The Right to Be Proselytized Under International Law

Ryan Cheney
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Legal analyses of proselytism have tended to focus on the rights of the proselytizer and on the right of the target of proselytism, or “proselytizee,” to be free from such “interference.” However, such analyses do not fully account for all rights involved in proselytism. When people are prevented from being proselytized, such as by law or by persecution, an important consequence is that they are cut off from a significant source of information on and mechanism for exploring and joining other religions. Despite stigmatizations of proselytism, many people regularly accept it and learn about and join other faiths through it. Cutting people off from proselytism thus impedes their ability to receive information, exercise their capacities of reason and conscience, and order their lives as they choose. These results harm people’s human dignity, to which the capacities of reason and conscience are central, and human rights, such as the right to have or to adopt a religion or belief of one’s choice. These consequences suggest people have an international legal right to be proselytized. This Note explores whether such a right exists in international law and shows that several rights guaranteed by the ICCPR together establish and support the right to be proselytized. These rights include the rights to proselytize, adopt a religion or belief free of coercion, freedom of opinion, freedom of expression, freedom of assembly, and freedom from religious discrimination. Like some of the rights that constitute it, the right to be proselytized can be validly limited in certain circumstances. Considering and respecting the right to be proselytized can make a meaningful, positive difference in legal analyses and decisions, including by more fully respecting proselytizees’ human dignity.

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INTRODUCTION

In Greece on March 2, 1986, Georgia Kyriakaki allowed a Jehovah’s Witness couple, Minos Kokkinakis and his wife, into her home to share “good news.”1 Mrs. Kyriakaki listened to their message for several minutes, though she was not inclined to accept it.2 When her husband, a Greek Orthodox cantor, discovered the Jehovah’s Witnesses in his home, he called the police, who arrested the couple.3 A Greek trial court convicted the couple of violating a law prohibiting proselytism,4 and an appeals court upheld Mr. Kokkinakis’s conviction.5 The Greek Court of Cassation dismissed

2. See id. ¶ 10.
3. See id. ¶ 7 (Valticos, J., dissenting).
4. Id. ¶¶ 8-9.
5. Id. ¶ 10.
a further appeal.\footnote{See id. ¶¶ 11–12.} Both the trial court and the appeals court supported their decisions by reasoning that Mr. Kokkinakis had taken advantage of Mrs. Kyriakaki’s supposed inexperience and naiveté.\footnote{See id. ¶¶ 9–10.} Ultimately, Mr. Kokkinakis appealed to the European Court of Human Rights,\footnote{See id. ¶ 1.} which found that Greece had violated the European Convention on Human Rights by restricting proper proselytism without showing a need to do so.\footnote{See id. ¶¶ 48–50.} That decision pointed out a lack of evidence that Mr. Kokkinakis had tried to convince Mrs. Kyriakaki by improper means.\footnote{See id. ¶ 49.} However, the decision did not fully analyze the case from Mrs. Kyriakaki’s perspective.

Like Greece, other countries severely restrict proselytism, purportedly to protect the rights of its targets, whom we might call “proselytizees.” For example, several Indian states have adopted laws that prohibit “convert[ing] or attempt[ing] to convert, either directly or otherwise, any person form [sic] one religious faith to another by the use of force or by inducement or by any fraudulent means . . . .”\footnote{See Orissa Freedom of Religion Act, Orissa Act No. 2 of 1968, art. 3, 1967; Madhya Pradesh Freedom of Religion Act, Act No. 27 of 1968, art. 3, 1968; Arunachal Pradesh Freedom of Religion Act, Act No. 4 of 1978, art. 3, 1968; Gujarat Freedom of Religion Act, Act 24 of 2003, art. 3, 2003; Himachal Pradesh Freedom of Religion Act, Act No. 5 of 2007, art. 3, 2006; Jharkhand Freedom of Religion Act, Act No. 17 of 2017, art. 3, 2017. For more information on these anti-conversion laws, see Meghan G. Fischer, Anti-Conversion Laws and the International Response, 6 PA. STATE J.L. & INT’L AFFS. 1, 13–15 (2018).} These laws also ban “abet[ting] such conversion.”\footnote{See Fischer, supra note 11.} Fischer points out that these laws, which fail to adequately define the prohibited means of conversion, have an “unstated but obvious premise . . . that Muslims and Christians are forcibly converting the poor and disadvantaged away from Hinduism.”\footnote{Id. at 20.} However, that premise lacks supporting evidence.\footnote{Id.} In addition, while ostensibly aiming to protect groups presumed to be vulnerable, these laws actually demean these groups’ dignity. Fischer notes that “[t]he laws do not recognize that converts have any agency in their conversions . . . .”\footnote{Id.} Furthermore, as another scholar has argued:

6. See id. ¶¶ 11–12.
7. See id. ¶¶ 9–10.
8. See id. ¶ 1.
10. See id. ¶ 49.
12. See Fischer, supra note 11.
13. Id. at 20.
14. Id.
15. Id.
Conversion laws... construct women, Scheduled Tribes, and Scheduled Castes as victims, and construct converts (particularly group converts) as passive dupes of the machinations of active converters. Such language reduces the convert to a victim—particularly converts from groups seen as vulnerable, commonly referred to as the "weaker sections" in Indian society. These laws perpetuate a longstanding tendency to see converts or potential converts as victims.16

Underlying the Greek courts’ judgments in the Kokkinakis case and anti-conversion laws like these Indian prohibitions appears to be a presumption that proselytism is exploitative, a violation of the proselytizee’s rights. Ironically, as shown above, such a presumption may demean more than protect targets of proselytism. By assuming proselytizes to be victims, governments ignore proselytizes’ abilities to reason and choose, which, as discussed later, are key elements of universal human dignity. For this reason, and for other reasons discussed in Part I, this Note argues that legal analyses of proselytism that neglect proselytizes’ relevant affirmative rights do not give a full picture of the international legal rights involved in proselytism. Taken together, these rights protect an international legal right to be a target of proselytism, or to “be proselytized.”

Consideration of this right calls for concrete changes in legal analyses and decisions. For example, considering this right may have led the Greek courts to acquit Mr. Kokkinakis, recognizing that Mrs. Kyriakaki was a dignified agent who exercised a right to listen to him, rather than convict Mr. Kokkinakis on the grounds that Mrs. Kyriakaki was naively exploited by him. Acknowledging the right to be proselytized also calls for changes to laws that ignore the agency and dignity of proselytizes.

This Note begins by discussing current literature on the rights involved in proselytism. The literature focuses on the rights of the proselytizer and on negative freedoms of the proselytizee, neglecting whether people have a right to experience proselytism. This Note then investigates whether a right to be proselytized exists under international law. This analysis shows that international law protects such a right, particularly through provisions in the

International Covenant on Civil and Political Rights (ICCPR) and other treaties. Finally, this Note concludes that this right must be balanced with international legal protections against coercive or physically harmful proselytism. Moreover, states may legitimately impose some limitations on this right if necessary to pursue certain valid aims.

I. DISCUSSION OF CURRENT LITERATURE ON THE RIGHT TO BE PROSELYTIZED

Current literature on proselytism and international law focuses substantially on the right to proselytize. In this Note, I use the definition of “proselytize” given by Professor Witte in his article A Primer on the Rights and Wrongs of Proselytism: “to ‘manifest,’ ‘teach,’ ‘express,’ and ‘impart’ religious ideas for the sake, among other things, of seeking the conversion of another.”17 Scholars have analyzed people’s right to engage in proselytism, including that right’s interactions with other human rights.18 Some scholars argue in favor of the right to proselytize, pointing out that it is protected by international law19 or that it helps provide important benefits to individuals and society.20 Other scholars have suggested that proselytism may inappropriately intrude into others’ religious lives,21 and some people have questioned proselytism’s legality.22

While proselytizers’ perspectives and rights are worthy of attention, they represent only half of the proselytism equation. Proselytism also engages a person who is proselytized, as well as her rights, the inclusion of which is crucial to a full, fair legal analysis of proselytism. Drawing on Witte’s definition of “proselytize,” I define “being proselytized” as being a target of the ‘manifest[ation],’ ‘teach[ing],’ ‘express[ion],’ and ‘impart[ation]’ of religious ideas for the sake, among other things, of being converted

to another religion. Proselytism may be solicited or unsolicited by the proselytizee. I define “being proselytized” as experiencing either kind of proselytism.

While not as numerous as those analyzing the issue from the proselytizer side, some scholars have discussed proselytizees’ rights. For example, Hirsch divides the rights implicated by proselytism into “the freedom of the proselytizers to conduct proselytizing activities and the freedom of the potential proselyte not to be interfered with by such activities.” He bases the idea of freedom “[to not] be interfered with” by proselytism on the notion of “negative” freedom, or freedom from “unwanted interference,” discussed by Berlin. However, the assumption that proselytism constitutes “unwanted interference” to be free from neglects the possibility that people may be free to experience proselytism.

Others have also argued that proselytism violates proselytizees’ freedom of religion. Some Muslims have objected to proselytization of members of their faith on the ground that Islam forbids “apostasy” and proselytism interferes with Muslim proselytizees’ right to follow that doctrine. Some people have also suggested that proselytism violates the proselytizee’s right to freedom from “injury to religious feelings” or to peaceful enjoyment of her religion. Further, some have defended anti-proselytism laws by arguing that they protect the integrity of the dominant religious community in a state.

Finally, some

23. See Witte, supra note 17, at 627.
25. See id. (citing ISAIAH BERLIN, FOUR ESSAYS ON LIBERTY 118, 122–23 (Cox & Wyman, Ltd. 1979) (1969)).
27. See Danchin, supra note 22, at 288-89.
28. See id. at 274.
30. See, e.g., id. at 275–76.
states have banned “blasphemy,” speech allegedly offensive to a religion itself. 31

The above analyses of the rights of the proselytizee center on her purported negative freedom—freedom from interference, including with her affairs, religious practice, religious feelings, or peaceful enjoyment of her religion. However, the proselytizee’s freedoms are not exclusively negative. When people are impeded or prevented from being proselytized, an important consequence is that fewer people exercise certain positive freedoms—the right to hear or decline to hear a religious message, the right to learn new religious information, and the right to adopt new beliefs and religions.

Some scholars have touched on how proselytism invites the exercise of rights by the proselytizee. For example, Garnett argues that “proselytism and its legal protection” are “integral to the flourishing and good exercise of . . . freedom [of conscience].” 32 He supports this argument by referencing writings of Pope John Paul II that, by sharing the gospel, the Catholic Church “‘proposes,’ thereby inviting the exercise of human freedom, ‘she imposes nothing.’” 33 Garnett and the former Pope thus argue that proselytism invites people to exercise their right to accept or reject a religious message. However, that argument alone does not quite establish people’s right to be presented with a religious message.

Some scholarship has touched directly on the right to be proselytized. While not using those terms, Danchin briefly explores whether people have such an affirmative right. 34 He notes that, as mentioned by the European Court of Human Rights (ECtHR), “the freedom to change religion would be a ‘dead letter’ if the freedom to manifest religion did not include ‘the right to try and convince one’s neighbour.’” 35 He also notes that the “freedom to seek [and] receive . . . information and ideas of all kinds” granted in the

34. See Danchin, supra note 22, at 271–72.
ICCPR\(^{36}\) strengthens this argument that the opportunity to be proselytized is important to the right to convert.\(^{37}\) He concludes, however, that the rights to receive information and to change one’s religion do not necessarily imply a “right to be confronted with all possible forms of unsolicited views, including those that the state deems important to restrict either to protect the ‘fundamental rights and freedoms of others’ from specific harms or to serve some other compelling state interest.”\(^{38}\) Danchin’s brief analysis provides some insight on arguments for and against an international legal right to be proselytized. However, the literature still lacks a fully fleshed-out analysis of this right.

In this Note, I aim to flesh out that analysis by thoroughly exploring international law’s protection of a right to be proselytized.

II. EXISTENCE OF THE RIGHT TO BE PROSELYTIZED UNDER INTERNATIONAL LAW

Through the analysis below, I establish that international legal instruments and principles appear to protect a right to be proselytized. The ICCPR and other international treaties guarantee freedoms that together constitute this right. In addition, human dignity, a widely accepted principle undergirding much of international human rights law, seems to call for protection of the right to be proselytized. Each of the rights that constitute the right to be proselytized may be validly restricted in some circumstances, and the latter right may by implication also be legitimately limited in those circumstances. It may be difficult in practice to legitimately limit the right to be proselytized, but international law protects proselytizees against coercive or harmful proselytism.

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\(^{37}\) See Danchin, supra note 22, at 271–72.

\(^{38}\) See id. (quoting ICCPR, supra note 36, at art. 18, ¶ 3).
The International Covenant on Civil and Political Rights, a legally binding treaty that nearly every country has ratified, protects freedoms that together appear to establish an international legal right to be proselytized. These include “the right to freedom of thought, conscience and religion,” including the right to “manifest [one’s] religion or belief” and to “adopt a religion or belief of [one’s] choice” free from coercive interference; “the right to hold opinions without interference;” “the right to freedom of expression,” including the “freedom to seek, receive and impart information and ideas of all kinds;” the right to freedom of peaceful assembly; and the right to freedom from religious discrimination.

A. The Right to Proselytize

Because experiencing proselytism requires that someone else proselytize, protections on the right to proselytize safeguard the right to be proselytized. Though proselytism is controversial and stigmatized, international human rights instruments establish a right to engage in non-coercive proselytism. The ICCPR provides in Article 19(2) for the “freedom to . . . impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in
print...or through any other media of [one’s] choice.”

Proselytism involves “impart[ing]” religious “information and ideas,” usually through oral, written, or printed communication. Article 19(2)’s phrase “regardless of frontiers” suggests protection of such communication from people of foreign countries, which is also common in proselytism. ICCPR Article 19(2) thus serves to protect the international legal right to proselytize.

That right is also supported by ICCPR Article 18, which provides that everybody “shall have the right to freedom of thought, conscience and religion.” This right includes “freedom, either individually or in community with others and in public or private, to manifest [one’s] religion or belief in . . . practice and teaching.” This right strongly grounds the right to proselytize. The United Nations Human Rights Committee (UNHRC), the body charged with applying the ICCPR in interstate disputes arising under the Covenant, has issued a series of General Comments that give official guidance on interpreting the ICCPR. General Comment 22 explains that the freedom to manifest one’s religion “encompasses a broad range of acts . . . [including] acts integral to the conduct by religious groups of their basic affairs, such as . . . freedom to prepare and distribute religious texts or publications.” These acts are common in proselytism, and General

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44. ICCPR, supra note 36, at art. 19, ¶ 2. The Universal Declaration of Human Rights, a non-binding, instrument, see Miguel Gonzales Marcos, The Universal Declaration of Human Rights and Constitutional Adjudication: Challenges to Cosmopolitan Law, 30 HAMLINE J. PUB. L. & POL’Y 245, 250–51 (2008), also protects this freedom, see G.A. Res. 217 A (III), art. 19 (Dec. 10. 1949) [hereinafter UDHR].

45. See Witte, supra note 17, at 626 (emphasis omitted) (quoting ICCPR, supra note 36, at art. 19, ¶ 2, reprinted in RELIGION AND HUMAN RIGHTS: BASIC DOCUMENTS Part I, no. 3 (Tad Stahnke & J. Paul Martin eds., 1998)).

46. See Bielefeldt, supra note 43, ¶ 26.

47. ICCPR, supra note 36, at art. 18, ¶ 1.

48. Id. Two other international agreements also affirm this right: the non-binding UDHR, see Marcos, supra note 44, at 250–51 (stating that the UDHR is non-binding); UDHR, supra note 44, at art. 18 (declaring the right), and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, see Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, G.A. Res. 36/55, art. 1, ¶ 1 (Nov. 25, 1981) [hereinafter 1981 Declaration]; DURHAM & SCHARFFS, supra note 31, at 84–85 (stating the 1981 Declaration is non-binding).

49. See ICCPR, supra note 36, at arts. 28, 41.

Comment 22 does not limit the freedom to perform these acts to non-proselytic contexts. Some states, narrowly interpreting ICCPR Article 18(1), have argued that valid religious manifestations do not include proselytism. However, because proselytism is integral to many religions, including major religions, it seems unlikely that it falls outside the “broad range of acts” that constitute valid religious manifestations. As a U.N. Special Rapporteur on Freedom of Religion or Belief (FoRB) concluded in an official interim report, “[i]t cannot be denied that [the Article 18(1) freedom to manifest one’s religion] covers non-coercive attempts to persuade others, sometimes also called ‘missionary work.’”

The right to proselytize suggests an international legal right to be proselytized. It would be illogical to hold that a person can proselytize if others cannot legally be proselytized. In addition, the right to be proselytized is hollow without the right to proselytize. Thus, international law’s protection of the latter helps establish and protect the former.

B. The Right to Choose One’s Religion

In addition to the right to manifest one’s religion, the “freedom of thought, conscience and religion” guaranteed in the ICCPR also includes freedom to “have or to adopt a religion or belief of [one’s] choice.” A person’s choice of religion or belief is limited if she is

51. See id.
52. Danchin, supra note 22, at 259.
53. See UNHRC, supra note 50, ¶ 4.
54. Danchin, supra note 22, at 258.
55. Bielefeldt, supra note 43, ¶ 26. Bielefeldt clarifies that, when he uses terms like “missionary work” in this report, he does not intend “to reflect specifically denominational concepts. Similar concepts include ‘bearing witness’, ‘da’wa’ (the call), ‘invitation’, etc.” Id. at n.15.
56. ICCPR, supra note 36, at art. 18, ¶ 1; see also UDHR, supra note 44, at art. 18. The UDHR explicitly provides for the freedom to “change [one’s] religion or belief.” UDHR, supra note 44, at art. 18. When the ICCPR was being negotiated, it was proposed that it also explicitly guarantee the right to “change” one’s religion. U.N. Secretary-General, Elimination of All Forms of Religious Intolerance, ¶ 48, U.N. Doc. A/60/399 (Sept. 30, 2005). However, some countries protested that this language might encourage proselytism or anti-religious advocacy, so the somewhat less explicit phrase “have or adopt a religion or belief of [one’s] choice” was used instead. Id. This language was approved, with no country dissenting. Id. This language may seem somewhat less clear than that used in the corresponding article of the UDHR. See Danchin, supra note 22, at 271. However, the right to “adopt a religion or
blocked from receiving through proselytism information about other religions that may inform her choice whether to retain or to change her religion or beliefs. As the ECtHR has noted, the freedom to change religion would likely be meaningless without the right to proselytize.57 For the right to adopt a religion to be more than a "dead letter,"58 a person arguably must have the right to be approached by proselytizers with information on and invitations to investigate another religion.

C. The Right to Freedom from Coercion in Religious Affiliation

The ICCPR also provides for freedom from "coercion which would impair [one’s] freedom to have or to adopt a religion or belief of his choice."59 As established above, preventing people from being proselytized impedes their ability to adopt a religion or belief of their choice. Preventing proselytization also arguably constitutes coercion. The second edition of Black’s Law Dictionary defined coercion in relevant part as "[c]ompulsion [that] may be . . . implied, . . . where the relation of the parties is such that one is under subjection to the other, and is thereby constrained to do what his free will would refuse."60 By preventing people from being proselytized, a state subjects their will to its own and compels them to not hear proselytizers’ messages, even if they would prefer to hear them. Thus, the right to freedom from coercion obstructing the free holding or adoption of a religion or belief arguably requires that people be able to decide themselves whether to listen to and

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58. Id.
59. ICCPR, supra note 36, at art. 18, ¶ 2.
60. Coercion, BLACK’S LAW DICTIONARY (2d ed. 1910).
accept a proselytizer’s message. That ability relies on a right to be offered the chance to hear that message—to be proselytized.61

D. Right to Freedom of Opinion

The right to be proselytized is also supported by the international legal right to freedom of opinion. The ICCPR provides that “[e]veryone shall have the right to hold opinions without interference.”62 This right is absolute and cannot be restricted.63 The right to freedom of opinion covers religious opinions and allows a person to change these opinions “whenever and for whatever reason [he] so freely chooses.”64 Furthermore, according to the UNHRC, this freedom prohibits “[a]ny form of effort to coerce the holding or not holding of any opinion[.]”65 As explained above, preventing proselytization seems to constitute such coercion, which can cause people to retain their current religious opinions and not hold others. Because preventing proselytization interferes with a person’s right to freely hold religious opinions for whatever reason she chooses, the right to freedom of opinion calls for the right to be proselytized.

E. Freedom of Expression

Next, the ICCPR also guarantees freedom of expression.66 This right includes “freedom to seek [and] receive . . . information and ideas of all kinds, regardless of frontiers, either orally, in writing or

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61. Some may argue that proselytism itself constitutes such coercion and that states should prevent proselytism to guarantee freedom from such coercion. While, as discussed further in Section III.B.1, infra, coercive proselytism should be prevented, but proselytism is not inherently coercive. Freedom from coercion impairing one’s ability to adopt a chosen religion or belief requires that the person himself, not the state, be able to decide whether to listen to proselytizers.

62. ICCPR, supra note 36, at art. 19, ¶ 1.


64. U.N. Human Rights Committee, General Comment No. 34, supra note 63, at ¶ 9.

65. Id. at ¶ 10.

66. See ICCPR, supra note 36, at art. 19, ¶ 2. Note that Article 19 of the UDHR combines the freedom of opinion and the freedom of expression into one right (“the right to freedom of opinion and expression”) and provides that this right includes the same freedoms that ICCPR Article 19(2) attaches to the right to freedom of expression, though in less fleshed-out terms than the ICCPR. See UDHR, supra note 44, at art. 19.
in print . . . or through any other media of [one’s] choice.” 67 That broad guarantee presumably protects a right to receive religious information through proselytism. As explained by the UNHRC, the freedom of expression protects “receipt of communications of every form of idea and opinion capable of transmission to others, [including] canvassing, . . . teaching, and religious discourse.” 68 Banning proselytism, which constitutes religious “teaching” and “discourse,” if not also “canvassing,” impedes a person from seeking and receiving information “of all kinds” by any media. For the right to seek and receive information to encompass all that the ICCPR guarantees, it should include the right to seek and receive religious information from proselytizers.

F. Freedom of Assembly

Next, ICCPR Article 21 recognizes the “right of peaceful assembly . . . .” 69 The freedom of peaceful assembly allows people to assemble for religious purposes and “take[e] part in a gathering of persons for a purpose such as expressing oneself, conveying a position on a particular issue or exchanging ideas.” 70 Protected assemblies should consist of more than one person 71 and may be spontaneous or planned. 72 When a person is proselytized, she participates in a gathering with a proselytizer for religious purposes, including exchanging religious ideas and communicating positions on religious issues. Such gatherings may be spontaneous, such as when a proselytizer engages a stranger in a religious discussion, or they may be planned, such as when a proselytizee invites a proselytizer to return for a subsequent religious discussion. Thus, the international legal right to freedom of assembly should allow a person to be proselytized.

67. See ICCPR, supra note 36, at art. 19, at ¶ 2.
68. UNHRC, supra note 63, at ¶ 11.
69. ICCPR, supra note 36, at art. 21.
71. See id. at ¶ 13.
72. See id. at ¶ 14.
G. Freedom from Religious Discrimination

Finally, the right to be proselytized is also protected by ICCPR Article 26’s prohibition on religious discrimination.73 This Article guarantees all persons the equal protection of the law without discrimination, including religious discrimination.74 The right to be proselytized is undermined by restrictions on the right to convert to a new religion or on the right to proselytize because, as explained above, those rights help establish the right to be proselytized. Such restrictions are often designed75 or implemented76 in ways that discriminate against religious minorities. By prohibiting such infringement on the right to be proselytized, the international legal prohibition on religious discrimination protects that right.

In sum, international law protects a right to be proselytized through the rights to proselytize, adopt a religion or belief of one’s choice without coercive interference, freedom of opinion, freedom of expression, freedom of assembly, and freedom from religious discrimination. Together, these rights establish that a person has a right to seek and receive religious ideas from a proselytizer, who can rightfully share these ideas in spontaneous or planned meetings without undue governmental interference, and to act on those ideas by adopting a new religion or belief. In short, international law grants a right to be proselytized.

H. Interconnection with Human Dignity

Preventing people from being proselytized conflicts with not only the terms of international law, but also with people’s human dignity, a principle underlying much of international human

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73. See ICCPR, supra note 36, at art. 26.
74. See id.
75. See, e.g., Fischer, Anti-Conversion Laws and the International Response, 6 PA. STATE J.L. & INT’L AFFS. 1, 1, 9 (“[A]nti-conversion laws are usually introduced to protect majority religions from the influence of minority religions . . . .”)
76. See id. at 4 ([A]nti-conversion “laws are selectively enforced and therefore ban conversion from the majority religion to a minority religion.”); EU Guidelines on the promotion and protection of freedom of religion or belief, 2013 O.J. ¶ 32(b) [hereinafter EU Guidelines] (“[L]aws that criminalize blasphemy restrict expression concerning religious or other beliefs [and] . . . are often applied so as to persecute, mistreat, or intimidate persons belonging to religious or other minorities . . . .”).
rights law. The UN Charter,77 the UDHR,78 the ICCPR,79 and several regional human rights instruments80 begin by affirming universal human dignity and its importance in human rights. As illustrated by the ubiquity of references to human dignity in international human rights instruments, and as pointed out in the Punta del Este Declaration on Human Dignity for Everyone Everywhere,81 human dignity is a strong point of common ground in different cultures’ and countries’ perspectives on human rights.

There are various ways to define human dignity, though the above-mentioned international human rights instruments share a common vision of a ubiquitous human dignity that underpins human rights. Nordenfelt outlines four types of human dignity,

77. One of the purposes of the United Nations is to “reaffirm faith . . . in the dignity and worth of the human person.” See U. N. Charter, pmbl.
78. The UDHR, which is itself a foundation of much of modern human rights law, Hurst Hannum, The UDHR in National and International Law, 3 HEALTH & HUM. RTS. 144, 144 (1998), begins in its preamble by asserting that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” UDHR, supra note 44, pmbl. The UDHR also declares in its first Article that “[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” Id. at art. 1.
79. See ICCPR, supra note 36, pmbl.
81. See THE HUMAN DIGNITY INITIATIVE, PUNTA DEL ESTE DECLARATION ON HUMAN DIGNITY FOR EVERYONE EVERYWHERE: SEVENTY YEARS AFTER THE UNIVERSAL DECLARATION OF HUMAN RIGHTS ¶ 6 (Dec. 2018), https://www.dignityforeveryone.org/wp-content/uploads/sites/5/2019/02/Punta-del-Este-Declaration.pdf. This document was drafted and signed by law and religion scholars from around the world at an academic conference in Punta del Este, Uruguay. HUMAN DIGNITY INITIATIVE, PUNTA DEL ESTE DECLARATION ON HUMAN DIGNITY FOR EVERYONE EVERYWHERE - INTRODUCTION (2022), https://www.dignityforeveryone.org/introduction. “The conference was the culmination of a series of conferences held over the course of 2018 that explored the notion of human dignity, its relation to freedom of religion or belief, and the important role it has played in forming, guiding, and sustaining consensus on core human rights values despite tensions in a highly pluralized world.” Id.
including a “universal” one, whose meaning appears to align with this usage of the term “human dignity.” He identifies this type of dignity as that mentioned in Article 1 of the UDHR. All people have this universal human dignity equally, always, and unconditionally, simply because they are humans. Nordenfelt argues that, because all share this dignity equally, everyone’s human rights derived from this dignity must be respected equally. The widely accepted modern basis for universal human dignity is humans’ capacity to think, reason, and decide how to live. The capacities of reason and conscience may be seen as “the core of human dignity.”

The foundational legal principle of human dignity calls for protection of the right to be proselytized. When a person is proselytized, she can exercise her capacities of reason and conscience and, by implication, exert her human dignity. She can decide for herself whether to consider and believe religious information. When someone is prevented from being proselytized, such as by a law banning proselytism, another actor denies her that opportunity to exercise and expand her capacities of reason and conscience. Such intervention prevents the exercise and expansion of these capacities fundamental to human dignity and essentially

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82. See Lennart Nordenfelt, The Varieties of Dignity, 12 HEALTH CARE ANALYSIS 69, 69 (June 2004). In addition to the universal human dignity, Nordenfelt also discusses “the dignity of identity,” “the dignity of merit,” and “the dignity of moral stature.” See id.

83. See id. at 78. In some provisions of international human rights instruments, human dignity is also referred to in a sense that seems to align better with other types of human dignity discussed by Nordenfelt. For example, Articles 5 and 6 of the American Convention on Human Rights require States to respect a dignity associated with the human body by refraining from physically abusive practices. See Organization of American States, American Convention on Human Rights, arts. 5.2, 6.2, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123. That type of human dignity seems to match what Nordenfelt calls the “dignity of identity,” a human dignity “tied to the integrity of the subject’s body and mind.” See Nordenfelt, supra note 82, at 80.

84. See Nordenfelt, supra note 82, at 78.

85. Id. at 77–78. Nordenfelt refers to this dignity by the German term “Menschenwürde.” See id.

86. See id.

87. Id. at 78.

88. See DURHAM & SCAREFS, supra note 31, at 177 (referring to “the inner domain of ‘thought, conscience and religion’” as “the core of human dignity”). Reinforcing these capacities’ importance to human dignity, UDHR Article 1 follows its declaration of universal dignity and rights only and immediately with the statement that everyone is “endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” UDHR, supra note 44, at art. 1.
decides for another person that she would rather not experience proselytism, this kind of intervention thus mutes and usurps the person’s human dignity.

Preventing a person from being proselytized further offends her human dignity by restricting a deeply personal part of her life—her religious beliefs. This conflicts with one of the bases of universal human dignity—the person’s ability to choose how to live—because religious beliefs are fundamental to many people’s lifestyles.\textsuperscript{89} The freedom to change one’s religion or beliefs also plays an important role in how millions of people choose to live; about 70 million people are predicted to change their religious affiliation between 2010 and 2050.\textsuperscript{90} As explained earlier, this freedom is hollow without the right to be proselytized. Preventing people from being proselytized trespasses on the bases of universal human dignity, a principle foundational to international human rights law.\textsuperscript{91} This fundamental principle supports the right to be proselytized.

III. CONTRARY LEGAL ARGUMENTS AND PROPER RESTRICTIONS ON THE RIGHT TO BE PROSELYTIZED

As explained earlier, scholarly literature lacks direct discussion of the right to be proselytized. Thus, arguments explicitly against this right’s existence are scarce. However, Danchin has raised possible arguments directly against the right to be proselytized.

While noting that the rights to religiously convert and to receive information may support a right to experience proselytism, Danchin skeptically refrains from accepting that idea.\textsuperscript{92} To illustrate that conversion does not require proselytization, he references a statement by the Malaysian government claiming that Malaysian citizens were free to investigate and join other religions on their

\textsuperscript{89} See Christian Educ. S. Afr. v. Minister of Educ. 2000 (10) BCLR 1051 (CC) para. 36 (S. Afr.) (“For many believers, their relationship with God or creation is central to all their activities. . . . For millions in all walks of life, religion provides support and nurture and a framework for individual and social stability and growth. Religious belief . . . affects the believer’s view of society and founds the distinction between right and wrong.”).

\textsuperscript{90} See PEW RSCCH CTR., THE FUTURE OF WORLD RELIGIONS: POPULATION GROWTH PROJECTIONS, 2010–2050 11 (2015). This report does not predict how many people will change their religion during that time period due to proselytism.

\textsuperscript{91} It is also noteworthy that universal human dignity is important in the majority of religions. See Nordenfelt, supra note 82, at 78.

\textsuperscript{92} See Danchin, supra note 22, at 271–72.
own initiative, in spite of the country’s anti-proselytism law.\textsuperscript{93} This statement seems to partially concede the right to be proselytized, as it appears to claim that citizens are entitled to solicit proselytism. Additionally, as Danchin points out, the freedom to change religion would lack meaning without the right to proselytize.\textsuperscript{94} Still, Danchin concludes that the rights to convert and receive information do not necessarily imply “the right to be confronted with all possible forms of unsolicited views.”\textsuperscript{95} He suggests that a state might legitimately prevent people from being confronted with views it “deems important to restrict either to protect the ‘fundamental rights and freedoms of others’ from specific harms or to serve some other compelling state interest.”\textsuperscript{96} His discussion of the right to be proselytized ends there.

While Danchin identifies some valid grounds for limiting the right to be proselytized, his analysis does not disprove that right’s existence. His reference to protecting the “fundamental rights and freedoms of others” calls up ICCPR clauses allowing for limitations on some rights that establish the right to be proselytized. Of those rights, the ICCPR permits restrictions on only the freedom to manifest one’s religion or belief,\textsuperscript{97} the freedom of expression,\textsuperscript{98} and the freedom of peaceful assembly.\textsuperscript{99} The Covenant does not allow for limitations on the other rights that establish the right to be proselytized — the right to adopt a new religion or belief,\textsuperscript{100} freedom from coercion impeding the ability to do so,\textsuperscript{101} freedom of opinion,\textsuperscript{102} or freedom from religious discrimination.\textsuperscript{103} Restricting the right to be proselytized would limit one or more of the freedoms that establish that right; for example, if Greece passed a law

\textsuperscript{93} Id. at 271.
\textsuperscript{95} Id. at 272.
\textsuperscript{96} Id. (quoting ICCPR, supra note 36, at art. 18, ¶ 3).
\textsuperscript{97} See ICCPR, supra note 36, at art. 18.
\textsuperscript{98} See id. at art. 19.
\textsuperscript{99} Id. at art. 21.
\textsuperscript{100} Id. at art. 18, ¶ 1. See also Bielefeldt, supra note 43, ¶ 19 (“[T]he right to conversion has the rank of an absolutely protected right within freedom of religion or belief and does not permit any limitations or restrictions for any reason.”).
\textsuperscript{101} See UNHRC, supra note 50, ¶ 8.
\textsuperscript{102} ICCPR, supra note 36, at art. 19, ¶ 1.
\textsuperscript{103} Id. at art. 26.
explicitly prohibiting citizens like Mrs. Kyriakaki from being proselytized, it would infringe on those citizens’ right to receive information and likely on other rights, such as proselytizers’ rights to share their messages with those citizens. Thus, it seems that limitations on the freedoms constituting the right to be proselytized comprehensively represent states’ methods for limiting that right. To illuminate the extent to which states can limit that right, and to examine whether states can limit the right to the point of negating it as Danchin suggests, I explore below the permissible extent of limitations on the elements of the right that states can restrict—the right to manifest one’s religion through proselytism, to freedom of expression, and to peaceful assembly.

States may restrict these three rights if necessary to serve interests specified in the ICCPR.104 All three rights may be restricted if “necessary to protect public . . . order, health, or morals.”105 The rights to religious manifestation and to freedom of assembly can also be restricted for “public safety.”106 Similarly, the rights to freedom of expression and freedom of assembly can be restricted to protect national security.107 The rights to religious manifestation and to freedom of assembly can also be limited to protect others’ rights and freedoms, though those rights and freedoms must be “fundamental” to justify restrictions on the former right.108 Furthermore, the right to freedom of expression can also be limited if needed to protect others’ “rights or reputations.”109 States cannot restrict the rights to religious manifestation, freedom of expression, or peaceful assembly on any grounds not specified in the ICCPR110 or otherwise “to a greater extent than is provided for in the . . . Covenant.”111 Thus, though Danchin suggests that

104. See id. at arts. 18, ¶ 3; 19, ¶ 3; 21.
105. Id. at art. 18, ¶ 3; see id. at arts. 19, ¶ 3; 21.
106. Id. at arts. 18, ¶ 3; 21.
107. Id. at arts. 19, ¶ 3; 21.
108. Id. at arts. 18, ¶ 3; 21.
109. Id. at art. 19, ¶ 3.
110. See UNHRC, supra note 50, ¶ 8 (“[R]estrictions [on the right to manifest one’s religion or belief] are not allowed on grounds not specified [in Article 18(3)].”); UNHRC, supra note 63, ¶ 22 (Restrictions on the right to freedom of expression “are not allowed on grounds not specified in Article 19(3)], even if such grounds would justify restrictions to other rights protected in the Covenant.”); UNHRC, supra note 70, ¶ 36 (“Authorities must be able to show that any restrictions [on the right of peaceful assembly] . . . are . . . necessary for . . . at least one of the permissible grounds for restrictions enumerated in article 21.”).
111. See ICCPR, supra note 36, at art. 5, ¶ 1.
governments might prevent people from being proselytized “to serve [a] compelling state interest[,]” governments might prevent people from being proselytized “to serve [a] compelling state interest[,]”\textsuperscript{112} states parties to the ICCPR can restrict the right to be proselytized only in service of a compelling interest specified in the Covenant. Restrictions on the right to religious manifestation or to freedom of expression must be “prescribed by law,”\textsuperscript{113} while restrictions on the right to freedom of assembly must be “imposed in conformity with the law.”\textsuperscript{114}

Restrictions on any of these three rights must also comply with additional strict criteria. Such restrictions must be not only necessary\textsuperscript{115} but also proportionate to the need on which they are based.\textsuperscript{116} According to the UNHRC, restrictions on the right of peaceful assembly must be catered to individual situations; “[b]lanket restrictions on peaceful assemblies are presumptively disproportionate.”\textsuperscript{117} This suggests that general restrictions on the right to meet with a proselytizer are invalid under the Covenant. Restrictions on the right to religious manifestation, freedom of expression, or peaceful assembly also must preserve, not undermine, those rights.\textsuperscript{118}

Nonetheless, “[i]n time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed,” a state may derogate from its responsibility to respect the rights to freedom of opinion, expression, and peaceful assembly

\begin{footnotesize}
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\item \textsuperscript{112} See Danchin, supra note 22, at 272.
\item \textsuperscript{113} See ICCPR, supra note 36, at art. 18, ¶ 3, art. 19, ¶ 3.
\item \textsuperscript{114} Id. at art. 21.
\item \textsuperscript{115} See id. at arts. 18, ¶ 3; 19, ¶ 3; 21 (requiring that restrictions on these rights be “necessary” to achieve a specified aim). Note that restrictions on the right of peaceful assembly must meet the particularly strict requirement of being “necessary in a democratic society” for a specified aim. Id. at art. 21.
\item \textsuperscript{116} See UNHRC, supra note 50, ¶ 8 (explaining that limitations on the right to manifest one’s religion or belief must be “proportionate to the specific need on which they are predicated”); UNHRC, supra note 63, ¶ 22 (Limitations on the right to freedom of expression “must conform to the strict test[] of . . . proportionality.”); UNHRC, supra note 70, ¶ 36 (Restrictions on the right to freedom of assembly must be “proportionate to at least one of the permissible grounds for restrictions. . . .”).
\item \textsuperscript{117} UNHRC, supra note 70, ¶ 38.
\item \textsuperscript{118} See UNHRC, supra note 50, ¶ 8 (“In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26.”). See also UNHRC, supra note 70, ¶ 36 (restrictions on the right to peaceful assembly “must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect”).
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and to freedom from religious discrimination.\textsuperscript{119} However, a state may do so only “to the extent strictly required by the exigencies of the situation” and in a way “[consistent] with [the state’s] other obligations under international law . . . .”\textsuperscript{120} In addition, such derogation may not religiously discriminate,\textsuperscript{121} and no derogation from the rights guaranteed in Article 18 is allowed, even in a public emergency.\textsuperscript{122}

In short, absent an official, nation-threatening public emergency, states must protect the rights constituting the right to be proselytized, can limit only three of them, and must do so only when necessary, in a way that preserves the restricted rights, and in conformity with other strict criteria. Because states cannot religiously discriminate and because limitations on these rights must be necessary and proportionate, states likely cannot target limitations to negate the right to be proselytized. In normal circumstances, then, it appears that states can limit but not eliminate the right to be proselytized. It seems plausible that states might temporarily negate this right in an emergency that threatens the life of the nation, as such an emergency would allow them to derogate from their duty to protect most of the elements of the right to be proselytized. Still, such derogation would need to be necessary and end with the public emergency.

\textit{A. Restrictions on the Right in Practice}

To make this analysis more concrete, it is helpful to explore the viability in normal conditions of specific grounds for limiting the right to be proselytized. Several arguments for limiting the right to proselytize, a key element of the right to be proselytized, to serve different aims identified in the ICCPR have been advanced. These arguments are analyzed below.

\hspace{1cm} 119. See ICCPR, supra note 36, at art. 4.
\hspace{1cm} 120. Id.
\hspace{1cm} 121. See id.
1. Protecting National Security

Some have argued that proselytism threatens national security or public order or morals. Such claims appear plausible at least in relatively extreme situations, such as if proselytism is used as a cover for espionage or if proselytizers call for listeners to revolt against the government. It also seems possible that face-to-face proselytism could threaten public health in an extreme situation such as a pandemic. However, it appears unclear how normal proselytism, as defined at the beginning of this Note, would threaten these interests in regular conditions. Some countries have attempted to essentially equate public order or morals with the integrity and teachings of a state’s dominant religion, which would mean that proselytism of the dominant faith’s members undermines public order and morals. However, the UNHRC has cautioned that “the concept of morals” referred to in ICCPR Article 18(3) “derives from many social, philosophical and religious traditions; consequently, limitations on the freedom to manifest a religion or belief for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.” Some countries have alleged that proselytism threatens public order because it can cause social turmoil by offending people’s religious sensibilities. However, as Stahnke notes, a proper response to such turmoil would be for the state not to restrict the right to manifest religion but to fulfill “its own obligation to promote tolerance, mutual understanding and

123. See Garnett, supra note 32, at 456.
125. The Malaysian Supreme Court underscored the disconnect between proselytism and public peril when hearing the case of a person arrested for allegedly threatening national security by attending religious meetings and converting six Malays: “We do not think that mere participation in meetings and seminars can make a person a threat to the security of the country. As regards the alleged conversion of six Malays, even if it was true, it cannot in our opinion by itself be regarded as a threat to the security of the country.” Id. at 308–09 (quoting Minister for Home Affairs v. Othman 1 M.L.J. 418, 419–20 (Sup. Ct. 1989)).
126. See, e.g., Stahnke, supra note 124, at 282–83 (discussing Mauritania’s attempt to equate public order and morals with the integrity and teachings of Islam, the state’s dominant religion).
127. UNHRC, supra note 50, ¶ 8.
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peaceful relations between groups.”

Though proselytism can be restricted when necessary to protect public safety, health, order, or morals, situations of such necessity seem likely to be relatively rare.

2. Protecting “Rights and Freedoms of Others”

Some specific “rights and freedoms of others” have been suggested as grounds to limit the right to proselytize. For example, as mentioned before, some have suggested that this right must be balanced with potential proselytizees’ right to be left alone or to be free from interference with their religious practice or their religious feelings. Some have also suggested that the right to proselytize must be balanced with a right of religious communities to retain their members or respect for their reputations. These rights rest on a relatively weak legal foundation and thus seem unlikely to ground great limitations on the right to be proselytized.

First, some have argued that proselytism conflicts with people’s right to “not be interfered with by such activit[y].”

Hirsch bases this idea on Berlin’s concept of negative freedom, which Hirsch describes as “the freedom to be free of unwanted interference.”

According to Berlin, “[t]he wider the area of non-interference the wider my freedom.”

While many people generally prefer to not be proselytized, there are problems with categorizing proselytism as unwanted interference from which people have negative freedom. This idea is illogical regarding solicited proselytism, which cannot be termed unwanted.

Furthermore, even unsolicited proselytism arguably cannot be categorically labeled “unwanted interference.” Though such proselytism is not solicited, that does not mean that its targets necessarily find it undesirable. Many people regularly

129. Stahnke, supra note 124, at 319-20.
130. Hirsch, supra note 18, at 409.
131. Id. (citing Berlin, supra note 25, at 122).
132. Berlin, supra note 25, at 123.
133. Note that Hirsch appears to be discussing only non-solicited proselytism, but I mention this assumption’s illogic regarding solicited proselytism because I define proselytism as either solicited or unsolicited in this Note, see Section I, supra.
respond favorably to such proselytism, including by accepting new religions.\textsuperscript{134}

In addition, the idea that people have a “negative freedom” from proselytism seems to lack a firm basis in international law. A potential basis for this suggested right may be ICCPR Article 17, which provides that people shall be free from “arbitrary or unlawful interference with [their] privacy, family, home or correspondence, [and from] unlawful attacks on [their] honour and reputation.”\textsuperscript{135} Article 17 further provides that “[e]veryone has the right to the protection of the law against such interference or attacks.”\textsuperscript{136} It may be argued that proselytism constitutes interference with a person’s privacy, as it can include unsolicited attempts to influence a personal part of someone’s life. However, as established previously, non-coercive proselytism is lawful; thus, it does not constitute “unlawful interference.” Unsolicited proselytism may seem to some proselytizees like “arbitrary” interference with their privacy, though it is not clear that the ICCPR’s prohibition of such interference covers proselytism. The second edition of Black’s Law Dictionary defined “arbitrary” to mean “[n]ot supported by fair, solid, and substantial cause, and without reason given.”\textsuperscript{137} Proselytism has a manifest reason—converting someone to a certain religious faith. This cause seems “substantial” and “solid,” as proselytism seeks converts for the purpose of securing them spiritual guidance or blessings. This cause also seems “fair,” given international law’s protection of proselytism. Thus, proselytism does not seem to meet this legal definition of “arbitrary.” In addition, the UNHRC has explained that Article 17’s reference to “the concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of

\textsuperscript{134} See, e.g., PUBLIC BROADCASTING SERVICE, THE MORMONS: THE MISSION (Apr. 30, 2007), https://www.pbs.org/mormons/faqs/mission.html (“Each year, approximately 53,000 Mormon missionaries go out into the world to win as many as 250,000 converts to their faith.”).

\textsuperscript{135} ICCPR, supra note 36, at art. 17, ¶ 1.

\textsuperscript{136} Id. at art. 17, ¶ 2.

\textsuperscript{137} Arbitrary, BLACK’S LAW DICTIONARY (2d ed. 1910) (citing Treloar v. Bigge, 9 LR Exch. 155 (1874)).
the Covenant . . . .” 138 Thus, it appears that the prohibition on arbitrary interference with privacy is aimed more at legislative acts than at the private action of proselytism. If unsolicited proselytism were prohibited by ICCPR Article 17, then that Article would likely also cover other unsolicited, persuasive information sharing, such as political campaign outreach efforts. But such efforts are protected by international law, 139 and, as Witte has explained, “the Covenant regards the religious expression inherent in [non-coercive] proselytism as no more suspect than political, economic, artistic, or other forms of expression and entitled to the same protection.” 140

A right to freedom from proselytism as unwanted interference might also flow from ICCPR Article 19(1)’s provision that “[e]veryone shall have the right to hold opinions without interference.” 141 Proselytism might arguably interfere with one’s right to hold religious opinions. Coercive proselytism likely unlawfully interferes with this right. However, if proselytism generally does so, then other efforts to share information for the purpose of persuading the listener to change their beliefs or affiliation would likely also violate this right. For example, advertising for a political candidate to convince listeners to switch their support to that candidate might be considered contrary to Article 19(1). Such an interpretation of the Covenant would undermine the freedom of expression that Article 19 guarantees. 142 Thus, Article 19(1) also does not appear to strongly ground a right to freedom from proselytism as unwanted interference.

Further conflicting with the notion of negative freedom from proselytism is the fact that experiencing proselytism can strengthen what Berlin terms a person’s “positive” freedom—her ability to order her life as she chooses. 143 By providing a person with information about a religion and opportunities to act on it, proselytism can expand her range of choices on how to order her life.


139. See UNHRC, supra note 63, ¶¶ 11, 37.

140. Witte, supra note 17, at 627.

141. See ICCPR, supra note 36, at art. 19, ¶ 1.

142. See UNHRC, supra note 63, ¶ 37 (discussing restrictions on political campaign outreach efforts as inconsistent with ICCPR Article 19).

By contrast, preventing someone from experiencing proselytism may constrict the range of choices of which she is aware and thereby shrink the “area of non-interference” by which Berlin measures positive freedom. Thus, proselytism can build a proselytizee’s positive freedom, while prohibiting proselytism interferes with that freedom.

Next, some have suggested that the right to proselytize must be balanced against a proselytizee’s right to freedom from injury to her religious feelings or from interference with her peaceful enjoyment of her religion. Neither of these rights appear to be clearly articulated in international law. A UN action plan casts doubt on the proposed right to freedom from injury to one’s religious feelings by stating that “the right to freedom of religion or belief, as enshrined in relevant international standards, does not include the right to have a religion or a belief that is free from criticism or ridicule.” The idea of freedom from proselytism as interference with peaceful enjoyment of one’s religion appears to be a narrower version of the right to freedom from proselytism as unwanted interference. Perhaps, as with the latter, the former may be grounded in the international legal right to privacy. However, as discussed above, that right does not provide a strong basis for legal freedom from proselytism. It seems unclear to what extent the right to proselytize must be balanced with the right to freedom from injury to religious feelings or from interference with peaceful enjoyment of one’s religion, though the former’s stronger legal grounding suggests that it weighs more heavily than the latter two rights.

3. Protecting Other Religions

As mentioned above, some states have argued that restricting proselytism is necessary to protect the integrity of their dominant religious communities. Some have argued that such protection is justified because of the important role that the dominant religion

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144. See Berlin, supra note 25, at 123.
145. See Danchin, supra note 22, at 289.
146. See id. at 274.
148. See Danchin, supra note 22, at 275.
has played in the state.\textsuperscript{149} However, favoring one religious community over others, particularly over minority religious communities, is inconsistent with ICCPR Article 18.\textsuperscript{150} That practice also violates ICCPR Article 26,\textsuperscript{151} which prohibits discrimination on the basis of religion.\textsuperscript{152} In addition, as explained earlier, preventing proselytism to keep people from leaving a religious community seems to constitute “coercion which would impair [a person’s] freedom to have or to adopt a religion or belief of his choice,” contrary to Article 18(2) of the ICCPR.\textsuperscript{153} Because it thus interferes with a person’s autonomy, trying to keep people in a religious community in this way actually can send a message of exclusion to them.\textsuperscript{154} Preventing proselytism to protect a religious community’s integrity violates international law and can harm individuals.

Finally, some have suggested that proselytism threatens religions’ reputations.\textsuperscript{155} While freedom of expression can be limited to protect “the rights or reputations of others[,]”\textsuperscript{156} “international human rights law protects individuals, not Religion or Belief per se.”\textsuperscript{157} As mentioned above, the right to proselytize cannot be restricted to protect a religion from “criticism or ridicule.”\textsuperscript{158} Thus, states likely cannot prevent proselytization to protect religions’ reputations.

As this analysis shows, a right to freedom from proselytism as unwanted interference with one’s affairs, religious practice, or religious feelings, as well as a right of religious communities to retain their members and have their reputations respected, rest on a relatively tenuous international legal foundation. Thus, it does not seem that these rights negate the right to be proselytized\textsuperscript{159} or

\begin{itemize}
\item \textsuperscript{149} See id. at 275–76.
\item \textsuperscript{150} UNHRC, supra note 50, ¶¶ 2, 9.
\item \textsuperscript{151} See id. ¶ 9.
\item \textsuperscript{152} ICCPR, supra note 36, at art. 26.
\item \textsuperscript{153} See id. at art. 18, ¶ 2.
\item \textsuperscript{154} See Nordenfelt, supra note 82, at 75–76.
\item \textsuperscript{155} See Thillayvel Naidoo, Proselytism Within South Africa’s Hindu Community, 14 EMORY INT’L L. REV. 1121, 1144–45 (2000).
\item \textsuperscript{156} See ICCPR, supra note 36, at art. 19, ¶ 3.
\item \textsuperscript{157} EU Guidelines, supra note 76, ¶ 32(b).
\item \textsuperscript{158} See Human Rights Council, supra note 146, ¶ 19.
\item \textsuperscript{159} Even if the former rights are valid, that would not eliminate the right to be proselytized. A person could theoretically have both the right to be free from proselytism
that their protection could be a legitimate basis for significantly limiting that right by restricting the right to proselytize.

B. Enforcement of the Right to Be Proselytized

Because the ICCPR protects the right to be proselytized, the Covenant obligates its member states to enforce that right. The ICCPR requires each state party “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant . . .”160 States parties must also enact laws and other measures, if not already enacted, to protect the rights recognized in the ICCPR161 and must ensure162 and enforce163 “an effective remedy” for anyone whose Covenant rights are violated. Because the ICCPR protects the right to be proselytized, these obligations logically extend to that right.

A thorough discussion on enforcing the right to be proselytized is beyond the scope of this Note. However, a few important notes on that subject can be made here. First, the right to be proselytized can be enforced directly, such as through explicit recognition of it in national or international law, or indirectly, such as through improved protection of the rights that constitute the right to be proselytized. Next, many state and other actors violate those constituting rights,164 so improvement in this enforcement is needed. Finally, states and other actors can help enforce the right to

and the right to experience it. Though those rights may seem contradictory, international law recognizes other pairs of rights that often seemingly conflict with each other. See Gustavo Arosemena, Conflicts of Rights in International Human Rights: A Meta-Rule Analysis, 2 GLOB. CONSTITUTIONALISM 6, 7–8 (2013). For example, it recognizes a right to freedom of speech, ICCPR, supra note 36, at art. 19, ¶ 2, and a right to privacy, id. at art. 17, which can conflict in situations such as when a journalist attempts to publish photos of a celebrity’s personal life, see Arosemena, supra, at 7. In response to such conflicts, international law practitioners can balance, prioritize, or harmonize the competing rights. See id. at 12–27. If a person has the right to be free from proselytism under international law, then that right could represent a competitor to, not the negation of, the right to be proselytized. And as shown above, the suggested right to be free from proselytism would likely be a relatively weak competitor.

160. ICCPR, supra note 36, at art. 2, ¶ 1.
161. See id. at art. 2, ¶ 2.
162. Id. at art. 2, ¶ 3(a).
163. Id. at art. 2, ¶ 3(c).
164. See, e.g., SAMIRA M. MAJUMDAR & VIRGINIA VILLA, Globally, Social Hostilities Related to Religion Decline in 2019, While Government Restrictions Remain at Highest Levels, PEW RSCH. CTR., 78–80 (2021) (documenting high levels of religious harassment and legal restrictions on proselytism throughout the world).
be proselytized in various ways, from codifying it or its constituting rights in national law, to punishing these rights’ violation domestically or internationally. States and the international community should pursue such measures more to ensure that the right to be proselytized is properly protected.

Although international law protects a right to be proselytized, that right does not encompass any and all proselytism. International law prohibits coercive proselytism. The UNHRC has explained that such proselytism “includ[es] the use of threat of physical force or penal sanctions to compel [people] to . . . recant their religion or belief or to convert.” Proselytism may also be coercive when directed at people lacking ability to decline it, such as children or prisoners or when a proselytizer “offer[s] material or social advantages with a view to gaining new members for a Church or exert[s] improper pressure on people in distress or in need.” However, “unwanted, annoying[,] or offensive acts of proselytism—even though they may result in social disruption—are not necessarily improperly coercive. Indeed, these conditions reflect circumstances under which a person can make a free and informed choice regarding religious beliefs.” States also should not attempt to protect proselytizees from hearing religious information because the state deems it “false”; that would likely constitute religious discrimination contrary to the ICCPR.

International law protects persons against improper, including coercive and physically harmful, proselytism, but it does not protect them against religion-related irritation, offense, or ideas with which the state disagrees; proselytizees can presumably handle the latter problems themselves.

Relatedly, international law establishes a right, not an obligation, to be proselytized. In other words, while international law calls for

165. See EU Guidelines, supra note 76, ¶ 32(b); ICCPR, supra note 36, at art. 18, ¶ 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.”).
166. UNHRC, supra note 50, ¶ 5.
167. See Stahnke, supra note 124, at 332.
169. Stahnke, supra note 124, at 340. It is also noteworthy that, while coercive proselytism is illegal, “the right to try to convert others by means of non-coercive persuasion . . . constitutes an inextricable part of freedom of religion or belief.” Bielefeldt, supra note 43, ¶ 66.
states to open a space wherein people can be approached by proselytizers, it does not obligate states to ensure that people are approached by proselytizers. For example, while international law arguably allowed Mrs. Kyriakaki a right to a legal system in which Mr. Kokkinakis could non-coercively approach her with a religious message, it did not require Greece to send Mr. Kokkinakis to her door. States also need not ensure that proselytism is effective or reaches many people; such effort could likely constitute or engender undue religious favoritism.\textsuperscript{171} States should not prevent people from being proselytized or compel them to be proselytized.

**CONCLUSION**

In conclusion, international law protects a right to be proselytized. The current literature on law and proselytism focuses on the rights of the proselytizer and on negative rights of the proselytizee. Some scholarship has touched on affirmative rights of the proselytizee and even to a limited extent on the right to be proselytized, but the current literature lacks a fleshed-out analysis of whether this right exists in international law. This Note has furthered the legal discourse on the international legal rights involved in proselytism by performing such an analysis and showing that international law does protect such a right. This right

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\textsuperscript{171} To respect people’s right to be proselytized and their right to freedom from religious coercion, states should refrain from interfering with the religious information market. The concept of a “marketplace of ideas” holds that ideas should be allowed to flow freely among people, as “the best test of truth is the power of the thought to get itself accepted in the competition of the market.” David Shultz, *Marketplace of Ideas*, THE FIRST AMEND. ENCYCLOPEDIA (Jan. 1, 2009), https://firstamendment.mtsu.edu/article/marketplace-of-ideas (quoting *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting)). This concept has been invoked many times by the U.S. Supreme Court as a justification for the right to free speech, \textit{id.}, and it provides a compelling justification for the right to free religious speech in international law. The Council of the European Union makes use of a similar idea in the EU Guidelines on *The Promotion and Protection of Freedom of Religion or Belief*: “[T]he most effective way to combat a perceived offense from the exercise of freedom of expression is the use of freedom of expression itself. Freedom of expression applies online as well as offline. New forms of media as well as information and communications technology provide those who feel offended by criticism or rejection of their religion or belief with the tools to instantly exercise their right of reply.” EU Guidelines, supra note 76, ¶ 32.a.iv (citing U.N. GAOR Hum. Rts. Council, The Promotion, Protection and Enjoyment of Human Rights on the Internet, U.N. Doc. no. A/HRC/RES/20/8 (July 16, 2012)) (note that the Council here is discussing responses to offensive religious speech that does not “rise to the level of incitement prohibited under article 20 of the ICCPR, and is thus an exercise of free speech.” See EU Guidelines, supra note 76, ¶ 32.a). Essentially, states should allow for a free, unregulated market of religious ideas.
is established and supported by the international legal rights to proselytize, adopt a religion or belief free of coercion, freedom of opinion, freedom of expression, freedom of assembly, and freedom from religious discrimination, as well as the international legal principle of human dignity. At the same time, international law protects proselytizees against coercive proselytism, and states can limit the right to be proselytized when necessary to pursue certain legitimate aims. Considering and protecting the right to be proselytized can positively impact legal analyses and decisions by framing proselytism issues with a fuller perspective of proselytizees’ rights and dignity.