrmann reinforces the point with reference to American evangelicalism:

Secular Americans often think that the most important thing to understand about religion is why people believe in God, because we think that belief precedes action and explains choice . . . that was not really what I saw after my years spending time in evangelical churches . . . people went to church to experience joy.

(Luhrmann, 2013)

Robert Orsi agrees, noting that “the word belief bears heavy weight in public talk about religion in contemporary America: to ‘believe in’ a religion means that one has deliberated over and then assented to its propositional truths, has chosen this religion over other available options, a personal choice unfettered by authority, tradition, or society. What matters about religion from this perspective are its ideas and not its things, practices, or presences. This is not necessarily how Americans actually are religious, of course, but this account of religion carries real normative force” (Orsi, 2005, p. 18).

Viewed sceptically by those who study religion, the arguably nonexistent freely volitional subject who chooses to believe (or not) persists and carries considerable force in the world of international religious freedom. This is in part attributable to the historical context in which Article 18 of the UDHR emerged, including the influence of Christian missionaries whose interests lay in advancing a version of religious freedom that stressed the freedom to change one’s religion. As Linde Lindkvist explains, “the stress on the freedom of religious choice and the freedom to change was not derived from an abstract notion of what religious liberty is but rather stemmed from tangible concerns voiced by missionary organizations. By having this component of religious liberty recognized as a universal human right, they sought international legitimacy for those forces that worked to transform the political and religious landscapes of ‘Mohammedan societies’” (2013, pp. 442–443). The protection of religious freedom as a universal norm hinges upon a religious psychology that relies on the notion of an autonomous subject who chooses beliefs, and then enacts them freely. This requires subjects for whom believing is taken as the universal defining characteristic of what it means to be religious, and the right to choose one’s belief as the essence of what it means to be free. Anchoring this approach to religion is a specific, historically located figure of faith, and a historically contingent notion of belief.

Talal Asad questions the universality of the liberal democratic requirement that it is belief or conscience that properly defines the individual, thereby representing, for many liberals, the essence of religiosity (Asad, 2012). He dates this concept of belief to a new religious psychology and new concept of the state that began to emerge in seventeenth-century Europe. In that religious psychology, which is at the core of John Locke’s theory of toleration, belief should not be coerced because to do so would affront the dignity of the individual, and it cannot be coerced because it is located in the private space of the mind. Authenticity, according to liberal philosophers, thus “consists in the subject’s ability to choose his or her beliefs and act on them” (Asad, 2012, p. 43). Donald Lopez Jr. describes this notion as “an ideology of belief, that is, an assumption deriving from the history of Christianity that religion is above all an interior state of assent to certain truths” (Lopez, Jr., 1998, p. 31). A particular understanding of the secular state
accompanied this discourse of belief. “Although the insistence that beliefs cannot be changed from outside appeared to be saying something empirical about ‘personal belief’ (its singular, autonomous and inaccessible-to-others location), it was really part of a political discourse about ‘privacy,’ a claim to civil immunity with regard to religious faith that reinforced the idea of a secular state and a particular conception of religion” (Asad, 2012, p. 44).

Asad calls attention to the shifting, lived experience of belief. Experiences now translated as “belief” (croyance) were always embedded in distinctive social and political relationships and sensibilities. This is illustrated in Dorothea Weltecke’s description of a young peasant woman, Aude Fauré, who was brought before the Inquisition:

She was unable, she said, to credere in Deum. What she meant by this . . . emerges from the detailed context: She took the existence of a God for granted. It was because, in her desperation, she couldn’t see in the Eucharist anything but bread, and because she found herself struggling with disturbing thoughts about incarnation, that she had no hope of God’s mercy. It is not clear that the doctrine of God’s body appearing in the form of bread is being challenged here; what is certainly being expressed is her anguished relationship to him as a consequence of her own incapacity to see anything but bread. In short, it is not that our present concept of belief (that something is true) was absent in pre-modern society but that the words translated as such were usually embedded in distinctive social and political relationships, articulated distinctive sensibilities; they were first of all lived and only occasionally theorized.

(Asad, 2012, pp. 45–47; emphasis added)

This account of belief complicates the notion of a universal right to religious freedom understood as the freedom to believe or not. Inasmuch as the protection of religious freedom hinges upon and sanctifies a religious psychology that relies on a particular notion of an autonomous subject who chooses and enacts beliefs, and a particular notion of the secular state that does not (indeed cannot) coerce such beliefs, such laws and policies also privilege particular forms of religious subjectivity over others. They exclude modes of living in the world, as bodies in communities and in relationships to which they are obliged, without concern for individual belief. And even belief itself is limited. Religion or belief is a limited membership club: “There is no place at the table for purely political beliefs (known as ‘opinions’) – that is, beliefs that cannot aggregate in official and large collectives, or beliefs that lack the institutional edifices and props of antiquity to assert their status and make their case” (Sherwood, 2015, p. 41). International religious freedom is part of a larger story involving the costs and consequences of mistaking “a contingent power arrangement of the modern West for a universal and timeless feature of human existence” (Cavanaugh, 2009, p. 17).

Despite all of this, efforts to globalize the rights of believers and non-believers persist. Prominent scholars have joined a chorus of experts warning that legal protection for religious freedom should be seen no longer as “only an option” as “it is fast becoming a necessity in order to prevent the further erosion of the position of religious believers in many countries” (Evans, 2011). Advocates like Evans have charged the international community with “developing a more precise understanding of what the freedom of religion as a human right actually entails, and to do so in a coherent and transparent fashion to which all interested parties can contribute” so that “we might then be better placed to develop the means by which it can be realized” (Evans, 2011). There is a drive to settle on a norm, agree on a definition, and cement it in a convention as a cure for a host of societal ills, from poverty and oppression to violence and discrimination.
An international convention would breathe new life into an anemic global consensus that has not done enough to stem a rising tide of hostility and violence. It would tackle head-on “the overriding problem, which is how to hold States to account for their own failure to respect and protect the rights of all believers” (Evans, 2011). The reference to religion or belief, particularly outside the United States, includes non-religious belief as well. It is not only religionists but also non-religionists that are defined by belief. It is everyone.

Yet the historical particularities of the rise of a certain economy of belief, and its close ties to modern, post-Protestant notions of religion, subvert the promise of these ambitions. Such advocacy not only protects particular kinds of religious subjects, but it also helps to create individuals and faith communities for whom choosing and believing, in the sense historicized by Asad and lionized by Evans, becomes the defining characteristic of what it is to be religious, and the right to choose to believe (or not) as what it means to be free. To achieve this unity in freedom of belief—belief in belief, as it were—across communities of belief is what it means to have achieved religious freedom. There are no exceptions.

This identification of faith communities with a right to (non)belief sidelines those for whom religion is attained through practice and lived relationally as ethics, culture, and even politics but without, necessarily, belief and, perhaps, as a matter of command or presence, and not freedom. As Orsi explains: “belief has always struck me as the wrong question . . . the saints, gods, demons, ancestors, and so on are real in experience and practice, in relationships between heaven and earth, in the circumstances of people’s lives and histories, and in the stories people tell about them” (2005, p. 18). It is not that belief is necessarily absent or irrelevant to religious experience, but we need to destabilize its privilege and question its naturalness for the religious subject. It is not to deny the presence of belief but to posit its contingency on certain political, legal, and historical processes, and its complex relation to affective and corporeal practices in ways that destabilize the Cartesian divide and the dichotomy between ethics and theology. The foreclosure on religion without and beyond belief shuts out dissenters, doubters, and those on the margins of or outside of those “faith communities” celebrated by religious freedom. Who decides what counts as a religious belief deserving of special protection? “Should beliefs denounced by the medieval Latin church as superstio (wrongheadedness) therefore be regarded as secular beliefs? Or should they be pronounced religious on the criteria provided by late-Enlightenment critics for whom all religion was superstition? Is the intention to carry out a particular act always crucial to its religiosity? If so, how and by whom is that to be judged?” (Asad, 2012, p. 46).

It is also important to note that certain ways of life are protected under contemporary regimes of religious freedom: “the sort of faith–based life that accords with a modern liberal understanding of faith” (Slotte, 2010, p. 56). Protected belief includes a few major belief systems, skewed towards Christianity and token “unbelief”. This infrastructure of religious freedom is disseminated through secular international institutions and instruments. The freely choosing, believing or nonbelieving subject is, like Lila Abu-Lughod’s subject of secular liberalism, “everywhere translated, resisted, vernacularized, invoked in political struggles, and made the standard language enforced by power” (Abu-Lughod, 2010, p. 85). In the words of former US Ambassador-at-Large for International Religious Freedom Suzan Johnson Cook, “anyone who identifies as a believer . . . can come to our roundtable” (Cook, 2013). This allows the state to claim to have covered all the bases. Believers and non-believers are protected through a proliferating series of public international legal regimes and administrative initiatives that adopt this template. These initiatives promote a particular notion of (free) religion understood as a set of propositions to which believers assent (Asad, 1993, p. 41), making religion, as Webb Keane (2007, p. 67) puts it, “a matter not of material disciplines or of ritual practices . . . but of subjective beliefs”. Part of the strength and appeal of international religious freedom is drawn from its entanglement with
the political doctrine of freedom. Religiously liberated subjects are not brought into a particular American or international or capitalist normative system. They are brought into freedom itself.

The end of religious freedom?

Celebrated as the key to emancipating individuals and minority communities from violence, poverty, and oppression, religious freedom is heralded the world over as the solution to political and economic backwardness, the tyranny of immoderate and archaic forms of religion, and the violence and despair associated with a host of societal ills from women's oppression to economic desperation to environmental degradation. Communities stand in need of transformative social engineering to create the conditions in which secular states and their religious subjects become tolerant, believing or non-believing consumers of free religion, willing practitioners of faith-based solutions to collective problems, and compliant defenders of American and international security. Guaranteeing a right to religious freedom ensures an ideal balance between allegiance to the state and to (reformed) religion under law.

Powerful forces, including the law, incentivize people to articulate their needs and demands in the language of religious freedom. Some may feel they have no alternative. If being a persecuted religionist makes it more likely that development aid will be forthcoming or asylum will be granted, then there will be a rise in persecuted religionists. The point is neither to judge people who find themselves in difficult circumstances nor to undermine local groups working to assist them. But there is a larger story to be told. Privileging the category of religion in developing foreign policy, writing constitutions, protecting human rights, distributing aid, and designing humanitarian interventions creates a particular kind of world and leaves behind other possibilities for coexistence.

This chapter has analyzed the costs of locking into this narrative by protecting religion in law, positing it as a stable and coherent category in policy analysis, and privileging it as a basis for foreign policy. Viewing conflicts through the wider lens I have proposed reveals that religious rights often exacerbates the problems it is intended to solve. Religion is depicted as an exceptionally threatening form of difference that needs to be kept in check by the authorities (the logic of sectarianism). Established voices and institutions of protected groups that enjoy good relations with the authorities are privileged, while others falling into the grey areas between the secular and the religious are marginalized (the logic of empowering faith communities). An understanding of religion as the right to choose and enact one’s belief or non-belief is sanctified (the logic of the free-religious marketplace).

The solution is not a more inclusive mechanism of protection or a more inclusive model of religion as communal practice or ethics. A new and improved religious freedom will (re)-enact a new version of the same exclusionary logic. Governing difference through religious rights and freedoms authorizes particular understandings of what it means to be religious, and what it means for religion to be free. In articulating and naturalizing the lines of difference it is meant to tame, it risks exacerbating the very social tensions, discrimination, and violence that it claims to be uniquely equipped to address. In its strongest versions, religious freedom “usurps the entire universe of moral discourse” (Asad, 2003, p. 138), capturing the field of emancipatory possibility, effacing the distinction between law and justice.

Note

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References

Books and articles


**Government documents**

