

Preliminary findings of Country Visit to Bangladesh by Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief

PRESS STATEMENT

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I. Introduction

From 31 August to 9 September, I have undertaken a country visit to Bangladesh in my capacity as United Nations Special Rapporteur on freedom of religion or belief. First of all, I would like to express my gratitude to the Government for having invited me to visit the country and for all the support provided during the preparation and throughout the entire visit. I feel very much indebted to the senior human right advisor to the UN in Dhaka for his outstanding logistical, organizational and intellectual support as well as for the active interest shown in thematic issue. Cordial thanks also to the interlocutors from central and local Government, Parliamentarians, Bangladesh Human Rights Commission, civil society organizations, members of religious communities, representatives of indigenous peoples and many others who have shared their experiences, assessments and visions. We had numerous lively and frank discussions, mainly in Dhaka, but also in Bandarban and Rangamati. I have learned a lot during the exchanges and I am very grateful for this experience. Last but not least, I have also very much enjoyed the hospitality of the people of Bangladesh.

Bangladesh is a complex country, and freedom of religion or belief has manifold facets. Hence it is no surprise that a broad range of perspectives emerged in our discussions. It is not easy for me to bring all these perspectives together and to assess conflicting information received. I would like to therefore stress that what I present in today's press statement has the status of preliminary findings. This press statement should not be confused with the final report, which will be presented to the 31st session of the Human Rights Council in March 2016. When preparing the final report, I will continue to engage and work in consultation with the Government and all relevant stakeholders to receive more information and clarification of these preliminary impressions and observations.

Before going into the substance, let me underline that freedom of religion or belief, as enshrined in articles 39 and 41 of the Constitution of Bangladesh as well as in international human rights conventions that Bangladesh has ratified, is a right held by everyone, regardless of whether they belong to the religious majority or one of the minorities in the country. The application of freedom of religion or belief is broad and protects traditional believers as well as people with critical and dissenting views on

religious matters. According to the international understanding, freedom of religion or belief also protects 'internal minorities', i.e. people who belong to a particular branch of a religion or belief. In view of this universal application to every human being in recognition of their inherent human dignity, the distinction between majority and minorities eventually may lose much of its significance. Nonetheless, the treatment of religious and other minorities typically assumes the quality of a 'test' question indicative of the general atmosphere in a pluralistic society. In my following observations, too, the term 'minorities' will quite often emerge. I would like to clarify from the outset that this should not lead to the misunderstanding that freedom of religion or belief is chiefly a minority issue. It is a right of all human beings across any divides between majority and minorities and other distinctions. These terms nevertheless are inevitable to describe empirical realities, including concomitant inequalities in power, influence, sense of security and other matters.

II. Interreligious harmony and coexistence

1. A deeply-rooted tradition of harmonious pluralistic coexistence

Almost everyone with whom I met during this visit agreed that in Bangladesh people generally live peacefully together across religious divides. The religious landscape in Bangladesh and its subcontinent has always been pluralistic. In Bangladesh, the religious demography comprises a broad majority of Muslims (roughly between 85 and 90 percent of the population), Hindus as the second largest group (with around 8 percent) as well as Buddhists (0.7 percent) and Christians (0.3 percent). Whereas these four religious communities – Islam, Hinduism, Buddhism and Christianity – were regularly mentioned in all discussions, there are also other small religious minorities, such as the Bahá'ís with approximately 300.000 followers in Bangladesh.

Among the indigenous peoples, an unknown number practise traditional forms of spirituality (sometimes called 'animism'), often in combination with one of the above mentioned religions. The overwhelming majority of Muslims in Bangladesh follow the Hanafi school of Sunni Islam, while Jafa'ari Shias, Ismaelis and Ahmadis constitute different branches of inner-Islamic minorities, all of which are rather small. Likewise, the Christians, too, comprise different denominations, in particular Catholics, Anglicans and various forms of Protestantism, such as Baptism. The picture would be incomplete without mentioning agnostics and atheists who also live in Bangladesh. I heard much about the many religious festivals which are commonly celebrated by people of different religious backgrounds. This may illustrate that people not only live side by side, but also take an active interest in each other's religion. Reportedly, those celebrating their religious festivals customarily share food with their neighbours and give sweets to children across all religious divides, thereby cherishing amicable

relations. During one of my visits to an Islamic site, the neighbouring Hindu population was celebrating a festival honouring Krishna's birthday. While admiring the architecture of an Islamic building, I could at the same time enjoy the Hindu music played in the vicinity, in which Krishna's flute was very noticeable. I take this as an example of the relaxed atmosphere of interreligious coexistence, which generally prevails in the country.

Obviously, religious pluralism is deeply rooted in Bangladesh and the entire subcontinent. Some interlocutors attributed this to a long tradition traceable to the Moghul emperor Akhbar, if not even much farther back in history. Others also mentioned the positive role of Sufism in shaping the country's open religious atmosphere. Religious intolerance and extremism, although undoubtedly on the rise, is generally not seen as fitting into Bangladesh's predominant culture of harmonious interreligious coexistence. While the threat of Islamic extremism cannot be denied, the typical interpretation is that this has not much to do with religion itself but rather originates from an 'abuse' of religion for political gains. The 'politicization' of religion, in particular Islam, was a theme emerging in many of our discussion, not only with Government representatives, but also with civil society and representatives of religious communities.

2. Changes of the religious demography

The religious demography in Bangladesh has changed considerably in recent decades, mostly as a result of migration. Far-reaching demographic changes, especially when experienced in a short time-span, typically present a challenge to the peaceful coexistence of people of different ethnic and/or religious origin, which generally characterizes the country.

Most salient is the declining number of Hindus in the country. Whereas at the time of Bangladesh's independence in 1971, the percentage of the Hindu population amounted to approximately 23 percent of the country's entire population, current estimates see the Hindus near 8 percent. Apparently, this drastic decline has much to do with contested property issues, which the Government has been trying to resolve (see below, under IV.1) as well the experience of general vulnerability through harassment and at times even physical attacks.

In the Chittagong Hill Tracts (CHT), where the religious landscape has always markedly differed from that of the rest of Bangladesh, demographic changes have been even more pronounced, not least as a result of Government-induced population transfer in the past. Unlike a few decades ago, when the indigenous peoples living in the CHT region – mostly following Buddhism and Christianity – constituted the vast majority, the

numerical relationship between indigenous and Bengali populations has by now become more or less even. As a result of these changes, Islam has become quite visible, not least in the shape of many newly erected mosques and madrasas, while also many Hindus have migrated to the CHT region where they feel safer than in some other regions of Bangladesh. It should be noted that in the CHT region ethnic and religious minority situations, although largely overlapping, are not identical. For instance, some of the Buddhists or Christians living in the CHT region have a Bengali background, while the majority of the followers of these two religions are indigenous.

3. Regional dynamics

International and regional economic cooperation, transnational labour migration, refugee crises, international politics and, above all, the globalization of information and communication technologies have an enormous impact on all countries nowadays. These external developments also influence the relationship between religious communities in Bangladesh.

In many discussions, I sensed a peculiar tendency to associate people from other religious backgrounds with Bangladesh's neighbouring countries. In the case of the Hindus, the association with India seems almost natural and is indeed not only externally ascribed, but also shared by the community itself. Many Hindus entertain strong ties with family members living in India, and migrating from Bangladesh to India has always been an option – possibly also the last resort in emergency situations when Hindu people lost property, jobs or their trust in politics. It is well known that the relationship between Bangladesh and Pakistan has remained complicated since the country independence in 1971. Hence, associating certain currents within the Muslim majority with Pakistan – for instance, with a 'Pakistani mindset' or a 'Pakistani philosophy' – carries an obvious negative connotation. Such semantics has, and is meant to have, stigmatizing effects. I also heard Buddhists in the CHT being associated with Myanmar, where Buddhists constitute the majority religion. Reportedly, there have been isolated incidents, in which militant Muslims called upon the Buddhists to leave the country and settle in Myanmar. Fortunately, such ideas do not find an echo in the larger society. It also happens that Christians are perceived as having close links with the West, i.e. Europe or North America.

This tendency of associating the various religious communities with foreign countries, in particular Bangladesh's direct neighbouring countries, does currently not pose a direct threat to the integrity of the nation and apparently does not strongly affect the generally harmonious climate of interreligious coexistence. However, depending on the development within the region, risky situations may certainly occur. Tensions arising in foreign relations could have negative spill-over effects also on the way religious

communities interact in Bangladesh. I also heard much about the increasing influence of middle-eastern countries. The rise of Islamic fundamentalism in a country traditionally shaped by interreligious tolerance is often attributed to the growing influence of ultra-conservative interpretations of Islam stemming from the Gulf region.

One sensitive issue, which I could not sufficiently explore, relates to the Rohingyas many of whom have fled serious persecution in Myanmar. Hundreds of thousands Rohingyas currently live in precarious conditions in Bangladesh, and their presence has not been legally acknowledged by the Government. According to a Government circular, marriages between Rohingyas and Bangladesh citizens are prohibited, which constitutes a discrimination against this group of people. The general perception seems to be that the Rohingyas mostly entertain a rather conservative understanding of Islam, which raises suspicion against them in parts of the population.

III. Constitutional principles and their application in practice

1. Conceptualization and implementation of secularism

The Government attaches great importance to the structure of Bangladesh as a secular State, as enshrined in Article 12 of the 1972 Constitution. In many discussions, secularism always emerged a dominant theme. Some interlocutors closely associated this principle with the coming to existence of the independent State in 1971 while many expressed their commitment towards upholding and further developing the secular structure of the State.

The term 'secularism' can carry different meanings, which often leads to confusing discussions and at times unnecessary controversies. Secularism is sometimes perceived – I would rather say: mis-perceived – as reflecting an anti-religious attitude. There are indeed examples of 'secular' regimes in the world, which actually aim at purging the public sphere of any visible religious manifestations, thereby reducing faith to a merely private affair. The prevailing understanding of secularism in Bangladesh, however, seems to be very different. Far from reflecting an anti-religious ideology, secularism represents a commitment, enshrined in the Constitution, to create and uphold an open, inclusive space for the unfolding of religious diversity, free from fear and free from discrimination. Such an 'inclusive' understanding of secularism, as one might call it, is a high aspiration, since an 'inclusive space' is not something one can simply take for granted; it requires long-term investments by the State, for instance, with regard to education, civil society development, minority outreach programmes and other activities. Secularism should thus not be equated with a merely 'passive', non-committed attitude of the State vis-à-vis religions or beliefs, which is another typical misunderstanding. There is indeed a need for the State actively to protect and promote

religious and belief-related diversity, based on the right to freedom of religion or belief for all, as guaranteed in articles 39 and 41 of the Constitution as well as in international human rights law.

The inclusive understanding of secularism as a *space providing principle* in the interest of freedom of religion or belief for all is intimately linked with democracy, i.e. another principle upon which the Constitution of Bangladesh has been built. Democracy is much more than mere majority-rule, to which the term democracy is sometimes simplistically equated. While majority-rule may actually function as a criterion of decision-making within a politically pluralistic society, democracy inter alia presupposes respect for everyone's fundamental rights, in particular the rights of civic participation, which facilitate a culture of public critical discourse. Democracy cannot exist without the space, in which political parties, civil society organizations, journalists, online activists and others can express their views freely, i.e. free from fear and free from discrimination. In this sense, one can also describe democracy – in close analogy to inclusive secularism – as a space providing principle.

While I heard much commitment to the principles of secularism and democracy, there appear to be serious problems in their consistent implementation in Bangladesh. Inconsistencies can already be found at the level of the Constitution itself, which in Article 2A proclaims Islam as the State religion. To avoid a possible misunderstanding, let me emphasize that there is not the slightest contradiction between being committed to secularism (in the above understanding) and professing and practising Islam or indeed any other religion. A secular constitution can well serve a society in which many people manifest their religious convictions, passions and loyalties, perform religious practices and enjoy religious festivities. A secular State and a religious society can harmoniously exist together. But a secular State cannot at the same time be a religious *State*, i.e. a State proclaiming an official State religion. Although Article 2A, after proclaiming Islam as the State religion, goes on declaring that the Government shall ensure equal status and equal rights of other religions, the contradiction remains. This is not a merely academic issue. The contraction is very much felt in by members of minorities. Moreover, family law affairs in the broadest sense are governed by religious laws, which may also raise issues under freedom of religion or belief, as will be discussed below (section VI.1).

2. Religionizing politics when fighting the politicization of religion?

As emphasized in many discussions with representatives of the State, the Government sees the need to defend secularism in the face of rising religious extremism. Although militant interpretations of Islam may not resonate widely in a society generally characterized by religious tolerance and a long tradition of interreligious coexistence,

the influence of extremists has actually become a matter of much concern, not only for the Government, but also for civil society organizations and religious communities.

However, some of the measures taken by the Government in the interest of upholding secularism seem to lead to the paradoxical result of *shrinking the very space*, which secularism – like democracy – is supposed to provide. It has not been easy for me to fully comprehend the dynamics underneath this phenomenon and I am still struggling to make sense of conflicting information and assessments. I heard concerns that Government agencies partially compromise the principle of secularism, possibly with the intention to appease religious militants. In order to combat the ‘politicization of religion’ thus tendencies of a ‘religionization of politics’ may be put in place, even under the auspices of Government committed to upholding the constitutional principles of secularism, which is strangely ironic. One example is public statements by Government officials that Ahmadis allegedly are not Muslims. I myself heard such statements in discussion with representatives of the Government. However, from the perspective of freedom of religion or belief, everyone should be respected in their self-understanding and self-definition in matters of religious conviction. Not everyone can be expected to share the religious self-understanding of others, but the Government has in any case to ensure that it is at least respected.

Similar ambiguities have occurred in statements concerning the recent murders of online activists and the death threats that people engaged in such activities have received. While condemning these threats and acts of violence committed in the name of religion, Government representatives at the same time publicly admonished online activists who have expressed critical views on religion, in particular Islam, not to go ‘too far’ in their criticism without specifying what precisely this cryptic warning is supposed to mean, thereby sending ambiguous messages to the society.

The *shrinking space for civil society* has been a main issue in discussions with human rights activists, journalists, academics and independent intellectuals. While chiefly feeling under pressure from religious militants, some have also experienced ‘friendly fire’, as one interlocutor phrased it. Even civil society activists who in principle very much agree with the ‘secular’ political agenda of current Government have expressed feelings of alienation and frustration. Recent arrests of members of human rights organizations, which have long existed in Bangladesh, add to the perception of a rapidly shrinking space, to the detriment of the two closely interlinked principles of secularism and democracy.

3. Obstacles in consistent implementation

I repeatedly heard assessments that constitutional provisions, legal norms and political reform agendas lack consistent implementation, in particular at local levels. This problem seems to affect various societal sectors, such as education, public welfare, religious affairs, property issues and even guarantees of physical safety by law enforcement agencies. Some members of religious minorities attributed this problem to a certain 'mindset' of people working in the administration, who do not like minorities and thus tend to obstruct the implementation of laws on their behalf. Others pointed to widespread corruption, which leaves economically impoverished strata of the society without sufficient influence. Yet others referred to a general lack of systematic monitoring with the result of much arbitrariness exercised by local authorities, in particular in remote areas.

During the limited time of the visit, I could not go into an analysis of the various root causes underneath the lack of efficient implementation, which would require detailed knowledge in various spheres of law enforcement, administration and service provision. It goes without saying that the issue as such warrants attention also from the perspective of freedom of religion or belief, since members of minorities may be particularly affected by protection and implementation gaps. People living in the intersection of different vulnerabilities – religious minority status, gender, low economic income etc. – may suffer even more.

IV. Feelings of insecurity

In discussions with religious minority communities, indigenous peoples and civil society organizations, I often sensed feelings of anxiety and insecurity. Such insecurity has different political, legal and societal dimensions, which may affect individuals and groups in various ways. Insecurity of property claims, in particularly relating to real estate, sometimes comes in tandem with fears for one's own or one's community's physical security in the face of rising religious extremism. A particular issue, adding to the general feelings of vulnerability which some communities have expressed, is religious conversion.

1. Contested land ownership

Unsettled property disputes constitute challenges in many societies, including in Bangladesh. In various ways, they are closely linked with problems concerning freedom of religion or belief. One link is the salient decline of the Hindu population in Bangladesh, which has shrunk to much less than half of the share they had around the time of independence. As a result of the 1965 'Enemy Property Act', enacted in the still united Pakistan as a result of ongoing conflicts with India, many Hindu properties, mainly real estate, were confiscated. Even after independence, this practice continued

in the name of the 'Vested Property Act', which caused many Hindu families to emigrate to India and other countries. In reality much of the confiscations carried out amounted to sheer land grabbing. The Government has tried to combat this phenomenon through the 2001 'Vested Property Return Act' which, as indicated in the title, should also reconstitute Hindus in their lost properties.

However, the implementation of this Act seems to be faced with enormous problems, and compensation of lost properties has reportedly been inadequate in numerous cases. At the same time, incidents of land grabbing at the expense of Hindus continue even today, sometimes also affecting people who had converted away from Hinduism to another religion, for the instance, the Baha'i faith. Settling unresolved property issues and solidifying open property claims seems to be very high on the agenda of the Hindu community. Although clearly acknowledging positive efforts made by the Government, people from the Hindu community expressed much bitterness about the loss of personal and religious property and the stagnation in restitution measures.

Much insecurity concerning real estate also exists in the CHT, an area traditionally inhabited by various indigenous peoples. Lack of ownership 'documentation' (in the modern understanding) has led to many disputes as well as to allegations of land grabbing. The general legal insecurity also affects the land on which religious infrastructure has been built, such as temples, pagodas, churches, graveyards or cremation grounds. Obviously, this gives rise to concerns from the perspective of freedom of religion or belief, since religious community life, especially in a minority situation, cannot prosper without an adequate and stable infrastructure, which itself presupposes legal clarity and security.

When visiting Bandarban and Rangamati, I met with members of various religious communities, most of whom at the same time belong to indigenous peoples. While acknowledging that their situation has somewhat improved in recent years, they were very aware of cases – including some recent cases – in which land previously utilized for religious purposes, was taken away, sometimes in connection with acts of vandalism and physical attacks. Legal insecurity of religious property, in combination with other factors, is a major reason underneath the feelings of vulnerability and insecurity still existing among indigenous peoples in the CHT region, which also impacts on their freedom of religion or belief.

2. Personal and community safety

Some of the violent incidents, which occurred over the past years, have caused feelings of insecurity especially among minority communities, civil society organizations and individuals expressing critical opinions. One well-known case is the 'Ramu incident' of

2012 when more than 20 historic Buddhist temples were ransacked, torched and finally destroyed. At the same time, quite a number of houses owned by Buddhists burnt down to ashes. In this case, the Government reacted promptly and restored the destroyed temples, thus also sending a much-needed message that such acts will not be tolerated. However, none of the perpetrators of the Ramu violence have been brought to justice as of now.

Many members of religious minorities, who shared their experiences, remember such acts of violence committed against their communities, including lootings, vandalism, torching of houses of worship and even killings. I heard frustration about inadequate reactions of police and judiciary, which has created a climate of impunity.

One particularly atrocious crime is the abduction of people, mostly girls, with the purpose of forcing them to convert to another religion, while at the same time forcing them into an unwanted marriage, potentially even 'marrying' them with their abductor. In addition to other elements of a brutal violation of human dignity, these crimes amount to rape or similar cruel abuses. Such incidents linger long in the memory of the affect families and communities instilling in them yet another dimension of fear that they will in the long run lose out in the country.

Insecurity has also spread among civil society organizations. In recent months, five online activists were killed, apparently because of the critical views which they have spread through social media. The general assumption is that these activists are 'atheists' and have 'insulted Islam'. Whether the ascription of atheism is correct seems rather doubtful at least in some of these cases. Be that is it may, holding atheistic convictions are in any case covered by everyone's right to freedom of religion or belief in conjunction with freedom of expression and other human rights guaranteed in the Constitution of Bangladesh. Apparently, the responses of the Government have not been without ambiguity: While condemning the acts of violence, Government representatives at the same time called upon critical free thinkers 'not to cross the limits'. This somewhat cryptic message may have nourished doubts within law enforcement agencies whether they should really come to the rescue of online activists and other critical intellectuals currently under attack. Reportedly, police agencies have bluntly informed some of these people that they cannot effectively protect them. As a result, some have left – or are currently trying to leave – the country. Beyond the group of persons who feel directly threatened since their names have been put on a 'black list' by violent extremists, these tragic incidents have further contributed to the sense of insecurity among minorities and other vulnerable groups.

In order to restore and enhance the sense of security of individuals and communities in vulnerable situations, projects of 'community policing' have been designed and are currently in their implementation phase, in particular in the CHT. Regular communication between law enforcement and members of various communities can certainly help to prevent misunderstandings, build mutual trust and alert law enforcement to possible risk situations. When visiting the CHT, I received specific information about ongoing community policing projects in Bandarban and Rangamati. Moreover, the number of indigenous persons who operate in the regular police force (unlike in the military) has reportedly risen in the CHT region and is clearly above the national quota. This seems to have led to a somewhat improved sense of security among the indigenous peoples. However, 'mixed policing', i.e. a direct cooperation between Bengali and indigenous individuals operating within the police is apparently confronted with obstacles.

3. The issue of conversion

An emotional issue brought to my attention relates to conversions. Religious conversions are generally rare and, if occurring, mostly take place in the context of interreligious marriages. However, conversions have also occurred outside interreligious marriages, in particular from Buddhism to Christianity or from various religions to Islam. Occasionally Muslims have also converted to Christianity or Baha'ism. Within the indigenous people of the Mro, who traditionally practise Buddhists, some tens of thousands turned to a newly founded religion named 'Krama'.

Those having converted to another religion – including sometimes even their offspring after generations – typically face social ostracism in their social environment based on the ascription that the conversion had allegedly not been genuine and instead been motivated by the expectation of material benefits or other non-religious incentives. Some converts actually had to go into hiding or have concealed their newly adopted faith for fear of social stigmatization. However, feelings of insecurity do not only exist among converts. Also the communities from which they have converted – in particular in the case of smaller minority communities – have expressed fears that they will in the long run lose their members to the predominant Islam or to Christian missionaries. As regards this issue, existing rumours and unrealistic projections can damage the general harmonious relations between the followers of different religious groups.

I would like to point out in this context that freedom of religion or belief unequivocally covers the right of everyone to change their faith voluntarily and replace it by another belief and also by non-belief. In legal terms, this part of freedom of religion or belief even enjoys unconditional protection. In addition to changing one's *own* religion, the term 'conversion' can also mean to persuade *others* to change, a practice usually called

‘missionary work’ or ‘dawa’. Trying to convert others likewise falls within freedom of religion or belief, as long as persuasion is free from any coercion. This is an important caveat. Its application in practice is not always easy, though, and there are lots of grey zones in this field. Missionary activities should certainly not exploit the vulnerability of people, for instance when living in extreme poverty. However, those who have converted or would like to convert always deserve respect for their decision, as part of their freedom of religion or belief.

The Government appears to pursue a policy of discouraging missionary activities, with a view of avoiding religious conflicts which otherwise might arise. As a consequence, the issuance of visa for international co-religionists has reportedly been rather restrictive, possibly out of fear that these people could engage in unwelcome missionary activities. Religious minority communities have deplored the fact that inviting fellow believers from abroad can become quite difficult, which also may infringe upon their freedom of religion or belief. Members of Christian communities told they feel exposed to unfounded suspicion that they would engage in systematic proselytism.

V. Educational issues

1. Conceptual clarification

Under international human rights law, States should make at least primary education compulsory for everyone. This mandatory status of school education, which is in the service of everyone’s right to education, at the same time requires particular safeguards to ensure that students, in particular those of tender age, are not exposed to pressure by their teachers or school authorities to participate in religious ceremonies against their own beliefs. This naturally has consequences for the way in which religious education should be organized in schools.

To clarify what is at issue, it may be helpful to distinguish between ‘information about religions’ on the one hand and ‘religious instruction’ on the other. While ‘*information about religions*’ (in analogy to information about history, culture, geography etc.) can legitimately become part of the mandatory curriculum, ‘*religious instruction*’ in the narrow sense – i.e. being familiarized with religious prayers, rituals, ceremonies etc. – should not be taught against the will of students or their parents, respectively.

2. Religious education in Government schools

Given the complexity of the educational system in Bangladesh, with Government schools, private schools and religious schools of different sorts existing in parallel, it is not easy to get the full picture of the current situation of religious education in schools.

In Government schools 'religion' constitutes a mandatory subject, which seems to combine elements of neutral information with elements of religious instruction. The idea is that students receive education in their own respective religions which is to be taught by teachers who themselves profess the same religions. Obviously, this presupposes a sufficient number of available teachers trained to give religious education, which is not always the case. Moreover, the current threshold for setting up a separate class of religious education is very high.

I heard a number of examples which reveal technical problems in the implementation of this policy. In the absence of adequately skilled teachers from minorities, it happens that Buddhist, Christian or Hindu children receive religious education from teachers who have not had any specific training on the subject. This seems to affect the Buddhist community in particular. In other cases children, say from a Buddhist or Christian background have been sent to the Islamic class or the Hindu class. This may nourish fears among the communities that their children might be alienated from their own religions. I heard about a particularly disturbing case where students were requested in an exam to state the reasons why Ahmadis should be declared 'non-Muslims'.

A visit, which I had planned to a Government school, in order to gain first hand impressions relating to religious education, could not take place, due to a holiday declared on short notice by the Government in acknowledgment of a Hindu festival.

3. Madrasas

A significant number of students attend Islamic schools, generally known as madrasas. The madrasa system is divided into two branches named Alia and Qaumi madrasas. What they both have in common is the emphasis on Islamic teaching, i.e. Qur'an, Hadith and other religious subjects. The Ministry of Education has integrated the Alia madrasas into the national curriculum and has furthermore established training programmes for madrasa teachers.

Those madrasas who comply with the national curriculum educate their students in various disciplines, including natural sciences, social sciences, mathematics, languages (Bangla, English and Arabic), information and communication technology and others. Many of the madrasas co-educate boys and girls who sit together in one classroom. When visiting Alia madrasas in Dhaka and Bandarban, I had discussions with headmasters and teachers and enjoyed some spontaneous interaction with students in classrooms. The headmaster of a madrasa in Dhaka expressed quite liberal views on religious and pedagogical issues.

While perhaps half of the madrasas meanwhile follow the national curriculum, there is still a high number of Qaumi madrasas, which have their own curriculum, outside of the Ministry of Education. Members of religious minorities frequently expressed their fears that the madrasas, in particular Qaumi madrasas, promote extremist views, such as stigmatizing all non-Muslims as 'infidels'. The spread of madrasas, in particular those not operating in line with the national curriculum, seems to be a main source of fears existing among religious minorities.

4. Other religious schools

Other religious communities, too, run their religious schools, sometimes connected with dormitories and orphanages. In the CHT, I saw a school operated by the Buddhist community in which students from Hindu, Buddhist and Christian backgrounds – mostly from indigenous families – learn together. The Christian community, too, runs quite a number of schools, usually called 'missionary schools', all of which follow the national curriculum. The vast majority of students in these Christian schools come from non-Christian religious backgrounds. I heard complaints that the Christian communities face increasing problems in preserving their internal autonomy, as local administration reportedly interferes arbitrarily in the selection of principals or other governing positions concerning those schools.

5. Interreligious dialogue

In 1999 the University of Dhaka established the Department of World Religions and Culture, in which students learn about various religions, their common features and values, relevant distinctions and options of cherishing amicable interreligious relations. Professors and lecturers expressed their commitment to promoting modern interpretations of the sources and traditions of various religions, thereby encouraging reforms, not least in the sphere of gender equality. Some of the professors have served as advisors to the Ministry of Education. A few years ago, the Department also founded a Centre for Interreligious and Intercultural Dialogue, which pursues more practical projects concerning interreligious communication in Bangladesh.

6. Community-based education

It should be mentioned that educational projects also exist outside of schools, for instance, in temples or churches. Some religious communities show a strong commitment in this regard. This includes communities characterized by the overlap of ethnic, linguistic and religious minority situations, which attach importance to familiarizing the younger generations with their traditions, which they fear they might otherwise lose in the long run.

VI. Legal questions involving religion

1. Personal status laws based on religion

Whereas most aspects of the law in Bangladesh are secular, personal status issues – such as marriage, family life, divorce, custody of children, maintenance, inheritance etc. – remain governed by religious laws. Depending on the religious backgrounds of the concerned individuals, provisions of Islamic law, Hindu law or Canon law etc. apply. The Buddhists do not have their own personal status law in Bangladesh, but fall under the Hindu law. Projects supported by the Government to design a specific personal status law for the Buddhist community so far seem to have failed. The Baha'is reported that they apply their own family laws, which are recognized by the Government.

From the viewpoint of freedom of religion or belief, religion-based personal status laws usually give rise to different concerns. Even though the structure is to a certain degree pluralistic in acknowledgment of diverse religious-normative traditions, the system does not easily, if at all, accommodate certain constellations of interreligious partnership. Moreover, some people – for instance, converts, agnostics, atheists and others – may face even greater difficulties to fit into the limited options provided by a religion-based structure of personal status laws. I would like to highlight in this regard that freedom of religion or belief does not merely protect the followers of 'classic' religions, but also those who profess other religions or beliefs, including agnostic or atheistic convictions.

Interreligious marriages, although slowly becoming more popular in urban areas, so far have been very rare in Bangladesh. The striking paucity of interreligious marriages in a country in which people of different religious orientations have always lived side by side is a surprising phenomenon. I would assume that difficulties arising from the existing structure of personal status laws are a main factor explaining that situation. While some interreligious constellations can be accommodated within the existing system, in accordance with the rules of the concerned religious communities, others cannot. For instance, a Muslim woman cannot legally marry a non-Muslim man. In such cases the only resort – apart from conversion or emigration – is by applying the 'Special Marriage Act' of 1872. However, in order to have their marriage validated under the Special Marriage Act, the spouses have officially to declare that they do not believe in any institutionalized religion. This stipulation constitutes an extremely high threshold and indeed a factually insurmountable hurdle for many people. Either they actually understand themselves as believers rather than non-believers, or they would in any case prefer not to publicly proclaim non-belief for fear of societal ostracism or other inimical reactions.

As long as the stipulation of declaring non-belief exists as a precondition to resort to the Special Marriage Act, this Act does not provide in reality the option of a civil marriage open to everyone who would like to make use of it, for instance in order to overcome obstacles for interreligious marriage constellations within the current system of personal status laws.

I would like to emphasize in this context that religious family *laws* conceptually differ from religious family *values, rites or customs*. Law (in whatever sphere of life) always carries with it the element of enforcement by the State. While religious rituals, customs, ceremonies and values in the broad area of marriage and family life receive general protection under the right to freedom of religion or belief, State enforced *laws* based on religion can lead to problematic situations, for instance, when an interreligious marriage cannot be contracted or when such a marriage breaks down and the spouse who had converted to the religion of her or his partner wishes to return to the previous religion. Such return is already difficult in itself, and it can be made even more complicated by legal insecurity, which a change of religion may incur concerning sensitive issues such as inheritance, maintenance or custody of children.

Moreover, apart from raising issues under freedom of religion or belief, traditional personal status laws typically also reflect inequalities between men and women who are understood as having different roles, and concomitantly different rights, in the areas of marriage, child rearing, custody, maintenance, inheritance etc.

Demands for replacing the current system of religious laws in the sphere of personal status by a unified family law have so far been unsuccessful. Unlike in the 1980s and 90s, when such demands were more frequently articulated, they appear to have lost much of their momentum in the current societal climate, in which religious issues are perceived as being very delicate. However, I heard passionate statements from Hindu women who feel heavily discriminated under the current regime of Hindu personal status laws, which they would like to see replaced by secular family laws applicable to all without any distinctions on grounds of religion or gender. This issue seems to be contested internally within the various religious minorities.

In discussions with Government representatives, I sensed a general reluctance to tackle the issue of religion-based personal status laws, which in a polarized climate seems to harbour great political risks. Instead, the Government encourages gradual reforms within the existing structure as well as making use of flexible applications which may improve the situation of women without formally challenging the basis of these laws. The National Human Rights Commission also expressed sympathy for such a cautious, pragmatic course. A reform enacted 2011 introduced the registration of Hindu marriages, with the purpose of facilitating more legal security for Hindu women.

However, the registration of Hindu marriages still remains optional, thus leaving important issues unresolved.

2. Religion-related offences

The Criminal Code of Bangladesh contains blasphemy laws which originate from the era of British colonial rule, including sanctions against “outraging religious feelings”, as provided for in Section 295A of the Criminal Code. Section 57 of the Information and Communication Technology Act (ICT Act) has been called by some the ‘online version’ of Section 295A of the Criminal Code. At the same time, the application of Section 57 of the ICT Act is even much wider and the punishments threatened by far more draconian. On top of that, the procedural safeguards connected with the Criminal Code do not fully apply, which renders Section 57 a) flexibly and broadly applicable instrument in the hands of the Government. Although I could not find out any precise figures as to how often Section 57 has been used to impose sanctions for hurting religious feelings or similar offences, this law undoubtedly has a chilling effect on civil society organizations, human rights activists and members of religious minority communities. It much contributes to the perception of a shrinking space for frank public discourse.

I share the view expressed by interlocutors from the Government that it is generally advisable to avoid unnecessary provocations, in particular concerning religious questions. Developing sensitivity as to where the various religious sentiments and ‘taboos’ lie should be part and parcel of civic education and awareness-raising programmes in a religiously pluralistic society.

Moreover, the media can set up their own sensitivity trainings, and interreligious communication can play a very productive role in any such endeavours. In short, much can be done and should be done. Moreover, it is a truism that freedom of expression is not absolute and must sometimes be limited. However, the decisive point is that any limitations deemed necessary must be clearly and narrowly defined and should meet all the criteria contained in constitutional law and international human rights law. Already the old Penal Code Section 295A fails to meet these criteria, given its vague formulation, and the same is all the more true with regard to Section 57 of the ICT Act. The offences mentioned in these two Sections are only vaguely circumscribed – rather than clearly defined – and thus remain vulnerable to highly subjective invocations and arbitrary applications. For some conservative Muslims clerics the very existence of the Ahmadiyya Muslim Community may already contain a provocation which ‘hurts’ their feelings. No rule of law regime can operate on the basis of such subjective sentiments. I have taken note that Section 57 of the ICT Act has become controversial also within State institutions, including the judiciary.

VII. New issues for further exploration

1. Integrating indigenous 'spirituality' into freedom of religion or belief

Apart from other problems mentioned earlier (insecure religious land property, lack of adequately trained religious teachers, concerns about personal and community safety etc.) indigenous peoples may also feel disadvantaged because of their broad concept of spirituality, which does not easily fit into the usual patterns of handling religious freedom. For instance, instead of entertaining spatially demarcated houses of worship, indigenous spirituality often venerates natural sites whose spatial dimensions cannot easily, if at all, be defined.

Ceremonies are so deeply interwoven into daily life that the distinction between religious and non-religious aspects may become inapplicable in practice. Religious loyalties, too, may be less clear-cut than in mainstream religions and may even combine elements of different religions. The term 'syncretism' mostly used to describe such phenomena, is perceived as carrying a pejorative meaning.

Freedom of religion or belief requires an inclusive application, i.e. an openness for people who themselves have to decide what matters to them in issues of faith, personal convictions, religious ceremonies and spiritual practices. In the case of indigenous spirituality this appears to be particularly challenging, as these persons may encounter problems to even articulate their specific demands, which they traditionally just took for granted as part of their everyday lifeworld. The only way out of this predicament is through open communication, which presupposes willingness to respect indigenous rights as an indispensable part of human rights, as also recommended by the National Human Rights Commission of Bangladesh.

2. Freedom of religion or belief of hijras and other sexual minorities

In Southern Asia transgender persons, usually called 'hijras', traditionally enjoy acceptance in the society. Their existence is more or less taken for granted, as part of the diversity which characterizes human life in general. I learned that some hijras have developed their own religious practices largely borrowed from Hindu rituals. Other hijras participate in mainstream religious life, for instance by attending the Friday prayer or participating in church services, usually without attracting much attention.

Unlike in the case of the hijras, other sexual minorities do not find much acceptance in the society and often experience verbal or other abuse. The idea that individuals belonging to sexual minorities, like everyone else, should be able to exercise their freedom of religion or belief may strike many people as unusual or even unthinkable. It

seems to be a widespread perception that persons belonging to sexual minorities must be 'non-believers', since their conduct is seen in breach with traditional interpretations of religious ethics. As a matter of fact, however, many individuals belonging to sexual minorities identify themselves as believers of different faiths. Surveys conducted among these people indicate that this may well be true for most of them.

Freedom of religion or belief of persons belonging to sexual minorities is a very much underexplored issue, which warrants more attention. Diverse sexual orientations and gender identities are a reality in every society and not an invention imposed from abroad as some may be inclined to think. The only question is whether and how to recognize this reality. An opening up in this regard helps overcome prejudices and unsubstantiated anxieties, thus giving more breathing space to human beings who otherwise would be forced to conceal important aspects of their personal identity. I received information about recent consultations held in South Asia, where representatives of sexual minorities and religious community leaders met in order to better understand these issues, which I appreciate as an encouraging first step. Some of the participants of this consultation also came from Bangladesh.

3. Communicative action against incitement to religious hatred

Incitement to hatred in the name of religion poses a threat to all societies nowadays. In Bangladesh, too, it casts a dark shadow over the otherwise harmonious interreligious way in which people traditionally have lived together. More than anything else incitement to religious hatred also prevents people, in particular members of minorities, to fully enjoy their freedom of religion or belief without fear.

The scourge of religious hatred, and incitement thereto, has recently attracted much attention also in the United Nations. As a result of broad international and regional consultation, including in Asia, the 2012 *Rabat Plan of Action* was elaborated, which spells out in some detail the principles on which anti-incitement policies should be based. In this context, the Rabat Plan of Action attaches great importance to the productive role which communicative outreach should play in preventing and combating acts of hatred perpetrated in the name of religion. The Rabat Plan emphasizes the significance of interreligious dialogue, professional journalism, a fair representation of minorities in public and private media and other communicative action. In short, the main response to hate speech should be 'positive speech', which requires commitment by a broad range of different stakeholders. For this to be possible, however, communicative freedom is needed, including freedom of expression, freedom of association and not least freedom of religion or belief – of all which are normatively closely interlinked. Limitations to these rights, e.g. if deemed necessary to prevent imminent danger, should always be connected to a high threshold and must be clearly

and narrowly defined in order to preserve the space for public discourse, which in a climate of political and legal insecurity can rapidly shrink.

Bangladesh has been blessed with an active civil society and a broad variety of media, through which people participate in public debates. From the perspective of freedom of religion or belief, these are precious assets, which deserve to be appreciated, cultivated and further developed. In an increasingly polarized atmosphere this is obviously not an easy task. Concerns expressed by civil society organizations about the shrinking space for public engagement should at any rate be taken very seriously, as they indicate the urgent need to take action in order to improve the conditions for communicative public engagement rather than creating more legal and political insecurity for civil society activities. A culture of frank public discourse is also in the interest of freedom of religion or belief for everyone, since religious open-mindedness requires open space best to be provided under the auspices of inclusive secularism, as entrenched in the Constitution of Bangladesh.

VII. Concluding remarks

Bangladesh has a promising legacy of interreligious coexistence and societal open-mindedness traceable far back in history.

The principle of secularism, as laid down in the 1972 Constitution, provides a suitable framework for accommodating religious and belief-related pluralism for everyone without discrimination. This commitment has been further confirmed through the ratification of international human rights conventions, such as the International Covenant on Civil and Political Rights.

I have learned that in Bangladesh secularism is mainly understood in an inclusive manner. Instead of pushing religious manifestations back into the private sphere (which may happen under the auspices of ‘secularism’ in some other parts of the world), secularism functions more like a *space providing principle*, also within the public sphere. In this sense, secularism and democracy closely belong together, because democracy, too, presupposes and facilitates an inclusive public space for the unfolding of open debates. Restrictive legislative and administrative measures, which currently seem to shrink the space for religious or political dissent and frank public discourse, even when enacted with the intention to defend secular democracy, may thus inadvertently erode the very principles which these measures are supposed to protect.

In discussions with representatives of the Government, civil society activists, members of religious communities and many other interlocutors I have sensed much positive commitment to uphold the legacy of harmonious interreligious coexistence, open-

mindedness and secular democracy – also in the face of rising religious polarization. The ten days which I have spent here in Bangladesh have been a most intense learning experience. After this visit, the exchange of information, analyses and assessments will certainly continue, and I look forward to further cooperation with the Government and other stakeholders. Thank you very much.