

Rights of the Child:

Examining freedom of religion or belief (FoRB) issues through the lens of children is important because the nature of their experiences with FoRB is different to the experiences of an adult. This is particularly in the context of education, where much of the FoRB violations children experience take place.

While children are especially vulnerable and need protection, they should be recognised as having a distinct set of rights with the capacity to consent, rather than being viewed as passive objects of care and charity. This includes a child's right to FoRB. It is therefore important to consider how the exercise of this right translates differently in practice to adults.

Children are right-holders of FoRB too

Article 14 of the Convention on the Rights of the Child (CRC) recognises the child as a rights holder of freedom of religion or belief. It should be understood with reference and in continuity with all other international standards of FoRB. This includes article 18 of the Universal Declaration of Human Rights, and article 18 of the International Covenant on Civil and Political Rights (ICCPR).

Evolving capacity and the Rights of a parent:

Though the child is recognised as being a right-holder, parents have the right to educate their children according to their own religious beliefs and to introduce their children to religious practice. This principle is recognised in article 18(4) of the ICCPR, which obliges states to respect the liberty of parents to 'ensure the religious and moral education of their children in conformity with their own convictions.' However, according to article 12(1) of the CRC, providing this direction to the child in the exercise of his or her FoRB must be in a manner consistent with the evolving capacities of the child.

By "the evolving capacities of the child", what is meant is that once a child is capable of forming personal views, these views should be heard and taken seriously and "given due weight in accordance with the age and maturity of the child".¹ The child should therefore assume more of an active position in the exercise of his or her rights in line with this growing maturity. In practice, parents teaching religious instruction consistent with the evolving capacities of the child would mean appropriate child-centred forms of teaching for young children and, the more the child matures, allowing for an active part in religious instruction with space for their own positions, questions and concerns to be heard. This is to the extent that an older child should be respected in his or her refusal to receive religious instruction.

The CRC recognises the importance of a supportive environment in order for the child to realise his or her rights. It acknowledges that this is usually provided by the family, and so the Convention derives a number of rights that protects the relationship between children and their parents or legal guardians, including the right to know and be cared for by his or her parents² and an obligation for states to ensure that children are not separated from their parents against their will.³

FoRB violations against the rights of the child naturally coincide often with violations against the rights of his or her parents, particularly in the case religious minorities in which FoRB restrictions

¹ Article 12, paragraph 1, CRC

² Article 7, paragraph 1, CRC

³ Article 9, paragraph 1 CRC

target not just an individual but also group worship and expression. This inevitably affects both the child's exploration of his or her religious identity and instruction as well as an adult's right to worship freely. In some countries, conversion away from the religion of the majority may result in the custody of the converts' children being taken away from them, amounting to a violation of both the rights of the parents and the children.⁴

However, the interests of parents and children are not always identical, and so the individual child must be recognised as a right holder in his or her own capacity, and not merely because he or she is a member of a family or a community. In many cases, a child's status as a right holder means he or she must be protected from the family or community. For example, a child must be protected when female genital mutilation or child marriage practiced by the community.

Educational Context.

In an educational context, a child is exposed to both the authority of teachers and the authority of the state, on whose behalf teachers act. Children are often subject to the pressures of conforming to the majority religion that the school system adheres to. They are often compelled to participate in public prayers or acts of collective worship during regular school hours, and are taught a particular religion or belief as part of public education, without the option for alternatives or exemptions that would accommodate the wishes of parents. Apart from having to conform to the religion of the majority, children who belong to specific minorities or sects often face discrimination when they, and the rest of their classmates, are taught from textbooks and learning materials that include negative stereotypes of the minorities or sects that those children belong to. Other forms of discrimination occur when they try to practice their faith within the school environment, such as children being ordered to eat by teachers during religious fasting sessions. Children from religious minority backgrounds may also suffer disproportionately from peer pressure and bullying.

The restrictions on religious communities in light of national security concerns have led to greater scrutiny of children. Children from these religious backgrounds are inspected closely in schools for signs of radicalism. While adults are also victim to a 'chilling effect' that a general climate of suspicion creates, the evolving capacity of a child means the result of questioning by authorities has led to cases where children have become increasingly reserved and reluctant to express themselves at school, impeding their opportunity to share and receive information.⁵ Heiner Bielefeldt, former UN Special Rapporteur on freedom of religion or belief, has accordingly called for a 'sensitive human rights-based approach when organizing school life', which requires taking into account the particular vulnerabilities of children belonging to various minorities.⁶

Children used as tools

The vulnerability of children means they are often used as tools in the infliction of FoRB violations on particular groups. Kidnappings that result in forced conversions and forced early marriages usually target the girl child. Such acts violate not only a myriad of rights of the affected child but the rights

⁴ Heiner Bielefeldt, Report of the Special Rapporteur on Freedom of Religion or Belief (UN Human Rights Council, 23 December 2015), at p.4.

⁵ [Homa Khaleeli](https://www.theguardian.com/uk-news/2015/sep/23/prevent-counter-terrorism-strategy-schools-demonising-muslim-children/), 'You worry they could take your kids': is the Prevent strategy demonising Muslim schoolchildren?, *The Guardian*, 23 September 2015, at <https://www.theguardian.com/uk-news/2015/sep/23/prevent-counter-terrorism-strategy-schools-demonising-muslim-children/>.

⁶ Bielefeldt, at pp.13 and 22.

of the parents too, including the right to ensure a religious and moral education of the child in conformity with their own convictions.