

Voluntary Codes of Conduct for Religious Persuasion: Effective Tools for Balancing Human Rights and Resolving Conflicts?

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Abstract

Attempts by people of faith to persuade others to their beliefs can provoke conflicts—even violence—in communities intent on protecting their privacy and identity. Both advocates and targets claim the protection of competing human rights, which must be balanced. Voluntary codes of conduct offer a viable alternative to government regulation. This article evaluates twenty-one codes and identifies which have greatest potential for conflict-resolution. Effective codes balance competing rights consistent with international law norms, respect multiple traditions, and address a general audience. They motivate compliance, provide a platform for dialogue, and promote the pluralism necessary to freedom of conscience. In contrast, codes focused on a single faith's or network's own constituencies are less likely to prevent or resolve conflicts because they tend to advocate a sectarian view and sometimes violate international law. Like aggressive state regulations, these codes can perpetuate rather than prevent conflict.

Keywords

codes of conduct; religious persuasion; human rights; mission; proselytism; manifest; religion; conscience

I. Introduction

Do voluntary codes of conduct governing religious persuasion provide a viable alternative to national or international regulations? This question lies at the heart of attempts to balance competing rights: the right of advocates to win religious adherents by persuasion versus the right of targeted individuals and communities

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to defend their privacy and identities. In this article, we sketch the tension underlying the competing rights. We then briefly discuss the effectiveness of voluntary compliance systems as compared with governmental regulations. Next, we categorize and compare twenty-one existing codes of conduct, ethical guidelines, invitations to dialogue, and other declarations regarding the scope or methods of religious persuasion (collectively referred to as “codes” or “codes of conduct”) and evaluate them under international law to identify which types and qualities of codes have greatest potential for conflict-resolution.

We conclude that codes of conduct are viable alternatives to government regulation and effective as tools for preventing and resolving these types of conflicts to the extent they are compatible with international law norms, respectful of the practices of multiple traditions, and written to address a general audience. Codes drafted by intra-faith or ecumenical groups—while appropriate as means of regulating internal affairs, warning the faithful, or enhancing the faith’s reputation among those who hold similar views—are less likely to prevent or resolve cross-cultural or inter-faith conflicts and should not be viewed as best practices or universal standards by which to judge the persuasive activities of *all confessions*.¹

II. Tension over Religious Persuasion

In July of 1974, more than 2,300 Christian leaders from 150 nations convened in Lausanne Switzerland, to affirm a God-given mandate to “the whole Church [to] tak[e] the whole gospel to the whole world”:

We are deeply stirred by what God is doing in our day, moved to penitence by our failures and challenged by the unfinished task of evangelization.... More than 2,700 million people, which is more than two-thirds of all humanity, have yet to be evangelised. We are ashamed that so many have been neglected; it is a standing rebuke to us and to the whole Church.²

The *Lausanne Covenant* signalled a renewed, global commitment to religious persuasion and spurred evangelical and Pentecostal missions worldwide. Other Christian groups have a similar zeal. “From its very beginning, the Seventh-day

¹ The terms used to describe attempts to propagate a religion are often charged and sectarian. Terms such as ‘proselytism’, ‘evangelization’, ‘mission’ or ‘witnessing’ evoke strong reactions or are closely associated with one particular worldview. See Natan Lerner, ‘Proselytism, Change of Religion, and International Human Rights’, *Emory Int’l L Rev* (1998), pp. 478, 495–96; Tad Stahnke, ‘Proselytism and the Freedom to Change Religion in International Human Rights Law’, *BYU L Rev* (2001), pp. 251 and 254–55. We avoid use of these charged terms and opt instead for the neutral term ‘religious persuasion’ to refer generically to the act of disseminating a religion through activities that include an invitation to others to adopt the religion.

² The Lausanne Covenant (Lausanne, Switzerland 1974), 1, 5 (Lausanne Covenant) <<http://tinyurl.com/63w57up>> accessed 23 September 2010.

Adventist Church has been a missionary movement.’³ More than 50,000 Mormons volunteer as missionaries for The Church of Jesus Christ of Latter-day Saints at any one time.⁴ And Jehovah’s Witnesses are perhaps most known for their door-to-door preaching and distribution of literature.⁵ As the Vatican’s Congregation for the Doctrine of the Faith has reiterated, the Christian need to fulfil the Great Commission (Matthew 28:19) is “an inalienable right and duty”.⁶

Christians are not alone in their commitment to imparting their faith. The Muslim *Dāwah*⁷ is directed to Muslim and non-Muslim alike, with efforts covering the globe.⁸ Over a million people flock to the annual meetings of *Tablighi Jama’at*, one of many *Dāwah* organisations, and male members leave home periodically for *Dāwah* activities.⁹ Similarly, Buddhism initiated its first large-scale missionary effort in the 3rd century, B.C., with an edict from Buddha to “[g]o forth for the gain of the many, for the welfare of the many, in compassion for the world. Preach the glorious doctrine; proclaim the life of holiness”.¹⁰ Heeding this admonition, new monasteries, schools and mission centres have been established worldwide.¹¹

Regardless of denomination, those who engage in religious persuasion often do so because they feel compelled by conscience—a spiritual compulsion to share—that is recognized and secured as a fundamental human right. “[T]he right to freedom of thought, conscience and religion” includes the “freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance”.¹² The right to engage in

³ Laurie Falvo, ‘Adventist Missionaries, Do They Still Go?’ <<http://tinyurl.com/4kpbv2v>> accessed 23 September 2010.

⁴ See Dallin H. Oaks and Lance B. Wickman, ‘The Missionary Work of the Church of Jesus Christ of Latter-day Saints’, in John Witte, Jr. & Richard C. Martin (eds.), *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism* (London: Orbis Books, 1999); Missionary Program <<http://tinyurl.com/4f4f7kr>> accessed 23 September 2010.

⁵ Watchtower Bible and Tract Society, anonymous (eds.) ‘House-to-House Preaching—An Identifying Mark’, in *Jehovah’s Witnesses: Proclaimers of God’s Kingdom* (New York: Watchtower, 1993), at 570.

⁶ Congregation for the Doctrine of Faith, ‘Doctrinal Note on Some Aspects of Evangelisation’ (2005) <<http://tinyurl.com/3c4yur>> accessed 23 September 2010.

⁷ *Dāwah* means to ‘invite’ or ‘call’ to Islam, and is rooted in the Quran: “Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best.” Quran 16:125, Sahih International; see also <<http://tinyurl.com/4krsu96>> accessed 12 October 2010; Thomas W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith* (Lahore: Sh. Muhammad Ashraf, 2004, reprint of the 1913 ed.), at 1–6.

⁸ Khurram Murad, ‘Da’wah Among Non-Muslims in the West’ <<http://tinyurl.com/4sl5p9x>> accessed 12 October 2010.

⁹ See Barbara D. Metcalf, ‘Islam and Women: The case of the Tablighi Jama’, 5 *SEHR* 1 (1996), <<http://tinyurl.com/l3ruyk>> accessed 12 October 2010.

¹⁰ Madhu Bazaz Wangu, *Buddhism: World Religions* (2002), at 32.

¹¹ See Cherry Thein, ‘Buddhist Missionary Group Launches Border Projects’, *Myanmar Times* (16 August 2010) <<http://tinyurl.com/4e7c8kr>> accessed 12 October 2010.

¹² International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) G.A. Res. 2200A (XXI), Article 18 (hereinafter ICCPR); Universal Declaration of Human Rights (adopted December 10 1948) G.A. Res. 217A (III), Article 18 (hereinafter UDHR).

religious persuasion is also grounded in the right to freedom of expression, which “shall include freedom to seek, receive and impart information and ideas of all kinds”,¹³ and in the right of a target to “change his religion or belief”¹⁴ or “to have or to adopt a religion or belief of his choice”.¹⁵

At the same time, however, a host of pressures converge to restrict the ability to engage in religious persuasion. The pressures include an increasing apathy of secular states towards the importance of religious freedom and the exclusion of religion from the public square; the preclusive dominance of established ideologies in other states; consolidations of power by authoritarian regimes; worries about the destabilizing influence of new or unfamiliar religious movements, religious extremism, or terrorism; a downgrading of religious freedom rights vis-à-vis these other human rights; the marginalization of minority religions; reactions against globalization or perceived neo-colonialism; burgeoning state and transnational regimes; expanding notions of privacy; and transforming modes of communication. Many of these pressures also reflect protected human rights, such as “the right to hold opinions without interference,”¹⁶ the right of indigenous peoples to protect their cultures from external forces,¹⁷ and (as claimed by some) an overarching “right to be left alone”.¹⁸

To those targeted by religious persuasion, “[t]he proselytizer violates boundaries and disrupts traditions”.¹⁹ This view is particularly entrenched among nations that were the targets of Western colonialism or crusades (sub-Saharan Africa, the South Pacific, Asia and Middle East): “[T]here is sometimes bitter or painful awareness of the elements of suppression and coercion” that characterized early missionary tactics”.²⁰ But suspicion also infects secularist states that have an

¹³ Article 19.2 ICCPR. See, e.g., *Martin v. City of Struthers*, 319 US 141, 143 (1943) (invalidating an ordinance that restricted door-to-door distribution of literature; the rights to free speech and press “embrace the right to distribute literature, and necessarily protect the right to receive it”).

¹⁴ Article 18 UDHR.

¹⁵ Article 18 ICCPR; Declaration on the Elimination of all Forms of Discrimination Based on Religion and Belief (proclaimed 25 November 1981) G. A. Res. 36/55, Article 1.

¹⁶ Article 19.1 ICCPR.

¹⁷ Declaration on the Rights of Indigenous Peoples (DRIP) (adopted by General Assembly Resolution 61/295 on 13 September 2007) <<http://tinyurl.com/5okbd7>> accessed 26 October 2010.

¹⁸ Joel A. Nichols, ‘Mission, Evangelism, and Proselytism in Christianity: Mainline Conceptions as Reflected in Church Documents’, 12 *Emory Int’l L. Rev.* (1998), pp. 563, 565; Fernando Volio, ‘Legal Personality, Privacy and the Family’, in Louis Henkin (ed.), *The International Bill of Rights: The Covenant of Civil and Political Rights* (Columbia University Press, 1981), pp. 190–193 (the zone of privacy “is a zone of freedom,” “a zone of isolation, a legal cloister for those qualities, wishes, projects, and life styles which each individual man, woman, or child wishes to enjoy or experience”).

¹⁹ Martin E. Marty, ‘Proselytizers and Proselytizees on the Sharp Arête of Modernity’, in *Witte and Martin, Sharing the Book* (*supra* note 4) 2.

²⁰ Tad Stahnke, ‘The Right to Engage in Religious Persuasion’ in Tore Lindholm, W. Cole Durham jr., and Bahia G. Thazib-Lie (eds.) *Facilitating Freedom of Religion or Belief: a Deskbook* (The Hague: Martinus Nijhoff Publishers/Brill Academic, 2004), p. 635 (discussing constitutions of Zimbabwe and Papua New Guinea as limiting religious persuasion for the purpose of protecting rights and freedoms of indigenous groups); Lerner (*supra* note 1) 479. Makau Mutua, ‘Proselytism and Cultural Integrity’, in *Deskbook* (*ibid.*), pp. 655–656.

“official aversion to religion” (France, China) or are concerned by the proliferation of unfamiliar movements (Western Europe), authoritarian states that view religious persuasion as a threat to the establishment (former Soviet states, communist countries, the forty-four countries where Islam predominates), and states concerned about preserving public order given tenuous relations among religious groups (India).²¹

Ironically because of the implications for religious freedom, some of these pressures are fuelled from within the religious community as established religions react to perceived inroads by new or competing movements. Competition in the religious marketplace puts confessions whose members are targeted on the defensive. “Established religions . . . often act to curtail competition from new religious groups by preventing proselytism, restricting conversion, and putting up barriers that make it difficult for new religions to gain a foothold.”²² For Muslims who ascribe to Shari’a law, the change of religions is particularly sensitive: “[T]he treatment of apostasy overshadows and determines that of proselytism. If apostasy, *i.e.*, the abandonment or renunciation of one’s religious beliefs, is considered an offense, it naturally follows that proselytism, as the attempt by another to change one’s beliefs, will be prohibited.”²³

While these pressures take different forms and have varying degrees of strength in different cultural settings,²⁴ the inevitable outcome is tension among competing rights and interests. This tension is not academic only, but, as recent studies document, can rise to violence. In 126 of 198 countries (64%) evaluated in December 2009 by the Pew Forum on Religion and Public Life, public tensions among religious groups involved physical violence; in 49 countries (25%), private individuals or groups used force or threat of force to compel adherence to religious norms.²⁵ Even more recently, sociologists Brian Grim and Roger Finke found that “violent religious persecution is pervasive. Of the 143 countries with populations of two million or more, between July 1, 2000, and June 30, 2007,

²¹ Paul Marshall, ‘The Range of Religious Freedom’ in Paul Marshall (ed.), *Religious Freedom in the World* (Lanham: Rowman and Littlefield, 2007), pp. 1–8; Thomas Farr, *World of Faith and Freedom* (OUP, 2008), pp. 36–38, 82; Tad Stahnke and Robert C. Blitt, ‘The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries’, *36 Georgetown J Int’l L* 947 (2005), p. 955; Stahnke in *Deskbook* (*supra* note 20), at 619–620, 639; Eileen Barker, ‘Why the Cults? New Religious Movements and Freedom of Religion or Belief’, in *Deskbook* (*supra* note 20), pp. 571, 585; Willy Fautré, ‘European Trends’, in Marshall (*ibid.*), pp. 28, 31.

²² Brian J. Grim, ‘Religious Freedom: Good for What Ails Us?’, *Faith & Int’l Affairs* (2008), at 3 <<http://tinyurl.com/6g3b38t>> accessed 12 October 2010. 5. The Pew Forum found that public tensions between religious groups were reported in the vast majority (87%) of countries between mid-2006 through mid-2008. Pew Forum, ‘Global Restrictions on Religion’ (17 December 2009) <<http://tinyurl.com/4uqde8t>> accessed 12 October 2010.

²³ Stahnke, (*supra* note 1), pp. 281, 286–87.

²⁴ See generally Marshall (*supra* note 21); Pew Forum (*supra* note 22).

²⁵ See Pew Forum (*supra* note 22).

86 percent (123 countries) have documented cases of people being physically abused or displaced from their homes because of... *religious persecution*.²⁶

III. Voluntary Codes of Conduct as an Alternative to Governmental Regulation of Religious Persuasion

Governments and private stakeholders have grappled with ways to resolve the tension related to religious persuasion. For some governments, religion together with culture is considered the exclusive domain of the state. Other governments may use religion as a means to legitimize an undemocratic rule.²⁷ Yet other governments regulate the means and methods of “manifesting” or “expressing” religion or belief, in order to protect public safety, order, health, morals or other fundamental rights.²⁸ But as Natan Lerner observed, proscriptive state restrictions contribute to a “downward or deteriorating trend” with respect to religious freedom.²⁹

Built-in handicaps inhibit any government’s ability to craft regulations that effectively balance the competing human rights:

- Any balancing of rights is context-driven, requiring a flexible application to the particular facts;
- states lack expertise as to the motives and methods of religious persuasion;
- they have no basis on which to make religious judgements;
- regulations are inherently reactive;
- regulators often lack staff and funding and are limited in jurisdiction; and
- top-down regulations seldom motivate compliance by regulated individuals and groups, especially those for whom religious persuasion is compelled by conscience.³⁰

More concerning, state restrictions almost always focus upon religious minorities, which may radicalize those minorities and potentially exacerbate violence.³¹ Thus, in addition to infringing protected rights and harming the very constituents they are intended to protect,³² protectionist state restrictions can spark, rather than quell, further conflict:

²⁶ Brian J. Grim & Roger Finke, *The Price of Freedom Denied* (2011), at 18.

²⁷ Steven T. McFarland, ‘Missionaries and Indigenous Evangelists: The Right to Bear Witness in International Law’ *Cumb L Rev* (2000–2001), at 599, 615.

²⁸ Article 18(3) ICCPR allows regulation in certain circumstances.

²⁹ Lerner (*supra* note 1), p. 557.

³⁰ Saule T. Omarova, ‘New Paradigms for Financial Regulation in the United States and the European Union: Co-Sponsored by Brooklyn Law School Dennis J. Block Center for the Study of International Business Law: Rethinking the Future of Self-Regulation in the Financial Industry’, 35 *Brooklyn J Int’l L* (2010), at 665, 672–73.

³¹ Pew Forum (*supra* note 22); Grim (*supra* note 22).

³² Shima Baradaran-Robison, Brett G. Scharffs & Elizabeth A. Sewell, ‘Religious Monopolies and the Commodification of Religion’, 32 *Pepp L Rev* 885 (2005), pp. 926–943.

If the goal is to create more peaceful and rights-oriented societies, one group cannot have total control over the definition of culture and the amount of religio-legal integration in the State; to do so will inspire permanent division in society and perpetuate violent power struggles between groups as repressed minorities attempt to find a way to gain the respect they need and deserve.³³

A state may succeed temporarily in clamping down on freedom of expression or choice, but a clamp down can drive proselytizing groups underground for a time only to emerge later as even more divisive.³⁴ “With the state’s monopoly on the legitimate use of force and its expansive power to regulate social life,” state restrictions can escalate the social marginalization of new religious movements and “induce acts of violence in apocalyptic groups”.³⁵ Simultaneously, state restrictions designed to protect dominant religions or ideologies can also embolden the *dominant society* to further aggression or violence against the minority.³⁶

Grim and Finke describe the phenomenon as the “religious violence cycle,” which occurs as “social restrictions on religious freedom lead to government restrictions on religious freedom and the two act in tandem to increase the level of violence related to religion—which in turn cycles back and leads to even higher social and government restrictions on religion”.³⁷

Given these limitations hobbling state regulations, a growing number of religious communities and nongovernmental organizations offer voluntary codes of conduct as an alternative. For a host of reasons, discussed in greater depth in another study,³⁸ we conclude that voluntary codes are indeed a viable alternative to state regulations. Because they secure participants’ buy-in, harness reputational self-interests and can be adapted to context-specific applications, voluntary codes have greater potential than state regulations to avert conflicts resulting from the clash of competing rights.

Specifically;

1. Self-regulation is generally more prompt, flexible, and adaptable than government regulation, calling upon the resources of multiple stakeholders.
2. Codes are inherently more efficient, less costly and less complicated than government regulation.
3. Collaboratively drafted codes both stimulate and draw upon the internal morality of those engaged in religious persuasion, and can minimize both the resistance that naturally follows top-down government regulation as well as the likelihood of conflict. Religiously neutral government regulations

³³ S.I. Strong, ‘Law and Religion in Israel and Iran: How the Integration of Secular and Spiritual Laws Affects Human Rights and the Potential for Violence’, 19 *Mich J Int’l L* (1997), pp. 109, 217.

³⁴ Baradaran-Robison, Scharffs & Sewell, (*supra* note 32), at 936–937.

³⁵ Stuart A. Wright, ‘Public Agency Involvement in Government-Religious Movement Confrontations’, in David G. Bromley & J. Gordon Melton (eds.), *Cults, Religion & Violence* (2002), at 102, 108–111.

³⁶ Baradaran-Robison, Scharffs & Sewell, (*supra* note 32), p. 936.

³⁷ Grim, (*supra* note 22), at 5; Baradaran-Robison, Scharffs and Sewell, (*supra* note 32), at 930–931.

³⁸ Matthew K. Richards, Are L. Svendsen, Rainer Bless, ‘Codes of Conduct for Religious Persuasion: the Legal Framework and Best Practices’, 3:2 *International Journal for Religious Freedom* (2011).

cannot address some of the subtleties of religious behaviour, but self-regulated organizations can tailor behaviour beyond what is merely legal, toward what is beneficial for all.

4. Religious groups that abide voluntary codes establish or enhance their reputations for ethical conduct.
5. Precisely because religious groups care about their reputations (and receive donations accordingly) the codes provide an important point of leverage on those groups.
6. Finally, codes operate beyond provincial boundaries, can influence the interpretation of overarching human rights, and, by their number and general consistency, reinforce themselves as a chorus.³⁹

Of course, codes of conduct are not always effective. Besides enabling watchdogs to hold religious groups publicly accountable by publishing failures to abide or subscribe to the standards, the codes lack enforcement mechanisms. And there is a danger, discussed below,⁴⁰ that codes can become monopolistic, exclude or devalue minority religious groups, and thereby engender the same “religious violence cycle” that can result from aggressive state regulations.⁴¹ “[C]artel-like arrangements of self-regulatory bodies can work against the public interest” by limiting choice, hindering innovation, improperly skewing perceptions of new or unfamiliar religious practices, or distorting the balance of competing human rights.⁴² As a whole, however, just as codes have been used effectively as a means of self-regulation in many other systems of voluntary compliance,⁴³ they can be an effective tool for regulating religious persuasion, as well. As one commentator said of corporate codes of conduct: “Notwithstanding the limitations of codes, they can and have generated positive benefits for stakeholders.”⁴⁴

IV. Which Types of Codes Are Most Helpful in Preventing or Resolving Conflicts?

We turn now to examine twenty-one existing codes produced by NGOs, religious institutions, and ecumenical or inter-faith groups. These codes have many similarities: They all affirm a right to engage in religious persuasion, recognize some

³⁹ *Ibid.*

⁴⁰ See *infra* note 82 and accompanying text and section IV.B.

⁴¹ See *supra* note 37 and accompanying text.

⁴² Margot Priest, ‘The Privatization of Regulation: Five Models of Self-Regulation’, 29 *Ottawa L Rev* 233 (1997–98), at 269.

⁴³ Omarova, (*supra* note 30), at 671 (footnotes omitted).

⁴⁴ Rhys Jenkins, ‘Corporate Codes of Conduct: Self Regulation in a Global Economy’ (United Nations Research Institute for Social Development, Programme Paper Number 2, April 2001), at iv <<http://tinyurl.com/63ruo5d>> (Accessed 11 November 2010).

limits on methods of religious persuasion, and promote the self-regulation of activities by religious groups or networks engaged in persuasion. Yet there are important differences that impact the codes' potential effectiveness for purposes of conflict resolution. We assess which types are most likely to succeed in preventing or resolving conflicts while preserving the fundamental right of the advocate to disseminate religious beliefs and of the listener to change his or her affiliation.

We first categorize, describe and compare the twenty-one codes. Next, we evaluate whether the codes comport with international law. Last, we assess their effectiveness. We conclude that some codes are excellent tools for preventing or resolving conflicts relating to religious persuasion, as well as promoting the social wellbeing that derives from a robust religious freedom. Others—typically intra-faith codes—are not likely to be helpful for these ends because they are inwardly focused, may become cartel-like, and serve primarily as a form of advocacy to their own constituencies.

A. *Comparison of the Codes of Conduct*

We compare the codes across three primary planes: (1) drafters, purpose and audience, (2) prescriptiveness, and (3) rhetorical framework. For ease of reference, Table 1 lists the twenty-one codes we evaluate in this article and categorizes them by drafter and date.

1. *Similarities in the Codes*

Not surprisingly, the codes have many similarities. The differences are at the edges. At their core, all of the codes affirm the freedom of religion or belief—both the right of the missionary to manifest religion through teaching and the right of the target to voluntarily change his or her religion or belief.⁴⁵ Several codes expressly reference international instruments, such as the United Nations'

⁴⁵ See e.g. World Vision, 'The Ministry Policy on Witness to Jesus Christ,' (Issued 14 September 2006) ("We celebrate the rights of religious liberty. Personal decisions about faith and religion are the right of each individual as affirmed in Article 18, Universal Declaration of Human Rights. We respect the right of everyone to affirm their religious identity and we defend religious freedom as a God-given human right.") at 3 (World Vision, Ministry Policy) <<http://tinyurl.com/48kvqy2>> accessed 13 October 2010; WCC & Pontifical Council for Interreligious Dialogue, 'Report from Inter-Religious Consultation on Conversion: Assessing the Reality,' (15 May 2006) ("[F]reedom of religion is a fundamental, inviolable and non-negotiable right of every human being in every country in the world. Freedom of religion connotes the freedom, without any obstruction, to practice one's own faith, freedom to propagate the teachings of one's faith to people of one's own and other faiths, and also the freedom to embrace another faith of one's own free choice.") at 2 (WCC, Assessing the Reality) <<http://tinyurl.com/4spahpf>> accessed 13 October 2010; Christian Federation of Malaysia, 'An Affirmation of Christian Witness' (19 December 1996) at 1 (CFM, Affirmation of Christian Witness), <<http://tinyurl.com/49affat>> accessed 13 October 2010; Global Connections, 'Gracious Christian Responses to Muslims in Britain Today,' at 2 (Global Connections, Gracious Christian Responses) <<http://tinyurl.com/6gaed3>> accessed 18 October 2010; *Lausanne Covenant* (*supra* note 2), at 7.

Table 1. Twenty-one Codes Evaluated

<p>Nongovernmental Organizations:</p> <ul style="list-style-type: none"> ➤ <i>Recommended Ground Rules for Missionary Activities</i>, the Oslo Coalition (2009) ➤ <i>Guiding Principles for the Responsible Dissemination of Religion or Belief</i>, International Religious Liberty Association (2000) <p>Single-Faith and Ecumenical (Intra-Faith):</p> <ul style="list-style-type: none"> ➤ <i>Christian Witness in a Multi-Religious World: Recommendations for Guidelines</i>, World Council of Churches, Pontifical Council for Interreligious Dialogue, and World Evangelical Alliance (2011) ➤ <i>The Cape Town Commitment</i>, The Third Lausanne Congress on World Evangelization (2010) ➤ <i>Is Evangelism Ever a Sin? Ethical Evangelism in a Watching World</i>, CrossGlobal Link (2009)⁴⁶ ➤ <i>Generous Love: The Truth of the Gospel and the Call to Dialogue, An Anglican Theology of Inter Faith Relations</i>, Anglican Communion Network for Inter Faith Concerns (2008) ➤ <i>Gracious Christian Responses to Muslims in Britain Today</i>, Global Connections (2008) ➤ <i>Ministry Policy on Witness to Jesus Christ</i>, World Vision (2006) ➤ <i>Codes of Conduct—for Norwegian Mission Organisations with international involvement</i>, Norwegian Council for Mission and Evangelism (2005) ➤ <i>Ecumenical considerations for dialogue and relations with people of other religions</i>, World Council of Churches (2004) 	<ul style="list-style-type: none"> ➤ <i>Code of Conduct for The Danish Mission Council (Dansk Missionsraad)</i>, The Danish Mission Council (2003) ➤ <i>Charta Oecumenica</i>, Conference of European Churches and the Council of European Bishops' Conferences (2001) ➤ <i>Statement on Mission Language</i>, The Evangelical Fellowship of India (2000) ➤ <i>Towards common witness—A call to adopt responsible relationships in mission and to renounce proselytism</i>, World Council of Churches (1997) ➤ <i>An Affirmation of Christian Witness</i>, Christian Federation of Malaysia (1996) ➤ <i>The Lausanne Covenant</i>, International Congress on World Evangelization (1974) <p>Inter-Faith:</p> <ul style="list-style-type: none"> ➤ <i>Ethical Guidelines for Christian and Muslim Witness in Britain</i>, Christian Muslim Forum (2009) ➤ <i>Joint Declaration on the Freedom of Religion and the Right to Conversion</i>, Islamic Council of Norway and the Church of Norway Council on Ecumenical and International Relations (2007) ➤ <i>Report from inter-religious consultation on “Conversion: Assessing the Reality”</i>, World Council of Churches & Pontifical Council for Interreligious Dialogue (2006) ➤ <i>Striving Together in Dialogue, A Muslim-Christian Call to Reflection and Action</i>, World Council of Churches (2000) ➤ <i>Building Good Relations with People of Different Faiths</i>, The Inter Faith Network for the United Kingdom (1993)
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⁴⁶ Some debate whether this document constitutes a code of conduct, as it was not adopted as an authoritative document by delegates of the network's members but published informally by its leaders. We opt to include it in this study because it expresses at least the leaders' view regarding the propriety of mission activities.

Declaration of Human Rights,⁴⁷ International Covenant on Civil and Political Rights,⁴⁸ and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.⁴⁹ Even the codes that are most critical of certain forms of religious persuasion support the right to employ appropriate methods. For instance, while codes produced by the World Council of Churches and World Vision aggressively renounce certain activities as improper “proselytism” they uphold the right to engage in “evangelizing” and “Christian witnessing”—*i.e.*, proper missionary activities.⁵⁰

Further, all of the codes promote general ideals or aspirational principles such as respect, honesty, openness, trust, humility, human dignity, love, cultural sensitivity, etc. While many codes simply list these values without expounding, several include examples, such as using respectful language,⁵¹ accepting that others have different beliefs,⁵² not offending other’s rights and religious sensibilities,⁵³ being sensitive to the local history, customs and culture so as to avoid actions considered disrespectful,⁵⁴ seeking to understand others’ beliefs,⁵⁵ and obeying local laws.⁵⁶ In addition, some codes also remind their audiences to recognize others religious freedom and privacy rights by accepting another person’s decision to choose or change religions,⁵⁷ abstaining from distributing literature at other

⁴⁷ Global Connections, *ibid.*; IRLA, *Guiding Principles for the Responsible Dissemination of Religion or Belief* (IRLA, Guiding Principles) <<http://irla.org/index.php?id=128>> accessed October 18 2010; Oslo Coalition, *Missionary Activities and Human Rights’ Recommended Ground Rules for Missionary Activities* (OC, Recommended Ground Rules) <<http://tinyurl.com/48mkge8>> accessed 18 October 2010; Norwegian Council for Mission and Evangelism (NORME, Codes of Conduct) (Oslo, March 1 2001) <<http://norme.no/om-norme/vedtekter/>> accessed 18 October 2010.

⁴⁸ OC, *Recommended Ground Rules* (*ibid.*); IRLA, *Guiding Principles* (*ibid.*).

⁴⁹ IRLA, *Guiding Principles* (*supra* note 47).

⁵⁰ World Council of Churches, ‘Towards Common Witness’ (WCC, Towards Common Witness) 6 <<http://tinyurl.com/6apmm6h>> accessed 18 October 2010; World Vision, *Ministry Policy* (*supra* note 46) 1, 14.

⁵¹ IRLA, *Guiding Principles* (*supra* note 47), principle 6; Evangelical Fellowship of India (EFI), ‘Statement on Mission Language,’ (1–3 June 2000) <<http://www.ad2000.org/re00620.htm>> 1.

⁵² The Inter Faith Network for the United Kingdom, ‘Building Good Relations with people of Different Faiths and Beliefs (witnessing with dignity means “[r]especting the right of others to disagree with us.”) (1993) 2 (Inter Faith Network, Building Good Relations) <<http://tinyurl.com/4vjchsd>> accessed 18 October 2010.

⁵³ WCC, *Assessing the Reality* (*supra* note 46); EFI, *Statement on Mission Language* (*supra* note 51) (“We accept the need to be sensitive in our language to show consideration for others and how they may perceive our words.”); OC, *Recommended Ground Rules* (*supra* note 47) (“Missionaries... should avoid a confrontational language of conquest.”); ‘Code of conduct for Danish Missionary Council’ (Dansk Missionsraad), *International Review of Mission* (2007) 371–376, 371 <<http://tinyurl.com/6d9z72l>> accessed 18 October 2010; NORME, *Codes of Conduct* (*supra* note 47).

⁵⁴ IRLA, *Guiding Principles* (*supra* note 47); OC, *Recommended Ground Rules* (*supra* note 47); World Vision, *Ministry Policy* (*supra* note 46) (“If particular actions or practices are offensive to local customs, staff are expected to adjust to prevailing norms unless doing so violates biblical principles.”).

⁵⁵ Inter Faith Network, *Building Good Relations* (*supra* note 52), at 1.

⁵⁶ OC, *Recommended Ground Rules* (*supra* note 47); Dansk Missionsraad (*supra* note 53).

⁵⁷ Christian Muslim Forum, ‘Ethical Guidelines for Christian and Muslim Witness in Britain’ (“[W]e will accept people’s [religious] choices without resentment.”) (24 June 2006) (Christian Muslim Forum,

religions' events,⁵⁸ not violating places of worship, sacred symbols or texts,⁵⁹ and recognizing individuals' right to be left alone.⁶⁰

All the codes also agree that certain practices are unacceptable. They uniformly denounce coercive tactics, including violence, intimidation, manipulation, cajolery, bribery or undue pressure to bring about conversion.⁶¹ While they differ in degree on what some might consider more subtle forms of "coercion" (see below), they unanimously condemn: offering money, aid or other benefit in exchange for listening to a religious message;⁶² exploiting individuals' financial, emotional, or intellectual vulnerabilities;⁶³ using any form of violence;⁶⁴ being

Ethical Guidelines) <<http://tinyurl.com/66ynf6j>> accessed 25 March 2011; IRLA, *Guiding Principles* (*supra* note 47) ("Everyone has the right to adopt or change religion or belief without coercion."); Islamic Council of Norway & Church of Norway Council on Ecumenical and International Relations (CNCEIR), *Joint Declaration* (denouncing use of harassment "in reaction to a person's conversion, or desire to convert, from one religion to another") (CNCEIR, Joint Declaration) <<http://tinyurl.com/4fcun7y>>; WCC, *Towards Common Witness* (*supra* note 50) ("No religious community should plead for its own religious liberty without active respect and reverence for the faith and basic rights of others.").

⁵⁸ CFM, *Affirmation of Christian Witness* (*supra* note 46).

⁵⁹ Pontifical Council for Interreligious Dialogue (PCID), World Council of Churches (WCC) & World Evangelical Alliance (WEA), 'Christian Witness in a Multi-Religious World: Recommendations for Guidelines,' (embargoed draft on file with authors) (PCID/WCC/WEA, Christian Witness in a Multi-Religious World).

⁶⁰ Inter Faith Network, *Building Good Relations* (*supra* note 52), at 2.

⁶¹ PCID/WCC/WEA, *Christian Witness in a Multi-Religious World* (*supra* note 59), at 2, 3; NORME, *Codes of Conduct* (*supra* note 47), at 2 ("[A]ll kind of use of power, threats, manipulation, or misguiding, in words or deeds are unacceptable."); Inter Faith Network, *Building Good Relations* (*supra* note 52), at 1 (discouraging "violent action or language, threats, manipulation, improper inducements, or the misuse of any kind of power"); CFM, *Affirmation on Christian Witness* (*supra* note 46), at 2 (encouraging churches to adopt "wholesome approaches to sharing the Gospel"); *Global Connections, Gracious Christian Responses* (*supra* note 46), para. 9 (stating there is no "place for pressure to encourage people to convert"); Anglican Communion Network for Inter Faith Concerns, 'Generous Love: The Truth of the Gospel and the Call to Dialogue, An Anglican Theology of Inter Faith Relations,' (NIFCON; containing the Anglican "ground rules for productive social life" in "religious plurality") (Anglican Consultative Council, London 2008), at 11 (NIFCON, Generous Love) <<http://tinyurl.com/4hy2sjl>> accessed 18 October 2010.

⁶² Conference of European Churches & Council of European Bishops' Conferences, 'Charta Oecumenica,' (2001), at 3 (Charta Oecumenica) <<http://tinyurl.com/4fdo4r5>> accessed 18 October 2010; World Vision, *Ministry Policy* (*supra* note 46), at 3, para 14; *Christian Muslim Forum, Ethical Guidelines* (*supra* note 57) 5; PCID/WCC/WEA, *Christian Witness in a Multi-Religious World* (*supra* note 59), at 2.

⁶³ WCC, *Assessing the Reality* (*supra* note 46), at 3 ("No faith organization should take advantage of vulnerable sections of society.") <<http://tinyurl.com/4bfgdys>> accessed 18 October 2010; WCC, 'Striving Together in Dialog' A Muslim-Christian Call to Reflection and Action, at 7 (discouraging humanitarian service done with ulterior motives) (WCC, Striving Together) <<http://tinyurl.com/482lndl>> accessed 18 October 2010; WCC, *Towards Common Witness* (*supra* note 50), at 5 (denouncing [e]xploiting people's loneliness, illness distress or even disillusionment with their own church"); Inter Faith Network, *Building Good Relations* (*supra* note 52), at 2 (encouraging missionaries to avoid exploiting people in vulnerable situations).

⁶⁴ IRLA, *Guiding Principles* (*supra* note 47), para. 10 (claiming right "to choose or reject a religion or belief without physical or psychological coercion."); NORME, *Codes of Conduct* (*supra* note 47), at 2 ("use of power, threats, manipulation" is "unacceptable."); Inter Faith Network, *Building Good Relations* (*supra* note 52), at 2 ("Avoid violent action").

dishonest about their beliefs or hiding true motives;⁶⁵ and misrepresenting others' beliefs.⁶⁶

Notwithstanding these many similarities, there are also differences in the codes about what these concepts mean. Some codes describe specific conduct as inappropriate that other codes characterize as acceptable. The codes also have different purposes and audiences, and different reliance on international law norms. These differences are significant and ultimately determine whether a code will be helpful in preventing or resolving conflicts.

2. Differences in Codes due to Drafters, Purpose and Audience

As illustrated in Table 1, many codes were drafted collaboratively by parties from multiple worldviews (“*inter-faith codes*”); others were drafted by faiths or networks representing a single worldview (“*intra-faith codes*”) or by non-governmental organizations (“*NGO codes*”). In nearly all of the codes, the identity of the drafters directly correlates with the purpose and audience of the code. The purpose and audience, in turn, bear significantly on the ultimate utility of the code in preventing and resolving conflicts.

Codes drafted by NGOs and inter-faith groups address multifaceted audiences and aim expressly to reduce conflicts by promoting a peaceful plurality of religions and beliefs. As a result, they are more accommodating of unfamiliar traditions and methods of religious persuasion.⁶⁷ By contrast, with important exceptions, intra-faith codes have a more insular focus: They tend to look inwardly to set expectations for their own constituencies, and thus, are less suitable for general application or to resolve cross-confessional conflicts.

A number of codes illustrate this difference in purpose and audience due to the code's drafters. The two codes written by NGOs—the Oslo Coalition code from 2009 and the International Religious Liberty Association (“IRLA”) code from 2000—both expressly intend to “strengthen religious liberty, tolerance, dialogue, and respect for equal rights for all”⁶⁸ by “preventing conflicts arising from missionary activities”.⁶⁹ While the Oslo Coalition code calls for internal reflection by networks and organizations engaged in propagating religion, the code's purpose

⁶⁵ Inter Faith Network, *Building Good Relations* (*supra* note 52), at 2; Christian Muslim Forum, *Ethical Guidelines* (*supra* note 57), at 6, 7; CFM, *Affirmation of Christian Witness* (*supra* note 46), at 2 (“Our desire to share Christ in any of our activities and programmes should not be hidden but made clear to people from the start.”).

⁶⁶ IRLA, *Guiding Principles* (*supra* note 47) 9 (“No one should knowingly make false statements regarding any aspect of other religions.”); Inter Faith Network, *Building Good Relations* (*supra* note 52), at 2.

⁶⁷ NGOs have a well-recognized role in facilitating self-regulatory schemes. See Tanja A. Borzel and Thomas Risse, ‘Public-Private Partnerships: Effective and Legitimate Tools of international Governance’, prepared for the Edgar Grande/Louis W. Pauly (eds.), *Complex Sovereignty: On the Reconstitution of Political Authority in the 21st Century, Berlin, Germany*, at 9 <<http://tinyurl.com/6yhrjas>> accessed 11 November 2010.

⁶⁸ IRLA, *Guiding Principles* (*supra* note 47), at 1.

⁶⁹ OC, *Recommended Ground Rules* (*supra* note 47), at 373.

is clearly to encourage those groups to consider the wider context, as defined by international conventions. Both Oslo Coalition and IRLA codes recognize the need to deal with the issues of “increasing globalisation and growing inter-religious and ideological strife”.⁷⁰ They are grounded in the human rights conventions and proffer their ethical guidelines as tools for balancing competing rights and interests relating to religious persuasion.⁷¹

The various inter-faith codes also aim to reduce conflicts across denominational boundaries. The 2009 code from the Christian Muslim Forum, for example, does not express the “theology of Christian evangelism or Muslim Da’wah,” but aims to bridge “diverse attitudes and approaches amongst us which can be controversial and raise questions” and offer “guidelines for good practice” for “the common good”.⁷²

In contrast, intra-faith codes, speaking to their own constituencies, express only the drafting faith’s philosophy of mission. The Anglican code *Generous Love* presents a “distinctively Anglican theology of inter-faith relations”.⁷³ The 2008 code *Gracious Christian Responses to Muslims in Britain Today* is for the “training of evangelical Christians” witnessing to Muslims.⁷⁴ The *Lausanne Covenant*, and the follow-on *Cape Town Covenant* issued in 2010, proclaim the evangelical vision of the movement sparked by the 1974 congress.⁷⁵ And the four codes prepared by missionary networks World Vision, GlobalCross Link, and the Norwegian and Danish mission councils set guidelines for the members and staff of those organisations.⁷⁶ Those codes do not address the practices of other faiths or seek to interpret overarching human rights.

Notably, *Charta Oecumenica* and two of the codes prepared by the World Council of Churches (“WCC”)⁷⁷ are ecumenical in nature. While prepared collaboratively by many participants, all participants shared a common worldview—mainline Christianity—and, far from promoting pluralism, the design of the codes is to unite constituents around a common, consensus-driven philosophy of mission. For instance, *Charta Oecumenica* (signed in 2001 by the Conference of

⁷⁰ IRLA, *Guiding Principles* (*supra* note 47), at 1.

⁷¹ OC, *Recommended Ground Rules* (*supra* note 47), at 374.

⁷² Christian Muslim Forum, *Ethical Guidelines* (*supra* note 57), at 1; *see also* Inter Faith Network, *Building Good Relations* (*supra* note 52) at 1 (suggesting guidelines for people of all faiths to “encourage and strengthen the relationships between traditions and religions”).

⁷³ NIFCON, *Generous Love* (*supra* note 61), at 4.

⁷⁴ Global Connections, *Gracious Christian Responses* (*supra* note 46), at 1.

⁷⁵ *See Lausanne Covenant* (*supra* note 2); Third Lausanne Congress on World Evangelization, ‘The Cape Town Commitment’ (28 January 2010).

⁷⁶ *See* Marv Newell, ‘Is Evangelism Ever a Sin? Ethical Evangelism in a Watching World’ (CrossGlobal Link, June 2009) 2 (Cross Global, Is Evangelism Ever a Sin?) <<http://tinyurl.com/6xg4b9u>> accessed 13 October 2010; World Vision, *Ministry Policy* (*supra* note 46); NORME, *Codes of Conduct* (*supra* note 47); Dansk Missionsraad (*supra* note 53).

⁷⁷ WCC, ‘Ecumenical Considerations for Dialogue and Relations with People of Other Religions’ (WCC, Ecumenical Considerations) <<http://tinyurl.com/4m4kvhq>> accessed 11 November 2010; WCC, *Towards Common Witness* (*supra* note 50).

European Churches and the Council of European Bishops' Conferences) intends "to promote an ecumenical culture of dialogue and co-operation" among participants, which include "almost all Orthodox, Protestant, Anglican, Old-Catholic and independent churches in Europe".⁷⁸ The code affirms a common faith in "one, holy, catholic and apostolic church," laments the barriers to unity caused by "different views of the church and its oneness, of the sacraments and ministries," and then commits, among other things, to "work towards the visible unity of the Church of Jesus Christ in the one faith, expressed in the mutual recognition of baptism and in eucharistic fellowship, as well as in common witness and service" by "entering into agreements with [other churches] and thus avoiding harmful competition and the risk of fresh divisions".⁷⁹

The WCC codes likewise promote ecumenical unity among the various branches of Christianity by "strengthening cross-confessional loyalties, always upholding, in discussion and joint action, the centrality of the common good".⁸⁰ The WCC code that most directly addresses the issue of religious persuasion is the 1997 code *Towards Common Witness—A Call to Adopt Responsible Relationships in Mission and to Renounce Proselytism*. The expressed intention of this code is:

(1) to make churches and Christians aware of the bitter reality of proselytism today; (2) to call those involved in proselytism to recognize its disastrous effects on church unity, relationships among Christians and the credibility of the gospel and, therefore, to renounce it; and (3) to encourage the churches and mission agencies to avoid all forms of competition in mission and to commit themselves anew to witness in unity.⁸¹

Not surprisingly given their commitment to unity, these ecumenical codes denounce missionary activities by Christians who target other Christians because,

⁷⁸ *Charta Oecumenica* (*supra* note 62), at 1.

⁷⁹ *Ibid.*, at 1–2.

⁸⁰ WCC, *Ecumenical Considerations* (*supra* note 77), at 32.

⁸¹ WCC, *Towards Common Witness* (*supra* note 50), at 3. The "bitter realities" identified by the WCC include:

- competitive missionary activities, especially in Central and Eastern Europe, Africa, Asia and Latin America, carried out independently by foreign missionary groups, churches and individuals, often directed at people already belonging and committed to one of the churches in those countries, and often leading to the establishment of parallel ecclesial structures;
- the re-emergence of tensions between the Orthodox and the Roman Catholic Church concerning the Eastern Rite Catholic churches;
- a sharp increase in the number of new mission agencies based in the South working independently in other parts of the world, often without contact with the churches in those countries;
- growing frustration among churches, especially in the South, whose members are being lured to other churches by offers of humanitarian aid;
- the humanitarian work done among immigrants, poor, lonely and uprooted people in big cities intended to influence them to change their denominational allegiance;
- the growth of religious fundamentalism and intolerance;
- the growing impact of sects and new religious movements in many parts of the world;
- the discrediting of established minority Christian churches in multifaith communities.

in their view, such activities promote discord and schism. In some respects, then, these codes are like the bylaws of cartels that encourage conformity to a common vision and stifle competition from in-fighting or new or unfamiliar voices.⁸² They discourage “sheep stealing,” encourage agreements among the churches to define canonical territories, and by implication marginalize groups that fail to live the standards stated in those codes. Indeed, by restricting religious competition to shore up an ecumenical alliance that rests on a common (triune) statement of faith, the codes are themselves a form of advocacy promoting a particular viewpoint (mainline Christianity) against inroads by alternative worldviews. As noted, such codes may be appropriate as means of regulating internal affairs, warning the faithful, or enhancing the faith’s reputation among those who hold similar views, but are not likely useful for building bridges with other faiths or worldviews that do not share their vision of unity.

Notably, it appears that the Vatican and WCC have shifted gradually from earlier codes that were highly suspicious of religious persuasion by outside groups to a position that accepts the reality that religious persuasion occurs but opposes forms of “bad mission,” no matter from within or outside. Joined by the World Evangelical Association, the Pontifical Council for Interreligious Dialogue and WCC have released a new code, “Christian Witness in a Multi-Religious World: Recommendations for Guidelines,” that affirms the “equal rights and responsibilities” of all human beings, denounces the use of religion for political ends or any form of religious persecution, avoids a theological statement on mission, shuns charged terms such as “proselytism,” and encourages churches and mission networks to “work with all people in mutual respect” to “address practical issues” of religious persuasion in a multi-religious world.⁸³

An important exception to the observation that intra-faith codes are inwardly focused are codes written by religious groups whose members are a faith minority. These codes tend to target—and reassure—the wider community. For example, the code of the Christian Federation of Malaysia reiterates its Christian mandate to share the faith with others but emphasizes the

... very great importance that we the Christian community in Malaysia obey GOD’S WORD in the HOLY BIBLE to love our neighbours as ourselves and to do all within our control to keep the peace and to work towards national integration. We pray to GOD for continuing and deepening harmony among all Malaysians.⁸⁴

⁸² See Baradaran-Robison, Scharffs & Sewell (*supra* note 32), at 930 (“[A] religious monopoly may become oppressive and with state aid stifle minority religions.”). To obtain the buy-in of minority religious groups a code of conduct cannot disproportionately benefit some stakeholders at the expense of others. Center for Financial Market Integrity, ‘Self-Regulation in Today’s Securities Markets’ (2007), at 19 <<http://www.cfapubs.org/doi/pdf/10.2469/cfb.v2007.n7.4819>> accessed November 11 2010. “[C]artel-like arrangements of self-regulatory bodies can work against the public interest” in a multiple ways. *Priest* (*supra* note 42), at 269.

⁸³ PCID/WCC/WEA, *Christian Witness in a Multi-Religious World* (*supra* note 59), at 2, 3.

⁸⁴ CFM, *Affirmation on Christian Witness* (*supra* note 46), at 1.

Likewise, the Evangelical Fellowship of India (a member of the World Evangelical Alliance) eschews any offensive language of mission, stating:

We accept the need to be sensitive in our language to show consideration for others and how they may perceive our words. This applies to what we say or write for any medium at all, including letters, reports, songs, prayers, and material on the Internet, for the boundaries between in-house and public domain are disappearing.⁸⁵

3. Differences in the Prescriptiveness of the Codes

The codes of conduct also differ in the degree to which they prescribe certain practices. The codes lie along a spectrum ranging from the very general and aspirational to the very specific. Reflecting their expansive audiences, NGO and inter-faith codes are the most permissive in terms of methods permitted by which a person of faith can share his or her beliefs.⁸⁶ At the other end of the spectrum, perhaps as a reflection of doctrinal debates often seen among members of the same religious families, intra-faith codes tend to have the starkest restrictions.

As noted above, most codes refer to the freedom to teach and practice one's faith as part of the right to "manifest" religion or belief. Neutral NGO codes do not address whether a person *should* propagate his or her beliefs. In contrast, intra-faith codes, which target their member constituencies, nearly always advance a particular viewpoint. Some codes strongly advocate the "responsibility to evangelise"⁸⁷ while others (mainly ecumenical codes) counsel restraint and express concern that so many churches are more focused on "witnessing" rather than "dialogue". One code states: "all should heal themselves from the obsession of converting others".⁸⁸

In addition, while NGO and inter-faith codes generally direct that religious persuasion be fair, truthful and respectful of the feelings of targets, the intra-faith codes include sometimes stringent guidelines for what types of conduct is proper versus improper, consistent with their different perspectives of mission. For instance, ecumenical codes that advocate for a common approach to mission that downplays variety among churches classify as "improper" the attempt to "present[]

⁸⁵ EFI, *Statement on Mission Language* (*supra* note 51), at 1.

⁸⁶ The code of the Christian Muslim Forum is an example: Just a page long, it highlights ten general principles to which those involved in religious persuasion should aspire. Christian Muslim Forum, *Ethical Guidelines* (*supra* note 57).

⁸⁷ *Lausanne Covenant* (*supra* note 2), at 8, 9 ('[T]he responsibility to evangelise belongs to the whole body of Christ. All churches should therefore be asking God and themselves what they should be doing both to reach their own area and to send missionaries to other parts of the world. . . . Missionaries should flow ever more freely. . . . The goal should be. . . that every person will have the opportunity to hear, understand, and to receive the good news.'). *see also, e.g.*, Global Connections, *Gracious Christian Responses* (*supra* note 46), at para. 8 ("Go and make disciples of all nations' . . . Matthew 28:19, stands as our mandate.").

⁸⁸ WCC, *Assessing the Reality* (*supra* note 46), at 3; WCC, *Ecumenical Considerations* (*supra* note 77), at 30 (stating that those who are "primarily interested in the growth of their own community through various forms of mission" damage relationships and successful dialogue).

one's church or confession as 'the true church' and its teachings as 'the right faith' or to persuade those moving from one church to another "to be rebaptized".⁸⁹ This conduct, those codes maintain, is "a scandal and counterwitness"⁹⁰—a stance that contrasts sharply with the Oslo Coalition's recognition that "[m]aking truth claims is inherent in missionary activities".⁹¹ By its very nature, religious persuasion carries at least the implied message that the advocate believes he or she has something to offer that is better or truer than other beliefs.⁹²

Likewise, the ecumenical codes and many inter-faith codes denounce disparaging others' beliefs. The prohibition includes not only mischaracterizing tenets or comparing one's own best ideals with the worst of others⁹³ but (in some codes) also includes mere criticisms that might offend others' feelings.⁹⁴ The WCC's *Towards Common Witness* lists as examples of improper criticisms accusing those who venerate icons of worshipping idols or condemning the praying for the dead.⁹⁵ Again this contrasts to a degree with the Oslo Coalition code, which provides: "In the interest of freedom of intellect, criticism of other religions cannot be prohibited, but should be limited to well-reasoned, persuasive critique and rational comparison between alternative faiths," and "Hostility and ridicule are unacceptable, but *well-reasoned, persuasive critique should never be so*."⁹⁶

Another difference in the codes is their level of specificity. All the codes denounce coercion, and all agree it is coercive to threaten physical violence or offer economic or other tangible benefits in return for listening to or embracing a religion.⁹⁷ But beyond that general postulate, there is little guidance and significant controversy as to what "coercion" might entail. Some codes merely instruct their members to be sensitive and courteous, avoid imposing themselves upon

⁸⁹ WCC, *Towards Common Witness* (supra note 50), at 3–5; see also *Charta Oecumenica* (supra note 62), at 2.

⁹⁰ WCC, *ibid.*

⁹¹ OC, *Recommended Ground Rules* (supra note 47), at para. 2.1.1.

⁹² *Lausanne Covenant* (supra note 2), at 2, 3; Juan Navarro Floria & Octavio Lo Prete, *Proselitismo religioso y libertad religiosa: una visión desde América Latina*, at 16 (February 2010) (unpublished manuscript on file with authors).

⁹³ *Inter Faith Network, Building Good Relations* (supra note 52), at 2; WCC, *Assessing the Reality* (supra note 46), at 2; WCC, *Towards Common Witness* (supra note 50), at 5; Christian Muslim Forum, *Ethical Guidelines* (supra note 57), at 1; see also Global Connections, *Gracious Christian Responses* (supra note 46), at 2.

⁹⁴ Cross Global, *Is Evangelism Ever a Sin?* (supra note 76), at 3 ("Evangelism is sin when it is insensitive to peoples' feelings").

⁹⁵ WCC, *Towards Common Witness* (supra note 50), at 5.

⁹⁶ OC, *Recommended Ground Rules* (supra note 47), at 375 (emphasis added).

⁹⁷ *Inter Faith Network, Building Good Relations* (supra note 62), at 1; Christian Muslim Forum, *Ethical Guidelines* (supra note 57), at 1; IRLA, *Guiding Principles* (supra note 47); CFM, *Affirmation on Christian Witness* (supra note 46); NORME, *Codes of Conduct* (supra note 47), at 2; Dansk Missionsraad (supra note 53), at 371; NIFCON, *Generous Love* (supra note 61), at 12; Global Connections, *Gracious Christian Responses* (supra note 46), at 2; WCC, *Assessing the Reality* (supra note 46); OC, *Recommended Ground Rules* (supra note 47), at 376; WCC, *Towards Common Witness* (supra note 50), at 2; World Vision, *Ministry Policy* (supra note 46), at para. 14; Cross Global, *Is Evangelism Ever a Sin?* (supra note 76), at 2.

vulnerable populations (such as minor children, the disabled, the poor, women in some countries, refugees and asylum seekers),⁹⁸ and avoid violence.⁹⁹ The Christian Federation of Malaysia simply states that “everyone ought to refrain from any manner of coercion or persuasion that could be regarded as dishonourable or unworthy,” and the Norwegian *Joint Declaration on the Freedom of Religion and the Right to Conversion* notes that missionary activities must be done “according to ethically accepted standards”.¹⁰⁰ However, neither code offers examples as to what may be “dishonourable,” “unworthy” or “unethical,” leaving open the possibility of inconsistent interpretations.

As an example of the resulting grey area, many religious communities offer fellowship or engage in charity as part of their religious outreach, which could be viewed by some as coercion even if that is not the intent.¹⁰¹ There is a need to differentiate normal charitable activity and mutual support within a group from improper economic inducements. While eschewing exploitation and allurements, the new Pontifical Council for Interreligious Dialogue, World Council of Churches and World Evangelical Alliance code emphasizes that “[a]cts of service, such as providing education, health care, relief services, and acts of justice and advocacy are an integral part of witnessing the gospel.”¹⁰² Similarly, the Cross-Global Link code provides that “compassion, health and help ministries” accompanying religious persuasion “should never be construed as manipulative and coercive by those we are seeking to reach.”¹⁰³

There is also controversy among the relatively few codes that give examples of what constitutes “coercion”. *Towards Common Witness* lists a number of practices, including some forms of house calls and media campaigns, as coercive.¹⁰⁴ Both of those activities, however, are approved by other codes if done with respect. The

⁹⁸ WCC, *Assessing the Reality* (supra note 46), at 3; Christian Muslim Forum, *Ethical Guidelines* (supra note 57), at 1; IRLA, *Guiding Principles* (supra note 47) at 6–7; Christian Muslim Forum, *Ethical Guidelines* (supra note 57) (“Sharing our faith should never be coercive; this is especially important when working with children, young people and vulnerable adults.” Those facing personal crises should not be manipulated in order to gain converts.).

⁹⁹ Inter Faith Network, *Building Good Relations* (supra note 52), at 2 (speaking of “avoiding violent action or language, threats, manipulation, improper inducements, or the misuse of any kind of power”); Christian Muslim Forum, *Ethical Guidelines* (supra note 57) (people should not be forced to remain in the same faith or be harassed after adopting a new faith).

¹⁰⁰ CNCEIR, *Joint Declaration* (supra note 57); see also WCC, *Assessing the Reality* (supra note 46) (stating that all should ensure that conversion by “unethical” means are discouraged and rejected”).

¹⁰¹ Navarro et al. (supra note 92).

¹⁰² PCID/WCC/WEA, *Christian Witness in a Multi-Religious World* (supra note 59), at 2.

¹⁰³ Cross Global, *Is Evangelism Ever a Sin?* (supra note 76), at 2. Importantly, the major economic disadvantages assumed by converts—disadvantages that evidence the sincerity of their conversions—are often overlooked. No attention is paid to the fact that a convert often contributes to his or her new community and in some countries may lose jobs, lose favoured status (e.g., in India, an “untouchable” who converts to Christianity may lose eligibility for significant affirmative action benefits), lose family ties, face discrimination, and encounter enormous pressure to reconvert to their former faith.

¹⁰⁴ WCC, *Towards Common Witness* (supra note 50), at 5.

Oslo Coalition endorses “door-to-door canvassing” provided it “is done in ways that respect the right to privacy and are also acceptable according to local social norms,”¹⁰⁵ and the codes of the Norwegian and Danish missionary councils encourage the responsible use of media.¹⁰⁶

Finally, there are differences among the codes regarding the appropriate response to local law and culture. A number of codes counsel missionaries to develop cultural sensitivity and respect for local traditions: “[I]n every cultural situation we must exercise sensitivity to our audience (1 Cor. 9:19–23).”¹⁰⁷ And: “If particular actions or practices are offensive to local customs, staff are expected to adjust to prevailing norms unless doing so violates biblical principles.”¹⁰⁸ In India specifically, the *Evangelical Fellowship of India* condemns the use of language that offends the dominant culture.¹⁰⁹ However, a number of codes are unbending in their commitment to the right to manifest religion through teaching, and indeed, support undercover or extralegal activities when necessary: “Where the freedom of the Church is repressed or Christians are oppressed, we recognise that we are still called to the costly vocation of offering love and prayer to all.”¹¹⁰ Likewise, “[t]he undertaking of undercover missionary activities is not recommended. The laws of a country should be respected. However, when freedom of religion or belief of the target group is seriously violated, such activities could be considered.”¹¹¹

In sum, all these substantive differences in the codes appear to follow from their differences in author, audience and purpose. Though not always, NGO and inter-faith codes tend to be more neutral and more permissive of religious persuasion; intra-faith codes, and especially ecumenical codes, are more prescriptive and less permissive.

4. Differences in Framework

Another important distinction among the codes is their rhetorical framework. Because the NGO and inter-faith codes target a broad audience, they base their

¹⁰⁵ OC, *Recommended Ground Rules* (*supra* note 47), at 375; see *Kokkinakis v. Greece*, No. 14307/88, (1993) ECHR 20.

¹⁰⁶ Dansk Missionsraad (*supra* note 53), at 372; NORME, *Codes of Conduct* (*supra* note 47), at 3.

¹⁰⁷ Cross Global, *Is Evangelism Ever a Sin?* (*supra* note 76), at 3.

¹⁰⁸ World Vision, *Ministry Policy* (*supra* note 46), at para. 23; see also NORME, *Codes of Conduct* (*supra* note 47), at 1–2; Dansk Missionsraad (*supra* note 53), at 371.

¹⁰⁹ EFI, *Statement on Mission Language* (*supra* note 51), at 1, 2 (“We accept the need to be sensitive in our language to show consideration for others and how they may perceive our words.” “We also ask the church outside of India to be aware that inappropriate mission language not only offends people of other faiths, but also brings harm to Christians here.”).

¹¹⁰ NIFCON, *Generous Love* (*supra* note 61), at 10; see also *Lausanne Covenant* (*supra* note 2), at 7 para. 13 (“[W]e refuse to be intimidated by [the] fate [of those who have been unjustly imprisoned for missionary activities]. God helping us, we too will seek to stand against injustice and to remain faithful to the gospel, whatever the cost.”).

¹¹¹ OC, *Recommended Ground Rules* (*supra* note 47), at para. 2.1.2.

statements upon internationally accepted declarations on human rights and religious liberties or other neutral principles. In contrast, the intra-faith codes are generally based in the faith's scripture.

For example, as noted above, IRLA and the Oslo Coalition cite various UN declarations that declare an individual's right to practice and teach according to his or her individual religion or beliefs. These citations to international law form the basis of those codes. As the Oslo Coalition states, "[w]ith human rights as a basis, the [code] aims to contribute to preventing conflicts arising from missionary activities," and the guidelines stated in the code "are grounded on the idea that the human rights conventions should provide the framework for missionary activities".¹¹² Inter-faith codes also naturally gravitate to neutral, non-sectarian language.¹¹³ The universal ideals of human rights, backed by political commitments, provide a common platform for cross-cultural discussion.

In contrast, virtually all the intra-faith codes—*Cape Town Covenant*, *An Affirmation on Christian Witness*, *Ecumenical Considerations for Dialogue*, *Generous Love*, *Gracious Christian Responses to Muslims in Britain Today*, *Lausanne Covenant*, *Toward Common Witness*, and others—cite the New Testament to define their purpose and classify activities as proper or improper.¹¹⁴ *Charta Oecumenica* cites the New Testament and the Nicene Creed of 381.¹¹⁵ World Vision's *Ministry Policy on Witness to Jesus Christ* emphasizes its Christian values.¹¹⁶

Scripture-based codes are highly convincing to the faithful—much more potent than neutral codes to those who believe God's commandments predominate over those of men. However, an assertion based on one's understanding of the commands of God:

convinces only those who share the insight itself. It's positively hopeless against . . . people who have no doubt that God's will is something completely different. In fact, it seems almost self-defeating: it likely will fail to convince the very 'paganish' and the 'antichristian consciences' it is destined to attract.¹¹⁷

Thus, codes based in scripture carry little weight for those of other worldviews (including those with different interpretations of the same scripture) and are alone unlikely to succeed in preventing or resolving cross-culture or inter-faith conflicts.

¹¹² *Ibid.*, at 373–374.

¹¹³ See generally Christian Muslim Forum, *Ethical Guidelines* (*supra* note 57); CNCEIR, *Joint Declaration* (*supra* note 57); Inter Faith Network, *Building Good Relations* (*supra* note 52); WCC, *Assessing the Reality* (*supra* note 46), at 2.

¹¹⁴ See e.g. CFM, *Affirmation on Christian Witness* (*supra* note 46); NIFCON, *Generous Love* (*supra* note 61), at 1.

¹¹⁵ *Charta Oecumenica* (*supra* note 62), at 2 (Bible citations throughout; Nicene Creed references).

¹¹⁶ World Vision, *Ministry Policy* (*supra* note 46).

¹¹⁷ Kevin Seamus Hasson, *The Right to Be Wrong* (New York: Encounter Books, 2005), at 64.

B. *The Differences Predict the Codes' Effectiveness*

All of these material differences (summarized in Table 2) impact the codes' effectiveness as tools for conflict resolution. The differences indicate that NGO and inter-faith codes are much more likely to be effective than intra-faith codes in preventing and resolving conflicts because they are more inclusive, secure participants' buy-in, harness reputational self-interests, and can be adapted to context-specific applications. Indeed, our conclusion is bolstered by observations about voluntary codes of conduct in other, analogous contexts. As one commentator observed, "multi-stakeholder codes" (*i.e.*, codes developed by participants from multiple viewpoints) are much more likely to be consistent with law norms and inclusive of minority voices than codes that are "unilaterally developed" by single actors or associations.¹¹⁸

To be clear, there is a place for intra-faith codes. A particular religious institution or network may elect to take a "high road" and regulate (or curtail) their own activities beyond what is required by international law norms. Indeed, as noted above, there is strong incentive for religious groups to self-police to avoid backlashes, enhance their reputation and build public trust. For the stability of their own communities, religious leaders naturally act to curb abuses and may voluntarily withdraw from even benign forms of religious persuasion, even when international law norms do not require a withdrawal.¹¹⁹ Some religious communities

Table 2

NGO and Inter-faith Codes	Intra-faith Codes
➤ Intended for conflict resolution or cross-cultural cooperation	➤ Inwardly focused on own constituencies
➤ Less prescriptive	➤ More prescriptive
➤ More respectful of other traditions and methods of religious persuasion	➤ Less accepting of practices other than their own
➤ More likely to be grounded upon international law	➤ More dogmatic

¹¹⁸ Jenkins (*supra* note 44), at iv–v.

¹¹⁹ As an example, see Cross Global, *Is Evangelism Ever a Sin?* (*supra* note 76): "Outsiders are looking in on mission activity, waiting to pounce on missionaries with the slightest excuse if it can be inferred they use ethically questionable evangelism. No matter how thin a case they may bring, they are watching and ready to accuse. This being the case, it is incumbent on missionaries to make concerted efforts to keep evangelism above reproach."

act more aggressively in this regard than others. Moreover, it is perfectly acceptable for a religious group to warn its flock against what it perceives as “wolves in sheep’s clothing”.

But codes of this nature tend not to be helpful in preventing or resolving *cross-cultural* and *cross-confessional* conflicts and should not be viewed as best practices or enforced as customary law incumbent upon all. Close regulation of religious choices according to a single worldview risks delegitimizing the codes in the minds of significant populations. If promoted as universal best practices, as opposed to house rules for the particular confession, these codes, like aggressive state restrictions, can also perpetuate the religious violence cycle by marginalizing minority voices. They should not be confused with neutral codes, grounded in human rights, that attempt objectively to outline guidelines applicable to all faiths. The most successful codes for conflict-resolution are rooted in international law, respect the methods of multiple traditions, and address a general (rather than internal) audience.

V. Compliance with International Law

Beyond the comparative differences in the types of codes, for the codes to be effective in helping to resolve conflicts they must be legitimate across cultures in a pluralistic world. A key to legitimacy is compliance with accepted international law norms.¹²⁰ Codes that are inconsistent with fundamental rights of religious freedom and expression are ultimately unhelpful to conflict resolution and, as noted, may in fact further exacerbate violence.¹²¹ If advanced as universal best practices by which to judge all those engaged in religious persuasion, such codes can (sometimes deceptively) skew general expectations about the exercise of fundamental rights, spurring retaliations.¹²² Accordingly, we next evaluate whether the codes comply with the major instruments relating to the right to freedom of religion or belief and the right to free expression. We find that provisions of some intra-faith codes are inconsistent with international law norms.

¹²⁰ “In addition to its affinity to consensus, legitimacy is closely related to a number of other international norms.” Legitimacy is a composite of, and an accommodation between, legality, morality and constitutionality. Ian Clark, *Legitimacy in International Society* (New York: OUP, 2007), at 207; Manuela Picq, ‘The Diplomacy of Human Rights: The Convergence of Norms and Interests in Brazil’ (Paper presented at the annual meeting of the International Studies Association, Honolulu, Hawaii, 5 March 2005) <<http://tinyurl.com/4p5us6q>> accessed 13 October 2010.

¹²¹ International law norms are “perceived as possessing legitimacy, ‘a property . . . which itself exerts a pull toward compliance.’” David Graham and Ngaire Woods, ‘Making Corporate Self-Regulation Effective in Developing Countries’, 34:5 *World Development* (2006), at 868–883, 870 (citation omitted; ellipsis in original).

¹²² Grim, *Religious Freedom* (*supra* note 22), at 5 (describing the “religious violence cycle”).

A. Fundamental Human Rights Relating to Religious Persuasion

A host of fundamental human rights bear on religious persuasion, including, on the one hand:

- the right to “freedom of thought, conscience and religion”;¹²³
- the right to “manifest” religion or belief through “teaching, practice, worship and observance”;¹²⁴
- the right to free expression;¹²⁵ and:
- the right of a target to “change” religions¹²⁶ or to “have” or “adopt”¹²⁷ a religion or belief of one’s choice.

And on the other hand:

- the right to “hold opinions without interference”;¹²⁸
- the right of indigenous peoples to protect their cultures from external forces;¹²⁹
- and:
- (as claimed by some) an overarching “right to be left alone”.¹³⁰

These rights have been interpreted by international tribunals, such as the European Court of Human Rights, whose decisions influence states far beyond Europe.¹³¹

Key cases relating to religious persuasion include *Kokkinakis v. Greece* (1993), which involved a Jehovah’s Witness who canvassed the home of the local Orthodox cantor and was convicted of “proselytism”;¹³² *Larissis and Others v. Greece* (1998), involving military officers convicted under the same anti-proselytism law for sharing their Pentecostal faith with both subordinates and civilians;¹³³ and

¹²³ Article 18 ICCPR; Article 18 UDHR.

¹²⁴ *Id.*

¹²⁵ Article 19.2 ICCPR.

¹²⁶ Article 18 UDHR.

¹²⁷ Article 18 ICCPR; Article 1 of the Declaration on the Elimination of all Forms of Discrimination Based on Religion and Belief. Notably, the language “to have or to adopt” in the ICCPR was a political compromise resulting from Islamic objections to explicit reference to a right to “change” one’s religion or belief. However, the compromised was balanced by Article 18(2) in the ICCPR, which provides that “No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice,” which was intended to prevent coercive measures that would forestall conversion. See Generally Paul Taylor, *Freedom of Religion: U.N. and European Human Rights Law and Practice* (New York: CUP, 2005).

¹²⁸ Article 19.1 ICCPR.

¹²⁹ DRIP (*supra* note 17).

¹³⁰ Nichols (*supra* note 18), at 565; Volio (*supra* note 18), at 190–193.

¹³¹ Lerner (*supra* note 1), at 114 (discussing the impact of the *Kokkinakis* case).

¹³² *Kokkinakis* (*supra* note 105).

¹³³ *Larissis and Others v. Greece*, 24 February 2008, ECHR, No. 23372/94.

Nolan and K. v. Russia (2009), in which a missionary from the Unification Church was denied re-entry to Russia based on national security concerns, including the need to “‘oppos[e] the negative influence of foreign religious organisations and missionaries’”.¹³⁴ Significantly, the European Court of Human Rights *overturned* the convictions and denial of re-entry in *all cases*, except for the convictions of military officers relating to proselytism of their subordinates.¹³⁵ These cases speak directly to the conflict of rights resulting from religious persuasion, and by authoritatively interpreting the governing human rights they map the outer boundaries within which the codes of conduct legitimately can self-regulate.

Underlying all the cases is a fundamental commitment to the sanctity of the freedom of thought, conscience and religion:

It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.¹³⁶

Indeed, the Court in *Nolan* cited precisely this basis to hold that national security concerns did not justify infringing Mr. Nolan’s freedom of religion and belief:

Far from being an accidental omission, the non-inclusion of [national security as a ground for limitation] reflects the primordial importance of religious pluralism as “one of the foundations of a ‘democratic society’ within the meaning of the Convention” and the fact that a State cannot dictate what a person believes or take coercive steps to make him change his beliefs.¹³⁷

Established human rights presuppose a robust marketplace of religious (and non-religious) ideas.¹³⁸ The ability to freely decide matters of consciences presumes access to a range of viewpoints. Religious persuasion offers a choice in the market. So, the same freedom of conscience that gives listeners the right to accept or reject ideas according to their beliefs gives religious advocates the right to manifest their religious beliefs according to theirs.¹³⁹

Further, the cases illustrate the balance to be achieved among potentially competing human rights. In *Kokkinakis* and *Larissis*, Greece’s aim in criminalizing “proselytism” was to protect the rights and freedoms of others, but the Court held that generalized notions of privacy yielded to the right to manifest religion (including “the right to try to convince one’s neighbour”) absent a showing of

¹³⁴ *Nolan and K v. Russia*, No. 2512/04, 2009.

¹³⁵ For a discussion of these cases and the key international law norms, see Richards, Svendsen & Bless (*supra* note 38).

¹³⁶ *Kokkinakis* (*supra* note 105), at 36; *Larissis* (*supra* note 133) 38; *Nolan* (*supra* note 134) 61; see also *Serif v. Greece*, 14 December 1999, ECHR, No. 38178/97.

¹³⁷ *Nolan* (*supra* note 134), at 73 (citations omitted).

¹³⁸ Baradaran-Robison, Scharffs and Sewell (*supra* note 32), at 931.

¹³⁹ Cf. Hasson (*supra* note 117), at 33.

“improper” conduct.¹⁴⁰ Obviously, some governmental protections against brain-washing, bribery or other forms of coercion are appropriate to preserve the freedom of choice.¹⁴¹ As *Larissis* makes clear, the state is entitled to protect those—like military subordinates and presumably others in formalized hierarchical relationships, incapacitated persons (e.g., minors in school) and captive audiences (e.g., inmates in prison)¹⁴²—whose ability to choose is substantially diminished by their particular circumstances.

But line-drawing is difficult, as *Kokkinakis* illustrates. Significant grey area remains as to precisely what conduct constitutes coercion. While a majority of the *Kokkinakis* Court held that the encounter at the cantor’s home (which lasted ten to fifteen minutes and consisted of Mr. Kokkinakis knocking at the door, being admitted by the cantor’s wife, reading from scripture, encouraging her to change her Orthodox beliefs, and then leaving when he concluded his message)¹⁴³ did not involve coercion, dissenting judges strenuously disagreed, stating that Mr. Kokkinakis’s conduct amounted to the “rape of the belief of others” and was “fanatic[al],” “coercive” and “unacceptable psychological techniques”.¹⁴⁴ At a minimum, however, it is clear from *Larissis* (where missionaries berated civilians, took advantage of their weaknesses, and importuned them to convert when they were emotionally vulnerable) that absent unusual circumstances (e.g., military hierarchy) the Court is reluctant to find coercion where the conduct does not unduly restrict free choice.¹⁴⁵ Moreover, restrictions must be proportionate to the legitimate aims of the state and leave open ample, meaningful opportunities of manifestation.¹⁴⁶

In sum, a state may fear hostility among competing groups in society but the role of authorities is “not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other”.¹⁴⁷ The same balance applies to codes of conduct. To be legitimate, codes must be “compatible with respect for freedom of thought, conscience or religion”, which safeguards non-coercive methods of religious persuasion.¹⁴⁸

¹⁴⁰ *Kokkinakis* (*supra* note 105), at 48–49.

¹⁴¹ *Ibid.*, at 48; *Larissis* (*supra* note 133), at 45.

¹⁴² See Niraj Nathwani, ‘Islamic Headscarves and Human Rights’, 25 *Netherlands Quarterly of Human Rights* (2007); see also Barry Lynn, Marc D. Stern and Oliver S. Thomas (eds.) *The Right to Religious Liberty* (Carbondale: Southern Illinois University Press, 1995), at 21–22.

¹⁴³ *Kokkinakis* (*supra* note 105), at 7, 10.

¹⁴⁴ *Ibid.*, at 38; Lerner (*supra* note 1), at 553; Stahnke (*supra* note 20), at 645–46.

¹⁴⁵ *Larissis* (*supra* note 133), at 59.

¹⁴⁶ *Kokkinakis* (*supra* note 105), at 49; *Larissis* (*supra* note 133), at 46. In assessing proportionality, “the Court must weigh the requirements of the protection of the rights and liberties of others against the conduct of which the application [stands] accused” (*Kokkinakis*, *supra* note 104, at 47). The nature and severity of the punishment is relevant to this analysis (*Larissis*, *supra* note 133, at 54). See also Human Rights Committee’s General Comment No. 22, para 8.

¹⁴⁷ *Serif* (*supra* note 136), at 53 (discussing tensions between Muslims and Christians and between Greece and Turkey).

¹⁴⁸ *Kokkinakis* (*supra* note 105), at 48–49.

B. Analysis of Key Provisions of the Codes of Conduct in the Light of International Law Norms

Virtually all of the codes of conduct pay homage to fundamental human rights and many expressly cite to the underlying international instruments.¹⁴⁹ However, some codes contain provisions that are incompatible with international norms.

Most critically, given the European Court of Human Rights decisions discussed above, codes that discourage new or emerging voices or over-restrict religious persuasion are troublesome because they curtail the marketplace of ideas that is essential to freedom of thought, conscience and religion. A code of conduct is legitimate and provides a tool for conflict resolution only so long as it preserves this marketplace of ideas. A failure to do so not only undermines a code's effectiveness but endangers the very peace the codes seek to promote. "[T]he attempt to restrict fair religious competition results in more violence and conflict, not less."¹⁵⁰ This is because:

dissent, and therefore proselytism and conversion, are functions of conscience. So you can harass dissidents and persecute them; you can drive proselytism underground for a time. But you can't ever really silence it. Conscience is far too stubborn. And driving it underground increases its divisiveness when it resurfaces.¹⁵¹

The ecumenical codes (*Charta Oecumenica*, *Towards Common Witness* and *Ecumenical Considerations for Dialogue and Relations with People of Other Religions*) are again of greatest concern. They advocate a common faith (mainline Christianity), enforce conformity, and hedge against inroads by alternative worldviews. In other words, they restrict religious competition to shore up an ecumenical alliance, and, if advanced as universal best practices by which to judge everyone engaged in religious persuasion, would infringe the freedom of religion or belief of both missionaries and targets.

Also concerning are codes that characterize as "improper" forms of religious persuasion that are consistent with international law. While there is a significant grey zone in the degree or kind of pressure needed to constitute "coercion," the

¹⁴⁹ See OC, *Recommended Ground Rules* (supra note 47); IRLA, *Guiding Principles* (supra note 47); Global Connections, *Gracious Christian Responses* (supra note 46); World Vision, *Ministry Policy* (supra note 46); WCC, *Towards common witness* (supra note 50); CFM, *Affirmation of Christian Witness* (supra note 46); *Lausanne Covenant* (supra note 2); CNCEIR, *Joint Declaration* (supra note 57); WCC, *Assessing the Reality* (supra note 46); WCC, *Striving Together* (supra note 63).

¹⁵⁰ Grim, *Religious Freedom* (supra note 22), at 5.

¹⁵¹ Hasson (supra note 117), at 35. "A mind that's seeking the ultimate truth can't with integrity settle for something unconvincing just because it's being pressured. No matter how transcendent the truth, forcing it on people violates their dignity as intelligent beings," and "when something quintessentially human requires freedom in order to be authentic, it's wrong to rob it of its authenticity by robbing it of its freedom": Hasson (supra note 177), at 123 and 124.

European Court of Human Rights cases provide a baseline that conduct may be outlawed only when it significantly infringes the target's freedom of choice. In overturning the conviction of Pentecostal military officers who berated their civilian targets, criticized Orthodox Christian beliefs, and importuned them to convert at a time when the civilians were particularly vulnerable, the *Larissis* Court found it "of decisive significance that the civilians whom the applicants attempted to convert were not subject to pressures and constraints of the same kind as the airmen."¹⁵²

Several codes impose restrictions at odds with these norms. The World Council of Churches' *Towards Common Witness* classifies as improper all the conduct at issue in *Kokkinakis* and *Larissis*: door-to-door canvassing, claiming the "truth" of one's teachings, and criticizing others' beliefs.¹⁵³ Other intra-faith codes (e.g., *Ecumenical Considerations for Dialogue and Relations with People of Other Religions*) also denounce disparaging others' beliefs or offending religious sensibilities. Yet others (*Is Evangelism Ever a Sin?*, *Evangelical Fellowship of India*, *Ministry Policy on Witness to Jesus Christ*, *Codes of Conduct—for Norwegian Mission Organisations with international involvement*, and *Code of conduct for Danish Missionary Council*) appear to subordinate internationally guaranteed rights to local cultural sensitivities. However, the cases discussed above recognize the principle, stated in the Oslo Coalition code, that "[m]aking truth claims is inherent in missionary activities" and while "[h]ostility and ridicule are unacceptable," "criticism of other religions cannot be prohibited".¹⁵⁴

To be clear, much greater precision is needed in assessing what competing rights can counterbalance the right to engage in religious persuasion. For example, there is a growing emphasis on the right to privacy.¹⁵⁵ As the right of privacy expands to prevent any intrusions into the private sector, it increasingly threatens to limit traditional missionary methods. It may come to embrace the right to maintain one's own opinions without interference—a right to be left alone and, in the Buddhist tradition, to pursue the quest for harmony.¹⁵⁶ Other rights (e.g., the right of indigenous peoples to preserve their cultures) have a similar impact.¹⁵⁷

¹⁵² *Larissis* (*supra* note 133), at 59 (alterations in original).

¹⁵³ See WCC, *Towards Common Witness* (*supra* note 2), at 5.

¹⁵⁴ OC, *Recommended Ground Rules* (*supra* note 47), at 5.

¹⁵⁵ Nichols (*supra* note 18), at 565.

¹⁵⁶ Stahnke (*supra* note 1), at 280 (footnotes omitted); Lerner (*supra* note 1), at 484–485 (discussing Articles 17 and 19 (1) of the ICCPR and Article 12 of the UDHR).

¹⁵⁷ As the legitimate bases for regulating the right to manifest are interpreted more broadly the inevitable result is an erosion of religious freedom protections. Indeed, states have invoked a number of interests to justify restrictive legislation, such as safeguarding dominant religions or political ideologies (and thus the state's identity), preserving the public order, and regulating the religious "marketplace" to prevent fraud or "uninformed" choices. See Stahnke (*supra* note 1), at 290–299 and 307–328 (listing interests and providing examples from Malaysia, China, Ukraine, India, and Western Europe); Annual Report of the United States Commission on International Religious Freedom, May 2009, 36 (quotations omitted) (2009 Report) <www.uscirf.gov> accessed 18 October 2010 (discussing Iran). Such regulations "can

Yet, *Kokkinakis* clarifies that, absent a showing of coercion or manipulation, the balance ought to favour the right to manifest and the right to have or adopt a belief of one's choice, as aspects of the inalienable freedom of conscience.¹⁵⁸ The negative freedom of religion is clearly violated by coercion and force, but it is questionable whether the simple manifestation of freedom of religion without coercion or force can ever violate this negative right.¹⁵⁹

Further, a number of European Court of Human Rights cases have affirmed the ability of states to restrict “expressions that seek to spread, incite or justify hatred based on intolerance, including religious intolerance,” because such expressions “do not enjoy the protection” afforded by international instruments.¹⁶⁰ Preserving one's “freedom from injury to religious feelings” (the infliction of which is criminalized in Austria) and prohibiting blasphemy (as in the United Kingdom and Iran) have been upheld as sufficient basis for restrictions on religious expressions.¹⁶¹ However, an offense must be more than egg-shell sensitivity. Undergirding the Court's jurisprudence is the bedrock principle that liberty can be limited only if its exercise harms others: Being offended is different from being harmed, and harm should be established objectively.¹⁶² As UN Special Rapporteurs on Freedom of Religion or Belief and on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance stated in a Joint Report, “the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or belief that is free from criticism or ridicule”.¹⁶³

A code of conduct that attempts to regulate religious persuasion beyond existing international human rights law in order to avoid offense is perfectly acceptable as a “high road” approach to regulate a faith's own internal practices, but is not acceptable as a best practice incumbent upon all confessions and may well

sweep into their purview almost any act of proselytism if states define the offense too broadly.” Stahnke (*supra* note 1), at 293. Judicial techniques such as the European Court of Human Rights' margin of appreciation doctrine encourage international courts to defer to a state's assessments of its own needs, further weakening religious freedom protections.

¹⁵⁸ *Kokkinakis* (*supra* note 105), at 33.

¹⁵⁹ See Nathwani (*supra* note 142), at 237.

¹⁶⁰ *Gündüz v. Turkey*, 4 December 2003, ECHR, No. 35071/97, at 51; see also *Otto-Preminger-Institut v. Austria* 20 September 1994, No. 13470/87, (1995) 19 EHRR 34, ECHR 295-A, 20, at 18–19, 49; *Wingrove v. United Kingdom* (1997) 24 EHRR 1 (ECHR 1996-V, 25 November 1996) 1956, 52.

¹⁶¹ See Stahnke (*supra* note 1), at 290–299 and 307–328 (listing interests and providing examples from Malaysia, China, Ukraine, India, and Western Europe); see also Niraj Nathwani, ‘Religious Cartoons and Human Rights’, 4 *EHRLR* (2008), at 495.

¹⁶² See John Stuart Mill, *On Liberty* (1859; London: Penguin Classics, 1985), at 76.

¹⁶³ Asma Jahangir, the Special Rapporteur on Freedom of Religion or Belief, and Doudou Diene, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Joint Report, UN Doc A/HRC/2/3 (20 September 2006), para 36. Similarly, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression concluded that charges of “insulting Islam” brought by Iranian courts “lack any objective criteria” and are open to “subjective and arbitrary interpretation by judges interpreting them.” (2009 Report).

produce results opposite from those intended. Codes of conduct can discourage hostility, ridicule, unfair comparisons or dishonesty, but in the end may not preclude a believer from sharing his or her faith, including making comparisons with other faiths, because the teachings might offend.

In short, perhaps predictably, the codes that tend to violate international law norms are the same codes, identified above, whose authors, audience and purpose make them less effective for cross-cultural and inter-faith conflict resolution. The intra-faith codes (especially the ecumenical codes)—grounded in their faith's own dogma instead of international law norms—tend to overly restrict religious persuasion without regard to international guarantees of rights. By contrast, the NGO and inter-faith codes both rely on and comply with these norms. The Oslo Coalition and IRLA codes, in particular, are exemplary.

VI. Effectiveness of the Codes as Tools for Conflict-Resolution

Codes of conduct can be effective as tools for preventing and resolving cross-cultural and inter-faith conflicts relating to religious persuasion to the extent that they are compatible with international law norms, respectful of the practices of multiple traditions, and written to address a general audience. Such codes have considerable potential for good, for example, by stimulating introspection within faith groups,¹⁶⁴ enabling better understanding, tolerance and respect among different faiths and cultures, helping to clarify the grey zones in international law, and promoting the social benefits that derive from religious freedom.

On these latter points, the *Kokkinakis* case demonstrates both the promise and potential peril of codes of conduct. Though the Court declined to define in the abstract what constitutes 'improper' conduct, it cited in passing a report issued in 1956 by the World Council of Churches—a predecessor to the WCC codes of conduct discussed herein¹⁶⁵—that distinguished "improper proselytism" from "Christian witness," and noted that the Greek law at issue in *Kokkinakis* appeared generally consistent with the report's definitions.¹⁶⁶ Indeed, the concurring opinion of Judge Pettiti explicitly suggested the use of codes of conduct as tools to help "define any permissible limits of proselytism": "[t]hey can provide the member States with positive material for giving effect to the Court's judgment in the future and fully implementing the principle and standards of religious freedom".¹⁶⁷

¹⁶⁴ See OC, *Recommended Ground Rules* (*supra* note 47), at Introduction 1.1.

¹⁶⁵ WCC, *Towards Common Witness* (*supra* note 50).

¹⁶⁶ *Kokkinakis* (*supra* note 105), at 48.

¹⁶⁷ *Ibid.*, at 26.

Codes can elucidate all of the following areas where international law remains unresolved, thereby influencing tribunals, parliaments, public expectations, and the religious actors themselves:

- What types of conduct constitutes ‘coercion’ or ‘manipulation’ within the grey zones left by the European Court of Human Rights decisions;
- What groups (beyond the military subordinates in *Larissis*) are vulnerable and in need of special protection to ensure their freedom of thought, conscience and religion;
- How precisely should states balance potentially competing human rights, including individual rights to privacy or the rights of indigenous peoples to preserve their cultures, against the rights of missionaries to manifest religion through teaching and the rights of interested targets to hear and decide whether to adopt those teachings;
- How to reduce the risk of harm to a target’s religious sensibilities without unduly compromising the missionary’s right to share his or her beliefs (including making comparisons);
- What charitable activities in what circumstances constitute improper inducements;
- When to claim internationally guaranteed rights when local custom or law appears inconsistent; and the like.

Likewise, codes can suggest time, place or manner restrictions on religious persuasion that do not materially impact the marketplace of ideas essential to a robust freedom of thought, conscience and religion, but that minimize conflicts among those of different worldviews. For example, abstaining from distributing literature in the vicinity of others’ places of worship or at their religious festivals or celebrations;¹⁶⁸ being honest about beliefs and religious allegiances, and straightforward about intentions;¹⁶⁹ respecting the rights of parents and local laws regarding the age of maturity;¹⁷⁰ entering a person’s home only at the person’s convenience and welcome;¹⁷¹ and safeguarding all personal information or addresses as required by data privacy rules.¹⁷²

¹⁶⁸ CFM, *Affirmation of Christian Witness* (supra note 46), at 2.

¹⁶⁹ Inter Faith Network, *Building Good Relations* (supra note 52), at 2; see also WCC, *Assessing the Reality* (supra note 46), at 2; CFM, *Affirmation of Christian Witness* (supra note 46), at 2; OC, *Recommended Ground Rules* (supra note 47) at 5, 6; *Lausanne Covenant* (supra note 2) at 1; NORME, *Codes of Conduct* (supra note 47), at 3; Christian Muslim Forum (supra note 57); Dansk Missionsraad (supra note 53), at 372.

¹⁷⁰ OC, *Recommended Ground Rules* (supra note 47), at 6–7; Christian Muslim Forum (supra note 57); WCC, *Assessing the Reality* (supra note 46), at 3.

¹⁷¹ CFM, *Affirmation of Christian Witness* (supra note 46), at 2; OC, *Recommended Ground Rules* (supra note 47), at 5.

¹⁷² Dansk Missionsraad (supra note 53), at 372; NORME, *Codes of Conduct* (supra note 47), at 3.

Obviously, if codes of conduct serve as touchstones for assessing proper conduct, they are only legitimate to the degree they adhere to the ground rules, *i.e.*, are “compatible with respect for freedom of thought, conscience or religion”.¹⁷³ If a code is biased or skewed, then a measure relying on that code would be biased or skewed as well. It is incumbent on courts and others to choose as models codes that fit the criteria for effectiveness. Inwardly focused codes that speak to a faith’s or network’s own constituency may be useful as “house rules” for governing the faith’s or network’s internal affairs, but ultimately cannot help resolve cross-cultural and inter-faith conflicts. Indeed, they pose a danger if misconstrued as generally applicable best practices: Instead of promoting religious freedom and respect for the diversity of faiths, these codes tend to limit behaviour to conform to their own agendas. They can marginalize and drive underground alternative voices, radicalize the very actors they seek to curb, and trigger or exacerbate the “religious violence cycle”.¹⁷⁴

Codes of conduct that are compatible with international law, respectful of the methods of multiple traditions and address a general audience—like the NGO codes and most inter-faith codes—not only aid in the implementation of international law but can promote significant social benefits that derive from religious freedom. In contrast to the “religious violence cycle” perpetuated by close restrictions on religious persuasion, Brian Grim and Roger Finke describe the “religious freedom cycle” that flows from preserving a robust marketplace of ideas and allowing “religious competition”. According to Grim and Finke, there is not only a mathematical *correlation* of religious freedom with better social outcomes, but a demonstrated *causal* relationship: “A growing body of research supports the proposition that the religious competition inherent in religious freedom results in increased religious participation; and religious participation in turn can lead to a wide variety of positive social and political outcomes,” including fewer incidents of armed conflict, better health outcomes, higher levels of literacy and earned income, better educational opportunities for women, and higher overall human development.¹⁷⁵

What makes successful codes powerful is that they express universal rights that are grounded in the human experience and not dependent on any one cultural or

¹⁷³ Kokkinakis (*supra* note 105), at 48–49.

¹⁷⁴ A particular danger may arise in common law countries if a code of conduct is interpreted as a standard by which to judge whether a missionary or religious institution is liable for negligence. Under negligence theories, one can be liable for another’s damages if he or she fails to act according to a standard of care for reasonable people in the profession. Negligence-based suits against churches and clergy are barred in the United States and elsewhere by doctrines of religious freedom, but those doctrines are frequently attacked. See *e.g.*, *Dowd v. Soc. of Columbians*, 862 F.2d 761 (1st Cir 1989); *Turner v. The Church of Jesus Christ of Latter-day Saints*, 18 S.W.3d 877 (Ct App Texas 2000).

¹⁷⁵ Grim, *Religious Freedom* (*supra* note 22), at 4–5 (footnotes omitted); see also Marshall (*supra* note 21), at 42, 43; Brian J. Grim & Roger Finke, ‘Religious Persecution in Cross-National Context: Clashing Civilizations or Regulated Religious Economies?’ 72 *Am Sociological Rev* (2007), at 633, 636.

religious frame of reference. They advance an energized, inclusive pluralism that integrates all members of society,¹⁷⁶ provide a platform for cross-cultural dialogue and diplomacy, motivate voluntary compliance, and set appropriate expectations with regard to religious persuasion. Religious issues are increasingly critical to foreign affairs and diplomacy.¹⁷⁷ Indeed, at least one prominent diplomat has called for greater engagement by NGOs and faith-based groups to enable states to “anticipate events rather than merely respond to them” and “think more expansively about the role of religion in foreign policy and about their own need for expertise,” emphasizing that the concerted efforts of these groups are much more likely to succeed “in fostering reconciliation” than those of any government.¹⁷⁸

VII. Conclusion

For all the reasons discussed above, we conclude that codes of conduct are viable alternatives to government regulations relating to religious persuasion. Codes that focus inwardly on a faith’s or network’s own constituency tend not to be helpful for conflict-resolution because they tend to advocate a particular view, are sectarian rather than neutral, and sometimes fail to comport with international law. If misused as standards by which to judge everyone involved in religious persuasion, inwardly focused codes can, like aggressive state regulations, perpetuate conflict rather than prevent it. Close regulation of religious choices according to a single worldview risks delegitimizing the codes in the minds of significant populations.

However, codes that balance competing human rights consistent with international law norms, respect the methods of multiple traditions and address a general audience are particularly suited to prevent or resolve cross-cultural or inter-faith conflicts sparked by religious persuasion. These codes promote the pluralism necessary to freedom of conscience, and indeed, to democracy. They are not dependent on any one cultural or religious frame of reference. And they motivate voluntary compliance, provide a platform for dialogue and diplomacy, and set appropriate expectations for religious persuasion.

¹⁷⁶ Ensuring fair competition for all religions within a society “results in a rich pluralism where no single religion can monopolize religious activity, and all religions can compete on a level playing field.” Grim, *Religious Freedom* (*supra* note 22); see also J. Clifford Wallace, ‘Challenges and Opportunities Facing Religious Freedom in the Public Square’, *BYU L Rev* (2005), at 597.

¹⁷⁷ Farr (*supra* note 21), at 35 (quoting various authors).

¹⁷⁸ Madeleine Albright, ‘Faith and Diplomacy’, 4 *Faith & Int’l Affairs* (2006), at 3, 4, 8; see also Marshall (*supra* note 21), at 11 (noting that the rising profile of religion in international affairs); Farr (*supra* note 21), at 9.

