

2. Access to justice at the local and national level

Script

So how can we find justice in our local communities and at the national level when rights are being violated?

This is a tricky question to answer on a general and global level as a relevant answer to a very large degree will depend on:

- who you are
- what violations you have experienced and whether they are being committed by the state or by non-state actors
- what the your country's laws say on FoRB and how they are implemented in reality.

The answer is also going to depend on whether the legal system in your country can be trusted and whether there are non-legal human rights institutions such as well-functioning ombudsmen or minority commissions.

Another way of putting this is to say that the first thing you need to do in order to access justice is some research into your own context! In this film we're going to give you some pointers about the kind of information you need to find so that you and your organisation will know what to do when rights are violated.

The first thing to look at is the law. What does the law say about religion or belief in general, and about the issues that concern you in particular?

The national constitution plays an important role in setting the overall framework for how freedom of religion or belief is to be implemented. What does the constitution of your country say? Looking at the issue that concerns you, is it handled in civil or criminal law and are there local bylaws that might be relevant? It's also important to look at bureaucratic regulations that have to be followed. For example what regulations apply to building or running places of worship, religious charities or schools?

When you are looking at the law it's important both to find out if there are laws that can be used to support your rights and if there are laws that undermine your rights. Sometimes national laws aren't in line with the constitution, or local bylaws contradict national laws. Knowing this can help you choose the best strategy.

If you don't know much about the law, then finding the information you need might sound like a daunting process. A great shortcut is to ask a civil society organisation that specialises in the issue, or a national network of faith communities that has the information you need!

It's also very helpful to have good, trustworthy lawyers to help you when you want to understand what the law says, report a violation or challenge a law. Is there a lawyer within your community that could help? Or a non-governmental organisation that provides legal help to minorities or victims of human rights abuses? In India a number of lawyers in 2014 formed a national hotline to which individuals could call in order to receive free legal advice when they experienced freedom of religion or belief violations. If similar networks of trustworthy human rights lawyers exist in your country then do contact them for help!

Once you know what the law says about your issue of concern you need to find out who you can turn to for help:

Let's start with your local police station:

Local police stations should be key to enabling people to access justice. Their work to collect evidence and document crime forms the basis of successful convictions. So it's important to know and understand the procedures for reporting a crime: what forms have to be filled in, what kind of information is required, and what should you keep a record of when you meet the police.

If possible, it's a good idea to build a relationship with your local police station in order to try to counteract any prejudices officers have and help them take the risks your community faces seriously.

A common problem in some countries is that local police officers are unaware of the rights of citizens and of laws concerning religion or belief. Finding ways to raise police officers' awareness of legal rights might prove useful in motivating police to act more effectively when violations happen.

Local police stations should also be key to preventing crime. Making them aware of rising tensions between religious communities at an early stage is one way for religious communities to help the police to act early to prevent violence erupting. In the United Kingdom an NGO called Tell Mama documents hate crimes against Muslims. By mapping where and how often attacks occur they're able show the police, local authorities and local religious leaders that tensions are rising in a particular community and encourage them to act to prevent the situation from escalating. Of course, dialogue with the police isn't always possible - in some places the police are deeply prejudiced, corrupt or actively involved in violations. But where it is possible dialogue can be a very useful method. Constructive relationships of dialogue with local police can be of great value to individuals and communities affected by freedom of religion or belief violations.

The court system connects the local level to the national level. Most cases are first heard at the lowest level courts in a local area or region, but if one of the parties to the case is unhappy with the outcome, they can appeal the case to a higher court. Usually there are several levels of courts such as magistrate's courts, high courts, courts of appeal and supreme courts, each having more authority than the one below it.

When a local or national law itself violates freedom of religion or belief you need different strategies and a different kind of court. The job of constitutional courts

is to decide if laws made by parliaments or local authorities are in line with the constitution or not. You might need to cooperate with other victims as well as lawyers to bring a case to a constitutional court. Of course if the constitution itself violates human rights then this won't help.

If you want to take a case to a regional international human rights court you have to exhaust all avenues for legal redress in your own country first, taking your case all the way up to the national Supreme Court or Constitutional Court.

Another way to change laws is work with advocacy and awareness raising to make politicians understand why the law is problematic and create public opinion in support of change. Watch our separate videos on advocacy and awareness raising to learn more about this.

Police, lawyers and courts make up the justice system but pursuing cases through the courts whilst very important is often a costly, time consuming process that can take many years. None the less some organisations succeed in pursuing cases through the courts. The Egyptian Initiative for Personal Rights managed to get a ruling from the administrative courts which allowed Bahais to leave the religion section of their identity card blank, instead of being forced to identify themselves as Muslims or Christians.

Working with court cases can consume a lot of time and money. So in many cases it's worth looking for non-judicial bodies that can help in other ways.

In many local contexts religious or community leaders and politicians can use their influence to help put things right when a violation occurs. Building relationships of trust with them can help to motivate them to use that influence, and use it wisely!

In some places there are local negotiation and reconciliation systems that can help settle disputes without involving the courts. In some cases victims find these systems helpful, not least because they can be much cheaper and faster than the courts. But sometimes reconciliation processes can be abused as a way of bypassing justice, with minority communities feeling obliged to participate in a process that time and again allows offenders from majority communities to get away with just saying sorry or providing symbolic compensation.

At the national level, many countries have institutions such as discrimination ombudsmen, minority commissions or national human right institutions that can help follow up and resolve freedom or religion or belief violations. Sometimes a telephone call from the national minority commissioner is enough to make a police station take a complaint seriously and do something about it.

In many countries national human rights institutions are accredited by the United Nations. These accredited institutions have the task of linking the national and the international levels of the human rights system. For example, they prepare reports for the UN on the human rights situation in the country. They gather and receive complaints about human rights violations from both individuals and organisations and this information is passed on to the diplomatic

channels of the UN. They also play an important part in putting pressure on national governments to abide by the human rights conventions they've signed.

So it's well worth finding out whether there are ombudsmen, minority commissions or national human rights institutions in your country, learning how they operate and making a habit of relating to them when violations occur. One word of caution, in some countries these institutions don't have independence from the state. Check out the reputation of institutions in your country with an NGO that you trust.

Whether you're working at the national or local level to seek justice, your choice of strategy is going to be context specific, case specific and will depend on the kind of organisation you are. A thorough context analysis, including a conflict analysis is an important basis for choosing a strategy.

On the website you'll find films and other resources on how to do context and conflict analyses. There are also group exercises that can help your organisation to identify and develop methods and strategies to prevent and respond to Freedom of religion or belief violations.

To sum up:

In order to seek justice you will need to learn about the law and about the various bodies – police, courts and other bodies that might be able to help you find justice at the local and national level. You will also need to work out your strategy based on an analysis of your context and your organisations identity and opportunities.

Even if approaching the police or the legal system in your local and national context at first seems pointless, it's important to look at what possibilities local and national systems offer before disregarding them in favour of international systems. Not least because making local and national systems work better is at the heart of promoting human rights.

There are some countries where local and national remedies are not available, but it's not uncommon that people are unaware of laws that could actually help to protect them. And if you want to take a specific case to international courts or complaints systems you will usually need to exhaust the opportunities to get help at the national level first.

In the next three films we'll look at how international levels can be approached and used in order to access justice when freedom of religion or belief is violated.