

## **FOREWORD: RELIGIOUS EXPRESSION IN THE WORKPLACE**

Fouad A. Riad†

Religion is regarded as an essential component of the identity of a religious person. It is part of his concept of self and his human dignity. Observance of religion and its reflection on human behavior is a corollary of this concept of self.

Freedom of religion is undeniably a basic human right that international law affirms. Suffice it to mention Article 18 of the Universal Declaration of Human Rights:

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

Nevertheless, if freedom toward a certain religious belief is an established human right that suffers no restrictions, its manifestation in the public sphere—including the workplace—might be subject to certain limitations, and this for a number of reasons:

1. The public order of the state might be opposed to expression of religion in the workplace or to a certain form of this expression.
2. The practice of religion in the workplace could be deemed to interfere with the basic interest of the workplace and could affect negatively the economic viability of the enterprise.
3. The practice of certain rituals of a religious group might conflict with the human rights of other groups.

Hence the need arises for criteria that would prioritize the rights and interests of the parties concerned. The workplace on the one hand, and the workers manifesting a certain form of religion on the other hand. In determining such criteria, the nature of the state, whether it is secular, religious, or pluralist, could be decisive. A comparative outlook suggests the application of several standards:

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† Professor, Faculty of Law, Cairo University, member of the Egyptian Council for Human Rights and Former Judge at the International Criminal Tribunal (former Yugoslavia).

From the perspective of the workplace, the economic interest is paramount; consequently, any religious practice of employees in the workplace which disturbs the flow production could be objectionable.

From the perspective of the employees, practicing a certain religion, serious consideration should be given to his/her need in the light of their human rights, the more so if this need stems from an essential requirement of the faith. This poses the problem of finding the dividing line between a practice clearly mandated by religion and that which mere social culture or tradition claims.

As states vary in their commitment to a religious identity, religious manifestation may constitute a violation of the public order for some and not for others. Such violation could take place equally in a secular or in a religious state for different reason and requires in both cases a state control of the practice. International conventions acknowledge the right of a state to prevent such manifestations. Article 18, paragraph 3 of the International Covenant of Civil of Political Rights, stipulates that "freedom to manifest one's religion or belief 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."

In the case of states that officially adopt a state religion, the practice of that religion may feature prominently in public life including the workplace, while public manifestation of other faiths may diminish or be suppressed altogether. The question consequently arises as to whether such state is committing a form of discrimination.

Likewise, a secular state might also limit or prohibit manifestations of religion and consider it a violation of its fundamental secular character. On its face, such a general limitation appears of indiscriminate character. Nevertheless, the question arises as to whether this attitude proceeds from a kind of prioritization and conceals at its basis a form of discrimination.

The principle of non-discrimination is a well-established principle of human rights. Moreover, as far as the workplace is concerned, states have a special obligation to eliminate discrimination. This obligation is affirmed by the International Labor Organization Declaration on Fundamental Principles and Rights at Work announced at the 86th Session in Geneva (June 1996):

All members even if they have not ratified the conventions in question, have an obligation arising from the very fact of membership in the organization to respect, to promote and to realize in good faith and in accordance with the constitution, the principles concerning the fundamental rights which are the subject of those conventions, namely . . . d. the elimination of discrimination in respect of employment and occupation.

Going beyond both secular and religious states, it might be of interest from a socio-political perspective to investigate the interaction between

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globalization and manifestation of religion in the workplace. Would globalization support an increasing role for religious practice in the workplace? Or would it tend to dismiss it? In other words, would globalization allow greater pluralist co-existence of all faiths and expand tolerance toward religious manifestations in the workplace thus narrowing the notion of public order existing within national states? Or would the competing financial interests leave no room for religious manifestation in the workplace and consider it an obstacle to production? The question could also arise with regard to the outcome of the interaction between globalization and fundamentalism. In fact, it could be argued that religious fundamentalism stands as a defense mechanism against globalization in order to maintain certain identity for the workers. Under such conflict of interests, the question thus arises as to the impact of a possible clash between fundamentalism and globalization as to the expression of religion in the workplace.

