



SHAPING A WORLD OF FREEDOMS

75 Years of Legacy and Impact of the
Universal Declaration of Human Rights

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THE SITUATION OF RELIGIOUS FREEDOM IN LATIN AMERICA IN LIGHT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Teresa Flores¹

This article aims to highlight how the Universal Declaration of Human Rights and the entire legal structure that arises from it, has had a favorable impact on the legal development that makes possible the recognition and protection of one of the first human rights to be claimed, that of freedom of thought, conscience, and religion. Nonetheless, despite advances in its protection and after reviewing the Violent Incidents Database (VID) of the Observatory of Religious Freedom of Latin America - OLIRE, in four Latin American countries (Cuba, Nicaragua, Colombia, and Mexico); we have identified several obstacles that prevent the effective exercise of this right and moreover and we have taken notice of how the control or protection bodies of human rights in the universal system do not always include some of these contexts when analyzing or evaluating the status of this right.

I. The Universal Declaration of Human Rights as starting point for the protection of the right to religious freedom

The Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948, represent a milestone in the protection of the rights of every citizen. As a declaration of principles on the fundamental rights and freedoms of individuals, it undoubtedly forms the basis of the Universal System for the Protection of Human Rights, which has gradually developed a

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structure with different UN bodies, working groups and Special Procedures mandate holders responsible for promoting human rights.

Among them, the right to religious freedom is recognized and defined for the first time in Article 18 of the ***Universal Declaration of Human Rights*** (hereinafter UDHR). The article includes freedom to change his religion or belief, as well as freedom to manifest religion or belief, individually and in community with others, in public and private, in teaching, practice, worship and observance. The document does not seek to treat religion as a dogma, but to guarantee the freedom of convictions, without promoting a certain religion over the others (Rhenán 1994, 119).

Inspired by this formula, over time, the Universal System for the Protection of Human Rights has managed to implement various mechanisms in search of the effective application of this right.

Among the most relevant documents that recognize this right we find the ***International Covenant on Civil and Political Rights - 1976*** (hereinafter ICCPR), which includes, also in its article 18, that no one shall be subjected to coercive measures that may impair the freedom to have or adopt the religion or belief of his choice. Everyone is free to manifest his or her religion or belief, subject only to such limitations as are prescribed by law, and States parties must respect the freedom of parents to ensure that their children receive religious and moral education in accordance with their own convictions. ***General Comment No. 22 of the Human Rights Committee on article 18 of the ICCPR - 1993*** deepens the content of this right by establishing, inter alia, that this article protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. No manifestation of a religious character or belief may amount to propaganda for war or advocacy of national, racial or religious hatred which constitutes incitement to discrimination, hostility or violence. It also includes the right to conscientious objection in the field of military service, as a derivative of article 18, insofar as the obligation to use lethal force may seriously conflict with freedom of conscience and the right to manifest and express religious or other beliefs.

The ***International Covenant on Economic, Social and Cultural Rights - 1976*** (hereinafter ICESCR) also recognizes this right by establishing that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance, and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace. And that, States Parties undertake to have respect for the liberty of parents and have to ensure the religious and moral education of their children in conformity with their own convictions.

We may also mention the ***Convention on the Rights of the Child - 1990*** (hereinafter CRC), which establishes that States parties shall respect the right of the child to freedom of thought, conscience, and religion, respect the rights and duties of parents and, where appropriate, legal guardians, to guide the child in

the exercise of his or her right in accordance with the evolving capacities of the child. It also states that in States where ethnic, religious, or linguistic minorities or persons of indigenous origin exist, a child belonging to such minorities shall not be denied the right to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own language.

In addition, the Committee on the Rights of the Child, in *General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment - 2006*, states that the practice of a religion or belief must be compatible with respect for human dignity and the physical integrity of others, in that sense, punishments, extreme violence, such as stoning and amputation, prescribed according to certain interpretations of religious law constitute a violation of the Convention and other international human rights standards. *General Comment No. 11 on indigenous children and their rights under the Convention - 2009* notes on the one hand that the exercise of the cultural rights of indigenous peoples may be closely related to the enjoyment of traditional territory, and the use of its resources, on the other hand, takes into consideration that States parties should provide indigenous and non-indigenous children with real opportunities to understand and respect different cultures, religions and languages.

Also linked to indigenous communities, *Convention No. 169 concerning Indigenous and Tribal Peoples - 1989* elaborates on the content of the right to religious freedom of indigenous peoples in article 12, by establishing that indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; to maintain, protect and access their religious and cultural sites privately; to use and control their objects of worship, and to obtain the repatriation of their human remains, as well as the obligation of States to endeavor to facilitate access to and/or repatriation of objects of worship and human remains in their possession through appropriate mechanisms.

The *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief - 1981*, adopted by General Assembly resolution 36/55, presents a set of principles on which it seeks to prevent religious discrimination in all its forms. Beyond that, it complements what is stated in both the UDHR and the ICCPR by listing a number of freedoms as an integral part of the right to freedom of thought, conscience and religion: (a) The right to worship or hold meetings in relation to religion or belief, and to establish and maintain places for these purposes; (b) To establish and maintain appropriate charitable or humanitarian institutions; (c) To make, acquire and use in sufficient quantity the articles and materials necessary for the rites or customs of a religion or belief; (d) To write, publish and disseminate relevant publications in these fields; (e) To teach religion or belief in places suitable for these purposes; (f) To seek and receive voluntary financial and other contributions from individuals and institutions; (g) To train, appoint, elect and

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appoint by succession the appropriate leaders according to the needs and norms of any religion or conviction; (h) To observe days of rest and to celebrate festivities and ceremonies in accordance with the precepts of a religion or belief; (i) To establish and maintain communications with individuals and communities on matters of religion or belief at the national and international levels.

The *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities - 1992* provides that persons belonging to national or ethnic, religious, and linguistic minorities shall have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public. freely and without interference or discrimination of any kind, except in cases where certain practices violate national legislation and are contrary to international standards.

The *United Nations Declaration on the Rights of Indigenous Peoples - 2007* also recognizes that indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; to maintain, protect and access their religious and cultural sites privately; to use and control their objects of worship, and to obtain the repatriation of their human remains. It also establishes that States shall endeavor to facilitate access to and/or repatriation of objects of worship and human remains in their possession through fair, transparent and effective mechanisms established jointly with the indigenous peoples concerned.

It must be also considered the *Beirut Declaration on "Faith for Rights" - 2017*, the result of a series of meetings between faith-based and civil society actors working with the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR). Aims to reach out to persons belonging to religions and beliefs in all regions of the world, with a view to enhancing cohesive, peaceful and respectful societies on the basis of a common action-oriented platform in which a common ground can be articulated, finding ways in which faith can stand for rights more effectively. In addition to creating a multi-level coalition open for all independent religious actors and faith-based organizations who demonstrate acceptance of and commitment to the declaration. In the same way, it recognizes the value and the need to empower religious actors to the same extent that it indicates that they are responsible to stand up for the shared humanity and equal dignity of each human being in all circumstances within each sphere of preaching, teaching, spiritual guidance. and social engagement.

Besides these documents, which develop the scope of the right to religious freedom, or the obligations on the part of the state's parties to achieve its effective fulfillment, there are other efforts in favor of the promotion of this right in the HRPS. Among them we can mention:

The creation by the United Nations Commission on Human Rights *of the Special Rapporteur on freedom of religion or belief*, whose objective is to identify any obstacles that might affect the enjoyment of the right to freedom of

religion or belief and present recommendations accordingly. To this end, the Office of the Special Rapporteur transmits communications to States Parties, conducts country visits, and prepares and submits annual reports to the United Nations Human Rights Council (hereinafter UNHRC) and the General Assembly. Since its creation, the work of the Office of the Rapporteur has advanced the right to freedom of thought, conscience, religion, or belief.

The Human Rights Resolution 2005/40 on the ***Elimination of all forms of intolerance and of discrimination based on religion or belief***, urging States to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all, without distinction, inter alia, by providing effective remedies for cases where these rights are violated, especially of women as well as other vulnerable groups, in particular persons deprived of their liberty, refugees, children, persons belonging to minorities and migrants. It also stresses the need to ensure full respect for and protection of places of worship, holy places, shrines, and religious symbols, and to take additional measures in cases where such places or symbols are exposed to desecration or destruction. Similarly, calls for no one to be deprived of the right to life, liberty, and security of person or to be subjected to torture or arbitrary arrest or detention or by reason of religion or belief or to the expression or manifestation of religion or belief, education and adequate housing. In that regard, public officials and State agents should not discriminate on the basis of religion or belief.

We can also cite Resolution A/RES/73/296 - 2019, by which the United Nations General Assembly establishes the ***International Day in Commemoration of the Victims of Acts of Violence Based on Religion or Belief***, celebrated every August 22. This resolution condemns violence and acts of terrorism directed against individuals, including persons belonging to religious minorities, on the basis or in the name of a religion or belief.

Finally, the ***Rabat Plan of Action – 2012*** which establishes responsibilities of religious leaders. Among them we can mention: Political and religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech. It should be made clear that violence can never be tolerated as a response to incitement to hatred.

As we can see, the development of the right to religion or belief within the framework of the system of universal protection of human rights is robust. There is a legal framework (soft law and hard law) that commits government authorities to adapt the national legal framework and to design and implement public policies that make possible the effective enjoyment and exercise of this right.

II. The status of Religious Freedom in Cuba, Nicaragua, Colombia and Mexico: A review of the Violent Incident Database – VID in contrast with the Universal System for the Protection of Human Rights

The Violent Incidents Database (hereinafter VID) is the main tool used by the Observatory of Religious Freedom in Latin America (hereinafter, OLIRE), designed to collect, record, and analyze incidents concerning violations of religious freedom.

At present, the VID is one of the few comprehensive data collection efforts that systematically tracks religious freedom violations in its multiple dimensions: individual and collective, physical and non-physical violence, state and non-state actors, religious and non-religious motivations, and in all spheres of life. The VID distinguishes between two types of religious freedom violations: physical violence, such as torture, rape, abduction or killings and non-physical violence, which could take the form of discriminatory legislation, social pressure, cultural marginalization, government discrimination, hindrances to conversion, hindrances to participation in public affairs or restrictions on religious life (Petri & Flores, 2021).

It is important to consider that since Christianity is the majority religion in those countries, it is more frequent to find incidents that involve this religious group and no other religious minorities. On the other hand, the main input for the VID is public sources, most of which are digital media available on the internet. These data are complemented by field interviews, desk research, and reports provided by partner organizations. In that sense, the VID cannot claim to be an exhaustive listing. Since this database is continuously updated, it is likely that newly reported cases will be included later, although many incidents may not be public and are hence not included.

Although the VID's approach aims to be global, to date it contains most information on Latin American countries. From the review of this platform, although it is possible to identify various religious freedom issues in different Latin American countries, for the purposes of this article we will focus on the countries of Cuba, Nicaragua, Colombia and Mexico.

The reason for choosing these countries is not just that there is more information available about them on the VID, but, given that Cuba compared to Nicaragua, and Mexico compared to Colombia, have very similar dynamics of violations of religious freedom, it is possible to assess if the attention given to them by the protection mechanisms of the universal system is the same in all cases; if it differs at some point and more importantly, if the response or approach is close or not to fulfilling the core mandates derived from the UDHR and developed by the protection mechanisms, already described in the previous section.

a. Overview of religious freedom violations in Cuba

According to the VID, in Cuba, there are multiple incidents, whether of violence or pressure, that affect religious leaders and religious communities, as well as their houses of worship, especially against those known or perceived as opponents of the communist regime that runs the country. Most of these incidents have been carried out supported by the country's regulatory framework.

Among the incidents listed, we can mention attacks, demolitions, robberies or acts of vandalism and desecration against religious buildings or places of worship, which on occasions has led to their closure. Arbitrary arrests and acts of physical violence against known or perceived opposition religious leaders are also common. According to the information available, this measure is exacerbated amid critical situations in the country, such as the protests on July 11 (hereinafter 11J protests), 2021². Detention and interrogation without legal basis have become one of the most used resources to coerce and harass religious leaders. On occasions, the arrests have led to trials and sentences with null judicial guarantees.

There are also reports of parents who have been sentenced to prison for homeschooling and trying to raise their children under their own convictions, far from the ideology of the regime. All this without mentioning the report of more subtle forms of intimidation, derived from the constant monitoring of religious leaders even inside religious buildings, including their written communications (also electronic), the application of fines, confiscation of donations (received or to be delivered), the impediment or complex procedures for the registration of some churches, especially Protestants, which has led to the proliferation of unregistered churches, which are constantly sanctioned. There is also information about impediments to religious leaders to leave the country or otherwise, of the situation of religious leaders and members of religious communities linked or perceived as the opposition, who have been forced to flee the country because of the continuous harassment against them and their families. The religious communities affected are mostly Christian-evangelical, although in the latest reported incidents it is possible to identify that members of the Catholic Church, Yoruba and Muslim communities have also at some point become victims of a violation of their religious freedom. In general, the perpetrator is a government authority or collectives or groups linked to the government. To a lesser extent they are ordinary citizens or criminal groups.

The following table provides information on the number of incidents reported for Cuba, according to the nature or type of incidents. More detailed information can be found on the online platform (Violent Incidents Database, 2023a).

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Figure 01: Religious freedoms violations
between January 2019 and May 2023

Nature of Incident	Total number
Killings	0
(Attempts) to destroy, vandalize or desecrate places of worship or religious buildings	26
Closed places of worship or religious buildings	2
Arrests/detentions	155
Sentences	18
Abductions	9
Sexual assaults/harassment	0
Forced Marriages	0
Other forms of attack (physical or mental abuse)	64
Attacked houses/property of faith adherents	8
Attacked shops, businesses or institutions of faith adherents	2
Forced to leave Home	0
Forced to leave Country	60
Non-physical violence (pressure)	73

Source: The Violent Incidents Database (VID)

Regarding the human rights protection mechanisms to the state of religious freedom in Cuba, it is pertinent to remember that Cuba signed the UDHR in 1948 and although in 2008 the government signed the ICCPR and the PESCR, it did not ratify them (ratification is the international act by which a State indicates its consent to be bound by a treaty), nor did it accept the individual communications procedure regarding its optional protocols. In 1991, ratified the Convention on the Rights of the Child, but did not accept the individual communications procedure of its optional protocol.

During the last Universal Periodic Review (hereinafter UPR), the Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) did not include relevant information on the state of the right to religious freedom in the report "Compilation on Cuba." Only in the section "Right to work and to just and favorable working conditions", there was a reference to the request that the ILO Committee of Experts made to Cuba to adopt the necessary measures to ensure in practice that no information related to the political and religious opinion of the workers or students were requested (Office of the United Nations High Commissioner for Human Rights, 2018a).

About religious freedom, members of the Working Group on the Cuba UPR addressed the following issues in their final report (Working Group on the Universal Periodic Review, 2018a):

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- Saudi Arabia recommended: Continue advocating in the international fora for the need to combat Islamophobia and discriminatory stereotypes based on religion, particularly in the context of the fight against terrorism.
- India recommended: Continue to foster good relations with the different religious institutions.
- Mozambique recommended: Continue guaranteeing the right of everyone to freedom of worship and not to profess any religion, in accordance with the Constitution.
- United Arab Emirates recommended: Continue to promote the full right to freedom of religion.

In 2018, the Final Observations on the combined 19th to 21st periodic reports of Cuba prepared by the Committee for the Elimination of Racial Discrimination pointed out as a positive aspect the adoption of Law no. 116 (Labor Code) of December 2013, which introduced a prohibition against discrimination, including discrimination based on "skin color, gender, religious beliefs, sexual orientation, territorial origin, disability and any other distinction harmful to human dignity" (Committee for the Elimination of Racial Discrimination, 2018).

In May 2020, through the communication AL CUB 1/2020, the Special Rapporteur on freedom of religion or belief; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on minority issues drew the attention of the Cuban government to the continued harassment of Pastor Alain Toledano, pastor of the Apostolic Movement of Cuba, his family and members of his congregation and requested information, among others, on the specific measures taken by the Government to investigate and prevent all acts of intimidation against Pastor Toledano and on measures to ensure that the right to freedom of religion of all religious minorities is respected and protected (Mandates of various Special Rapporteurs, 2020). In response, the Permanent Mission of Cuba to the Office of the United Nations and International Organizations in Switzerland sent Note 296/2020, alleging among other things that the church participated in illegal activities, violating the requirements established by the Ministry of Justice, that Toledano Valiente carried out constructions without the corresponding permits from the Provincial Directorate of Physical Planning of Santiago de Cuba. The government also alleged that in religious cults Toledano urged parishioners to social disobedience, to distort their conduct, generating chaos and indiscipline. The Permanent Mission of Cuba also noted that it is unfortunate that attempts are being made to portray people whose motive is to achieve regime change in the country as advocates of freedom of religion or belief as part of a foreign-funded subversive agenda (Permanent Mission of the Republic of Cuba, 2020a).

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In March 2020, the UNHRC adopted resolution 43/34 “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief”. The resolution called on States to take certain measures to promote a national environment of religious tolerance, peace and respect. Among them, States were urged to consider the possibility of providing updated information on the work carried out in this regard to the OHCHR (Human Rights Council, 2020a). In response, the Permanent Mission of Cuba to the Office of the United Nations and International Organizations in Switzerland sent Note 422/2020, describing the progress made by Cuba in terms of protecting religious freedom. In said document, the representation of Cuba also rejected the inclusion of Cuba in the Special Watch List in 2020 of the US government (Permanent Mission of the Republic of Cuba, 2020b).

In 2020, Cuba was elected for the fifth time, for a period of three years, as a member of the UNHRC. It is worth pointing out that Council membership carries with it a responsibility to uphold high human rights standards. Different civil society organizations question the re-election of the Cuban government in this position due to the constant accusations of human rights violations in the country.

Regarding the 11J protest, in 2021, the United Nations High Commissioner for Human Rights called for the release of the people who were detained: "I am very concerned about the alleged excessive use of force against protesters in Cuba and the arrest of a large number of people, including several journalists". However, no specific or differentiated reference was made to the religious leaders who were also detained (United Nations High Commissioner for Human Rights, 2021a).

In December 2021, communication AL CUB 7/2021 sent by the Special Rapporteur on freedom of religion or belief; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, requested the Cuban government information about the arrest and subsequent forced disappearance of short duration, mistreatment and prosecution of Lorenzo Rosales Fajardo, pastor of the Monte de Sion Church in Palma Soriano (Mandates of various Special Rapporteurs, 2021). In response, the Permanent Mission of Cuba to the Office of the United Nations and International Organizations in Switzerland sent Note 97/2022, indicating that the active participation of Rosales Fajardo in violent actions on July 11 was verified by witnesses and that in compliance with the Criminal Code, judicial proceedings were initiated, the accused was sanctioned for the crimes of Attack, Public Disorder, Resistance and Damage, and an 8-year prison sentence was imposed (Permanent Mission of the Republic of Cuba, 2022c).

As we can see, the most recent UN bodies analysis of the state of human rights in the Cuban case does not include acts of vandalism, robbery, or desecration against religious temples, the confiscation of donations to

confessional organizations or religious communities, the sanctions against unregistered churches, nor the continuous violation of the rights of parents to educate their children under their own convictions, who are forced to raise them under the mandatory communist ideology.

Overall Cuba continues to have a presence and dialogue with the universal system of Human Rights, something that does not happen in the same way with other systems of regional protection of human rights such as that of the Organization of American States. This interaction is positive, although insufficient, since, in practice, there are still violations of the right to religious freedom that are not being recognized or mentioned in their true dimension by the universal control and consultation bodies.

b. Overview of religious freedom violations in Nicaragua

In the case of Nicaragua, although the table includes information from 2019, since 2018 (year of the social outbreak and deadly protests in the country)² there were various incidents of violence and pressure against religious leaders and religious communities in the country, especially of the Catholic Church. The data suggest that religious leaders, active lay people and/or confessional institutions become targets of some kind of reprisals also to the extent that they are known or perceived opponents of the Sandinista regime but also that the intensity of the repressive actions against them have been escalating over time and that have been supported by a regulatory framework suitable for these purposes.

Of the reported cases, acts of vandalism, robbery, desecration, even raids, or police sieges of places of worship are common. The loss of legal status of confessional associations and organizations has given rise to the confiscation of their assets, including real estate, which have been occupied by various government offices, which has led to the closure of operations or cancellation of activities related to the ministry of each church, humanitarian assistance work of religious congregations, universities, and even the cancellation of radio and television channels. Police summonses, detentions, or arrests of active religious or secular leaders under charges of treason or interference in national sovereignty are also recurrent. Many times, not knowing the location of the arrested person has given rise to considering said measure with a state kidnapping. There are also numerous cases of impediment to enter the country and even the forced exile of religious leaders and entire religious congregations.

Pressure actions include monitoring, surveillance, constant siege, funding cuts, cancellation of legal status, limitations on conscientious objection in schools and public and private workplaces, cancellation of religious festivities

² In recent years, a series of civil society claims against the pension system in April 2018 culminated in anti-government protests demanding the president's resignation. The manifestations of citizen dissatisfaction were and still are violently repressed by the authorities.

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such as processions, and even administrative obstacles that limit the operation of churches in the country, not to mention the retention of visas and driver's licenses.

According to the data, the main victim of repression is the Catholic Church, although there are incidents that suggest that some members of evangelical churches also suffer repressive actions as long as they are perceived as opposition or if they do not comply with any law or regulation designed to control the opposition. In most cases, the perpetrator is a government authority or collectives or groups linked to the government. To a lesser extent they are ordinary citizens or mobs.

The following table provides information on the number of incidents reported for Nicaragua, according to the nature or type of incidents. More detailed information can be found on the online platform (Violent Incidents Database, 2023b).

Figure 02: Religious freedoms violations between January 2019 and May 2023

Nature of Incident	Total number
Killings	1
(Attempts) to destroy, vandalize or desecrate places of worship or religious buildings	83
Closed places of worship or religious buildings	39
Arrests/detentions	54
Sentences	11
Abductions	24
Sexual assaults/harassment	0
Forced Marriages	0
Other forms of attack (physical or mental abuse)	190
Attacked houses/property of faith adherents	8
Attacked shops, businesses or institutions of faith adherents	25
Forced to leave Home	6
Forced to leave Country	70
Non-physical violence (pressure)	46

Source: The Violent Incidents Database (VID)

Nicaragua is a signatory country to the UDHR. In 1980 it ratified the ICCPR and the CESC. The government only accept the individual communications procedure of the ICCPR optional protocol. In 1990 it ratified the Convention on the Rights of the Child, although it did not accept the individual communications procedure of its optional protocol.

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During the last UPR, the information collected on Nicaragua by the UNHRC included the concern that the Secretary-General had expressed about the continuing and intensifying violence in Nicaragua and the loss of life in the protests and the attack against Catholic Church mediators in the national dialogue. The report likewise included the concern of the OHCHR about the continuing reports of death threats, acts of violence and intimidation against journalists, students and members of the Catholic Church, among others (Office of the United Nations High Commissioner for Human Rights, 2019).

Members of the Working Group on the Nicaragua UPR addressed the following issues in their final report (Working Group on the Universal Periodic Review, 2019):

- United States of America recommended: Immediately cease unduly interfering with the rights to freedom of expression, association and peaceful assembly and allow all independent media, religious institutions, and civil society organizations to carry out their activities without restriction, coercion, undue legal or personal safety threats and release all prisoners of conscience immediately and unconditionally and take immediate steps to end arbitrary arrests and detentions.

In July 2019, communication AL NIC 3/2019 sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on freedom of religion or belief, requested information from the Nicaraguan government regarding the attacks on different churches in Nicaragua during religious celebrations between June and July of 2019 (Mandates of various Special Rapporteurs, 2019).

In July 2022, communication AL NIC 2/2022 sent by the Special Rapporteur on freedom of religion or belief; together with 10 other Special Rapporteurs and the and the Working Group on Discrimination against Women and Girls, requested information from the Nicaraguan government on the cancellation of the legal personality of at least 700 civil society organizations since 2018, of which 487 associations only in June 2022. The communication specifies that the cancellation of the legal personality of some organizations and foundations of a religious nature has been reported. Similarly, they urged the Government to guarantee the right to freedom of religion or belief in accordance with the principles established in art. 18 of the UDHR and the ICCPR and reminded him that restrictions on this right must meet a series of mandatory criteria that include being non-discriminatory (Mandates of various Special Rapporteurs, 2022).

In April 2023, at its 52nd session, the UNHRC adopted resolution 52/2 condemning the growing restrictions imposed by Nicaragua on the exercise of the right to freedom of thought, conscience, and religion, including by the

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arbitrary arrest and harassment of religious leaders. The UN body called the government to a to prevent, refrain from and publicly condemn, investigate, and punish any acts of intimidation, harassment or reprisal against religious leaders (Human Rights Council, 2023).

In March 2022, during the 49th regular session the UNHRC adopted resolution 49/3. Concerned, among other things, at the worsening restrictions on civic and democratic space and the repression of dissent in the form of acts of intimidation, harassment and Illegal or arbitrary surveillance of human rights defenders, including community and religious leaders, decided to establish, for a period of one year, a group of three human rights experts on Nicaragua (Human Rights Council, 2022). Recently, in the 52nd session of April 2023, the UNHRC decided to renew, for a period of two years, the mandate of the Group of Human Rights Experts on Nicaragua. The mandate is a monitoring and reporting mechanism tasked with investigating serious human rights violations that have taken place in Nicaragua since 2018 Also the UNHRC resolution 43/2 approved in the 43rd session expressed concerns regarding the persistence of hostilities against religious leaders (Human Rights Council, 2020b).

In March 2023, during the oral update of the High Commissioner on the Situation of Human Rights in Nicaragua to the UNHRC, the Nicaraguan authorities were urged to cease arbitrary detention and release all remaining political prisoners, including leaders of the Catholic Church. The Government's sentencing of Bishop Rolando Alvarez to 26 years in prison and its order to strip him of his citizenship was also condemned (United Nations Assistant Secretary-General for Human Rights, 2023).

On June 2023, the spokesperson for the UN High Commissioner for Human Rights also expressed her concern that the authorities in Nicaragua are actively silencing any critical or dissenting voices and denounced the expulsion of three foreign nuns and the prohibition of other nuns from leaving their convent. Also, that between 21 and 23 May, four priests and four church employees were arrested and detained. She mentioned the case of Bishop Rolando Álvarez, who is serving a 26-year sentence for “undermining national integrity” and that three of the nine dioceses of the Nicaraguan Catholic Church have had their bank accounts frozen for alleged money laundering (Spokesperson for the United Nations High Commissioner for Human Rights, 2023).

It is worth mention that in the Nicaraguan case, the recent activity of the UN bodies does draw attention to repressive acts and/or hostilities against religious leaders, especially from the Catholic Church, however little or nothing is said about other Christian groups who are also victims of reprisals, like the evangelical community. The impediments to entry/forced exile of numerous religious leaders in the country are not considered in their real magnitude. Also, no mention is made of cases of vandalism of places of worship, the closure of

Christian media outlets, or the cancellation or prohibition of religious festivities and processions.

c. Overview of religious freedom violations in Colombia

The information provided by the VID in the Colombian case suggests that the vulnerability of religious leaders and communities is due to three clearly differentiated dynamics of violations of religious freedom. One of them is the result of the actions of criminal groups, another one is linked to the obstacles to the exercise of this right within indigenous communities, and finally, one is related to hostilities against demonstrations or expressions of religious points of view, especially in the public arena.

Most incidents of physical violence are linked to the actions of revolutionary and criminal groups. The record indicates that those areas with a greater presence of guerrillas or with a higher rate of insecurity and state absence, religious leaders have been killed, have been threatened with death, kidnapped, or violently attacked, in many cases also their families or members of the congregations to which the religious leaders belong. At times this has led to massive displacements. Usually the victims are those who, motivated by their faith, do not abide by the rules of criminal groups, denounce the situation of violence in their community, denounce the exploitation of natural resources because of irregular extractive activities, work with young people to prevent their insertion into criminal groups or simply because they refuse to pay quotas or extortions. In the same way there is a high number of robberies and vandalism to religious buildings. From the information available, most of the victims belong to the Christian religion (Catholic and non-Catholic).

There are also records of forms of harassment and discrimination against religious minorities within indigenous communities. In this case, religious minorities are those that do not follow the majority community belief, be it Catholic or syncretic. It is usually made up of members of indigenous communities who have chosen to convert to another religion (usually evangelical). Among the incidents we can mention exclusion from basic services, house arrests, forced marriages and threats. This situation has also led to the displacement of communities. For the most part, it is the indigenous leaders of the reserves or the local authorities who perpetrate these actions, but also paramilitary groups colluded with ethnic leaders or authorities themselves. Many victims are reported as part of evangelical or protestant communities.

Finally, there are also reports of other pressure actions. There are some cases of accusations of violation of the principle of the secular state, discrimination, or intolerance when someone - especially those who hold public office - has manifested or expressed their religious beliefs or gives their faith-based views in the public sphere. On the other hand, there is also data on places of worship vandalized or desecrated mostly during the marches on International

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Women's Day. Although there are cases in which the victims are evangelical, the record indicates that the incidents affect mostly members and temples of the Catholic Church.

The following table provides information on the number of incidents reported for Colombia, according to the nature or type of incidents. More detailed information can be found on the online platform (Violent Incidents Database, 2023c).

Figure 03: Religious freedoms violations
between January 2019 and May 2023

Nature of Incident	Total number
Killings	59
(Attempts) to destroy, vandalize or desecrate places of worship or religious buildings	138
Closed places of worship or religious buildings	21
Arrests/detentions	54
Sentences	14
Abductions	20
Sexual assaults/harassment	82
Forced Marriages	2
Other forms of attack (physical or mental abuse)	857
Attacked houses/property of faith adherents	46
Attacked shops, businesses or institutions of faith adherents	31
Forced to leave Home	1218
Forced to leave Country	67
Non-physical violence (pressure)	6

Source: The Violent Incidents Database (VID)

Colombia is a signatory country of the UDHR. It ratified both the ICCPR and the ICESCR, although it only maintained the individual communications procedure established in the Optional Protocol to the ICCPR.

In Colombia, many religious groups act as de facto human rights defenders in indigenous, rural, and migrant communities. This was recognized in the Plan of action for the prevention and protection of human rights defenders, social leaders and journalists, prepared by the Ministry of the Interior of Colombia, as it understood that a person can be a defender of human rights in different areas of leadership, including religious leaders (Flores & Petri, 2019). However, this is not the same recognition that is given internationally.

In the last UPR of Colombia, the report of the OHCHR drew attention to the high level of impunity for attacks against human rights defenders, including murders, assaults, threats, detentions, forced disappearances, etc. (Office of the

United Nations High Commissioner for Human Rights, 2018b). Also, the report of the Working Group highlighted concerns about the attacks on human rights defenders and social leaders (Working Group on the Universal Periodic Review, 2018b). Nonetheless religious leaders are not named as a specific type of human rights defenders or social leaders, nor as a group with a special degree of vulnerability.

As a result of the visit to Colombia in 2019, the report of the Special Rapporteur on the situation of human rights defenders breaks down among the specific groups of human rights persons at risk: human rights defenders in rural areas, ethnic, land and environmental defenders, women defenders, lesbian, gay, bisexual, transgender and intersex human rights defenders, lawyers for victims of conflict and human rights, as well as journalists, students and trade unionists, however, in no case does it refer to the special situation of religious leaders who also act as social leaders or human rights defenders (Special Rapporteur on the situation of human rights defenders, 2019).

In May 2022, the report on the situation of human rights in Colombia, carried out by the OHCHR mentions that in various communities, exist restrictions on ancestral cultural and religious practices such as the banning of community assemblies or prayer services for the dead, as a result of the violence carried out by non-state armed groups and criminal organizations. Similarly, it points out that among the concerns of ethnic peoples is the lag in the formalization and protection of ancestral territories (United Nations High Commissioner for Human Rights, 2022). In the 2021 report, the High Commissioner also expresses concern about the lack of access of the Arhuaco, Kankuamo, Kogui and Wiwa indigenous peoples to their ancestral territories (United Nations High Commissioner for Human Rights, 2021b).

Most communications by the Special Rapporteur on Human Rights Defenders and the Special Rapporteur on Indigenous Peoples asks for information concerning acts of harassment and intimidation against human rights defenders and indigenous leaders, but hardly there is any reference made to the limitations on the right to religious freedom of these communities.

d. Overview of religious freedom violations in Mexico

According to the data, Mexico also presents three specific dynamics of violations of religious freedom.

The first one is linked with the activities of organized crime, mainly drug cartels. Most incidents of physical violence are caused by these groups. According to the VID, religious leaders are the target of death threats, killings, abductions, and violent attacks as long their activities negatively affect the objectives of the criminal groups. There are numerous cases of religious buildings and places of worship vandalized and robbed. In some cases, the robberies include violence against the parishioners present and against the priests

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in charge. Extortion of religious leaders is also a common practice, not to mention the obligation to pay quotas to cartel leaders. In the same way, the data suggest that occasionally, those who carry out pastoral initiatives dedicated to the assistance or care of migrants at the country's border also suffer some degree of risk of being kidnapped or assassinated to the extent that they do not collaborate with the demands of trafficking networks. The same happens with religious leaders involved in the defense of human rights, involved in restoration or reintegration programs with young people and at some degree with the defense of indigenous communities' rights. At times this context has also led to massive displacements. The perpetrators, in addition to the criminal leaders, are sometimes the authorities, who act in collusion with them. From the information available, most of the victims belong to the Christian religion (Catholic and non-Catholic).

As in the case of Colombia, Mexico also presents cases of harassment and discrimination against religious minorities within indigenous communities. Incidents of physical violence or pressure occur around cases of the conversion of one of its members (abandonment of faith or majority belief, mainly Catholic or syncretic), the refusal of religious minorities to collaborate with patronal feasts, the construction of places of worship minority religion, as well as attempts to proselytize, also from the minority religion. We can mention exclusion from basic services, house arrests, forced marriages, property demolition, threats, and the displacement of entire communities because of the context of repression. The perpetrator can be indigenous community leaders, or cartels and local authorities acting in collusion with ethnic leaders. Most of the victims belong to the evangelical or protestant communities.

Finally, the records also indicate that there are limitations on expressions/demonstrations of faith or faith-based views. Religious leaders and government officials have been accused and found responsible for being discriminatory, intolerant and for having violated the separation of church and state, when they have expressed their faith-based views or their beliefs in the public sphere or when they have provided opinions on the political context during electoral processes. Additionally, there are records of religious buildings desecrated or violently vandalized by radical groups. Most of the victims belong to the Christian religion (Catholic and non-Catholic).

The following table provides information on the number of incidents reported for Mexico, according to the nature or type of incidents. More detailed information can be found on the online platform (Violent Incidents Database, 2023d).

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Figure 04: Religious freedoms violations
between January 2019 and May 2023

Nature of Incident	Total number
Killings	39
(Attempts) to destroy, vandalize or desecrate places of worship or religious buildings	190
Closed places of worship or religious buildings	1
Arrests/detentions	104
Sentences	7
Abductions	24
Sexual assaults/harassment	14
Forced Marriages	0
Other forms of attack (physical or mental abuse)	178
Attacked houses/property of faith adherents	100
Attacked shops, businesses or institutions of faith adherents	7
Forced to leave Home	610
Forced to leave Country	55
Non-physical violence (pressure)	25

Source: The Violent Incidents Database (VID)

Mexico is also a signatory country of the UDHR. The Mexican government ratified both the ICCPR and the ICESCR, but it only maintained the individual communications procedure established in the Optional Protocol to the ICCPR.

In the last UPR, the report of the OHCHR report included that the Committee for the Elimination of Discrimination against Women was concerned about the recent modifications to the General Health Law, which allowed conscientious objection (Office of the United Nations High Commissioner for Human Rights, 2018c). For its part, in the Report of the Working Group, different delegations included among its conclusions and recommendations (Working Group on the Universal Periodic Review, 2018c):

- Poland recommended: Take the necessary measures to effectively combat impunity for attacks against religious leaders, journalists or members of religious minorities.
- Canada recommended: Adopt comprehensive policies for the protection of human rights defenders, journalists and religious leaders, and ensure that existing mechanisms are adequately funded and staffed with trained personnel.
- Pakistan recommended: Ensure freedom of religion for all people, especially indigenous populations, so that they are not forcibly displaced and compelled to convert.

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In the Report of the Special Rapporteur about human rights defenders on his mission to Mexico, the Rapporteur, recommended that religious groups refrain from stigmatizing human rights defenders. He also noted the risk situation for indigenous human rights defenders, since the increase in the number of construction projects and land grabs in some states has led to an intensification of conflicts, since indigenous communities refuse to abandon their ancestral lands, which are often considered sacred and vital to their existence and culture (Special Rapporteur on the situation of human rights defenders, 2018).

In June 2020, the communication AL MEX 6/2020 sent by the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on minority issues, requested information from the Mexican government regarding allegations of human rights violations, discrimination and exclusion of members of religious minorities perpetrated by local authorities in Hidalgo, Oaxaca, Guerrero, Chiapas and Puebla. In the communication the government is asked to provide details especially of the situation of Gilberto Badillo and Uriel Badillo, Protestants from Cuamontax (Mandates of various Special Rapporteurs, 2020). The Permanent Mission of Mexico responded through communication OGE02987, only explaining in a broad way the actions it has been carrying out regarding the protection of human rights and religious intolerance, it did not provide information on specific actions in the cases indicated (Permanent Mission of Mexico to the United Nations Office and other International Organizations based in Geneva, 2020).

In July 2022, the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights of indigenous peoples requested information from the Mexican government regarding the murder of human rights defenders and Jesuit priests Joaquín César Mora Salazar and Javier Campos Morales, who were shot to death by armed men, along with another person inside a church in the indigenous community of Cerocahui, Chihuahua state (Mandates of various Special Rapporteurs, 2022). The Permanent Mission of Mexico indicated in communication OGE03924, that the investigation of the facts had begun, and the necessary steps were taken to arrest those responsible (Permanent Mission of Mexico to the United Nations Office and other International Organizations based in Geneva, 2022a).

In July 2022, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the human rights of migrants requested through communication AL MEX 9/2022 addressed to the Mexican government, to provide information on the high-risk situation in which Pastor Lorenzo Ortiz would find himself due to his work in defense of the rights of migrants between the United States of America and Mexico (Mandates of

various Special Rapporteurs, 2022). The Mexican government has not provided an answer in this regard.

In November 2021, the communication AL MEX 19/2021 sent by the Special Rapporteur on the human rights of migrants, together with other rapporteurships, drew the government's attention to the allegations of harassment and obstruction of the work of defenders of the rights of migrants, within the framework of continuous joint operations carried out by the National Guard, the National Migration Institute and the National Army. According to the information received, it was mentioned that migrants have been detained inside houses, premises, and the church, where they had taken refuge (Mandates of various Special Rapporteurs, 2021). The Mexican government has not provided an answer in this regard.

In September 2021, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the rights of indigenous peoples sent communication AL MEX 15/2022, asking for information from the Mexican government on alleged acts of harassment against the Tzotzil indigenous priest Father Marcelo Pérez Pérez, parish priest of Simojovel and coordinator of the Social Ministry of the Diocese of San Cristóbal de las Casas in the State of Chiapas, who has allegedly been threatened and harassed for his work accompanying communities in the defense of their land and territories, as well as for his support of Migrants and displaced communities in the region of Los Altos de Chiapas ((Mandates of various Special Rapporteurs, 2021). In response, the Permanent Mission of Mexico in the communication OGE03975, alleged that protection measures were being carried out for the benefit of Father Marcelo (Permanent Mission of Mexico to the United Nations Office and other International Organizations based in Geneva, 2022b).

In the case of Colombia and Mexico, the UN bodies do not fully recognize the three different dynamics of limitations to the right to religious freedom described in the VID.

Regarding the dynamics related to organized crime, the Special Rapporteur on human rights defenders has already pointed out that some situations illustrate how the role of religious leaders and faith-based organizations opposing major human rights violations and in preventing and mediating conflict, can place them in a special situation of vulnerability, and warned that there have been various assaults by cartels, consisting, among other things, of kidnappings of religious leaders offering assistance to migrants and asylum seekers, along the US border. In general, many religious groups act as *de facto* human rights defenders in urban, rural indigenous, and migrant communities and this exposes them to specific types of danger, but this is not entirely recognized by all the UN Bodies.

Nonetheless, for Colombia and Mexico, not much is said about the degree of vulnerability of religious leaders that carry out their activities in areas co-opted by violence. In the Colombian case, the UN bodies hardly recognize the role of religious leaders as human rights defenders, nor as holders of immediate

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protection measures in the context of violence. For Mexico, although attention is drawn to specific cases of religious leaders at risk, this is done only after considering their role as human rights defenders. So far, it is not recognized that religious leaders, for being such and for carrying out actions derived from their ministries, expose themselves to various levels of violence, regardless of being considered or not as human rights defenders.

On the other hand, there is also the restrictive look with which the right to religious freedom of indigenous communities is analyzed. Despite the fact that the UN Declaration on the Rights of Indigenous Peoples guarantees the rights of Indigenous peoples to enjoy and practice their cultures, customs, and religion both in private and public, the way in which the exercise and enjoyment of this right is evaluated, is mostly limited to the collective dimension of the religious freedom of Indigenous communities, often linked with the lack of recognition of ancestral land ownership, state absence and organized crime, extraction of natural resources by legal and illegal companies, breakdown of the social fabric, and dispossession by appropriation. However, this view overlooks the violations of religious freedom of individuals in Indigenous communities, as in the cases of Colombia and Mexico and described in the VID platform, mainly linked with conversion, contributions to patronal feasts, construction of places of worship, proselytism and religious education, and renunciation of ancestral practices and expulsion from the communal property (USCIRF, 2023).

Finally, issues concerning limitations on expressions/demonstrations of faith or faith-based views in Colombia and Mexico are entirely ignored in the documents under review. Situations of censorship or sanctions to religious leaders, or to ordinary citizens who profess a certain faith - mostly Christian- are not addressed in the evaluations carried out by UN bodies. Rather, for example in the case of Mexico, a call is made for religious groups to refrain from stigmatizing human rights defenders.

III. Conclusion

In the previous sections, we have shown that there is indeed a robust international legal body that seeks to recognize, promote and guarantee the effective enjoyment and exercise of the right to religious freedom, in its various dimensions.

Based on the various international documents, it is possible to infer a whole range of freedoms that are embedded in the right to religious freedom. Not just the freedom to have, choose, manifest, change or leave a religion or belief; or freedom from coercion or discrimination; but the freedom a) To worship or assemble in connection with a religion or belief, and to establish and maintain premises for these purposes. b) To establish religious, humanitarian, and charitable institutions. c) To make, acquire and use articles and materials related to the rites or customs of a religion or belief, including to follow a

particular diet. d) To write, issue and disseminate relevant publications. e) To teach a religion or belief in places suitable for the purposes and to establish theological seminaries or schools. f) To solicit and receive voluntary financial and other contributions. g) To train, appoint or elect leaders, priests, and teachers. h) To celebrate religious festivals and observe days of rest. i) To communicate with individuals and communities on faith issues at national and international levels. j) To display religious symbols including the wearing of religious clothing. Even the right to conscientious objection, among others.

However, despite the international legal system, in practice, there are still challenges and serious limitations to the religious freedom of entire communities as in the cases of Cuba, Nicaragua, Colombia, and Mexico. The reality contrast with the international obligations inspired by article 18 of the UDHR, but perhaps the most problematic issue is that most religious freedom violations in these countries remain unrecognized in the international arena.

The resolutions, reports, and communications among other documents reviewed, do not include the multiple dimensions of religious freedom violations. There is a permanent and restrictive lens under which the right to religious freedom is evaluated. Even when considering its individual and collective aspect, or that its limitations may be the result of physical violence, it is also necessary to highlight and bring to the fore those violations of religious freedom that involve other forms of limitations resulting from non-physical violence and not just when the perpetrators are part of state actors, but also when the perpetrators are non-state actors.

It is equally important that the UN bodies include in their evaluations, pronouncements, resolutions, etc.; those contexts that imply an objective/concrete restriction of some of the dimensions of the right to religious freedom and that may affect one or various spheres of life, be it personal, family, community, public, etc., and be it religious or non-religious motivated. The fact that adequate attention is not given to the various situations that have been described throughout this article, makes it possible to increase impunity and the repetition of actions that affect the exercise of the right to religious freedom. This invisibility on the part of the UN bodies means that the victims themselves, on many occasions, are not fully aware of the damage or the violations of their rights and, more than that, it implies the permanent non-compliance with the international legal framework inspired by the UDHR.

A more comprehensive analysis of this right could make it easier in practice to make complaints of multiple types of violations of the right to religious freedom, which would mean, in the long run, more and better inputs for the various bodies in charge of protecting human rights at a universal level. Without the recognition of problems that affect human rights, it is impossible to devise ways to improve their enjoyment and effective exercise.

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- enjoy the highest attainable standard of physical health and mental: from the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples; of the Special Rapporteur on minority issues: of the Special Rapporteur on freedom of religion or belief: of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and of the Working Group on discrimination against women and girls (2022). *Communication AL NIC 2/2022*. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27442>
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