

COVID-19

Annotated case studies for facilitators

The following case studies are designed to help participants analyse limitations on freedom of religion or belief in the context of the pandemic. Seven case studies from Algeria, Azerbaijan, France/ Germany, Gabon, Myanmar, Sri Lanka and the USA are included. These case studies are designed for use with the '[COVID 19: legitimate limitations?](#)' exercise on page 88 but could be used in many other ways. You can find handouts of the case studies at www.forb-learning.org/exercises/covid-19-handout.

Algeria: Churches remained closed amidst pandemic

An estimated 99 percent of the population of Algeria is Sunni Muslim. The remaining 1 percent of the population is comprised of Jews, nonbelievers, Muslim minorities (including Ahmadiyya and Shi'a Muslims) and Christians (including Roman Catholics, Seventh-day Adventists, Methodists, Evangelicals, Lutherans, the Reformed Church, and Egyptian Coptic Christians).

All places of worship were closed under COVID regulations. However, in February 2021 the Prime Minister's office announced that, "All mosques on the national territory are opened, in strict compliance with health measures and protocols for the prevention and protection against the spread of the Coronavirus, in particular the preventive support system put in place for mosques." Restrictions were kept in place for churches, even though the same social distancing and health protocols could apply equally to churches and mosques.



CASE STUDY

FACILITATORS NOTES

This is an example of how the COVID-19 pandemic was used disproportionately and as a pretext to restrict freedom of religion or belief of minorities in illegitimate ways.

You may find the following [guidance](#) from the United Nations Office of the High Commissioner for Human Rights helpful in relation to this case:

- Emergency declarations based on the COVID-19 outbreak should not be used as a basis to target particular individuals or groups, including minorities. Measures taken must not involve prohibited discrimination on any grounds such as race, colour, sex, sexual orientation and gender identity, disability, language, religion, political or other opinion, national or social origin, property, birth or other status.

Sources

United States Commission on International Religious Freedom 2022 Annual Report
www.uscifr.gov

International Christian Concern. United Nations Office of the High Commissioner for Human Rights https://www.ohchr.org/sites/default/files/Documents/Events/EmergencyMeasures_COVID19.pdf

Azerbaijan: Detentions for attending religious commemorations

On August 28, 2020, authorities did not permit Shia believers to gather in mosques or mosque courtyards to mark the Ashura religious commemoration because of COVID-19 restrictions that applied to all public gatherings, regardless of the purpose. Police detained numerous individuals in Shamkir, Yevlakh, Barda, and Lankaran for trying to observe Ashura in spite of the prohibition on gatherings. Judges sentenced at least six individuals to administrative detention ranging from 10 to 30 days.

During 2020, authorities also continued legal action against individuals associated with the unregistered group MUM including through the use of COVID-19 restrictions. Authorities stated the movement mixed religious and political ideology and said they were concerned about its ties to Iran. During the year, authorities placed multiple members of MUM under administrative arrest for allegedly violating COVID-19 regulations and “resisting police.” For example, the Sabunchu District Court sentenced Samir Babayev to 30 days of administrative arrest and the Khatai District Court sentenced Hikmat Agayev to 25 days of administrative arrest.



CASE STUDY

FACILITATORS NOTES

This case focuses on the proportionality of punishments for violating public health based limitations.

You may find the following [guidance](#) from the United Nations Office of the High Commissioner for Human Rights helpful in relation to this case:

- States should only deprive persons of their liberty as a last resort, on grounds that are established by law, and with appropriate procedural safeguards. Deprivation of liberty must be reasonable, necessary and proportionate in the circumstances, even in a state of emergency.
- States must enforce any exceptional measures humanely, respecting the principle of proportionality when imposing penalties for violations and ensure that penalties are not imposed in an arbitrary or discriminatory way.

Sources

US State Department, 2020 report on international religious freedom <https://www.state.gov/reports/2020-report-on-international-religious-freedom/azerbaijan/>

United Nations Office of the High Commissioner for Human Rights https://www.ohchr.org/sites/default/files/Documents/Events/EmergencyMeasures_COVID19.pdf

France and Germany: Blanket bans on meeting in places of worship

In March 2020, in response to the COVID-19 pandemic, the Federal Government of Germany announced that, “gatherings in churches, mosques, synagogues as well as gatherings of other religious communities are to be banned.” In effect, this introduced a blanket ban on meeting in places of worship.

Similar wide-ranging restrictions were imposed by France in the form of restrictions on freedom of movement and a decree which suspended religious ceremonies which amounted to a blanket ban on meetings in places of worship. Gatherings in other types of public places were limited to 10 people.



CASE STUDY

FACILITATORS NOTES

In this case all religious communities were treated equally. This case is about whether complete bans on meeting in places of worship were necessary and proportionate. You may wish to mention the following in connection with the group’s report back to explain what happened in this case.

- In response to an appeal by a local Muslim association, which planned to hold Friday prayers during the Muslim holy month of Ramadan for a limited number of worshippers, the German Federal Constitutional Court ruled to lift the blanket ban six weeks after it was imposed. The Court held that legislation should enable exceptions to be granted in certain cases if sufficient precautions were taken.
- The highest court in France, the Conseil d’État, ruled to lift the ban two months later, in response to an appeal by twelve Catholic organisations. The Conseil held that as gatherings in public places had been limited to 10 persons, there was no reason to impose a stricter rule on religious buildings. The French Conseil d’État found that the blanket ban was “disproportionate to the objective of preserving public health”.

Sources

OSCE Office for Democratic Institutions and Human Rights, ‘OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic 2020’ report https://www.osce.org/files/f/documents/e/c/457567_0.pdf

The Conversation 9 April 2020 <https://theconversation.com/coronavirus-how-new-restrictions-on-religious-liberty-vary-across-europe-135879>

Gabon: Strict regulations and police violence

When public life resumed following a 7 month lockdown, the Catholic Church in Gabon announced that churches would re-open on Sunday 25 October. On 16 October the government published new regulations introducing tight restrictions on public worship: only one service per week, no distribution of communion, and a maximum of 30 worshippers, all of whom must provide a negative COVID-19 test result and register their attendance with the government.

The church protested both the delay and the rules which made it impossible for many to attend mass, particularly poor people unable to obtain the COVID-19 tests. They also complained that shops, schools and other institutions were being permitted to operate without comparable restrictions.

On 24 October the Gabonese government deployed police patrols across the country to blockade churches and prevent early re-openings. Archbishop Jean Patrick Iba Ba of Libreville wrote to parishes informing them that security forces were starting to surround local churches but encouraged local churches to proceed with re-openings on the 25th using a shorter simpler format, without celebrating mass.

Soldiers then surrounded the Archbishop's residence, barricaded nearby roads and churches, arrested two priests in the diocese and used teargas on parishioners filming the blockades. A spokesman for the archdiocese said church re-openings would still go ahead, since shops, banks and other places were already open. "We will continue to open our churches while respecting the safety measures,".

While officiating the re-opening ceremony at St Charles Lwanga Cathedral, Bishop Jean-Vincent Ondo Eyene of Oyem and his fellow clergy were reportedly attacked by soldiers.



CASE STUDY

FACILITATORS NOTES

This case focuses on the necessity and proportionality of restrictions and the excessive use of force by police.

You may find the following [guidance](#) from the United Nations Office of the High Commissioner for Human Rights helpful in relation to this case:

- If derogations from a State's human rights obligations are needed to prevent the spread of COVID-19, all measures taken should be proportionate and limited to those strictly required by the exigencies of the situation.
- Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty and only when less harmful measures have proven to be clearly ineffective

Sources

<https://catholicherald.co.uk/after-seven-months-of-lockdown-police-violently-shut-down-church-reopenings-in-gabon/>

United Nations Office of the High Commissioner for Human Rights https://www.ohchr.org/sites/default/files/Documents/Events/EmergencyMeasures_COVID19.pdf

Myanmar: COVID-19 restrictions and punishments

In February 2020, the authorities in Myanmar designated COVID-19 as a notifiable disease under the 1995 Prevention and Control of Communicable Diseases Law. This gave the authorities wide-ranging powers to limit freedom of movement, including confining people under strict government-controlled quarantine. Under the law, anyone who fell sick with suspected COVID-19 must report to the authorities or face a fine or jail time. People arriving in Myanmar from abroad were required to undergo quarantine for 28 days – 21 in a state facility followed by 7 days of quarantine at home. The following month, public events and gatherings of more than five people were banned, including religious gatherings.

Between March and May 2020 at least 500 people, including children, returning migrant workers, and religious minorities were sentenced to between one month and one year in prison in Myanmar for breaching curfews, quarantines, or other control orders.

Lawsuits were subsequently filed against members of the majority Buddhist as well as minority Christian and Muslim communities across the country. In one case, two Buddhists were fined 100,000 kyats (around \$75) under Article 188 of the Penal Code for organising the funeral of a Buddhist monk, which more than 200 people attended. In a separate case, a group of 12 Muslim men were sentenced to 3 months in prison for gathering in a house to pray, under the Natural Disaster Management Law Article 30(a). In a third case, two Christian pastors were sentenced to 3 months with hard labour under the Natural Disaster Management Law Article 30(a) for organising religious gatherings linked to 80 confirmed cases of COVID-19 and two deaths.



CASE STUDY

FACILITATORS NOTES

Different laws were applied to persons from minority and majority religious backgrounds. Penalties were imposed in a discriminatory way and were not proportionate.

You may find the following [guidance](#) from the United Nations Office of the High Commissioner for Human Rights helpful in relation to this case:

- States must enforce any exceptional measures humanely, respecting the principle of proportionality when imposing penalties for violations and ensure that penalties are not imposed in an arbitrary or discriminatory way.
- States should only deprive persons of their liberty as a last resort, on grounds that are established by law, and with appropriate procedural safeguards. Deprivation of liberty must be reasonable, necessary and proportionate in the circumstances, even in a state of emergency.

Sources

Human Rights Watch <https://www.hrw.org/news/2020/05/28/myanmar-hundreds-jailed-covid-19-violations> and Rachel Fleming

United Nations Office of the High Commissioner for Human Rights https://www.ohchr.org/sites/default/files/Documents/Events/EmergencyMeasures_COVID19.pdf

Sri Lanka: Compulsory cremations

In March 2020, the government of Buddhist-majority Sri Lanka banned the burial of victims of COVID-19 and instituted a policy of compulsory cremation. The authorities cited risks to the country's water supply, even though guidelines from the World Health Organisation state that it is safe to bury victims of COVID-19.

Cremation is prohibited within Islam. By March 2021, two thirds of COVID-19 deaths were among minority communities, including Muslims. Many victims avoided seeking treatment, fearing their body would be cremated if they were to die with a COVID diagnosis. Mohammed Niyas' two-month-old baby boy was one victim of COVID and the compulsory cremation policy. At the crematorium, Mohammed and his relatives chanted a funeral prayer, overcome by the loss of the child and the added trauma of being unable to bury him according to Islamic tradition. "We are being forced to go through this trauma," said Mohammed. He called the government's policy painful and unfair but felt powerless to challenge it.

Sri Lanka ended the compulsory cremation policy in February 2021, but then required Muslim COVID-19 victims to be buried at a remote government-designated site in the absence of their families and without final religious rites. This policy was ended in March 2022.



CASE STUDY

FACILITATORS NOTES

This is an example of how the COVID-19 pandemic was used as a pretext to restrict freedom of religion or belief of minorities in illegitimate ways. You may wish to mention the following in connection with the group's report back:

- In January 2021, UN thematic human rights experts issued a statement urging Sri Lanka to end the compulsory cremation of COVID-19 deceased. They said, "We deplore the implementation of such public health decisions based on discrimination, aggressive nationalism and ethnocentrism amounting to persecution of Muslims and other minorities in the country. Such hostility against the minorities exacerbates existing prejudices, intercommunal tensions, and religious intolerance, sowing fear and distrust while inciting further hatred and violence."

You may find the following [guidance](#) from the United Nations Office of the High Commissioner for Human Rights helpful in relation to this case:

- If derogations from a State's human rights obligations are needed to prevent the spread of COVID-19, all measures taken should be proportionate and limited to those strictly required by the exigencies of the situation.
- Emergency declarations based on the COVID-19 outbreak should not be used as a basis to target particular individuals or groups, including minorities. Measures taken must not involve prohibited discrimination on any grounds such as race, colour, sex, sexual orientation and gender identity, disability, language, religion, political or other opinion, national or social origin, property, birth or other status.

Sources

Washington Post 12 February 2021 https://www.washingtonpost.com/world/asia_pacific/sri-lanka-cremations-covid/2021/02/12/b97719a6-6562-11eb-bab8-707f8769d785_story.html
United Nations Office of the High Commissioner for Human Rights https://www.ohchr.org/sites/default/files/Documents/Events/EmergencyMeasures_COVID19.pdf

USA:

Megachurch pastor ignores public health regulations

Over a million people died from COVID-19 in the United States of America. By April 2020 every state in the United States had issued guidelines or orders limiting social interaction in an effort to slow the spread of the disease. Most states set out some exemptions for religious gatherings in their directives with the aim of balancing religious freedom with the need for social distancing practices.

Then Vice President Mike Pence said that churches should not host groups bigger than 10 people, in line with the Center for Disease Control and Prevention (CDC) recommendation that gatherings of more than 10 people be cancelled and that small gatherings maintain social distancing measures of 6 feet between participants. Twenty-two states and the District of Columbia specified in their orders that religious gatherings could take place, but only if limited to 10 people or fewer. Around a third of states allowed religious gatherings to continue without any limit on their size. However, many religious leaders chose to either cancel, limit, or move worship online to comply with the CDC guidelines, despite state-level exemptions.

Florida was one of the last states to issue a state-wide stay-at-home executive order, which deemed religious worship services 'essential' and therefore exempt. Based on infection rates at the local level, some counties in Florida had previously introduced county-level restrictions. Rev. Rodney Howard-Browne, the pastor of a Pentecostal megachurch in Florida, chose to ignore one such stay-at-home order issued by Hillsborough County. He continued to hold worship services for up to 500 people at a time with no social distancing measures in place, ignoring pleas from local officials. He was subsequently arrested and charged with a misdemeanour.



CASE STUDY

FACILITATORS NOTES

This case highlights the need for religious communities and leaders to be aware of when the external dimension of the right to freedom of religion or belief, including the right to assemble for worship, may in fact be limited legitimately by the state. Ignoring public health emergency measures entirely puts vulnerable community members at risk during a pandemic. At the same time, a blanket ban on gathering for worship with no exceptions is disproportionate.

Sources

Pew Research Centre 27 April 2020 <https://www.pewresearch.org/fact-tank/2020/04/27/most-states-have-religious-exemptions-to-covid-19-social-distancing-rules/>

Associated Press 5 April 2020 <https://apnews.com/article/virus-outbreak-us-news-ap-top-news-freedom-of-religion-politics-2932726091de722fa3e4a5bf41c84d0c>.