

TURNING THE OTHER CHEEK: THE PERSECUTION OF THE CHRISTIAN MINORITY

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August 14, 2013 is a day that many in Egypt will not soon forget. On that day, Islamist militants, widely believed to be members of the Muslim Brotherhood, attacked Christians and Christian buildings all over the country as revenge for the government's actions against two Brotherhood protest camps in Cairo.¹ The result after days of violence: the destruction

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1. Daria Solovieva, *Egypt's Coptic Christians Face Unprecedented Reprisals from the Muslim Brotherhood*, WASH. TIMES (Aug. 20, 2013), available at <http://www.washingtontimes.com/news/2013/aug/20/egypts-coptic-christians-face-unprecedented-repris/?page=all>; George Thomas, *Killing Egypt's Christians: 'She Was Our Only Little Child,'* CBN NEWS (Nov. 7, 2013),

of more than 200 Christian-owned properties; serious damage to 43 churches; and destruction to shops, businesses, cars, and homes belonging to Christians.² Nuns from a Catholic school were paraded in the streets like prisoners of war.³ More importantly, a handful of people were killed on this day, the worst organized violence against Christians in 700 years.⁴ The majority of the violence was targeted against Coptic Christians, who supported the ouster of President Mohamed Morsi just months before.⁵ However, Catholics, Evangelical Christians, Seventh-day Adventists, and other Christians were also the victims of these crimes of hate by violent extremists.⁶

It is hard to ignore that religious intolerance is a global problem, touching every corner of the world as various religious minorities struggle to worship their faith with dignity and peace. Whether it is Baha'i leaders imprisoned in Iran for opposing theocratic rule⁷ or sectarian violence targeting Shia Muslims in Pakistan,⁸ religious minorities everywhere exist in precarious environments where practicing one's religion can be a dangerous proposition. One religious minority group that is often overlooked in the discussion of international religious freedom is Christians. The past few years have seen an alarming rise in the persecution of Christians around the world, vividly demonstrated by the events in Egypt described above. International law provides a framework to review the global persecution of Christians, namely customary international law and international treaties such as the International Covenant on Civil and Political Rights, as well as regional conventions. Before the international community can combat the global persecution of Christians, it is necessary to better understand how such persecution violates international human rights law.

This Article will first define Christians as a religious minority by

<https://www.cbn.com/cbnnews/world/2013/November/Egypt-Copts-Still-Threatened-by-Islamic-Insurgency/>.

2. U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM: 15TH ANNIVERSARY RETROSPECTIVE: RENEWING THE COMMITMENT 57 (Apr. 2014), <http://www.uscirf.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf> [hereinafter 2014 USCIRF REPORT].

3. Mail Foreign Service, *Islamist Mob Parades Nuns in Cairo as Prisoners of War*, DAILY MAIL ONLINE (Aug. 19, 2013), <http://www.dailymail.co.uk/news/article-2396764/Egypt-crisis-Islamist-mob-parades-nuns-Cairo-prisoners-war.html>.

4. Solovieva, *supra* note 1. See Kareem Fahim, *Islamists Step Up Attacks on Christians for Supporting Morsi's Ouster*, N.Y. TIMES (Aug. 20, 2013), http://www.nytimes.com/2013/08/21/world/middleeast/attacks-rise-against-egypts-christians.html?pagewanted=all&_r=0.

5. See Fahim, *supra* note 4.

6. See Seventh-Day Adventist World Church, *In Egypt, Mob Burns Adventist Church in Assiut*, ADVENTIST NEWS NETWORK (Aug. 15, 2013), <http://news.adventist.org/all-news/news/go/2013-08-15/in-egypt-mob-burns-adventist-church-in-assiut/18/>.

7. 2014 USCIRF REPORT, *supra* note 2, at 1.

8. *Id.*

looking at their status in a particular region—the Middle East/North Africa region. Next, the Article will define the contours of religious rights and protections under international law by reviewing the framework of international treaties and declarations promulgated by the United Nations and regional organizations. Then, it will review the persecution of this group highlighted in three key areas: (1) group rights; (2) individual rights; and (3) violent persecution and expulsion. This Article will end with an argument for increased efforts of enforcing current customary law and treaties, as well as creating new paradigms and measures to resist the persecution.

I. CHRISTIANS AS A RELIGIOUS MINORITY

There is no consensus in the international community for the definition of “minority.” Further, none of the international texts governing the rights of minorities offers any definition. A definition was offered by the U.N. special rapporteur on minorities, Professor Francesco Capotorti, in 1991 and enjoys the most support.⁹ Professor Capotorti suggests that,

a minority is a group which is numerically inferior to the rest of the population of a state and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language.¹⁰

A religious minority, then, is a group lacking full political power or participation based on their adherence to a religion or belief. This group may be the target of discrimination or persecution due to this status.

It may be odd to think of Christians as fitting this definition of a religious minority. After all, according to different reports and statistics, Christians comprise one-third of the world’s population and account for the largest religious group worldwide.¹¹ In the world, 68% of the countries are predominantly populated by Christians. Furthermore, Christianity has been the source of some of the vilest persecutions of humans throughout history. These numbers and perceptions alone belie

9. NATAN LERNER, RELIGION, BELIEFS, AND INTERNATIONAL HUMAN RIGHTS 33 (2000).

10. *Id.*

11. PEW RESEARCH CENTER’S FORUM ON RELIGION & PUBLIC LIFE, GLOBAL CHRISTIANITY—A REPORT ON THE SIZE AND DISTRIBUTION OF THE WORLD’S CHRISTIAN POPULATION 9–11 (Dec. 2011), <http://www.pewforum.org/files/2011/12/Christianity-fullreport-web.pdf> [hereinafter PEW CHRISTIANITY REPORT].

that there are many parts of the world where Christianity is not the dominant religion. In fact, of the 5 regions of the world studied by the Pew Forum for Religion and Public Life, there is one region where Christianity is not the dominant religion of any country in that region. This is the Middle East/North Africa region (MENA), where Christianity is a minority religion in all 20 countries included in this region.¹²

This fact is particularly striking as MENA bears the singular distinction of being the birthplace of Christianity. Beginning in Jerusalem, in modern-day Israel, it then spread north to Syria and across to Turkey, south to Egypt and east toward modern-day Iraq and Iran. It was a major religion in the Middle East until the Arab Muslim conquests of the mid-to-late 7th century A.D. A century ago, 20% of the population of the Middle East was Christian.¹³ Today, it comprises only 5% and continues to dwindle.¹⁴ Now, the majority of the region is Muslim, with Islam as the official religion in a majority of the countries.

Unfortunately, MENA bears another distinction—this region is the home of a number of countries notorious for violations of religious freedom, as evidenced by the work of the U.S. Commission on International Religious Freedom (USCIRF). USCIRF was established by the International Religious Freedom Act of 1998¹⁵ (IRFA) and is an independent, non-partisan agency distinct from the U.S. Department of State (State Department) tasked with monitoring religious freedom worldwide and providing policy recommendations to the various branches of the U.S. government. USCIRF distributes an annual report detailing religious human rights abuses and names “Countries of Particular Concern” (CPC) for that year.¹⁶ The CPC list is divided into two tiers, and then provides a watch list of the countries and regions monitored by USCIRF.¹⁷ The Tier 1 list is based on each country’s engagement in or toleration of “particularly severe” violations of religious freedom.¹⁸ IRFA defines “particularly severe” violations as ones that are “systematic, ongoing, and egregious,”¹⁹ including acts such as torture, prolonged detention without charges, disappearances, or “other flagrant denial[s] of the right to life, liberty, or the security of persons.”²⁰

12. *Id.* at 20, 76–77.

13. David Willey, *Rome “Crisis” Talks on Middle East Christians*, BBC (Oct. 10, 2010), <http://www.bbc.co.uk/news/world-middle-east-11509256>.

14. *Id.*

15. 22 U.S.C.A. § 6401.

16. 2014 USCIRF REPORT, *supra* note 2, at 5.

17. *Id.*

18. *Id.*

19. *Id.*

20. U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, ANNUAL REPORT OF THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM 3 (Apr. 2013), [http://www.uscifr.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscifr.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20(2).pdf) (Jan. 31,

Tier 1 countries include countries already officially designated as CPCs by the U.S. government and additional countries USCIRF has concluded meet the CPC threshold and should be so designated.²¹

There are 16 countries listed as a CPC Tier 1 country in USCIRF's 2014 annual report (the "2014 USCIRF Report").²² Of the 16 countries listed, 5 are found in the MENA (Egypt, Iraq, Saudi Arabia, Sudan and Syria), with a 6th country, Iran, also included (Iran is considered in the Asia region by the Pew Center).²³ For at least 6 years, USCIRF has designated 5 of these 6 countries as a CPC Tier 1 country, with 2 of the countries listed as a CPC by USCIRF or the State Department since 1999.²⁴ Syria is the outlier—it was designated as a CPC Tier 1 country for the first time in 2014.²⁵

The status of these 6 countries as bad actors with respect to religious freedom is confirmed by the "World Watch List Countries," a list developed by the organization Open Doors to highlight the global persecution of Christians.²⁶ The organization employs a complex methodology to analyze the level of persecution of Christians in a particular country.²⁷ They define "persecution" as when "Christians and their communities experience specific pressure and/or violence" based on certain dynamics present in their environments, which forces them to comply with these dynamics.²⁸ The list categorizes the top 50 countries with persecution into 4 distinctions: "extreme persecution," "severe persecution," "moderate persecution," and "sparse persecution." Not only are the 6 countries in the top 22 of the 50 countries listed, but five are ranked in the highest category of "extreme persecution" (Syria, Iraq, Saudi Arabia, Iran, and Sudan) and the 6th (Egypt) is ranked in the next category as "severe persecution."

Pew Center research supports the focus on this region. In a report released in June 2013 analyzing the effect of the Arab Spring on religious restrictions, the Pew Center found that the region with the highest growth

2012–Jan. 31, 2013) [hereinafter 2013 USCIRF REPORT].

21. 2014 USCIRF REPORT, *supra* note 2, at 39.

22. *Id.*

23. PEW CHRISTIANITY REPORT, *supra* note 11, at 75. The remaining 10 countries on the Tier 1 list are in the Asia region (Burma, China, North Korea, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam) and Sub-Saharan Africa (Eritrea and Nigeria). One country in MENA, Bahrain, appears on the Watch List.

24. 2014 USCIRF REPORT, *supra* note 2, at 20, 51, 59, 63, 83.

25. *Id.* at 87.

26. OPEN DOORS USA, WORLD WATCH LIST COUNTRIES, <http://www.worldwatchlist.us/world-watch-list-countries/> (last visited July 23, 2014).

27. OPEN DOORS USA, WORLD WATCH LIST RANKING METHODOLOGY, <http://www.worldwatchlist.us/about/ranking-methodology/> (last visited July 23, 2014).

28. *Id.*

in government restrictions and social hostilities was the MENA.²⁹ Furthermore, Egypt—the most populous country in the region—had a higher level of government restrictions in 2011 than any country in the world previously had in the five years covered by this study.³⁰ Finally, all 6 countries were listed on either the list of countries with very high government restrictions or countries with very high social hostilities, with 2 listed on both lists (Egypt and Sudan).³¹

For the sake of simplicity, the focus of this Article will be on those countries considered to be the birthplace of Christianity and those with a long history of being listed on the CPC, World Watch, and Pew Center lists. This includes Egypt, Iran, and Iraq.³²

Before turning to a review of Egypt, Iran, and Iraq, it is important to provide a description of the framework for international law concerning religious freedom under which these three countries operate.

II. RELIGIOUS RIGHTS AND PROTECTIONS UNDER INTERNATIONAL LAW

The rights of people to worship or believe as they choose according to the dictates of their conscience, either individually or as a group has been a feature of international human rights law since 1948 and continues to develop. Below is a brief summary of the international framework for the rights and protections of religious people.³³

A. *The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights*

There are three major documents created by the international community pertaining to religion and belief. The first is the Universal Declaration of Human Rights (UDHR) created in 1948.³⁴ Eighteen years later, the UDHR was turned into a binding obligation of the Member

29. THE PEW RESEARCH CENTER'S FORUM ON RELIGION & PUBLIC LIFE, ARAB SPRING ADDS TO GLOBAL RESTRICTIONS ON RELIGION (June 20, 2013), <http://www.pewforum.org/2013/06/20/arab-spring-restrictions-on-religion-findings/#relharass>.

30. *Id.*

31. *Id.*

32. Although Syria was one of the early countries where Christianity took root and sectarian violence is increasing there, it is a recent addition to USCIRF's CPC list.

33. See Johan D. van der Vyver, *Limitations of Freedom of Religion or Belief: International Law Perspectives*, 19 EMORY INT'L L. REV. 499 (2005); RELIGION & HUMAN RIGHTS: AN INTRODUCTION (John Witte, Jr. & M. Christian Green eds., 2012). See also LERNER, *supra* note 9, at 33.

34. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948) [hereinafter UDHR].

States through the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (together with the ICCPR, the “Covenants”).³⁵ All three together are considered the International Bill of Rights. The goal of Article 18 of each of the UDHR and the ICCPR³⁶ was to establish the norm for regulating freedom of religion or belief.³⁷ These documents grant each person the “right to freedom of thought, conscience and religion,” including the right to adopt their religion or belief³⁸ and the right to “manifest his religion or belief in teaching, practice, worship and observance” either individually or in community with others.³⁹ Essentially, this is the entitlement to the inner act of believing, and to external acts giving expression to one’s faith.⁴⁰

The ICCPR further expanded the protections for religious freedom offered in the UDHR. Paragraph 2 of Article 18 added the right not to be subject to coercion in having or adopting one’s choice of religion or belief.⁴¹ Article 20 ensures that any advocacy of religious hatred that incites discrimination, hostility, or violence will not be tolerated and is a violation of the treaty.⁴² Article 27 grants freedom for religious minorities to enjoy their own culture, and to profess and practice their own religion.⁴³

Egypt, Iran, and Iraq are all parties to the International Bill of Rights.⁴⁴ Egypt ratified the U.N. Charter on October 22, 1945 and ratified the Covenants on January 14, 1982.⁴⁵ Iran ratified the U.N. Charter on October 16, 1945 and ratified the Covenants on June 24, 1975. Iraq ratified the U.N. Charter on December 21, 1945 and ratified the Covenants on January 25, 1971.⁴⁶

35. International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *reprinted in* 6 I.L.M. 368 (1967) [hereinafter ICCPR]; International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, *reprinted in* 6 I.L.M. 360 (1967).

36. UDHR, *supra* note 34, art. 18; ICCPR, *supra* note 35, art. 18.

37. Van der Vyver, *supra* note 33, at 499–500.

38. *See id.* at 501.

39. UDHR, *supra* note 34, art. 18; ICCPR, *supra* note 35, art. 18(1).

40. Van der Vyver, *supra* note 33, at 500.

41. ICCPR, *supra* note 35, art. 18(2).

42. *Id.* art. 20(2).

43. *Id.* art. 27.

44. This is a feat that the United States has yet to achieve.

45. Egypt entered a declaration limiting the application of the ICCPR to Sharia law. *See* U.N. Treaty Collection, Egypt Declaration, *available at* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en#EndDec.

46. *Id.*

*B. Declaration on the Elimination of All Forms of Intolerance and
Discrimination Based on Religion or Belief*

The third document relating to international religious freedom is the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (the “Declaration” or “Dec. FROB”).⁴⁷ Proclaimed by the General Assembly on November 25, 1981, it is said to be the most significant instrument regarding religious rights and the prohibition of intolerance or discrimination based on religion or belief.⁴⁸ The Declaration was created in response to a resolution by the General Assembly in 1962 to address this type of discrimination following cases of anti-Semitism throughout the world in 1959–1960.⁴⁹ Slow progress was made over a period of twenty years until the Declaration was finalized in 1981.⁵⁰ Despite the delay, the Declaration was an accomplishment as it established the framework through which the international community currently views discrimination based on religion or belief.

Article 1 of the Declaration mirrors the ICCPR Article 18 and makes two important changes. First, the Declaration omits the mention of the right to adopt a religion or belief of one’s choice.⁵¹ This omission reflects the concerns of certain countries that changing one’s religion is not permitted under certain religious traditions (*e.g.*, Islam).⁵² In order to gain consensus, especially given the procrastination involved in drafting the Declaration, this concept was dropped.⁵³ It should be noted, however, that Article 8 of the Declaration clarifies that the Declaration does not restrict or derogate any other rights found in the UDHR or the ICCPR. Therefore, the right to adopt a religion is still valid and enforceable for those countries who have ratified the ICCPR.⁵⁴

Paragraph 1 of Article 1 of the Declaration, like Article 18 of the ICCPR, grants the right to freedom of thought, conscience and religion.⁵⁵

47. G.A. Res. 36/55 of 25 Nov. 1981, U.N. GAOR Supp. (No. 51) at 171, U.N. Doc. A/36/51 (1981), *reprinted in* 21 I.L.M. 205 (1982) [hereinafter Dec. FROB].

48. LERNER, *supra* note 9, at 20. *See generally* NATAN LERNER, GROUP RIGHTS AND DISCRIMINATION IN INTERNATIONAL LAW (2d ed. 2003).

49. LERNER, *supra* note 9, at 20.

50. *Id.* at 21. The progress on developing the Dec. FROB is deemed slow when compared to the Declaration on the Elimination of Racial Discrimination, which was mandated by the General Assembly at the same time as the Dec. FROB in 1962. The Declaration on the Elimination of Racial Discrimination was adopted one year later and turned into a convention three years after that.

51. Van der Vyver, *supra* note 33, at 500–01.

52. *Id.*

53. LERNER, *supra* note 9, at 21.

54. General Comment No. 22, U.N. GAOR, 48th Sess., 1247 mtg. P2, U.N. Doc. CCPR/C/21/Rev.1/Add.4. ¶ 3 (1993) [hereinafter General Comment].

55. Dec. FROB, *supra* note 47, art. 1(1).

Article 6 of the Declaration clearly enunciates, for the first time, what this freedom entails. It provides a list of these rights, which are either exercised by an individual or by a group. This list represents an “acceptable minimum standard” of the religious freedoms for individuals and groups.⁵⁶ It signifies important progress compared to previous U.N. instruments, which focused primarily on individual rights and not collective and group rights.⁵⁷

Although the Declaration does not have the binding obligation of a covenant, one can argue that it has the effect of *jus cogens*—customary international law. Customary international law is binding on all countries of the world, except those that have “persistently and consistently denied the binding force of particular customary norms.”⁵⁸ The Declaration has existed for more than thirty years and is used by international organizations and countries as a template for reviewing religious freedom. In fact, the concepts and expansion of the freedom of religion or belief found in the Declaration are exemplified in General Comment No. 22, a document created by the Office of the High Commissioner for Human Rights as a means to provide guidance on Article 18 of the ICCPR (the “General Comment”).⁵⁹ The General Comment adds clarification and description to the rights listed in the ICCPR and the Declaration. The exposition of the Declaration found in the General Comment gives further credence to the argument that the Declaration is customary international law, and therefore, the international community is bound by its obligations (unless a country has specifically opted out).

The rights described above are supplemented by another declaration promulgated by the General Assembly of the United Nations—the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.⁶⁰ This declaration requires governments to secure the interests of religious minorities,⁶¹ including the ability to profess and practice their own religion.⁶² Minorities are also to enjoy the right to form associations and communicate with others in their faith traditions, whether inside or outside of the country.⁶³ This declaration’s granting the right of self-determination to religious

56. LERNER, *supra* note 9, at 24–25.

57. *Id.* at 25.

58. Johan D. van der Vyver, *The Binding Force of Economic and Social Rights Listed in the Universal Declaration of Human Rights*, 30 HAMLINE J. PUB. L. & POL’Y 125, 171–72 (2008).

59. General Comment, *supra* note 54.

60. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. Res. 47/135, Annex, U.N. GAOR, 47th Sess., Supp. No. 49 (Vol. I), U.N. Doc. A/47/49 (Vol. I), at 210 (Dec. 18, 1992).

61. Johan D. van der Vyver, *The Right to Self-Determination of Religious Minorities*, in STATE RESPONSES TO MINORITY RELIGIONS 243 (David M. Kirkham ed., 2014).

62. LERNER, *supra* note 9, at 35.

63. *Id.*

minorities enhances each state's duty to respect the religious human rights of all individuals and groups within its borders.

C. Regional Agreements Pertaining to Human Rights

In addition to the international documents discussed above, certain regions or intergovernmental groups have created their own treaties or documents on human rights, either as a way to incorporate the obligations of the UDHR/ICCPR into the law of the regional body or as a supplement to the UDHR/ICCPR.⁶⁴ It is important to review whether the three countries have signed any such regional treaties.

Egypt, Iran, and Iraq are all members of the Organization of Islamic Cooperation,⁶⁵ which established the Cairo Declaration on Human Rights in Islam (Cairo Declaration).⁶⁶ Created in 1990, it was established as a supplement to the UDHR and a counterpoint to the contention by Islamic countries that the international human rights framework is biased toward Western countries and does not adequately address the needs and cultural reality of non-Western countries.⁶⁷

The Cairo Declaration is to "serve as a general guidance for Member States in the [f]ield of human rights."⁶⁸ It is primarily concerned with protecting the fundamental rights and freedoms according to Islam,⁶⁹ although it is applicable to all people—Muslims and non-Muslims.⁷⁰ Although it does not specifically grant the freedom of thought, religion or belief in the same way as the UDHR, ICCPR, and the Dec. FROB, it

64. See Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on Sept. 21, 1970, Dec. 20, 1971, Jan. 1, 1990, and Nov. 1, 1998 respectively. For example, Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms promulgated by the Council of Europe in 1950 grants the freedom of thought, conscience, and religion using the same language found in Article 18 of the UDHR.

65. See Organisation of Islamic Cooperation, <http://www.oic-oci.org/oicv2/states/> (last visited July 23, 2014). Egypt joined the Organization of Islamic Cooperation in 1969, Iran in 1969, and Iraq in 1975.

66. Cairo Declaration on Human Rights in Islam, Aug. 5, 1990, U.N. GAOR, 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993) [English translation] [hereinafter Cairo Declaration].

67. Donna E. Arzt, *The Treatment of Religious Dissidents Under Classical and Contemporary Law*, in RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE: RELIGIOUS PERSPECTIVES 387, 397 (Johan D. van der Vyver & John Witte, Jr. eds., 1996). The Cairo Declaration was preceded by the Universal Islamic Declaration of Human Rights, created by the Islamic Councils in Paris and London in September 1981. See University of Minnesota Human Rights Library, Universal Islamic Declaration of Human Rights, available at https://www1.umn.edu/humanrts/instree/islamic_declaration_HR.html (last visited July 23, 2014).

68. Cairo Declaration, *supra* note 66, pmbl.

69. *Id.*

70. Arzt, *supra* note 67, at 396.

does specify that everyone shall have the right to live in security of his religion (ironically, this right is contained in Article 18 of the Cairo Declaration). The Cairo Declaration contains a clause regarding freedom from coercion (Article (1)) and the prohibition of incitement to “doctrinal hatred” (Article 22(d)). The most important provisions, however, are Articles 24 and 25. These articles subject the entirety of the Cairo Declaration to Islamic Sharia law, noting that it is the “only source of reference for the explanation or clarification of any of the articles” of the Cairo Declaration.⁷¹

The limitation of the Cairo Declaration to Sharia law is in direct tension with the ICCPR and the Dec. FROB. The General Comment states that any limitation on the freedom to manifest a religion or belief for the protection of protecting morals cannot be based on a single tradition⁷² (*i.e.*, Islam). Furthermore, the General Comment states that the recognition of a state religion or one that is established as official or traditional shall not result in “any impairment of the enjoyment of any of the rights” under the ICCPR, especially articles 18 and 27, nor in any discrimination against adherents to other religions.⁷³ Paragraph 10 extends this protection to persons who do not accept a “set of beliefs treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice.”⁷⁴ To the extent Sharia law limits the religious freedom of individuals or groups, it is in direct contravention to the ICCPR and the Dec. FROB. For example, the Egyptian government interprets Sharia as forbidding the conversion of Muslims to Christianity, with local officials refusing to recognize such conversions legally.⁷⁵ This prohibition on conversion is a violation of the ICCPR and the Dec. FROB.⁷⁶

Egypt and Iraq are members of another regional intergovernmental group—the Council of the League of Arab States (Arab League).⁷⁷ The

71. Cairo Declaration, *supra* note 66, arts. 18, 22(d), 24, 25.

72. General Comment, *supra* note 54, ¶ 8.

73. *Id.* ¶ 9.

74. *Id.* ¶ 10.

75. BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEP’T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT OF 2012—COUNTRY REPORT: EGYPT 4 (2012) [hereinafter 2012 STATE DEP’T REPORT—EGYPT].

76. See *infra* Part III.B.

77. See “Arab League,” Columbia Encyclopedia (2013), available at <http://www.questia.com/read/1E1-ArabLeag/arab-league> (last visited July 23, 2014). Both countries were founding members in 1945. It should be noted that Egypt is also a member of the African Union and has ratified the African Charter on Human’s and People’s Rights (*adopted* June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986) [hereinafter African Charter]. The only provision in the African Charter regarding religious freedom is Article 8, which guarantees freedom of conscience, the profession and free practice of religion, subject to law and order. As these concepts are covered by the ICCPR and the Arab Charter, the following discussion regarding these instruments will be deemed to apply to the African Charter as well.

Arab League established the Arab Charter on Human Rights in 2004 and it entered into force in 2008 (Arab Charter).⁷⁸ Iraq is a party to the charter, though Egypt is not (it signed, but has not ratified the agreement).⁷⁹ The charter states that it reaffirms the principles of the U.N. Charter, the International Bill of Rights and the Cairo Declaration.⁸⁰ Article 31 of the charter grants religious freedom along the same lines as the ICCPR. Article 25 of the Arab Charter protects the rights of minorities to enjoy their own culture, to use their own language and to practice their own religion according to law, which is similar to the protections of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It should be noted that although the freedom of religion or belief aligns with international norms, other provisions of the Arab Charter do not, and thus, the Arab Charter has not been universally accepted by members of the international community.⁸¹ Egypt and Iraq's adherence to the Arab Charter, at least in terms of religious rights, will be consistent with their obligation under the International Bill of Rights, but is in tension with the Cairo Declaration.

In theory, then, it would seem that the three countries support the human right of religious freedom. The next Part will explore the reality of the countries' adherence to international norms.

III. PERSECUTION OF CHRISTIANS IN EGYPT, IRAN, AND IRAQ

This Part will explore the persecution of Christians in three key areas: (1) group rights; (2) individual rights; and (3) the violent persecution and expulsion of Christians. The examples of persecution described in this Part are extracted from the following sources: (a) the 2014 USCIRF Report;⁸² (b) the 2013 USCIRF Report;⁸³ (c) the various country reports of the U.S. Department of State's International Religious Freedom Report of 2012;⁸⁴ and (d) the testimony of a USCIRF Commissioner before the

78. Arab Charter on Human Rights, May 22, 2004, *reprinted in* 12 INT'L HUM. RTS. REP. 893 (2005) [hereinafter Arab Charter].

79. See *Arab League Urges Egypt to Join Arab Charter on Human Rights*, SPUNIK INT'L, available at <http://en.ria.ru/world/20120401/172528299.html> (last visited July 23, 2014). The Arab League has urged Egypt to ratify the Arab Charter.

80. Arab Charter, *supra* note 78, pmbl.; *id.* art. 30.

81. See Staff, *Arab Rights Charter Deviates from International Standards, Says UN Official*, U.N. NEWS SERVICE (Jan. 30, 2008), available at <http://www.un.org/apps/news/story.asp?NewsID=25447&Kw1=arab&Kw2=charter&Kw3=#.U9G9MfldUus>.

82. 2014 USCIRF REPORT, *supra* note 2.

83. 2013 USCIRF REPORT, *supra* note 2.

84. BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT OF 2012 (2012), <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper> [hereinafter 2012 STATE DEP'T REPORT]. As with USCIRF, the State Department is required to provide an annual report pursuant to the International

House Foreign Affairs Committee in February 2014.⁸⁵ These documents reflect information gathered from country visits and investigations, media sources, and reports from non-governmental organizations, thereby offering a comprehensive source of current material for the 2011–2014 period.

A. Group Rights

The ICCPR in general, and the Dec. FROB in particular, protect the right of individuals to manifest their religion or belief in community with others and in public or private. There are different activities included in this right. One of them is the ability to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes.⁸⁶ Another is to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief,⁸⁷ as well as to write, issue, and disseminate relevant publications in these areas.⁸⁸ Group rights also include the ability to teach a religion or belief in places suitable for these purposes⁸⁹ and to establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels.⁹⁰

The group rights of Christians have been violated in Egypt, Iran, and Iraq. In Egypt, the new 2014 constitution requires the government to issue laws regulating the construction and renovation of churches, in a manner that guarantees the freedom to practice religious rituals for Christians.⁹¹ Until now, the government has not protected this right in practice. Non-Muslims must obtain a presidential decree to build new churches and they must receive permission from one of the 26 governors to expand or rebuild an existing church.⁹² In 2012, President Morsi did not issue any decrees authorizing construction of churches, and there have been claims that local officials have abused their authority to issue repair permits or

Religious Freedom Act of 1998. This report covers the same time period as the 2013 USCIRF Report: January 2012 to December 2012. When appropriate, citation will be made to the specific country report included in the 2012 STATE DEP'T REPORT (*e.g.*, EGYPT, *supra* note 75).

85. *The Persecution of Christians as a Worldwide Phenomenon Before the Subcomm. on Africa, Global Health, Global Human Rights, and International Organizations of the H. Comm. on Foreign Affairs*, 113th Cong. 2 (2014) (testimony of Elliott Abrams, U.S. Comm'n on Int'l Religious Freedom) [hereinafter *House Testimony on the Persecution of Christians*].

86. Dec. FROB, *supra* note 47, art. 6(a).

87. *Id.* art. 6(c).

88. *Id.* art. 6(d).

89. *Id.* art. 6(e).

90. *Id.* art. 6(i). These group rights are confirmed in the General Comment. See General Comment, *supra* note 54, ¶ 4.

91. CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, Jan. 18, 2014, art. 235.

92. 2012 STATE DEP'T REPORT—EGYPT, *supra* note 75, at 6.

forward building petitions.⁹³ In one instance, a pastor of a Coptic Orthodox church was sentenced to six months in prison and fined for violating a repair permit (he won his appeal and never served any jail time).⁹⁴

The government of Iran also has stringent rules burdening the ability of Christians to worship as a group. Ethnic Christians, mostly Assyrians and Armenians, are allowed to conduct religious services, but not in Persian.⁹⁵ Government ministries closely monitor the communal, religious and cultural events and organizations of Christians, including schools.⁹⁶ Evangelical Christian congregations are required to compile and submit membership lists.⁹⁷ Further, the government restricts published religious material and will frequently confiscate Bibles or non-sanctioned non-Muslim materials to cease operations.⁹⁸ The Ministry of Education permits recognized private religious schools, but the directors must be Muslim and the government must approve their texts if it is in a non-Persian language.⁹⁹ This last requirement sometimes imposes significant translation expenses on minority communities.¹⁰⁰ Since the 1979 Revolution, the government has prevented the construction of new churches.¹⁰¹ Yet, Christians are harassed when trying to worship in private home churches.¹⁰² The media will characterize them as “illegal networks” and supported by enemy countries.¹⁰³ The police raid the home churches and arrest those worshipping.¹⁰⁴

The Iraqi government requires Christian groups to register.¹⁰⁵ This registration requirement, however, imposes burdens on the groups. Any group must have a minimum of 500 adherents in the country to register.¹⁰⁶ Without registration, the groups are vulnerable to the consequences of

93. *Id.* at 10.

94. *Id.*

95. *House Testimony on the Persecution of Christians*, *supra* note 85, at 13.

96. BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT OF 2012—COUNTRY REPORT: IRAN 4 (2012), available at <http://www.state.gov/documents/organization/208600.pdf> [hereinafter 2012 STATE DEP'T REPORT—IRAN].

97. *Id.*

98. *Id.*

99. *Id.* at 5.

100. *Id.*

101. *House Testimony on the Persecution of Christians*, *supra* note 85, at 13.

102. 2012 STATE DEP'T REPORT—IRAN, *supra* note 96, at 13.

103. *Id.*

104. *Id.*

105. BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT OF 2012—COUNTRY REPORT: IRAQ 5 (2012), available at <http://www.state.gov/documents/organization/208602.pdf> [hereinafter 2012 STATE DEP'T REPORT—IRAQ].

106. *Id.*

violating the law and will not receive government funding for facilities. This requirement has proven burdensome for evangelical churches, who have been unable to obtain official registration from the government due to having fewer than 500 adherents in the country.¹⁰⁷

B. Individual Rights

The violations referenced above not only hinder the ability of the group to worship freely, but it also hinders the individual within the group. In addition to these violations, there are other burdens placed on an individual in Egypt, Iran or Iraq when exercising the international right to religious freedom.

The most common practice in all three countries is the prohibition on proselytizing—the ability of a religious adherent to share their faith with others. This is a special impediment on religious rights for Christians, as witnessing and teaching the Gospel to all the world is a central tenet of all Christian doctrines.¹⁰⁸ While there is no provision in the constitution or penal code of Egypt banning the practice, non-Muslim minorities and foreign religious workers generally refrain from proselytizing to avoid legal penalties and repercussions from authorities or local Islamists.¹⁰⁹ Proselytizing is punishable by death in Iran.¹¹⁰ In Iraq, a pastor was arrested and convicted under terrorism charges; however, his family and supporters said it was a ruse to convict him for proselytizing.¹¹¹

Another issue faced by Christians is the ability to change one's religion from Islam to Christianity. The General Comment confirms that each person is to have the right to replace one's current religion or belief with another¹¹² and to have freedom from coercion that would impair this right including the use of threat of physical force or penal sanctions.¹¹³ This includes a prohibition on policies that would restrict access to education, medical care, employment or other rights.¹¹⁴ This right is in direct opposition to Islamic countries' interpretation of the Koran under Sharia law, which prohibits conversion to another religion (*i.e.*, disbelief in Allah) and is punishable by death.¹¹⁵ Consistent with this interpretation, then, one can understand the reason the countries of Egypt, Iran and Iraq treat apostates with contempt, if not worse, as Islam is the official religion and Sharia is the foundation of the law. This also explains

107. *Id.* at 8.

108. *Matthew* 28:19–20.

109. 2012 STATE DEP'T REPORT—EGYPT, *supra* note 75, at 4.

110. 2012 STATE DEP'T REPORT—IRAN, *supra* note 96, at 4.

111. 2012 STATE DEP'T REPORT—IRAQ, *supra* note 105, at 8.

112. General Comment, *supra* note 54, ¶ 5.

113. *Id.*

114. *Id.*

115. ABDULLAHI AHMED AN-NA'IM, MUSLIMS AND GLOBAL JUSTICE 154, 157 (2011).

the reason blasphemy and defamation charges are so prevalent in these countries. In Egypt, Article 98(f) of its penal code prohibits “contempt” or “defamation” of religions.¹¹⁶ Since January 2011, USCIRF has observed a significant increase in contempt-of-religion cases, where Christians are disproportionately affected.¹¹⁷ According to a human rights organization in Egypt, 63 individuals have been tried for defamation of religion from January 2011 to the end of 2012 and 41% were Christian¹¹⁸ (where estimates put the total Christian population at just 4–15%¹¹⁹). In Iran, the situation is not much better. A Christian pastor, Youcef Nadarkhani, was arrested for apostasy.¹²⁰ Although he was acquitted of that charge, he spent 2 years in jail for evangelizing to Muslims.¹²¹ Unfortunately, his lawyer fared worse. A prominent human rights lawyer, Mohammed Ali Dadkhah was convicted of propaganda against the regime and was sentenced to 9 years in prison.¹²² The U.N. Rapporteur on the Situation of Human Rights in Iran, Ahmed Shaheed, stated in an October 2013 report that since 2010 more than 300 Christians have been arrested and detained arbitrarily and as of July 2013, at least 20 Christians were detained or in prison in Iran.¹²³ This includes the Iranian-born American pastor, Saeed Abedini, who was sentenced to 8 years in prison for being a leader in Iran’s house church movement.¹²⁴

Christians, whether converts or Christians by birth, face different types of discrimination in all three countries. While the countries allow the religious minority community to use its own laws for family law matters (*e.g.*, marriage, inheritance, adoption), the law will favor the Muslim individual if there is a Muslim and a Christian involved.¹²⁵ The same is true regarding criminal penalties. Christians will serve longer, more severe sentences than a Muslim counterpart.¹²⁶ Also, converts will be prohibited from changing their personal status to “Christian” on birth

116. *House Testimony on the Persecution of Christians*, *supra* note 85, at 9.

117. *Id.*

118. *Id.*

119. PEW CHRISTIANITY REPORT, *supra* note 11, at 13. The Pew Center’s estimate is lower than that of the USCIRF and State Department, which puts the population at 10–15%. *See* 2013 USCIRF REPORT, *supra* note 20; 2012 STATE DEP’T REPORT, *supra* note 84.

120. 2012 STATE DEP’T REPORT—IRAN, *supra* note 96, at 7.

121. *Id.*

122. *Id.*

123. Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, *Situation of Human Rights in the Islamic Republic of Iran*, ¶ 43, U.N. Doc. A/68/503 (Oct. 4, 2014) (by Ahmed Shaheed).

124. 2014 USCIRF REPORT, *supra* note 2, at 60.

125. 2012 STATE DEP’T REPORT—EGYPT, *supra* note 75, at 5; 2012 STATE DEP’T REPORT—IRAQ, *supra* note 105, at 4; *House Testimony on the Persecution of Christians*, *supra* note 85, at 39.

126. *House Testimony on the Persecution of Christians*, *supra* note 85, at 39.

certificates, identification cards and passports.¹²⁷ Furthermore, Christians not allowed to observe days of rest celebrate holidays in accordance with their religion, as some governments prescribe one particular day for church meetings¹²⁸ or conduct raids of home churches on Christmas Day.¹²⁹ Finally, Christians face discrimination in government hiring practices for civil service positions and are underrepresented in all forms of government.¹³⁰

The denial of group and individual rights is a serious problem in Egypt, Iran, and Iraq. It becomes worse, however, when the discrimination and harassment turns violent. This will be explored in the next Part.

C. Violent Persecution and Expulsion

The ICCPR ensures a number of rights and freedoms, in addition to the ones pertaining to religious freedom. Article 18 prohibits anyone from being subject to coercion impairing their freedom to have or adopt a religion or belief of their choice.¹³¹ In a similar vein, Article 20 prohibits any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.¹³² At a more basic level, Articles 6, 9, and 12 guarantee the inherent right to life and the freedom from being arbitrarily deprived of it; the right to liberty and security of person preventing arbitrary arrest or detention; and the right to liberty of movement and freedom to choose his residence.¹³³

The above rights are implicated whenever the persecution of Christians take a violent turn, either at the hands of the government or by non-state actors. One form of violent persecution is mob violence, involving attacks on person and property. The deadly attack in Egypt described in the introduction is a perfect example. Occurring throughout the country, it appears the attacks were coordinated by Islamist extremists.¹³⁴ This is but one of several attacks against the Coptic Christian community in Egypt.¹³⁵ The largest Christian community in the Middle East, Coptics have endured persecution through the years, but

127. 2012 STATE DEP'T REPORT—EGYPT, *supra* note 75, at 6.

128. 2012 STATE DEP'T REPORT—IRAN, *supra* note 96, at 13.

129. *Id.* at 12.

130. 2012 STATE DEP'T REPORT—EGYPT, *supra* note 75, at 1, 11; 2012 STATE DEP'T REPORT—IRAN, *supra* note 96, at 1, 4, 7; 2012 STATE DEP'T REPORT—IRAQ, *supra* note 105, at 8, 13.

131. ICCPR, *supra* note 35, art. 18, ¶ 2.

132. *Id.* art. 20, ¶ 2.

133. *Id.* arts. 6, ¶ 1; 12, ¶ 1.

134. 2014 USCIRF REPORT, *supra* note 2, at 52.

135. *Id.*

especially after the 2011 ouster of Mubarak.¹³⁶ In October 2011, 25 persons were killed and over 300 injured when the mostly Coptic demonstration at the Maspiro radio and television building in Cairo in October 2011 was attacked.¹³⁷ In July 2012, violent clashes began in the town of Dahshour after a Coptic-owned laundry accidentally scorched a Muslim man's shirt.¹³⁸ One Muslim bystander was killed, 9 police were injured, and one vehicle destroyed.¹³⁹ The Coptic villagers were evacuated while their homes were destroyed.¹⁴⁰ Most of the families returned, only for some to find their houses uninhabitable.¹⁴¹

Mob violence is prevalent in Iraq as well. On December 2, 2011, 300 to 1000 rioters attacked Christian and Yezidi businesses in Dahuk Province, burning and destroying 26 liquor stores, a massage parlor, four hotels, and a casino.¹⁴² Throughout 2012, there were 4 attacks on Christian churches.¹⁴³ Many worshippers reportedly did not attend religious services out of fear of violence.¹⁴⁴ There was also an increase in death threats as well.¹⁴⁵ As in the story of Dashour, Egypt above, Christians in Iraq were forced to abandon their home out of violence. Such was the case in September 2012 when gunmen robbed and set fire to a house belonging to a Christian family in Baghdad.¹⁴⁶ The family left and had not returned by the end of 2012.¹⁴⁷ Altogether, a local human rights organization reported 5 killings, 5 kidnappings, 12 unsuccessful assassination attempts, and 17 other attacks against Christians in Iraq in 2012.¹⁴⁸

The government's hands are not clean either. In Iran, the government has been responsible for raiding the homes of Christians and arresting anyone suspected of worshiping in private home churches.¹⁴⁹ Some individuals were released, while others languish in prison without proper medical attention.¹⁵⁰

A number of acts of violence were incited by non-state actors, such as imams and the media. In Egypt, a state media television announcer

136. *House Testimony on the Persecution of Christians*, *supra* note 85, at 24.

137. 2012 STATE DEP'T REPORT—EGYPT, *supra* note 75, at 7.

138. *Id.* at 12.

139. *Id.*

140. *Id.*

141. *Id.*

142. 2012 STATE DEP'T REPORT—IRAQ, *supra* note 105, at 7.

143. *Id.* at 10.

144. *Id.*

145. *Id.* at 12.

146. *Id.* at 14.

147. *Id.*

148. *Id.*

149. 2012 STATE DEP'T REPORT—IRAN, *supra* note 96, at 7, 11.

150. *Id.*

publicly called on Egyptians to “protect” the army from Christians.¹⁵¹ After the ouster of President Morsi, members of the Muslim Brotherhood and Freedom and Justice Party negatively referred to Coptics in public and press conferences, and the government did nothing.¹⁵² In Iran, the conservative media continues to disparage non-Muslim religious minorities.¹⁵³ Political and religious leaders continued to issue inflammatory statements against non-Muslims.¹⁵⁴ The attack against Christians in the Dahuk riots in Iraq were instigated by midday prayers given by an imam at the nearby mosque.¹⁵⁵

If the government does not protect Christians from acts of non-state persons, or fails to pursue the capture and arrest of those perpetrators under its own non-discrimination laws, it fosters impunity¹⁵⁶ and an atmosphere of persecution. The government failed to protect Christians and their property effectively when they were attacked on August 14, 2013 and in other incidents throughout Egypt. For example, the government did not investigate and prosecute any military or police commanders responsible for ordering or failing to prevent violence against the demonstrators in Maspairo.¹⁵⁷ The government will often sponsor or permit “reconciliation sessions” following communal violence and sectarian attacks instead of prosecuting the perpetrators of the crimes.¹⁵⁸ The State Department reports more incidents of the government failing to even offer the minimum standard of duty when handling crimes against Christians.¹⁵⁹ This failure to act is an act of persecution in itself.

D. Concluding Observations

The persecution of Christians in Egypt, Iran, and Iraq does not take place in a vacuum, nor is it solely targeted against Christians. Instead, it takes place among civil strife affecting diverse groups, including other religious minorities such as a minority Muslim population (*i.e.*, Sunni Muslims in a predominantly Shia Iran and Iraq, or Shia Muslims in predominantly Sunni Egypt¹⁶⁰), as well as Jews, Bahai’s and Yezedi’s, amongst others. The government in all three countries is attempting to cope with diverse and divergent populations.

151. 2012 STATE DEP’T REPORT—EGYPT, *supra* note 75, at 9.

152. *Id.* at 12–13.

153. 2012 STATE DEP’T REPORT—IRAN, *supra* note 96, at 16.

154. *Id.*

155. 2012 STATE DEP’T REPORT—IRAQ, *supra* note 105, at 7.

156. See 2014 USCIRF REPORT, *supra* note 2, at 52, 63.

157. 2012 STATE DEP’T REPORT—EGYPT, *supra* note 75, at 7.

158. *Id.*

159. See 2012 STATE DEP’T REPORT—EGYPT, *supra* note 75, at 9, 12, 13.

160. 2014 USCIRF REPORT, *supra* note 2, at 60, 63–64.

As noted by international human rights scholar, Professor Johan D. van der Vyver, there are three different mechanisms for dealing with group rivalries in highly polarized communities:

- (a) Separate the rival groups from one another;
- (b) Create homogeneity by uniting the people under the umbrella of a single ethnic, religious or linguistic identity; or
- (c) Promote the right to self-determination of ethnic, religious or linguistic communities.¹⁶¹

Based on the above review of religious freedom of Christians, it appears Egypt, Iran and Iraq favor the second option. Creating homogeneity requires eliminating the group-related foundation that might lead to conflict within a political community,¹⁶² which in this case is religion. Instead of honoring the religious diversity of their countries, the governments not only actively suppress the rights of Christians, but they also standby while others persecute them and trample their rights as well. Both state and non-state actors are coercing the Christian population, as well as other religious minorities in the community, into accepting Islamic norms and practices in order to create a single culture based on Sharia law.

It should be noted that the Iraq Council of Ministers announced in January 2014 the in-principle creation of three new provinces, including one in the largely Christian Nineveh Plains in order to stop the emigration of Christians.¹⁶³ The goal for the province in Nineveh is for the Assyrians to have self-administration within this proposed province.¹⁶⁴ The agreement of the government to consider this plan is the result of Assyrian politicians in and out of Iraq lobbying for years to give Christians autonomy there.¹⁶⁵ Ideally this plan was a good start as it showed the Iraqi government's acknowledgement of Christians' right to self-determination, in line with the third measure proposed by Professor van der Vyver. Unfortunately, the sectarian violence begun in June 2014 by the Islamic State in Iraq and al-Sham (ISIS),¹⁶⁶ an Islamist group,¹⁶⁷ has derailed this effort. ISIS has effectively expelled Christians from

161. Van der Vyver, *supra* note 61.

162. *Id.*

163. 2014 USCIRF REPORT, *supra* note 2, at 64.

164. Peter BetBasoo & Nuri Kino, *Will a Province for Assyrians Stop Their Exodus from Iraq?*, ASSYRIAN INT'L NEWS AGENCY (Jan. 22, 2014), <http://www.aina.org/releases/20140122133822.htm>.

165. Judit Neurink, *Nineveh for Christians? Let's Wait and See*, RUDAW (Jan. 24, 2014), <http://rudaw.net/english/middleeast/iraq/24012014>.

166. This group is also known as the Islamic State of Iraq and the Levant (ISIL).

167. See Lawrence Wright, *ISIS's Savage Strategy in Iraq*, NEW YORKER (June 16, 2014), <http://www.newyorker.com/news/daily-comment/isiss-savage-strategy-in-iraq>.

Mosul, a town in the Nineveh region, and continues to persecute and expel religious minorities, including Christians, from other parts of the region.¹⁶⁸

IV. REMEDIES TO END THE PERSECUTION OF CHRISTIANS

The discussion in the preceding Parts have given just a small sample of the persecution facing Christians around the world. This Part will argue for the next steps that can be taken in order for these countries to be compliant with international law.

A. Enforcement Under Existing Frameworks

The most obvious remedy is to enforce the treaties and agreements that have already been ratified by the three countries. The enforcement mechanism of the ICCPR includes a reporting procedure whereby Member States are required to submit an initial report and then any subsequent reports upon request of the Human Rights Council.¹⁶⁹ It also provides an inter-state adversarial procedure allowing for Member States to hold other states accountable for violations of the treaty.¹⁷⁰ An Optional Protocol to the ICCPR allows for the individual complaint procedure whereby an individual who is victim of the violation can file a complaint against the Member State having jurisdiction over the violation.¹⁷¹

The Arab Charter requires the Member States to undertake to adopt whatever legislative or non-legislative measures necessary to give effect to the rights therein.¹⁷² It should be noted that the language is permissive—“undertakes”—rather than mandatory—“shall.” Like the ICCPR, the Arab Charter requires Member States to follow a reporting

168. Sophie Jane Evans, *Thousands of Iraqi Christians Pour Out of Mosul After ISIS Jihadis Give Them Deadline to Convert, Pay or Face Death*, DAILY MAIL ONLINE (July 19, 2014), <http://www.dailymail.co.uk/news/article-2698114/Thousands-Iraqi-Christians-pour-Mosul-ISIS-jihadis-deadline-convert-pay-face-death.html#ixzz38uyaaJ5E>; Stoyan Zaimov, ‘Unprecedented’ Forced Exodus of Iraqi Christians Leaves Christianity Near Extinction in Middle East, *Watchdog Groups Warn*, CHRISTIAN POST (July 22, 2014), <http://www.christianpost.com/news/unprecedented-forced-exodus-of-iraqi-christians-leaves-christianity-near-extinction-in-middle-east-watchdog-groups-warn-123650/>; see U.S. Comm’n on Int’l Religious Freedom, USCIRF Condemns ISIL’s Actions in Mosul, Iraq, USCIRF (July 22, 2014), <http://www.uscifr.gov/news-room/press-releases/uscifr-condemns-isil-s-actions-in-mosul-iraq>.

169. ICCPR, *supra* note 35, art. 40.

170. *Id.* art. 41.

171. See Optional Protocol to the International Covenant on Civil and Political Rights, adopted Dec. 19, 1966, 999 U.N.T.S. 302.

172. Arab Charter, *supra* note 78, art. 44.

procedure.¹⁷³ The Member States are to submit an initial report and then one every three years.¹⁷⁴

In order to fight persecution under these documents, the international community should ensure Egypt, Iran and Iraq comply with the reporting procedures mandated by both the ICCPR and the Arab Charter. Given the countries reputation as bad actors with respect to religious freedom, it might be wise for the United Nations to increase the frequency with which it requests periodic reports. Also, other Member States should courageously file a complaint under the inter-state adversarial procedure.¹⁷⁵ This procedure, however, has never been used.¹⁷⁶ Member States may have a fear of retaliation. Also, some Member States might think it is more effective to work productively with a violating country, rather than take punitive actions. However, filing complaints could be effective as it would allow for more ad hoc deliberation on issues as they occur, as opposed to waiting a number of years for the next periodic review cycle for a report to be filed.

In addition to these existing mechanisms, there might be other enforcement tools to aid in the persecution of Christians.

B. Recommendations for Further Enforcement

Given the three countries' intransigent belief that their countries should be governed by Sharia law and their interpretations of the Koran will not allow the government to accept the conversion of individuals from Islam, recommending any measures that would involve a vote by them (*i.e.*, adding protocols to the ICCPR or Arab Charter to improve the reporting procedure, or turning the Dec. FROB into a convention) will not be productive or effective as past efforts have failed.¹⁷⁷ Instead, action should be taken by other parties within the international community.

The first action is to increase the rapidity in which the U.N. Special Rapporteur on freedom of religion or belief (Special Rapporteur) reacts to situations. The Special Rapporteur is an independent expert who was appointed by the U.N. Human Rights Council through a series of resolutions.¹⁷⁸ This person is responsible for identifying existing and emerging obstacles to the enjoyment of the right to freedom of religion

173. *Id.* art. 48.

174. *Id.*

175. *See supra* text accompanying note 167.

176. U.N. Human Rights: Office of the High Comm'r for Human Rights, *Human Rights Bodies—Complaints Procedures*, OHCHR, <http://www.ohchr.org/EN/HRBodies/TBPPetitions/Pages/HRTBPetitions.aspx#interstate> (last visited July 23, 2014).

177. *See* LERNER, *supra* note 9, at 21.

178. *See* U.N. Human Rights: Office of the High Comm'r for Human Rights, *Special Rapporteur on Freedom of Religion or Belief*, OHCHR, <http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx> (last visited July 23, 2014).

or belief, and presenting recommendations on ways and means to overcome such obstacles.¹⁷⁹ In order to accomplish this, the Special Rapporteur is authorized to take the following actions:

- (a) transmit urgent appeals and letters of allegation to Member States with regard to cases that represent infringements of, or impediments to, the exercise of the right to freedom of religion and belief;
- (b) undertake fact-finding country visits; and
- (c) submit annual reports to the Human Rights Council and General Assembly, on the activities, trends and methods of work.¹⁸⁰

The Special Rapporteur performs one to three country visits per year.¹⁸¹ In addition to the country visits that are planned in advance, the Special Rapporteur should be authorized to conduct investigations on an *ad hoc* basis as soon as the office becomes aware of a serious violation or coordinated series of violations. The office should function in the same way as the USCIRF. The USCIRF has commissioners who specialize in a specific region of the world and are in constant communication with non-governmental organizations (NGOs) and make trips to a particular country as often as needed.¹⁸² In this way, USCIRF provides up-to-the-minute, current reporting on situations as they develop and is able to issue press releases to that effect.¹⁸³ A quick comparison of each office's website shows that USCIRF is more effective in highlighting trouble areas sooner than the Special Rapporteur.

The one challenge is the fact that Member States may be reluctant to invite the Special Rapporteur for visits, or agree to a request for such a visit. However, this could be overcome by emphasizing the cooperative nature of the work with the Special Rapporteur—they are there to help address problems and find solutions, not necessarily to bring punitive action.

Another recommendation could also be cooperative in nature. Just like the international tribunals for the former Yugoslavia, Rwanda and other countries or the Truth and Reconciliation Commission in South Africa, the United Nations could establish a tribunal or truth commission for

179. *Id.*

180. *Id.*

181. See U.N. Human Rights: Office of the High Comm'r for Human Rights, *Country Visits*, OHCHR, <http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Visits.aspx> (last visited July 23, 2014).

182. See 2013 USCIRF REPORT, *supra* note 20, at 1–3.

183. See U.S. Comm'n on Int'l Religious Freedom, *News Room*, USCIRF, <http://www.uscifr.gov/news-room> (last visited July 23, 2014).

ICCPR Article 18 violations of the freedom of religion or belief. This Article 18 tribunal could be a roving tribunal, established in cooperative countries instead of at The Hague or in New York. In this way, it could be more responsive to the local or regional community. Complaints could be brought to the tribunal for resolution. Again, the idea would be to foster communication and settlement between individuals or groups (*e.g.*, minorities) and the offending member state in order to ensure the sovereignty of the state is maintained, while at the same time helping to end the persecution of the minority.

If nothing else, each of the two recommendations would encourage real-time discussion and debate within the Human Rights Council and the General Assembly on violations of religious freedom. This alone could improve the treatment of religious minorities within particular countries as the international community increases the accountability of one Member State to one another.

V. CONCLUSION

The international community should care about fighting the persecution of Christians in the Middle East and around the world. First, it is the role of human rights to promote and protect the inherent dignity of each and every life. When there is a violation of the most basic of freedoms, it is the responsibility of each member of the community, be it national or international, to rectify that wrong. If not, then the concept of international human rights becomes irrelevant and meaningless. Secondly, if the international community does not enforce the wide network of treaties and agreements, then the rule of law is rendered powerless and moot. If countries are allowed to disregard the treaties they voluntarily ratify, then other countries are encouraged to disregard their obligations as well. Were this to happen, with no country holding other countries accountable, the entire U.N. system, as well as regional conferences, would fall apart. Finally, and most practically, widespread persecution in a particular country causes religious (and other) minorities to flee such glaring violations of their human rights, which then creates a refugee problem for the other countries of the world. The mass exodus of Christians from Iraq illustrates this point. Feeling a perpetual sense of fear, a diverse group of Christians have fled Iraq in recent years. Once estimated to number between 800,000 and 1.4 million, the community at the end of 2012 was 500,000 or less.¹⁸⁴ Not only does this create a burden on resources for the countries absorbing the hundreds of thousands refugees, but it also creates instability in the home country. It is difficult

184. *House Testimony on the Persecution of Christians*, *supra* note 85, at 15.

to sustain an economy when a significant fraction of your workers disappear in a short amount of time.

The persecution of Christians in the Middle East/North Africa region is by no means the only place in the world where such persecution exists; nor is it the only place with egregious violations of international human rights. It does, however, typify the growing intolerance towards religious minorities. It is important for the international community to act, and to do so within the confines of international law. The framework is already established. All that is needed is the will to protect the most vulnerable of the global community.

