



**RECOMMENDATIONS FOR THE ESTABLISHMENT OF THE
CANADIAN OFFICE OF RELIGIOUS FREEDOM**

**PRESENTED BY:
ONE FREE WORLD INTERNATIONAL**

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Executive Summary

I. Introduction

One Free World International is a Toronto-based international human rights organization that focuses on the rights of religious minorities around the world. As a result of our advocacy on behalf of those suffering persecution or seeking asylum from persecution, we have identified a need for an Office for Religious Freedom (ORF) that has the means to positively impact both Canadian foreign policy and refugee policy. Our support for this Office and our recommendations are born out of a firm conviction that anything less than absolute respect for fundamental human rights diminishes all of humanity.

II. About One Free World International

OFWI focuses on securing the rights of religious minorities around the world, without regard to religion or creed. We have an extensive network of local sources in 28 countries around the world and, where possible, we visit areas of concern to see the threats firsthand. Rev. Majed El Shafie, Founder and President of the organization, was born in Egypt to a prominent Muslim family of judges and lawyers. After converting to Christianity, he was detained, severely tortured and sentenced to death. Fleeing Egypt by way of Israel, he settled in Canada in 2002 and established OFWI to share a message of freedom, hope, and tolerance for religious differences and to promote human rights in this area through advocacy and public education.

III. International Law and the Right to Religious Freedom

Persecution of people for their beliefs or coercing others into adopting certain beliefs denies the very humanity of the victim. As such, freedom of religion is one of the most fundamental human rights and is enshrined in both the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*. Yet despite this international recognition of the inherent right to freedom of religion, persecution is a significant and growing problem around the world.

IV. Religious Persecution

Each year about 165,000 people are killed simply because they are Christians. In total, between 200 million and 300 million Christians worldwide live with the constant threat of persecution. A massive shift in geo-political influence has altered the dynamics between and even within religious affiliations and is creating the conditions for increased violations of religious freedom. Yet Canadian policy is ineffective at best in this area due to a lack of coherence in policies and the ignorance of officials implementing them. The ORF can play a critical role in ensuring that the Canadian government recognizes the severity of religious persecution and that it takes positive steps to ensure that its policy reflects Canada's unwavering commitment to promoting freedom of religion and protecting the victims of persecution.

V. Canada's Office of Religious Freedom

Given the egregious and systematic persecution of religious minorities around the world, there is a pressing need for an office with the mandate to address the issue of religious freedom outside of Canada's borders. In order for the ORF to have a meaningful impact on Canadian policy, it must be given sufficient resources and staff to adequately monitor the status of religious freedom around the world and to publish accurate and comprehensive reports at regular intervals. Moreover, the ORF must be accountable to both Parliament and the general public, and it must consult and collaborate with relevant stakeholders to ensure its effectiveness.

Recommendations:

- The ORF must set up institutionalized consultations with relevant stakeholders
- The ORF must provide ongoing and formal access for civil society actors to report violations in real-time
- The ORF must publish regular and publically-available reports on both the status of religious freedom around the world and the Canadian response to persecution
- The head of the ORF must be a ministerial-level appointment and the office must be directly accountable to Parliament

VI. Office of Religious Freedom and Canadian Foreign Policy

If we are to live up to our reputation as a nation whose actions are governed by the respect for human rights, we must ensure that Canadian foreign policy reflects our commitment to the protection of religious freedom. By taking a stand and making freedom of religion a focal point of our foreign policy, Canada has an opportunity to emerge as a true leader in pushing for positive change in the treatment of religious minorities around the world. A properly empowered ORF can play a critical role to this end, by calling on the Canadian government to downgrade its relationship with states refusing to protect religious freedom and by ensuring that the ministers formulating and executing foreign policy carefully weigh the impact of their decisions on freedom of religion around the world.

Recommendations:

- Ministers must have general duty to consult with the OFR on foreign policy matters and to respond to recommendations received
- The ORF must be empowered to recommend substantive policy measures against states persistently violating freedom of religion (including aid restrictions)
- The ORF must be empowered to officially designate states as persistent violators of religious freedom – and this designation must lead to substantive consequences
- The ORF must be directly involved in bilateral and multilateral foreign relations

VII. Office of Religious Freedom and Canadian Immigration and Refugee Policy

Despite our best international efforts, there will always be individuals whose sole option is to seek protection outside their country of origin. During the course of our advocacy, OFWI has observed systemic problems in the manner in which religious minorities are handled within the

immigration and refugee process. A strong ORF will be positioned to help rectify many of these issues by acting as a resource upon which decision-makers can rely both for up-to-date and unbiased information on religious persecution and for expert recommendations on the impact of Canadian immigration and refugee policy on the victims of persecution.

Recommendations:

- The ORF must serve as a reliable depository of official and credible information to be used both in policy formulation and individual refugee status determinations
- The ORF must be empowered to issue recommendations as to legislative and reforms that would enhance protection for persecuted religious minorities
- Ministers must be subject to a duty to consult with the ORF as to the effect of proposed policy changes on the ability of religious minorities to seek refuge in Canada
- The ORF must provide supplementary training to immigration officials and decision-makers within Citizenship and Immigration Canada

VIII. Conclusion

When individuals and states remain silent and allow these abuses to continue, all of humanity is diminished. Canada must not be afraid to use all policy means at its disposal to make a stand for what is right. A strong and effective ORF will show the world that Canada is willing to take the lead in the fight for universal human rights – not only through declarations and rhetoric, but also through real and substantive policy action.

I. Introduction

One Free World International (OFWI) is a Toronto-based international human rights organization that focuses on the rights of religious minorities around the world without regard to religion or creed. We would like to thank Minister Baird and the Department of Foreign Affairs for the opportunity to contribute to the development of the Office for Religious Freedom by participating in this consultation.

OFWI is putting forward these recommendations which are based in our experiences working directly on the ground with victims of religious persecution and with the Canadian government to advocate for appropriate responses. Our work in this area has involved contact with officials in the Prime Minister's Office, Citizenship and Immigration Canada, and Foreign Affairs, among others, and we have seen firsthand the issues that plague Canadian policy as it relates to issues of religious freedom. OFWI's support for the Office for Religious Freedom is based in our keen sense of the need for such an Office born out of our experiences and our firm conviction that anything less than absolute respect for our fellow human beings and the principles enshrined in the *Universal Declaration of Human Rights* diminishes all of humanity.

Religious freedom is one of the most significant human rights recognized by the international community and the only one that actually allows us to define the very notion of humanity. Its importance in Canadian policy cannot and must not be underestimated. As a result, the proposed Office for Religious Freedom can be a vital resource for Canadian policy-makers developing our foreign and refugee policy. It can enable Canadian policy-makers to truly stand behind Canadian values and universal principles of human rights and to speak up on behalf of the vulnerable. However, it is not sufficient. We must not establish the Office and assume that we have done our duty. The Office must be created in such a way that ensures it is effective in giving these issues their proper place in Canadian policy, but we must also be constantly vigilant to hold it accountable for achieving its mandate.

The Office must have the means to positively impact Canadian foreign policy and refugee policy but in order to do so it must also have the resources to obtain accurate information, including being staffed with people who are knowledgeable about these issues. It must also have the ability to engage in meaningful consultation with organizations that are working on these issues and with government departments making policy in areas that can impact religious freedom overseas. Most importantly, non-governmental organizations that work in religious freedom and in humanitarian efforts overseas must continue to document these issues and to bring them to the attention of Canadian decision-makers both through the Office and directly.

II. About One Free World International

OFWI is a Toronto-based international human rights organization that focuses on securing the rights of religious minorities around the world, without regard to religion or creed. OFWI has advocated on behalf of religious minorities and individuals in various countries who were persecuted because of their beliefs or for expressing opinions considered contrary to the

prevailing belief-system. We have advocated on behalf of individuals and groups adhering to various religious beliefs, including Christians, Jews, Muslims, Falun Gong, and Bahá'í's, among others.

OFWI promotes the human rights of religious minorities through educating the public and decision-makers, advocating on behalf of individuals and minority communities, fact-finding missions, and humanitarian aid. OFWI has an extensive network of local sources in 28 countries around the world and where possible we visit areas of concern to see firsthand what the threats are. We also cooperate with and rely on other trusted human rights organizations and media sources as necessary in order to ensure that we can help as many as possible.

The driving force and inspiration behind OFWI is Rev. Majed El Shafie, Founder and President of the organization, and our work is firmly based in and informed by his personal experiences as a victim of religious persecution. Rev. El Shafie was born in Egypt to a prominent Muslim family of judges and lawyers, but he was detained and severely tortured by Egyptian authorities after he converted to Christianity and began advocating equal rights for Egyptian Christians. Sentenced to death, he fled Egypt by way of Israel and settled in Canada in 2002, establishing OFWI to share a message of freedom, hope, and tolerance for religious differences and to promote human rights in this area through advocacy and public education.

As a young law student Rev. El Shafie had tried to work within the Egyptian system to secure equal rights for Christians by establishing a ministry and human rights organization, which in just two years grew to 24,000 members. Through numerous operations to investigate allegations of persecution against Christians, assist them in escaping persecution and other hardship, build churches, and build bridges between Muslims and Christians, Rev. El Shafie gained a great deal of knowledge and insight into the persecution of the Christian community in Egypt both by the

government and by society at large. After his dramatic escape to Israel and with the intervention of Amnesty International, he was eventually accepted as a political refugee by the United Nations High Commission for Refugees.

Rev. El Shafie has been invited to speak in churches and synagogues across Canada and the United States and has been interviewed by numerous magazines, newspapers, and broadcast media, both religious and secular. He has also provided expert evidence for numerous courts and tribunals on behalf of individuals seeking



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Rev. Majed El Shafie, Founder and President of One Free World International, with Iraqi Vice-President Tareq al-Hashemi.

protection in Canada and the United States. He has appeared three times before the Canadian Parliament's Sub-Committee on International Human Rights in Ottawa and once before the Parliamentary Coalition against Antisemitism's inquiry into antisemitism in Canada. He has built bridges with members in the Canadian Parliament and the American Congress and addressed these issues directly with cabinet ministers and high-level officials in the Canadian government, including the Prime Minister's Office, in order to help educate decision-makers about the on-going issue of religious persecution around the world.

Never one to back down from an opportunity to stand against injustice, Rev. El Shafie has travelled to countries such as Pakistan, Afghanistan, Iraq, Cuba, and Israel, where he has met face-to-face with top government officials to open dialogue about these issues and in some cases to confront officials with evidence of human rights abuses in their countries and the failure of their governments to address these issues. Some of his efforts have been documented in an upcoming feature film, *Freedom Fighter*. OFWI maintains a network of sources in 28 countries around the world through which we monitor religious freedom issues.

III. International Law and the Right to Religious Freedom

Freedom of religion is one of the most fundamental human rights. The ability to believe or to choose not to believe in something beyond our material existence, in accordance with our individual conscience, and to manifest that belief in practices and observances is a distinguishing characteristic of humanity. Thus persecution of people for their beliefs or coercing others into adopting certain beliefs actually denies the very humanity of the victim. Moreover, because of the highly personal and foundational nature of religious beliefs and a person's identification with their beliefs, people are not easily convinced to change their beliefs, often leading to coercive efforts that violate the victim's other basic rights. In fact, where religious freedom does not exist other rights are inevitably violated in varying degrees, from freedom of expression denied to torture to women's rights, and on and on. It is simply not possible to talk about human rights without talking about the right to religious freedom.

Article 18 of the *Universal Declaration of Human Rights* (UDHR) states that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In addition to the UDHR, the right to religious freedom is recognized in almost identical language in the *International Covenant on Civil and Political Rights* (ICCPR). Moreover, Article 18 of the ICCPR adds a second paragraph specifically stating that:

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.

According to the United Nations, 167 countries are parties to the ICCPR. Yet despite this international recognition of the inherent right of freedom of religion, discrimination and persecution, even to the point of torture and killing of innocent people because of their religion,

is a significant, underestimated, and growing problem in the world today. In fact, of those countries that have signed or ratified the ICCPR, at least 24 are countries about whose record in relation to religious freedom there are serious concerns. While the international community claims to respect religious freedom, Jews, Bahá'ís, and others face discrimination and persecution in various countries, but the main targets of these abuses are Christians.

IV. Religious Persecution

Each year about 165,000 people are killed simply because they are Christians. In total, between 200 million and 300 million Christians worldwide live with the constant threat of persecution ranging anywhere from severe discrimination to outright persecution, threats, and physical abuse, torture, and death solely because of their faith. More Christians were killed for their faith in the 20th century than in the previous 19 centuries combined and the trend is not improving in the 21st century. A massive shift in geo-political influence that began at the end of the last millennium has altered the dynamics between and even within religious affiliations (as well as anti-religious forces) and is creating the conditions for increased violations of religious freedom.



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A Christian woman carries a child after a bomb explodes at Our Lady of Salvation Church in Baghdad on August 1, 2004.

Since the collapse of the officially atheist Soviet Union, state-sponsored religious persecution has attracted less attention than it once did. Yet communist states like China (with about 1/5 of the world's population), North Korea, Vietnam, and Cuba continue to control and even outlaw religion in favour of atheist ideology. Muslim states, overlooked during the Cold War, have stepped onto the world stage and assumed an importance in world affairs that would have been unthinkable little more than ten years ago. At the same time, many pursue official policies that discriminate, persecute, and even outlaw (in varying degrees) all religions other than Islam. The governments are encouraged in these policies by their perceived need to appease local Islamic extremists in order to maintain their hold on power, on the one hand, as well as by their sympathies with the basic religious foundations of the extremists, on the other. Another factor is the enhanced status and attention these states enjoy in the international community, whether as the new enemy or as critical allies for the West in the war against terrorism. As a result, their domestic policies attract little international accountability, encouraging them to do little more than pay lip-service to international standards.

For religious extremists, on the other hand, the prospect of increasing their influence on the world stage also raises the stakes and increases their determination to establish a presence where they can. In fact, the rise in religious extremism poses a threat in many ways more dangerous and insidious than traditional state-sponsored religious persecution. Increasingly non-state actors, for example individual religious extremists, groups, or mobs, are the primary persecutors of religious minorities and act with the active encouragement or at least tacit approval or turning a

blind eye by the state. In the meantime, the state is able to escape responsibility behind a façade of pseudo-democracy and perceived support for human rights even while it permits religious extremists to violate those rights with impunity. Extremists then harass, abuse, threaten, assault, and even kill those who will not convert or submit to their demands. The victims, with few resources and often adhering to non-violent beliefs that prevent them from fighting back, have no recourse. The so-called Arab Spring of the first half of 2011 which was significant by bringing down regimes whose legitimacy was questionable at best, has at the same time only increased the danger of extremist influence taking hold.

Today in Afghanistan the number of Christians is impossible to determine because all national Christians are secret converts and worship in hiding out of fear for their lives, but estimates range from 500 to 8,000 individuals in a population of roughly 30 million. The western-backed government openly pledges to find and execute all converts and then embarks on a campaign of terror to implement its pledge. Homes are searched and converts and their Muslim relatives imprisoned (the latter in order to coerce converts into recanting or divulging information about other converts) while western aid organizations trying to help a war-torn people desperate for aid and education are shut down simply because they have words like “Church” in their names.

In Saudi Arabia a teacher is sentenced to 3 years and 4 months in penitentiary and 750 lashes for the simple act of speaking positively about Jews and the Bible. Intervention by One Free World International results in his release. A young woman is killed by her father after the family discovers her conversion to Christianity by finding items she had posted on the internet using a pseudonym. The father, who had burned his daughter to death after he had cut off her tongue, is a member of the Saudi religious police. He is released after a short detention and assured that all charges will be cleared and he will be granted a promotion.

In the newly secular Nepal, a proposed change to the criminal code threatens to severely restrict religious expression by all except the Hindu and Buddhist majorities.

In Egypt a shopkeeper is by Muslim extremists and tortured by authorities. When his refugee claim is rejected by Canadian officials and he is returned to Egypt, he is detained upon his arrival and tortured on several occasions until OFWI is able to rescue him. Upon his successful return to Canada, his daughter’s family is targeted with his son-in-law being harassed and tortured in order to punish him for escaping. A church is bombed as worshippers leave Christmas Eve services killing 21 and injuring over 70. Bahá’í’s cannot obtain official identity cards and are officially non-persons, unable to get an education, marry, or divorce.

In Iran a pastor faces execution at any moment as we write this report for his conversion from Islam to Christianity. Two young women are imprisoned where they are tortured and raped over several months on charges related to their conversion to Christianity. The women exhibit remarkable courage in the face of a potential death sentence and are finally set free and manage to escape to the West only after an international outcry. As in Egypt, Bahá’í’s cannot obtain identity cards and continually face the threat of arbitrary arrest and detention.

In China unregistered churches are raided and pastors arrested and placed in forced labour. Uyghur Muslims are arrested, tortured, or killed and Falun Gong members are arrested and some are killed so their organs can be harvested for transplant.

In Iraq a man loses his leg protecting a church full of worshippers from a car-bomb. Three months later his son is kidnapped and, when the demanded ransom cannot be paid, shot in the back and left for dead. When the young man is brought to a hospital he is refused treatment because he is a Christian and a police guard, an official of the western-backed government, is prevented from killing him only by a by-stander who points out that he is as good as dead anyway. His life is saved by a doctor who operates on him in secret.

In Pakistan a two-and-a-half year-old Christian girl is kidnapped and raped and left to die by the son of her father's employer because her father refused to convert to Islam. No action is taken against the employer or his son and the girl's family is forced to live in hiding for several years before they can be rescued by One Free World International. Poor minority members are exploited in slave labour camps. A hindu factory-worker is brutally murdered by a mob of co-workers after one alleges that he made a blasphemous remark. Blasphemy laws in the country's criminal code keep minorities in daily fear of being charged and killed, judicially or extra-judicially, by Muslim extremists or neighbours who simply have an axe to grind.

These events are not fiction. They are not stories from the 5th century or a script-writer's idea for a science-fiction dystopia or for a new thriller or horror-film. They are a few isolated examples that do not even scratch the surface of what is actually happening to religious minorities around the world in the 21st century. Canada cannot force these governments or their citizens to uphold human rights nor is it our place. However, our government can and must speak out about these issues and encourage these governments through our words and actions to abide by international

human rights standards and when every other effort fails we must step in to rescue those who have no other recourse.

Yet Canadian policy is ineffective in this area due to a lack of coherence in policies and the ignorance of officials in positions of implementing Canadian policies. Canada gives significant amounts of aid to countries like Pakistan and Afghanistan despite



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Workers at a brick factory south of Lahore, Pakistan that employs religious minorities as slave labour.



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their atrocious records on human rights (including the current, western-backed government of Afghanistan). Refugee panel members reject applicants because they either do not believe that such persecution is taking place, often because politically or diplomatically tempered reports available to them downplay events, or because they do not believe individual claimants, expecting them to behave in accordance with western cultural concepts of rational behaviour. The Office for Religious Freedom can be a critical answer to some of the shortcomings of Canadian policy in these areas. Its role will necessarily have certain limits because it will be an office of the Department of Foreign Affairs and not an independent office. Nevertheless, to the extent that political and diplomatic influences on the Office can be minimized it can play a very important role.

V. Canada's Office of Religious Freedom

On 8 April 2011, Prime Minister Stephen Harper released the “Here for Canada” Conservative platform, which included a pledge to “create a special Office of Religious Freedom in the Department of Foreign Affairs and International Trade.”¹ The document outlines three specific objectives the government seeks to achieve by creating an Office of Religious Freedom (hereinafter ORF):

1. “Monitor religious freedom around the world”
2. “Promote religious freedom as a *key objective* of Canadian foreign policy” (emphasis added)
3. “Advance policies and programs that support religious freedom”²

This section will advance several proposals as to how the new ORF should be structured in order to best accomplish these goals, with an emphasis on the following key themes:

- the need for ongoing and institutionalized consultations with key stakeholders (including religious groups and relevant human rights NGOs);
- the need for both public and institutional accountability to ensure that the ORF is effective and that its efforts are not compromised by private political interests.

1. Mandate of the Office of Religious Freedom

Canada has created a number of robust mechanisms – most notably the *Charter of Rights and Freedoms* – that ensure the protection of freedom of religion domestically. However, as was outlined above, One Free World International’s experience advocating for the rights of religious minorities around the world has shown that there is a pressing need for an office with the mandate to address the issue of religious freedom *outside* of Canada’s borders – given the egregious and systemic violations outlined above. We believe that a strong ORF will show the world that Canada is willing to take the lead in the fight for universal human rights – not only

¹ http://www.conservative.ca/media/ConservativePlatform2011_ENs.pdf at 40.

² Ibid at 40.

through declarations and rhetoric, but also through real and substantive policy action. If we are to live up to our reputation as a nation whose actions are governed by the respect for human rights, we must ensure that Canadian foreign policy reflects our unwavering commitment to the protection of religious freedom – as a basic, universal human right. As such, the new ORF should be given a clear, unambiguous mandate to:

- effectively and comprehensively monitor the status of religious freedom around the world;
- issue authoritative public reports on religious freedom;
- engage in ongoing consultation and cooperation with civil society;
- provide official recommendations to ministers involved in the formulation and implementation of Canadian foreign policy;
- participate directly in bilateral and multilateral political and diplomatic engagements on the issue of freedom of religion.



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Neeha, a four-year-old Pakistani Christian girl who was raped at age 2 ½ by the Muslim son of her father's employer because her father refused to convert to Islam.

It is vital that the creation of the ORF is not merely a symbolic gesture, but that this important step is accompanied by a commitment on the part of the Canadian government to empower this office to achieve meaningful and measurable progress in the efforts to promote respect for an individual's inherent right to freedom of religion. Indeed, while One Free World International welcomes the creation of such an important office, we urge the Canadian government to ensure that it be given a robust mandate along the lines outlined in this report. The human rights cause has often been beset by empty proclamations and ineffective bureaucracy. By vesting the ORF with substantive authority and adequate resources, Canada has an opportunity to show *true* leadership by taking real, substantive action in the fight against persecution and oppression.

2. Monitoring Religious Freedom Around the World

The first step in taking action to protect freedom of religion around the world must be to raise awareness on the conditions facing religious minorities around the world – both in terms of the Canadian government's internal knowledge and the broader awareness of the Canadian public. As such, it is vital that the new ORF create a monitoring and reporting mechanism that is both effective and transparent. While the proposals related to reporting will be discussed in more detail in sub-section 3 (below), it is essential that the ORF set up a comprehensive information-gathering process designed to alert the government and the general public to abuses demanding a substantive policy response on the part of the Canadian government. In order to achieve this objective, the ORF must institutionalize ongoing consultations with relevant stakeholders by providing for:

- a formal consultation process designed to solicit input for the ORF report on religious freedom around the world (detailed in sub-section 3(a) below);

- ongoing and formal access for stakeholders designed to provide a guaranteed forum for the reporting of violations in real-time.

As will be shown in more detail below, such a system will offer the following important advantages:

- efficient use of the resources allocated to the ORF;
- increased government awareness of violations;
- ongoing feedback from relevant stakeholders;
- increased transparency and public awareness.

a. Internal Research

In order for the ORF to be an effective monitoring mechanism, it must be given sufficient independent resources to allow for a comprehensive and thorough investigation of those abuses of religious freedom that are brought to its attention. It is critical that the ORF have its own, dedicated research staff that is focused on the issue of religious freedom around the world. This will ensure that freedom of religion is prioritized in the research efforts, rather than merely being included in broader inquiries on human rights.

b. Institutionalized Consultations with Relevant Stakeholders

Due to both the widespread nature of religious persecution and the need to make efficient use of the limited resources at its disposal, it is vital that the ORF engage in regular and substantive consultations with relevant stakeholders. For the purposes of this section, the term ‘stakeholder’ will include:

- human rights NGOs (especially those specializing in issues of religious persecution);
- religious organizations (especially those who represent religious communities experiencing persecution abroad);
- any individuals with first-hand knowledge of incidents of persecution who wish to bring a situation to the attention of the ORF in order to assist with its monitoring and reporting function;
- any other civil society group possessing relevant and reliable information related to issues of religious freedom abroad.

These civil society actors have extensive local contacts and expertise and, therefore, have access to invaluable information that would not be readily available through official diplomatic channels. As such, these stakeholders can (and must) play an integral role in the ORF’s monitoring activities by way of the following:

- a formal consultation process designed to solicit input for the ORF report;
- a mechanism to provide civil society actors with ongoing and guaranteed access to the ORF for the purpose of reporting violations of religious freedom.

i. Formal Consultation Process

In recognition of the magnitude of the task of preparing the comprehensive report on religious freedom detailed in sub-section 3(a) (below), the ORF must set up a formal consultation process designed to solicit information and reports from relevant stakeholders. A religious freedom monitoring mechanism that relies exclusively on official sources of information will be woefully inadequate in uncovering the true extent of religious persecution around the world. Human rights NGOs and religious organizations with direct knowledge of conditions ‘on the ground’ can provide invaluable insight into the scope of the violations perpetrated in the state in question.

Indeed, due to the very nature of religious persecution, direct official inquiries by a governmental agency may fail to uncover the true source and nature of the problem. Very often, for instance, the governments themselves are the perpetrators – making an admission through diplomatic channels highly unlikely. In other situations the responsible parties are local officials or non-state actors operating outside the direct knowledge or control of the national government – thereby allowing said governments to plead ignorance as to the abuses in question. Providing for robust and substantive consultations with civil society as part of the process of compiling its report will allow the ORF to break through the barriers of official denial and non-cooperation and to publish authoritative and comprehensive reports that will serve as an effective tool with which to raise public awareness on the true state of religious freedom around the world.

ii. Ongoing Access for Stakeholders

In addition to the aforementioned consultation process in connection with the ORF’s reporting activities, the office must provide a guaranteed mechanism granting ongoing access to relevant stakeholders. This is particularly vital in terms of the ability of religious groups, NGOs, and other civil society actors to report egregious violations and other situations requiring immediate action on the part of the Canadian government as they come to light. As the events of the last 12 months have shown, political upheaval and power shifts within states can create unexpected crises that carry immediate and devastating consequences for religious minorities. The ORF’s institutional structure must be flexible enough to respond effectively to these developments. Therefore, the ORF must include a mechanism whereby civil society groups with direct information of ongoing violations are assured access to present this evidence in a timely fashion. Such a system would also provide valuable opportunities for the ORF to receive feedback from stakeholders on its operations.

3. Reporting

As mentioned above, a crucial objective of the ORF is to raise awareness on the conditions facing religious minorities around the world – both in terms of the Canadian government’s internal knowledge and the broader awareness of the Canadian public. The primary means whereby the ORF can shed light on areas where concerted policy action is required is through regular and comprehensive public reporting. As will be emphasized in sub-section 4 (below), it is vital that all the reports be published and freely available to the general public in order to promote greater transparency and accountability.

The reporting function of the ORF must include:

- the regular publication (ideally annually but at least every two years) of a comprehensive report on freedom of religion around the world – including the official designation of certain states as persistent violators of religious freedom;
- the publication of reports on significant incidents of religious persecution and discrimination that are brought to the attention of the ORF, along with recommendations for a policy response by the Canadian government;
- the annual publication of a report on the concrete measures taken by the ORF and the Canadian government as a whole to address violations of religious freedom.

a. Report on Freedom of Religion Around the World

Ideally every year, but no less than every two years, the ORF must publish a report outlining the status of religious freedom around the world. In order to ensure the credibility of this report, and avoid potential criticisms that its content is politically motivated, it must be comprehensive in its scope. This can be achieved by ensuring that each country is covered in the report, a task that can be greatly facilitated through the regular consultations with civil society outlined above. Moreover, in order to ensure transparency and maximum public awareness, this report must be public and freely available on the internet.

i. *Official Designation of Persistent Violators of Religious Freedom*

At the same time, however, it is equally important that the ORF's resources be focused on those areas where particularly egregious and systematic violations are occurring. As such, the report should ensure that particular attention be paid to those states where immediate and concerted policy action is required. As part of this effort, the ORF report must include a section that specifically designates certain states as persistent violators of religious freedom. Within the report, the ORF should have the authority to recommend that a state guilty of ongoing violations of the right to freedom of religion be officially designated by the appropriate minister as being subject to further action by the Canadian government. As will be discussed in section VI.2(b)(ii) below, it is essential that such a designation by the ORF be more than merely an empty gesture of official disapproval – it must lead to a substantive re-evaluation of Canada's relationship with the offending state.

ii. *Special Reports on Significant Incidents of Religious Persecution*

As mentioned above, sudden political upheavals can lead to unexpected and drastic deteriorations in the treatment of religious minorities. Therefore, in addition to the comprehensive report outlined above, the ORF should also publish situation-specific reports that address particularly serious abuses requiring immediate action by the Canadian government. Such reports should include not only information on the crisis itself, but also specific recommendations for further policy measures to be taken by the appropriate ministry.

b. Annual Report on ORF Activities and Policy Responses by the Canadian Government

Every year, the ORF must publish a report detailing to both Parliament and the general public the concrete actions taken by Canada to address those violations of the right to freedom of religion that have been identified. This report should include a record of the following:

- any independent action undertaken by the ORF;
- any official consultation between the ORF and specific ministers;
- any official policy recommendations by the ORF and the action taken in response by the minister in question.

As will be discussed in more detail in sub-section 4 (below), it is vital that the activities of the ORF be transparent in order to ensure full accountability both to Parliament and to the Canadian public. As such, this annual report must be freely available to the general public.

4. Accountability

In order for the ORF to be effective in achieving its mandate, it must be fully accountable both to the Canadian parliament and the general public. When matters relating to human rights are addressed behind closed doors, there is the inevitable (and often all-too-strong) temptation to allow self-interested political considerations to take precedence over the respect for universal human rights. The only way to ensure that the ORF is having a meaningful effect on the formulation of Canadian policy – and that it is more than an empty symbolic gesture – its activities and, just as importantly, the response by the government as a whole to its recommendations must be subjected to public scrutiny.

This objective can be achieved in a variety of ways, many of which are discussed in more detail elsewhere in this report:

- the publication of an annual report on the ORF's activities (discussed in subsection 3(b) above);
- the creation of a mechanism whereby civil society is assured ongoing access to the ORF (discussed in section V.2(b)(ii) above);
- ensuring that the appointment of the head of the ORF is a ministerial-level appointment;
- creating an institutional structure that makes the ORF directly accountable to Parliament.

a. ORF Head Appointed Directly by Minister

In order to ensure both that the head of the ORF is accountable to the Canadian public and to ensure sufficient institutional standing to carry out the duties proposed in section VI (below), it is vital that the appointment be made at the ministerial level. Indeed, it is imperative that the activities of the ORF not be shrouded in bureaucratic secrecy. Making the position a ministerial-level appointment will open up the choice of candidate to public scrutiny, thereby helping to ensure the selection of an individual who is both qualified and possesses the appropriate background for the position. As the head of the ORF will be responsible both for making policy recommendations and for representing Canada's stance on religious freedom in international

fora, it is crucial that the appointment be made by an elected official who is directly accountable to the Canadian public.

b. ORF Directly Accountable to Parliament

Additionally, in order to ensure accountability and transparency in the activities of the ORF themselves, the office must be institutionally positioned so as to report directly either to Parliament or to the appropriate sub-committee – such as the Sub-Committee on International Human Rights of the Parliamentary Standing Committee on Foreign Affairs and International Development. Direct institutional accountability will ensure not only that the ORF’s activities are undertaken on behalf of the Canadian people – and not at the behest of private political interests – but also that the office’s recommendation will receive the direct attention of elected officials. The ORF must have the ability to present its reports in a public forum where its recommendations cannot be ignored or lost behind the closed doors of government bureaucracy. At the same time, this structural arrangement will also prevent the politicization of the office, by ensuring that any partisan or politicized motives are exposed by the light of public debate.

VI. Office of Religious Freedom and Canadian Foreign Policy

In order for Canada to live up to its reputation as a leader in the promotion of international human rights, it is imperative that Canadian foreign policy be consistent with the values enshrined both in international documents such as the *Universal Declaration of Human Rights* and in our domestic *Charter of Rights and Freedoms*. The *Charter*, as an articulation of Canadian values, recognizes “freedom of conscience and religion” as one of the “fundamental freedoms” which apply to “everyone.”³ As such, if Canadian foreign policy is to stay true to Canadian values, it is imperative that the issue of religious freedom receive the necessary emphasis – not only in our political rhetoric but also in its substantive policies and action. When Canada overlooks violations of religious freedom perpetrated (or ignored) by states with which it has ongoing diplomatic and economic relations, Canada is legitimizing the actions of those who would undermine the very principles Canada purports to uphold. By taking a stand and making freedom of religion a focal point of our foreign policy, Canada has an opportunity to emerge as a *true* leader in pushing for positive change in the treatment of religious minorities around the world.

Indeed, the Canadian government has clearly stated that one of the objectives of the new ORF is to “promote religious freedom as a *key objective* of Canadian foreign policy” (emphasis added).⁴ Far from being a means to inject religion into Canadian foreign policy, a strong Office for Religious Freedom will help ensure that Canadian foreign policy does not tolerate flagrant violations of fundamental human rights, including the denial of freedom of religion. As such, this section will advance proposals as to how the ORF can contribute to the prioritization of religious freedom in Canadian foreign policy, with an emphasis on the following key themes:

³ 2(a)

⁴ Ibid at 40.

- the need for a multi-faceted approach that makes use of all available fora for engagement (including both bilateral and multilateral mechanisms);
- the need for constructive yet *principled* engagement with states that actively violate or fail to protect freedom of religion – achieved by backing up diplomatic and multilateral engagement with a demonstrable commitment to take substantive policy measures for persistent violators who fail to make positive changes;
- the need for a flexible and dynamic approach that is responsive to both the nature of Canada’s relationship with the state in question and the nature of the state itself.

1. Prioritization of Religious Freedom in Diplomatic Relations

The primary means of achieving meaningful progress in the area of religious freedom is through sustained constructive engagement with states where violations are occurring, either due to direct government action or a lack of government intervention. As will be discussed in more detail in sub-section 2 (below), in order for diplomatic and political engagement to be effective, it must be backed up by a demonstrable commitment to take substantive policy measures against persistent violators who fail to alter their behaviour. However, the first step must always be sustained dialogue focused on the issue of religious freedom. By effectively leveraging the power of international peer-pressure through bilateral and multilateral engagement, Canada has the opportunity to be a leader in pushing for positive change in the area of international religious freedom.

The new ORF has the potential to play a crucial role in ensuring that the issue of religious freedom is prioritized in Canadian foreign relations. As such, the ORF must be empowered to make meaningful contributions to Canadian foreign policy by way of:

- direct interventions in bilateral diplomatic relations;
- direct interventions in multilateral fora;
- regular consultations with those Ministers responsible for foreign policy decisions.

a. Role for ORF in Bilateral Relations

Bilateral diplomatic relations are Canada’s primary means of engaging with the international community and, as such, they are also the most important forum wherein Canada must seek to achieve positive results with regards to the universal respect for fundamental human rights. Canada must clearly communicate with its diplomatic counterparts its desire to work with them to achieve measurable progress in the area of religious freedom and ensure that religious freedom receives the necessary emphasis in any bilateral talks. In order for this to occur, it is important that the head of the ORF be given sufficient institutional standing to engage *directly* in diplomatic dialogue with the appropriate ministers or government officials in countries where religious minorities are subject to persecution. Giving the head of the ORF diplomatic standing abroad to this end will ensure that freedom of religion is a point of emphasis in diplomatic meetings – and is not lost among other issues pertaining to human rights more generally.

b. Role for ORF in Multilateral Fora

The head of the ORF's direct role in Canadian diplomacy should not, however, be restricted to bilateral engagements. Indeed, the head of the ORF must take every opportunity to exert positive pressure on states to respect freedom of religion, including by engaging with state representatives in a variety of multilateral fora. In order to enhance the effectiveness of Canada's efforts to this end in such multilateral settings, the ORF's mandate should include forming relationships with the relevant ministries in like-minded states who can act as Canada's allies in the promotion of religious freedom. The ORF has the potential to play a critical role in raising awareness and rallying support for the cause of oppressed religious minorities among states who share Canada's commitment to the protection of fundamental human rights. Indeed, as one of the first countries to create an office dedicated to freedom of religion, Canada can show true leadership in multilateral efforts to create a more robust human rights regime around the world.

c. General Duty to Consult with ORF on Foreign Policy Matters

While the specific nature of the duty to consult with the ORF in general foreign policy matters will be discussed in sub-section 3 (below), the enacting legislation must provide for an obligation on the part of any minister engaging in bilateral or multilateral diplomatic relations with states refusing to respect religious freedom to consult with the ORF. These ongoing consultations will ensure that the consequences of carrying on political and economic relations with states that oppress (or allow for the oppression) of their religious minorities is weighed as part of Canada's bilateral and multilateral engagements. As such, any ministry engaged in either bilateral or multilateral diplomatic talks with the government of a state where serious concerns have been raised concerning religious persecution must seek recommendations from the ORF as to how best to incorporate freedom of religion into Canada's overall diplomatic strategy.

Once again, the role of the ORF in these matters should *not* be viewed as 'injecting religion' into Canadian foreign policy. On the contrary, the consultations envisaged in this report are a vital step in ensuring that Canadian foreign policy does not tolerate use of religion as a political basis for discrimination and the denial of rights. Canada can no longer afford to carry on 'business-as-usual' diplomatic relations with persistent violators of religious freedom if it is to live up to its reputation as a nation that stands for fundamental human rights.

2. Substantive Policy Action Against Persistent Violators

As history has shown, diplomatic engagement and political dialogue – however sustained and constructive – is often insufficient. Indeed, in order for diplomatic and political engagement to be effective, it must be backed by a demonstrable commitment to take substantive policy measures against persistent violators who fail to make positive changes. As such, Canada must make clear its intention to take meaningful action in the event that dialogue with a violating state fails to achieve measurable results. Moreover, in the event that a country is not willing to respond positively to Canada's representations, Canada must not continue its relationship with that country on a "business-as-usual" basis. Canada must be willing to disengage and make the

resumption of normal relations conditional on measurable progress in the area of religious freedom.

Contrary to popular belief, disengaging does not prevent dialogue – it is in itself one method of dialogue. Indeed, under the right circumstances, disengaging sends a very clear message of what we believe is acceptable and the behaviour we are willing to tolerate. It is not the disengagement but the other state’s response that determines whether or not dialogue exists. Indeed, by setting achievable yet substantial targets for progress in the area of religious freedom as a condition for certain economic and political relationships (as outlined below), Canada can both promote positive and sincere engagement and ensure that states demonstrate a commitment to take meaningful steps towards the protection of fundamental human rights in general, and the right to freedom of religion in particular.

a. Explicit Link Between Substantive Policy Measures and Freedom of Religion

In order for any of the substantive policy measures proposed below to be effective in securing international cooperation on the issue of religious freedom, the Canadian government must clearly (and publicly) link the policy response with the behaviour that triggered it. One of the primary concerns that has been raised concerning U.S. sanctions against states guilty of egregious violations of religious freedom is the tendency to merely add religious freedom to the rationale for *existing* sanctions – a practice known as “double-hatting.”⁵ While the United States should be commended for its willingness to take steps in response to persistent refusals on the part of states to respect religious freedom, Canada must avoid employing the tactic of simply piggy-backing the issue of freedom of religion onto measures that are already in place. Indeed, a failure to explicitly link any of the policy measures proposed below to the issue of religious freedom would result in a corresponding failure on our part to clearly communicate the importance of this fundamental human right to the state in question.

If Canada is to successfully exert pressure on states to alter their treatment of religious minorities, it must be clear that the action in question is being initiated specifically as a result of concerns over freedom of religion. The ORF, if properly empowered, can play a vital role to this end. By officially identifying violations and formally recommending further government action, the ORF can ensure that both the public and the state subject to these actions understand Canada’s commitment to freedom of religion and that only progress in that specific area will lead to a restoration of normal relations. Given the egregious violations that were outlined in section IV of this report, the government of Canada cannot allow the issue of religious persecution to be lost among the myriad of other matters informing its foreign policy decisions. Canada must take a stand and make clear by its *actions*, not only its words, that it will not overlook the suffering of religious minorities around the world and continue ‘business-as-usual’ relations with states who refuse to take measures to guarantee even the most basic human rights of its people.

⁵ Comments by US Committee on Foreign Affairs - http://foreignaffairs.house.gov/press_display.asp?id=1976

b. Linking Official Aid to Freedom of Religion

Perhaps the most effective way for Canada to demonstrate its commitment to the protection of the fundamental right to religious freedom, and thereby to compel states to take positive steps to this end, is to create an explicit link between a country's respect for freedom of religion and its eligibility to receive Canadian aid. In the 2009-2010 fiscal period alone, the Canadian International Development Agency (hereinafter CIDA) oversaw the distribution of over 3.5 billion dollars in aid,⁶ making aid one of Canada's primary avenues of international engagement. Given the magnitude of these contributions, international aid is perhaps Canada's most powerful means of exerting pressure on states that refuse to respond positively to Canada's diplomatic efforts in matters relating to religious freedom.

In articulating the manner in which Canadian development assistance funds are to be allocated, article 2(1) of the *Official Development Assistance Accountability Act* of 2008 states that the Canadian government must ensure that "all Canadian official development assistance abroad is provided...in a manner *consistent with Canadian values...and that promotes international human rights standards*" (emphasis added).⁷ This criteria is reiterated in article 4(1)(c), which states that "official development assistance may be provided only if the competent minister is of the opinion that it...is *consistent with international human rights standards*" (emphasis added).⁸ As such, it is clear that the Canadian government has both a legal and a moral obligation to ensure that Canadian development funds are used in a manner that is not only *consistent* with international human rights standards, but also in a manner that actively *promotes* international human rights standards such as the freedom of religion.

As outlined above, religious freedom is enshrined as a fundamental human right in Canada's own *Charter of Rights and Freedoms*, as well as in international legal instruments such as the *Universal Declaration on Human Rights* and the *International Covenant on Civil and Political Rights*. Therefore, any distribution of aid that does not take into account the issue of freedom of religion is fundamentally inconsistent with "Canadian values" and it fails to promote the "international human rights standards" referred to above. However, the governments of some of the largest recipients of Canadian international aid – such as Pakistan (74 mil in 2009-2010) and Afghanistan (298 mil in 2009-2010) – have been responsible for egregious and systematic violations of the right to freedom of religion, as outlined in section IV (above). In Afghanistan, the western-backed government openly encourages and supports campaigns to identify and kill converts. In Pakistan, poor minority members are imprisoned and exploited in slave camps, and vague blasphemy laws result in minorities being imprisoned and killed on the word of vindictive neighbours. By providing financial support to states that fail to uphold even the most fundamental human rights with 'no-strings-attached,' Canada is implicitly legitimizing the actions of those who would undermine the very principles on which Canada bases its national identity and international reputation.

⁶ <http://acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/CAR-616135752-P3Q>

⁷ <http://laws-lois.justice.gc.ca/eng/acts/O-2.8/page-2.html?term=rights+human#s-4.>

⁸ <http://laws-lois.justice.gc.ca/eng/acts/O-2.8/page-2.html?term=rights+human#s-4.>

In cases where diplomatic efforts to encourage violating states to take meaningful steps towards ensuring freedom of religion for their citizens fail, Canada must be willing to either reduce or discontinue its aid payments to that country. Moreover, the resumption of aid payments (or the return to previous levels) must be made conditional on the attainment of achievable yet substantial targets for achievement in terms of protecting freedom of religion. This approach will provide an incentive for violating states to take measurable steps while, at the same time, demonstrating Canada's unwavering commitment to the respect of international human rights.

The ORF has the potential to play a vital role in ensuring that such measures are both effective and fair, and it must be empowered to act as follows:

- Provide ongoing recommendations to CIDA regarding disbursements of international aid;
- Provide recommendations to CIDA concerning persistent violators who ought to be officially designated as subject to aid reduction measures;
- Provide recommendations as to achievable yet substantial targets related to freedom of religion that, if met by the state in question, would remove the restrictions on Canadian aid.

It will be emphasized throughout this section that the purpose behind these admittedly serious measures is not merely punitive, but rather to demonstrate Canada's commitment to fostering positive progress in the respect for freedom of religion and to provide tangible incentives for countries to engage more seriously in constructive dialogue with Canada on these issues.

i. *Ongoing Consultations Between CIDA (or Other Competent Ministry) and ORF*

Canada can no longer afford to overlook the consequences of providing financial support to states with no regard for their willingness to respect fundamental human rights such as the freedom of religion. In order for religious freedom to receive the appropriate amount of attention in the decisions surrounding the allocation of Canadian foreign aid, it is important that the Canadian government institutionalize ongoing consultations between CIDA – or any other office-holder designated as a “competent minister” for the purpose of administering official development assistance⁹ – and the ORF. The creation of such a mechanism would require little more than an enhancement of the current legislative requirements, which already impose a duty on the competent minister to consult with relevant stakeholders. Section 4(2) of the *Official Development Assistance Accountability Act* states that:

The competent minister shall consult with governments, international agencies and Canadian civil society organizations at least once every two years, and shall take their views and recommendations into consideration when forming an opinion [as to whether Canadian aid disbursement is, inter alia, consistent with human rights standards as per s. 4(1) (quoted above)].¹⁰

⁹ See s.3 of *Official Development Assistance Accountability Act* - <http://laws-lois.justice.gc.ca/eng/acts/O-2.8/page-1.html#h-2>

¹⁰ <http://laws-lois.justice.gc.ca/eng/acts/O-2.8/page-2.html>

Parliament has already recognized the need for regular input from key stakeholders on whether or not Canadian decisions on international aid are in keeping with its values and serve to promote international human rights. The inclusion of a positive duty requiring the competent ministers to consult with the ORF would further ensure that each potential aid recipient's treatment of religious minorities is fully considered when formulating development assistance policies. Canada can no longer afford to ignore the human rights record of the recipients of its aid. Although such support is disbursed with the best of intentions, unconditional financial support of states that refuse to protect the basic right of its citizens to freely choose their religion undermines the very principles on which our country's identity is based – namely the respect for fundamental human rights.

ii. *Official Designation of Persistent Violators as Subject to Reduction in Aid*

The ORF should have the authority to recommend that a state guilty of ongoing and systematic violations of the right to freedom of religion be officially designated by the appropriate minister as being subject to further action by the Canadian government – including restrictions on development aid where applicable. Such a designation should be made either: a) in the regularly published report outlined above; or b) by way of an official recommendation forwarded to the appropriate minister. Any minister who receives such a recommendation must have a positive duty to provide a response, without undue delay, outlining the specific measures to be taken to address the violations in question. Canada's foreign policy must be based on the principle that a state's blatant disregard for fundamental human rights such as the freedom of religion will lead to substantial consequences in its relations with Canada. As such, it is essential that this designation be more than merely an empty gesture of disapproval – it must lead to a substantive re-evaluation of Canada's economic and political relationship with the offending state.

iii. *Aid Conditional on Achievement of Realistic Yet Substantial Human Rights Targets*

When measures are taken by the Canadian government to restrict aid to a country due to violations of religious freedom, the ORF should be empowered to submit recommendations to the appropriate minister concerning specific targets which, if achieved, would lead to a lifting of the economic sanctions. Due to its expertise and engagement in this area, the ORF will be able to identify specific conditions relating to religious freedom that would represent both positive progress in the protection of freedom of religion and constitute a realistic goal given the conditions in the state at issue. Such an approach will prevent the perception of the measures as heavy-handed and overly punitive, while also providing a positive incentive for violating states to introduce measurable changes in their behaviour. The involvement of the ORF could also ensure that any aid restrictions are carefully targeted at those officials/government offices/individuals responsible for the violations – as opposed to blanket, indiscriminate sanctions that may not be effective in exerting pressure on the true decision-makers within the states in question.

It must be emphasized that the goal in taking such strong steps is not simply to punish violating states and voice Canada's outrage at the behaviour in question. The ultimate purpose is to urge states to take positive steps towards the protection of religious freedom by providing them with a

real incentive to change their behaviour. A state that persistently violates the human rights of its citizens must not be able to count on Canadian financial support with ‘no strings attached.’

c. Flexible and Multi-Faceted Policy Approach – Adapting Specific Measures to Nature of Relationship with State

Although this proposal has identified targeted aid reduction as an important policy measure with which to address systematic and persistent violations of freedom of religion, it must be acknowledged that each individual bilateral relationship undertaken by Canada is unique – and policy measures must, consequently, be adapted to each circumstance. Indeed, the Canadian foreign policy response must be flexible enough to address the inevitable variation in the governance structure and economic system of each state, as well as the diversity of relationships Canada has forged with its international counterparts. Not all states, for instance, will be recipients of a sufficient amount of Canadian aid to give the Canadian government significant leverage in that area. Additionally, most international relationships are cross-cutting, touching upon a wide spectrum of issues ranging from trade, to security, to cultural exchange and scientific cooperation. As such, in order for the ORF to be effective in advancing policy proposals against any state refusing to respect fundamental human rights – and not merely against those states that are recipients of Canadian aid – it must have a flexible and multi-faceted institutional mechanism at its disposal.

For instance, in addition to submitting policy recommendations to CIDA in the manner outlined above, the new ORF must be empowered to make similar submissions to any ministry tasked with formulating and/or implementing policy in an area relevant to the promotion of international freedom of religion, including, but not limited to:

- the Minister of National Defence – recommending potential alterations to Canada’s military and security cooperation with violating states (including training, material assistance, etc.);
- the Minister of Finance – recommending possible restrictions and conditions on the availability of debt relief by the Canadian government;
- any ministry responsible for international cooperation activities with persistent violators – recommending restrictions on such initiatives as cultural exchanges, joint scientific ventures, etc.

While this list is far from exhaustive, it is illustrative of the range of policy options that Canada can (and must) put at the disposal of the ORF for it to truly be effective across the board. As was outlined with regard to foreign aid, the ORF must be empowered to act as follows:

- provide recommendations to the appropriate ministry concerning persistent violators who ought to be officially designated as subject to further policy action;
- provide recommendations as to achievable yet substantial targets related to freedom of religion that, if met by the state in question, would lead to the restoration of normal relations with Canada.

Once again, the purpose behind these admittedly serious measures is not merely punitive, but rather to demonstrate Canada's commitment to fostering positive progress in the respect for freedom of religion and to provide a tangible incentive for countries to engage more seriously in constructive dialogue with Canada on these issues. With the creation of the ORF, Canada has the opportunity to emerge as a leader in the promotion of international religious freedom and facilitate positive change through its foreign policy. To do so, however, Canada must take a stand and ensure that its actions match up to its rhetoric.

3. General Duty to Consult with ORF on Policies Impacting on Freedom of Religion Abroad

In order to promote the consultations envisioned by the foregoing proposals, the enacting legislation must provide for a *positive duty* for ministers making policy decisions related to Canada's relations with foreign countries to consult with the ORF on whether proposed policies will impact freedom of religion – either positively or negatively – in those countries. In order for freedom of religion to receive the appropriate amount of emphasis in all foreign policy decisions, these consultations must be ongoing and official, not merely informal, off-the-record conversations. Cabinet ministers must be subject not only to an ongoing duty to consult with the ORF, but also to a corresponding obligation to provide an official response to the recommendations received. Other ministers must also be subject to a similar duty to consult and respond to recommendations, but only in those instances when issues of foreign policy arise in matters falling within their portfolio. It must be reiterated that the role of the ORF in ministerial policy-making should *not* be viewed as 'injecting religion' into Canadian foreign policy. On the contrary, the consultations envisaged in this report are a vital step in ensuring that Canadian foreign policy does not tolerate use of religion as a political basis for discrimination and the denial of rights.

VII. Office of Religious Freedom and Canadian Refugee Policy

A. Issues in Canadian Refugee Policy

Sadly, despite the best international diplomatic efforts, there will always be individuals whose sole option is to seek protection outside their country of origin. Consequently, any discussion of religious minorities must necessarily include the topic of domestic immigration and refugee law.

In the course of our work, One Free World International has observed systemic problems in the treatment of religious minority issues within the immigration and refugee process. Some examples of such problems include:

- A fundamental lack of understanding of religion and the mindset of religious people on the part of government decision-makers who adjudicate refugee applications both inside and outside of Canada. For example, in a recent high-profile Federal Court case, the Court criticized a Refugee Protection Division member for quizzing a newly-converted Christian on detailed Bible knowledge, rejecting him because he was unable to answer all of the questions. The Court correctly noted that a new convert could not be expected to have advanced theological knowledge. In another

case, the member inappropriately rejected an individual's subjective reasons for converting, stating "The Old Testament is just as violent as the Quran". For the decision-maker to state a personal religious belief in the context of a refugee hearing taints the process and intimidates the claimant.

- Use of decision-makers and interpreters who belong to the faith group which persecuted the claimant. Currently, an abused woman can request an all-female refugee hearing; however, a religious minority cannot request that their hearing be conducted by members not belonging to the persecutory group. This creates an apprehension of bias in the mind of the claimant, and it also creates an objectively unfair situation in which one persecuted group (women) has a benefit not conferred on other persecuted groups (religious minorities).
- A lack of unbiased, unpoliticized, and up to date information on the treatment of religious minorities in other countries. Decision-makers should be using the most credible and current sources. and currently they are not doing so. This leads to uninformed decisions, in which the decision-maker is forced to rely on his/her own impressions of what constitutes likely or rational behaviour, which impressions are naturally coloured by Western cultural biases. Although the Federal Court has cautioned against the practice of imposing our own Western ideas of "norms" in the refugee process, it nonetheless still happens very persistently. There is also Federal Court jurisprudence which cautions decision-makers against expecting persecutors to act in ways that we believe are "rational", and in the context of gender persecution, the Refugee Protection Division Gender Guidelines specifically tell board members not to expect abused women to act objectively rationally. Nonetheless, we repeatedly see decision-makers imposing their subjective view of rationality on persecuted religious minorities, expecting them to act as the decision-maker would in a similar situation.
- The use of locally-engaged non-Canadian visa office staff who handle sensitive applications from religious minorities. This creates not only the apprehension of bias, but a real possibility of actual bias and also leakage of sensitive information. It is important to keep in mind that if information about persecution of a religious minority member were to make its way into the hands of the persecuting group, it could be used to inflict further persecution and possibly to implicate others who are related to or helping the claimant.

These chronic and systemic problems reveal that our system of processing immigrants and refugees is sorely in need of a resource such as the ORF upon which decision-makers can rely. We strongly believe that the ORF can come alongside visa officers, immigration officers, and Refugee Protection Division members to increase the quality of decision-making and to ensure that both positive and negative decisions are based on good evidence and solid analysis. The methods by which this can be achieved are enumerated in the following sections.

B. The Role of the New Office for Religious Freedom

The ORF should develop unparalleled expertise on the issue of religious freedom around the world, by monitoring and analyzing a wide range of information sources, forming educated opinions on how reliable and credible the information is, and issuing detailed ORF annual reports on a country by country basis. Credible sources should be invited to submit ongoing information feeds and reports to ORF for consideration. Currently, the United States Department of State issues country reports on international religious freedom; however, these reports have been (and legitimately) criticized as being heavily politicized and subject to the vagaries of US foreign policy. It is important that decision-makers and the public have access to intelligent, informed, and unbiased source information. The ORF should be mandated by DFAIT to provide reports which are free of any kind of political influence, and unfettered by the government of Canada's diplomatic relations with any country.

The ORF should also form informed and unpoliticized official opinions/positions on whether or not certain religious minorities are indeed subject to persecution in certain countries, and any nuances or other considerations which may apply. In doing so, the ORF can be a valuable resource to the Immigration Department and other government departments, who should be encouraged to consult with the Office prior to making any changes to laws, regulations or policies which could potentially impact on religious minorities and religious freedom in Canada and abroad.

Although immigration does not strictly fall within the purview of the Department of Foreign Affairs, One Free World International encourages a holistic approach to the issue of religious minorities, and recommends that the Canadian government act inter-departmentally wherever



One Free World International

Our Lady of Salvation Church in Baghdad was attacked again during mass on October 31, 2010 resulting in over 50 people dead.

necessary and possible. Historically, DFAIT and CIC have worked closely together in managing Canadian foreign missions, integrating the visa, consular, and trade sections successfully, so there is clear precedent for this kind of co-operation.

The Office for Religious Freedom should act as a reliable repository of credible source information on the treatment of religious minorities abroad, which could

be relied upon by anyone with an interest in the subject. This information repository would be a crucial database for decision-makers in visa offices abroad and at the Refugee Protection Division in making their determinations on individual cases. Currently, decision-makers in the immigration system are left to their own devices to decide which sources of information are reliable, based on what is generally available on the internet and based on what the applicants

provide in support of their application. Often, decision-makers lack context and background information about the information sources, and lack the resources to do background research. All of this analyzed information should be provided on a publicly-accessible website for use in immigration and refugee proceedings or for any other interested party.

In addition, the ORF should provide supplementary training to CIC decision-makers inside and outside of Canada on religious freedom issues and the plight of religious minorities in various countries.

We recommend that once the ORF develops the necessary expertise and database, CIC should be required to consult with the Office on any changes to laws, regulations, and policies which could impact religious minorities. In its annual report to Parliament, and also in any Parliamentary debates concerning new legislation, CIC should disclose what, if any, consultations have taken place with ORF and what measures have been implemented to ensure that religious freedom issues have been considered prior to any changes being made.

We recommend that the ORF should provide input to CIC in situations where the Office believes that special measures need to be implemented for specific religious minorities, subgroups, or individuals – measures such as group resettlements or Temporary Resident Permit (TRP) issuance for individuals under immediate threat of persecution. (A TRP is a special permit issued on the authority of the Minister, allowing the holder an exemption from inadmissibility and therefore entry to Canada despite not meeting the normal legal requirements.)

We recommend that the ORF act in an advisory capacity to CIC. It should encourage, to the extent possible, that the Minister of Citizenship and Immigration create a program for a “designated religious minorities class”, a class to be defined in consultation with the ORF and civil society groups active in this field. The Office would have input as to which minorities are to be included or excluded from the class and designated religious minorities would be treated differently from regular applicants in their visa and immigration processing as follows:

1. Allow members of the class to be sponsored to Canada without the necessity of them having to be outside their country of nationality.
2. Waive the interview requirement for them if they can provide sufficient objective evidence of membership in the class.
3. Facilitate TRPs in urgent situations.
4. Deal with their inland refugee claims as expedited hearings rather than full hearing process.

In the alternative, and at a minimum, CIC should ensure that the written resources and opinions of the ORF be made available to all decision-makers, both inside and outside of Canada, who deal with religious persecution cases. Decision-makers should be required to consider these resources, in conjunction with such other resources as they consider germane, including resources provided by the claimants themselves. CIC should also remain amenable to suggestions from the ORF regarding facilitating entry to Canada of any minorities or individuals that are particularly in need of protection.

VIII. Conclusion

Religious persecution diminishes all of humanity. Victims are denied the opportunity to contribute their experiences, insight, wisdom, and skills to improve, uplift, and strengthen the rest of humanity. On the other hand, those who persecute religious minorities believing themselves somehow superior, prove only that they, in fact, have nothing to offer themselves and must therefore diminish and destroy those who do. In doing so, they bring shame on themselves, their communities, and on the human race. Finally, those who stand by quietly and allow these abuses to take place without raising their voices, whether they are individuals or government authorities, are just as guilty. When they do not protect the vulnerable or stand up for the truth but allow such abuses to go unchallenged, the result is that everyone loses.

What, then, are we to do? We certainly must not remain silent. Martin Niemöller described the insidious effect of silence in the face of persecution in chilling words when he said,

First they came for the Communists, and I didn't speak up, because I wasn't a Communist. Then they came for the Jews, and I didn't speak up, because I wasn't a Jew. Then they came for the Catholics, and I didn't speak up, because I was a Protestant. Then they came for me, and by that time there was no one left to speak up for me.

The Office for Religious Freedom is a critical part of Canada's human rights strategy and of our ability as a nation to reject silence and to speak up for the Christians, Jews, Muslims, Hindus, and others who are being abused, tortured, and killed for their religious beliefs. It can and must be given an effective mandate.

RECOMMENDATIONS

– SUMMARY –

There is a pressing need to create an effective Office of Religious Freedom (ORF) with a clear mandate to address the issue of religious persecution around the world. In submitting these recommendations, OFWI is encouraging the Canadian government to show true global leadership by empowering the ORF to ensure that Canadian foreign policy and *action* reflect our unwavering commitment to freedom of religion and the protection of vulnerable religious minorities.

1. Mandate of ORF

- effectively monitor the status of religious freedom around the world and issue comprehensive and accurate public reports on religious freedom
- provide official recommendations to ministers involved in the formulation and implementation of Canadian foreign policy
- participate directly in bilateral and multilateral political and diplomatic engagements

2. Accountability and Transparency

- the ORF must be fully accountable both to the Canadian Parliament and the general public
- there must be transparency in the activities and recommendations of the ORF in order to prevent political or diplomatic considerations from taking precedence over the respect for human rights
- transparency and accountability can be promoted by:
 - the publication of an annual report on the ORF's activities
 - ensuring that the appointment of the head of the ORF is a ministerial-level appointment
 - creating an institutional structure that makes the ORF directly accountable to Parliament

3. Ongoing Consultations with Relevant Stakeholders

- to be effective, the ORF must create a formal system of consultations with civil society groups
- in preparing its reports, the ORF must gather input from civil society groups in order to take advantage of their 'on-the-ground' expertise and knowledge
- civil society must be assured ongoing and timely access to the ORF in order to report violations of religious freedom

4. Public Reporting on Status of Religious Freedom and Canadian Foreign Policy Response

- the ORF must regularly publish a comprehensive report on freedom of religion around the world
- the ORF's reporting function must include the ability to designate certain states as persistent violators of religious freedom, which must, in turn, trigger real policy action against such states
- the ORF must be responsive to emerging crises by publishing special reports and recommendations on serious incidents of persecution
- in order to ensure accountability, the ORF must publish an annual report on the concrete measures taken by Canada to address violations of religious freedom

5. Linking Freedom of Religion to Substantive Policy Measures (e.g. Aid Restrictions)

- Canadian bilateral and multilateral diplomacy must be backed by a commitment to take substantive policy measures against persistent violators who fail to make positive changes
- Canada must link policy measures taken in response to persecution directly to that state's refusal to protect freedom of religion – instead of merely 'lumping in' freedom of religion with other rationales
- Canada must be willing to either reduce or discontinue its aid payments to countries that display blatant disregard for freedom of religion
- the resumption of aid payments must be made conditional on the attainment of substantial targets for progress in terms of protecting freedom of religion, thereby providing a positive incentive for violating states to undertake measurable improvements in the treatment of religious minorities
- to this end, the ORF must be empowered to:
 - a. provide ongoing recommendations regarding disbursements of international aid to ensure that Canadian aid policy promotes respect for freedom of religion
 - b. provide recommendations concerning persistent violators who ought to be officially designated as subject to aid reduction measures
- the ORF must be able to make similar recommendations to any ministry engaged in foreign relations with states failing to protect freedom of religion – including international cooperation programs

6. Duty to Consult with ORF on Foreign Policy Matters Impacting Freedom of Religion

- cabinet ministers must be subject not only to an ongoing duty to consult with the ORF, but also to a corresponding obligation to provide an official response to the recommendations received
- other ministers must be subject to a duty to similar duty to consult and respond to recommendations in those instances when issues of foreign policy arise within their portfolio
- consultation with the ORF should *not* be viewed as 'injecting religion' into Canadian foreign policy, but rather as a vital step in ensuring that Canadian foreign policy does not tolerate use of religion as a political basis for discrimination and the denial of rights

7. The ORF's Role in Immigration and Refugee Policy

- the ORF must serve as a reliable depository of credible source information on the treatment of religious minorities, to be relied upon for policy formulation and refugee status determinations
- the ORF must be empowered to issue official opinions on whether certain minorities are subject to persecution in a given country, to be relied upon in refugee status determinations
- the ORF should be empowered to issue recommendations as to reforms in the immigration and refugee process that would promote enhanced protection for religious minorities fleeing persecution
- ministers must be subject to a duty to consult with the ORF as to the effect of any proposed change in legislation or policy on the ability of religious minorities to seek protection in Canada
- the ORF must provide supplementary training to immigration officials and decision-makers within Citizenship and Immigration Canada