

5-1-2002

Religious Freedom and the Challenge of Terrorism

Gordon H. Smith

Follow this and additional works at: <https://digitalcommons.law.byu.edu/lawreview>



Part of the [Human Rights Law Commons](#), [National Security Law Commons](#), and the [Religion Law Commons](#)

Recommended Citation

Gordon H. Smith, *Religious Freedom and the Challenge of Terrorism*, 2002 BYU L. Rev. 205 (2002).
Available at: <https://digitalcommons.law.byu.edu/lawreview/vol2002/iss2/1>

This Conference Proceeding is brought to you for free and open access by the Brigham Young University Law Review at BYU Law Digital Commons. It has been accepted for inclusion in BYU Law Review by an authorized editor of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

Religious Freedom and the Challenge of Terrorism

*Senator Gordon H. Smith**

On September 11, 2001, a band of misguided terrorists struck a blow against America, but not only against America. Since September 11, we have mourned, and continue to mourn, the loss not only of thousands of Americans, but also the loss of individuals from many other nations: dozens of Pakistanis, more than 250 citizens of India, men and women from El Salvador, China, Germany, Canada, Japan, the United Kingdom, and many others.¹ It is important to recognize as well the current plight of refugees from Afghanistan.² The outpouring of sympathy from around the world and the joining together of the world in response to the terrorist attacks has been remarkable.³ As citizens of the United States, we are immensely grateful for the sympathy and support that has been extended from all quarters of the world.

We are living at a remarkable moment in time. As Prime Minister Tony Blair said in his speech at the Labour Party Conference shortly after the attacks: "In retrospect the Millennium marked only a moment in time. It was the events of September 11 that marked a turning point in history, where we confront the dangers of the future and assess the choices facing humankind."⁴

* Senator Smith has served in the United States Senate since 1997 and sits in the Energy and Natural Resources, Foreign Relations, Budget, and Commerce, Science, and Transportation Committees. This article was originally presented as the keynote address at the International Law and Religion Symposium held at Brigham Young University's J. Reuben Clark Law School on Oct. 7, 2001.

1. See *President Bush's Address on Terrorism Before a Joint Meeting of Congress*, N.Y. TIMES, Sept. 21, 2001, at B4. For a list of the names, employers, and home country of many of the victims of the September 11, 2001, terrorist attacks, see <http://www.cnn.com/SPECIALS/2001/memorial/lists/by-country/index.html>.

2. See generally Barry Bearak, *A Nation Challenged: Refugees; Pakistan Readies Forbidding Moonscape of Rock for 10,000 Afghans*, N.Y. TIMES, Oct. 5, 2001, at B3; Human Rights Watch, *Safe Refuge for Afghan Refugees*, at <http://www.hrw.org/campaigns/afghanistan/refugees-facts.htm> (a fact sheet on Afghan refugees) (last visited Mar. 26, 2002).

3. See, e.g., Dan Barry, *After the Attacks: The Vigils; Surrounded by Grief, People Around the World Pause and Turn to Prayer*, N.Y. TIMES, Sept. 15, 2001, at A12; Peggy Hernandez, *America Prepares Aftermath of Attack; Japan Pledges Support, Aid for US Move Against Terrorism*, BOSTON GLOBE, Sept. 20, 2001, at A21.

4. English Prime Minister Tony Blair, Speech at the Labour Party Conference (Oct. 2,

The question for us is what we will make of this moment. Had they survived, the terrorists probably would have been surprised at the extent to which their actions have galvanized the world against their movement. In part, their terror has prompted a global rejection of terror. By invoking terror, they have reminded the world that democracy, civilization, and indeed humanity as a whole can no longer tolerate terror. But in the days ahead there will be a larger challenge: to link the response to terror with reason, balance, and protection of the fundamental values of civilization.

In this connection, we should all feel a need for greater understanding and greater tolerance. Echoing the words of President George W. Bush, “No people on Earth yearn to be oppressed, or aspire to servitude, or eagerly await the midnight knock of the secret police. If anyone doubts this, let them look to Afghanistan, where the Islamic ‘street’ greeted the fall of tyranny with song and celebration.”⁵ President Bush urged skeptics to “look to Islam’s own rich history, with its centuries of learning, and tolerance and progress” and promised that “America will always stand firm for the non-negotiable demands of human dignity: the rule of law; limits on the power of the state; respect for women; private property; free speech; equal justice; and religious tolerance.”⁶

Gordon B. Hinckley, President of The Church of Jesus Christ of Latter-Day Saints, explained that “Each of us is an individual. Each of us is different. There must be respect one for the other, notwithstanding [our] differences.”⁷ President Hinckley continued:

All people, regardless of their religious backgrounds, are made of one blood, all nations of men for to dwell on all the face of the Earth. We all believe in the fatherhood of God; that we are all part of a great family We may disagree on our interpretation of God, but we can do so with respect and civility.⁸

There is also a similar need today for the kind of thought that

2001), *at* <http://politics.guardian.co.uk/labour2001/story/0,1414,562006,00.html> (last visited Apr. 10, 2002).

5. President George W. Bush, The President’s State of the Union Address (Jan. 29, 2002), *at* <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html> (last visited Apr. 10, 2002).

6. *Id.*

7. GORDON B. HINCKLEY, TEACHINGS OF GORDON B. HINCKLEY 661 (1997).

8. *Id.* at 664 (quoting a speech President Hinckley gave at the National Conference of Christians and Jews Banquet, February 21, 1995).

the leading officials and experts from around the world who are gathered at this conference can provide. The title of the conference—“Implementing the 1981 United Nations Declaration on Religious Tolerance and Non-Discrimination: Twenty Years of Experience”—suggests a focus on the past. However, the current hour suggests a need to draw on that experience to make certain that we draw in creative ways on the experience of the past and on the core value of religious freedom to build a new future.

We are faced today with choices on how to respond to terrorism. But we are also faced with choices about what we value as a nation and as a world, about what it is in our global society that is worth protecting. Obviously, we don't have all the answers, but one of the core values of our society and of the society of all civilized nations is caring for the poor and the persecuted. This value is one of the five pillars of Islam,⁹ and it also corresponds to the golden rule in Christianity: Do unto others.¹⁰ Along with all our sympathy, our charitable impulses at this time of great need, and our renewed sensitivity to other core values, we cannot forget the related value on which this conference will focus: religious freedom.

Since a major focus of this conference is the twentieth anniversary of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (“1981 Declaration”),¹¹ it is worth remembering the core val-

9. 2 THE OXFORD ENCYCLOPEDIA OF THE MODERN ISLAMIC WORLD 247 (John L. Esposito et al. eds., 1995). The third pillar of Islam is *zakat*, or almsgiving. *Zakat* means “purification” and “growth.” Muslims believe that “our possessions are purified by setting aside a proportion for those in need, and, like the pruning of plants, this cutting back balances and encourages new growth.” Zakat Information Center, at <http://www.islam.org/mosque/zakat> (last visited Mar. 26, 2002).

10. Shortly before the crucifixion, Jesus Christ taught that “Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me.” *Matthew* 25:40. The idea of this passage is that when we serve our fellow human beings, particularly the poor and the weak, we are in fact serving God. Ultimately, we will be judged by how we deal with “the least of” our fellow man. This is deeply relevant to the related enterprises of protecting religious freedom and promoting religious dialogue. The real test of religious freedom in a particular regime is how the weak and powerless groups are treated. Similarly, the real test of interreligious dialogue is not whether the large religions talk to each other but whether the traditional religions talk with the small, powerless, and unpopular groups. Every large world religion can remember when it was merely a small sect or a branch splitting off from another religious tree. Each can remember how it would like to have been treated during its days of trial and persecution. Thus, we must ask ourselves, “Are we doing unto others as we would like to be treated ourselves?”

11. *Declaration on the Elimination of All Forms of Intolerance and of Discrimination*

ues articulated in the 1981 Declaration. Echoing the terms of Article 18 of the International Covenant on Civil and Political Rights (“ICCPR”),¹² Article 1 of the 1981 Declaration proclaims:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever 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.¹³

The September 11 attacks were not isolated acts of intolerance. These acts simply helped awaken us to a much broader set of problems. Religious freedom and religious minorities are threatened throughout the world. Here in the United States, we have seen some ignorant backlash against Arabs, Muslims, or people perceived to be Arabs or Muslims as a result of the attacks.¹⁴ During the first few weeks following the attacks, there were at least seven instances of passengers expelling other passengers from planes.¹⁵ Three murders appear to have been linked to perceived retaliation for the events of September 11.¹⁶ There is no place for such intolerance here or in any other democratic country.

In Western Europe, there is concern about French legislation that targets so-called “sects” or “cults.”¹⁷ This new law was passed by

Based on Religion or Belief, G.A. Res. 55, U.N. GAOR, 36th Sess., Supp. No. 51, U.N. Doc. A/36/684 (1981) [hereinafter *1981 Declaration*].

12. International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, art. 18, 999 U.N.T.S. 171 [hereinafter ICCPR]; *see also* CCPR General Comment 22: The Right to Freedom of Thought, Conscience and Religion art. 18, ¶ 8, U.N.H.C.H.R., 48th Sess. (1993), *at* [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CCPR+General+comment+22.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CCPR+General+comment+22.En?OpenDocument) [hereinafter CCPR General Comment 22].

13. *1981 Declaration*, *supra* note 11, art. 1 (emphasis added).

14. *See* the American Arab Anti-Discrimination Committee website at <http://www.adc.org/> (last visited Mar. 26, 2002) for links to news articles detailing the various hate crimes and other forms of discrimination that the Arab-American community suffered as a result of the September 11 attacks.

15. In one instance, several passengers on Northwest flight 673 from Minneapolis, Minnesota to Salt Lake City, Utah insisted that three Arab-American men be expelled from the airplane solely because of their ethnicity. *See also* Press Release, *Anti-Arab Hate Crimes, Discrimination Continue—Killing in Detroit, Passengers Expelled from Airplanes*, American Arab Anti-Discrimination Committee, *at* <http://www.adc.org/press/2001/21september2001.htm> (last visited Mar. 26, 2002).

16. *See* American Arab Anti-Discrimination Committee website, *at* <http://www.adc.org/> (last visited Mar. 26, 2002).

17. The French national assembly refers to this law as the “About and Picard” law; the law has also been referred to as the “French Anti-Cult Law.” *See*

the French Senate on May 30, 2001, and creates a vague crime, originally called “mental manipulation.”¹⁸ The law criminalizes teachings that may result in acts of “psychological dependency”—even if these actions are freely chosen—if others might view the teachings as harmful to the believer.¹⁹ This legislation was widely criticized by leading Catholic and Protestant leaders in France, by leading figures within the Council of Europe, and by countless human rights organizations.²⁰

The problematic legislation has led some Catholics to worry that they could be penalized for strict conditions under which Carmelite nuns or members of other religious orders live.²¹ Similar worries are shared by many other religious groups. Infractions of the new law are threatened with sanctions of up to three years in prison and up to approximately \$325,000 in fines.²² These fines are doubled if the offender is a leader of a so-called “cult.”²³ Conviction can also result in loss of political rights and child custody.²⁴ Further, the legislation allows the government to dissolve a religious organization if one of its leaders commits one of a number of listed crimes, including “mental

http://www.cesnur.org/2001/fr_law_en.htm for French and English texts of the law [hereinafter French Anti-Cult law].

18. *Id.*; see also *French Anti-Cult Law: Senators Hear Objections to the Offense of “Mental Manipulation,”* at http://www.cesnur.org/test/fr2K_nov1.htm (last visited Mar. 26, 2002).

19. French Anti-Cult Law, *supra* note 17; see also, O. Santa Maria & H. Cossio, *Anti-Cult Campaigns: Chile Threatens to Follow France—Members of Parliament Seek to Cancel the Legal Status of These Organizations—20 Cults Under Investigation*, at http://www.cesnur.org/2001/chile_july_01.htm (last visited Mar. 26, 2002).

20. See Massimo Introvigne, *France Approves Anti-Cult Law on May 30, 2001—Seven Things You Can Do Immediately About the French Law: A Manifesto*, at http://www.censur.org/2001/fr_may30_mi.htm (last visited Mar. 26, 2002); see also Hannah C. Smith, *Liberte, Egalite, et Fraternite at Risk for New Religious Movements in France*, 2000 BYU L. REV. 1099; Christine Hall, *Congress Focuses on Religious Persecution in France*, at <http://cnsnews.com/ForeignBureaus/Archive/200107/For20010712a.html> (last visited Mar. 26, 2002); Bruce Casino, *The State v. Religion In France: New Legislation Threatens Religious Liberty in France* (2000), at <http://www.religiousfreedom.com/Whatsnew/Casino.htm> (last visited Apr. 10, 2002); James T. Richardson, “Brainwashing” Claims and Minority Religions Outside the United States: Cultural Diffusion of a Questionable Concept in the Legal Arena, 1996 BYU. L. REV. 873.

21. Patrick Goodenough, *French Christians Fear Ramifications of Anti-Sect Laws*, at http://www.cesnur.org/2001/fr_may31.htm (last visited Mar. 26, 2002).

22. Law No. 2001-504 of June 12, 2001, J.O., June 13, 2001, p. 9337, ch. V, sec. 9, at http://www.legifrance.gouv.fr/citoyen/jorf_nor.ow?numjo=JUSX9903887L.

23. *Id.*

24. *Id.*

manipulation,” illegal practice of medicine, or deceptive advertising.²⁵

I do not mean to defend genuinely harmful acts that people can perpetrate under the name of religion. The events of September 11 have burned into all of us the reminder that religiously motivated conduct can go much too far. But this French law seems to be excessively vague and may result in harsh actions against many legitimate religious groups and practices. As the Council of Europe has recognized, normal criminal laws are sufficient to handle crimes committed in the name of religion.²⁶

Another current concern is the growing European trend toward creating official sect observatories.²⁷ From my perspective, it is dangerous to have the power of the state involved in evaluating religious beliefs and labeling groups as “sects” or “cults.” Sect observatories or information centers have been created in France, Belgium, and Austria.²⁸ These are still new, and it is too early to tell what results will follow. If such bodies restrict themselves to collecting information and avoid broad-brush labeling of groups as sects, they may well perform a valuable informational role. The danger is that they may not be objective and may contribute to the spreading of prejudicial information that contributes to stereotyping and misunderstanding. On the other hand, if handled responsibly, such centers may be able to promote greater understanding and tolerance. This conference may provide an occasion for reinforcing efforts to take the latter approach.

There is some evidence that Western European approaches to so-called “sects” may take on an even more dangerous cast in Eastern Europe and China.²⁹ Near the time the French legislation discussed

25. *Id.* ch. I, sec. 1.

26. Willy Fautré et al., *The Sect Issue in the European Francophone Sphere*, in FACILITATING FREEDOM OF RELIGION OR BELIEF: A DESKBOOK 1, 2 (Tore Lindholm et al. eds., forthcoming Spring 2002).

27. *See id.* at 2–11.

28. *Id.*; *see also* U.S. DEP’T OF STATE, 2001 ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: FRANCE, at <http://www.state.gov/g/drl/rls/irf/2001/5646.htm> (Oct. 26, 2001) (last visited Apr. 10, 2002); U.S. DEP’T OF STATE, 2001 ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: BELGIUM, at <http://www.state.gov/g/drl/rls/irf/2001/5563.htm> (Oct. 26, 2001) (last visited Apr. 10, 2002); U.S. DEP’T OF STATE, 2001 ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: AUSTRIA, at <http://www.state.gov/g/drl/rls/irf/2001/5544.htm> (Oct. 26, 2001) (last visited Apr. 10, 2002).

29. *See generally Innocents Abroad: French Anti-Cultists, Mission Support China’s Anti-*

earlier was adopted, an anti-cult conference was convened in Nizhny Novgorod, Russia, where French and other Western European lawmakers sought to promote their approach.³⁰ This conference resulted in the promulgation of a list of over 50 “destructive cults,” including Jehovah’s Witnesses and Transcendental Meditation.³¹ This follows the pattern of the French and Belgian parliamentary commissions that came up with lists of 172 “dangerous sects” in France and 189 in Belgium.³² These lists were not necessarily formally approved, they were simply “additions” to parliamentary reports. But the apparent stamp of approval by state officials in practice has had the effect of legitimizing discrimination. There are some signs that leadership in China and Hong Kong are considering legislation based on the French model.³³

Against this background, we need to ask why religious freedom is so important. Some might ask, particularly in light of recent events, why focus on protecting religious freedom if there is any linkage, however warped, between religious views and terrorism? Why not sacrifice some of our freedoms for security? Or why not ignore the abuses of other countries in order to better work together to prevent

Cult Campaign, at <http://www.cesnur.org/2001/jan30.htm> (last visited Mar. 26, 2002).

30. Individuals from seven countries and twenty-two dioceses of the Russian Orthodox Church participated in the International Conference “Totalitarian Cults—Threat of Twenty-First Century,” held in Nizhny Novgorod on April 23-25, 2001. These individuals described themselves as “anxious about uncontrolled activities of totalitarian sects (destructive cults), which has [sic] the character of unmasked expansion” and are “threatening family, society and state.” Final Document of an International Conference, *Totalitarian Cults—Threat of Twenty-First Century*, at <http://cisar.org/russia/010425a.htm> (Apr. 23–25, 2001) (last visited Apr. 10, 2002).

31. *Id.* app.

32. For the French list, see *Sects in France*, NATIONAL ASSEMBLY REP. NO. 2648 (rapporteur Jacques Guyard). For the Belgium list, see *Enquete parlementaire visant a elaborer une politique en vue de lutter contre les pratiques illegales des sectes et le danger qu’elles representent pour la societe et pour les personnes, particulierement les mineurs d’age. Rapport fait au nom de la Commission d’enquete par MM Duquesne et Willems* [Parliamentary enquiry commission aiming at working out a policy in order to fight against the illegal practices of sects and the danger that they pose to society, persons, and particularly to minors. Report drafted on behalf of the enquiry commission by Mssrs. Duquesne and Willems]. See Fautré, *supra* note 26, at 3–9, for an expanded discussion of these lists.

33. See, e.g., Helen Luk, *Hong Kong Security Chief to Study Cults in European Tour*, ASSOCIATED PRESS WIRE SERVICES, Sept. 5, 2001; *Innocents Abroad: French Anti-Cultists, Mission Support China’s Anti-Cult Campaign*, at <http://www.cesnur.org/2001/jan30.htm> (last visited Mar. 26, 2002); *New French Law Could Threaten HK Falungong*, THE STRAITS TIMES [Singapore], June 2, 2001, at A10; *Execution of Our Religious Freedom*, SOUTH CHINA MORNING POST, June 1, 2001, at 17.

terrorism? This is a genuine risk right now in Central Asia. Over the past year, there have been concrete proposals to pass legislation that would restrict movements and freedoms of religious groups, including legitimate groups, because of the fear of Islamic extremism.³⁴ Earlier this year, such measures had been put on hold in response to initiatives from the United States, the European Union, and the Organization for Cooperation and Security in Europe.³⁵ The aim was to allow time to craft legislation that could better reconcile the value of religious freedom with legitimate efforts to deal with genuine terrorist threats. In the aftermath of September 11, there are worries that in the rush to crack down on terror, the United States and its Western allies will overlook human rights abuses and will allow a crack-down against political opposition and religious minorities.³⁶

We see some already in the West who may be willing to compromise religious freedom in the rush to respond against terror. On January 1, 2002, a new law that removes religious exemption from laws dealing with terrorist organizations will take effect in Germany.³⁷ If not properly qualified, this new law could impermissibly

34. The Kazakhstan parliament proposed legislation during the fall with this objective and the legislation was passed in January 2002. As of this writing, President Nazarbayev has referred this legislation to Kazakhstan's Constitutional Council. See Felix Corley, *Kazakhstan: Controversial Religion Law Sent to Constitutional Council*, KESTON NEWS SERVICE, Mar. 6, 2002, at www.keston.org/020306KA-01.htm (last visited Apr. 10, 2002). See generally, Felix Corley, *Azerbaijan: Widespread Opposition to Religious Reregistration*, KESTON NEWS SERVICE, Mar. 11, 2002, at www.keston.org/020311AZ-01.htm (last visited Apr. 10, 2002); Donna Leinwand, *Germans Give in to Intrusions*, USA TODAY, Oct. 11, 2001, at 12A ("Members of parliament . . . have repealed a law that prohibited the government from restricting or curtailing the operation of any group formed under religious auspices.").

35. OSCE (ODIHR Correspondence on file with the BYU International Center for Law and Religious Studies, J. Reuben Clark Law School). Among others, such initiatives include special sessions of the OSCE Permanent Council. See Press Release, OSCE, *OSCE Permanent Council Expresses Concern About Recent Anti-Muslim Incidents*, at http://www.osce.org/news/generate.php3?news_id=2002 (Sept. 21, 2001) (last visited Apr. 10, 2002); Press Release, OSCE, *OSCE Round Table on Freedom of Religion and Belief Held in Tajikistan*, at http://www.osce.org/news/generate.php3?news_id=2278 (Feb. 6, 2002) (last visited Apr. 10, 2002); see also Press Release, U.S. Helsinki Commission, *Roadblock to Religious Liberty: Religious Registration*, at http://www.csce.gov/press_text.cfm?press_id=202 (Oct. 11, 2001) (last visited Apr. 10, 2002) (public briefings by the United States Helsinki Commission).

36. See generally Susan B. Glasser, *New Allies Seek Payback: Central Asians Expect U.S. to Ignore Abuses in Return for Help in Anti-Terror Campaign*, WASH. POST FOREIGN SERVICE, Oct. 1, 2001, at A01 (discussing the expectation of Central Asian countries that the United States will downplay human rights abuses in return for help in the war against terrorism).

37. This new law is called "The Anti-Terrorism Act" and has also been referred to as the "Second Anti-Terrorism Package." An English version of the law can be found at

encroach on legitimate religious groups, allowing not only the criminalization of terrorist *acts*, but also the outright banning of religious *groups*.³⁸ The law allows for the dissolution of religious associations and seizure of the group's assets if they "oppose the constitutional order" or are "opposing international understanding."³⁹ This opens the door to having government determine the goals of religious organizations. Furthermore, this law could potentially deny a group of believers the freedom to worship not because they have engaged in any illegal action, but simply because they believe in a certain religion. There is a need for careful thought and restraint to avoid overreactions that inappropriately limit religious freedom.⁴⁰ I am hopeful that clearer heads will prevail and that religious liberty will not be compromised.

Current international standards of religious freedom reflect the importance of being able to deal with genuine terrorist threats. But international standards, as articulated in the 1981 Declaration that we are celebrating with this conference, as well as in the ICCPR, set narrow limits for incursions of freedom of religion or belief. Significantly, the ICCPR provides that states may not derogate from protections of religious freedom even in time of "public emergency which threatens the life of the nation"⁴¹ unless the reasons for derogating from the ICCPR are "of an exceptional and temporary nature."⁴²

Of course, this does not mean that anything can be done in the name of religion. Article 18 of the ICCPR, similarly followed by the 1981 Declaration, allows limitations to be imposed on manifestations of religion only if "limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the

http://www.bundesregierung.de/dokumente/Struktur/ix_66409.htm (last visited Mar. 26, 2002). The original version of the law is available in German on the German Parliament's website at <http://www.bundestag.de/> (last visited Mar. 26, 2002).

38. *See id.*

39. *Id.*

40. For a criticism of anti-religious extremism proposals in Russia, see Geraldine Fagan, *Russia: Draft Laws on Religious Extremist Activity*, KESTON NEWS SERVICE, Feb. 5, 2002, at <http://www.keston.org/020205Ru-01.htm> (last visited March 26, 2002).

41. ICCPR, *supra* note 12, art. 4(1).

42. CCPR General Comment 5: Derogation of Rights art. 4, ¶ 3, U.N.H.C.H.R., 13th Sess. (1981), at [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CCPR+General+comment+5.En?Open+Document](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CCPR+General+comment+5.En?Open+Document) (last visited Apr. 10, 2002).

fundamental rights and freedoms of others.”⁴³ Official interpretations of these limitations make it clear that they are to be construed very strictly. “Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.”⁴⁴

Clearly, acts of terror can be made the subject of state action. These acts violate public safety, order, health, morals, *and* the rights and freedoms of others. But great care must be taken not to use the need to deal with terrorists as an excuse for violating the rights of those in legitimate groups. Working out this balance is a sensitive task, and those attending this conference are in an excellent position to contribute to the world’s analysis of this problem.

As we approach these issues, it is important to remember that religious freedom is part of the solution, not the problem. In protecting the democracy and values that we all cherish, we cannot give up the very values we seek to protect. It is a totalitarian instinct that would trade freedom of religion for excessive demands for security. We need to remember that failure to respect legitimate claims for religious freedom can itself become a source of political instability and terrorism. There is mounting evidence in various parts of the world that when regimes react to religious extremism, they tend to overreact. The injustice that results against legitimate religious believers stirs deep resentments and can itself lead to further radicalization, political resistance, and terrorist activity.⁴⁵

In some cases, the reaction seems particularly counterproductive. A common technique, drawing on the communist past, is to respond to terrorist threats by tightening the laws that deal with recognizing and registering religious organizations.⁴⁶ Plainly, the genuine terror-

43. CCPR General Comment 22, *supra* note 12, para. 8; 1981 Declaration, *supra* note 11, art. 1(3).

44. CCPR General Comment 22, *supra* note 12, para. 8.

45. For articles related to this issue, please see the International Crisis Group website at <http://www.intl-crisis-group.org/> (last visited March 26, 2002).

46. For other recent examples that occurred after this speech was presented, see Felix Corley, *Kazakhstan: Controversial Religion Law Sent to Constitutional Council*, KESTON NEWS SERVICE, Mar. 6, 2002, at <http://www.keston.org/020306KA-01.htm> (last visited Apr. 10, 2002); Igor Rotar & Aziz Seidulin, *Tajikistan: Muslims Weep as “Unapproved” Mosques are Demolished*, KESTON NEWS SERVICE, Mar. 18, 2002, at www.keston.org/020318TJ.htm (last visited Apr. 10, 2002); Geraldine Fagan, *supra* note 40; *see also* The Law of the Republic of

ists do not worry about such laws, and simply go underground. This leaves an unduly heavy burden on legitimate religious groups. Less cumbersome legal methods need to be found that will effectively address justifiable problems without encroaching on the religious freedom rights of legitimate groups.

We need to remember that religion has the power to be a great force for good in the world; democracies need to protect that power and potential. Not surprisingly, this is best done by cultivating tolerance and mutual respect, and not by taking actions that equate legitimate religion with criminal elements in society.

As we move forward from this “turning point in history,”⁴⁷ the challenge becomes how to find creative solutions for the future, how to protect our core values, and how at the same time to protect our citizens. This conference is particularly timely, gathering together a remarkable group of experts from throughout the world. My challenge to you is to help find concrete solutions and, at this crucial historical moment, to develop ways to protect religious freedom in the changed climate that we all now face.

Uzbekistan On Freedom of Worship and Religious Organizations, *reprinted in* NARODNOYE SLOVO [PEOPLE’S WORLD] (1998); Law of Republic of Kazakhstan of Freedom of Religious Confession and Religious Associations (2002), *at* <http://www.religlaw.org/template.php?id=90> (last visited Apr. 30, 2002).

47. Blair, *supra* note 4.

