

The Social Equality of Religion or Belief

Also by Alan Carling

SOCIAL DIVISION (*Verso, 1991*)

GLOBALIZATION AND IDENTITY (*ed, I.B.Tauris, 2006*)

ETHNIC, RACIAL AND RELIGIOUS INEQUALITIES (*with Marie Macey, Palgrave Macmillan, 2011*)

The Social Equality of Religion or Belief

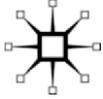
A New View of Religion's Place in Society

Edited by

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*For Beryl, in love and friendship,
and to the memory of
Norman Bonney (1944–2015)*

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Contents

<i>List of Illustrations</i>	ix
<i>Preface</i>	x
<i>Acknowledgements</i>	xvi
<i>Notes on Contributors</i>	xvii
<i>List of Abbreviations</i>	xx
Introduction: The Social Equality of Religion or Belief <i>Alan Carling</i>	1
Part I Religion, Equality and the Law	
1 The Problem of 'Belief' <i>Yvonne Sherwood</i>	51
2 Religious Freedom and Anti-discrimination in Europe and the US: Generally Applicable Laws and Possible Exceptions <i>Iain McLean and Scot Peterson</i>	68
3 The Equality Paradigm in <i>Warner v. Boca Raton</i> : Winnifred Sullivan and <i>The Impossibility of Religious Freedom</i> <i>Peter Gottschalk</i>	80
4 Proportional Prayers: Social Equality in the Scottish Parliament? <i>Norman Bonney and Alan Carling</i>	92
5 Habermas and Rawls on Democracy, Reason and Faith <i>David West</i>	107
Part II Religious Identity Amongst Others	
6 The Social Equality of Religion or Belief: A Critique <i>Edward Reiss</i>	123
7 Muslim Identity, Psychic Detachment and Universal Rights <i>Rumy Hasan</i>	137

8	Religion and Caste in the UK: Reflections on Hindu and Sikh Fundamentalist Mobilisations <i>Pragna Patel and Sukhwant Dhaliwal</i>	150
9	Religion and Ethnicity: The Status of Jews in UK Law <i>Dan Cohn-Sherbok</i>	166
Part III Separation and Establishment		
10	Political Liberalism, Separation and Establishment <i>Cécile Laborde</i>	183
11	The Church of England's Hold over Marriage: The Queer Case for Disestablishment <i>Neil Cobb</i>	200
12	The 2008 <i>Concordat</i> in Brazil: 'Modern Public Religion' or Neo-corporatism? <i>Lidyane Maria Ferreira de Souza</i>	216
13	The Bloating of the Constitution: Equality and the US Establishment Clause <i>Marc O. DeGirolami</i>	226
14	The Limits of Canada's Commitment to State Neutrality in Religious Matters <i>Richard Moon</i>	239
	<i>List of Legal Cases</i>	251
	<i>References</i>	254
	<i>Index</i>	271

List of Illustrations

Figures

- | | | |
|-----|---|----|
| 1.1 | Frontispiece of <i>L'Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers</i> (1751–72) | 58 |
| 3.1 | Statuary in the Old Section, Boca Raton Cemetery, 2008 | 84 |
| 3.2 | Ground-level grave markers in the New Section following the court decision, Boca Raton Cemetery, 2008 | 86 |

Table

- | | | |
|-----|--|-----|
| 4.1 | The religious affiliation of the Scottish population 2001 and 2011 and of contributors to <i>TfR</i> 1999–2011 | 101 |
|-----|--|-----|

Preface

The social equality of religion or belief – ‘serob’ for short – stipulates first that no *individual person* should suffer discrimination, or other unjust harms, on account of his or her religious identity. It then enjoins *states* to be even-handed in their treatment of each religious tradition, in comparison with other religious traditions, and to be even-handed also in their treatment of religious identity, compared with other sources of social identity, such as gender, ethnicity, race, age, disability, sexuality or social caste. These three constituent principles may be called *non-discrimination*, *equal advantage* (or *state neutrality*), and *strand equality* respectively. The concept includes ‘belief’ with ‘religion’ in its description, in order to emphasise that the application of the three principles extends beyond religious traditions to embrace secular belief-systems, so that serob treats atheism or Humanism, say, on exactly the same terms as Christianity, Islam or Judaism. Serob’s ethical appeal derives from the ideal of *social inclusion* (of all religions and belief-systems), combined with the ideal of *impartiality* between them.

The social equality of religion or belief is an abstract concept, and, like all abstract concepts, it has potentially a general, even a universal, reach. The Chapters included in Part I reflect this generality, as it arises from the disciplines of religious studies (Yvonne Sherwood), jurisprudence (Iain McLean and Scot Peterson) and political philosophy (David West). Two case studies also appear in Part I, concerning the Florida *Warner* case (Peter Gottschalk) and *Time for Reflection* in the Scottish Parliament (Norman Bonney and Alan Carling). Both of these examples raise issues of general significance about the application – or sometimes the misapplication – of the principles of social equality of religion or belief.

Although serob may have the potential for universal application, its likely scope and impact is limited in practice by several different factors. Serob comes into focus most sharply where there is *social diversity* of religion or belief within a given civil population that is liable to be maintained over the foreseeable future. These *multicultural* social conditions are most likely to obtain within liberal states that uphold freedoms of personal belief and religious observance. Serob’s attractiveness is likely to depend, moreover, on the existence of general cultural norms supporting the ideals of social inclusion and impartiality as components of social justice. Its overall prospects are affected by three further factors.

First, the political concerns to which serob is called upon to respond are unlikely to range across the whole field of religion or belief. There will instead be trigger issues. In England and Wales, for example, the motivating concern is the integration of religious minorities – above all, Muslim minorities. In Scotland, serob emerges in response to persistent problems of sectarian (intra-Christian) religious conflict, in the context of debates in the 1980s and 1990s about devolution and independence. In Brazil, and other majority Catholic countries that are open to *Concordats* with the Holy See, the issue is how to reconcile secular constitutions with the continuing cultural and political weight of the Catholic Church. In the Hindu and Sikh diasporas, the preoccupation is with social caste. In the UK and the US, and more widely throughout the West, the crunch issues include LGBT rights, same-sex marriage and women in the church. Examples could be multiplied.

Second, much depends on how serob is perceived – and therefore received – within a variety of different traditions, both religious and secular. If multiculturalism is taken seriously, and cultural differences are real, it cannot be assumed that everyone will bring the same perspective to the table. As Edward Reiss makes the point: “equality, impartiality and toleration are principles with cultural limits. They may be admired as social virtues in our culture whilst beyond it they are ignored, misunderstood or opposed. If these ideals lack resonance and authority in another culture then they will not affect its members in the way we might wish and expect” (Chapter 6: 123). Similarly, for Romy Hasan, “the social equality of religion or belief is problematic as some religions, notably Islam, demand more than equality before the law, that is to say, not just protection under the law but legal privileges” (Chapter 7: 148). This judgement may apply also to Hindus, Sikhs, Anglicans or Catholics in various situations, as detailed in Chapters 8, 11 and 12 especially.

Third, national contexts make a big difference. In the US, everything is seen through the prism of the First Amendment to the Constitution, which functions in this field, in Winnifred Sullivan’s words, as “part of scripture” (personal communication). In the UK, we all have to cope with the inspired muddle of Anglican/Presbyterian Establishment, and the unwritten constitution – or better, the variously-written constitution – bequeathed by history. In Canada, the watchwords are secular multiculturalism and religious neutrality of the state. In France, secularism carries all before it. And so on for other national contexts, which are all conditioned by their peculiar laws, conventions, ideologies and histories. The future fate of serob – whether it remains confined to isolated contexts, or becomes a more widespread model for the relations

of religion with the state – depends on the forms of resistance or accommodation it encounters within the different environments shaped on the one hand by ethno-religious culture, and on the other hand by national-state institutions.

Parts II and III of this volume are addressed to these respective social contexts. Part II opens with Edward Reiss's trenchant critique of the very idea of 'social equality of religion or belief'. Chapters then follow on specific issues raised for the Muslim, Hindu and Sikh, and Jewish communities in the UK, contributed by Rummy Hasan, Pragna Patel and Sukhwant Dhaliwal, and Dan Cohn-Sherbok respectively. Part III begins with Cécile Laborde's incisive analysis of separation and establishment within recent liberal theory, and continues with chapters on Anglicanism and sexuality in the UK (Neil Cobb), the 2008 *Concordat* in Brazil (Lidyane Maria Ferreira de Souza), recent developments in US Establishment Clause jurisprudence (Marc O. DeGirolami), and the operation of the religion clause of the *Canadian Charter of Rights and Freedoms* (Richard Moon). The aim throughout is to demonstrate the variety of issues and concerns on which serob promises to offer critical purchase.

Although I had a longstanding interest in various forms of social division (Carling 1991), the question of religious identity acquired greater significance for me dramatically, through personal circumstances rather than academic interests, via the Bradford Riots of July 2001, which broke out in an area very close to my home. I was involved subsequently as Chair of the Programme for a Peaceful City at the University of Bradford.¹

In 2007 my Bradford colleague Marie Macey and I were engaged by the UK Equality and Human Rights Commission (EHRC) to investigate the academic evidence concerning religion and equality, and to write a report (with Sheila Furness) that was intended to be the EHRC's inaugural publication in the new field of 'religion or belief'. In the event, the EHRC suppressed our report, because they did not like the evidence we had discovered.

The research work for the EHRC was not lost, happily, and most of it found its way into the book entitled *Ethnic, Racial and Religious Inequalities: The Perils of Subjectivity*, which was written by Marie Macey and myself, and published by Palgrave Macmillan in 2011. In the course of this research, it became apparent to me that the new legislation on religion or belief enshrined in the UK *Equality Act* of 2006 rested on the three principles of non-discrimination, equal advantage and strand equality outlined above. These principles were dubbed 'Equality of

Religion or Belief', a sketch of which occupied the final Chapter of our book.

I subsequently delivered a paper of the same title to a conference held at St Johns College, Cambridge in September 2012, and organised by the AHRC/ESRC Programme on Religion and Society. I was excited to find that a number of other paper-givers at the conference were working, if not exactly with the same concept of 'equality of religion or belief', at least in areas with a clear relationship to serob's three principles, including their application to a variety of different fields. A published collection seemed therefore on the cards, and I am delighted that the Chapters authored by Sherwood, McLean and Peterson, Bonney, Ferreira de Souza and Moon arise directly from this connection. Winnifred Sullivan's work also featured prominently at the conference, and other Chapters in the book have arisen by invitation, in part through the good offices of Professor Sullivan. I am pleased as well that a number of the contributors to the book – in Part II especially – are active in politics of various kinds, and have valuable experience on the ground, in addition to their academic engagement with the topics at hand.

I wish to thank Palgrave Macmillan for taking on the project of this second book,² and especially Esme Chapman, for her calm and professional editorial support. I am indebted to the publishers for the helpful suggestion of adding 'Social' in the title to 'Equality of Religion or Belief', in order to make clear that it is the social management of the 'question of religion' that is at issue, not the contents or practices of particular religions or belief-systems. And I should also like to thank an anonymous reviewer of the book proposal, whose enthusiasm gave this project wings.

As Editor of this collection, I do not regard myself as an advocate for the social equality of religion or belief, or at the very least not, I hope, an uncritical advocate. Serob does not originate as a conclusion from an academic debate, since it is notably under-theorised as a doctrine. It appears initially not as a theorem of justice, but rather as a fact of life, at least in some countries and in some contexts, legal and otherwise. As such, it seems to me a topic of considerable but neglected interest, which deserves greater exposure, and more careful examination, than it has received to date. So my chief concern is to help give it the hearing it deserves, not to trumpet its claims against all-comers.

I am aware, I hope, of the numerous criticisms and reservations put forward by my fellow contributors: serob can lead the law into the territory of the absurd; its pretence at universality merely obscures its cultural relativity; religions cannot really be defined, or religious collectivities

distinguished clearly from ethnic groups; any attempt to protect religion is doomed to failure, because ‘religious freedom is impossible’; public or official representations can never conform to serob’s requirements, because “no miscellany of symbols could ever be sufficiently inclusive [to express the whole spectrum of religion or belief]” (DeGirolami, Chapter 13: 237); “what initially seems to be an invitation [from serob] – all can now converse on equal terms – turns out to be a deadening, deadly prohibition against free appraisal of different beliefs” (Reiss, Chapter 6: 130); it is naive to expect entrenched or militant members of major world-faiths to abandon their God-given assumptions of moral superiority; serob stands no chance against the on-going processes of ethno-religious separation, which can only be addressed by thorough-going secularism; the ambitions of powerful religious organisations can never be successfully contained; we need robust critique, cultural self-confidence and the active engagement of an educated public on questions of religion and society, and freedom should be the aim, not pre-judgements of ‘equality’; serob is formal, abstract, detached, at arm’s length from reality, belonging to the system-worlds of philosophy and law, not the life-world of true religious experience.

And yet, and yet, I keep coming back to the terms of the problem as posed. The question is not how to live, about which religions and belief-systems have a great deal of advice to give. The question is how to live *together*, under conditions of multicultural, multifaith diversity; how to develop “a shared framework of values designed to protect a plurality of lifestyles and identities” (West, Chapter 5: 110). And how can *this* be achieved without some form of distancing from the social identities created and reinforced within each community of belief? Serob invites this to happen in two stages. First, from a given identity of religion or belief to others of a similar kind: it asks atheists to imagine themselves Muslims; Muslims to imagine themselves Christians or Jews. But it then asks devout religious believers, or convinced believers in belief, to imagine that the principal focus of their lives turns on a very different social axis, of gender, race, age, disability, caste or sexuality, and to contemplate distances on these axes too: young as old; man as woman; straight as gay; white as black; sighted as blind; *Brahmin* as *Dalit*. In political philosophy, this alienating movement out of your own skin is theorised as dispassionate, impartial, the stance of public reason – the original ‘original position’. But its emotional economy can be read another way, as warmth, compassion, empathy. Suddenly it has this much in common with, well, the eternal impulse of the best religion.

And what other approach is more likely to do the trick? The social equality of religion or belief may turn out to be the worst way for the state to manage the public engagements of believers – until one considers any of the alternatives. Culturally-circumscribed it may be, but perhaps in the end a position worthy of a stand.

I have been fortunate to work with such a distinguished group of authors, to whom I am most grateful for their fruitful collaboration. I have enjoyed the experience immensely, and learnt a great deal from all of their contributions below. I invite the reader to do the same.

Alan Carling, Bradford, February 2016

Notes

1. The Bradford Riots involved violent clashes between police and civilians over a prolonged period lasting from the afternoon of Saturday July 7 2001 into the early hours of Sunday July 8. The Bradford Riots were anticipated by prior unrest in some other cities of Northern England, and were the most serious civil disturbances to occur in mainland Britain from the time of the 1985 Riots in Brixton up until the Riots that occurred in London and elsewhere in England in August 2011. The disturbances of 2001 were centred on an area of Bradford – Manningham – with a large population of South Asian origin. The rioters were predominantly young males of Muslim religious background. A great deal of property was damaged, and a large number of injuries were sustained, especially among the police, but thankfully no-one was killed. The Riots brought home to me, rather too literally, the dangers of social separation between ethno-religious communities. The best account of these events is provided by Bujra and Pearce (2011). The work of the Programme for a Peaceful City is described in Carling (2012), and Carling (2008) analyses ethno-religious separation within Bradford.
2. Or perhaps the third, since Palgrave Macmillan had previously published Marie Macey's *Multiculturalism, Religion and Women: Doing Harm by Doing Good?* (2009).

Acknowledgements

Chapter 4 contains an abridged version of Norman Bonney, 'Proportional Prayers: Time for Reflection in the Scottish Parliament', *Parliamentary Affairs* 66 (4), 2013: 816–33, extended to the context of this book. It appears by kind permission of the publishers of *Parliamentary Affairs*, and the family of the late Professor Norman Bonney.

An earlier version of Chapter 9 by Dan Cohn-Sherbok appeared under the title 'Neo-Nazism, Holocaust Denial and UK Law' in *European Judaism* 43 (1), Spring 2010: 105–15.

Chapter 10 is an abridged version of Cécile Laborde, 'Political Liberalism and Religion: On Separation and Establishment', *Journal of Political Philosophy* 21 (1), 2013: 67–86 (© 2013). Reproduced with permission of Blackwell Publishing Ltd.

Chapter 14 is an abridged version of Richard Moon, 'Freedom of Religion in the Canadian Court: The Limits of State Neutrality', *University of British Columbia Law Review* 45, 2012: 497–549.

Notes on Contributors

The late **Norman Bonney** (1944–2015) was Professor Emeritus in the Faculty of Social Sciences, Edinburgh Napier University, UK. He was the founder and leading voice of the Edinburgh Secular Society (ESS), and served also on the Council of the UK National Secular Society. His publications include *Monarchy, Religion and the State* (2013) and *The Cenotaph* (2013). He has been described as ‘a respected public intellectual and constitutional expert, who was passionate in his opposition to religious privilege, yet always counselled fellow ESS members to campaign with grace and decency’.

Alan Carling trained in mathematics and political science, and is an Honorary Senior Research Fellow at the University of Bradford, UK, having taught social sciences for many years there in the Department of Interdisciplinary Human Studies. He has published widely on questions of social inequality and social change, including *Social Division* (1991), *Globalization and Identity* (2006) and (with Marie Macey) *Ethnic, Racial and Religious Inequalities* (2011). He served as Chair of the Programme for a Peaceful City at the University of Bradford (2002–4) and has a number of local community involvements.

Neil Cobb is a Senior Lecturer based in the School of Law at the University of Manchester, UK. He has written extensively on the relationship of law, gender and sexuality in interdisciplinary journals, including *Social and Legal Studies*, the *Journal of Law and Society* and the *Jindal Global Law Review*. He is currently writing a monograph examining the impact of HIV/AIDS on the rise of global sexual rights.

Rabbi Dan Cohn-Sherbok is Professor Emeritus of Judaism at the University of Wales. He is an Honorary Professor at Aberystwyth University; Visiting Professor at York St. John University and St. Mary's University; a Research Fellow at Heythrop College, University of London, and the Centre for Peace and Reconciliation at the University

of Winchester. He is the author or editor of over eighty books dealing with Judaism and other faiths.

Marc O. DeGirolami is a Professor at St. John's University School of Law, New York. His research centres on constitutional law and criminal law. He is the author of *The Tragedy of Religious Freedom* (2013) and several articles involving church-state matters, constitutional interpretation, the justifications for criminal punishment and the intellectual history of criminal law.

Sukhwant Dhaliwal is a research fellow at the University of Bedfordshire, UK. With Nira Yuval-Davis, she is co-editor of *Women against Fundamentalism: Stories of Dissent and Solidarity* (2013). Both Pragna Patel and Sukhwant are former members of Women against Fundamentalism and are now part of the editorial collective of the new journal *Feminist Dissent*.

Lidyane Maria Ferreira de Souza has recently concluded a PhD. on fundamental rights in global society at the University of Camerino, Italy. The thesis is entitled 'Uses of the right to religious freedom: religious assistance in prison'. Her research interests and publications focus on theories on the right to religious freedom and the exercise of this and related rights in Brazil.

Peter Gottschalk is Professor of Religion at Wesleyan University, Connecticut, USA. His research on American attitudes toward Islam and Muslims most recently culminated in *American Heretics: Catholics, Jews, Muslims, and the History of Religious Intolerance* (2013). He also explores issues regarding Hindu and Muslim cultures in India, as in *Religion, Science, and Empire: Classifying Hinduism and Islam in British India* (2012).

Rumy Hasan is a Senior Lecturer at the Science Policy Research Unit (SPRU), University of Sussex, UK and author of *Multiculturalism: Some Inconvenient Truths* (2010).

Cécile Laborde is Professor of Political Theory at University College London and a fellow of the British Academy. She has published widely on theories of law and the state, global justice and republicanism and religion. Her last monograph is *Critical Republicanism: The Hijab Controversy and Political Philosophy* (2008).

Iain McLean is Senior Research Fellow, Nuffield College, Oxford; Professor of Politics, Oxford University, and Vice-President for Public Policy, British Academy. He and Scot Peterson have published extensively

on church-state matters since 2007, in particular *Legally Married* (2013). As a member of the Religious Society of Friends (Quakers), Iain helped the society to formulate the changes it wished to see in UK legislation following its decision to support same-sex marriage in 2009. These changes are now enacted.

Richard Moon is a Professor in the Faculty of Law, University of Windsor, Ontario, Canada. His books include *The Constitutional Protection of Freedom of Expression* (2000), *Law and Religious Pluralism in Canada* (2008), *Freedom of Conscience and Religion* (2014) and *Religion and the Exercise of Public Authority* (2015).

Pragna Patel is Director of Southall Black Sisters, an advocacy and campaigning women's centre in greater West London. She is a member of the anti-communalism network AWAAZ South Asia Watch and has written widely on violence against women, racism, fundamentalism and Hindu nationalism.

Scot Peterson is the Bingham Research Fellow in Constitutional Studies at the University of Oxford, UK. He has published widely in the US and the UK on issues of religious liberty and religious establishment. He has advised religious organizations ranging from Episcopalians to Buddhists on questions of free exercise and establishment and is currently working on a monograph on religious establishment in early twentieth-century Britain.

Edward Reiss lives and works in Bradford, UK. He has written *The Strategic Defense Initiative* (1992), *Marx: A Clear Guide* (1996) and *Your Sort* (2011).

Yvonne Sherwood has been teaching and writing for more than twenty years, and is currently Professor of Biblical Cultures and Politics at the Department of Religious Studies, University of Kent, UK. Her research is based in 'religion' most expansively defined (though not with the same kind of expansiveness used in contemporary legislation!). For examples of recent obsessions and publications, see *Biblical Blaspheming: Trials of the Sacred for a Secular Age* (2012), Yvonne's staff profile at www.kent.ac.uk, and recent contributions to the SSRC blog, *The Immanent Frame*.

David West is Adjunct Associate Professor at the Institute for Governance and Policy Analysis, University of Canberra, Australia. He has taught at the Universities of Bradford and Liverpool, UK, and at the Australian National University. His most recent book is *Social Movements in Global Politics* (2013). Other publications include *Continental Philosophy: An Introduction* (2010), *Reason and Sexuality in Western Thought* (2005) and *Authenticity and Empowerment: A Theory of Liberation* (1990).

List of Abbreviations

ACDA	Anti-Caste Discrimination Alliance
ADI	<i>Ação Direta de Inconstitucionalidade</i> (Brazil)
AHO	Association of Hindu Organisations
AHRC	Arts and Humanities Research Council (UK)
AWAAZ	A voice for women, Redbridge Social Welfare and Education Support Group
BJP	<i>Bharitya Janta Party</i> , a Hindu nationalist party, the political wing of <i>RSS</i>
CCLA	Canadian Civil Liberties Association
DCM	Digital Cinema Media
ECHR	<i>European Convention on Human Rights</i>
EHRC	Equality and Human Rights Commission (UK)
ESRC	Economic and Social Research Council (UK)
HSS	Humanist Society of Scotland
HSS	<i>Hindu Swayamsevak Sangh</i> UK, the UK affiliate of <i>RSS</i>
IFOP	<i>Institut Français d'Opinion Publique</i> (France)
IHEU	International Humanist and Ethical Union
LGBT	Lesbian, gay, bisexual and transgender
LGBTIQ	Lesbian, gay, bisexual, trans, intersex and queer
MAF	Muslim Action Forum
NGO	Non-Governmental Organisation
OIC	Organisation of the Islamic Conference, <i>latterly</i> Organisation of Islamic Cooperation
PEGIDA	<i>Patriotische Europäer gegen die Islamisierung des Abendlandes</i> [Patriotic Europeans against the Islamicisation of the West] (Germany)
PLR	Political liberal argument about the public place of religion
PLR(e)	Political liberal argument for establishment
PLR(s)	Political liberal argument for separation
serob	Social equality of religion or belief
RFRA	<i>Religious Freedom Restoration Act</i> (US, and constituent States)
RSS	<i>Rashtriya Swayamsevak Sangh</i> , a Hindu nationalist paramilitary organisation
SAD	<i>Shrimoni Akali Dal</i> , an affiliate of the Sikh <i>Singh Sabha</i> movement
SAS	Sikh Awareness Society

SGPC	<i>Shrimoni Gurdwara Parbhandal Committee</i> , affiliated to the Sikh <i>Singh Sabha</i> movement
SGSSS	<i>Sri Guru Singh Sabha Southall</i> , a Sikh <i>gurdwara</i> (UK)
SNP	Scottish National Party
<i>TfR</i>	<i>Time for Reflection</i> (Scotland)
UDHR	<i>Universal Declaration of Human Rights</i>
VHP	<i>Vishwa Hindu Parishad</i> , the World Hindu Council