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Prospects for Religious Freedom in Iraq Complicated by Competing Objectives

By Alex Colvin

Iraq's draft constitution, with it's checks and balances and guarantees of religious freedom, represents a major victory for US and British policymakers. US Secretary of State Colin Powell has hailed the document as "a major achievement," while UK Prime Minister Tony Blair call it a "foundation stone" for democracy.

The constitution contains a bill of rights guaranteeing freedom of speech and religious expression and stipulating that women will make up at least 25 percent of Iraq's legislative body. A clause refering to Islamic law as "the source" for legislation has been replaced by a reference to Islam as "a source" among many. The exact future balance struck between Islamic law and religious freedom will determine much about the future character of Iraqi society.

Shiites constitute more than 60 percent of the Iraqi population. They have half of the seats on the transitional

governing council. Under Saddam Hussein, Shiites were severely restricted and persecuted. The regime reportedly killed a number of Shiite leaders; mosques were limited in their freedom; pilgrimages were banned; and Shiites were prohibited from publishing or broadcasting.

Thus many Shiites welcomed American intervention and the fall of Saddam. However, Shiites now look forward to Iraqi independence. Some Shiites have refused to cooperate with the US and the US-backed Iraqi Governing Council. The four Shiite grand ayatollahs have so far counseled their followers to have patience with the Coalition forces and to give them time to fulfill their promises to help form a democratically elected government. In October, they refused to support a call by Moktada al-Sadr, the son of a popular ayatollah killed by Saddam Hussein, to rise up against the US led forces and form an Islamic state.

US officials are concerned about the possibility of the establishment of an Iranian-style fundamentalist Islamic state. The leader of the 1979 Islamic revolution in Iran, Ayatollah Ruhollah Khomeini, is popular among Iraq Shiites. Many Shiite politicians speak favorably of Iran. There has been an increase in fundamentalism since 1991, partly abetted by Saddam, who instituted a "campaign of faith" following the 1991 war. Traditionally, however, Shiite religious leaders have shied away from the direct exercise of political power.

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Right to Freedom *from* Religion Emphasized at Columbia University Conference

By Chris Antal

October 23, New York City—Four panelists discussed freedom of religion and, in particular, freedom *from* religion in an afternoon roundtable on the theme "Religion, Rights and Culture in International Affairs." The roundtable was the second of four that composed a two-day Conference on "Re-conceiving Rights for the Twenty-First Century: A Dialogue Between Scholars and Practitioners" presented by the Center for the Study of Human Rights (CSHR) at Columbia University on the occasion of its 25th anniversary.

Four leading human rights scholars from Columbia participated in the roundtable discussion: Joan Ferrante, Professor of English and Comparative Literature (panelist); Michael Stanislawski, Professor of Jewish History (panelist); Peter Danchin, Professor & Director of the Human Rights Program, School of International and Public Affairs (chair), and J. Paul Martin, the Executive Director of the CSHR, (opening remarks). In addition to the scholars mentioned above, the other two panelists were "practitioners" of human rights: Diane Ala'l, Esq. from Baha'i International in Switzerland; and Naeem Baig, Secretary General of the Islamic Circle of North America in New York.

Paul Martin succinctly expressed the perspective that was effectively conveyed at the conference when he said, in his opening introduction to the

Columbia University

roundtable, "now we are going to turn to the *problem* of religion for human rights." Indeed, rather than considering how religion has motivated the likes of Dr. King and Gandhi to work for human rights, the question on most minds at the conference was, rather, "to what extent has religion been the source of deprivation of the rights of others?" The thrust of the discussion, thus, was along the lines that in order for all to enjoy recognized "human rights," we should attribute greater value to the right to freedom *from* religion.

The first panelist, Diane Ala'l, from Baha'i International, discussed freedom of religion as it is dealt with in the major human rights treaties and documents of the United Nations. As a "practitioner" of human rights as well as a person of devout faith, she seemed to recognize that she was a minority in the room and, perhaps because of this, the strongest statement she was able to muster was that "religion has a lot to say on all economic and cultural rights."

The second panelist, Joan Ferrante, was particularly adamant about freedom *from* religion. She stressed how religious laws have been "a serious source of oppression and oppressive laws," especially for women. She said that the rights women have gained over the past three decades are being lost because of "religious pressure" and women and children are being "deprived of needed health" because of this pressure. Even though Ferrante appeared to advocate freedom from *religion*, in fact, what she actually meant was freedom from *certain religious customs*. Ferrante noted that many current practices are not based upon original texts—texts, which she maintains, contain "positive resources for women's rights"—but rather they are based upon a kind of patriarchal interpretation. Thus, she concludes "society does not have to reject religion, but rather recognize the sources in religion that support women as full human beings."

The third panelist, Naeem Baig, further developed the discussion of how religion has been an obstacle to the full enjoyment of some human rights by focusing on Islamic countries where the right to freedom of religion, the rights of women, and the rights of religious minorities are systematically abused. According to Baig, "tyranny is the prevailing force in every Muslim country" and under such regimes there is "corruption of both church and state." That is, "the state enforces religion and religious leaders enforce the oppressive regime" so in the end there is "no liberty." He said the first

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The UK's Exclusion of Reverend Moon Violates Basic Human Rights Guarantees

By Dan Fefferman

On May 15, 2003 the Home Office of the United Kingdom wrote to the Reverend Sun Myung Moon, founder of the Unification Church, and informed him:

> "The Home Secretary has personally directed that you should be excluded from the United Kingdom on the grounds that your presence here would not be conducive to the public good for reasons of public order."[1]

We at ICRF believe the exclusion is unwarranted and that it violates international standards regarding freedom of religion and travel.[2] The freedom to travel for the purpose of participating in religious meetings is guaranteed by international covenants of which the UK is a signatory.[3] To override this fundamental right on "public order" grounds, evidence must be provided indicating a real threat. No such evidence exists in this case. On the contrary:

- Reverend Moon visited the UK six times between 1965 and 1975 without incident.
- The Unification Church has charitable status in the UK as an organization deemed to be operating in "public benefit." A four-year government investigation (1984-88) upheld that status and recognized the UC as a bona fide religious organization.[4]
- Both police and academic organizations which study religious movements indicate no public order threat from the Unification Church and associated organizations.[5]
- The United States embassy in Britain has formally demarched the Home Office regarding the ban, and the US State Department noted the ban as a "restriction of religious freedom."[6]
- Three former attempts by the Home Office to exclude Reverend Moon have all been overturned by British courts and adjudicators.[7]

Rev. Sun Myung Moon at 84: a threat to public order?

There is reason to believe that the real reason for the attempted bans against Reverend Moon is religious prejudice. A senior Home Office official has admitted under oath that Home Office policy has been to use immigration law to prevent the growth of the Unification Church:

> The Home Secretary is satisfied that the Unification Church, even if recognised as a religious organisation by the Charity Commissioners, acts to the detriment of the families to whom its members belong. He took the view that it was not in the public interest that its activities should be promoted, in particular by a visit of its leader to this country.[8]

That attitude is repeated in the more recent Home Office letter of November 28, 2003 informing Rev. Moon that he must not attempt to enter the UK:

> The Home Secretary decided to exclude Revd Moon primarily because of the methods used by the Unification Church to recruit new members and the adverse impact that recruitment has on members and their families.[9]

The letter goes on to say:

> As founder and head of the Unification Church, the Reverend Moon must take responsibility for these methods… The Secretary of State considers that the Reverend Moon and the Unifi-

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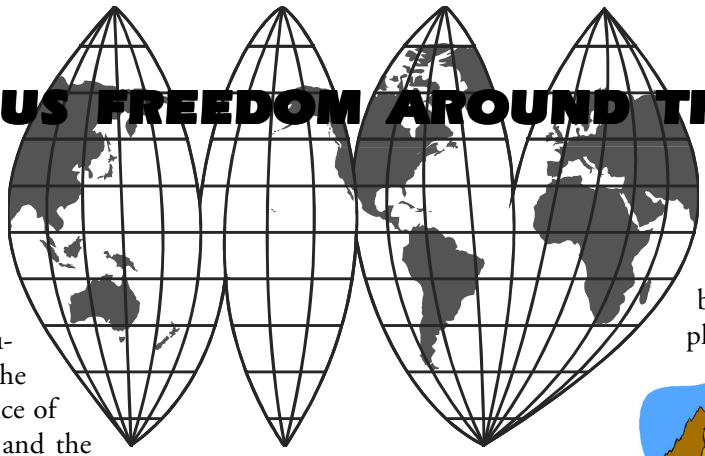
RELIGIOUS FREEDOM AROUND THE WORLD



Africa

Participants at a meeting in February organized by the All Africa Conference of Churches (AACC) and the World Council of Churches (WCC) expressed concern about United States pressure on African countries to introduce anti-terror legislation. They fear that police will resort to harassing citizens under the pretext of tracking down terror suspects and that basic human rights may be jeopardized. Uganda and Tanzania have already passed anti-terror acts amid protests from human rights groups. The Kenyan Parliament may soon pass a similar bill.

Bangladesh

Bangladesh has banned publications by Ahmadiya Muslims following pressure from Islamic hardliners allied with Prime Minister Khaleda Zia's government to declare the sect non-Muslim. The Ahmadiya movement was founded in the late 19th century in what is now Pakistan with the professed goal of reviving Islam by stressing non-violence and tolerance. The sect breaks sharply with mainstream Islam by claiming that Mohammed was not the last prophet and that their own founder was the messiah.

Belarus

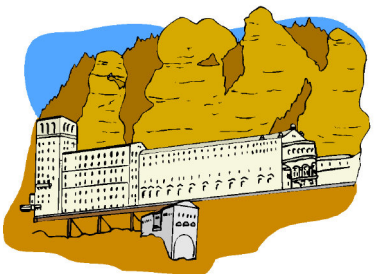
The Belarusian government continues to get bad marks from the international community because of it repressive religion law. Authorities have reportedly detained Krishna devotees several times a week recently for distributing religious literature. The Unification Church, the Hare Khrishnas, Pentecostal Christians, Scientologists and other non-traditional groups, are banned in Belarus. They must operate underground or face arrest and harassment by police.

Bhutan

Bishop Stephen Lepcha, an Indian bishop whose Diocese of Darjeeling includes the kingdom of Bhutan, has charged that Christians are forbidden to celebrate mass or pray in public. He also says that Catholic priests are denied visas to enter the country. Buddhism is the official religion of Bhutan. Until a few years ago, Christians who had emigrated there from India and Nepal were free to celebrate Mass in public, but since the start of the millennium the kingdom has outlawed public non-Buddhist religious services and imprisoned those who violate hold such services. Bhutan authorities say that it is possible to celebrate Mass in private homes.

China

China recently sentenced three Tibetan monks, Choedar Dargye, Gedun Thogphel and Jampa Choephel, to 12 years in prison each for making a painted Tibetan flag and possessing photographs of the exiled



spiritual leader Dalai Lama. The three monks are from the Ngaba prefecture of southwest China's Sichuan province, which borders Tibet. Two other Khangmar monks, Migyur Gyatso, and Jamyang Oezer, are awaiting sentencing. Police confiscated a large number of pictures of the Dalai Lama and a Tibetan flag after they raided the room in the monastery of one of the arrested monks.

France

France's National Assembly voted 494 to 36 to ban Muslim headscarves, Jewish skullcaps and large Christian crosses in public schools and to expel pupils who insist on wearing them. The bill goes to the Senate and then back to the National Assembly for final approval. The law states "In primary and secondary state schools, wearing

signs and clothes that conspicuously display the pupil's religious affiliation is forbidden." It was not clear if France would also ban Sikh turbans, which the country's 5,000 Sikhs say are not religious symbols. Pope John Paul II and other Muslim and Christian leaders have criticized the ban and leaders of France's 5 million Muslims have denounced it as discriminatory.

India

Hindu nationalists fighting against Western cultural influence have threatened to shave young lovers' heads and beat them if they exchange Valentine's Day cards and gifts. Ved Prakash Sachchan, explaining the threat of the militant Hindu organization Bajrang Dal, declared "We will not allow westernization of Indian culture as St. Valentine was a Christian and celebrating Valentine's Day would be a violation of Indian culture."

Israel

Israeli Tourism Minister Benny Elon suggested in a meeting on February 4 with visiting Christian leaders from Europe that Christian missionaries try to convert Islamic militants. Elon told the Christians that Israel would not accept any missionary attempts to convert Jews, but suggested that they turn their attention to Muslim militants in Israel, the West Bank and Gaza.

Macedonia

Serbian Orthodox Bishop Marko and monk Sasko Velkov were fined 8,500 Macedonian Dinars each in February for participating in a baptism held on 20 July 2003 in St. Demetherios' Church in Bitola. The service was broken up by police at the request of priests of the Macedonian Orthodox Church.

Pakistan

Attacks against the 3 percent of Pakistanis who are not Muslims have increased since the regime allied with the United States' war on terrorism. In January, gunmen shot and killed Mukhtar Masih, a minister of the Church of God in Khanewal, a central city of Pakistan. Earlier in the month, a bomb exploded outside a church in the port city of Karachi. Last July, unknown gunmen killed a Christian clergyman in a remote village. In 2001, suspected militants murdered 16 worshippers at a church.

Russia

Explosions ripped through a Baptist prayer house in Tula in January on the eve of a conference attended by leaders of the International Union of Baptist Churches from as far away as Kazakhstan, Siberia and the Caucasus. Police attributed the explosions to a gas leak, but local pastors believe that the explosion was perpetrated by someone who wanted to disrupt the planned conference. None of The International Union of Baptist Churches' 3,705 congregations throughout the former Soviet Union are registered. In recent years Tula church members have been fined or detained for holding public evangelization events. In January, they failed in their legal attempt to recover two private properties confiscated in the 1960s and 70s by the Soviet authorities because they were used to hold worship services.

Turkmenistan

Nikolai Shelekhov was released from labor camp on January 2 after serving a one-and-a-half year term for refusing military service on grounds of conscience. Six other Jehovah's Witnesses are still serving prison sentences for their faith, five for refusing compulsory military service. The sixth — Kurban Zakirov, Turkmenistan's longest-serving religious prisoner — is serving an eight year sentence on alleged assault charges. All non-Sunni Muslim and non-Russian Orthodox communities in Turkmenistan have been denied state registration under Turkmenistan's religion law adopted last November.

Vietnam

In a defiant Lunar New Year message, Thich Huyen Quang, the patriarch of Unified Buddhist Church of Vietnam, said the movement remains "very much alive" despite almost three decades of repression by the communist regime. Quang has been under effective house arrest for 21 years without charge or trial. He has refused to take a senior position in the state-sponsored Vietnam Buddhist Church. All other senior church monks are also under house arrest and subjected to harassment and repression. The UBCV was formally banned in 1981 because it refused to come under the ruling Communist Party's control.

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Religious Freedom in Iraq

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Grand Ayatollah Ali al-Hussein al-Sistani is one of the most widely supported Shiite leaders. He has stated that only a democratically elected government can rightly rule Iraq and that religious leaders should not have the final say over the government. His opinions have proven influential in determining the process by which the new constitution will be written and the new government elected. He has insisted that the new constitution be written by elected delegates and that a transitional assembly be elected and not chosen by regional caucuses.

These demands have caused the US to alter their proposed process and timetable. US officials have been reluctant to call for early elections fearing that fundamentalists and ex-Baath party members may gain too much power.

The potential for conflict between Sunnis and Shiites cannot be ignored. About 35 percent of the people are Sunni Muslims. Some Sunnis subscribe to Wahabi fundamentalism and see the fight against US domination as a jihad. Some of these militant Sunnis have begun to direct their religious ire against Shiites as well. In April, after the bombing of a Shiite mosque in Baghdad that killed a prominent Imam, Shiite gunmen opened fire on Sunni worshippers leaving a mosque. This was followed by pitched gunfights between Sunnis and Shiites that had to be broken up by US troops.

In December 2003, an explosion near a Sunni mosque killed three people. Sunnis blame Shiite extremists from the military wing of the Iran-backed Supreme Council for the Islamic Revolution in Iraq. The Shiites in turn have claimed that Wahabi Sunnis were killed trying to plant a bomb. Afterward, US Apache helicopters had to fly in to disperse hundreds of Sunni mourners who were confronting Shiites at a nearby prayer and meeting house. Tensions continue to run high.

The plight of non-Muslim minorities is also in question. About three percent of the population is Christian. The largest group is the Chaldean Catholic Church. There are about one million Chaldeans worldwide with 500,000 to 700,000 residing in Iraq. The Chaldean Catholic Church recognizes the supremacy of the Pope but does not follow the Latin rite. Recently, a synod of 22 bishops met at the Vatican and elected a new Bishop for Baghdad.

Under Saddam, Christians had a certain amount of freedom to practice their faith. Now Christian leaders are nervous how they will fare if fundamentalists gain control. Recently, there have been attacks on Christians in northern Iraq, probably by Wahabi militants. In November, a bomb was found in a Chaldean Catholic school in Mosul. The bomb did not go off. Also, the home of a Syrio-Antiochan bishop was fired upon with an automatic rifle. Other groups have reported that, while they are able now to engage in practices that were forbidden under Saddam, such as public baptisms, they have also been attacked by Muslims.

Two other minorities are Yazidis, people of Kurdish descent who place a large emphasis on angels, and Sabean Mandeans, an ancient Gnostic group that traces its roots back through John the Baptist. The Sabeans report that although they have greater freedom to practice their religion publicly since the fall of Saddam, they have also been victimized in Shiite areas by militants who have gone so far as to murder their men and kidnap their women into "marriage" with Muslim husbands.

Concern for minorities and belief that individual liberty and freedom of conscience are the bedrock upon which other democratic freedoms are based have prompted religious freedom organizations to encourage the United States to use its authority to insist upon the inclusion of explicit guarantees of religious freedom in constitutional discussions.

The future of religious freedom in Iraq could be a harbinger of things to come in Middle East and throughout the Islamic world.

In a commentary published in the *Washington Times* on November 9, 2003, Nina Shea, director of the Center for Religious Freedom at Freedom House wrote, "We must ensure that Iraq's Muslims have the freedom to debate such sensitive issues as Sharia, Islam's compatibility with democracy and women's rights. Without individual rights to religious freedom, Muslims in the Middle East may never be able to initiate the evolution of a more tolerant, pluralistic, pro-American Islam."

Exclusion of Rev. Moon

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> cation Church are synonymous, and that the Reverend Moon directs the Unification Church as he would private assets.

This, of course, contradicts the above-mentioned finding of the court in the charitable trust case, which ruled, quite to the contrary, that the church is operated as a bona fide religious organization in the public interest. Even more contradictory is the Home Office's own admission in the same letter that:

> The [Home Secretary] is aware that… the methods of recruitment which gave us concern are no longer used. He is aware, for example, that the organization in the United Kingdom no longer discourages members from contact with their families.

The real reason for the exclusion is then made clear:

> [The Secretary] is concerned that a visit by Reverend Moon could re-vitalise the organization in the United Kingdom and prompt a return to previous methods of recruitment and retention.

Thus, the Home Office avowedly wants to use its immigration authority to prevent the "revitalisation" of the Unification Church. It also wants to hold the Reverend Moon responsible for the U.C.'s allegedly bad practices of the past but not the good policies it promulgates at present. This capricious and antagonistic double standard is completely inappropriate for a government which values religious freedom. Regardless of the truth or falsity of the charge regarding past recruitment practices[10] the right of adults to change their religion is guaranteed both by British and International Law. To prevent the members of today's Unification Church from receiving a visit from their religious founder because of an alleged decades-old practice of the church is grossly unfair and unduly punitive.

Article 18 of the U.N.'s Universal Declaration of Human Rights states:

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

That the UK Home Office would take the position that it must refuse entry to Rev. Moon in order to prevent the "revitalisation" of the Unification Church is an egregious violation of the letter and spirit of fundamental international standards of human rights.

1. Letter of Mrs. E. Carmen of the Integrated Casework Directorate, Immigration and Nationality Directorate, May 15, 2003.
2. Article 18 of the UN's Universal Declaration of Human Rights guarantees freedom of religious worship and practice, including the freedom to change one's religion. Furthermore, the UN Human Rights Committee has determined that "Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community." [UN Human Rights Committee, Comment 22 (1993)]
3. Section 32 of the Vienna Concluding Document of the Organization for Security and Cooperation in Europe requires signatory states to: "…allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia,* through travel, pilgrimages, and participation in assemblies and other religious events."
4. Hansard, February 3, 1988, page 977. Then Attorney General Sir Patrick Mayhew, after reviewing the case, decided unconditionally to withdraw it and was obliged to pay the UC's court costs of approximately $3.2 million in 1988 dollars. The trusts operated by church were "conclusively presumed to be charitable for all purposes."
5. Letter of Nick Troake, Assistant Director, Home Office Immigration and Nationality Directorate, ref. No. S447338, April 10, 2002.
6. U.S. Department of State Report on International Religious Freedom for 2003, at *http://www.state.gov/g/drl/rls/irf/2003/24442.htm*. A Freedom of Information Act request is currently pending regarding the text of the Embassy demarche to the Home Office.
7. On August 22, 1978, Chief Adjudicator Peterkin overturned the Home Office's decision to deny Rev. Moon entry and granted him an extended stay of four months. He found that the H.O. action was "unlawful" in that it was based on "journalistic speculation" rather than actual evidence. On August 20, 1991, Adjudicator Richards overturned a H.O. denial of entry for Rev. Moon on "character and conduct" grounds, as well as on a last minute charge of concern about "public order." On November 1, 1995, Mr. Justice Sedley overturned an intended ban against Rev. Moon as "unlawful by reason of procedural unfairness" because the government had failed to allow Rev. Moon a chance to make any representation in his own defence.
8. Statement of Russell Yates, Head of the Entry Clearance Division of the Home Office Immigration and Nationality Directorate, affidavit sub-

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mitted to the 1995 Judicial Review proceedings in the High Court, page 3, paragraph 6.

9. Letter of Nick Troake, op. cit.
10. The church does not admit that it had a policy that prevented members from contacting their parents. However, the background of this allegation is instructive. During the late 1970s and early 80s, substantial numbers of UC members were forcibly kidnapped by agents of their families, who had been influenced by the anti-"cult" movement to believe that these adult citizens were "brainwashed" and needed to be "deprogrammed." In this climate it was only reasonable for the church to caution members about visiting their families without assurances that their religious freedom would be respected. When the courts made it clear that forced conversion, even if paid for by one's family, would be proscribed, the tension between new converts to the church and their families soon relaxed. Today, as the H.O. admits, there is virtually no problem in this regard, and it is ironic that the H.O. would blame the church or Rev. Moon for the past situation, when that situation was due not to the basic attitude of the church, but to intolerance and persecution which the government is bound to prevent.

Columbia Conference

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step to the "liberalization" of the Muslim world is the "separation of church and state." He urged Muslim thinkers "to search the scriptures for that which supports the modern Universal Declaration of Human Rights."

The final panelist, Michael Stanislawski, took the discussion in a different direction—from the contemporary problems caused by religions to a historical look at religious freedom. Stanislawski described what he called a "triple frustration" with the extant works on the history of religious freedom: 1) the scholarship of the history of religious freedom is fundamentally flawed; 2) the history of religious freedom ignores discontinuity between prescriptive texts and descriptive realities; 3) there is a weakness of literature on "religious coexistence on the ground", that is an all-inclusive history that documents both the ideas and realities of religious freedom in history. Stanislawski is in the process of addressing this "triple frustration" in his current work: "A cross-cultural examination of the history of religious freedom."

During the discussion period, Shareen Hertel, who teaches in the Political Science Department, responded to the hitherto critical stance taken by most panelists towards religion and compensated for the timid performance from Diane Ala'l, by offering some incisive comments in defense of the positive role of religion in securing human rights. Hertel pointed out that people throughout the world have used their religious convictions as "an empowering agent for the goal of economic and social reform." She brought further clarity to the discussion by noting that freedom of religion does not mean only freedom from religious coercion, but also freedom to practice religion.