

## Protecting the Freedoms of Religion or Belief and Expression for All Sharing good practice in promoting inclusion, diversity and pluralism Thursday 26 October 2017

### Report of Key Points and Conclusions

The round table discussion titled “protecting the freedoms of religion or belief and expression for all: sharing good practice in promoting inclusion, diversity, and pluralism”, was held at the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland, co-sponsored by ARTICLE 19 and the Jacob Blaustein Institute for the Advancement of Human Rights, on the afternoon of Thursday 26 October 2017.

Opened with welcoming remarks by Her Excellency Ambassador Ruth Andreyeva, Development and Human Rights Ambassador at the United Kingdom Mission to the United Nations, the discussion also featured interventions from the UN Special Rapporteurs on freedom of religion or belief and on freedom of expression and opinion, Dr. Ahmed Shaheed and David Kaye, as well as Her Excellency Stefanie Amadeo, Deputy Permanent Representative for the United States of America to the UN Economic and Social Council (remarks delivered by Mordica Simpson), and Wai Wai Nu, the Director of Women Peace Network Arakan, Myanmar. The discussion was moderated by Thomas Hughes, Executive Director of ARTICLE 19.

Following the report of the UN Special Rapporteur on freedom of religion or belief, Dr. Ahmed Shaheed, to the UN General Assembly, the informal discussion focused upon how renewed vigour is needed to implement existing obligations and commitments relating to the right to freedom of religion or belief, the right to freedom of expression, and the right to equality, including to address rising religious intolerance. Particular attention was paid to implementing HRC resolution 16/18 and the Rabat Plan of Action through the Istanbul Process, as well as building upon synergies with other initiatives, including Agenda 2030 for Sustainable Development.

During the briefing, ARTICLE 19 disseminated its guide to the implementation of HRC resolution 16/18 as “[a framework for inclusivity, pluralism and diversity](#)”, as well as its toolkit “[‘Hate Speech’ Explained](#).”

The discussion was rich and with varied contributions. Participants included representatives of States, UN agencies and special procedures, as well as civil society. In accordance with the Chatham House rule, this summary of key points made during the event is made without attribution.

#### **1. Implementation is crucial to combatting increasing hatred and discrimination**

Participants agreed with the trends identified in Dr. Shaheed’s report, namely that, as both the UN High Commissioner for Human Rights and the UN Secretary General have observed, hate is being mainstreamed.

This is a global trend, neither confined to a particular region, nor characterised by any particular religion or belief as antagonist or victim. Identities, including religion or belief identities, are being exploited, often as part of nationalistic narratives for political advantage, where “the other” is scapegoated and the very concept of human rights is attacked. This is connected to and fuelled by increasing economic inequality, mass migration and refugee crises, and conflict.

Dr. Shaheed’s focus on an implementation agenda was broadly welcomed. Violations of the rights to freedom of religion or belief, freedom of expression, and equality in a country correlate with levels of religion or belief based intolerance. Evidence does not therefore support States’ assertions that limitations on these rights are necessary to ensure stability, but rather suggest the opposite and that limitations are a key contributor to instability.

An implementation agenda would address these violations, and seek to frame freedom of religion or belief, together with freedom of expression and the right to equality, as an enabling right essential to the enjoyment of all other human rights, as well as key to the parallel UN pillars of development and peace and security.

## **2. There is a gap in normative understandings**

It was generally agreed that there is no normative gap for guiding States' response to this human rights crisis. International human rights law obligations and standards are quite clear on what is required of States to protect the rights to freedom of religion or belief, freedom of expression, and equality. These are interrelated and mutually reinforcing.

Continued agreement around concrete shared values and an agenda for action, in particular in HRC Resolution 16/18, is significant, and should not be understated. However, the implementation gap is also significant, and while norms are established, support for them is not universal: there is a delicate balance between HRC Resolution 16/18 and other initiatives, and maintaining consensus on applicable standards remains a priority.

This demonstrates a need to clarify existing norms, and correct misunderstandings. While addressing this knowledge gap is essential to fully addressing the implementation gap, it also does not have to be a precursor to joint activities on issues where agreement exists.

Priorities for normative clarification include:

- Confusion around “hate speech”, in particular from those who believe this broad concept to be synonymous with expression that may be legitimately restricted under international human rights law, showing further need for States to understand and internalise the Rabat Plan of Action and associated standards;
- The absence of a gender perspective in addressing religion or belief based intolerance, including understanding gender-based violations of the right to freedom of religion or belief, as well as intersections with other protected characteristics;
- How rising religious intolerance and nationalism are fuelled by and lead to further closing of civil society space needs to be understood, in particular in efforts to support independent and critical voices in hostile environments, where power dynamics and institutionalised hate speech make the promotion of tolerance much more difficult.

## **3. Support for freedom of religion or belief is growing**

There is an unprecedented level of investment in “freedom of religion or belief diplomacy”, signifying a growing awareness of its importance to the protection of other human rights, as well as to development and to security.

Evidence for this includes numerous examples of Ministries of Foreign Affairs appointing thematic envoys on freedom of religion or belief, and of governments increasing support for freedom of religion or belief within their human rights and development programmes. This is increasingly being linked to the implementation of the Sustainable Development Goals, and many participants noted the need to deepen understandings of how protection of freedom of religion or belief enables the enjoyment of other rights and furthers sustainable development.

A contrast was observed between the contemporary discussion, focused on how to use existing tools to address human rights challenges through implementation, and the discussions that 7 years ago led to the establishment of those same tools. Those earlier discussions were, distinctly, driven more by a need to find normative agreement, in particular as a defence against “defamations of religion.” Seen in this light, the shift in discussions to an implementation agenda evidences increased support for freedom of religion or belief also.

## **4. Engagement with formal implementation mechanisms must be strengthened**

The vast majority of States do not report to OHCHR and the UN Secretary General on how they are implementing HRC resolution 16/18. Rates of response have dipped since 2011, and rarely demonstrate quality insights to problems faced in implementing activities, and how these have been overcome. As a barometer for implementation, this paints a bleak picture that must be addressed.

These formal reporting mechanisms carry great potential to be a “feedback loop” and catalyst for implementation. With greater uptake and quality input, the reports could become a resource tool for implementation, creating a base of knowledge and experience from good practice for other stakeholders to build upon and replicate.

Formal requests for information on reporting are only directed towards States. Until this can formally be opened to other stakeholders, including national human rights institutions and civil society, States should solicit input from diverse stakeholders for their own submissions. Together with drawing on a network of national stakeholders to

feed experience into the Istanbul Process, this would provide an opportunity for convening parallel discussions on implementation at the national level.

## **5. The Istanbul Process must be strengthened**

The absence of an Istanbul Process meeting in 2017 is a significant concern. At the same time, participants agreed that the Istanbul Process to date has not fulfilled its potential, at times reverting to (and duplicating) the ideological and political disputes defining debates in Geneva and New York.

After a hiatus of a year, any future Istanbul Process would need to address past shortcomings, with the next meeting in particular being a “test” of the Istanbul Process’ viability. The importance of keeping the Istanbul Process cross-regional, and identifying States in regions yet to host a meeting (Latin America, Eastern Europe, or Africa) was also stressed.

Areas for improvement in the Istanbul Process fell into around eight different categories, each implying a conclusion for any future host to take on board:

### A. Political leadership is key:

Political leadership brokered HRC resolution 16/18, and the dynamism and creativity that went with it led to the initiation of the Istanbul Process. There must be political leadership to revive this agenda.

### B. A host for the Istanbul Process in 2018 is essential:

The next host State of the Istanbul Process needs to put themselves forward publicly and commit, working closely with all stakeholders to ensure lessons are learned from previous meetings to renew energy in an implementation agenda connected to the framework of HRC Resolution 16/18. The desirability for regional diversity among Istanbul Process hosts was also stressed, following what was reported to be a more productive 2016 Istanbul Process meeting in Singapore.

### C. Introspection is key:

All States must approach multilateral discussions on this topic with honest and self-critical reflections on their own national contexts, and be open to discussing their own failings and lessons learned, as well as their own successes. This requires receiving criticism from others constructively. Only then will the Istanbul Process serve to further each States’ implementation efforts. Some introspection was demonstrated during the roundtable, with a number of States’ representatives reflected on their own strengths.

### D. Inclusive and diverse participation in implementation efforts is key:

Ensuring diversity of religion or belief actors, in particular from faith or belief based and grass roots organisations, was stressed as particularly important. A broad number of faith-based organisations advocate for freedom of religion or belief and freedom of expression in ways that support international human rights law, and elevating their positive contributions is crucial. Likewise, treating religions as monolithic, in particular where State actors are able to present themselves in a representative role for an entire religion or belief, is counter-productive.

Stakeholders whose inclusion should be sought mentioned included Parliamentarians, National Human Rights Institutions, educators, and the media.

The inclusion of women is also important, but it was stressed that this should not be conflated with a gender-based approach. Beyond representation of women in the Istanbul Process, discussions must grapple with the gendered nature and impact of freedom of religion or belief violations and religion or belief based intolerance, and how this can be overcome. The Special Rapporteurs in the field of cultural rights, and on violence against women, have made important contributions in this area of thinking.

### E. A focus on practitioners and experts is key:

A focus for participation on subject experts and practitioners is essential if the Istanbul Process is to retain its uniqueness as a forum outside of the politicised environments of Geneva and New York. This is especially the case for more contentious issues, where political tensions are highest, and where a practical focus has the potential to defuse those tensions and make such issues easier to address.

For the Istanbul Process to truly drive implementation at the national level, it must be a convening of practitioners and experts primarily from the national and local levels, who both bring relevant experience on implementation and what works. Sending staff from an embassy in a host country, who often are not familiar with the applicable standards and purposes of the Istanbul Process, should also inform outreach for participation in meetings.

It was also suggested that greater inter-Ministry collaboration in preparation for Istanbul Process meetings, and in particular in constituting delegations sent to these meetings, could ensure a more effective focus on practitioners and lessons learned. In this regard, it was noted that most relevant national experience is housed beyond Ministries of Foreign Affairs, so ensuring the participation of those national ministries is important.

Beyond actors from central government, engaging existing international unions and associations of professionals with practical and relevant experience, e.g. of Parliamentarians, criminal justice professionals, religious leaders, etc, was also noted as worth exploring.

F. Increased awareness through transparency is key:

An absence of knowledge or awareness of the Istanbul Process and related international standards in particular at the national level, was identified as a major barrier to implementation. Notwithstanding this, many national and local actors, in particular civil society, are engaged in activities in the spirit of HRC resolution 16/18, but without it being framed as such, or their knowledge or experience being captured as “implementation”.

It is very difficult for stakeholders interested in the Istanbul Process to find out information about the best practices shared there, or to find out how to engage with the process and initiatives that may stem from it. The absence of a singular central web-resource related to the Istanbul Process, and connected initiatives aimed at furthering implementation of the right to freedom of religion or belief, was lamented.

G. Action must be comprehensive:

At numerous points, it was mentioned that States should not cherry pick which parts of the Istanbul Process they focus on (either in international fora, or in their implementation activities and reporting). At the same time, there is a need for Istanbul Process discussions to be detailed, and time will always be limited. It was suggested that instituting the Istanbul Process by setting the hosts and a tentative agenda over several years would allow all eight points of the action plan to be addressed on a recurring basis.

An aversion to discussing limitations on the rights to freedom of expression and freedom of religion or belief (Paragraph 5(f)) needs to be overcome. Supporters of these rights should not shy away from this as a topic of discussion, but rely on experts well attuned to the international standards leading it within a format that focuses on substance and avoids politicisation. The importance of committing to the Rabat Plan of Action was also mentioned, since it provides clarity on terminology [i.e. that any “hate speech” short of actual incitement should not be prohibited], and emphasises the exceptional role of limitations on expression in responding to religion or belief based intolerance.

H. Action must be national and local, and authentic:

States’ efforts at implementation must be national and local, and extend beyond participation in the Istanbul Process and efforts at reporting. “Giving the Istanbul Process legs” at the national level was stressed.

Caution was stressed against rewarding States for engaging in superficial exercises to promote religious tolerance that are purely ceremonial or for external audiences, and which can be exclusive of diverse and critical participants, in particular in environments where civic space is largely closed.

**6. Other synergies must be explored to mainstream freedom of religion or belief**

The disconnect between the Istanbul Process and other processes was also discussed, and the term “silos” was repeated. Connections to the following should be explored for coordinating an implementation agenda and avoiding duplication:

- The International Contact Group on Freedom of Religion or Belief;
- The Universal Periodic Review, where only 2.5% of present recommendations currently concern freedom of religion or belief;
- The global compacts on migration and refugees;

- The relevance of the Sustainable Development Goals, and voluntary national reviews, as a complementary framework for driving implementation;
- Bilateral engagement between States on implementation;
- The connection to follow-up and implementation activities of the OHCHR (in particular special procedures, as well as treaty bodies and rule of law), the UN Office on Genocide Prevention and the Responsibility to Protect, and the UN Alliance of Civilisations.