

University of Groningen **Faculty of Arts**

Prof. dr. Antoon De Baets  
Professor of History, Ethics and Human Rights  
Department of History  
University of Groningen  
P.O. Box 716  
9700 AS Groningen  
The Netherlands  
Tel (+31 50) 363 60 31  
e-mail: a.h.m.de.baets@rug.nl

*Date:* 19 May 2021

*Subject:* Input for GA76 Freedom of Thought Report

To: United Nations Special Rapporteur on Freedom of Religion or Belief  
freedomofreligion@ohchr.org

Dear Rapporteur,

I have the honor and pleasure to respond to your *Call for input* in preparation of your *Report on Respecting, Protecting and Fulfilling the Right to Freedom of Thought* to the UN General Assembly.

After briefly clarifying the concepts of thought (Art. 18.1 ICCPR), opinion (Art. 19.1 ICCPR), and non-coercion (Art. 18.2 ICCPR), I illustrate their fundamental importance as human rights by applying them *as a combination* to the realms of scholarship and history.

### **Thought, opinion, and non-coercion**

- *Thought and opinion* are intimately related: the creation of thought – thinking – is a process; the result of that process is an opinion.
- *Non-coercion* as a principle is mentioned in Art. 14.3(g) ICCPR (“[...] Not to be compelled to testify against himself or to confess guilt”) and Art.18.2 ICCPR (“No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”). Art. 19.1 ICCPR (“ [...] the right to hold opinions without interference”) is closely related but “interference” is broader than “coercion.” Art. 20 UDHR speaks of “No one may be compelled to belong to an association,” but this is not reiterated in Art. 22 ICCPR.

### **Application 1: Thought, opinion, and intellectual freedom**

- From a human rights point of view, “intellectual freedom” is an integral part of the freedom of thought and opinion. It is a virtual synonym for freedom of thought. The concept of intellectual freedom is broader than “the freedom indispensable for scientific research and creative activity” (Art. 15.3 ICESCR), let alone academic freedom. The right to freedom of thought, under the guise of intellectual freedom, is their precondition.
- Propaganda is the systematic manipulation of facts or opinions by, or with the connivance of, the government or other powers. Propaganda is coercive and therefore an

impermissible form of interference with the freedoms of thought and opinion, hence with intellectual freedom. Although such interference has always been present in history, it is increasingly likely as it may be supported, next to the usual rhetorical and psychological devices, by genetic, medical or technological interventions in the near future – making the protection of intellectual freedom more urgent than ever. I believe that we are at the brink of a revolutionary reaffirmation of the absolute and non-derogable character of Arts. 18.1–18.2 and 19.1 ICCPR. In this light, Art. 7 ICCPR (“The right not to be subjected without one’s free consent to medical or scientific experimentation”), as part of the prohibition on torture, also gains renewed importance.

### **Application 2: Thought, opinion, and memory**

- The view that memory is a form of thought is widely accepted: thinking is a conscious or semi-conscious activity of the mind that can be directed toward the past, the present, or the future. When it is directed toward the past, it often mobilizes declarative memory and produces memories. This implies that although not all thoughts are memories, all memories are thoughts. In languages such as German and Dutch, the linguistic proximity between both is telling. The intimate connection between thought and opinion entails that memories are not only forms of thought, but, when they are held, also forms of opinion. This means that ICCPR provisions about thoughts and opinions equally apply to memories. From this, it follows that the absolute rights to form thoughts and hold opinions include the absolute rights to form and hold memories.
- This simple conclusion plays a central role in the enduring debate about a duty to remember. Everyone has a right to remember (including a right to mourn and commemorate) past atrocities as part of their freedoms of privacy, thought, opinion, expression, and assembly (Arts 17–22 ICCPR). Nevertheless, many human rights activists and historians argue that, in addition, a *duty* to remember past atrocities is necessary. However, application of the combined Arts. 18.1–2 ICCPR demonstrates that nobody can be obliged to comply with a duty to remember imposed on them by others or by the State. Nobody cannot be forced to mourn or commemorate against his or her will.
- The non-coercion principle comes with two caveats, however. First, a *self-imposed* duty to remember the past is completely different from a duty to remember imposed by others or by the state: it is nothing else than an expansion of the right to memory. Second, implementation problems may arise. The prohibition to impose memories may conflict, for example, with the state duty to educate, and then balancing the prohibition against the state duty will define the extent to which the history outlined in school curricula and textbooks is obligatory and enforceable.

### **Note**

This comment is based on Antoon De Baets, [Responsible History](#) (New York/Oxford: Berghahn, 2009), chapter 5; Antoon De Baets, [Crimes against History](#) (London: Routledge, 2019); Antoon De Baets, “[With a Touch of Wisdom: Human Rights, Memory and Forgetting](#),” *Journal of the History of Ideas Blog* (7 October 2020).

With best wishes,

Antoon De Baets