Submission to the UN Special Rapporteur on freedom of religion or belief

The Elimination of Intolerance and Discrimination Based on Religion and Belief and SDG 16 as Mutually Reinforcing Goals

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1. Although the right to thought, conscience and religion was intended to protect religious minorities from State interference with matters of conscience, in practice, European States have increasingly sought to restrict the manifestation of religion by minorities originating from immigration, particularly Muslim and Sikh minorities. These restrictions are underpinned by a perceived threat to national values and the culture of the majority. This submission will highlight how these restrictions on religious practice directly undermine the achievement of Sustainable Development Goal (SDG) 16 and instead serve to entrench intolerance and prejudice against religious minorities. Specifically, it will draw out how the elimination of intolerance and discrimination based on religion or belief and SDG 16 are mutually reinforcing.

2. Over past 30 years, right-wing politicians and the media have sought to politicise the practice of Islam and portray it as a threat to the values and security of the majority. However, this discourse has become increasingly mainstream since the terrorist attacks of September 11, 2001. A commensurate increase in discrimination, intolerance and hate crime in relation to both Jews and Muslims has been reported by the EU’s Fundamental Rights Agency. Significantly, the Pew Research Center has demonstrated that intolerance of one religious minority correlates with intolerance of other religious minorities: ‘those who express negative views of Muslims are also more likely to express negative views of Jews’. Thus, it appears that European States have become increasingly intolerant of religious diversity, contrary to SDG 16 which aims to achieve peaceful, just and inclusive societies.

3. A significant proportion of the population of European States believe that Islam is incompatible with national values and, thus, support restrictions on the practice of Islam. The visibility of minority religions is further constructed as unwillingness to integrate. As a result, European Muslims and Sikhs are facing increasing demands that they assimilate by shedding their religious identity contrary to article 18 of the International Covenant on Civil and Political Rights (ICCPR).

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5 Ibid., 66.
6 Ibid., 67.
4. A number of European States have sought to reduce the practice and visibility of Islam through a range of legislative and policy initiatives. Restrictions on Islamic clothing, including the *hijab*, *burqa*, *niqab* and *burkini* have been introduced through national legislation in Austria, Belgium, Denmark, France, the Netherlands, Latvia, with further restrictions implemented at a local level in Germany, Italy, Norway, Spain and Switzerland. Significantly, while the debates surrounding the adoption of these laws has focused on the incompatibility of Islamic practices with national values, the laws themselves are frequently framed ‘neutrally’ in order to avoid claims of direct discrimination. The net result is that other religious minorities that visibly manifest their religion, most notably Jews and Sikhs, are also impacted by these laws.

5. Muslim practices have been politicised in order to legitimise further restrictions on the manifestation of religion, including the Swiss minaret ban, restrictions on *halal* slaughter and the availability of *halal* food in public institutions, public prayers and shaking hands. Further, in 2018, Denmark adopted a new integration policy ostensibly aimed at reducing the visibility of Islam in society: this policy requires that children born in ‘ghettos’ – low-income predominantly Muslim areas – must attend daycare from the age of one ‘for at least 25 hours a week, not including nap time, for mandatory instruction in “Danish values,” including the traditions of Christmas and Easter, and Danish language’. Consequently, not only have the rights of religious minorities to manifest their religion in public – as provided by article 18 ICCPR – been subject to increasing restrictions throughout Europe but steps have been taken to eliminate Islam.

6. Restrictions that reduce the visible presence of Islam in society have further reaching consequences for the rights of religious minorities. Laws that prohibit the wearing of religious clothing have reduced the access of Jews, Muslims and Sikhs to mainstream education, employment and the public sphere more generally. While laws in France initially only prohibited ‘ostentatious religious symbols’ in State schools, this prohibition has gradually been extended through policy to public employment, then private employment and finally to the public sphere. Significantly, bans on religious clothing in public sector employment exclude *hijab* wearing Muslim women and other religious minorities that visibly manifest their religion from 21 per cent of employment opportunities in France. Not only do these restrictions undermine the socio-economic mobility of ethnic minorities but they also legitimise discrimination, intolerance and acts of hate in everyday interactions. Brems, for example, points to ‘several cases of women being refused access to services because of the fact that they are visible Muslims wearing a hijab’ including to ‘an ice-cream parlour, to the

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11 *Ebrahimian v France* Application No 64846/11, Merits and Just Satisfaction, 26 November 2015.


terrace of a restaurant, and to gym facilities’. The visibility of Muslim women makes it more likely that they will be victims of hate crimes. Further, manifestations of intolerance have also been linked to religious minorities avoiding manifesting their religion in public.

7. Rather than facilitating the attainment of peaceful, just and inclusive societies, the restrictions placed on the manifestation of religious minorities in Europe eliminate visible diversity and only serve to legitimise intolerance. Specifically, the current climate reduces the opportunities for all groups to adapt to the realities of living in a plural society and gain intercultural competence. This has repercussions for religious minorities, who in response are likely to experience heightened insecurity, alienation, marginalisation and vulnerability, which in turn has the potential to result in segregation rather than assimilation and has been linked to radicalisation.

8. Inclusive societies require that majorities adapt to the visible presence of minorities rather than eliminating the cause of insecurity. Here three key areas have been identified that have the potential to facilitate adaptation: an inclusive national identity, opportunities to gain knowledge of minorities, and opportunities for interaction with minorities. However, the current political climate in Europe actively militates against all three, particularly in relation to Muslim minorities.

9. While national identities should be fluid and constantly being remade, within Europe, they are increasingly portrayed as rigid and exclusionary, in response to the perceived threat posed by Islam. Elements of national identity have been emphasised or reinterpreted to exclude Muslims. For example, in France, the reformulation of laïcité following the affaire du foulard, led visible religious practices to be interpreted as incompatible with societal membership. Adherence to a rigid form of secularism that relegates religion to the private sphere, contrary to the text of article 18 ICCPR, has increasingly been constructed as a precondition of societal membership in France.

10. Religious observance has also become an obstacle to citizenship. In France, prior to the adoption of the so-called burqa ban, Muslim women who wore the niqab were denied citizenship on the basis that they were insufficiently assimilated. In 2018, Denmark

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17 EU Fundamental Rights Agency (2018), above n. 3, 37. See further, ECRI the Netherlands, above n. 7, para 56.


19 ECRI the Netherlands, above n. 7, para 30; ECRI United Kingdom, above n. 7, paras 42 and 87.

20 ECRI the Netherlands, above n. 7, para 30.

21 Berry, above n. 18, 446.


25 Committee on Economic, Social and Cultural Rights, General Comment No 21: Article 15(1)(a) The right of everyone to take part in cultural life, 21 December 2009, UN doc E/C.12/GC/21 at para 11

26 Berry, above n. 18, 462-63.

27 For further discussion, see Berry, above n. 18, 462-63.

28 For further discussion see, Berry, above n. 1, 685-91.

introduced a law that made it mandatory to shake hands at naturalisation ceremonies, legitimised by the assertion that shaking hands is a national value.\(^{30}\)

11. Even if religious minorities were to conform with a narrow interpretation of national identity, many would still be excluded from belonging. The Pew Research Center has revealed that ‘half or more [respondents] in most [European] countries say one must have ancestry in the country, or that one must be born in the country, to truly share the national identity’.\(^{31}\) Consequently, religious minorities with a different ethnicity to the majority, such as Muslims and Sikhs, will continue to be excluded from societal membership by the majority. Unless States take steps to reimagine the national identity and provide space for diversity, it is likely that national identities in Europe will continue to be exclusionary rather than inclusive, contrary to SDG 16.

12. Knowledge of the other is key to reducing prejudice and the perception of threat.\(^{32}\) Social psychologists have notably demonstrated that ‘ignorance of Islam as a religion’ fuels prejudice against Muslims.\(^{33}\) Further, ‘factual knowledge was associated with less prejudice, self-reported knowledge tended to be associated with more prejudice’.\(^{34}\) Within Europe, majority populations are increasingly subject to misinformation about both Islam and Muslims, through social media, the press and politicians.\(^{35}\) The politicisation of Islam frequently relies on the majority’s interpretation of religious practices, rather than the meaning attributed to it by adherents of the religion. Thus, lack of factual knowledge about Islam, has the potential to reinforce prejudice and heighten the majority’s perception that Islam poses a threat to their values or security. This prejudice and sense of threat serves to legitimate the adoption of measures that restrict the practice of Islam.

13. In order to counteract this phenomenon, States must adopt measures to increase knowledge of minority religions through both formal and informal education, including public awareness campaigns. However, the introduction of formal education on the religion of minority is likely to face opposition if it is perceived to pose a threat to the cultural values of the majority. For example, in the UK, parents are reported to have withdrawn their children from Religious Education lessons to prevent them from learning about Islam.\(^{36}\) Formal education about minority religious may also pose challenges in States such as France that observe a strict division between Church and State. Furthermore, the majority is likely to reject information that challenges its worldview and negative perception of religious minorities.\(^{37}\) Consequently, educational measures must be sustained on a large scale, at different levels of society. While there are good examples of civil society educational initiatives at a local and national level, most notably Coexister in France,\(^{38}\) only the State has the capacity and reach to significantly increase knowledge of minority religions.


\(^{31}\) Pew Research Center, above n. 4, 52.

\(^{32}\) Stephan and Stephan, above n. 24, 38.

\(^{33}\) Mansouri and Vergani, above n. 23, 92.

\(^{34}\) Ibid.

\(^{35}\) ECRI France, above n. 7, para 26; ECRI the Netherlands, above n. 7, paras 9, 32; ECRI United Kingdom, above n. 7, paras 35, 41, 85; ECRI Denmark, above n. 7, para 27.

\(^{36}\) P Smalley, ‘Parents are pulling children from RE lessons – so they don’t learn about Islam’ The Conversation 8 May 2018 https://theconversation.com/parents-are-pulling-children-from-re-lessons-so-they-dont-learn-about-islam-95235


14. Intercultural contact is a prerequisite of peaceful, just and inclusive societies. Specifically, contact, in positive, personal and cooperative conditions, has been demonstrated to ‘decrease intergroup anxiety’ and, thereby, reduce prejudice. While States can fund or encourage programmes that enable intergroup contact, for example in schools, ideally contact should take place organically at a societal and individual level. Significantly, civil society initiatives again have successfully broken-down barriers and fostered interreligious dialogue. However, the potential impact of these initiatives is restricted by the current climate in Europe that directly militate against intercultural contact.

15. Laws and policies that prohibit religious clothing reduce opportunities for interactions as religious minorities are prevented from entering mainstream education and employment. As highlighted above, discrimination against visible diversity also prevents religious minorities from accessing public services and, therefore, from participating in the social life of the State. Research has also demonstrated that the so-called burqa ban has prevented Muslim women from socialising and going outdoors more generally. The potential for intercultural contact to challenge prejudice is also undermined by the artificial homogenisation of the public sphere, as the source of conflict is removed from interactions that take place in everyday life.

16. The elimination of intolerance and discrimination based on religion or belief and SDG 16 are mutually reinforcing. Currently, in Europe, restrictions on the rights of religious minorities not only undermine the right to freedom of thought, conscience and religion but also directly undermine societal cohesion. Rather than requiring the adaptation of the majority, the current situation has resulted in the hardening of national identities, increased misinformation about minority religions and reduced opportunities for intercultural contact. This must be counteracted if peaceful, just and inclusive societies are to become a reality.

