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EXTENDING RELIGIOUS FREEDOMS ABROAD: DIFFICULTIES EXPERIENCED BY MINORITY RELIGIONS

Matthew L. Sandgren[†]

I. INTRODUCTION

It could be asserted that one of the most hotly debated parts of the United States Constitution is the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble"¹ One of the core reasons why so many came to the New World was to avoid persecution from government-favored churches.² The Founders of the United States of America were well aware of persecution that had and could arise from government involvement and, thus, were determined to keep the newly established government out of religion.³ The First Amendment prohibits the U.S. from implementing a state religion.⁴ In support of the First Amendment, Justice Stewart of the U.S. Supreme Court wrote, "no liberty is more essential to the continued vitality of a free society . . . than is the religious liberty protected by the Free Exercise Clause."⁵ Today, after

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1. U.S. CONST. amend. I.

2. See *Everson v. Board of Education*, 330 U.S. 1, 8-13 (1947).

3. See *id.* at 13.

4. Christy Cutbill McCormick, Comment, *Exporting the First Amendment: America's Response to Religious Persecution Abroad*, 4 J. INT'L LEGAL STUD. 283, 289 (1998).

5. *Sherbert v. Verner*, 374 U.S. 398, 413 (1963) (Stewart, J., concurring).

surviving over two hundred years of scrutiny and interpretation, the First Amendment continues to protect religious freedom to all within the boundaries of the United States.⁶ Unfortunately, it cannot be assumed that other nations of the world have adopted America's standard as it relates to the freedom of religion. However, several international instruments have been enacted to promote the freedom of religion.⁷ For example, Article 18 of the Universal Declaration of Human Rights, a United Nations instrument, states that "[e]veryone has the right to freedom of thought, conscience, and religion"⁸ That the United Nations recognizes the importance of religious freedoms is obvious. Nevertheless, even with international instruments designed to extend religious freedoms, many nations today seem to be ignoring such agreements and restricting the religious practices of their citizens and foreigners visiting within their boundaries.

This comment will examine the obstacles, restrictions, and persecutions that individuals and organized religions, particularly the Church of Jesus Christ of Latter-day Saints (LDS), have encountered throughout the world in exercising or attempting to exercise their religious freedoms. Part II discusses in detail the controversial need for organized religions to engage in proselytizing activities. Part III describes the several international and regional instruments that have been established to protect religious freedoms worldwide. Part IV focuses on the restrictions imposed on, and discriminations faced by, those who engage in proselytizing efforts. Part V is an analysis of how countries, spanning from Europe to the Middle East to China, apply international human rights laws versus domestic laws to foreign religious organizations. Part VI suggests that the United States, a country founded upon the principle of religious freedom, can make a difference abroad if freedom of religion is placed above monetary interests and sanctions against the violators are enforced. The comment concludes that international human rights laws are ineffective because the majority of nations apply their own domestic laws, in contravention of the international laws, without any consequence.

6. U.S. CONST. amend. I.

7. McCormick, *supra* note 4, at 292.

8. *Universal Declaration of Human Rights*, G.A. Res. 217(a)(III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948).

II. ORGANIZED RELIGION

A. *The Necessity to Proselytize*

Many religions believe that it is their duty to “teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost.”⁹ The aforementioned scripture contains the verbs, “to teach” and “to baptize,” which denote the necessity of a teacher and an investigator.¹⁰ Hence, many religions require their members to engage in proselytizing activities to further this goal.¹¹ Proselytizing has been defined as “expressive conduct undertaken with the purpose of trying to change the religious beliefs, affiliation, or identity of another. The person initiating the conduct is the ‘source,’ and the person on the receiving end is the ‘target.’”¹² The degree to which a religion promotes its proselytizing activities varies.¹³ For example, in 1842, Joseph Smith, Jr., the founder of the LDS church, stated:

[T]he Standard of Truth has been erected; no unhallowed hand can stop the work from progressing; persecutions may rage, mobs may combine, armies may assemble, calumny may defame, but the truth of God will go forth boldly, nobly, and independent, till it has penetrated every continent, visited every clime, swept every country, and sounded in every ear, till the purposes of God shall be accomplished, and the Great Jehovah shall say the work is done.¹⁴

Smith’s desire to proclaim the word of God throughout the world appears to have set the precedent for the LDS church and its proselytizing efforts. The LDS church “send[s] young men, young women, and mature couples to all parts of the world, wherever hosting governments and

9. *Matthew* 28:19 (King James Bible).

10. *Id.*

11. Tad Stahnke, *Proselytism and the Freedom to Change Religion in International Human Rights Law*, 1999 *BYU L. REV.* 251, 256 (1999).

12. *Id.* at 255.

13. *Id.* at 256.

14. 4 JOSEPH SMITH, JR., *HISTORY OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS* 540 (1908). Members of the Church of Jesus Christ of Latter-day Saints have been nicknamed “Mormons” based on their belief in a sacred volume of scripture known as the Book of Mormon, Another Testament of Jesus Christ, which is a companion scripture to the Holy Bible. See generally <http://www.mormon.org>.

countries will welcome them.”¹⁵ Leaving behind their families, friends, studies or work, and social life, these individuals commit a portion of their lives to dedicate their energies to proclaim a message of faith.¹⁶ One can imagine that Smith would be pleased that at the beginning of the twenty-first century, the church was responsible for sending tens of thousands¹⁷ of full-time missionaries throughout the world. Armed with these capable individuals, the LDS church actively engages in proselytizing activities to proclaim its message of faith.

The proselytizing efforts of the LDS church have proven successful. In 1999, 306,171¹⁸ people joined the LDS church, an increase of 7,037 over the number who joined in 1998.¹⁹ In addition, the LDS church has taken great strides in becoming established worldwide. For example, in 2000, 23.3% of the LDS membership was located in South America, 13.3% in Mexico and Central America, 6.7% in Asia, 3.8% in Europe, 3.3% in the South Pacific, and 1.3% in Africa.²⁰ This evidences the international success of the LDS church, which is directly attributable to its ability to proselytize in other countries in the world.²¹

B. One-sided View of Proselytizing

While some religions do not feel it necessary to proselytize, other religions such as Islam prohibit its members from being “targets” of another’s active proselytizing effort.²² For example, in an Islamic state, a Muslim is “subject to the death penalty if he or she becomes an apostate,” or disavows his or her beliefs in Islam.²³ However, it appears that the Islamic belief has a double standard because vigorous proselytizing to non-believers is required.²⁴ According to traditional Islamic law, the unbelievers are given a choice of accepting Islam; if they do not accept it “they may

15. Richard C. Edgley, *We Care Enough to Send Our Very Best*, THE ENSIGN OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, Nov. 1996, at 62.

16. *Id.*

17. F. Michael Watson, *Statistical Report, 2000*, THE ENSIGN OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, May 2001, at 22.

18. *Id.*

19. F. Michael Watson, *Statistical Report, 1998*, THE ENSIGN OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, May 1999, at 22.

20. See DESERET NEWS, 2001-2002 CHURCH ALMANAC OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS 573 (1998) [hereinafter CHURCH ALMANAC].

21. *Id.*

22. Stahnke, *supra* note 11, at 258.

23. *Id.*

24. *Id.*

either be killed in battle, enslaved, or ransomed if captured.”²⁵ Fortunately, organizations such as the United Nations understand the need for international law to protect individuals against religious persecution and coercion.²⁶

III. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

A. *United Nations Universal Declaration of Human Rights*

In a statement made before the U.N. Human Rights Commission, Alexandra Arriaga, U.S. Delegate, stated, “[t]he right to freedom of thought, conscience and religion is inherent in the dignity of every human being. No government can rightfully deny it, for it is universal, inalienable, the right of everyone by virtue of our birth.”²⁷ Nearly all countries have signed the U.N. Universal Declaration of Human Rights.²⁸ Article 18 of the Universal Declaration of Human Rights was established to guarantee freedom of religion.²⁹ Article 18 states, “[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in the community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”³⁰ That the language of Article 18 is clear, concise, and bold is irrefutable and merits adherence; however, reports suggest that many countries engage in religious persecution and intolerance.³¹

B. *United Nations International Covenant on Civil and Political Rights*

The United Nations International Covenant on Civil and Political Rights (ICCPR) is another strong international instrument advocating religious rights. While the language in the ICCPR is quite similar to that of the Universal Declaration of Human Rights, the text of the ICCPR contains some unique guarantees for the protection of religious expression. Article 18 of the ICCPR states as follows:

25. *Id.* (quoted in Abdullahi Ahmed An-Na'im, *Islamic Foundations of Religious Human Rights*, in RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE: RELIGIOUS PERSPECTIVES 352 (John Witte Jr. & Johan D. van der Vyver eds., 1996)).

26. McCormick, *supra* note 4, at 292.

27. *Id.* at 292-93 (statement by Alexandra Arriaga, U.S. Delegate, before the U.N. Human Rights Commission, in Geneva, Switzerland on Mar. 24, 1997).

28. *Id.* at 292.

29. *Id.*

30. *Universal Declaration of Human Rights*, *supra* note 8, art. 18.

31. McCormick, *supra* note 4, at 292.

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.³²

It should be noted that the freedom of religion is considered an absolute right, a freedom that cannot be revoked by the State. However, the freedom of religion is subject to well-founded restrictions.³³ As opposed to the Universal Declaration of Human Rights, which does not have any restrictive wording, Article 18.3 of the ICCPR clearly allows restrictions upon one's religious practices to protect such matters as public safety, order, health, morals, or the fundamental rights and freedoms of others. In referring to the wording of Article 18.3, the Human Rights Committee has observed that the language must be strictly interpreted.³⁴ In other words, restrictions not specifically outlined in Article 18.3 cannot be introduced to meet other ends (e.g., national security).³⁵

C. *European Convention for Human Rights and Fundamental Freedoms*

In addition to the freedoms established by the previously cited international instruments, the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) extends protection to individuals seeking to change their religion or belief.³⁶ Specifically, Article 9 of the European Convention declares:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or

32. *International Covenant on Civil and Political Rights*, Dec. 16, 1966, art. 18, 999 U.N.T.S. 171, 178, S. EXEC. DOC. E, 95-2, at 29 (1978) [hereinafter *ICCPR*].

33. Stahnke, *supra* note 11, at 269-70.

34. *Id.*

35. *Id.*

36. McCormick, *supra* note 4, at 293.

private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.³⁷

It seems that the liberal language of the European Convention, like the Universal Declaration of Human Rights and the ICCPR, would encourage many religions in their proselytizing efforts. Unfortunately, reports sent to the U.S. Department of State point to instances of religious persecution in at least sixty countries across the globe.³⁸ In spite of clear and concise international laws delineating religious freedoms, some countries have adopted unacceptable practices. Due to this fact, in 1996, Roman Catholic leader Pope John Paul stated that some countries

continue to practice discrimination against Jews, Christians and other religious groups, going even as far as to refuse them the right to meet in private for prayer. It cannot be said too often: this is an intolerable and unjustifiable violation not only of the norms of current international law, but of one's most fundamental human freedom, that practicing one's faith openly, which for human beings is their reason for living.³⁹

IV. RESTRICTIONS AND DISCRIMINATION AGAINST PROSELYTIZING

The claim that proselytizing activities are an essential part of one's right to freedom of religion is at the heart of many disputes. "Arcot Krishnaswami, a special rapporteur to the United Nations, has said: 'While some faiths do not attempt to win new converts, many of them make it mandatory for their followers to spread their message to all, and to attempt to convert others. For the latter, dissemination is an important aspect of the right to manifest their religion or belief.'"⁴⁰ International human rights law is consistent with Krishnaswami's statement because it recognizes the freedom to change one's religion through proselytizing

37. *European Convention for the Protection of Human Rights and Fundamental Freedoms*, Nov. 4, 1950, 213 U.N.T.S. 221, 230 [hereinafter *European Convention*].

38. McCormick, *supra* note 4, at 292.

39. Pope John Paul, Address to Diplomatic Corps (Jan. 13, 1996) *quoted in* McCormick, *supra* note 4, at 294.

40. ARCOT KRISHNASWAMI, STUDY OF DISCRIMINATION IN THE MATTER OF RELIGIOUS RIGHTS AND PRACTICES, U.N. Doc. E/CN.4/Sub. 2/200/Rev. 1, U.N. Sales No. 60.XIV.2 (1960), *quoted in* Stahnke, *supra* note 11, at 276.

efforts.⁴¹ However, in some countries the consequences of changing one's religion discourage individuals from entertaining such an idea.⁴² As previously mentioned, some Islamic states have established laws forbidding apostasy from Islam.⁴³ Specifically, referring to those who renounce Islam, the Qur'an states that "the Devil has seduced them."⁴⁴

Advocates of treating Islamic apostates with drastic measures contend that they are acting within international human rights standards.⁴⁵ For example, the Islamic state of Mauritania defends its position of imposing the death penalty on any Muslim who apostatizes and fails to repent within three days as furtherance of public order and morality.⁴⁶ The Mauritanian government believes that the strict penalties imposed upon its state are proper restrictions on religious freedoms.

The Islamic religion, which plays an important role in the maintenance of security and stability . . . is an integrated religious faith and any person who embraces it of his own free will must be assumed to have accepted all its teachings, including the rules governing apostasy, which strengthen the foundations of the society based upon it.

Apostasy from this religion, which guarantees so many freedoms and so much security, stability, and social justice, is regarded as high treason and everyone is aware of the penalties that States impose for this type of offence, which threatens their stability and their very existence⁴⁷

The conflict of domestic laws of a particular country and international law creates problems not only for new or minority religions wishing to proselytize, but also for the country's citizens who wish to change their religious views. In addition, zealous individuals and churches, believing

41. Stahnke, *supra* note 11, at 278.

42. *Id.* at 280-81.

43. *Id.* at 281.

44. *Id.*

45. *Id.* at 282.

46. *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, U.N. ESCOR, 46th Sess., Capitol Provisional Agenda Item 24, Committee on Human Rights, P58, U.N. Doc. E/CN.4/1990/46 (1990) (quoting a letter addressed to Mauritania's government "transmitted by Special Rapporteur"), *quoted in* Stahnke, *supra* note 11, at 282.

47. *Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, U.N. ESCOR, 47th Sess., Provisional Agenda Item 22, Commission on Human Rights, U.N. Doc. E/CN.4/1991/56 (1991) *quoted in* Stahnke, *supra* note 11, at 282.

they are free to proselytize, may be subjected to discrimination or even placed in life-threatening situations. If a law of a particular country can prevail over international law, the question is raised: Why are international instruments even created?

V. OBSTACLES ENCOUNTERED BY ORGANIZED RELIGIONS

A. *Dangers in Missionary Service*

Missionary efforts not only require discipline and patience, but, at times, carry great risks when conducted in foreign countries. On April 9, 1997, Orin A. Voorheis, an LDS missionary from Utah serving in Buenos Aires, Argentina, was shot in the head by three bandits carrying knives and a gun.⁴⁸ Apparently, the thieves approached Voorheis and his missionary companion and demanded all of their money.⁴⁹ When the thieves discovered the small amount of money the young missionaries were carrying at the time, they became angry, pointed a gun at Voorheis' head, and demanded his backpack.⁵⁰ Voorheis attempted to push the gun away from his head in the process of taking off his backpack; however, he was shot in the head.⁵¹ After extensive hospitalization and therapy, Voorheis, though stronger, is still paralyzed and unable to speak because of the senseless attack.⁵²

Approximately one year after the shooting incident in Argentina, the LDS church faced another missionary crisis on foreign soil. On March 18, 1998, two LDS missionaries were kidnapped in Saratov, Russia (roughly 450 miles southeast of Moscow).⁵³ Travis Tuttle of Gilbert, Arizona, and Andrew Propest of Lebanon, Oregon, were held in captivity for four days.⁵⁴ The kidnappers left a ransom note on the doorstep of a local church member demanding \$300,000 and photocopies of the missionaries' passports.⁵⁵ Even though no ransom was paid, the Russian kidnappers

48. *Outpouring of Love for Missionary*, CHURCH NEWS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, May 10, 1997, at 6.

49. *Id.*

50. *Id.*

51. *Id.*

52. James E. Faust, *Hope, an Anchor of the Soul*, THE ENSIGN OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, Nov. 1999, at 59.

53. Richard C. Paddock, *Captors Free Kidnapped Mormon Missionaries*, L.A. TIMES, Mar. 23, 1998, at A4.

54. *Id.*

55. Julie A. Dockstader, *Kidnapped Missionaries Safe; Two Arrested*, CHURCH NEWS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, Mar. 28, 1998, at 11.

drove the missionaries to the edge of the city of Saratov and released them without harm.⁵⁶

Notwithstanding the publicity surrounding the kidnapping of the two American missionaries, another meaningless act of violence was inflicted upon LDS missionaries in Russia. Jose Manual Mackintosh, from Hiko, Nevada, died from stab wounds after an attack in Ufa, Russia.⁵⁷ On an evening in October 1998, after Mackintosh and his companion had finished visiting a Mormon family, the two missionaries were attacked by a group of men outside the family's home.⁵⁸ Mackintosh died immediately.⁵⁹ According to reports, the attackers were drunk, and the attack was not a statement against the LDS church.⁶⁰ Responding to Mackintosh's death, LDS church official L. Aldin Porter stated, "We understand that this tragedy was a random act of violence and that there was no premeditation" and "[o]ur representatives in Russia will cooperate fully with local authorities in their investigation of the case."⁶¹ Such a forgiving position seems difficult to accept when the LDS church, together with other foreign religious organizations in Russia, have come under attack for "importing" their religious philosophies.⁶² As if the dangers and risk of missionary service were not enough, organized religions may face an even greater challenge to proclaiming their beliefs when confronted with foreign domestic law.

B. European Law v. International Law

On December 10, 1997, Austria enacted the 1997 Confessional Communities Law⁶³ that created a second class of religions which are not entitled to all of the advantages and protections given to traditional religions.⁶⁴ According to this law, nontraditional religions are not considered religions, but termed "Confessional Communities," which means such groups must meet stringent conditions in order to be

56. Paddock, *supra* note 53.

57. Alexa Haussler, *Mormon Traveler Attacked Abroad; Mesa Man on Russia Mission*, THE ARIZ. REPUBLIC, Oct. 18, 1998, at B1.

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. Paddock, *supra* note 53.

63. Christopher J. Miner, *Losing My Religion: Austria's New Religion Law in Light of International and European Standards of Religious Freedom*, 1998 BYU L. REV. 607, 607 n.1 (1998).

64. *Id.* at 607.

recognized by the government.⁶⁵ Section 11 of the law states that in order for a nontraditional religious group to be governmentally recognized in Austria it must:

- (1) be organized for at least 20 years, 10 of which must be as a "confessional community" within the meaning of the new law.
- (2) have a total number of members that is at least 2 members for every 1000 Austrians, according to the last census.
- [(3)]
- (4) have a positive attitude toward society and the State.
- (5) lead to no illegal disturbances of the relationships of the current lawfully recognized Churches and religious societies as well as other religious communities.⁶⁶

The imposition of these high standards appears to discourage and impede outside religions from becoming established in Austria. For example, the requirement that nontraditional religions have "two members for every 1000 Austrians"⁶⁷ equates to approximately 16,000 members.⁶⁸ For newer religions, this could be an impossible feat. In addition, the requirement to maintain a "positive attitude" towards the government could be subject to many different interpretations.

Currently, the following religions are recognized by the Austrian government: "The Catholic Church, The Protestant (Lutheran) Church, The Greek Oriental Church, The Old Catholic Church, The Armenian Apostolic Church, The Syrian Orthodox Church, The Methodist Church, The Church of Jesus Christ of Latter-day Saints (Mormon), The Jewish Religious Community, Islam, and the Austrian Buddhist Religious Society."⁶⁹ Religions accepted by the Austrian government enjoy many advantages not afforded nontraditional religions, such as:

tax advantages, protection of public freedom of religious expression, legal protection of its name, the right to receive religious instruction in public schools from members of one's own faith, the right to govern-

65. *Id.*

66. *Id.* at 619.

67. *Id.* at 619 n.3.

68. *Id.* at 607 n.3.

69. Miner, *supra* note 63, at 608 n.9.

ment support of a religious private school, free weekly television time, the right to have one's religion on a birth certificate, the right to have a military chaplain from one's own religion, status as a public law corporation, protection of church funds against "secularization" (confiscation) and visa and work permits for foreign missionaries or church leaders.⁷⁰

Conversely, unrecognized religions such as the Baptist Church, the Seventh-Day Adventists, and the Jehovah's Witnesses, not only lack the benefits extended to traditional religious groups (as outlined above), but also must wait the requisite ten years before being considered for recognition.⁷¹ In addition to the aforementioned obstacles, an unrecognized religion in Austria is considered to be a "sect."⁷² To be labeled as a "sect" in Austria is to be viewed as a danger to the community.⁷³ Furthermore, sects are considered to be anti-family and anti-Christian.⁷⁴ Consequently, minority religions encounter discrimination ranging from embarrassment to difficulty in locating places to worship.⁷⁵

Austria is a signatory to several international human rights instruments that extend religious freedoms to all.⁷⁶ As a signatory, Austria agreed to the instrument's terms and accepts the intervening powers of international courts.⁷⁷ For example, Austria has ratified the European Convention.⁷⁸ Article 9 of the European Convention states that the manifestation of one's religion can only be limited to protect "the interests of public safety . . . public order, health morals, . . . rights and freedoms of others."⁷⁹ Likewise, Austria has signed international instruments which state that one's religion may be limited to protect the safety and beliefs of others, such as the International Covenant on Civil and Political Rights⁸⁰ and the Declaration on Elimination of All Forms of Intolerance and of

70. *Id.* at 620.

71. *Id.* at 608.

72. *Id.* at 620.

73. *Id.*

74. *Id.*

75. Miner, *supra* note 63, at 620.

76. *Id.* at 622.

77. *Id.*

78. *Id.* at 623.

79. *European Convention*, *supra* note 37.

80. *See ICCPR*, *supra* note 32.

Discrimination Based on Religion or Belief.⁸¹ These international instruments delineate strict parameters under which religions may be regulated; the numerical and "positive attitude" requirements of Austria's 1997 Confessional Communities Law do not appear to meet these standards.⁸² Rather, the Confessional Communities Law appears to do nothing more than legitimize Austria's denial of religious protections and benefits to those religions with which it does not agree⁸³ and, therefore, blatantly violates international law. A change to the Austrian law is the only logical solution in progressing forward, rather than backward, as it pertains to freedom of religion.

Austria's Confessional Communities Law is but one example of how a country has implemented domestic law that clearly conflicts with international instruments. Greece presented the European Court of Human Rights its first opportunity to interpret the breadth of Article 9 of the European Convention.⁸⁴ Mr. Minos Kokkinakis, a Greek national, became a Jehovah's Witness in 1936.⁸⁵ Thereafter, he was arrested over sixty times for proselytizing.⁸⁶ On March 2, 1986, Mr. Kokkinakis and his wife visited the home of Mrs. Georgia Kyriakaki, an Orthodox Christian.⁸⁷ When Mr. Kokkinakis encouraged her to change beliefs to those practiced by the Jehovah's Witnesses, Mrs. Kyriakaki's husband called the police.⁸⁸ Mr. and Mrs. Kokkinakis were arrested and taken to the police station, where they spent the night.⁸⁹ Mr. and Mrs. Kokkinakis were prosecuted for proselytizing, which is prohibited under Greek Law.⁹⁰ Specifically, Article 13(2) of the 1975 Constitution states, "There shall be freedom to practice any known religion; individuals shall be free to perform their rites of worship without hindrance and under the protection of the law. The performance of rites of worship must not prejudice public order or public

81. See *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, G.A. Res. 36/55, U.N. GAOR, 36th Sess., Supp. No. 51, at 171, U.N. Doc A/36/51 (1981).

82. Miner, *supra* note 63, at 619.

83. *Id.* at 645.

84. *Id.* at 624.

85. Kokkinakis v. Greece, 260 Eur. Ct. H.R. (ser. A) 6, 8 (1993).

86. *Id.* at 8.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

morals. Proselytism is prohibited.”⁹¹ The term “proselytism” is defined in Greek statutory enactments to mean:

2. [A]ny direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion . . . with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect, or naivety.
3. The commission of such an offence in a school or other educational establishment or a philanthropic institution shall constitute a particularly aggravating circumstance.⁹²

The Greek courts have also stated the following about proselytism:

[P]urely spiritual teaching does not amount to proselytism, even if it demonstrates the errors of other religions and entices possible disciples away from them, who abandon their original religions of their own free will; this is because spiritual teaching is in the nature of a rite of worship performed freely and without hindrance. Outside such spiritual teaching, which may be freely given, any determined, importunate attempt to entice disciples away from the dominant religion by means that are unlawful or morally reprehensible constitutes proselytism as prohibited by the aforementioned provision of the Constitution.⁹³

The Kokkinakis appeared before the Lasithi Criminal Court and were found guilty of proselytism.⁹⁴ For their proselytizing, Mr. and Mrs. Kokkinakis were each sentenced to four months imprisonment, which could be converted into 400 Dr (Greek drachma) per day of imprisonment and a fine of 10,000 Dr.⁹⁵ The Kokkinakis appealed the Criminal Court's decision to the Crete Court of Appeal.⁹⁶ The Crete Court of Appeal quashed Mrs. Kokkinakis's judgment; however, it upheld Mr. Kokkinakis's

91. Quoted in *Kokkinakis*, 260 Eur. Ct. H.R. (ser. A) at 11 (quoting Article 13(2) of the Constitution of Greece).

92. Section 4 of Act 1363/1938, as amended by Section 2 of Act 1672/1939, reprinted in *Kokkinakis*, 260 Eur. Ct. H.R. (ser. A), at 12.

93. Supreme Administrative Court, judgment no. 2276/1953, reprinted in *Kokkinakis*, 260 Eur. Ct. H.R. (ser. A) at 13.

94. *Kokkinakis*, 260 Eur. Ct. H.R., at 9.

95. *Id.*

96. *Id.*

judgment but reduced his prison time to three months.⁹⁷ The court's reasoning for upholding Mr. Kokkinakis's judgment was based primarily on the opinion that he had taken advantage of Mrs. Kyriakaki's "inexperience, her low intellect and her naivety"⁹⁸ to persuade her to accept the beliefs of the Jehovah's Witnesses.⁹⁹ The court also held that Mr. Kokkinakis had "tried, directly and indirectly, to undermine" Mrs. Kyriakaki's religious beliefs by reading passages from scripture.¹⁰⁰ There was no evidence that Mrs. Kokkinakis participated in this conduct, and, therefore, she was acquitted.¹⁰¹ To no avail, Mr. Kokkinakis appealed the decision of the Crete Court of Appeal to the Court of Cassation, which rejected his plea of unconstitutionality and said that the Crete Court of Appeal had properly followed the 1975 Constitution and its applicable provisions.¹⁰² As a consequence of Mr. Kokkinakis's conviction, the European Court of Human Rights reviewed the Greek Constitution to verify that it was not in violation of Article 9 of the European Convention.¹⁰³ On review, the Greek government contended that one of the main reasons for prohibiting proselytism was to protect others from "activities which undermined their dignity and personality,"¹⁰⁴ and that imposing such restrictions were fundamental "to protect a person's religious beliefs and dignity from attempts to influence them by immoral and deceitful means."¹⁰⁵ The European Court ruled that conviction of Mr. Kokkinakis was based on a justifiable aim in protecting the religious rights of others.¹⁰⁶ However, it was decided that the Greek courts had not proven that Mr. Kokkinakis had done anything inappropriate and, therefore, "his conviction was a violation of [A]rticle 9 of the European Convention."¹⁰⁷

Like the Kokkinakis, Catherine Guyard, a schoolteacher at a French academy and also a Jehovah's Witness, was subjected to intense discrimination because of her religious beliefs.¹⁰⁸ In September of 1996, a

97. *Id.*

98. *Id.*

99. *Id.*

100. *Kokkinakis*, 260 Eur. Ct. H.R., at 9.

101. *Id.*

102. *Id.* at 10.

103. Stahnke, *supra* note 11, at 287.

104. *Kokkinakis*, 260 Eur. Ct. H.R., at 18.

105. *Id.* at 20.

106. *Id.*

107. Stahnke, *supra* note 11, at 289.

108. Keturah A. Dunne, Comment, *Addressing Religious Intolerance in Europe: The Limited Application of Article 9 of the European Convention on Human Rights and Fundamental Freedoms*, 30 CAL. W. INT'L L.J. 117 (1999).

local parent-teacher association scheduled a meeting which all parents were invited to attend.¹⁰⁹ The meeting was advertised through a bulletin which read, "Your children will be entrusted to a school teacher who is a member of Jehovah's Witnesses, who are a sect organization. We invite you to discuss this matter on September 2, 1996, at 8:30 p.m. at the school."¹¹⁰ Because of this meeting, Mrs. Guyard was compelled to resign.¹¹¹

In 1995, the French National Assembly created a Parliamentary Commission on Cults aimed at identifying and investigating the activities of "sects" and "new religions."¹¹² Following a 12-month investigation, the French Parliamentary Commission on Cults identified 172 religions as "harmful and dangerous" and asked for legislative intervention to stop these organizations.¹¹³ Although the French government did not pursue legislative action, it did establish the Observatory on Cults, with a mandate to notify the public about religious groups considered to be dangerous and to produce annual surveillance reports of the scrutinized organizations.¹¹⁴ Through this process, the French government has begun to take away constitutional rights from minority religions by labeling them as non-religious groups.¹¹⁵ Sadly, many minority religions and their members have been subjected to devastating discrimination. Specifically, minority religions that are listed in the annual "cult" report have been denied building permits to build new places of worship or even to rent halls to have a place to assemble.¹¹⁶ Like Mrs. Guyard, some members of minority religions have lost their employment because of their religious beliefs.¹¹⁷ The French Parliamentary Commission's Report has also been used as a weapon in child-custody determinations, revocation of tax-exempt status, and negative media coverage.¹¹⁸ As a signatory to the European Convention, France has agreed to extend religious freedoms as guaranteed under Article 9.¹¹⁹ However, it appears that through the establishment of the

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.* at 119.

113. *Id.*

114. Dunne, *supra* note 108, at 119.

115. *Id.*

116. *Id.* at 125.

117. *Id.*

118. *Id.* at 125-26.

119. Dunne, *supra* note 108, at 157.

Parliamentary Commission on Cults, France has overlooked its responsibilities to religious minorities and their rights.¹²⁰

Facing intense discrimination for their religious beliefs, minority religions may look to Article 9 of the European Convention for protection. Unfortunately, many procedural obstacles must be overcome before submitting a case to the European Court of Human Rights.¹²¹ For example, Article 35 of the European Convention sets forth a series of conditions one must follow in order to appeal to the European Court:

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognized rules of international law, and within a period of six months from the date on which the final decision was taken.
2. The Court shall not deal with any individual application submitted under Article 34 that
 - a. is anonymous; or
 - b. is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3. The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.
4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.¹²²

Thus, a petitioner cannot pursue legal recourse through the European Court until "all domestic remedies have been exhausted."¹²³ With this extensive legal process, religious minorities may experience incurable harm before their applications are actually received by the European

120. *Id.*

121. *Id.* at 150.

122. Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, May 11, 1994, Europ. T.S. No. 155, art. 35, at 5.

123. *Id.*

Court.¹²⁴ Furthermore, as demonstrated by the Greek and French cases noted above, despite the international effort to extend religious freedoms throughout the European region, all too often sovereign states impose their own laws upon citizens and visitors, thereby precluding freedom of religion.

C. *Middle East v. Western Religion*

As if religious intolerance in Europe were not enough, governments in the Middle East are also responsible for religious turmoil among citizens and foreigners alike.

1. Israel and The Holy Land Battle

Jerusalem's former mayor, Teddy Kollek, stated that Jerusalem is a "Noah's Ark of hooded Christian monks, turbaned Moslem sheiks and black-robed Jews They pass one another on the white-stoned steps, each one silently contemplating his own grand vision for Jerusalem in which the people walking right next to him have no place."¹²⁵ Jerusalem plays a pivotal role in three major world religions: Christianity, Islam, and Judaism.¹²⁶ Consequently, "many people pray toward Jerusalem and toward [its] Temple."¹²⁷ Some have even considered Jerusalem to be at the very center of the earth, or an "umbilical cord, connecting heaven and earth."¹²⁸ Jewish rabbis taught that Adam was formed from the dust of the Temple in Jerusalem.¹²⁹ The Muslims believe that Abraham's attempted sacrifice of Isaac occurred at Jerusalem's Mount Moriah, or the Harem esh-Sharif.¹³⁰ For Christians, Jerusalem is where the two greatest events of all time occurred: the death and resurrection of Jesus Christ.¹³¹ Because the Islamic, Jewish, and Christian religions each have so many religious traditions centered in Jerusalem, disputes of one religious faith over another should not come as a surprise, for it is a "city founded on sanctity, sacrifice, and blood. A lot of blood."¹³²

In 1979, Spencer W. Kimball, president of the LDS church and chairman of the board of trustees of Brigham Young University (BYU), a

124. Dunne, *supra* note 108, at 146.

125. DAVID B. GALBRAITH ET AL., JERUSALEM THE ETERNAL CITY 434 (1996).

126. *Id.* at 3.

127. *Id.* at 5.

128. *Id.* (quoting JELLINEK, BETH HA-MIDRASH, v. 63).

129. *Id.* (quoting JEWISH ENCYCLOPEDIA, 1:177).

130. *Id.*

131. GALBRAITH, *supra* note 125, at 163.

132. *Id.* at 4.

private institution sponsored by the LDS church, announced plans to build a center to accommodate local and traveling members for weekly services and provide housing facilities for the BYU Travel Study Program.¹³³ However, the construction of a large LDS religious and educational building in the heart of the Jewish capital stirred up opposition from the Jewish people.¹³⁴ When construction of the "Mormon project"¹³⁵ began in August of 1984, the Jewish orthodox community complained that a non-Jewish, Christian proselytizing religion was building its facilities on one of the best sites in Jerusalem.¹³⁶ Unfortunately, the opposition did not stop at the groundbreaking of the Center. In fact, by the beginning of 1985, an Israeli newspaper reported the community's sentiments:

The Mormon organization is one of the most dangerous, and in America, they have already struck down many Jews. At the present, the Mormons are cautious because of the tremendous opposition their missionary activities would engender, but the moment their new Center is completed, we won't be able to stop them.¹³⁷

Likewise, Yad L'Achim, a small group of Jewish activists opposed to Christian proselytizing, complained to the Israeli Knesset legislature in February 1985 saying that "[t]he Mormons seek international legitimization through the university center they are building in Israel so as to acquire for themselves a respectable status with the ultimate objective to proselyte Jews. They plan to operate under the camouflage of 'education' and 'culture.'"¹³⁸ While the negative propaganda made things difficult, the opposition to the "Mormon Center" became discriminatory when a subcommittee of the Knesset (Interior Committee) asked the BYU Center to give a promise not to proselytize to the Jews.¹³⁹ Although not obligated to do so, the LDS church and BYU decided to comply with the Knesset's demands.¹⁴⁰ In August of 1985, Jeffrey R. Holland, president of BYU, submitted a declaration to the Israeli government, which stated, in part, the following:

133. *Id.* at 454. See generally <http://www.byu.edu>.

134. *Id.* at 457.

135. *Id.* at 458.

136. *Id.*

137. GALBRAITH, *supra* note 125, at 458-59 (quoting KOL HA'IR, Jun. 8, 1984).

138. *Id.* at 459.

139. *Id.* at 462.

140. *Id.* at 463.

We Declare and Undertake:

1. In harmony with the law and consistent with our own past policy and practice, students, faculty, and staff connected with the Institution will not be permitted to engage in proselytizing activities in Israel.
2. To assist in enforcing this policy the Institution will continue, as it has in the past, to require all students, faculty, and staff involved in the study programs of the Institution to sign an undertaking not to engage in proselytizing activity in Israel. Violators will be subject to dismissal from the program and returned home.
3. The academic programs of the Institution are especially designed for participants from the worldwide Latter-day Saint (Mormon) community coming through Brigham Young University (USA). As long as required by the Israel Council of Higher Education, students from Israel shall not be, in any way, enrolled by the Institution for academic coursework (i.e., classes for which university credit is available or any student program leading to a degree).
4. Some educational and cultural programs and exhibits may be open to the general public in keeping with a university's public role but will not be designed nor used for proselytizing.¹⁴¹

While this declaration appeased many who had not taken a position for or against the Center, the negative media created a lot of confusion.¹⁴² By December 1985, faced with a vote of no confidence, Prime Minister Shimon Peres established a committee of four Cabinet ministers in favor of the Center and four Cabinet members opposed.¹⁴³ As such, the committee was to hold hearings and give a final recommendation as to whether the Center's construction should continue.¹⁴⁴ Due to the Prime Minister's actions, efforts by religious parties to bring down the government were neutralized.¹⁴⁵

141. *Id.* at 464.

142. *Id.*

143. GALBRAITH, *supra* note 125, at 462.

144. *Id.*

145. *Id.*

In May of 1986, the U.S. Congress sent Israel's Prime Minister and all 120 members of the Knesset a letter encouraging the establishment of the Center.¹⁴⁶ Portions of the letter read as follows:

We have become increasingly concerned by reports here in the United States concerning certain groups in Israel who have undertaken a campaign to halt the construction and use of the Brigham Young University Center for Near Eastern Studies currently under construction in Jerusalem. We commend Israel for its admirable record of keeping Jerusalem open and we hope that this record will not be blemished in any way by this situation.

....

While we are aware of the sensitivity which many Jews feel regarding proselytizing, it is our understanding the officials of Brigham Young University have signed an undertaking in which it pledges that the Center will not be used for missionary activities. We also understand that it has been the longstanding policy of Brigham Young University that none of its students or faculty engage in proselytizing in Israel. . . .

. . . We believe that rather than hinder U.S.-Israeli ties, the BYU Center will be a further source of understanding and cooperation between our two countries. . . . We therefore request, gentlemen, that you do all that is necessary to see that this project is allowed to be completed and occupied without undue impediments or delays.¹⁴⁷

Finally, with the obvious support of the United States, the cloud of governmental opposition towards the Center began to lift; in August of 1986, the eight-member committee concluded unanimously that construction could continue.¹⁴⁸ Based on this report, the Israeli Cabinet gave permission to the Lands Authority to lease the property on which the Center was built for forty-nine years, with the alternative to renew the lease for another forty-nine years.¹⁴⁹

The BYU Jerusalem Center has been responsible for making the term "Mormon" a household name throughout all Israel, and, contrary to preconceived notions, the Mormons have proven to greatly benefit the

146. *Id.* at 465.

147. *Id.* at 465-66.

148. *Id.* at 466.

149. GALBRAITH, *supra* note 125, at 466.

community.¹⁵⁰ In fact, instead of seeking freedom to proselytize through international accords, to which Israel has agreed to adhere,¹⁵¹ the LDS church has displayed patience and cooperation by stating, “[w]e will not enter Israel with our missionaries through the ‘back door.’ If the Church were to ever send missionaries, it would be through the ‘front door,’ invited.”¹⁵² Admittedly, the LDS church’s acquiescence to the Israeli government is a unique example of endurance and commitment to keeping its word. Unfortunately, an anti-missionary bill has been considered which, if ever enacted, would prohibit minority religions, including the LDS church, from sending their missionaries to proselytize to the Jewish community. Israel has also considered enacting a conversion bill, which is focused primarily on Jews who follow the Conservative and Reform sects.

a. The Anti-Missionary Bill

While Israel currently has in force an anti-missionary bill that bars one from inducing a Jewish person to convert to another religion through money or gifts, the Knesset has voted to strengthen the law to preserve the “Jewishness” of the State of Israel.¹⁵³ Essentially, the proposed amendment would penalize anyone who is convicted of inducing a Jew to convert to another religion by imposing imprisonment for one year.¹⁵⁴ In addition, any tract or publication found to induce religious conversion would be confiscated.¹⁵⁵ When surveyed concerning this bill in March of 1997, 78 of 120 (65%) members of the Knesset said they would support the bill.¹⁵⁶ If ever passed, this bill could have devastating effects upon minority proselytizing religions.

b. The Conversion Bill

The proposed conversion bill makes Orthodox Judaism the state religion and limits freedoms enjoyed by the Reform and Conservative sects.¹⁵⁷ Under this bill, anyone who converts to Judaism would only be

150. *Id.* at 467-68.

151. Julie Kamens, Comment, *Religious Law in Israel: The Debate Rages Forth Regarding the Anti-Missionary Bill and the Conversion Bill*, 13 TEMP. INT'L & COMP. L.J. 347, 367 (1999).

152. GALBRAITH, *supra* note 125, at 471 (quoting GALBRAITH JOURNAL, May 19, 1988).

153. Kamens, *supra* note 151, at 351. See also United States Commission on International Religious Freedom, *2000 Annual Report on International Religious Freedom: Israel*, available at http://www.uscifr.gov/dos00Pages/irf_israel.php3 (last modified Mar. 1, 2001).

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.* at 349.

recognized as being Jewish in Israel if the conversion classes are taught by an Orthodox rabbi, the conversion ritual is performed by an Orthodox rabbi, or the person converts to Judaism on foreign soil.¹⁵⁸ While the enactment of this bill would not greatly impact minority religions and their proselytizing efforts, the Conservative and the Reform sects' religious freedoms would suffer tremendously.¹⁵⁹ Specifically, the enactment of this bill would make members the Conservative and the Reform sects second-class citizens in their own country.¹⁶⁰

Israel is a complex country faced with many religious challenges. Israel may feel that restrictions and discrimination imposed on non-Jewish and Jewish minorities are justified in keeping Judaism undefiled. However, in this day and age, religious activists who are supported by government and laws, should not be allowed to force any church to renounce a charge to "preach the gospel to all the world."¹⁶¹ Unfortunately, Israel is but one of the Middle-Eastern countries that engages in harsh and, oft times, violent religious discrimination.

2. Saudi Arabia: Untamed

Saudi Arabia is considered one of the most oppressive Islamic states on earth.¹⁶² Regarding religious freedoms, the U.S. Department of State concluded in a human rights report that inside Saudi Arabia, "[f]reedom of religion does not exist. Islam is the official religion, and all citizens must be Muslim."¹⁶³ How, with this one-sided approach to religion, can those who do not belong to the Islamic faith feel safe in Saudi Arabia? The Islamic code, the Shari'a, which originates from the Qur'an and Muhammad, prohibits public and private non-Muslim worship.¹⁶⁴ Consequently, any person who does not obey the code is subject to public flogging, amputation, and even beheading.¹⁶⁵ It should be noted that this strict code is not exclusive to residents or Muslims, but extends to foreigners as well.¹⁶⁶ Therefore, any person found wearing a Christian cross or a Jewish Star of David, or participating in any other non-Muslim religious practice, may be arrested.¹⁶⁷ This position against non-Muslim religious practices is

158. *Id.* at 349-50.

159. Kamens, *supra* note 151, at 350.

160. *Id.*

161. *Matthew* 28:19 (King James Bible).

162. McCormick, *supra* note 4, at 306.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.* at 306-07.

167. *Id.* at 307.

solidified by the Qur'an, which states, "O ye who believes! Take not Jews and the Christians for your friends and protectors: they are but friends and protectors to each other. And he amongst you that turns to them is one of them."¹⁶⁸ Thus, any Muslim who converts to another religion may be punished by death.¹⁶⁹

According to Amnesty International, there have been approximately 350 cases of Christian foreign workers being, or who have been, imprisoned for worshipping privately in Saudi Arabia.¹⁷⁰ In order to stay apprised of any illegal religious movements among society, the Saudi Arabian government pays bounties to "tattletalers."¹⁷¹ The Mutawwa'in, or the "religious police," have been known to focus on expatriate workers, who comprise the majority of the Christian population.¹⁷² Persons have been jailed for basic things such as holding private meetings in homes, "carrying Bibles or other Christian writings, or even speaking to a Muslim about their faith."¹⁷³ Once these non-Muslim violators are imprisoned, they are left to the mercies of the Saudi Arabian government—in fact, not one imprisoned Christian has been able to leave Saudi Arabia unless the government has chosen to deport the person.¹⁷⁴ Unfortunately, before persons are released from prison and deported, they are usually beaten and flogged.¹⁷⁵

Faced with the terrible attacks imposed by the Iraqis in the Persian Gulf War, it would seem only logical that religious tolerance would be extended by the Saudi Arabian government to foreign soldiers, but this was not the case. "In fact, during the war, U.S. troops were not permitted to wear any symbol of faith."¹⁷⁶ "Saudi rulers are terrified that thoughts of religious freedom, or any other kind, linger from having had Americans around to protect them from Iraq."¹⁷⁷

Saudi Arabia minces no words when it comes to religion. Everyone who lives and comes to that country is fully informed that nothing but the Islamic faith will be tolerated.¹⁷⁸ Because the exact number of Christians incarcerated in Saudi Arabia is unknown, the effectiveness of human rights

168. McCormick, *supra* note 4, at 307 n.130 (quoting the Qur'an, Surah 5:51).

169. *Id.* at 307.

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. McCormick, *supra* note 4, at 307.

175. *Id.*

176. *Id.* at 308.

177. *Id.* (quoting Human Rights Reports, Oct. 1996, at 1-2).

178. *Id.* at 307.

law cannot be determined.¹⁷⁹ Indeed, understanding the potential harm that could be inflicted upon one for attempting to proselytize anything but Islam in Saudi Arabia should be enough to deter even the most ardent missionary.

3. Egypt

Like Saudi Arabia, Islam is the state religion in Egypt.¹⁸⁰ Yet, unlike Saudi Arabia, the Egyptian Constitution appears to give its citizens the freedom of religion by declaring that everyone has “equal public rights and duties without discrimination between them due to race, ethnic origin, language, or creed.”¹⁸¹ Furthermore, the Constitution declares that, “the State shall guarantee the freedom of belief and the freedom of practice of religious rites.”¹⁸² On paper, Egypt meets the standards of a democratic society. This is further evidenced by the fact that Egypt has the largest Christian population in the Middle East (approximately five to ten million).¹⁸³ As such, evangelical leaders have focused their energies on penetrating Egyptian congregations. For example, in March 1998, Luis Palau, an evangelical leader, preached to more than 600,000 Egyptians—the country’s largest evangelistic outreach yet.¹⁸⁴ Pleased with the enthusiastic response of the Egyptians (suffering only one bomb threat), Palau commented, “In the next 30 years, the Arabic world will be saturated with the gospel of Jesus Christ.”¹⁸⁵

While it is encouraging that many minority religions are optimistic about the future of Egypt, there are still many challenges that must be overcome. At this time, the rights and freedoms of democracy are not granted to the Christian population.¹⁸⁶ Instead, any religious activity that is not in harmony with Islam is prohibited.¹⁸⁷ Coptic Christians,¹⁸⁸ who

179. *Id.*

180. McCormick, *supra* note 4, at 303.

181. *Id.* (quoting Constitution of the Arab Republic of Egypt, art. 40 (1980)) (emphasis added).

182. *Id.* (quoting Constitution of the Arab Republic of Egypt, art. 40 (1980)).

183. *Id.*

184. Patricia C. Roberts, *Crowds Exceed Palau's Expectations*, CHRISTIANITY TODAY, Apr. 27, 1998, at 22.

185. *Id.*

186. McCormick, *supra* note 4, at 303.

187. *Id.*

188. Encyclopedia Coptica, *The Christian Coptic Orthodox Church of Egypt*, at <http://pharos.bu.edu/cn/Home.html> (last visited Oct. 20, 2001). “The word Copt is derived from the Greek word Aigyptos The modern use of the term ‘Coptic’ describes Egyptian Christians, as well as the last stage of the ancient Egyptian language script.” *Id.*

comprise only ten percent of Egypt's sixty million people, have been the target of Muslim persecution.¹⁸⁹ Coptic Christians are not only subject to discrimination at work and school, but they are deprived of political representation.¹⁹⁰ In addition, Christians are often subjected to violent persecution or even gruesome deaths by Islamic fundamentalists.¹⁹¹ Since 1992, extremist Muslims have killed over 1,000 people, the majority Christians.¹⁹² "Attackers shot and killed three Christians in southern Egypt . . . after a deadly raid on a Christian church . . . gunmen burst into the Mar Girgis church on Wednesday and opened fire on a charity meeting, killing eight people . . ."¹⁹³ Stories like this, and many more, are often overlooked by the Egyptian government.¹⁹⁴ Finally, like its other Arabic neighbors, Egypt does not allow non-Muslims to engage in proselytizing efforts.¹⁹⁵ This being the case, non-Muslim churches that rely on proselytizing efforts for their growth are more or less powerless in Egypt. Indeed, the Middle East, rich with its immense oil fields and Islamic culture, may be considered the poorest region in the world when it comes to religious freedom.

D. People's Republic of China

"Why are Communist and militant Islamic dictatorships persecuting Christians? . . . Among countries with the most vicious records is the one that the West courts most lustfully, China."¹⁹⁶ China is a country that boasts nearly 1.3 billion¹⁹⁷ people who are blessed with their own individual characteristics, personalities, and religion. However, in June 1989, the world caught a glimpse of the "vicious" side of the Chinese government when hundreds of protestors were overtaken with machine guns and tanks at Tiananmen Square.¹⁹⁸ Nevertheless, throughout China's history, religion has prospered.¹⁹⁹ Indeed, the Chinese appear to be profoundly religious.

189. *3 Christians Are Slain in Attack in Egypt*, N.Y. TIMES, Feb. 15, 1997, at 8.

190. McCormick, *supra* note 4, at 303.

191. *Id.* at 304.

192. *Id.*

193. *3 Christians are Slain In Attack in Egypt*, *supra* note 189.

194. McCormick, *supra* note 4, at 304.

195. *Id.* at 303.

196. A.M. Rosenthal, *Questions Unasked*, N.Y. TIMES, Feb. 14, 1997, at A37.

197. CIA—*The World Factbook 2000—China*, <http://www.odci.gov/cia/publications/factbook/geos/ch.html> (last visited Oct. 20, 2001).

198. Robert Delfs, *Tiananmen Massacre*, FAR EASTERN ECON. REV., June 15, 1989, at 10.

199. Eric Kolodner, Comment, *Religious Rights in China: A Comparison of International Human Rights Law and Chinese Domestic Legislation*, 12 UCLA PAC. BASIN L.J. 407, 414 (1994).

1. A Historical Analysis of China's Religions

Confucianism is probably the most influential religious movement in China.²⁰⁰ While Confucianism did not become a state orthodoxy until the second century BC, many of its practices date back to around 2200 BC.²⁰¹ In addition, Daoism and Buddhism played an important role in the history of Chinese religion.²⁰² Daoism and Confucianism are both native Chinese religions; however, Buddhism is considered the first foreign religion to enter China.²⁰³ Thereafter, according to some scholars, Islam arrived in China's Xinjiang region around the mid-eighth century AD.²⁰⁴ A substantial period of time passed before Christianity was established in China; in fact, it was not until the Jesuits arrived in the sixteenth century that Christianity became firmly rooted in the Chinese culture.²⁰⁵ While these religious beliefs have attracted many followers, there also has existed a strong indifference towards religion.²⁰⁶ This negative attitude towards religion dates back to the fourth century BC when the educated referred to the religious as superstitious.²⁰⁷ To solidify the indifference towards religion, the Confucian philosophy was prejudiced against any superstitious beliefs.²⁰⁸

2. Modern Mainland China

Chinese leaders have not only embraced the ancient Confucian philosophy as it relates to religion, but for nearly fifty years, Marxism contributed to the apathetic attitude towards religion.²⁰⁹ Today, the Communist Party of China believes that religion will eventually fade out when the socioeconomic and cultural circumstances improve.²¹⁰ Therefore, religion is not prohibited, but "tolerated"—as long as it does not obstruct China's movement towards creating a socialist society.²¹¹ Article 36 of the Chinese Constitution confirms the government's view of religious tolerance by stating: "Citizens . . . enjoy freedom of religious belief. No state organ, public organization or individual may compel citizens to

200. *Id.*

201. *Id.* at 414-15.

202. *Id.* at 415.

203. *Id.*

204. *Id.* at 416.

205. Kolodner, *supra* note 199, at 416.

206. *Id.*

207. *Id.*

208. *Id.*

209. *Id.* at 418.

210. *Id.* at 419.

211. Kolodner, *supra* note 199, at 419.

believe in, or not believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.”²¹² The Chinese Constitution appears to be friendly and non-intrusive on a person’s religious belief; however, religion in China is only protected if it promotes the goals of socialism.²¹³ Consequently, vast lists of restrictions are placed upon religions in China.²¹⁴ Such restrictions include: the number of officially recognized religions, registration of meeting locations, financial management of religious organizations and activities, recruiting and training of religious “professionals,” distribution of religious literature, proselytizing, and religious beliefs considered to be “superstitious.”²¹⁵ At this time, there are only *five* legal or “official” religions that are recognized in China: Buddhism, Catholicism, Protestantism, Daoism, and Islam (all five of which have been firmly rooted in China for many years).²¹⁶ While these churches may be officially recognized in China, they must keep the government informed as to their activities, and they are subject to rigid control.²¹⁷ All other religious activity is considered illegal.²¹⁸

Surprisingly, amid the tight restrictions, the LDS church, although considered an “illegal” organization, has forged amicable relations with China. Particularly, when LDS church president Gordon B. Hinckley visited Mainland China in 1996, he was greeted with a warm welcome from officials representing the Overseas Chinese Town of the Shenzhen Special Economic Zone.²¹⁹ Throngs of Chinese dancers and performers dressed in traditional costumes lined the walkways to greet President Hinckley and his entourage.²²⁰ Nevertheless, while the LDS church shares such warm relations with China, the church emphatically states:

We are not allowed to do missionary work in the Republic of China, so we don’t do it. We go into the front door. We want governments to be aware that we are there and what we are trying to do.

212. *Id.* at 421.

213. Darin W. Carlson, *Understanding Chinese-US Conflict Over Freedom of Religion: The Wolf-Specter Freedom from Religious Persecution Acts of 1997 and 1998*, 1998 BYU L. REV. 563, 566 (1998).

214. *Id.* at 567.

215. *Id.*

216. *Id.*

217. *Id.* at 567-68.

218. *Id.* at 568.

219. SHERI L. DEW, *GO FORWARD WITH FAITH, THE BIOGRAPHY OF GORDON B. HINCKLEY* 552 (1996).

220. *Id.*

We think we add to the quality of the people who are there and we don't want to do anything that is devious in any way. Now, the Chinese constitution has certain provisions which make it very difficult to carry on some types of work, but we have many friends in China. We have teachers in China. We have many people. We have local groups meeting there but they are mostly nationals from other countries who are stationed in Beijing in diplomatic or business work, professional work and things of that kind. But as far as actual missionary work in China, we are not doing it.²²¹

Indeed, with all of the restrictions placed upon religion in Mainland China, it is apparent that the Chinese government has forgotten its commitment as a signatory to the Universal Declaration of Human Rights.²²² While the Universal Declaration of Human Rights is not legally binding²²³ upon a country, China should uphold the freedoms of religion espoused in modern international law if it truly wants to be regarded as a world leader.

3. The Big "Hand-Over": Hong Kong

At midnight, June 30, 1997, Great Britain returned its colony, Hong Kong, to the People's Republic of China.²²⁴ Many were skeptical as to what the future would hold for Hong Kong—especially under the communist control of China.²²⁵ At the time of the "hand-over," Hong Kong's population was approximately six million Chinese.²²⁶ Interestingly enough, most of the Chinese living in Hong Kong had fled, or were children of parents who had fled, from China's mainland to escape the Liberation in the 1940s.²²⁷ Since then, "mainland refugees" and others have enjoyed liberty, freedom, and a chance to live according to their own

221. *President Hinckley Comments on Current Issues*, CHURCH NEWS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, May 22, 1999, at 3, 5.

222. U.N. Dep't. of Pub. Info., *The Universal Declaration of Human Rights: A Magna Carta for all Humanity* (Dec. 1997), available at <http://www.unhchr.ch/udhr/miscinfo/carta.htm>.

223. *Id.*

224. Johanna McGeary, *The Big Handover*, TIME, Jun. 30, 1997, at 36.

225. *Id.*

226. *Id.*

227. *Id.*

beliefs.²²⁸ The LDS church, which is not recognized in Mainland China, established its missionary efforts in Hong Kong in 1949.²²⁹

Success in Hong Kong was initially slow for the LDS church; however, through its proselytizing missionaries, membership grew.²³⁰ In fact, Hong Kong membership was reported to be an estimated 20,000 members at the end of 1999.²³¹ Because of the faithfulness of the Hong Kong members, the LDS church announced its intentions to construct one of its holy temples²³² in Hong Kong on October 3, 1992.²³³ Thereafter, on January 22, 1994, ground was broken and construction continued for more than two years.²³⁴ Finally, on May 26-27, 1996,²³⁵ the Hong Kong LDS temple was dedicated for church use.²³⁶

At the time of the dedication of this temple, just over a year remained before the inevitable reunion between Hong Kong and its communist landlord. Surely, how Mainland China would treat "minority" religions was a major issue among religious organizations. Religions like the LDS church had obviously labored arduously within the Hong Kong community—as can be imagined when considering the costs and efforts of the construction of the Hong Kong temple. Nevertheless, LDS prophet Gordon B. Hinckley remained positive about the future of the LDS church in Hong Kong when he stated, "No one knows what will happen in 1997. But we have faith that everything will work out and go forward . . . even though this is a time of uncertainty in Hong Kong, we will face it with faith."²³⁷ Fortunately, many minds were put at ease when on April 23, 1997 (less than three months prior to the Hong Kong reversion), LDS church

228. *Id.*

229. CHURCH ALMANAC, *supra* note 20, at 309.

230. *Id.*

231. *Id.* at 308.

232. Latter-day Saint temples differ from the hundreds of meetinghouses or churches where members typically meet for Sunday worship services and mid-week social activities. Temples are considered "Houses of the Lord" where Christ's teachings are reaffirmed through marriage, baptism and other sacred ordinances that unite families for eternity. See generally <http://www.mormon.org>.

233. CHURCH ALMANAC, *supra* note 20, at 473.

234. *Id.*

235. *Id.*

236. See generally BOYD K. PACKER, THE HOLY TEMPLE, 33-34 (1980). "The restriction preventing nonmembers from visiting the dedicated temples does not suggest that there is anything about the building or its appointments that they should not see. . . . Prior to the dedication of a temple the privilege to visit the temple is widely advertised with the hope that all within the area, member and non-member, will visit the temple and become familiar with the building." *Id.*

237. DEW, *supra* note 219, at 551.

officials met with Mr. Tung Chee-hwa, chief executive of the Hong Kong Special Administrative Region of the People's Republic of China, and were assured that freedom of religion would continue in Hong Kong.²³⁸ Mr. Tung boldly stated, "Certainly, religious freedom will remain here [Hong Kong]."²³⁹ As of today, religious freedom is upheld in Hong Kong.

VI. U.S. INTERVENTION: GOVERNMENT AND SOCIETY

Much has been written about what many countries are doing to impede the universal freedom of religion. Discrimination, unfair laws, and violence are all too familiar when dealing with religious freedoms abroad. International organizations have attempted to enact international instruments to safeguard religions across-the-board. However, many countries tend to circumvent such laws and enforce their own domestic law, which is often designed to protect and promote a particular religion. So what can be done? It seems only proper that the United States, praised as being the most religious country of the advanced nations,²⁴⁰ should take a more proactive role in the situation. However, some believe that the United States and other Western governments willfully turn a "blind eye" to religious persecutions abroad in order to maintain their strong business ties.

Why are Communist and militant Islamic dictatorships persecuting Christians? Why are Western democracies reacting so passively—or not at all? What can be done to ease the repression?

... Christians are arrested and tortured by the thousands—and many killed.

....

But the obvious questions above are never answered by Western governments and persons of power

....

... The answer is in our stars—our business, political and intellectual leaders—and in ourselves.

238. *Hong Kong Region Leader Greets LDS*, CHURCH NEWS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, May 3, 1997, at 3.

239. *Id.*

240. N.J. Demerath III, *Excepting Exceptionalism: American Religion in Comparative Relief*, 558 ANNALS AM. ACAD. POL. & SOC. SCI. 28, 29 (1998).

... Who can believe that their sufferings will not ease if the chairmen of Boeing, General Motors, Morgan Guaranty, and Microsoft, and U.S. Presidents and secretaries of state past and present, rise to say that the altar must stand higher than the case register, and pledge to make it so?²⁴¹

Sadly, the above article is filled with truth. The United States has been accused of engaging in activities that are focused only on strengthening business ties. For example, a U.S. Air Force Colonel recommended to a private company that it should not allow any of its Jewish employees to work on a Department of Justice contract in Saudi Arabia²⁴² (perhaps to avoid any confrontations that might occur between the Muslims and Jewish-Americans). The U.S. government must look beyond business prospects and extend religious freedoms abroad through foreign policy.²⁴³ Specifically, the United States could strengthen its humanitarian and economic aid abroad or impose stiff sanctions (e.g., tariffs, quotas, boycotts, or embargoes) upon countries that are unwilling to comply with established international instruments.²⁴⁴ Likewise, the United States could compel organizations such as NATO, the United Nations, and the International Court of Justice to take a more proactive role in advancing religious freedoms.²⁴⁵

In addition to governmental involvement, leaders of American churches can play a critical role in this seemingly overwhelming task of extending religious freedom worldwide. Missionaries can be excellent tools to promote religious freedom by educating local church leaders on how to avoid disputes with other religious organizations.²⁴⁶ Through education and dispute resolution, much could be accomplished on a person-to-person basis. On the other hand, extending religious freedom abroad could be destroyed if only a few fail to respect established laws. This is evidenced by some Americans who have taken the "do-it-yourself" approach to the extreme, participating in activities that are blatantly illegal. For example, a number of U.S. Christian religious groups have been involved in smuggling large quantities of Bibles into China—

241. Rosenthal, *supra* note 196.

242. McCormick, *supra* note 4, at 308.

243. *Id.* at 315.

244. *Id.* at 316.

245. *Id.*

246. *Id.* at 315.

sometimes up to 10,000 at one time.²⁴⁷ Also, some religious travel agencies have learned to instruct “devotees” on how to escape the police by quickly boarding trains after “blanketing” a town with religious tracts.²⁴⁸ To make matters worse, these American evangelists speak in code, referring to the Bible as “bread” and God as “the boss.”²⁴⁹ No matter how important the message may be, these legal violations are not worth getting many innocent people arrested.²⁵⁰ If people violate other countries’ laws, their governments may never gain the needed trust to grant legal recognition to minority religions.

VII. CONCLUSION

As the world embarks into the new millennium, one cannot help but wonder what the future holds regarding freedom of religion. Through advanced technology, the world is literally at our fingertips. Break-throughs in technology, communication, and science have expanded everyone’s mind. However, within this fast-paced life, filled with computers and cell phones, many still cling to what technology cannot offer: faith in a Higher Being. The divine right to worship is inalienable and cannot be denied.

Today, men and women, wherever they may be found, are subjected to some of the most horrific and ill-gotten methods of persecution—all for the sake of religion. Intolerance and violence continue in the more problematic countries—like China, Saudi Arabia, and Egypt—in spite of commitments to adhere to international law safeguarding freedom of religion.²⁵¹ According to a Department of State report, “religious freedoms are in grave danger in several countries around the world . . .”²⁵² Victims throughout the world look to the United States, the author of the First Amendment, as their “savior” from the escalating atrocities.

It has been over 150 years since the founder of the LDS church, Joseph Smith, boldly declared the “Standard of Truth.”

247. Hannah Beech, *When the Smugglers are Working for Jesus the Quest to Evangelize China for Christianity Has Received a Secret Boost—from American Tourists*, TIME, Sept. 11, 2000, at 46.

248. *Id.*

249. *Id.*

250. *Id.*

251. See U.N. Dep’t of Pub. Info., *supra* note 222.

252. *State Department Report Finds Worldwide Religious Persecution*, AMERICA, Sept. 23, 2000, at 5.

[T]he Standard of Truth has been erected; no unhallowed hand can stop the work from progressing; persecutions may rage, mobs may combine, armies may assemble, calumny may defame, but the truth of God will go forth boldly, nobly, and independent, till it has penetrated every continent, visited every clime, swept every country, and sounded in every ear, till the purposes of God shall be accomplished, and the Great Jehovah shall say the work is done.²⁵³

As Smith foresaw, perilous obstacles to religious freedom exist in our day. Domestic laws enacted by governments around the world have proven to be one of the most destructive forces to religious freedom. Many religions have accepted the command to spread the word of God to every country, as exemplified by the LDS "Standard of Truth." However, in order for minority religions to achieve their proselytizing goals, each country must adhere to the commitments made in international law and offer religious freedom to all, with the United States lighting the way.

253. SMITH, *supra* note 14.