

Human Rights Without Frontiers Int'l

Avenue d'Auderghem 61/16, 1040 Brussels

Phone/Fax: 32 2 3456145

Email: international.secretariat.brussels@hrwf.net – Website : <http://www.hrwf.eu>



Islamic Minorities, A New Challenge to Religious Freedom

Paper presented at the conference “Freedom of Religion or Belief in Situations of Crisis – Why Can’t We Get Along?”

Tallinn, 16-18 June 2016

By Willy Fautré

Tallinn, 16-18 June 2016

Diversity in Islam, A Challenge to Religious Freedom Defenders

By Willy Fautré (*)

Islam is not a monolithic religion but is as diverse as Christianity. In the non-Muslim world, ignorance generally prevails about the main movements at work inside Islam, their dynamics, history, charismatic spiritual leaders, distinctive theologies, competing and conflictual relations, quest for power, and impact on cultures and societies.

Since the 9/11 terrorist attempt which took both the United States and world by surprise in 2001, security has moved to the top of society's hierarchy of values. Who is who and who is what are recurring questions which pierce the security establishment and the human rights establishment.

Which Muslim groups and their members should or should not be defended by religious freedom advocacy NGOs and human rights organizations? Who can claim the protection or not of their religious freedom? Which criteria should be used?

This paper will endeavor to address the challenge to religious freedom defenders posed by certain Islamic groups whose teachings and agendas lie in a grey area where politics, religion, and the use or advocacy of violence are difficult to disentangle.

The major issue for defenders of freedom of religion or belief (FoRB) is to identify and defend individuals and groups who are real victims of violations of their right to FoRB.

Indeed, under cover of religious freedom some aim, openly or secretly,

- to undermine the foundations of democracy, the rule of law, and human rights, including the equality of citizens
- to promote some form of theocracy or a legal system imposed by a dominant religion
- to overthrow political regimes
- to weaken and destroy, in the short or long term, the international order based on the United Nations

and should not be on the agenda of FoRB defenders.

Some confusion still prevails around the concept and the scope of freedom of religion or belief among those whose mission it is to protect and promote it. This paper tries to elucidate this concept by first identifying legitimate individual FoRB rights and activities. It also attempts to facilitate the identification of groups, persons, and cases qualifying or not for the protection under related international instruments by analyzing and categorizing some 'controversial' Muslim and Islamic movements rightly or wrongly accused of terrorism or violent extremism in certain countries.

Identifying Legitimate FoRB Rights and FoRB Activities

According to Article 18 of the International Covenant on Civil and Political Rights (ICCPR)¹ and Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)², FoRB includes the freedom to have or to change religion or belief, the freedom to share one's religion or beliefs, the freedom of association, the freedom of worship and assembly, as well as conscientious objection to military service³.

¹ Article 18 of the International Covenant on Civil and Political Rights (ICCPR):

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
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.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

² **UN Declaration of the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)**. According to Article 6, the right to freedom of thought, conscience, religion or belief includes, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

³ **UN Human Rights Committee General Comment 22 Para. 11 on the ICCPR**, states that:

Many individuals have claimed the right to refuse to perform military service (conscientious objection) on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or

In such cases, all the people who are harassed, sentenced to fines or prison terms are clearly victims of FoRB violations: a Baha'i or Ahmadi identifying himself as such in Iran or Pakistan, a Muslim or Hindu converting to Christianity in Morocco or in India, an Evangelical Protestant trying to share his beliefs in public or private in Uzbekistan, a peaceful Muslim group being banned, followers of the Turkish Muslim theologian Said Nursi or Pentecostal Protestants meeting in a private home or public place for worship or for any sort of religious purposes whether their group is registered by the state or not, or a Jehovah's Witness refusing to perform military service in South Korea or Eritrea.

Some believers and clerics may also resist their government's attempts to restrict or violate their freedom of religion or belief by petitioning the relevant authorities, or filing complaints with international institutions, among other actions. These activities are part of their freedom of religion or belief. If they are repressed by the authorities, they are also victims of FoRB violations as protected by the aforementioned instruments.

Other cases, however, do not fall in the category of freedom of religion or belief although some FoRB defenders take up their case because they are priests, pastors, monks, or imams.

In Thailand, Buddhist priests were arrested and beaten by the police for demonstrating against the government.

In China, Uyghur Muslims want their historical lands to gain independence, and Tibetan Buddhist monks have regularly protested against the annexation and occupation of their country by Beijing since the 1950s.

In Tajikistan, the Islamic Renaissance Party was banned and their members were sentenced to long prison sentences.

In Azerbaijan, imams organized demonstrations to denounce the corruption of the regime and claim democracy, and they ended up in prison.

State repression against the above activists cannot be labelled religious persecution or violation of religious freedom as some state institutions and NGOs defending religious freedom sometimes do, because they are clerics or identified as 'believers' or 'religious activists.' Their actions, though legitimate and honorable as they may be, are not protected by Article 18 of the ICCPR and Article 9 of the European Convention of Human Rights, but by

other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service.

other articles of the same instruments that are not related to religious freedom.⁴ However, their fundamental rights need to be protected if they are victims of miscarriage of justice, arbitrary imprisonment, torture, and so on.

Beyond the argument of violence or non-violence, Article 17 of the European Convention

Up to now, the argument of non-violence has been the (almost) uncontested criterion to distinguish the movements and activists qualifying for the status of human rights defenders or for protection under the international instruments on freedom of religion or belief from others.

The argument of violence or non-violence is, however, limited in its scope and insufficient to assess the dangerousness of some Muslim movements. The teachings of some Muslim groups aim to strengthen the faith of their members and increase their piety but they do not advocate violence. Although they can hereby provide a fertile ground for recruitment by jihadist movements, they cannot be held responsible for individual choices by some of their people who join violent groups afterwards.

Another criterion for determining whether or not they qualify should, however, be seriously taken into consideration. It is enshrined in Article 5 of the ICCPR as follows:

Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

and in Article 17 of the European Convention which states:

Nothing in [the] Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 17 is all the more important because it has been used twice by the European Court to dismiss a complaint filed by a controversial group which was banned in two countries.

⁴ In the past or retrospectively, the following cases would/ could not have been considered FoRB violations. During WWII, clerics were engaged in non-violent resistance movements against the German occupying forces: some were arrested, tortured and sometimes killed. In the 1970s and 1980s, a number of Catholic priests in Latin America engaged in non-violent social activities were arrested or victims of extra-judiciary killing. In Northern Ireland, priests and pastors were involved in political activities in a violent context until the 1998 Good Friday Agreement.

It is not the identity of the victims but their acts that justify the qualification of FoRB violations.

Let us examine through the lens of these articles a few Muslim movements which do not use or advocate violence but are perceived as a threat and banned in some countries: Hizb ut-Tahrir, Salafism, Tablighi Jamaat, and Said Nursi Followers. Each of them is representative of a group of like-minded movements and present in Europe.

‘Controversial’ Muslim groups

Hizb ut-Tahrir

The Islamist movement Hizb ut-Tahrir, whose name means ‘Liberation Party’, was founded as a Sunni Muslim organisation in 1953 in Eastern Jerusalem by a Palestinian scholar and judge, Sheikh Muhammad Taqiuddin al-Nabhani⁵. It is now said to be active in forty-five countries with an international membership of about one million: mainly in Indonesia, Central Asia, Russia, and the Middle East, but also in the European Union. It has been banned as an extremist or terrorist organization by many states: Bangladesh (2009), China, Egypt (1974), Germany (2003), Jordan (1953), Kazakhstan (2005), Kyrgyzstan (2003), Pakistan (2004), Russia (2003), Syria, Tajikistan (2001), and Turkmenistan. Its members have been arrested and sentenced to long prison terms in several of these countries.

Its aim is the re-establishment of the Islamic Caliphate which would unify the Muslim community into a single "superstate" of Muslim majority countries spanning from Morocco in West Africa to the Philippines in East Asia. The proposed state would enforce Islamic Shariah law, as described in many detailed books of the movement.

Al-Nabhani, the founder of Hizb ut-Tahrir, developed a program and "draft constitution" for the caliphate, which would be run by a *caliph* head of state elected by Muslims. Articles of the constitution detail such points as the age of military for Muslims (15 years), the "sole language of the state" (Arabic), and obedience of wives to their husbands. Anti-Zionism and the destruction of the State of Israel is an important element of the doctrine.

“Hizb ut-Tahrir describes itself as a ‘global Islamic political party and/or religious society,’”⁶ but is it a terrorist organization, a political movement, or a religious group? The answer to this question is of utmost importance to the human rights community. After the German and Russian courts, the European Court of Human Rights addressed this issue in two cases concerning complaints filed by Hizb ut-Tahrir against its banning on the basis of Article 9 of the European Convention: *Hizb ut-Tahrir and Others v. Germany* (Application no 31098/08) and *Kasymakhunov and Saybatalov v. Russia* (Applications nos. 26261/05 and 26377/06).

In both cases in Strasbourg, the aforementioned Article 17 of the European Convention about the prohibition of abuse of rights was invoked to dismiss their complaint against the ban hitting them in Germany and Russia.

⁵ Taqiuddin al Nabhani (1909-1977) was born in Ajzim (Haifa).

⁶ *Hizb ut-Tahrir and others against Germany* (Application no. 31098/08)

After analyzing the charter and teachings of Hizb ut-Tahrir, the European Court held that it was a political movement and not a religious organization. Most interestingly, it noticed among other things that Hizb ut-Tahrir is opposed to the separation between state and religion, wants to impose Islamic rules on ALL, rejects participation in parliamentary democracy and human rights, and bans the affiliation of a true Islamic state to any organisation that is based on principles other than Islam or that applies non-Islamic rules. This includes international organisations like the United Nations, the International Court of Justice, the International Monetary Fund, the World Bank, and regional organisations like the Arab League.

The European Court concluded that “Hizb ut-Tahrir’s aims are clearly contrary to the values of the Convention, notably the commitment to the peaceful settlement of international conflicts and to the sanctity of human life” but also that it “proposes to establish a regime which rejects political freedoms, such as, in particular, freedoms of religion, expression and association, declaring that they are contrary to Islam.”⁷ In other words, Hizb ut-Tahrir promotes some form of theocracy or shariah-based state and society as a challenge and a threat to our Western societies rooted in secular state institutions.

In this regard, it is worth quoting § 72 of the decision of the European Court in the case *Hizb ut-Tahrir and Others v. Germany*:

“The Court reiterates its case-law on Article 17 of the Convention as summarised in the judgment in the case of *Paksas*, cited above, §§ 87-88:

87. The Court reiterates, firstly, that “the purpose of Article 17, in so far as it refers to groups or to individuals, is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at **destroying** any of the rights and freedoms set forth in the Convention; ... therefore, no person may be able to take advantage of the provisions of the Convention to perform acts aimed at destroying the aforesaid rights and freedoms ...” (see *Lawless v. Ireland*, 1 July 1961, § 7, pp. 45-46, Series A no. 3). Since the general purpose of Article 17 is, in other words, to prevent individuals or groups with **totalitarian** aims from exploiting in their own interests the principles enunciated in the Convention (see *W.P. and Others v. Poland* (dec.), no. 42264/98, ECHR 2004-VII, and *Norwood v. the United Kingdom*, no. 23131/03, ECHR 2004-XI), this Article is applicable only on an exceptional basis and in extreme cases, as indeed is illustrated by the Court’s case-law.

The aforementioned Article 17 of the European Convention and related jurisprudence of the European Court can be a useful tool to identify a number of religiously-rooted totalitarian ideologies and movements espousing them. Though, this legal instrument has largely remained unnoticed and unused by national courts, political analysts, and human rights NGOs in their respective field of activity.

⁷ See *Hizb ut-Tahrir and Others v. Germany*, cited above, §§ 73-75 and 78

The Islamic totalitarian ideology underpinning movements like Hizb-ut Tahrir has long remained below the radars because it is professed by groups that do not use or promote violence and that are perceived as harmless or not being in a position to pose a real threat.

The current worldwide situation shows, however, that such groups can suddenly and unexpectedly turn into a potential or real threat to world order, the constitutional order of secular and other states, and the peaceful coexistence between religious and ethnic groups and evolve as a lethal cancer in all sorts of societies. Such ideologies can quickly get out of control if they are not challenged and nipped in the bud.

Hizb ut-Tahrir, identified by the European Court of Human Rights as a political party and not a religious minority, has failed twice to pass the test of Article 17 of the European Convention. The totalitarian ideology of Hizb ut-Tahrir and like-minded religiously-inspired movements, which do not use violence and now claim not to advocate it, is, however, shared by ISIS and similar armed movements which resort to extreme violence to impose a totalitarian system of governance in territories under their control. This means that the line separating Hizb ut-Tahrir and ISIS, and respective like-minded groups, is porous because they share the same ideology and objectives.

States and civil societies concerned about, or confronted by, such pernicious totalitarian ideologies that deny in theory and practice the fundamentals of the international human rights system feel defensive and consider that it is both their right and their duty to defend their values and citizens, to anticipate possible future danger and to combat these ideologies.

The international human rights community is divided on the complex problems posed by Hizb-ut Tahrir and like-minded movements, which neither use nor incite violence. Some human rights movements consider the state repression as unjustified, inappropriate, and even counter-productive. Others perceive it as a danger to the human rights system and democratic societies as it aims to extend its totalitarian ideology to the world.

Salafists

The Salafists have become known as an ultra-conservative movement in the West where it is associated with literalist, strict, and puritanical approaches to Islam and with proponents of offensive jihad as a legitimate expression of opposition to those they deem to be enemies of Islam.

Historians and academics date the inception of Salafism to late 19th-century Egypt. Salafists themselves however believe that the label "Salafiyya" existed from the first few generations of Islam and is, therefore, not a modern movement.

Their doctrine can be summed up as taking a fundamentalist approach to Islam, emulating the Prophet Muhammad and his earliest followers—al-salaf al-salih, the 'pious forefathers.' They reject religious innovation and support the implementation of Islamic law.

In legal matters, Salafists are divided between those who, in the name of independent legal judgement (ijtihad), reject strict adherence (taqlid) to the four Sunni schools of law (madhahib) and others who remain faithful to these.

Salafism is often associated to Wahhabism. Mark Durie, an Australian scholar and vicar of an Anglican Church in Melbourne, considers Wahhabism to be a stricter Saudi form of Salafism. Ahmad Moussalli, professor of political studies at the University of Beirut, tends to agree with the view that Wahhabism is a subset of Salafism, saying "As a rule, all Wahhabis are Salafists, but not all Salafists are Wahhabis."

The Salafist movement is often divided into three categories: the purists (or quietists), the activists, and the jihadists.

"Purist Salafists" focus on non-violent preaching of Islam, education, and "purification of religious beliefs and practices." They dismiss politics as "a diversion or even innovation that leads people away from Islam." They never oppose their rulers, even in autocratic regimes.

"Activist Salafists," unlike the "purists," are engaged in political processes. They advocate political reform but eschew violence. Due to numerical superiority, at times the movement has been referred to as the mainstream of the Salafist movement.

"Jihadist Salafists" began developing an interest in armed jihad during the mid-1990s. According to Mohammed M. Hafez, a specialist on foreign fighters and suicide bombers, Salafi jihadism is an "extreme form of Sunni Islamism that rejects democracy and Shia rule."

Despite some similarities, the different contemporary self-proclaimed Salafist groups often strongly disapprove of one another and deny the other's true Islamic character.

Salafists are often identified as Wahhabis in Central Asia and Russia, where they are considered terrorists or potential terrorists and prosecuted as such. In France, Belgium, Germany, and other EU countries, their ideology is associated with radical Islam, recruitment of jihadists to the Middle East, or carrying out violent actions in Europe, and is perceived as a major threat to public order and national security.

If the European Court of Human Rights was referred to by a Salafist organization, it could be expected that it would dismiss a complaint lodged by a group associated with Salafi jihadism on the ground of Article 17 of the European Convention. However, it might not dismiss a complaint from purist or activist Salafists who do not use or incite to violence.

Salafism's three branches share the same totalitarian ideology, the one implemented by ISIS and other sympathetic armed movements. They share the same objective: to put in place a totalitarian system of governance imposing the standards of their interpretation of Islam on the territories and societies they (would) control.

States and civil societies concerned about or confronted by such pernicious totalitarian ideologies that deny in theory and in practice the fundamentals of the international human rights system feel in a situation of self-defense and consider it is both their right and their duty to defend their values, to anticipate their possible future dangerousness and to combat them.

The international human rights community considers that jihadist Salafists cannot qualify as prisoners of conscience as they use or advocate violence. As far as non-violent Salafists are concerned, some human rights movements consider that state repression is unjustified, inefficient, inappropriate, and even counter-productive but that their freedom of thought, conscience and religion must be respected. Others perceive their ideology as a threat to the secular human rights system which the Salafists reject because it is not rooted in Islam.

Tablighi Jamaat

Tablighi Jamaat is a revivalist missionary movement within Islam, founded in India in the early twentieth century. The term means ‘those who preach’ and is sometimes called the ‘Society for Spreading Faith.’

The world headquarters for Tablighi Jamaat are located in the New Delhi suburb of Basti Nizamuddin. The movement has grown significantly over time to include millions worldwide and is now present in some form or another throughout the Muslim world. It is particularly prevalent in South and Central Asia. Tablighi Jamaat is present in the European Union with about 50,000 active members in the UK and 100,000 followers in France.

Annual gatherings (called *ijtima*) are held in various countries and attract large crowds. The largest ones occur in India, Pakistan and Bangladesh. The annual World Gathering in Tongi, Bangladesh, (called *Bishwa Ijtimia*) is the most popular Tablighi Jamaat pilgrimage in the world with approximately five million people attending each year, significantly larger than the traditional *Hajj* to Mecca.

Tablighi Jamaat aims to revive and strengthen the faith of Muslims worldwide. Tablighi Jamaat adherents try to imitate the life of Prophet Muhammad and adopt a lifestyle of personal piety and austerity. They are expected to proselytize at least three times per month (approximately 130 days per year) and study at Tablighi Jamaat’s central mosque in Pakistan for a month. They spend significant periods of time travelling and preaching in mosques to spread their message.

Women have to cover themselves entirely in public. They lack freedom of movement and must always be accompanied by a male relative. This social tradition, prevalent in some Afghani and Pakistani Muslim communities and perpetuated in Tablighi Jamaat communities, has been an obstacle for Tablighi women to integrate into general society, not only in South Asia, but also increasingly in EU countries.

Tablighi Jamaat portrays itself as a peaceful and non-political movement.⁸ Its loose internal structure means that Muslims associated with it have diverse views in different parts of the world. In some countries, they peacefully exercise their freedom of religion or belief. Yet in other countries the movement has sometimes been regarded as a fertile recruiting ground by terrorist groups or for violent activities and has been banned. This is the case in Iran, Uzbekistan (2004), Tajikistan (2006), Turkmenistan, Russia (2009), and Kazakhstan (2013). Tablighi Jamaat members have been arrested and sentenced to long prison terms in most of these countries.

The human rights community views the ban of the religious association Tablighi Jamaat inappropriate, since the movement itself does not directly threaten the political or social order of its host countries, but is mainly engaged in promotion of Islam and was never implicated as such in incitements to violence. The human rights community considers the state repression of the Tablighi Jamaat members to be unjustified, inefficient, inappropriate and even counter-productive. In the EU, a number of state authorities and civil society organizations consider that this movement constitutes an obstacle to the integration of its members, and particularly of women.

If a Tablighi Jamaat organization makes an appeal to the European Court of Human Rights, it could be expected that it would not dismiss their complaint on the basis of Article 17 as it does not use or incite to violence.

Said Nursi followers

Said Nursi was a religious scholar, opinion leader, and activist concerned with the acute problems of the society of his time. Throughout his life, he desperately attempted to conciliate religion, modernity, and politics. His books inspired a faith movement that played a vital role in the revival of Islam in Turkey throughout much of the 20th century and now has several millions of followers worldwide, including in Russia and other post-Soviet countries with a Muslim majority.

There are now followers of Said Nursi worldwide. They informally gather to read and discuss his works. They are persecuted in a number of Muslim majority countries, even though they do not commit or advocate violence or terrorism. Nursi's works are banned in Azerbaijan, Russia, and Uzbekistan for allegedly inciting hatred and enmity against non-believers. Nursi followers have been subjected in these countries to police raids, confiscation of literature, and court sentences of fines and prison terms.

In Azerbaijan, a regional ally of Turkey, the repression of Said Nursi readers has markedly expanded since President Erdoğan issued a warrant for the arrest of Fetullah Gülen, a disciple

⁸ Political scientist Mumtaz Ahmad has written: 'In fact, the Tablighi Jamaat detests politics and does not involve itself in any issues of socio-political importance.'

of Said Nursi who has millions of followers worldwide and is said by Erdogan to be the mastermind behind the military coup attempt in mid-July 2016.

In Russia, the reasons and the operations behind the campaign against Nursi followers are unclear. Official statements point to government paranoia that they form a pan-Turkic ‘fifth column’ that seeks to realign Turkish Muslims among Russia’s Turkic-speaking minorities, such as Tatars, Bashkirs, and Kumyks.

Uzbekistan is the country which has arrested and imprisoned the highest number of Said Nursi followers for allegedly participating in an extremist organisation. Even still, Nursi disciples are not the only ones to be repressed. The government’s religious legislation is particularly restrictive and affects several other Muslim and non-Muslim movements.

Said Nursi followers have been arrested and sentenced to severe prison terms in all these countries although they do not pose any public danger. Nursi himself never advocated or incited violence, never called for the overthrow of the regime or favoured the establishment of a caliphate. Nursi’s teachings were moderate in character and appeal to Muslims wishing to reconcile Islamic teaching and modernity. His followers meet to discuss his works in private homes and do not pose any threat to the state.

The international human rights community views the persecution of the Said Nursi followers as inappropriate, since they are engaged in promotion of Islam and are never implicated in incitements to violence. Additionally, the international human rights community considers the repression of the Said Nursi followers to be unjustified.

If Said Nursi followers appealed to the European Court of Human Rights, it is likely that it would not dismiss their complaint on the basis of Article 17 as it does not use or incite to violence.

Conclusions

In addition to the principle of not using or advocating violence, Article 17 of the European Convention and Article 5 of the ICCPR and constitute an essential tool to assess the legitimacy of the claim of some Muslim movements to the protection of the human rights system.

The groups that have been examined through the lens of these two articles and in the light of the argument of violence or non-violence are rather representative of the broader range of ‘controversial’ Islamic and Muslim movements:

- a religiously-rooted political movement challenging the current world order with an Islamic socio-political totalitarian ideology;
- an originally pious movement divided between several competing branches: a spiritual one, a spiritual-political one and a violent one;

- a pious and missionary movement occasionally and involuntarily providing easy prey to jihadist recruiters;
- loose and informal groups of individuals inspired by a theologian for their own spiritual development.

State repression is not the right answer, except in cases of criminal activities, because it fuels anger and increased opposition. Banning controversial movements is not a solution as they can pursue their activities underground. Whether they use violence or not, their common denominator is their ideology that directly threatens the international human rights system on which democracy and the rule of law are based. Other political totalitarian ideologies such as fascism, neo-nazism or communism have been and are still fought against. There is no reason not to combat Islamic totalitarian ideologies but they must be combated with democratic means and the weapon of law. This is primarily the role of states and international organizations but civil societies, human rights organizations and religious freedom defenders also have a major role to play in this regard.

(*) Director of *Human Rights Without Frontiers* (Brussels)