



Research Report

Forum: Human Rights Council

Issue: Upholding the Rights of Religious Minority Groups

Chairs: Melissa Wessel and Kobby Afari Yeboah

CalsMUN 2018

Cals College Nieuwegein





Table of Contents

Personal Introduction.....	3
Human Rights Council introduction	4
Issue: Upholding the rights of religious minority groups.....	6
Major organizations/countries involved	14
Timeline of related events	14
Key terms.....	15
Sources	16



Personal Introduction

Kobby Afari Yeboah is a 21-year old student, pursuing a degree in Bachelor of Laws(LLB) at the University of Ghana, School of Law. He is a national of Ghana, home to Dr. Kwame Nkrumah, the revolutionist on Pan-Africanism, and Kofi Annan, UN Secretary-General from 1997-2006.

Kobby aspires being a United Nations Diplomat alongside legal consultancy in International Trade and Investment.

Kobby loves to take on versatile roles, especially, those which go beyond his comfort zone, in order to discover his true potential.

His first model un conference was in 2009, when he represented Greece at the Life-Link Junior High School Model United Nations Conference. After this, he developed an insatiable thirst for anything model un. Kobby's greatest feat in Model UN was leading the Ghanaian delegation to the Harvard National Model United Nations Conference in February 2017, and bagging 4 Resolution Project Awards.

Life-Link Model United Nations, the local chapter of Model UN in Ghana, is responsible for grooming him in the art of public speaking, diplomacy and effective lobbying.

He is super-excited to finally have his first chairing experience at the prestigious CalsMUN in Netherlands.

Kobby is a supporter of Manchester United Football Club in England, and a legal drama enthusiast.



Human Rights Council introduction

In light of its mandate to promote and protect the cause of human rights effectively, the United Nations General Assembly brought into being **Human Rights Council**.

The Human Rights Council comprises of 47 states and was created by the adoption of resolution A/RES/60/251 on 15 March, 2006.

Principally, the council is responsible for addressing situations of human rights violations and making recommendations for them.

The Council, has 4 main mechanisms for enforcing its human rights directive. They are: the Universal Review Working Group, Advisory Committee, the Complaint Procedure,

The **Universal Periodic Review Work** (UPR) provides the opportunity for each state to declare what actions they have taken to improve the human rights situations in their countries and to fulfil its human rights commitments. According to **Ban Ki Moon**, the immediate-past UN Secretary General, the Universal Periodic Review has great potential to promote and protect human rights in the darkest corners in the world.

The **Advisory Committee** is the second mechanism. It is composed of 18 experts that serve as the think-tank for the Council. Its purpose is to provide expert advice for the Council on the promotion and protection of human rights and to make proposals within the scope of its work, that the Council may consider. Currently the Committee is working on advisory reports on leprosy-related discrimination and unaccompanied migrant children and adolescent.

The **complaint procedure**. Its directive is to address consistent patterns of gross and reliably attested human rights violations submitted by individuals, groups or NGOs all over the world. The Working Group on Communications and the Working Group on Situations make up the complaint procedure. The former is responsible for examining written communications and undertaking initial screening of the communication and the latter is tasked with bringing consistent patterns of gross and reliably attested violations of human rights to the attention of the Council.

The **Special Procedures**: this is the 4th Mechanism of the Council. It consists of independent experts with mandates to report and advise on human rights from the thematic (a body of topics for discussion) or country-specific perspective. These experts are referred to as Special Rapporteurs. Rapporteur is a French-derived word for an investigator who reports to a deliberative body. In sync with their mandate, the special rapporteurs send communications to states who are alleged to have committed human rights violations by undertaking country visits with the help of the Office of the



UN High Commissioner for Human Rights. They also engage in advocacy and public awareness.

With all these mechanisms in place, has the Human Rights Council seen any progress as far as its human rights mandate is concerned?

The Council took an assertive action to highlight Iran's deteriorating human rights situations by establishing a Special Rapporteur on the Human Rights Situations in Iran. In 2010 following the Ivory Coast Election Declaration banter, the Council at its special session sent a clear message that the world is watching what he does and that the atrocities and human rights violations. A commission of enquiry was established by the Council, therefore to investigate into these abuses.

Finally, by the influence of the Council, 85 countries signed a statement entitled "**Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity**". This represents a landmark movement in the UN efforts to highlight human rights abuses faced by lesbian, gay, bisexual and transgender people all around the world.

The Council like other intergovernmental bodies has its shortcomings which prevent it from exercising its human rights mandate with efficacy.

It has been accused of focusing disproportionately on the Israeli-Palestinian conflict by **Kofi Annan** and **Ban Ki Moon**, the European Union, Canada and the United States. Not only this, but the Council is prone to politicization, as evidenced by decisions that favour political interests over human rights protection.

Despite these challenges, the Secretary General of the UN, Ban Ki Moon, during the opening of the 4th Human Rights Council Session stated: All victims of Human Rights Abuses should be able to look at the Human Rights Council as a forum and a springboard for action.



Issue: Upholding the rights of religious minority groups.

The plight and afflictions of religious minorities are of paramount concern to human rights advocates, globally. They believe that, the application of fundamental human rights must be without discrimination to such persons, and this is logically accurate. Their stance on rights of minority groups is accord and in sync with the **United Nations Population Fund (UNFPA)** 2005 report on the human rights notion: human rights are universal, inalienable, indivisible and inter-related.

However, there is no internationally recognised agreed definition as to which groups constitute minorities.

Nonetheless, the **United Nations Minorities Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities** in its article 1 refers to minorities as based on national or ethnic, cultural, religious and linguistic identity, and provides that States should protect their existence.

The rationale is that, human rights protection must be had to individuals who belong to a group whose religious traits are distinct and dissimilar as compared to the bulk of the country in which they live.

It is often stressed that the existence of a minority is a question of fact and that any definition must include both;

- a. objective factors (such as the existence of a shared ethnicity, language or religion) and
- b. subjective factors (including that individuals must identify themselves as members of a minority)

According to a definition offered in 1977 by **Francesco Capotorti**, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is:

“A group, numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”

Elements of Capotorti definition

1. A group numerically inferior to the rest of the population.



2. They must be in a non-dominant position, for instance the blacks during the South African Apartheid.
3. The members must be members of the state.
4. They must possess ethnic, religious or linguistic characteristics different from the rest of the population-objective notion
5. They must show a sense of solidarity towards preserving their culture-subjective notion.

The understanding of minorities in the opinion of Capotorti, although providing clarity as to minority groups are, is not without critique. Firstly, in most cases, a minority group may be numerically inferior but others, a numerical majority may find themselves in a minority position, if they are woefully discriminated against and the rights relegated to the background.

On the other hand, under peculiar circumstances where the majority, (in terms of number) may rather be in the non-dominant position.

To this extent, it can be reasoned, that whether or not a people constitute a religious minority is not a numerical fact, but a question of whether or not they are in a non-dominant position in the community they live.

Notwithstanding the lack of a working definition, in practice under international law, minority rights have been made applicable to recently arrived migrants who share an ethnic, religious or linguistic identity. Their treatment is to be rooted in the customary international law principle of non-discrimination, which is fundamental in international law and is reflected in all human rights instruments and documents.

In reality, one-third of the 15 million stateless persons belong to religious minorities, and discrimination against them is disheartening. Discrimination against minorities has frequently led to their exclusion from citizenship. Such exclusion is often experienced in newly independent States that define citizenship in a manner that excludes persons belonging to certain minority groups who are considered as “outsiders” despite long-standing ties to the territory of the new State.

In the succeeding paragraphs, practical situations of religious minority woes in specific parts of the world, would be addressed.

Major Religious Minorities in the World

Muslims in China

According to the Human Rights Watch and Human Rights in China report in 2005, the Chinese government was directing a crushing campaign of religious repression against China’s Muslim Uighurs in the name of anti-separatism and counter-terrorism.



In China, state authorities politically vet all imams on a regular basis and require “self-criticism” sessions; impose surveillance on mosques; purge schools of religious teachers and students; screen literature and poetry for political allusions.

At a more mundane level, Uighurs face harassment in their daily lives. Celebrating religious holidays, studying religious texts, or showing one’s religion through personal appearance are strictly forbidden at state institutions, including schools. The Chinese government vets who can be a cleric, what version of the Koran is acceptable, where religious gatherings may be held, and what may be said.

It must be noted, however, that China is a signatory to the International Covenant on Civil and Political Rights, an act undertaken as far back as 1998. Despite its morally obligation under the Covenant to guarantee the freedom of religion under Article 18, the Republic has fallen short of this.

Coptic Christians in Egypt

The Coptic community has been targeted by hate crimes resulting in Copts being victims of murder by Islamic extremists. The most significant was the 2000–01 El Kosheh attacks, in which Muslims and Christians were involved in bloody inter-religious clashes following a dispute between a Muslim and a Christian.

In February 2001, it was reported that a new Coptic church and 35 houses belonging to Christians were burned.

Yazidis in Iraq

At as matter of recent development in 2017, reports that Islamic militants had trapped up to 40,000 members of Iraq’s religious minority communities spurred the US into considering a military-led humanitarian action. The thought of military action might be a tad overreaching, but if it would serve the greater good of the minority people it is likely to be warmly embraced.

Most of the trapped people were members of the Yazidi religion, one of Iraq’s oldest minorities. They were forced to flee to Mount Sinjar in the Iraqi north-west region, or face slaughter by an encircling group of Islamic State (Isis) jihadists. Gruesome images of brutally slain people emerged, as local officials said at least 500 Yazidis, including 40 children, have been killed, and many more have been threatened with death.

Buddhist Monks in Saudi Arabia

The 99-page report, "The Resistance of the Monks: Buddhism and Protest in Burma," written by longtime Burma watcher Bertil Lintner, describes the repression Burma’s monks experienced after they led demonstrations against the government in September 2007.



The report tells the stories of individual monks who were arrested, beaten and detained. Two years after Buddhist monks marched down the street of the detained opposition leader Aung San Suu Kyi, hundreds of monks are in prison and thousands remain fearful of military repression. Many have left their monasteries and returned to their villages or sought refuge abroad, while those who remained in their monasteries live under constant surveillance.

Jews in Europe

The Holocaust also referred to as the Shoah, was a genocide in which some six million European Jews were killed by Adolf Hitler's Nazi Germany, and the World War II collaborators with the Nazis. The victims included 1.5 million children, and constituted about two-thirds of the nine million Jews who had previously resided in Continental Europe.

Christians in Northern-Nigeria

Boko Haram, the Islamist faction fighting a bloody insurgency to establish a caliphate in northern Nigeria, have targeted Christians and other minorities in endless terror attacks, massacres and kidnappings. The school where almost 300 girls were kidnapped in Chibok last year was in a dominantly Christian village and churches have often been targeted by militant attacks. Boko Haram's leader, Abubakar Shekau, has declared "jihad" on Christianity in Nigeria and vowed to attack Nigerian government police and government officials.

Qualitative research suggests that discrimination against minority groups precipitates terrorism in countries where there is acute repression. Ideally, it is borne out of decades of consolidation of resentment against the government due to the harsh treatment and torture they have been subjected to. The only for recourse for something which seems like justice, is revenge served cooled.

What strides has the international community take to address these gross human rights abuses which could escalate into civil wars?

RECOGNITION OF MINORITY RIGHTS IN INTERNATIONAL TREATIES

The United Nations in addressing human rights violations of religious minorities, has adopted the approach of tackling the matter of minority rights as a topic in whole, without distinction between linguistic minorities or ethnic minorities from religious minorities. This is gleaned from a host of UN treaties that protect religious minority existence.

The International Covenant on Civil and Political Rights (ICCPR)

The ICCPR was adopted for the purpose of addressing the civil and political rights of citizens or persons found under the jurisdiction of states, for this reason, the bulk of the law is a duty imposed on the government to fulfil, respect and protect the



fundamental human rights of the people. Article 27 provides that “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”.

This is a direct reference and the creation of an immutable duty on state parties to the covenant to protect the rights of religious minorities.

The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights mentions explicitly in article 2 (2) that “the States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

United Nations Declaration on Minority Rights

Eventually, after years of strife, the UN came up with a comprehensive document that addressed minority rights in totality: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, 1992

It grants to persons belonging to minorities:

1. Protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (art. 1);
2. The right to enjoy their own culture, to profess and practise their own religion, and to use their own language in private and in public (art. 2 (1));
3. The right to participate effectively in cultural, religious, social, economic and public life (art. 2 (2));
4. The right to participate effectively in decisions which affect them on the national and regional levels (art. 2 (3));
5. The right to establish and maintain their own associations (art. 2 (4));
6. The right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across State borders (art. 2 (5)); and
7. The freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (art. 3).
8. States are to protect and promote the rights of persons belonging to minorities by taking measures to:



- Ensure that they may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law (art. 4 (1));
 - Create favourable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4 (2));
 - Allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (art. 4 (3));
 - Encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (art. 4 (4));
 - Allow their participation in economic progress and development (art. 4 (5));
 - Consider the legitimate interests of minorities in developing and implementing national policies and programmes, and international programmes of cooperation and assistance (art. 5);
 - Cooperate with other States on questions relating to minorities, including exchanging information and experiences, to promote mutual understanding and confidence (art. 6);
 - Promote respect for the rights set forth in the Declaration (art. 7);
 - Fulfil the obligations and commitments States have assumed under international treaties and agreements to which they are parties.
9. Finally, the specialized agencies and other organizations of the United Nations system shall also contribute to the realization of the rights set forth in the Declaration (art. 9).

ADDITIONAL SOURCES OF MINORITY RIGHTS

Genocide Convention

The Convention on the Prevention and Punishment of the Crime of Genocide is a legal source referred to in the United Nations Minorities Declaration for protecting the rights of minorities. It is one of the first conventions that the General Assembly adopted and relates to the protection of groups, including minorities, and their right to physical existence.

Its article II defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;



- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group

International Criminal Court

The Rome Statute of the International Criminal Court provides for the prosecution of cases that encompass not only the crime of genocide but also crimes against humanity. Acts which would constitute crimes against humanity are listed in its article 7, paragraph 1. It is important to note, for example, that forced population transfers intended to move persons belonging to minorities away from the territory on which they live, or with that effect, as well as forced sterilizations, would constitute serious breaches of the Rome Statute.

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

This is a landmark UN Resolution which pertains to the freedom of religion. **Article 2(1)** of this instrument is directly in line with the rights of religious minorities. It speaks to the effect that, no one shall be subject to discrimination on religious grounds.

Possible Solutions

1. Taking into consideration the sufferings and possible annihilation of religious minority groups, the objective of the United Nations to ensure complete enjoyment of human rights must be strengthened and all efforts and resources directed toward religious minorities specifically, rather than addressing minority crisis as a whole.
2. Member states must ensure that the population of the respective religious minority groups within their jurisdiction are be recorded and documented to promote proper surveillance and monitoring of their living conditions by the international community.
3. Member states should expediently take steps to resolve impingement and gross violations of fundamental human rights and freedoms against religious minorities.
4. The International Community must resort to Non-Military Humanitarian Intervention for Threatened Religious Minorities.
5. Upon receipt of verified reports by the UN Media, any sovereign state or non-state actors such as NATO forces upon failure of by the UN Security Council to



pass a resolution within 48hours, may apply non-military force in a sovereign state for the preservation of life, provided that:

- I. A religious minority is being persecuted or there is a real likelihood of persecution of such a group;
- II. A religious minority suffers genocide, crimes against humanity, or acts of aggression or such internationally recognised crimes is reasonably threatened against the group.
- III. Non-military intervention is to be exercised in good faith only, for the benefit of the targeted group.

4. a. Non-military intervention taken by states and non-state actors must conform to all international instruments and customary international law, most especially **Article 2(4)** of the United Nations Charter.

b. Non-military intervention shall strictly comprise:

- I. Meetings with opposing factions' leaders to negotiate a pragmatic way forward.
- II. Criminal prosecution of the perpetrators in the courts of law of the jurisdiction within which these crimes were committed.
- III. Peaceful relocation of affected minority populations to safe-havens.
- IV. Imposition of economic sanctions and embargos on governments believed to be responsible for discrimination or persecution of religious minorities.
- V. Deployment of monitoring groups for further investigations into the issue at hand



Major organizations/countries involved

Organisations

1. United Nations Human Rights, Office of the High Commissioner
2. Minority Rights Group International

Countries

3. Iraq
4. Saudi Arabia
5. Burma
6. China
7. Central African Republic

Timeline of related events

1919-Armenian Holocaust, where 1.5 million Armenians, most Catholic and Protestants were exterminated by Turkey's Ottoman Government. This has been branded as genocide.

1939-Jewish Holocaust during the Nazi Regime.

1947-Newly established Commission on Human Rights set up the 'Sub-Commission on the Prevention of Discrimination and Protection of Minorities' with responsibility to make recommendations on issues including the protection of minorities.

Mandate: "To undertake studies, particularly in the light of the UDHR, and to make recommendations to the Commission concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities.

1948-Convention on the Prevention and Punishment of the Crime of Genocide

1981- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

1992-United Nations Declaration on Minority Rights adopted by Member States.



Key terms

Minority-A group of people in a non-dominant position in society who possess unique characteristics different from the majority population of the community in which they live, with a sense of self-identity as a minority.

Religious Minority- A minority group with a common religious status. Minority religions may be subject to stigma or discrimination. An example of a stigma is using the term cult with its extremely negative connotations for certain new religious movements.

Genocide-Targeted killings of members of a religious or ethnic group.

Holocaust-Slaughter of persons on a large scale.

Non-Dominant-A position of inferiority or a subordinate in a class of persons.

Crimes Against Humanity- Article 7(1) of the Rome ICC Statute provides that: 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: Murder; Extermination; Enslavement; Deportation or forcible transfer of population; Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; Torture; Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; Enforced disappearance of persons; The crime of apartheid; Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.



Sources

1. Dr. Kwadwo Appiagyei-Atua, Senior Lecturer, University of Ghana, Minority Rights Lecture.
2. https://en.wikipedia.org/wiki/Minority_religion
3. http://www.ohchr.org/Documents/Issues/Minorities/Booklet_Minorities_English.pdf
4. <http://www.independent.co.uk/news/world/africa/armenian-genocide-nine-ethnic-and-religious-groups-facing-extermination-today-10201532.html>
5. <http://www.refworld.org/docid/3b00f02e40.html>
6. https://en.wikipedia.org/wiki/UN_Declaration_on_the_Elimination_of_All_Forms_of_Intolerance_and_of_Discrimination_Based_on_Religion_or_Belief
7. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>
8. <http://www.un.org/en/genocideprevention/crimes-against-humanity.html>
9. <https://www.hrw.org/news/2005/04/12/china-religious-repression-uighur-muslims>
10. http://www.independent.co.uk/news/world/middle-east/isis-islamic-state-yazidi-sex-slaves-genocide-sinjar-death-toll-number-kidnapped-study-un-lse-a7726991.html&gws_rd=cr&dcr=0&ei=ghkxWq1RyOBS9NmwgAc