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THE INTERNATIONAL
RELIGIOUS LIBERTY
ASSOCIATION



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We believe that religious liberty is a God-given right.

We believe that legislation and other governmental acts which unite church and state are contrary to the best interest of both institutions and are potentially prejudicial to human rights, and hold that it is best exercised where separation is maintained between church and state.

We believe that government is divinely ordained to support and protect citizens in their enjoyment of natural rights, and to rule in civil affairs; and that in so doing, government warrants respectful obedience and willing support.

We believe in the natural and inalienable right of freedom of conscience—to have or not have a religion; to adopt the religion or belief of one's choice; to change religious belief according to conscience; to manifest one's religion individually or in community with others, in worship, observance, practice, promulgation, and teaching—subject only to respect for the equivalent rights of others.

We believe that religious liberty also includes the freedom to establish and operate appropriate charitable or educational institutions, to solicit or receive voluntary financial contributions, to observe days of rest and celebrate holidays in accordance with the precepts of one's religion, and to maintain communication with fellow believers at national and international levels.

We believe that religious liberty and the elimination of intolerance and discrimination based on religion or belief are essential to promote understanding, peace, and, friendship among peoples.

We believe that citizens should use lawful and honorable means to prevent the reduction of religious liberty.

We believe that the spirit of true religious liberty is epitomized in the Golden Rule: *Do unto others as you would have others do unto you.*

STATEMENT OF PURPOSES

The purposes of the International Religious Liberty Association are universal and nonsectarian. They include:

- 1** Dissemination of the principles of religious liberty throughout the world.
- 2** Defense and safeguard of the civil rights for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others.
- 3** Support for religious organizations to operate freely in every country through the establishment of charitable or educational institutions.
- 4** Organization of local, national, and regional chapters, and seminars, symposia, conferences, and congresses.

MISSION STATEMENT

The mission of the International Religious Liberty Association is to defend, protect, and promote religious liberty for all people everywhere.



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SOURCES OF TOTALITARIANISM:

COMPARISONS BETWEEN STALINIST COMMUNISM,
RELIGIOUS FUNDAMENTALISM AND LIBERAL
DEMOCRACY

BARONESS CAROLINE COX

Queensbury, England

*The gods did not reveal from the beginning
All things to us; but in the course of time,
Through seeking we may learn, and know things better.
But as for certain truth, no man has it.
Xenophanes (ca. 570-480 BC).*

INTRODUCTION: CONCEPTS OF KNOWLEDGE AND TRUTH

Xenophanes' words distil one of the most fundamental principles of the civilization of ancient Greece, which has survived to the present day in those societies generally characterized as liberal democracies. It represents a humble, tentative approach to the search for truth, epitomized in an open, perpetual questioning attitude to the nature of knowledge.

The basic premise of this epistemology is the acknowledgement that reality is so complex that no one person can fully grasp it. Therefore, there is a need for an essential humility in every aspect of the ordering of society, whether in the fields of scientific scholarship or of social policy. All knowledge needs to be seen as tentative and capable of revision in the light of new discoveries; and social policies need to be perpetually open to critical scrutiny to ascertain whether they are means of achieving acknowledged goals.

The development of these ideas can be traced over the centuries from the days of Xenophanes to the present day, underpinning the essential values of those societies generally known as "Western liberal democracies." By contrast, there are belief systems that claim to possess an unequivocal and all-encompassing understanding of truth. This conviction underpins the organization of society

and precludes critical challenge, and it tends to generate totalitarian societies such as the Marxist-Leninist Communism of the Soviet Union and today's North Korea. Commitment to another all-embracing belief system, Islam, underpins many aspects of Islamic societies such as Saudi Arabia. In such societies, the prevailing ideological definition of "the truth" justifies all political and social policies. Open discussion and criticism are severely restricted and often subject to extreme forms of punishment.

Of course, the concept of "Western" does not refer to a uniform, homogeneous group of ideas or societies. So-called "Western societies" have themselves been torn between authoritarianism and democracy; between totalitarianism and liberalism. The Inquisition; the bitter conflicts between Roman Catholics and Protestants in the sixteenth and seventeenth centuries; and the fascism of Nazi Germany were clear aberrations from the principles of open criticism of prevailing Christian or political orthodoxy.

But, as David Green argues in the Foreword to The West, Islam and Islamism:

" . . . if Lord Acton is to be believed, this conflict taught people 'to treasure the liberties of others as their own, and to defend them for love of justice and charity more than as a claim of right.' . . . For this reason, no one should be trusted with too much power, particularly those who thought they had a divine right to rule or who believed that their opinions were derived from sacred and unchanging percepts. Instead, liberalism put its faith, not in relativism—which is a corruption of the idea to the truth that human reason is fallible—but in the belief that we could get closer to the truth through a process of mutual learning by means of public discussion and openness to contradiction. This ideal required religions to tolerate criticism in the hope that they might learn from their opponents. And it meant that no one should claim that it was an 'insult' to question their fundamental beliefs"

I wish to focus on aspects of contemporary challenges to liberal democracies by Stalinist Communism and militant Islam. But first, I emphasize that I am not taking a simplistic view that the "West is always best." Although the West has, in recent centuries, led the world in many economic and technological advances, Western societies exhibit characteristics that are generally seen as cause for concern, including high rates of crime, juvenile delinquency, family breakdown, anti-social behavior, drug-taking, and alcoholism. These are also deemed to be erosions of commitment to fundamental values and of the principle of moral self-restraint on which liberal civilization depends. Many

young people experience a spiritual and moral vacuum and lack a sense of any inspiring social ideals that can inspire their loyalty or enthusiasm.

Therefore, this paper is not offered in any sense of triumphalist superiority. Rather, it is part of an endeavor to understand current trends and challenges to all cultures in order to promote better understanding, mutual respect, and peaceful co-existence.

CONTEMPORARY THREATS TO LIBERAL DEMOCRACY AND FUNDAMENTAL FREEDOMS

It is possible to discern two primary types of political and religious oppression in the world today and the ideological underpinnings of intolerance:

Communist countries such as Laos, Vietnam, China, and North Korea;

Those parts of the world where militant Islam is violating human rights enshrined in the Universal Declaration of Human Rights.

a. Contemporary Communism

Western criticism of political and religious oppression associated with the Marxist-Leninist ideology in recent years has been focused on countries such as China, Cuba, Vietnam, Laos, and North Korea.

Political and religious oppression in these countries are pervasive and often severe, but it may be surmised that the Communist ideology is no longer as hard-line, vibrant, and expansionist as in the days of the Soviet Union. Also, the opening up of these societies to a more free market system appears to be leading to an increasing openness to international relationships and may subsequently lead to a greater compatibility of ideas and ideologies.

I will take one example of Communism from a country I have recently visited, which has been the focus of intense criticism for its record on violations of the most fundamental human rights and liberties: North Korea.

North Korea has been the focus of intense criticism for its record on human rights, including intense religious oppression. Evidence from defectors has provided graphic details of horrific forms of imprisonment, torture, and public executions of those deemed to be political dissidents and/or religious believers. Many citizens have had to flee abroad to escape death by starvation from famine-afflicted areas, and aid organizations have too often been denied access to these people who most need food, shelter, and health care. Many have thus suffered and died unnecessarily. Those who have escaped across the border into China live in harsh conditions, in terror of forced repatriation, as China does not

recognize them as refugees but deems them economic migrants. Many who are forcibly repatriated have reportedly been tortured and executed.

Another issue of great international concern relates to Democratic People's Republic of Korea's (DPRK) nuclear policies and the recent stand-off in discussions in multi-country talks.

Lord Alton and I have been public critics of the DPRK's policies and its record of violations of human rights. We therefore felt we should be true to our own principles, to visit the country, to obtain some first-hand evidence, and to hear the point of view of those we had criticized. (see Appendix A press release for summary).

b. Militant Islam

In the recent publication *The West, Islam and Islamism: Is Ideological Islam Compatible with Liberal Democracy* by myself and John Marks, it is our contention that the expansion of militant Islam is the primary cause of the most rapidly growing forms of political oppression and religious intolerance in the world today.

But before addressing this subject, I must emphasize that I in no way wish to cause a generic backlash of Islamophobia. There are over one billion Muslims in the world today. Most of them lead law-abiding lives and live peacefully with their neighbors, including those of other faiths. In many countries, they are respected for their hospitality and graciousness, and many have lived harmoniously with their neighbors throughout living memory.

However, Islamist terrorism inevitably generates fear, and fear can lead to irrational reactions and a failure to make appropriate distinctions. Thus a backlash against Islamist terrorism may affect all Muslims. Hence the need for authorities to be seen to take terrorism seriously and for moderate Muslims to be seen to dissociate themselves from their terrorist co-religionists.

Causes for Concern

Some nation states, such as Indonesia—the world's largest Islamic nation, over 200 million people, the vast majority of whom are Muslim—and Nigeria, Africa's most populous nation, have enshrined the principles of cultural pluralism and religious tolerance in their Constitutions. The words "Unity in Diversity" are inscribed in Indonesia's national emblem. Relationships between Muslims and those of other faiths, such as Christians and traditional believers, have long been harmonious, with mutual respect, friendship, and shared participation in community events such as weddings. But recent years have

seen the development of more violent movements, with bitter conflict, fighting, death, and destruction.

In many parts of Sudan, Arab and Africa, Christians, Muslims, and animists had traditionally lived together reasonably peacefully. But since the Islamist National Islamic Front (NIF) regime took power by military coup in 1989, its self-proclaimed jihad led to an escalation of pre-existing conflicts, creating a toll of human suffering which is the greatest in the world today. With over 2 million dead and 5 million displaced, the scale of human misery exceeds that of Somalia, Rwanda, and former Yugoslavia combined.

It is therefore important to try to understand these developments—and, for those of us who have the privilege of living in freedom, to consider appropriate responses to threats to our own societies and to the suffering being inflicted on countless innocent victims elsewhere.

FUNDAMENTAL DIFFERENCES BETWEEN TRADITIONAL ISLAMIC AND DEMOCRATIC SOCIETIES

In liberal democracies, the fundamental principles of civil society require a separation of fundamental social and political institutions. Essential human rights and freedoms, such as those embodied in the Universal Declaration of Human Rights (UDHR) are enshrined in law and politics. The social and political structures of liberal democratic societies embody the values of tolerance, pluralism, and individual freedoms. These values are fundamental in political and economic institutions, in the cultural and religious spheres, and, most crucially, in the institutions concerned with freedom of expression, communication, and access to information. These include religious freedoms such as freedom to choose, change, and practice one's religion. Democratic societies are relatively decentralized, and their institutions and values combine to provide complex checks and balances on the exercise of centralized power.

By contrast, traditional Islamic societies, such as those manifested by the Taliban regime or the NIF in Sudan, are monolithic, fiercely intolerant of dissent, and *de facto*, lacking in individual freedoms. Control is attempted over all aspects of life—political, economic, cultural, educational, religious, and military—and is frequently enforced centrally in the name of Islamism. Freedom of expression and of access to information are extensively prevented since conformity with the dominant ideology is the central value. Such hegemony is rooted in the nature

of Islam, which does not differentiate between the personal and the political and which prescribes behavior covering every aspect of life in conformity with Islamic principles. Consequently, no effective checks exist on the exercise of power by the ruling or governing religious group.

Thus the comprehensive control by religion of virtually every aspect of human life, individual and collective, enshrines the essence of totalitarianism and totalitarian control is incompatible with the concept of individual freedom which lies at the heart of liberal democracy.

In order to understand the essence of Islamic societies, it is necessary to be familiar with the two fundamental concepts—*shari'a* and *jihad*. This is the name given to the system of Islamic law that was developed in early Islamic societies and which in one form or another is often urged on societies in the modern world if they are to be truly Islamic. It is sometimes translated as “holy law,” but for traditional Muslims:

. . . the adjective is tautologous. The *shari'a* is simply the law, and there is no other. It is holy in that it derives from God, and is the external and unchangeable expression of God's commandments to mankind.¹

The main features of the *shari'a* are indicated in this description by Kramer of the aims of modern Islamists: . . . a virtuous government, they affirm, can rest only on obedience to the divinely-given law of Islam, the *shari'a* . . . (which) is not legislated but revealed law; as such, in the eyes of the fundamentalists, it has already achieved perfection, and while it is not above some reinterpretation, neither is it infinitely elastic . . .

(The *shari'a* contains) principled affirmations of inequality, primarily between Muslims and non-Muslims, secondarily between men and women. This has made fundamentalists into the most unyielding critics of the UDHR, which guarantees the freedom to choose one's religion and one's spouse. Both freedoms indisputably contradict Islamic law, which defines conversion out of Islam as a capital offense, and forbids marriage between a Muslim woman and a non-Muslim man . . .

The *shari'a*, as a perfect law, cannot be abrogated or altered, and certainly not by the shifting moods of an electorate. Accordingly, every major fundamentalist thinker has repudiated popular sovereignty as a rebellion against God, the sole legislator. In the changed circumstances of the 1990s, some activists do allow that an election can serve a useful one-time purpose, as a collective referendum of allegiance to Islam, and as an act of submission to a regime of divine justice. But once such a regime gains power, its true measure is not how effectively it implements the will of the people but how efficiently it applies Islamic law.²

JIHAD

Jihad is a word which has various meanings. Literally it means “struggle,” including “struggle for the good Islamic life,” but is frequently translated as Holy War, and it often means “violent” Holy War. Islamist literature frequently mentions *jihad* for various purposes, but the ambiguity of the term makes it capable of different interpretations.

According to Lewis, *jihad* is: . . . an Arabic word with the literal meaning of “effort,” “striving,” or “struggle.” In the Qur’an and still more the Traditions commonly though not invariably followed by the words “in the path of God,” it has usually been understood as meaning “to wage war.” The great collections of *hadith* all contain a section devoted to *jihad* in which the military meaning predominates. The same is true of the classical manuals of *shari’a* law. There were some who argued that *jihad* should be understood in a moral and spiritual, rather than a military sense. Such arguments were sometimes put forward by Shi’ite theologians in classical times, and more frequently by modernizers and reformists in the nineteenth and twentieth centuries. The overwhelming majority of classical theologians, jurists, and traditionalists, however, understood the obligation of *jihad* in a military sense, and have examined and expounded it accordingly.

Moreover: . . . *jihad* is one of the basic commandments of the faith, an obligation imposed on all Muslims by God, through revelation . . . The basis of the obligation of *jihad* is the universality of the Muslim revelation. God’s Word and God’s message are for all mankind; it is the duty of those who have accepted them to strive (*jahada*) unceasingly to convert or at least to subjugate those who have not. This obligation is without limit of time or space. It must continue until the whole world has either accepted the Islamic faith or submitted to the power of the Islamic state.

Until that happens, the world is divided into two parts: the House of Islam (*dar-al-Islam*), where Muslims rule and the law of Islam prevails; and the House of War (*dar-al-Harb*), comprising the rest of the world. Between the two there is a morally necessary, legally, and religiously obligatory state of war, until the final and inevitable triumph of Islam over unbelief.

According to the law books, this state of war could be interrupted, when expedient, by an armistice or truce of limited duration. It could not be terminated by a peace, but only by a final victory.³

Jihad is also waged against apostates or Muslims who seek to change their religion—their options are recantation or death.⁴

JIHAD AND THE KORAN

A key development in the concept of *jihad* is contained in this verse in the Koran:

Fight those who believe not in Allah, nor the Last Day, nor hold that forbidden Which has been forbidden by Allah and His Prophet, nor acknowledge the religion of Truth (i.e. Islam) among the People of the Book (Jews and Christians), until they pay the *Jizya* (tax) with willing submission, and feel themselves subdued. Surah 9:29 (Medina)

In other words Muslims must fight unbelievers, those who allow things Allah forbids, and Jews and Christians unless they pay the *jizya* tax. The options for other unbelievers are to accept Islam or be killed.

PARADISE AND JIHAD

When Muslims die they believe they go to the grave to await the day of judgement when Allah will decide, on the basis of works done on earth, who goes to Paradise and who to hell.⁵ The only way to guarantee going to Paradise—and avoid Allah’s verdict on the day of judgment—is to die in *jihad* while fighting the enemies of Islam.⁶ This provides a major religious motive for suicide bombers or others to volunteer for *jihad*. Moreover, many verses in the Koran—and especially those revealed in Medina—deal with *jihad* which, according to Gabriel, “. . . . became the basic power and driving force of Islam.”⁷

In Mohammed’s time, *jihad* was practiced regularly against Christians and Jews, as well as against those who did not convert to Islam.⁸ As the Koran says:

. . . if they turn renegades, seize them and slay them wherever ye find them . . . ” Surah 4:89, (Medina)⁹

The ultimate aim of *jihad* is to establish Islamic authority over the whole world as indicated by this Koranic verse received by Mohammed in Medina: “And fight with them on until there is no more tumult and oppression, and there prevail justice and faith in Allah all together and everywhere . . . ” Surah 8:39, (Medina)

Over 22 years (610-632), Mohammed’s precepts in the Koran changed from “fight those who persecute you” to “fight those who reject Islam in Arabia and then to the final command of *jihad*—conquer the world in the name of Islam.” No subsequent Koranic verse contradicted this final command of *jihad*, so it must be deemed to remain as a goal of Islam today.

Mohammed himself led 27 battles and authorized nearly twice as many more during his 10 years in Medina (633-632)—a rate of about seven battles a

year—and after his death, the Muslims rapidly put these precepts into practice successfully taking *jihad* to many countries outside Arabia.

Over the succeeding years and centuries, *jihad* was remarkably successful. Starting with the capture of Jerusalem from the Christians in 638 and followed by the capture of much of Spain by 715—a conquest which did not fully end until the fall of Granada in 1492, nearly 800 years later—Islam first conquered and then converted much of Europe, North Africa, and Asia. Overall this *jihad* lasted nearly 1,300 years, until the nineteenth century, interrupted only by about 200 years of resistance during the Crusades (1096-1270).¹⁰

Human Rights and Religious Freedoms in Traditional Islamic Societies:

- freedom of religion and apostasy
- the status of women
- the rights of Muslims and dhimmi status
- slavery

Mayer has compared the 1948 UDHR of the U.N. with a number of documents setting out Islam's attitude to alternative ideologies and dissent:

- a pamphlet by Mawdudi (a Pakistani Islamist who died in 1979)
- the 1981 UDHR
- a draft Islamic Constitution published by Al-Azhar University in Cairo
- and the 1979 Iranian Constitution¹¹

In summary, Mayer concludes that:

... the *Shari'a* criteria that are employed to restrict rights are left so uncertain and general that they . . . afford no means for protecting the individual against deprivations of the rights that are guaranteed by international law. Thereby the stage is set not just for the diminution of these rights but potentially for denying them altogether.¹²

FREEDOM OF RELIGION AND APOSTASY

We have already seen the traditional Islamic response to Muslims who seek to change their religion—recantation or death.¹³ Moreover, there is no indication that any of the modern Islamic authorities analyzed by Mayer regard this as a problem:

“ . . . The failure of a single one of these Islamic human rights schemes to take a position against the application of the *shari'a* death penalty for apostasy means that the authors of these schemes have neglected to confront and resolve the main issues involved in harmonizing international human rights and *shari'a* standards.

... The authors' unwillingness to repudiate the rule that a person should be executed over a question of religious belief reveals the enormous gap that exists between their mentalities and the modern philosophy of human rights."¹⁴

THE STATUS OF WOMEN

The status of women within Islam is a major matter of diverse interpretations. What is clear is that women suffer considerable limitations on what they can do compared with men, both in private in the home and in public. Most crucially, in courts of law on many key issues the testimony of one man is equivalent to that of two women.¹⁵

Nor is there any indication that most Islamic authorities regard the rights of women as a problem. According to Mayer: "... there is an absence of any willingness to recognize women as full, equal human beings who deserve the same rights and freedoms as men. Instead, discrimination against women is treated as something entirely natural..."¹⁶

THE RIGHTS OF NON-MUSLIMS AND DHIMMI STATUS

Throughout the history of Islamic societies, arrangements have been made for non-Muslims to be given a less advantageous status than that granted to Muslims. This system has applied most frequently to Jews and Christians. They were able to live within Islamic societies, mostly in peace, provided they accepted *Dhimmi* status, which was a kind of second class status. *Dhimmi* status involved paying a special tax and having considerably more limited legal rights than Muslims—for example, in the ability to own property or to carry out certain occupations. Most crucially, in Islamic courts of law, they are not allowed to give evidence against Muslims and sometimes have to pay a Muslim to give evidence for them.¹⁷

Again I quote Mayer on the Islamic documents she analyzed:

"... to the extent that they deal with the question of the rights of religious minorities, they seem to endorse premodern *shari'a* rules that call for non-Muslims to be relegated to an inferior status if they qualify as members of the *ahl al-kitab* (i.e., Jews or Christians) and for them to be treated as non-persons if they do not qualify for such inclusion. The Azhar draft constitution avoids dealing with the status of non-Muslims. In the context of a document that seems to support the general applicability of premodern *shari'a* rules, the failure

to address the issue suggests that the intent was to retain such rules to govern the status of non-Muslims.¹⁸

SLAVERY

Slavery has been associated with many Islamic societies for over a thousand years.¹⁹ Moreover it continues to be a live issue into the twenty-first century.²⁰

In my own work in Sudan, I have encountered many victims of this policy of the use of slavery by the NIF regime in its *jihad* against the Africans of the South. This policy has been well-documented and case studies abound. I give just one example, typical of countless others:

Since 1989, the National Islamic Front (NIF) "Government of Sudan" has declared *jihad* against its own citizens and has used slavery as one of the weapons of war and as an ideal method of achieving three of the objectives of *jihad*: destruction of African communities and culture, forced Islamization of those not already Muslims, and forced Arabization of Africans.

THE CHALLENGE TO DEMOCRATIC SOCIETIES

The growth of militant Islam is not confined to countries far afield; it is happening in our own lands. A film shown on British television in August 1999 documents the training of Islamist terrorists in England.

The escalation of terrorist attacks around the world needs no elaboration. The question we should urgently address is the need for Western liberal democracies to find ways to meet these challenges without violating the very principles of freedom and respect for human rights which they claim to enshrine.



END

1. Lewis, B., *The Political Language of Islam* (The University of Chicago Press, 1988) p 72.
2. Kramer, M. "Islam vs. Democracy" in *Commentary*, January 1993, p. 38.
3. Lewis, B. *The Political Language of Islam*, (The University of Chicago Press, 1988), pp. 72-73; for further elaboration, see pp. 77-78.
4. *Ibid.* pp. 84-85.
5. Surah 101:6-9, (Mecca), *The Holy Qur'an*.
6. Surahs 8:39, 4:74, and 9:89. (All Medina).

7. Gabriel, M. *Islam and Terrorism*, (Charisma House, 2002), p. 31.
8. See Surahs 2:217; 4:71-104; 8:24-36, 39-65. (All Medina).
9. See also Surahs 47:4, 9:123, 8:67, 8:59-60 (All Medina).
10. For a graphic overview, see P. Fregosi, *Jihad in the West: Muslim Conquests from the 7th to the 21st Centuries*, (Prometheus Books, 1998); for more details see P. Holt, A. Lambton, and B. Lewis (eds.), *The Cambridge History of Islam*, (Cambridge University Press, 1970); B. Lewis, *Cultures in Conflict: Christians, Muslims, and Jews in the Age of Discovery*, (Oxford University Press, 1995), pp. 11-12.
11. Mayer, A. *Islam and Human Rights: Tradition and Politics*, (Westview Press/Printer Publishers, 1991).
12. Ibid. p. 91.
13. See p. 19 above.
14. Mayer, pp 186-187.
15. For more details, see M. Gabriel, *Islam and Terrorism*, (Charisma House, 2002) pp. 42-43.
16. Mayer, A. *Islam and Human Rights: Tradition and Politics*, (Westview Press/Printer Publishers, 1991), p. 136.
17. Bat Ye'or, *The Dhimmi: Jews and Christians Under Islam*, (Associated University Press, 1985); *The Decline of Eastern Christianity* (Associated University Press, 1996); *Islam and Dhimmitude: Where Civilizations Collide*, (Associated University Press, 2002).
18. Ibid. p. 160.
19. See Lewis, B. *Race and Slavery in the Middle East: An Historical Enquiry* (Oxford University Press, 1990); P. Lovejoy, *Transformations in Slavery: A History of Slavery in Africa*, (Cambridge University Press, 1983); S. Marmon (ed.), *Slavery in the Islamic Middle East*, (Markus Wiener [Princeton], 1999); D. Pipes, *Slave Soldiers and Islam: The Genesis of a Military System* (Yale University Press, 1981); J. Azumah, *The Legacy of Arab-Islam in Africa*, (Oneworld Publications, 2001); M. Gordon, *Slavery in the Arab World*, (New Amsterdam Books, 1987); P. Lovejoy and J. Hogendoorn (eds.), *Slow Death for Slavery: The Course of Abolition in Northern Nigeria, 1897-1936*, (Cambridge University Press, 1993); R. Segal, *Islam's Black Slaves: The Other Black Diaspora*, (Farrar, Straus and Giroux, 2001), and P. Manning, *Slavery and African Life: Occidental, Oriental, and African Slave Trades* (Cambridge University Press, 1990).
20. The case of Sudan is particularly well-documented; see note presented by the Secretary-General to the 50th Session of the United Nations General Assembly, October 16, 1995.



RELIGIOUS FREEDOM FROM THE BAPTIST PERSPECTIVE

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Like a number of other churches, Baptists trace their origins to a period and environment of religious persecution; and for much of their history, Baptists have been, in many parts of the world, a persecuted minority.

I write as a Baptist, for that is the church I know and have served throughout my life. Other religious bodies have suffered and continue to suffer as grievously as Baptists have.

Baptists claim that one of those credited with founding the Baptist faith, Thomas Helwys, was the first one to espouse the principal of religious liberty in the English language with his letter addressed to King James in 1612. Having returned with his congregation from Amsterdam, where they were deeply influenced by the Waterlander Mennonites there, Helwys and his congregation set up the first English-speaking Baptist congregation on British soil, and his address to the autocratic monarch entitled, "The Ministry of Inequity" is a remarkable attack upon the divine right of the king. Here's part of the statement: "Hear, oh King, and despise not the council of the poor, and let their complaints come before thee. The King is mortal and not God; therefore hath no power over the immortal souls of his subjects to make laws and ordinances for them and to set spiritual lords over them." For his pains, he was thrown into the Newgate Prison and died there sometime before 1616.

One of the major premises upon which Baptists stand is the separation of Church and State, and Baptists have always been vigorous defenders of religious liberty, no doubt affected by their own experiences as a persecuted people. As well as that, there have been significant voices from within the Baptists context who have argued persuasively for religious freedom. Among those are names

like John Clifford, Martin Luther King Jr., and Jimmy Carter. Dr. Thorwald Lorenzen, formerly from Zurich and now in Canberra, Australia, has written a fine booklet on the subject of freedom of religion, and some of my material is quoting from Dr. Lorenzen's work. However, as well as any theoretical material I offer, I should write that as a Director of the Baptist World Alliance (BWA), the umbrella organization for Baptist churches around the world, I have the responsibility for the study commission on Freedom and Justice, which includes the whole subject of freedom of religion. Along with the General Secretary of the Baptist World Alliance, Dr. Denton Lotz, I have been involved in many issues dealing with religious liberty over the years and initiated an annual BWA human rights visit to seek to stand with embattled Baptists and other Christians in places where the right to worship freely is being denied or is interrupted because of conflictive forces within society.

Among the basis for our belief in the freedom of people to worship as they believe they should worship comes out of our study of the Scriptures, such as 1 John 4:7: "Beloved, let us love one another, because love is from God; everyone who loves is born of God and knows God. Whoever does not love does not know God, for God is love." I am aware that Christians, and indeed others, do not always live up to the challenge and encouragement inherent in those words, but from a Baptist and Christian perspective, we certainly assert the need for love, understanding, tolerance, justice, and freedom.

There is a measure of self interest when Baptists underline the need for freedom of religion. As a persecuted people, it is understandable that religious freedom is high on the Baptist agenda. That is one of the reasons Baptists engage in theological conversations with churches in countries where Baptists are in a minority, often a persecuted minority, is because we anticipate that by engaging in conversations with sister denominations, difficult situations for our people in that country will be alleviated. So there is a mixture of theology and pragmatism in our approach.

Baptists are very much aware of the universal declaration of human rights which states that "everyone has a right to freedom of thought, conscience, and religion; this right includes *freedom to change his or her religion or belief* . . ."

Let me give an illustration. Mother Teresa has recently been beatified by Pope John II in Rome. Indian dignitaries were present, and indeed the country which is predominantly Hindu with a large Muslim population genuinely respects and reverences the memory of this saintly Catholic nun. Compare the reaction to Christian missionary and charity worker Graham Stains, an Australian who spent 34 years serving leprosy victims in the Indian state of

Orissa and who, with his two sons Philip¹⁰ and Timothy⁷, was burned alive by religious extremists in the country of Mother Teresa. Graham Stains and his sons were denied the right to practice their religion without being subject to coercion and abuse.

I could write at length about the various international documents that maintain freedom of religion as a basic human right and which have been ratified by many governments over the last half a century. I will, however, not go into detail. I'll mention that the *International Covenant on Civil and Political Rights* (1976) has some very important articles as does the *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief* (proclaimed by the U.N. General Assembly Resolution 36-55, November 25, 1981). That instrument deals specifically with freedom of religion—what it is and how it can be claimed and implemented. It is so important for all who engage in a search for freedom of religion to be aware of the various articles and the text of that document. It highlights the importance of some of the major tenets I have already mentioned: (a) the free exercise of religion is an absolute human right; (b) human rights in general and freedom of religion in particular are critical rights which, when claimed, must be offered to others; and (c) human rights are indivisible in that no government or religion can pick and choose those rights which they wish to keep (or not keep). So often those that fall into that latter category happen to be issues dealing with freedom of religion or belief.

SO, FROM A BAPTIST PERSPECTIVE, WHAT DOES FREEDOM OF RELIGION MEAN?

1. The freedom to believe. The freedom to believe is a right that can be claimed by every person and should be granted to every person. It is the responsibility of governments and other institutions to maintain conditions and structures so that religious faith can truly be exercised. At the Baptist World Congress in 1939 in Atlanta, Georgia, the BWA issued a *Declaration on Religious Liberty* which included the statement, "No person . . . has the right to dictate how another person may worship God or whether that person should worship at all." Ten years later in Copenhagen, the BWA issued a statement: "God . . . calls upon us today . . . to maintain this God-given freedom not only for ourselves but for all people everywhere. It is our conviction that all liberties, both civil and religious, are bound together, and when one is violated all are endangered." This has been a common theme of the Baptist World Alliance through its history and is strongly asserted today.

2. The right to change one's religion. It distresses Baptists that some religions and certain national states seek to deny the opportunity for people to change their religion if they wish. The universal declaration of human rights included the right to "change his or her religion or belief." Since this was promulgated, there has been a certain watering down, though most would agree that logically and legally, the right to change one's religion is an essential part of the right to religious liberty. Otherwise there is little or no liberty!

3. Freedom to build community. Religious faith is a community experience. It generally presupposes the intentional formation of a community which understands its identity as representing that faith in the world. Baptist Christians therefore agree with the human right "to freedom of peaceful assembling and association." So that religious liberty can be ensured, it is important that every religious community must be able to develop these structures which it considers necessary for community building. It should be able to acquire property and build on it. Throughout Eastern Europe, Baptist congregations have fought a terrible battle for more than 15 years to be allowed to secure property to build places of worship. In some places in the Middle East and elsewhere, the struggle is even more intense. Religious communities, Christian and otherwise, should be able to associate in society to freely organize their internal affairs without interference from governmental authorities. It is not right that religions who deny other religions freedom to worship, even to hold property, should demand that right for themselves in other places and contexts.

4. Faith cannot be coerced. Dr. Lorenzen maintains that coercion is the institutional, psychological, moral, social, economic, or political pressure that hinders people from making voluntary choices in the area of religious faith. The state should not order its people to believe or not to believe. Despite 70 years of a strong totalitarian regime throughout Eastern Europe, the church that emerged when the Berlin Wall fell proved that even with the greatest oppression, people will insist on their right to believe. This is an echo of Thomas Helwys' voice from 1612. The fact that no government or king has the authority over a person's conscience implies that every person has the right to hold a religion or not hold a religion, and to change one's religion without any social or economic disadvantages.

5. The freedom to worship. Worship is essential to religious practice. People should be able to assemble freely for worship. Worship includes aspects like

announcing the faith, teaching, and practicing religious rites (baptism, Eucharist, marriage). People being denied the opportunity of freedom of worship are being denied the right to religious liberty.

6. Freedom of religion in the public domain. Religious faith is not only concerned with people's private relationship to their deity, much as the secular world would wish this to be true. Faith has a public dimension. Freedom of religion therefore includes the free and visible expression of one's religious convictions in all dimensions of life. This is what Baptists call witnessing to their faith. The World Council of Churches "Statement on Religious Liberty" says, "Freedom to manifest one's religion . . . is essential to the expression of inner freedom . . . and includes freedom to practice religion . . . whether by performance of acts of mercy or by the expression in word or deed of the implications of belief in social, economic, and political matters, both domestic and international. Freedom to practice one's religion in the public domain includes evangelism and mission."

What Christians call evangelism should be possible without restrictions. Of course I am aware of the sensitivity of this issue and realize that it must be explained. Baptists would believe that any person of faith should be able to tell his or her story in word, deed, or literature and invite people to join their religious group if they so wish. People who voluntarily and without coercion decide to join should experience no social, political, or other disadvantage.

That naturally raises the relationship between Christian witness/evangelism and proselytism. Christian witness, the more generic term for evangelism and mission, is the necessary and responsible outward expression of Christian faith in the world. The World Council of Churches, in describing this issue, states that it seeks "to persuade persons to accept the supreme authority of Christ, to commit themselves to Him, and to render Him loving service in the fellowship of His church."

Proselytism, on the other hand, is the "corruption of witness. Witness is corrupted when cajolery, bribery, or undue pressure is used—subtly or openly—to bring about seeming conversion; when we put the success of our church before the honor of Christ . . ." There is always a fine line between evangelism and proselytism, and we walk it with great care.

If a dominant religious community—Christian or another religion—detects intrusion from a competing religion or ideology, there will be the temptation to react and claim that proselytism is taking place. And it may well be. On

the other hand, Baptist Christians believe that they have been given a story to tell and a mandate to tell the story, courteously and reasonably, to those who are prepared to listen. Baptists believe that just because a person is born in a particular country, that person does not necessarily forever take on the religion of that particular country. The Kingdom of God transcends national sensibilities.

If a person is born in a country and is therefore assumed to belong to the religion of that country yet shows no interest at all in the religion of that country and indeed lives a life that is contrary to the teaching of the religion of that country, it seems to Baptists to be reasonable, if that person is interested in hearing the story of another way of thinking and living, that the person be not denied that opportunity. As long as there is no bribery, coercion, or cajolery, this seems a reasonable expression of faith. Others will disagree, but from a Baptist perspective, especially if the motivation is right and there is openness and integrity in the sharing of the story, the opportunity to witness—to evangelize—should not be denied to the person who offers that story. In the same way, religious institutions have the right to build and operate educational institutions, kindergartens, schools, seminaries, Bible schools, and adult education facilities to meet needs in their respective situations. These should not be used as a way to enlist people from another faith, but nor should anyone be denied the opportunity to benefit from the opportunities those institutions may provide simply because they are promoted by a particular religion or other institution. This is so also for charitable institutions like hospitals, senior citizens' homes, orphanages, counseling centers, and youth clubs.

Despite the strong efforts of people of goodwill from many religions, denominations, and other institutions over many decades, the denial of freedom to practice religion is prevalent throughout the world. Our people suffer from it—and so do many others. I have visited refugee camps in North Thailand and seen refugees from Myanmar living in refugee camps, denied basic freedom like the freedom to work and to travel and denied the opportunity to live and worship in their own land and churches.

I have visited in Indonesia, indeed was in Jakarta, the day that the twin towers were attacked, and met with Muslim and Christian leaders to talk about peace and justice issues in Indonesia and the fact that many people of faith, both Christians and Muslims, were being killed, churches and mosques were being burned, and people were again denied the opportunity to worship freely.

I was in Azerbaijan in Eastern Europe and worshipped in a congregation whose pastor was not allowed to worship in his own church lest his congregation

is harassed and the church closed down. At an international liberty conference in Baku, Azerbaijan, we realized that not only Baptists, but Muslims, Seventh-day Adventists, Catholics, and others had their stories of harassment and denial of freedom.

I have been in the Chiapas region of Mexico, whose indigenous people are marginalized by the government with the consequent effect on the religious life of both Catholic and Baptist communities in that place.

I have on many occasions visited Bangladesh, where Christians are a persecuted minority and treated as second-class citizens.

I could quote instances of Baptist communities in Romania being beaten at the instigation of leaders of another religion, of a situation in Grozny in Chechnya where the Baptist pastor was beheaded because he happened to be a Russian in Chechnya, where Christians find it enormously difficult to maintain their worship and practices of religion.

I can also write about the situation in Bulgaria, where in 1992, local municipalities gave Baptists permission to build a church. Since then, thousands of dollars have been spent on beginning the building, many sacrificial hours of labor have been given in, and much prayer has been expended. Suddenly the Council wants to reopen the matter and to annul the agreement for the Baptists to build their church.

Needless to say, Baptists and other people who take seriously the need for freedom of religion need to be constantly vigilant, because one of the first rights that is often withdrawn when unscrupulous people are in power is the right of people to worship as they believe is appropriate.

I quote Baptist theologian and author Thorwald Lorenzen: "Freedom of religion describes the universal and inherent human right according to which each person, alone and in community with others, may freely, publicly, and responsibly exercise his or her religious faith in all dimensions of human existence without hindrance and discrimination. As a human right, religious liberty may be claimed and must be granted. No government or other institution should in any way restrict this right. It is grounded in God and in the inherent nature of the human person."



END



SECTS: DO DEMOCRACIES NEED LAWS OF EXCEPTION ?

THE BELGIAN EXPERIENCE

WILLY FAUTRE

Human Rights Frontiers International, Belgium

Are most of the religious minorities in the European Union (EU) that have not received a form of legitimization from the State threatened with expulsion from the religious sphere of protection by international instruments, and are they going to be reduced to the status of cults, disarmed and disempowered of all means of defense against intolerance? As astonishing as it may appear, this is the question that has been posed since the end of the twentieth century. Several tragic events, caused by a very small number of religious movements, brought their criminal activities to light, thus stimulating public emotion and provoking various, sometimes disproportionate, reactions from certain EU States towards recently settled religious minority groups.

SITUATION IN THE EUROPEAN UNION

Eleven of the fifteen member states of the European Union estimated, after examining the situation within their borders, that so-called cults do not threaten the individual, the family, society and its democratic institutions. They estimated that the problems posed by certain religious movements could be resolved, as in the past, by dialogue or by the usual judicial route when necessary. These countries have not become safe havens for questionable or even mafia-like religious movements, and a proliferation of offenses or harmful activities on their part has not been noted in these countries. The common law is applied to them as to all other associations or organizations, whatever their nature.

This observation could be sufficient to respond to the question posed in the beginning of this exposition. It is nevertheless interesting to examine the policies of other states that have opted for other ways of dealing with the issue and to draw lessons from them.

Four states have taken various initiatives. In Austria, state, church, and private centers for information on religious movements, and sometimes also on established religions, have been created. In Germany, a parliamentary *Enquete Commission on Sects and Psychogroups* was set up. It published a report recommending only that the Church of Scientology be placed under surveillance. France and Belgium created similar enquiry commissions but have gone further and have developed, through new laws and institutions, an open policy against cults and harmful sectarian organizations. France set up a *Mission Inter-ministérielle de Lutte contre les Sectes* (MILS—Interdepartmental Mission of Fight Against Cults) and an alert system covering the whole of society to keep watch over them and track them. It has also adopted a law of exception targeting so-called cults, the law About-Picard, heavily criticized abroad. It nevertheless has had to backtrack, following repeated critiques that rose during inter-state conferences such as those of the OSCE, in other international academic conferences, at the Council of Europe, or in reports of human rights organizations. In 2002, France abrogated the law that created the MILS and promulgated another that created a *Mission Inter-ministérielle de Vigilance et de Lutte contre les Dérives Sectaires* (MIVILUDES—Interdepartmental Mission of Vigilance and of Fight Against Sectarian Deviances), whose actions have not, to this day, been criticized. Belgium very quickly followed suit and globally adopted the same policy to the detriment of any form of dialogue while eliminating its most controversial and most criticized aspects.

The Anti-sect Policy of Belgium

On June 2, 1998, the “Law creating an Information and Advisory Center on Harmful Sectarian Organizations” and an “Administrative Coordination Agency for the Fight Against Harmful Sectarian Organizations” was promulgated. This law, which appears to have drawn lessons from certain deviances of the French anti-cult policy, has often been presented as a model of moderation. By “harmful sectarian organization,” the Center means, according to its website, “every movement with a philosophical or religious purpose, or claiming to be so, which through its organization or practice, commits harmful illegal activities, harms the individual, society, or human dignity. The harmful character of a sectarian movement will be investigated on the basis of principles that are embodied in the Constitution, laws, decrees, ordinances, and in international treaties regarding the protection of human rights, which have been ratified by Belgium.”¹

The Center comprises 12 members and 12 substitutes designated by the House of Representatives. Six members and six substitutes are appointed upon presentation of the Council of Ministers. The members are selected

from prominent experts known for their experience and their interest in the issue of harmful sectarian groups. They are designated for a term of four years, renewable once. They are supposed to offer all the guarantees of independence, objectivity, and impartiality for the exercise of their mission.

The Center is charged with several missions:

- To study the phenomenon of harmful sectarian organizations in Belgium as well as their international ties;
- To organize a documentation center accessible to the public;
- To receive and inform the public, to answer anyone's enquiry about his/her rights, his/her obligations, and the means of enforcing his/her rights;
- To formulate, either under its own initiative or at the request of any public authority, advice and recommendations on the phenomenon of harmful sectarian organizations, and in particular on the policy of fight against these organizations.

To accomplish its missions, the Center works in collaboration with the Administrative Coordination Agency. The information provided by the Center in response to a request from the public is founded on information that it has at its disposal and cannot be presented in the form of systematic lists of harmful sectarian organizations. The Administrative Coordination Agency is presided over by the Minister of Justice or by his/her delegate. It is charged with the following missions:

- To coordinate actions carried out by the competent public services and authorities;
- To examine the evolution of illegal practices of harmful sectarian organizations;
- To propose measures that can improve the coordination and the efficacy of these actions;
- To promote a policy of prevention to the public against the activities of harmful sectarian organizations together with the relevant administrations and services;
- To work in close collaboration with the Center.

SECTS AND HARMFUL SECTARIAN ORGANIZATIONS

The law claims to distinguish sects from harmful sectarian organizations. Nevertheless, the criteria defining the "sectarian" and "harmful" character of

an organization, which can be found in the first and only report of activities published to this day since 1999 by the Center, take up three pages and are formulated in a manner so complicated that it does not permit a clear identification of "harmful sectarian groups."²

Besides, the law conceals a basic contradiction. On one hand, it proclaims that it wants to fight against harmful sectarian organization; on the other hand, it says that in its public information mission, the Center cannot release lists of such organizations. Without doubt, this is a form of implicit recognition of the moral and material harm caused by the publication of a list of 189 movements suspected of being harmful sectarian organizations in an annex to the parliamentary report. Now, how can public opinion be warned against these organizations if they are not identified and if the law of June 2, 1998, forbids doing so?³ If certain products are dangerous for the skin, how can consumers be alerted if the brands cannot be revealed? This is a deadlock, and the Center is doomed to endless acrobatics to try to square this circle embodied in the law.

CONTINUATION OF THE WORK OF THE COMMISSION

The Center is supposed to continue and complete the work of the enquiry commission. Following the example of this commission, the Center has not approached the 189 movements suspected of being harmful sectarian organizations in order to go on studying them, either to clear them of suspicion or to put them in the category of harmful sectarian organizations. The Center has only taken a spontaneous step toward the movements about which it has had the intention to publish an information leaflet. To this day, only three such leaflets have been disseminated: on the Mormons, the Baha'i, and the Jehovah's Witnesses.

What do the targeted movements think of the anti-cult policy of the Belgian state? Human Rights Without Frontier International is currently conducting a poll on their perception of this policy and has visited about 15 of them, questionnaire in hand. Their attitude is generally as follows: "We are not a cult and we are not harmful. We have nothing to see with the Center. It should not deal with us, but it does. We have therefore no other choice than to approach it, but with the particular request to be removed from the list of suspected movements." Our survey among these movements is therefore difficult. Although the sample treated at this time may not yet be representative, a coherence arises around the answers to certain questions. The Center has

always welcomed the representatives of the concerned movements and has listened to them each time they have asked for an interview. The Center has taken their documents and has placed them in its library in the section devoted to all material provided by the movements, but commentaries collected during the poll indicate that all the judicial decisions in their favor furnished by them have not been filed in the category of neutral sources, which may conceal them from the attention of researchers and diminish their value.

THE INDEPENDENCE OF THE CENTER AND THE ADMINISTRATIVE COORDINATION AGENCY FROM POLITICAL AUTHORITIES

The Nastase Report of the Council of Europe (1999)⁴ invited the governments of the States to “create national information centers independent from the State. These centers, to be more efficacious, should be united in a European Observatory of groups of religious, esoteric or spiritual character.” This suggestion had already been made in Recommendation 1178 (1992), in which it was underlined nevertheless that “the recourse to major legislation for sects was inopportune.” The Belgian law claims to have been drafted in the perspective of the Nastase Report. Do the Center and the Administrative Coordination Agency respond to these criteria? Quite obviously, no. The law is a major piece of legislation on sects. The Coordination Agency is, by its very nature, an interdepartmental tool of fight against harmful sectarian organizations that depends on political power. This is no less true for the Center.

In a *Carte Blanche* that was published in the newspaper *Le Soir* on January 7, 2003, under the title “*A quoi sert donc l’Observatoire des sects?*” (“What use then is the Sect Observatory?”), Professor Anne Morelli⁵ summarizes quite well the arguments questioning the Belgian policy with regard to certain religious minorities. She writes: “The recruiting method of these members is very far from guaranteeing their impartiality and their independence from political parties, the Catholic Church, and various anti-religious ideologies. Indeed, half of the members were dominated by the Council of Ministers for approval by the House of Representatives, while the other half was directly appointed by the House of Representatives. That means that a good share of appointees immediately came from political personalities. Moreover, representatives of various anti-sect movements were also to be found among members. The chairman, a theologian and a former senior of Brussels high seminary, has been an anti-sect activist in the Catholic Church for more than 20 years, is a judge and a party at the same time and does not seem in a better

position to respond to the guarantees required by law from the members to exercise their mission with independence and in a spirit of objectivity and impartiality. This disparate group of members who have religious, philosophical, and political commitments lacks coherence; divergent, indeed even contradictory points of view, have been reflected in a number of interviews in the media”

“Political” named as substitutes complained that their participation in the meetings was not paid when the senior member was present. Thus, positions have rapidly become vacant. The replacement procedure is inefficient. An initial call for candidates that was published in the *Moniteur* (Official Gazette) of March 30, 2001, was not—despite the number of applications—followed by any appointments. A second call in the *Moniteur* on May 20, 2001, also aroused applications. However, there is no one at the General Directorate of Religions—who can say at what stage the appointment procedure is at or what the constraints of some hidden political agendas are.⁶

“As for the Observatory, the independence of its functioning is hardly guaranteed because of its ties with the Ministry of Justice or the presence of detached staff.⁷ Its activities are limited to those of a costly supplementary library, without the acquisitions of wealthy university libraries already existing or religions. It has published some “folders,” and the rare reports that it has provided, on requests from the police, contain eminently predictable conclusions such as, for example, ‘No, Mormons are not dangerous in Belgium.’ . . .

“One might wonder whether it is useful to have such an observatory, which causes more problems than it solves and the mandate of which seems to us to be eminently controversial: a state agency that decides which religions are good or bad and which all the countries of the world can do without, except Belgium and until recently, France. The latter has just deeply reformed its ‘Interdepartmental Mission of Fight Against Cults’ (*Journal Official* of November 29, 2002) and gotten rid of Alain Vivien, who has damaged France’s international reputation . . .

“ . . . the Provisional Report on Human Rights in the European Union criticizes the creation of this type of observatory and more generally the attitude towards religious minorities in Belgium.

“Belgium must rethink its discriminatory religious policy. Our Constitution does not foresee either a state agency or a judge to decide if a religion is or is not licit. Freedom of religion and belief is without limit other than the repression of general crimes and offenses.”

The position taken here, proclaimed loudly and strongly, reflects well what many think deep down. Confirmation of the well-foundedness of Professor

Anne Morelli's critiques concerning the lack of independence of the Center is the latter's silence and its failure to ask for a right of reply. The only one to react was the president of the Parliamentary Commission on Sects, former senator Serge Moureaux; he did it in a polemical fashion in the columns of *Le Soir* (instead of the Center?) without responding to Professor Morelli's basic critiques, notably those concerning the political supervision of the Center.

STUDY OF THE SECTARIAN PHENOMENON

The Center has for its mission the study of the sectarian phenomenon. This is a vast, very vast program, which leaves the door open to all interpretations.

Strange Voices

Thus, the first report of the Center mentions a request from the Vice-Premier and Minister of Foreign Affairs⁸ to give him an opinion about the FECRIS,⁹ an international federation grouping together some dozens of anti-sect movements. The goal of this request was to obtain official recognition "so that it can be consulted by the European Parliament, the Council of Europe, the OSCE, as well as by the United Nations and the organs and commissions that depend on it. In addition, the FECRIS will be in liaison with administrative authorities empowered to take all possible steps to implement procedures for fiscal and customs control on behalf of States and the European Union as well as with international services created for the same reason."¹⁰ The Center submitted an favorable opinion to the Minister.

One might wonder about the well-foundedness of such a request, emanating from a minister and his motivations, about the mandate of the Center and its independence in this matter. The FECRIS request to obtain consultative status to the Council of Europe was severely criticized and turned down on the basis of a detailed and motivated analysis of several pages.

Discordant Voices

Another object of surprise: "Divergent, even contradictory, points of view were reflected in quite a lot of interviews in the media," said Prof. Anne Morelli in her *Carte Blanche*. Dissonant opinions were, for example, expressed in the printed media, on the radio, and on television when the Hare Krishna movement found itself in a media tempest at the beginning of the year 2002. The Center was far from speaking with a sole voice. Two representatives interviewed held contradictory positions, and a third member of the Center

but speaking in the name of his anti-sect movement, did not show any shade of nuance.

Silence

On the contrary, when minority religions complain of discrimination and intolerance from public authorities or non-state actors, there is total silence. Doesn't Prof. Anne Morelli write in her *CarteBlanche*: "... the Observatory stays mute on religious discrimination committed by public authorities¹¹ and keeps critiques to itself about the concerned ministers or mayors refusing public halls to groups operating in full legality, on the grounds that they are to be found on a so-called list of harmful cults."

How could it be otherwise, when we see its close dependence on the political authorities? Could the Center criticize mayors who are part of the majority in power? Wasn't the new Minister of Justice appointed after the elections of May 18, 2004, year the same minister-president of the French Community who, in 1999, launched a huge media campaign against cults, published and disseminated a luxurious four-color brochure to warn against 189 so-called active cults in Belgium, a false "detail" that the Center did not denounce? Can we expect that the staff of the Center detached from the Ministry of Justice would criticize the previous activities of their new boss? The answer is obvious.

The minority religions have presented tangible evidence of discrimination committed by the public and private authorities. HRWF Int. did the same even before the publication of the first report of activities. Nothing is mentioned in it. The silence of the Center speaks for itself.

INFORMATION TO THE PUBLIC

Internet Site

The Center has an Internet site, but four years after its creation, the public is still unable to find anything on a particular movement, not even the contents of the folders published on the Mormons, the Baha'i, and the Jehovah's Witnesses. The sections "The Center in the press" and "Communiqués and articles by the Center" are still under construction.

In the section "Publications," we can only find the report of activities disseminated to this day, covering the years 1999-2000, the law of June 2, 1998, royal decrees, the internal rule of order adopted by the House of Representatives, a decision by the Court of Arbitration favorable to the Center, and a link to the Report of the Parliamentary Enquiry Commission on Sects.

The “Library” section includes a very interesting bibliography of more than 300 reference works. In the section “Associations of assistance and information in Belgium” are inventoried ten associations that nearly all have in common the mission or providing aid to the victims of cults. Other associations covering the phenomenon differently could be mentioned here, but they are not.

Information Service by Mail

The Center responds to the questions of the public that are communicated by mail, by telephone, or by any other means. In its first report of activities, the movements that were the object of information requests were not mentioned. No other statistic is available on this subject.¹² It would be, among other things, useful to know the content of information chosen and transmitted unilaterally by the Center. In fact, the reference to Article 6, paragraph 4 of the Law on page 19 of the Report is neither clarifying nor reassuring because the manner in which information available to the Center is treated is not known.¹³ This information is not public and is therefore inaccessible to any external control by civil society, *a fortiori* by those directly concerned. Now, this activity of the Center is very sensitive, for it influences the image of the movements in public opinion and can reinforce intolerant attitudes. Some people said they tested it and received nothing but clippings of negative newspaper articles. These responses must not for the time being be generalized or ignored, but opacity does not help researchers.

Is it, besides, acceptable that the Center does not consult the movements about which it disseminates information? Is it a utopia to believe that the Center could not collaborate with the movements concerned for the drafting of responses to questions posed about them?

Collaboration between State and Religious Minorities : an Austrian Experience

This utopia has become a reality, but not in Belgium. In Austria, there exist about 35 centers of information on churches and religious movements. They are divided into four categories: associations of families and individuals, ecclesiastic associations, private associations, and state organizations.

Kult & co Tirol, a state agency, has co-edited with those concerned a 70-page brochure¹⁴ on nine religions active in Tirol, from the Mormons to the Catholic Church, passing through Islam and Judaism. It has thus proved that a dialogue is possible between the State and its religions, even those classified as cults in certain countries, and that they could act as responsible movements. *Kult*

& *co Tirol* also published a 23-page study entitled “The Current Situation of Information and Advisory Centers on So-Called Sects and Psycho-Groups in Austria.”¹⁵ Fourteen centers of information responded to the questionnaire. In its poll, the Austrian state institution asked its counterparts what attitude the state should have with regard to so-called sects and psycho-groups. Five responses were proposed, and several could be checked. All answered that the information dispensed by the state should be factual. Five indicated that the state must be honest and tolerant towards so-called sects, and one asked that the state treat churches, religious associations, and so-called sects on equal terms.

This investigation could be a good starting point for some reflection on the law of June 2, 1998.

CONCLUSIONS

“But what use then is the Sect Observatory?” exclaimed Prof. Anne Morelli in the newspaper *Le Soir*. That is right, what is the use of it in its actual legal framework? Who does it serve? And to whom does it do a disservice?

The Sect Observatory cannot function correctly in the current legal framework that created it.

My exposition could lead to the belief that I am opposed to the Center and its leadership. This is absolutely not the case. My target is the law of June 2, 1998, because it is a bad law. This is even more so because the Coordination Agency for the Fight Against Harmful Sectarian Organizations, with which the Center works, does not disseminate any reports of activities and escapes any control by civil society.

Our poll that is currently being carried out among minority religions stigmatized by the Parliamentary Enquiry Report asks if the June 2, 1998, law is a good initiative or whether it should be amended or abrogated. There is no movement polled that declares that it is a good law, and the responses are currently divided equally between the two other options: amendment or abrogation.

For all of the aforementioned reasons, I believe that this law is not a good law, and that it should be noticeably amended. In what direction? The commentaries by the polled movements open up a line of thought to which I adhere: A revision of the law creating not an information and advisory center on harmful sectarian organization, that to this day have not been identified, but an inter-university information and advisory observatory on religions and philosophies. The religions recognized by the Belgian state would not escape

the scrutiny of such an observatory. Besides, why should they be treated in a privileged manner when we now discover, for example, the extent of the criminal activities committed for a long time in total impunity by religious ministers paid by the state? Why should the public be warned against risks of sexual abuses in a so-called sect and not in a recognized religion? An inter-university observatory would have the advantage of independence from the political authorities and from the ideological interests of external groups, which is not currently the case with the Center. It could pool existing resources on an active Internet site accessible to the public, entrusting the study of philosophical and religious movements to specialists in the area, remain in control of its methods of work, and communicate informed advice to public authorities.

I leave this proposal for your reflection, and especially for the reflection of the Belgian legislators.



E N D

1. <http://www.ciaosn.be>
2. C.I.A.O.S.N., Biannual report (Years 1999-2000), pp. 11, 12, 13.
3. Art. 6, paragraph 4 : "The information that the Center supplies at the request of the public is based on the information which the Center has available and may not be presented in the form of systematic lists of harmful sectarian organizations."
4. Illegal Activities of Sects, Doc. 8373, April 13, 1999. Report. Commission of legal and human rights issues. Rapporteur : M. Adrian Nastase, Romania, Socialist.
5. Professor at the Institute for the Study of Religions and Secularity at the ULB.
6. Interviewed by Prof. Anne Morelli, M. Herman De Croo, president of the House of Representatives, told her on March 27, 2003, " . . . The collection of applications introduced in order to supply for the nomination of members of the *Information and Advisory Center on Harmful Sektarian Organizations* was announced at the plenary session of March 13, 2003. It was stated that the number of candidates was insufficient.
 "Conforming to the opinion of the Conference of Presidents of March 19, 2003, the plenary assembly of March 20, 2003, marked its agreement with the postponement until October 31, 2003, of the mandate of the current members of the *Information and Advisory Center on Harmful Sektarian Organizations*.
 • "In the meantime, a new call for candidates will proceed.
 • "Your application is still valid, and it is not necessary for you to resend the required documents to the House of Representatives.
 • "The services of the House will not fail to keep you informed of future stages of the procedure . . ."
 • And Prof. Anne Morelli said to *Human Rights Without Frontiers* : "One can, of course, wonder what point of the regulation the 'insufficient number of candidates' refers to and in virtue of what procedure a minimal number of necessary candidates is set so that there can be a nomination . . .
 • "Is it legal to prolong an incomplete structure in order to avoid having to name competent persons but which cannot participate with enough vigor in the fight against sects?"
7. Note from the author : The mode of recruitment of the Center personnel charged with daily management is not indicated in the law of June 2, 1998. In removing personnel from the Ministry of Justice, the political authorities created the necessary conditions to create a dependent and docile organ. The margin of maneuver of the Center is well marked, although it is not expressed in the law. Its choice is simple: either to be politically incorrect and enter into a head-on collision with policy, or to practice self-censorship.

8. Letter dated October 4, 1999.
9. C.I.A.O.S.N., Biannual Report (Years 1999-2000), pp 9, 15, 23, 24.
10. Pages 23-24 of the Report.
11. Note from *Human Rights Without Frontiers International*: for example, the anti-sect campaign orchestrated by the French Community of Belgium that wrongly calls the 189 movements inventoried in the Parliamentary Report "active sects." Or again, the intolerance and discrimination practiced both by public and private authorities, with regard to minority religions: slander, stigmatizing broadcasts and articles in the media, victimization at work or school, attacks on the reputations of ordinary persons or intellectuals having dissident opinions in the matter, loss of employment or promotions, refusal or limitation of the right to visit or rejection of the right to custody in cases of divorce, impossibility of renting public or private spaces for religious ceremonies or meetings, denial of access to public posting boards, police supervision and interrogation, judicial complaints for supposed illegal practice of medicine, cases of temporary imprisonment, etc. See detailed cases on the Internet site:
<http://www.hrwf.net/newhrwf.net/html/belgium2002/html>
<http://www.hrwf.net/newhrwf.net/html/belgium2001/html>
<http://www.hrwf.net/newhrwf.net/html/belgium2000/html>
<http://www.hrwf.net/newhrwf.net/html/belgium1999/html>
12. On page 19 of the Report, it is indicated that regarding the 50 most recent requests introduced at the Center in the year 2000, 44 received a response within eight working days, 33 within three working days and 13 within one working day.

On page 20, one finds statistics for the year 2000 on the subjects concerned: 42 percent of the requests concerned a movement or an association cited in the parliamentary report, 31.2 percent a movement or an association not cited in the parliamentary report, 11.6 percent about the Center and 15.2 percent miscellaneous. The total number of requests is not indicated and it is perhaps necessary to deduce that 50 requests were made, as referenced previously.
13. "The information that the Center supplies at the request of the public is based on the information which the Center has available and may not be presented in the form of lists or systematic statements of harmful sectarian organizations."
14. Kirchen und Religionsgemeinschaften in Tirol. Eigentümer, Herausgeber und Verleger: Verein Jugend und Gesellschaft. Address: Meinhardstrasse 8/1, A-6020 Innsbruck. <http://www.kult-co-tirol.at>
15. Zur gegenwärtigen Situation von Informations- und Beratungsstellen in Bezug auf so-genannte Sekten und Psychogruppen in Österreich. Endbericht. Von Dr. Peter Schulte (kult& co tirol). Informations- und Beratungsstelle des Landes Tirol zu religiösen und weltanschaulichen Fragen.



RELIGIOUS FREEDOM AND GLOBAL SECURITY

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(Paper presented to the IRLA International Conference, Taipei, Taiwan; August 30-31, 2004).

“RELIGION IS BAD FOR YOU—AND THE WORLD”

“In the name of God, the most merciful, the most compassionate . . . In the name of God, of myself and of my family . . . I pray to you God to forgive me from all my sins, to allow me to glorify you in every possible way.” Mohammed Atta, September 11, 2001 terrorist.

Common to today’s mind is the concept that religion produces hatred and war. For the atheists and agnostics, religious belief is seen as threatening and dangerous; while for some theists, their beliefs endorse the use of violence against the “enemy.”

“There is no such source and cause of strife, quarrel, fights, malignant opposition, persecution, and war, and all evil in the state, as religion,” concluded the Supreme Court of Wisconsin.¹

“Blind faith can justify anything,” comments Richard Dawkins. “If a man believes in a different god, or even if he uses a different ritual for worshipping the same god, blind faith can decree that he should die—on the cross, at the stake, skewered on a Crusader’s sword, shot in a Beirut street, or blown up in a bar in Belfast.”

Consequently, “the world is in need of less religion and more common sense,” observes Llewelyn Powys; while a bumper sticker announces, “Warning: Quitting Religion Now Greatly Increases the Chances of World Peace.”

This paper does not address the validity or otherwise of religious belief; rather, the proposition is that *intolerance*—whether against religion or on behalf of religion—is the primary destabilizing factor when it comes to religious matters, and is itself more of a threat to peace and security than any religious beliefs themselves. *The primary thesis is that religious freedom is an essential component of global security—indeed, without it there is little prospect for any kind of true security.*

BRIEF HISTORICAL OVERVIEW—AND IMPLICATIONS

Religion as a factor in violence, war, and instability is hardly a modern concept. Depending on definitions, religion is assigned as a major contributory aspect of conflict throughout history—a fact which is not perhaps surprising once the strong motivational and identity aspects of religious beliefs are recognized. That is not to say that the fundamental tenets of any particular religion are necessarily violent and warlike; rather, that religion has been identified as a point of difference and contention, and even a mechanism to “demonize” the enemy.

“Religious wars” (conflicts in which religious difference can be referenced as a point of dissention) are numerous. While many other factors—politics, economics, culture, ethnicity, nationalism, territorial claims, resources, etc.—may also be part of any conflict, religion can often be the focus or “badge” of such clashes.

It is estimated that some nine million people died as a result of the Crusades, instigated for at least an official “religious” reason (the recapture of the Holy Land for the Christians). Europe of the sixteenth and seventeenth centuries saw bloody conflict between religious groups, with a final death toll of more than fourteen million. In some areas, there were huge population losses (one estimate for the Thirty Years’ War in what is now Germany suggests 40 percent of the total population died, more than those lost by the Black Death). “Internal” wars of religion—for example, the crusade against the Albigensians in southern France that caused the death of one million—also grotesquely illustrate the use of violence based on religious difference.

The social instability and violence brought by religiously-motivated witch-hunts resulted in some two million executions. Similarly, the Inquisition and Protestant-inspired persecutions led to the deaths of hundreds of thousands more.

Ongoing anti-semitism also reflects religious just as much racial discrimination, and a great deal of the propaganda against the Jews is clearly religiously motivated.

“The sad truth is that religion, as we begin this new millennium, still starts more conflicts than it resolves,” writes Elliott Abrams. That many should conclude that “religion leads to warfare” is not unexpected. A simplistic analysis would conclude that religion is often a primary factor in conflict, and that religion therefore should be eradicated.

This crass conclusion misses the point that multiplied millions have died under overtly atheistic regimes and in non-religious conflicts; or in wars that may have far more to do with political or other factors than religion.

But as noted above, this is not the primary subject of this paper. What is at issue concerns how religious issues should be treated by those in charge of security, whether local, national, or global, and how supporting religious freedom can aid in stability and security.

NOT RELIGION BUT INTOLERANCE

Montesquieu stated, “I acknowledge that history is full of religious wars: but we must distinguish; it is not the multiplicity of religions which has produced wars; it is the intolerant spirit animating that which believed itself in the ascendant.”²

This observation surely deserves considered analysis. The essential factor is not religious convictions but the way they are expressed. As Kofi Annan once remarked, The problem is usually not with the faith, but with the faithful.³ Taking the cue from such concepts as unique truth and exclusive salvation, some believers damn those of other faiths and preach and practice violence against them. This intolerant spirit may well be abhorred by other believers of the same faith, but the extremists are frequently able to portray moderates as apostates from the truth, rather than the other way around.

Tragically, it is true that “men never do evil so completely and cheerfully as when they do it from religious conviction.” (Blaise Pascal).

It is this factor far more than the actual tenets of religions themselves that leads to violations of the rights of others. Consequently, both the intolerant attitude and the response it engenders are the real problems, not primarily the specific beliefs. As has been so frequently observed, the main religions of the world all preach peace and respect for life, so why is there so much interfaith violence? The main issue is in the way religion is used to identify and dehumanize the “enemy,” so that whatever intolerance and persecution results may be legitimated. For “*In every religion, there are those who would drape themselves in the mantle of belief and faith only to distort its most sacred teachings—preaching intolerance and resorting to violence*” (Hillary Clinton).

As Federico Mayor, former director-general of UNESCO (U.N. Economic and Social Council), observed, “It is intolerable that the world’s religions—founded on the values of love and compassion—should provide a pretext for the expression of hatred and violence.”

Religion as a *pretext*, then, and not as a fundamental expression of “God’s will” or mandated “holy war.” Yet, whatever the debate over religion’s participatory role, and whether it is a question of religion being hijacked or not, it is undeniably true that the use or abuse of religious concepts has played a considerable role in inflaming tensions

and inflicting violence. The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief in its preamble refers to the issue, particularly on the violation of religious belief:

“Considering that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion, or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations . . .”

“Wars and great suffering . . . kindling hatred . . .” Such terms reveal the conviction that denial of the right to religious belief and expression can have tragic results, as well as the belief that the wise observance of religion can improve peace and harmony between peoples: “Convinced that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice, and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination.”

The conclusion as stated in Article Three of the Declaration: “Discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.”

SOCIETAL BENEFITS OF RELIGIOUS FREEDOM AND PLURALITY

“Besides, as all religions contain some precepts advantageous to society, it is well that they should be zealously observed. Now, could there be a greater incitement to zeal than a multiplicity of religions?” Montesquieu continues. Additionally, he observes that “It has also been remarked that a new sect introduced into a state, was always the surest means of correcting the abuses of the old faith. It is sophistry to say that it is against the interest of the prince to tolerate many religions in his kingdom: though all the sects in the world were to gather together into one state, it would not be in the least detrimental to it, because there is no creed which does not ordain obedience and preach submission.”⁴

The social benefit of religion and interfaith harmony is surely self-evident, says Montesquieu. The reverse is dramatically demonstrated through history

and into our own day as religion or religious overtones color and distort perceptions, and lead to conflict and violence. In the words of John Shattuck, Assistant Secretary of the U.S. State Department for Democracy, Human Rights, and Labor (1997), “Ethnic and religious conflict remain the most intractable and dangerous problems in the world today.” Similarly, a statement by UNESCO observes, “As shown by the political impact of religious fundamentalism and ethno-religious movements, religious difference is a main factor of contemporary social conflict on local, national, and global level.”⁵

So it is essential to recognize such factors and address them, noting the positive benefits that religious freedom and tolerance bring. They encourage principles of mutual respect and self-fulfillment, reflecting an assurance that the state is supportive of individual and communal aspects of belief insofar as they promote harmonious mutual development. Religious freedom is not only concerned with the rights of one group, but with all; while it especially encourages the individual to understand that others have the right of belief and practice in accord with their own liberty of conscience.

“Religious freedom also contributes decisively to develop citizens who are genuinely free and helps them fulfill their duties with greater responsibility. The exercise of religious freedom generally cultivates a sense of the other, thereby enabling the individual who professes the faith to live with the neighbor in a right relation characterized by an objective rather than subjective standard. It is also an important means of strengthening a people’s moral integrity. Civil society can count on believers who, because of their deep religious convictions, will not succumb readily to dominating ideologies or trends but will endeavor to act in accordance with their inner aspirations to all that is true and right, an essential condition for securing peace”⁶

In other words, religious freedom is an essential building block of a stable society without which there is a tendency to intolerance, divisiveness, and tension that may very well erupt in communal violence.

A RIGHT RIGHT

Nor is this only a question of pragmatics, looking only at the state from a perspective of serving its own ends. Ultimately religious freedom is a right because it is right!

Montesquieu again: “In conclusion, even if there were no inhumanity in distressing the consciences of others, even if there did not result from such a course any of the evil effects which do spring from it in thousands, it would

still be foolish to advise it. He who would have me change my religion is led to that, without doubt, because he would not change his own although force were employed; and yet he finds it strange that I will not do a thing which he himself would not do, perhaps for the empire of the world.”⁷

Force in religion is counterproductive. State-sanctioned or state-enforced belief is just as counterproductive, for it attempts to command with threats that which can only be freely accepted. As Montesquieu says, why should you try to enforce your particular beliefs on anyone else when you would strongly object to someone doing this to you?

In fact, religious liberty and security are intertwined and interdependent. They flourish together, for when one is denied, the other suffers. In their review of the guiding principles and recommendations on security and religious freedom, the group of experts of the International Religious Liberty Association comments:

“Religious freedom requires security, just as true security requires religious freedom. The two are interdependent, mutually reinforcing, not exclusive, and do not collide or conflict. Too frequently, responses to religion-based terrorism have involved efforts to enhance security at the expense of religious freedom. These responses have often proved counterproductive, and result in violations of international standards of human rights. Such violations, which diminish both security and religious freedom, must be opposed by governments, religious groups, people of faith, and all those who truly value human rights.

“Respecting freedom of religion is more effective in gaining loyalty of citizens and in achieving peace and security than are weapons and coercive measures.”⁸

The argument frequently made by governments and political leaders is that restrictions on religious freedom are essential in some cases to preserve national security. Such an argument is facile at best. Worst-case scenarios make this the excuse of totalitarianism, the refuge of dictators and demagogues. For who is to determine the best course in such a situation, and how are any checks to be made? Who is able to argue the case against “presumed necessity”? As former British prime minister William Pitt observed in 1783, “Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.”

For this reason, the guarantee of religious freedom in international documents is absolute, while the practice of religious beliefs is only limited by some very narrow causes. For example, the *International Covenant on Civil and Political Rights* does *not* allow the limiting of religious freedom, even in times of emergency. Additionally, General Comment 22 of the U.N. Human Rights

Committee (1993) adds that the right to religious freedom in Article 18 “is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.”

This is because it is recognized that to violate such rights to religious faith and practice have so frequently proved to be such a potent source of violence, suffering, and death. Whether it is persecution from the state or by other groups, governments have generally recognized that religious strife is only compounded by denials of religious freedom. As U.S. president James Madison noted, “Torrents of blood have been spilt in the world in vain attempts of the secular arm to extinguish religious discord, by proscribing all differences in religious opinions.”

While “the use of ‘religion’ as an excuse to repress the freedom of expression and to deny human rights is not confined to any country or time,” (Margaret Atwood), historical precedent should at least be used to good effect through the recognition that civil force and violence cannot solve inter-religious or anti-religious disputes. Also, it is essential to recognize that religion can be used for other purposes, not the least being political supremacy.

RELIGIOUS FREEDOM AND SECURITY TODAY

The current world situation does give cause for alarm. Not only are many civil leaders cloaking their ambitions in religious terms, but the drive to security can lead to the erosion of freedoms, including religious freedom. Extremists on both sides can compromise the hard-won rights and guarantees of religious liberty and freedom of conscience. H. L. Mencken’s cynical but apt comment, “Most people want security in this world, not liberty,” is perhaps more true now than ever. Yet those who would exploit the “security” argument should be aware of the damage caused by such general appeals, and that “they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety” (Benjamin Franklin).

Similarly, Thomas Jefferson: “Those who desire to give up freedom in order to gain security will not have, nor do they deserve, either one.”

The “trade-off” between freedom and security is an illusion. It is not a question of opposites, but of safeguarding both. The danger is that citizens,

wishing to trust the motives of government, end up being betrayed in both religious freedom and security.

“Because of what appears to be a lawful command on the surface, many Citizens, because of respect for the law, are cunningly coerced into waiving their rights due to ignorance” (U.S. Supreme Court opinion).⁹

In his analysis of the wars between Sparta and Athens, Edward Gibbon noted that in the end, the democracy of Athens fell because of the lack of will to pay the cost of freedom.

“In the end, more than they wanted freedom, they wanted security. When the Athenians finally wanted not to give to society but for society to give to them, when the freedom they wished for was freedom from responsibility, then Athens ceased to be free.”

The responsibility for supporting religious freedom lies with all concerned. It cannot be guaranteed in practice by the internal declarations and covenants, of which there are many. It cannot be defended by unscrupulous methods that do more damage than help. It cannot be protected by governmental decree or legislative order or civil requirement. It can only be supported by all those who recognize that the denial of religious freedom to another is a denial of religious freedom to oneself.

In an increasingly uncertain world, torn by factionalism that includes religion as the potent weapon, the cry for security cannot be at the expense of trading in religious rights. If it is true, as Adlai Stevenson said, “My definition of a free society is a society where it is safe to be unpopular,” then this applies to religious questions too. For “civil liberty can be established on no foundation of human reason which will not at the same time demonstrate the right of religious freedom” (John Quincy Adams).

CONCLUSION

“The wholesome implementation of religious freedom can help strengthen international peace and ensure the common good of each nation, of each society. For when individuals know that their fundamental rights are protected, they are better disposed to work for the common welfare . . .” Not only this, but the hope is that “the international community will continue to safeguard the freedom of individuals and of communities to profess and practice their religion, also as an essential tool that fosters peaceful human coexistence and enhances social harmony and universal brotherhood among nations and peoples.”¹⁰

The challenge for all involved, both from the perspective of supporting religious freedom and ensuring national/global security, is that each side does not see the other as an opponent, but as a contributor to a peaceful, harmonious, and stable society. Only when religious freedom and security are not regarded as opposites can there be real and meaningful progress. Only when religious freedom is recognized as a vital aspect of peaceful society that practices mutual respect can there be true security.

Paula J. Dobriansky, U.S. Under Secretary of State for Global Affairs, speaks of “a new global security agenda that must be alert to the evolving threats that our world faces.” This, she says, involves recognizing “several other issues which are coming into focus as security issues, including . . . religious freedom.” The alternative? “Repression, intolerance, and a contempt for law and order, are the fuel of terrorism.”¹¹

It is a bleak contrast that should not be lost on anyone of us. U.S. Supreme Court Justice Louis D. Brandeis wrote, “Experience should teach us to be most on our guard to protect liberty when the government’s purposes are beneficial. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.”

For “there are more instances of the abridgement of the freedom of the people by the gradual and silent encroachment of those in power, than by violent and sudden usurpation,” adds James Madison.

Many actions taken to ensure global security may be well-meaning. Some may be exploitive. Some may be purely and completely wrong. But when we give up liberties for that “little temporary safety,” then we sacrifice what has the most value and meaning, and continue to live in a fearful state—which in the end is no security at all.¹² For there can be no security where there is fear.” (Felix Frankfurter).

Ultimately, “security is the priceless product of freedom,” (B. E. Hutchinson), and this applies to religious freedom especially. True security is not in protection and hardware, but in the mutual recognition of the other’s right to exist—from which come all the other rights. Sadly, the usual reaction to a sense of insecurity is to enforce conformity, to demand compliance, and to pass laws to achieve this.

The end result is often far from what is desired. In the words of Lao Tzu, “The more laws and order are made prominent, the more thieves and robbers there will be.”

Increased security for its own sake may end up just creating more thieves and robbers. The alternative is for the state to recognize that since “all religions

contain some precepts advantageous to society, it is well that they should be zealously observed” by building religious freedom as a real practice in society.

Realizing that, as the Roman poet Horace dryly commented, “Your own safety is at stake when your neighbor’s wall is ablaze,” we do well to safeguard the religious freedom walls of our neighbors—at least as much as we value our own religious freedom and security.



E N D

1. Weiss vs. District Board on March 18, 1890.
2. Montesquieu, *Persian Letters* (1721).
3. Press Release SG/SM/7520, 29 August 2000.
<http://www0.un.org/News/Press/docs/2000/20000829.sgsm7520.doc.html>
4. Montesquieu, op. cit.
5. UNESCO: Management of Social Transformations Programme (MOST) Web site.
6. Vatican Address at U.N. on Religious Freedom November 14, 2003. Statement by Archbishop Celestino Migliore, the Holy See’s permanent observer to the United Nations.
7. Montesquieu, op. cit.
8. International Religious Liberty Association Group of Experts, “Guiding Principles and Recommendations on Security and Religious Freedom.” Leuven, Belgium, June 11, 2003. <http://www.irla.org/documents/reports/leuvenreport.html>
9. U.S. v. Minker.
10. Migliore statement, cited above.
11. A New Global Security Agenda. <http://www.state.gov/g/rls/rm/2002/12381.htm>
12. “A right that can’t be defended is a right that exists only in name,” notes Ilana Mercer.



MOSCOW VERSUS ROME ON RELIGIOUS FREEDOM

JOHN GRAZ

Secretary General for the IRLA, USA

Moscow, July 31, 2002. The Russian Orthodox Church has denied the Catholic Church the right “to preach the Gospel to all people,” particularly in territories under Moscow Patriarchate. According to the press agency *Zenit*,¹ the Catholic Church was accused of “Proselytism.” The letter of the patriarchate stated in response to the Vatican: the “Catholic hierarch insists on the right of their Church to ‘preach the Gospel to all the people.’ It adds, “This position is unacceptable for the Russian Orthodox Church.”

Such a statement may surprise someone who believes in religious freedom, as Article 18 of the Universal Declaration of Human Rights states.² The question which immediately comes to my mind is: Why such a reaction from a Church involved in ecumenical dialogue toward a Church which has been working for years for Christian unity? I quote the press release: “From the experience of last years, we know that by this [the right to preach the Gospel], they mean missionary work aiming to convert to Catholicism as many people as possible, including those who belong to Orthodoxy both by baptism and national and cultural tradition,” the patriarchate’s statement says.³

The Catholic answer came from Cardinal Kasper, a brilliant theologian I had the pleasure of meeting several times. He explained that the problem comes with defining the word “proselytism.” He said: “If a person’s religious congregation is called, for example, ‘missionary,’ it is not proof for the accusation of proselytism. The church itself is missionary, but it does not proselytize.” Recalling the policy of the Holy See with the Russian Orthodox Church, he added: “We want dialogue, we want collaboration, we reject proselytism, we want ecumenism, and we want to promote the pastoral care of our Catholics.”⁴ Was it enough to convince the Russian Orthodox Church? No! Since February 2002, when the Vatican announced it had four former dioceses in Russia, the foreign priests had to face problems with the authorities to renew their visas. They represent about 80 percent of the Catholic priests. Viktor Khrul, a spokesman for the church in Russia, said: “Foreign priests are now afraid to go abroad in case they will not be allowed back in.”⁵

The Vatican defending itself against proselytizing is not very common. The Catholic Church used to accuse Evangelicals of proselytizing, especially in its traditional territories such as South America. On their side, the Orthodox also accused Protestants of sending missionaries into Orthodox countries. A Swedish Protestant who had worked in Russia for nine years was ordered to leave and his visa was canceled.⁶ They used to reproach the World Council of Churches for not condemning proselytism strongly enough.⁷ But what does proselytism mean?

AN UNFRIENDLY WORD

I have never met a religious leader or missionary who boldly asserted: "I am proselytizing!" David A. Kerr writes: "The word has different nuances in individual languages and among languages. It refers to the transfer of allegiance between churches."⁸

The term "proselytism" is very often used by established religions to protect themselves from open competition. Minority religions seeking new members see proselytism as a right which is also in many cases their mission. David Kerr writes: "Attitudes to proselytism are conditioned by political, social, and cultural considerations, and responses vary from one church to another, from one culture to another."⁹

PROSELYTISM: AN ISSUE FOR ECUMENISM

On September 25, 1996, a study document titled, *The Challenge of Proselytism and the Calling to Common Witness* was issued by the joint working group of the World Council of Churches, which includes the Russian Orthodox Church and the Roman Catholic Church. The following is from the introduction: "Serious concern about tensions and conflict [are] created by proselytism in nearly all parts of the world."¹⁰ Proselytism is seen as an effort "to take advantage of people's misfortunes (e.g., poverty, mass migration, absence of pastoral care) to encourage people by unfair means to become members of other churches."¹¹

THE MAIN OBSTACLE FOR THE POPE'S VISIT

A year after the reorganization of the Catholic Church Administration in Russia, the Pope's visit to Russia is opposed by the Patriarch of Moscow. "The Catholic Church's fortunes in Russia," according to Geraldine Fagan, Moscow

correspondent for *Forum 18 News Service*, “have not yet turned decisively for the better during the first three months of 2003.”¹² Italian Prime Minister Silvio Berlusconi offered his assistance to find a solution and work on the Pope’s visit. A spokesperson for the Russian Orthodox Archpriest Vsevolod Chaplin told *Interfax* on April 21, 2003: “The future of our relations depends on the Vatican.” What did he mean?

The Vatican “knows perfectly well that only the solution of these problems can open the way to better relations,” he said. What are these problems? “These are the opposite positions of Orthodox believers of the canonical Church in West Ukraine and the Catholic proselytism amongst people Christianized by the Orthodox Church in Russia and other CIS countries.”¹³

It is well known that the question of Catholics following the Orthodox rites in Ukraine and some other mainly orthodox countries has poisoned the relations between Moscow and Rome for a long time. In some ways the issue of Catholic proselytism has to be understood within that context. Moscow believes Rome was not fair in the past in using a strategy which attracted the Orthodox and facilitated their allegiance to Rome.

THE NEW EUROPE SEEN FROM MOSCOW

Europe has given a new opportunity for the Russian Orthodox Church to make its point about religious freedom. According to them, Europe is dominated by Western “post-Christian humanism” which wants to build a secular society where religion will become locked in a private sphere in a ghetto between militant secularists and militant atheism. Both are dangerous for religion. Bishop Hilarion Alleyev explained his church’s view in an article titled: “Christian Witness of Uniting Europe.” The way they see religious freedom appears crystal clear in the statement: “each state, according to the official position of the Russian church, must have the right to have its own legislation regulating the status of marriage and family, bio-ethical issues, systems of education.”¹⁴ Of course that right will affect religious freedom because “each country, moreover must be allowed to develop its own model of relationship between church and the state.”

Bishop Hilarion quotes a statement of the Department for External Church Relations of the Moscow Patriarchate, which states: “The legislation which secures only the right of citizens to religious freedom creates, as a matter of fact, the conditions for ‘wild competition’ between confessions.”¹⁵

The document tries to justify a control of religious activity in protecting the majority church from “competition.”

“We must together create such conditions under which democratic freedoms of an individual, including his right to religious self-determination, would not infringe on the rights of national communities to preserve their integrity, faithfulness to their traditions, social ethics, and religion.”¹⁶

We can call it “a limited religious freedom, or maybe more appropriately; a new toleration.” Who is targeted? The “pseudo-religious, destructive, and extremist movements, as well as those detecting the facts of violation of religious freedom on the part of traditional confessions whose expansion in some part of Europe threaten public and social order.”¹⁷

THE WAY TO PROTECT PEOPLE

Would not the best way to protect people from “destructive and extremist movements” be:

1. To give honest information about groups by giving them the opportunity to explain openly their beliefs.
2. To implement a law which punishes dangerous behaviors to human rights.
3. Not to discriminate against religious groups who are minorities or different but who don't represent a danger to the family, health, or public order.

It would be interesting to know how “traditional confession” or religions, are threatening “integrity, traditions . . .” Are they more dangerous than McDonalds, CNN, Hollywood, and Pizza Hut? Does the state have the responsibility to dictate to its citizens their choice, to deprive them of their basic right to choose?

Another question also comes to mind: Why would a traditional religion or church need to be protected by a legislation which will not respect human rights, especially when it is a church which has the great majority of the population behind it, the support of the state, and is a real economic and political power.

If a religion comes from God,¹⁸ why does it need the power of the state to protect it? Why does it need to deprive people of their basic freedom to choose according to the dictates of their conscience? The majority of Russian people are Orthodox, and they seem to have no plans to change. Some have no religious affiliation or are atheists, others are Muslims, and a few—an extreme minority—Protestants and Catholics. They have no intention to take over the culture or to import a foreign culture. Russian Protestants and Catholics are Russians; they love their country. Why should they not have the right to share what they believe? We should never forget that religious minorities are a test not only for religious freedom, but for freedom and human rights.

Orthodox immigrants are building new churches in Protestant and Catholic countries. They have their schools, and they aren't opposed when a member of another church decides to join their faith. They are grateful not to be persecuted or marginalized. Why should they not accept the same right for the non-Orthodox who are citizens of their country?

Europe may be dominated by "post-Christian humanism," but restrictions "placed by the Greek law on the establishment of non-Orthodox worship places have been declared unlawful by the European Court on Human Rights with the Manoussakis decision of August 29, 1996."¹⁹ Professor Silvio Ferrari comments: "Scholars agree that the establishment and maintenance of a worship place is part of the fundamental right of religious freedom enjoyed by everybody living in Europe: this cannot be infringed, neither directly nor indirectly."²⁰

The European acceptance of the UDHR is not only the expression of the Western secular Humanism. Protestant churches, Rome, and many religions have supported human rights, including religious freedom (Article 18).

Is it something that the Russian Orthodox Church would disagree with?

AVOIDING COMPETITION

The Russian Orthodox Church speaks on behalf of its tradition and its nation. Nobody will contest its role and its influence in Russia. But, what about the individual citizen who will speak for her or him?

Will the Russian Orthodox Church deny the right of all citizens to receive fair information, to make their own choices and decisions? If a Russian citizen does not want to be a Christian but a Hindu, it should not be a problem. If he or she feels happy in a Protestant or Catholic Church, who has the right to force him or her to leave? Respect of the tradition is not imposition of tradition. A religious tradition is important for those who accept and believe in it. What is its value if it is imposed? When the document mentions "wild competition between confession," does it mean that other religions have no right to propagate their beliefs? If this is the case, on which basis? Does it mean that if you don't believe the creed of the Traditional Church or religion, you are not a good citizen? Russian Baptists, Adventists, Pentecostals, etc.,—all are also good citizens until evidence proves the contrary.

Europe, like the USA, believes that human rights and religious freedom are essential values—they are not negotiable. What happens if every country under the influence of the dominant religion, the dominate culture, imposes its values on the nation to all citizens? You will have 10 interpretations of "human rights." You

will have secular human rights, then Catholic human rights, Protestant human rights, Islamic human rights, and Orthodox human rights. Is this unity?

Of course tradition may be respected and promoted, but culture and tradition are more than just religion, and many religions have contributed to form a national tradition. We can regret that people respect less than before their national traditions, but will legislation make a difference? People have to make a difference. Tradition survives because people identify themselves through it, not because it's a law or an obligation. You cannot force people to like a tradition if they don't see it as useful for them. You can build museums, monuments, and more, but finally only people can make a difference.

Religious freedom does not create "the conditions for a 'wild competition.'" It creates the conditions for a fair expression of various faiths and beliefs in a pluralistic society. Religion is, before all, matter of conviction, a matter of conscience. It should not be imposed as was the case in previous centuries. Does Europe want to go back to the Dark Ages, a time where the inquisition made sure that people followed the right tradition, or when people had to follow the religion of the king?

If we accept the Russian Orthodox Church concept for Europe, Turkey may decide to join Europe and at the same time, on behalf of tradition, impose the shari'a on its citizens.

The right to choose does not mean irrespective of traditions, and it does not mean the imposition of them either. I like many aspects of orthodox liturgy, and I love icons. I will never destroy one or lack respect. I respect the fact that they can be sacred objects for others, but as a human being, a creature of a God of love, He gave me the right to choose. I don't want to be forced to believe what I don't choose to believe. Respect of culture and tradition is part of human rights and religious freedom. Religious freedom means the right to choose and respect for the other's choice!

We should never forget that every time the church has used the power of the state and the legislation to protect her from "competition," it was not good for the church or for the state. It was a disaster for freedom and human rights. Let religion be a personal and free choice, and the state should protect its right.

In accusing Catholics of proselytizing, the Orthodox may have unintentionally disrupted the potential constitution of a big anti-proselytism alliance. It would have been formed by the traditional churches and religions directed essentially against religious minorities and new religious movements. Rome may have taken the leadership, but in Moscow, for the Russian Orthodox Church, on the issue of proselytism, Rome is on the wrong side.

1. *Zenit.org*, July 31, 2002. To read: John Witte, Jr., and Michael Bourdeaux, *Proselytism and Orthodoxy* . . .
2. "Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief (. . .) To manifest his religion or belief in teaching, practice, worship, and observance."
3. *Idem*.
4. *Idem*.
5. *The Washington Post*, "Russian Catholics Criticize Expulsion of Five Priests," September 13, 2002. p. A27.
6. *Zenit.org*. September 13, 2002.
7. Read "Guiding Principles for the Responsible Dissemination of Religion or Belief," *Fides et Libertas*, 2000, pp. 96-98.
8. Kerr, David A. "Christian Understanding of Proselytism," in *International Bulletin of Missionary Research*, January 1999:8.
9. *Ibid*.
10. Joint Working Group of the World Council of Churches and the Roman Catholic Church: "*The Challenge of Proselytism and the Calling to Common Witness*," September 25, 1996:2.
11. *Ibid*.
12. Fagan, Geraldine. "Russia: Degree of Calm in Catholic Storm." *Forum 18 News Service*, March 31, 2003, p. 1
13. *APD/Interfax News Agency*, Moscow, April 13, 2002.
14. *The Ecumenical Review*, volume 55, number 1, January 2003, pp. 82.
15. *Ibid*.
16. *Ibid*.
17. *Ibid*.
18. See Acts 5:34-39.
19. *Manoussakis v. Greece*, August 29, 1996 (59/1995/565/651). In article of Silvio Ferrari, *Islam and the Western European Model of Church and State Relations*, published by W.A.R. Shadid and P.S. van Koningveld (eds.) in their book: *Religious Freedom and Neutrality of the State: The Position of Islam in the European Union* (Leuven, Peeters, 2002), pp.6-19.
20. *Idem.*, pp. 13-14.



FOUNDING MYTHS: RELIGIOUS FREEDOM IN THE UNITED STATES AND *LAÏCITÉ* IN THE FRENCH REPUBLIC¹

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Shortly before the United States launched its invasion of Iraq in 2003, the French newspaper *Le Monde* published an article that said, in essence: “we [French] should admit that one reason we do not like particularly like Americans is that they try to do the same thing in the United Nations that we try to do in the European Union.”

This essay will suggest that, despite the telling differences between France and the United States, there are some revealing similarities and differences in how the two countries approach issues related to religion. Some might imagine that the United States and France are so different on this subject that there is little purpose in trying to compare the two countries. Nevertheless, the similarities—and differences—between the two countries are both interesting and revealing. Winston Churchill is frequently quoted as having said that “the United States and England are two nations divided by a common language.”² We may similarly think of France and the United States as “two nations divided by a common similarity.”

It is often observed that nations and countries typically have founding myths. These are stories of brave and heroic people who struggled either against enemies (foreign or domestic) or against the hazards of an unforgiving environment (or both) to found the nation in its glorious past. Both the United States and the French Republic have such founding myths that are celebrated in public monuments and rhetoric. And in both cases, these myths are part of their nations’ sense of identity and exceptionalism.

I would like to suggest that the American belief in “religious freedom” has come to serve as one of the founding myths of the United States—and that

the French notion of *laïcité*³ has similarly become part of the founding myth of the French Republic. In short, the core of this particular American founding myth is that the United States is a country founded on the principles of religion and religious freedom. It is often said, and believed, that the original settlers in America came to pursue and establish religious freedom, and that this respect for religious freedom has been an enduring principle. Americans are also likely to say about themselves, “we are a religious people and religion is good.” Sometimes it is even said that America will be good only as long as it is religious. The French founding myth of *laïcité* operates in a similar manner. *Laïcité* is frequently described as a foundational value of the French Republic that embodies the admirable French virtues of tolerance and neutrality of the state toward religion—and perhaps even skepticism about religion. So, in a mirror image of the Americans, many French will think, “we are a *laïque* nation and *laïcité* is good.” Although both myths have some elements of truth in them—as myths often do—they also conceal some important underlying societal conflicts and thereby distort the analysis of issues.

Although these contrasting notions—religious freedom and *laïcité*—might appear to suggest a profound difference between France and the United States, they nevertheless are “founding myths” that operate in quite similar ways and similarly distort history and perceived national identities. Not only are these myths historically dubious—largely because they gloss over deep-rooted conflicts—but they can mislead their believers about what the real problems are in a complicated world of diverse religions. In one way, the American and French myths are polar opposites. But, in another way, they are mirror images of each other.

RELIGIOUS FREEDOM AS PART OF THE AMERICAN FOUNDING MYTH

In simple terms, the American myth of religious freedom has two core elements. The first is that the original immigrants came to the American colonies to establish religious freedom and to escape from the religious intolerance and persecution of Europe. The second component is that the American “founding fathers” adopted a Constitution that placed a primacy on religious freedom. The public record is full of pronouncements of this founding myth. For example, in January 2002, President George Bush said: “Religious freedom is a cornerstone of our Republic, a core principle of our Constitution, and a fundamental human right. Many of those who first settled

in America, such as the Pilgrims, came for the freedom of worship and belief that this new land promised.” This is not only a presidential view. In 1998, the U.S. Congress enacted—unanimously—the International Religious Freedom Act. The introduction to that law states:

The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation’s founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom

The U.S. State Department, in a recent explanation of why it promotes religious freedom internationally, states:

The quest for religious liberty has played an integral part in American history. Early in our nation’s founding, the view that every human being has a fundamental right to believe, worship, and practice according to his or her own conscience became a core conviction of the American people. Religious liberty is the first of the enumerated rights in our Constitution, and is known as “the first freedom,” because the founders believed it to be a lynchpin of democracy and the other fundamental human rights.⁴

The belief that “religious freedom” is the “first freedom” is made by those on the political right and left.⁵ This is a deeply felt attitude held by many Americans toward their own history.

LAÏCITÉ AS PART OF THE FOUNDING MYTH OF THE FRENCH REPUBLIC

The French might at first be amused to hear such seemingly naive and self-congratulatory enthusiasm for the role that religious freedom supposedly played in the founding of the American republic. But the American popular perception about its founding myth of religious freedom can be compared quite easily to similar pronouncements in France about *laïcité*. President Jacques Chirac, in his famous December 2003 speech regarding *laïcité* where he proposed a ban on wearing Islamic headscarves to school, said that: “*Laïcité* is inscribed in our traditions. It is at the heart of our republican identity.” He used exactly the same metaphor as President Bush when he said that *laïcité* is the “cornerstone of the

Republic” and a “pillar” of the French Constitution. It embodies the “values that create France.” In 2003, Prime Minister Raffarin similarly observed that:

Laïcité is a cardinal value that precisely permits each person to express his or her convictions in freedom, security, and tolerance. *Laïcité* is our common approach. *Laïcité* allows France to be a land of tolerance. *Laïcité* prevents France from pitting [religious and ethnic] communities against each other.

In a speech to the Freemasons, also in 2003, the former Minister of the Interior, Nicolas Sarkozy, observed: *Laïcité* is not a belief like others. It is our shared belief that that allows others to live with respect for the public order and with respect for the convictions of everyone.” It is not only politicians who hold such beliefs. The historian Madeleine Rebérioux wrote of “the love the French have for the law of 1905 [on the separation of church and state]” and Jean Gaeremynck, a Counselor of State spoke—in words that might be more appropriate for describing a fine Burgundy wine than a legal doctrine—of “the French style of *laïcité*, in its originality, its subtlety, its finesse, and richness” Of course, such myths are repeated not only by the politicians: they are part of school texts and popular discussion.

These “founding myths” have many elements in common. They are presented as the “cornerstones” and the historical foundations of the republics; they are treated as if they explain the essence of the Republic’s values; they are used to explain why the Republic should serve as an example for other nations; and they are presented as embodying beliefs that unite all true citizens.

FOUNDING MYTHS AND HISTORICAL REALITY

Although the rhetoric of religious freedom and *laïcité* is part of the self-congratulatory public discourse in both the United States and France, the relevant historical facts are not obscure or hidden. The Puritans came to Massachusetts not for the purpose of establishing religious freedom, but to create their own religious establishment and to exclude all dissenters. The first code of laws in Puritan Massachusetts instituted the death penalty for those who taught erroneous Christian doctrines. The Puritans believed that Quakers could be killed for preaching Quakerism and that witches should be burned for practicing sorcery. The first settlers of Virginia enacted laws requiring attendance at services of the Church of England. Although their religious beliefs prompted them to make church attendance compulsory, their religious scruples found no

objection in the practice of enslaving their fellow human beings. Although some American colonies experimented with religious freedom—notably Rhode Island, Pennsylvania, and briefly Maryland—they were the exception and not the rule. Throughout the eighteenth and nineteenth centuries Catholics were reviled and were repeatedly targets of violence. Even as late as the 1950s, there was active and virulent discrimination against Jews in many parts of the United States, and being a Catholic was long assumed to be a political bar against being elected president.

What is now thought of as “religious freedom” in the United States did not spring from the beliefs or practices of the founders; it emerged only painfully after years of discrimination against Catholics, Jews, Jehovah’s Witnesses, Mormons, and other religious minorities. The principal advances in religious freedom came not from an innate respect for founding principles, but after long legal and political struggles of religious minorities to have their rights recognized by courts of law and by the population. It was not until the decisions of the Supreme Court in the 1940s, the election of President Kennedy in 1960, and the adoption of the Civil Rights Act of 1964, that what is now described fondly as “the first freedom” and the founding principal came to be widely recognized—almost 200 years after the founding.⁶

While religious freedom is numerically the first right identified in the Bill of Rights, it is mere rhetoric to call it the “first freedom.” The congressional debates on the Bill of Rights did not assume that religious freedom had primacy over other rights—indeed, the first two clauses of the original proposed bill of rights were not adopted—making the current “first amendment” the first only by default. Moreover, the original Constitution, which was drafted four years before the Bill of Rights was finally adopted, already included other rights for individuals, including the prohibition of suspending writs of *habeas corpus* (except in times of war or public safety); of bills of attainder; of *ex post facto* laws; of direct personal taxes (subsequently amended); and of religious oaths for public office.

In short, to say that religious freedom is the “first freedom” is inaccurate historically and constitutionally. For almost 150 years, the courts of the United States did not provide any relief to people on the grounds of religious freedom. This supposed “first freedom” and founding freedom is a relatively recent innovation in the United States.

When the French notion of *laïcité* is subjected to a historical analysis, it fares no better. The French understanding of *laïcité* developed principally during two periods of French history: first, the years immediately following the revolution of 1789, and second, the Third Republic (particularly from 1870 to 1905). I am not going to discuss these years in detail, but I will identify some well-known events illustrating that *laïcité* did not emerge from notions of tolerance, neutrality, or

separation, but from conflict and hostility (most of which was directed against the Roman Catholic Church). A few examples can be cited to show that *laïcité* did not emerge as a principle of tolerance and freedom to bring French citizens together, but it emerged through the events of a bloody conflict in which the Catholic Church was both a victim and a provocateur. For example:

- On November 2, 1789, the National Assembly declared that Catholic Church property was at the disposal of the nation (during the following months, the rich agricultural lands of the church were sold to shrewd private investors).
- On February 13, 1790, the Treilhard decree withdrew official recognition of monastic vow, and forbade future religious vow.
- On July 12, 1790, the Constituent Assembly adopted the Civil Constitution of the Clergy, which historians have described as the beginning of a “holy war” and a “civil war.”⁷
- On November 27, 1790, all clergy were required to take an oath of loyalty (during the following months, efforts were undertaken to find ways to enforce these oaths). Most of those who did not take the oath later escaped or were arrested and imprisoned. Between 30,000 and 40,000 clergy fled France during the following two years.⁸
- On September 2, 1792, clergy had been imprisoned in Paris were murdered in their prison cells (along with other suspected threats to the Republic).
- During the two years after 1792, thousands of clergy and nuns were murdered in rampages in Paris and throughout many parts of France, and perhaps as many as 20,000 were forced to renounce their vows.

Let us move forward by 100 years to the second phase of the laïcization of France. We can perhaps take some comfort in the fact that the Third Republic, whatever else it did, was less bloody than the First Republic. Nevertheless:

- On March 29, 1880, the government issued a decree of expulsion of “congregations” (typically monasteries, convents, and church-operated schools and hospitals).⁹

- On June 29, 1880, the French government issued a decree expelling the Jesuits.
- In the three years following the adoption of the 1901 law on Associations, the French state refused to recognize the legal status of congregations, forcing thousands of religious schools to close, and several thousand monks and nuns to seek exile outside of France.
- On December 2, 1902, Prime Minister Émile Combes, a fierce anti-clerical, declared that he had the authority to nominate Catholic bishops without consulting the Vatican.
- During the Spring of 1903, all petitions for congregations to obtain legal status were denied.
- On July 7, 1904, the French government issued a law prohibiting members of congregations from teaching.
- The 1905 Law on the Separation of Church and State nationalized all church buildings constructed before 1905.

If *laïcité* was a “fruit of French history,” as President Chirac has suggested, it was bitter fruit indeed. (Of course it should be remembered that some of these actions have since been reversed by the French state—many congregations are now registered).

Finally, if we look at where the French state is involved in religious issues, we can easily see that *laïcité* has not fully separated religion from the state:

- The President of France, unlike any other head of state in Europe (except the Pope) has legal responsibility for appointing Catholic bishops (in the region of Alsace-Moselle);
- The French state (unlike the United States) directly finances religious schools;
- Although French law prohibits the state from “recognizing” any religion, French officials nevertheless are required by the law of 1905 to decide whether or not certain associations are *culturelle* (and thereby entitled to receive financial and other benefits); and

- The French state owns and maintains religious buildings and establishes procedures for their use.¹⁰

By identifying these examples, I am not suggesting for a moment that they provide a full explanation of the very complicated issues involved. There also are historical explanations for many of the apparent contradictions. The point is simply to say that the “official” description of *laïcité* as exemplifying tolerance and neutrality is a myth.

CRITICISMS AND CONSEQUENCES OF THE AMERICAN AND FRENCH MYTHS

I have now suggested some similarities in the American and French myths, and have proposed some factual weaknesses underlying them. But before criticizing them more pointedly, we should readily acknowledge some important positive values that they possess.

First, with regard to the United States, there has now emerged—albeit only recently—a healthy presumption that people of widely divergent religious beliefs should be respected by the state, and that permitting freedom of religion can help strengthen the state. Such policies are not only consistent with international standards that protect freedom of religion; they are also deeply respectful of human dignity and individual choice.

Second, with regard to France, one of the principal values of *laïcité* is its respect for beliefs that are not religious—for the recognition of human dignity that comes from people who do not find strength or value in religion. Whether such nonbelievers are scientists, philosophers, doctors, or political leaders, they can be appreciated for their profound contributions to society and be seen as members who are fully entitled to engage in the political world and public debate.

AMERICAN PROBLEMS

The widespread mythic belief in the United States that religion and religious freedom constitute founding principles leads to mistakes. First, because Americans are quick to associate the terms “religion” and “good,” they are more likely to ignore, downplay, or be oblivious to dangerous (and even criminal) activity that can emerge from religious believers and from within religious groups. Although there are many examples that illustrate this, perhaps the

most shocking recent illustration has been that involving Catholic clergy sexually molesting children. While the Catholic hierarchy of course bears great responsibility for allowing this to occur, public authorities—particularly the police and prosecutors—also bear responsibility for long having failed to arrest and prosecute the perpetrators, even after having been presented with compelling evidence. For many years, law enforcement officials were aware of the allegations but ignored reports of abuse by the clergy.¹¹

There are many other examples, including a mismanaged approach to the Branch Davidians and other apocalyptic groups. It might also be said that one of the reasons that Islamic radicalism was able to spread in some American mosques was the reluctance of political officials to entangle the state in religious affairs. (It also may well be said that after showing insufficient attention when the problems first emerged, public authorities then overreacted both with the Branch Davidians and with Muslims after September 11).

We can conclude this point by referring to one specific case that occurred in August 2003. In Milwaukee, an 8-year-old autistic child died in a store-front church while a so-called “preacher” attempted to “exorcize” demons from him. The autopsy reported that the boy died from asphyxiation while being held down during the ceremony. State prosecutors chose not to file charges of homicide or child abuse (though other charges were filed). According to the *New York Times*, “the case reflected a general discomfort among prosecutors with trying to draw lines where religion is involved.”¹²

In addition to not paying sufficient attention to religious deviance, Americans also frequently fail to respect fully non-believers, agnostics, and atheists within the American community. Although there is no legal discrimination *per se* against atheists, popular suspicion is sufficiently high that it is difficult to imagine a self-professed agnostic or atheist being elected to high public office. It is easy to imagine the vicious rhetoric that would be used against such a candidate. It is difficult to think of any major public political figure in the United States who would have the courage to say that he or she does not believe in God. Deeply revealing is a public statement made by the first President Bush while he was in office (on January 27, 1992): “More than 90 percent [of Americans] believe in God, to which I say, thank God. I wish it were 100 percent.”

Thus, the exaggerated religious freedom myth creates a connection between “religion” and “good” and “non-religion” and “bad.” Such a naive belief has allowed criminal behavior to escape prosecution and hindered decent and honorable people from holding public office.

FRENCH PROBLEMS

The founding myth of religious freedom in the United States obscures the fact that the full modern notion of religious freedom began to emerge only after two centuries of often hostile conflict among religious groups and between the state and religious groups. Much of the same can be said for France and its myth of *laïcité*. Although public officials speak of tolerance, neutrality, and separation of church and state, French history often reveals the opposite. The French state has been deeply involved in religious issues, particularly when those issues raise questions about French identity and deviations from popular French attitudes.

This is perhaps most obvious on two issues: first, that of cults (*sectes* in French), and second, that of religious clothing that suggests an identity different from what is thought of as being French.

Since the 1980s, particularly in response to some sensational cases involving suicides, French public officials in the government, the state, and parliament have been concerned about the dangers of cults. The term *secte* is not defined in French law, and most international jurists have been strongly opposed to it as a legal term upon which rights can be denied—a position that has been shared by most French courts as well. Although it may be appropriate for a state to establish neutral standards to protect public health, welfare, and safety, one often has the impression that French authorities apply very different standards when the group is considered to be a *secte* versus when the group is considered to be either a religion or some other non-suspect group. For, example, so-called *sectes* have been criticized in the media and sometimes by the state for engaging in unscientific medical practices. Yet the same criticism is not equally applied to traditional French religions. One example is the passive state response to claims about the curative powers of the waters of Lourdes. Whereas the French state has denounced the unscientific practices and beliefs of *sectes*, it has shown no willingness to denounce the equally implausible claims made by astrologers—whose predictions and advice regularly appear in magazines and newspapers without any official opprobrium. From an objective standpoint, there is a pronounced double standard.

The actual history of *laïcité*, as opposed to the myth, is filled with examples of religious groups being disbanded by the state, of religious leaders being arrested for alleged non-loyalty to the state, of property of religious groups being seized by the state, and of denying legal status to congregations. Of course, the principal targets of these attacks in the past were the Catholic

Church and its clergy, and the congregations of monks, nuns, and others. Today some popular targets of *laïcité* include religious movements that seem unusual—or not “French.”

A second problem resulting from the myth of *laïcité* is the lingering suspicion that religious clothing—particularly when it is worn in state schools—may actually undermine the Republic! This issue is now seen in its most tense form in young Muslim girls wearing headscarves in public schools, but it manifests itself in other ways as well. In 2004, with the overwhelming support of the French parliament and French public opinion, a law was enacted to prevent school children from wearing “conspicuous” (*ostensible* in French) religious clothing. Thus a schoolgirl cannot wear an Islamic headscarf, though she could wear an Hermès headscarf or the famous Phrygian bonnet worn by female revolutionaries.

The lingering problem in France is the possibility that the state will attempt to resolve issues not by respecting the rights of conscience of individuals and groups, but by deciding whether certain behavior conforms to a particular interpretation of *laïcité* or—as we have seen—whether the behavior conforms to the *myth of laïcité*.

CONCLUSION

It would seem that the state does not act appropriately when it makes the naive assumption that religion is presumptively suspect (as in France) or that religion is presumptively good (as in the United States). Rather, the state should concern itself with whether its citizens are acting in accordance with neutral law (regardless of their religious beliefs) and that it is fully respecting their rights of conscience (whether religious or not). France and the United States would act more appropriately by applying the *principles* of tolerance, neutrality, and respect for conscience rather than their *myths* of religious freedom and *laïcité*.



E N D

1. This is a revised version of a talk delivered at Laval University, Quebec, Canada, on September 26, 2003. More extended versions of it have appeared as “Religious Freedom and *Laïcité*: A Comparison of the United States and France,” *Brigham Young University* (2004:2), “Under God but Not the Scarf: The Founding Myths of Religious Freedom in the United States and *Laïcité* in France,” *Journal of Church and State* (2004), 7-24, and it will be appearing as a forthcoming book in French under the title *Marianne et Liberty a decouverte*.
2. It seems that the expression originated not with Winston Churchill, but with Oscar Wilde, who wrote in the *Canterville Ghost* (1887), “We have really everything in common with America nowadays, except, of course, language.”

3. The word *laïcité* is typically translated into English as "secular" or "secularism." Although these translations are not incorrect, they fail to convey the full evocative sense of the French. I will leave the noun *laïcité* and the adjective *laïque* in their French original to remind the reader that their meaning is really quite different from "secular."
4. Introduction, *International Religious Freedom Report 2002*.
5. Nat Hentoff, *The First Freedom* (1980), the "Council for America's First Freedom," James E. Wood, Jr., *The First Freedom: Religion and the Bill of Rights* (1990). President George W. Bush proclaimed January 15, 2003, "Religious Freedom Day" in honor of the anniversary of the adoption of the Virginia Statute of Religious Freedom. In his proclamation commemorating that event, he said: "Because the Framers placed the guarantee of religious freedom before other cherished rights, religious liberty in America is often called the first freedom."
6. Some of the clearest illustrations of the fact that the principal has finally been accepted in reality (rather than only in myth) came in the 1990s, when broad coalitions—including both the political left and right—supported legislation known as the Religious Freedom Restoration Act and the International Religious Freedom Act.

The harsher aspects of American religious intolerance are sometimes given passing recognition. In the same State Department report cited above, the text also stated that religious freedom "was not easily achieved. Today Americans enjoy religious freedom, but it was not always so. Our history is not perfect, and yet that history makes us all the more determined to protect what has been won." *International Religious Freedom Report 2002*.
7. Simon Schama, *Citizens*, 491. "If there was a point at which the Revolution 'went wrong,' it was when the Constituent Assembly imposed the oath to the Civil Constitution of the Clergy . . . This marked the end of national unity, and the beginning of the civil war." John McManners, *French Revolution and the Church*, 38.
8. McManners, 106.
9. The actual expulsions took place at the end of the year.
10. There is also the curious fact that the purportedly secular France has eight official national holidays connected with the Christian religious calendar, while the supposedly religious United States has only one (Christmas).
11. Of course the United States is not the only country that has failed to take sexual abuse by Catholic clergy seriously.
12. Perhaps another example is the difficulty by the IRS had in revoking the tax-exempt status of the Moral Majority because of its (thinly disguised) partisan political activity.



THE ENIGMA OF THE ENGLISH ESTABLISHMENT: ISSUES FACING STATES WITH MAJORITY RELIGIONS

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(Presented at the IRLA Congress in Kiev, Ukraine on May 27, 2004).

The concept of globalization imports notions of a shrinking world. It is suggestive of rapid communications and the instant transmission of knowledge and experience. It may also import a drive toward conformity with universal standards, particularly in Eastern Europe and among the recent wave of new members of the European Union. However, adherence to such universal standards does not result in homogeneity. Nor should it.

In discussions such as these which focus on religious freedom, the United Kingdom demonstrates a profound reluctance to conform to any general pattern or set of norms. Its model of church and state is in many ways unique and not of a type which might be transplanted into another nation.¹ I am no apologist for the U.K., nor do I hold it up as a paradigm. It is a product of the nation's history, crafted over centuries. I am neither historian, nor sociologist and we will not be able to have an overview here of the historical events which have led to where we are. However, there are certain features which have a material bearing on the topic of this Conference, a discussion which may assist in adding nuance and color to the presentations made by contributors in both Eastern and Western Europe and those from America.

There are many myths about the nature of "establishment." The U.K. has not one but two established churches. The Church of England is the established church in England. The Church of Scotland (or 'the Kirk') is the established church of Scotland. The Queen is a member of both, one Anglican, one not. She is Supreme Governor of the Church of England. However, the Anglican Church in Scotland (the Scottish Episcopal Church) is not established nor is the monarch its head. The Church of England was disestablished in Wales in 1919. The pre-existing law

of the Church of England now binds all members of the Church of Wales by way of quasi-contract. Dr. Rowan Williams, it will be recalled, was archbishop of the disestablished Church in Wales immediately before being appointed Archbishop of Canterbury and Primate of All England, as well as head of the worldwide Anglican Communion. As if this is not complicated enough, there are special provisions for the Isle of Man and the Bailiwicks of Guernsey and Jersey.²

“High Establishment,” generally so called,³ embraces the more picturesque aspects of the U.K. constitution: the sovereign as supreme governor and as defender of the faith; the coronation service; and the presence in Parliament of several senior Church of England bishops (the Lords Spiritual). However, the Church’s role in education, and in hospitals, prisons, and military chaplaincies cannot be overlooked, nor can the legal duties imposed on clergy in relation to marriage and the burial of the dead, regardless of religious affiliation. These duties are written into the law of the land. Indeed there is a “conscience clause” which allows Church of England priests to decline to solemnize the marriage of a divorcée.

The contrast is with “earthed or law” establishment.⁴ These include ideas of national coverage through the parish system, theologies of place, and service to the whole nation. The sociology of religion now provides for the concept of “civic religion,” for example, public occasions such as royal anniversaries, Remembrance Day services, university graduations and the start of judicial sessions which include a distinct religious element and a carefully crafted—and increasingly ecumenical—liturgy.

Reference is made to the Church of England and the State having an osmotic relationship: the Church being the State in its spiritual aspect, but it is important to distinguish between appearance and reality: “Like a magnificent roof ravaged by the death-watch beetle, yet masking by its splendid appearance a fatal though unheeded weakness, our ancient national Establishment, stripped of meaning and void of power, still dominates us by its aspect of immemorial and unalterable authority. It is a noble facade without a building behind it.”⁵

While the grandeur of establishment may be both mythical and illusory, the grass roots reality of civic religion is both real and vibrant. The recent census in the U.K., conducted once every ten years, contained for the first time an optional question on religious affiliation. It revealed that 72 percent of the population declared themselves to be Christian.

All of these factors at first sight indicate an intimate, inclusive, and closed relationship favoring the Church of England over other denominations and faith groups. If one adopts the test propounded by David Little,⁶ between *liberal*

nationalism or civic nationalism which is both neutral and pluralist, and *illiberal nationalism* or ethnic/religious nationalism in which one faith group enjoys pre-eminence over all the others, then the U.K. would appear (*prima facie* at least) to come into the latter category. As such, it might be the subject of opprobrium viewed through the prism of globalism. I hope to demonstrate in this paper that such an analysis would be flawed.

There are precious few benefits which accrue to the Church of England by dint of establishment.⁷ It receives no financial support from the state yet must bear the enormous cost of the upkeep of ancient churches, many listed as heritage buildings. There is no compulsory church tax, and the Church of England bears the entire burden of paying for clergy salaries as well as making provision for the ever-growing demand of pensions. Parish clergy are required to solemnize the marriage of couples resident in the parish and to bury those who die in the parish (according to the rites of the Church of England), irrespective of the religious affiliation of those concerned.⁸ Most of those bishops who sit in the House of Lords find it a burdensome responsibility and would rather devote their time to the pastoral and spiritual concerns of their dioceses.

One negative factor, however, and a source of some embarrassment for the Church of England, is the offense of blasphemy.⁹ The common-law offense considers publication (written or oral) of any contemptuous, reviling, scurrilous, or ludicrous matter relating to God, Jesus Christ, or the Bible, or the formularies of the Church of England by law established. There is no like offense in relation to other religions, and an attempt to initiate a criminal prosecution against Salman Rushdie and the publishers of *Satanic Verses* failed.¹⁰ The European Court of Human Rights allows states a considerable margin of appreciation in cases such as these.¹¹ Nonetheless, Parliament has recently looked again at the matter. The Select Committee on Religious Offenses¹² has concluded that in any further legislation, the protection should be equally available to all faiths, through both the civil and the criminal law. In reality prosecutions for blasphemy are virtually unknown. Nonetheless, blasphemy remains a vestige of a time when the established nature of the Church of England resulted in being more favorably treated than other faith communities.

It is vitally important that liberal democracies in the twentieth century do not lose sight of the presence of the spiritual in society. That the government interacts with the Church of England at its highest level speaks volumes for the weight to be given to matters of faith and belief in the governance of the population at large. It is noticeable that the loudest voices in favor of Church of

England bishops remaining in the House of Lords come from the Muslim and Jewish communities.

There are a number of reasons why it is important for religious communities to be given a seat at the table of national life and legislature. First, it is a bastion against secularism. It is comforting to note from a presentation of Professor Cole Durham of Brigham Young University the emergent trend of desecularism, and a global awakening of religiosity. Gone are the meta-narratives of Marx, Hegel, and Neitsche.¹³ In a typically English manner (without bombast or pyrotechnics), the subtle placing of religion within public life, combined with the growth of pluralism, has helped in preventing secularism from gaining a more dominant hold. A positive recognition of the spiritual element embraces agnosticism, atheism, and humanism and is a constant reminder of the benefits which result from the recognition of a healthy mix of belief systems.

In addition, religious bodies of all denominations can make a useful contribution to law-making. Derek Davies has informed the conference of the influence of lobbyists on Capitol Hill.¹⁴ The statutory presence of Church of England bishops in the House of Lords, and the conventional presence of members of other faith communities gives status and credibility to spiritual concerns. In recent months, religious bodies have made valuable contributions to the framing of the Gender Realignment Bill (on the rights of transsexuals) and the Civil Partnerships Bill (concerning same-sex relationships). There are, of course, practical difficulties in defining precisely with whom the state should be in dialogue with, since many faith communities lack the hierarchical structure exemplified by the Church of England. With care and sensitivity, this practical challenge is being met.

An important case concerning the nature of the Church of England was determined by the Judicial Committee of the House of Lords last June.¹⁵ The Law Lords unanimously rejected the reasoning and conclusions of the Court of Appeal.¹⁶ They acknowledged that historically the Church of England has discharged an important and influential role in the life of this country, and, as the established church, has special links with central government. However, they concluded that the Church of England remains essentially a religious organization and not an emanation of the state. Lord Hope of Craighead recognized that the Church of England as a whole has no legal status or personality, but that its relationship with the state is one of recognition, not the devolution to it of any of the powers or functions of government. Lord Rodger of Earlsferry stated that “the juridical nature of the Church is, notoriously, somewhat amorphous” but considered that the mission of the Church is a *religious* mission, distinct from

the secular mission of the government, whether central or local. The ties with the state are intended to accomplish the Church's own mission, not the aims and objectives of the government. The English courts, by convention, adopt a self-denying ordinance whereby they decline to enter into doctrinal disputes or matters concerning the organization or operation of faith communities.¹⁷

Since the Church of England has an existence quite separate and distinguishable from that of the state, it is able to be outspoken in its criticism of government policy. Dr. Rowan Williams, Archbishop of Canterbury, has condemned the illegal act of aggression on the part of President Bush in launching a war on Iraq, and the supine complicity of Prime Minister Blair in supporting him (my words, not his). It is unthinkable that the U.K. would pass a law prohibiting the wearing of the Muslim veil. English common law has long afforded protection and equal treatment to minority religions and exempted them from compliance with religiously neutral laws.¹⁸ There is some irony in that the Muslim community is more fairly treated in England where an established church exists, rather than in France, where the ostensible neutrality of secularity serves to disadvantage followers of Islam.¹⁹

There is nothing inherently wrong or offensive in states entering special relationships with majority religions, provided the dangers of discrimination highlighted by David Little are avoided. Majority churches (whether established or not) carry a heavy responsibility. This includes the promotion of all religions and belief systems, an essential instrument of ecumenism. It is founded upon trust and becomes workable as a result of the confidence engendered by the prolonged security of safeguarding fundamental freedoms. It is a fragile but an effective means of promoting tolerance and religious freedom. The state also carries a heavy responsibility. It cannot favor one religion or denomination over others, nor must it work too adroitly to separate church and state with an artificial rigidity. Instead it must value all equally.

The U.K. system is not a blueprint for perfection but, viewed objectively—it is a model of success. We are a product of our national history, and it is facile to deny this. In grandiose terms, the Preamble to the draft European Union Constitution asserts: Drawing inspiration from the cultural, religious, and humanist inheritance of Europe, the values of which, still present in its heritage, have embedded within the life of society the central role of the human person and his or her inviolable and inalienable rights, and respect for law.

The President of the European Union, Romano Prodi, seems to regard this aspirational assertion as totally inadequate. To deny 1,500 years of civilization is to create a void in the consciousness of our identity as Europeans. No text is preferable to that text as it stands. Silence about all our past is better than a lie.²⁰

However, the recognition of this heritage is important. The existence of one or more established churches does not preclude the co-existence and thriving of other religions and denominations. On the contrary, a state which engages with one religion at the highest level of its governance may be more likely to be sympathetic to all religions, and to none.



E N D

1. Note the analogy made in the presentation of Mr. Russell M. Nelson, distinguished cardiac surgeon.
2. Hill, Mark. "Church Autonomy in the U.K." in Gerhard Robbers (ed.) *Church Autonomy: A Comparative Study* (Frankfurt: Peter Lang, 2001), at 267-283.
3. McClean, David. "The Changing Legal Framework of Establishment" (2004) 7, in *Ecclesiastical Law Journal*, 292.
4. Carr, Wesley. "A Developing Establishment," *Theology* (January 1999) pp. 2-10.
5. Henson, H. *Bishoprick Papers* (1946) p 47, quoted in John Habgood, *Church and Nation in a Secular Age* (1983).
6. See the presentation of David Little, professor in the practice of religion, ethnicity and international conflict at Harvard Divinity School, in the first plenary session, "Religious Freedom and the Role of Religion in Public Life in the Contemporary World."
7. McClean, David. "State and Church in the United Kingdom" in Gerhard Robbers (ed.) *State and Church in the European Union* (Baden-Baden: Nomos Verlagsgesellschaft, 1996) pp. 307-322.
8. Hill, Mark. *Ecclesiastical Law* (second ed., Oxford University Press, 2001) at para. 5.35 and 5.50 respectively.
9. Jeremy, Anthony. "Religious Offences" (2003) 7 in *Ecclesiastical Law Journal*, 127.
10. *R. v. Chief Metropolitan Stipendiary Magistrate, ex parte Choudhury* [1991] 1 QB 429.
11. *Wingrove v. United Kingdom* (1997) 24 EHRR 1.
12. House of Lords Paper No. 95, published on June 10, 2003.
13. See the presentation of Professor Cole Durham, Director of Brigham Young University's International Center for Law and Religion Studies, in the first plenary session, "Religious Freedom and the Role of Religion in Public Life in the Contemporary World."
14. See the presentation of Professor Derek Davis, director of the J. M. Institute for Church-State Studies at Baylor University, in the second plenary session, "Church and State in a Changing World: Universal Protections and Individual Identity."
15. *Aston Cantlow and Wilmcote with Billesley Parochial Church Council v. Wallbank and Another* [2003] 3 WLR 283; [2003] 3 All ER 1213.
16. Hill, Mark (ed.). *Religious Liberty and Human Rights* (Cardiff: University of Wales Press, 2002).
17. Hill, Mark. "Judicial Approaches to Religious Disputes" in Richard O'Dair and Andrew Lewis (eds.) *Law and Religion* (Oxford University Press, 2001).
18. *Mandla v. Dowell Lee* [1983] 2AC 548.
19. Khaliq, Urfan. "The Accommodation and Regulation of Islam and Muslim Practices in English Law" (2002) 6 in *Ecclesiastical Law Journal*, 332.
20. Newsletter of the European Consortium for Church and State Research (April 2004).



RELIGIOUS LIBERTY— CONDITION FOR REVIVAL OF RUSSIA IN THE 21ST CENTURY

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Religion can have a constructive or destructive role in society's life. Three thousand years ago, for example, Judaism laid down the principles and foundations of a judiciary system that was independent from all other branches of power; Christianity greatly contributed to the rise of European civilization that gradually evolved toward the recognition of the priority of common human values; Islam was behind the rise of the Arab Caliphate, a strong Mediterranean power that was famous for its culture; and oriental religions had huge influences on the destiny of Asian nations.

It should be admitted at the same time that the religious claims have, in different historical periods, covered up some of the most heinous crimes. Let us recall the Crusades that Western Christians organized against the Muslims; or the methods that Spain's inquisitors applied within its homeland, as well as in South America; or the religious wars in Europe. At the end of the twentieth century, the frontlines of conflicts in regions as diverse as the Middle East, Ulster, the former Yugoslavia, Nagorno-Karabakh, Chechnya, and the Indian sub-continent, clearly coincided with the spread of different faiths.

In Russia, Eastern Orthodox Christianity played a big role in shaping an ethnically monolithic state and bringing the people together to defend against foreign invaders. This happened within a period of 500 years after the christening of two major cities of Kievan Rus—Kiev and Novgorod. By assisting the formation of a centralized state, the Church overwhelmed the resistance of the princes who preferred a more feudal republican style. Finally, Eastern Orthodoxy gave rise to an authentic Russian culture.

Russia's territory kept growing in the subsequent period and spread far beyond the original areas inhabited by Eastern Slavs. It encompassed new lands reaching to the South Caucasus, Central Asian deserts, and continuing on to the Pacific coast in the Far East. Russia changed from a mono-ethnic and mono-religious country into a multi-ethnic and multi-religious one, but the ethnic and religious equality of the sovereigns of the Russian monarchy never made itself felt in latter-day state policy. More than that, the state machinery fully absorbed the institute of the church and, according to the Patriarch of Moscow and All Russia Alexii II, any more or less significant shifts in the upper echelons of power would turn the Russian Church into a "political widow."

The Bolshevik revolution of 1917 unleashed a literally mortal fight against religion. Stalin, however, introduced appeasements during the intense battles against Nazi Germany during World War II (1941-1945) in a bid to win over the support of the religious hearts. But genuine freedom of consciousness remained a deceptive play both during Stalin's rule and after him. The authorities immediately trampled the religious associations they had recently permitted.

It is an accident that right after his accession to the Patriarch's Office in 1990, Alexii II made unequivocal statements in favor of a real separation of the church from the state, formally proclaimed since the times of Vladimir Lenin. While making public this position, the Russian Orthodox Church, as well as the other denominational organizations, had no plans of separating from society. This principled stance was reflected in the 1993 Constitution of the Russian Federation, as well as in the official documents of the Moscow Patriarchate.

In the mid-1990s, however, the relationship between the state and religious denominations produced a big public stir again and split society into two camps. It happened in the course of the drafting and adoption of the 1997 Law on the Freedom of Conscience and Religious Associations, destined to replace the 1990 Law on the Freedom of Conscience. The new law introduced a permissive mechanism for setting up religious organizations and their activities, as opposed to the previously effective declarative mechanisms, and envisioned their complete re-registration. It mentioned, among other things, a possibility of liquidating some of the previously registered communities under a whole range of conditions, mentioned neither in the Constitution nor in the 1990 law.

The initiators of the Law on the Freedom of Conscience and Religious Associations made it quite clear that they aimed to reduce the numbers of officially registered religious communities by crossing some of them out of the state register on the pretext that they were not "integral parts of the historical heritage of the peoples living in Russia." But the Constitutional Court impeded

the attempts to make the law retroactive, and the lists of centrally and locally registered religious associations continued growing as a result. That was a remarkable victory for the proponents of free conscience in a nascent state: the victory of an open Russian civic society.

RELIGIOUS INTOLERANCE AND EXTREMISM

Naturally, there are groups of people who are intolerant of those who think or believe in God differently, while groups inclining toward extremism may surface within any religious organization, be it on the fringes of society or a respectable mainstream denomination. Russia is certainly no exception in this sense. Apart from some new religious groups (for example, of the Aum Shinrikyo type), such people are found, for instance, in Russian Orthodoxy and Islam. Their number includes the outspoken and aggressive “rescuers of Orthodoxy” like the notorious Dr. Alexander Dvorkin, head of the “Sect Research Department” at the Moscow-based St. Tikhon Orthodox Theological College, or the leaders of the movement called “Orthodoxy or Death.” There are also Muslim activists, of whom the warlord Shamil Bassayev is a primary example, who perpetrate and practice terror despite the sacred texts of the Islamic religion.

The difference between them is that the Islamic extremists mastermind and carry out terrorist acts citing the name of the Almighty Allah, while the Russian Orthodox extremists do not organize acts of terror as such—they confine their own efforts to fanning religious strife in newspaper articles and public speeches, distinguishing between superior and inferior people on the basis of their affiliation or non-affiliation with the Russian Orthodox Church. They usually travel in different parts of the country giving lectures that urge the audiences to fight against the “sects”³ and after their departures, unlawful actions are often committed. The incensed clergy has been known to set fire to various buildings of the sectarians, and beat up—or even kill—religious figures. Leaders of the victimized religious communities have often filed their complaints with the top state officials. Preventive action against these crimes requires concerted efforts on the part of law enforcers, as well as the scholars of religions.

Lately, many religious figures and politicians have been saying it is important to have a close look at the environment where extremism is budding. The worse the living standards, or the less confidence the people have in their future, the smaller the value of human life and the easier to find potential persecutors, who will stop short of practically nothing in the name of a religious or a political idea implanted in their heads. Nor will they stop short of criminal acts, even the ones

which must be paid for with their own lives. In light of the situation, no one can give a guarantee that we will manage to avoid a suicide bombing that will overshadow all the acts of terror we have seen so far.

Antiterrorist operations of the Russian special services must go hand in hand with systematic and scrupulous activities to isolate the extremists—in the first place, among their religious brethren. It is equally important to create an appropriate political, economic, and social situation that will impede the concealment of extremism that is camouflaged by religious phraseology. While carrying out our initiatives, we must ensure that the remedies prescribed are not more hazardous than the disease they are supposed to treat. Patriarch Alexii II said in December 1994, after the start of combat operations in Chechnya, that the use of violence to subdue violence holds no promise for success, because it breeds violence in response.

COOPERATION OR SPLIT?

The cooperation of all religious communities and the state is essential for counteracting the new challenges of our time, of which international terrorism—with its ability to disguise itself as a reaction of the poor nations to globalization—emerges as the major threat. Coming next on the list is the “clash of civilizations,” as foretold by Samuel Huntington. The world’s top statesmen and religious leaders realize the need for concerted efforts. Russian President Vladimir Putin has maintained the Council for Interaction with Religious Associations, set up in 1995 during Boris Yeltsin’s presidency. A number of inter-denominational and public organizations, including the Russian Chapter of the International Religious Liberty Association (IRLA) also continue their operations during Putin’s term of office.³

In reality, however, the screen of normal relations between the state and religious confessions conceals the disengagement of forces which have extremely adverse viewpoints on the role and place of religion in modern Russian society. The vast schism separating them exists not only between the state machinery and the religious communities, but also inside government institutions and religious organizations. A certain part of the Russian political elite and Russian Orthodox clergy make little secret of their willingness to turn Orthodoxy into a new state ideology.

Most politicians in Russia today have a rather unclear vision of the essence of Eastern Orthodoxy, although one may find some genuine believers among them. A number of people in power seem to have placed their trust in the idea

that a monolithic Russian society can be recreated under the banner of the Russian Orthodox Church. They attach the role of “guardians of ideological purity” to the Orthodox bishops in Moscow and in the regions in the same way as ideological guardianship would be attached to the Communist Party committees back in the Soviet times. Moscow-based and regional mass media contain many samples of this.⁴ Those people do not seem to be dismayed by the unconstitutional nature of such moves as they close their eyes to Article 13 of the Constitution, which says: “¹The Russian Federation shall have ideological diversity, ²No singular ideology shall be proclaimed government-supported or mandatory ideology.”

Proponents of clericalist trends within the Russian Orthodox Church have their own agenda as well—they want to make the secular authorities instrumental in their efforts to bring more potential believers to the realm of Orthodoxy. While being unready for truly Christian missionary activity, they want more opportunity to attain their aims by using “special relationships” with the agencies of state power and, most importantly, by reducing the freedoms of the other beliefs.⁵

This idea is obviously unacceptable for those who do not want a re-emergence of the old state model where a combination of Russian ethnicity and Russian Orthodoxy was the standard tradition. This category includes non-believers in the first place, followed by those who belong to the approximately 100 non-Russian ethnic groups. Lastly, there is a fairly large number of followers of non-Orthodox creeds. Also, many Russian Orthodox believers remember very well the Soviet-era persecutions of the Church; they do not want to turn into persecutors themselves.

“FRIENDS” AND “ALIENS” AMONG RUSSIANS

Actions by government agencies that have tried to restrict the rights of “alien” non-Russian Orthodox religious associations at the insistence of the Russian Orthodox quarters, or by their own initiative, have given rise to the following problems:

- Adoption of discriminatory acts contradicting the Constitution and Russian legislation, including the Law on the Freedom of Conscience and Religious Associations (in the form it was interpreted by the Constitutional Court);
- A use of purely formal criteria for refusal to register or re-register religious associations, which the bureaucrats consider to be “alien.” This practice is particularly rife in the municipal law departments of Moscow;

- Attempts to impede the normal activity of non-Russian Orthodox religious associations through banishing trips to Russia by foreign clerics—most commonly Roman Catholics and Protestants—who were invited to and arrived in Russia on absolutely legitimate grounds;
- A wave of refusals to prolong agreements on the lease of government-owned premises, where religious communities deprived of their own buildings during atheism had prayer gatherings before the start of this campaign;
- The use of advanced information technologies to paint the non-Russian Orthodox believers as villains; the dissemination of unverified or even false information about their doctrines and everyday practices, which some officials believe to be “untraditional.”

A campaign to classify the religious communities into “friends” and “aliens” was summarized in a document that was put together by certain authorities. It cast a shadow over almost all religious organizations, except the Russian Orthodox Church. That document was a draft report on counteracting religious extremism, presented by a workgroup of Russia’s State Council Presidium on October 30, 2002.

It interpreted in derogatory terms the very fact that non-Russian Orthodox denominations had grown in number over the previous decade. Its authors explained the situation by “the growing religious expansionism on the part of foreign countries,” which they said was “upsetting the ethnic and confessional balance in Russia.” The document listed among the threats to this country the Roman Catholics, the Protestants, Jehovah’s Witnesses, Reverend Moon’s Unification Church, the Church of Scientology, and “certain Islamic religious associations.”

The authors of the text were apparently too overwhelmed by the search for foes. They listed among the totalitarian sects many of the creeds that had received official recognition in the Russian Federation following a religious expert study under the auspices of the Russian Justice Ministry, as well as other organizations whose leaders were invited by President Putin to join the presidential Council for Interaction with Religious Associations.

The publication of a brief version of the document in newspapers, followed by the full version on an Internet web site, produced all of the effects of a bomb. It caused open protests by the leaders of the religious communities who felt that someone had a desire to end the freedom of confession and to return to the millennium-old tradition of official uniformity of creed under the guise of fighting with ostensible “religious extremism.”

ISLAM IN RUSSIA

The Council of Muftis of Russia, set up several years ago and chaired by Sheikh Ravil Gainutdin, has leveled criticism at the “de facto” transfer of power to decide the fate of non-Russian Orthodox believers to the Orthodox clergy in the territories of the Russian Federation.

“Russian Muslims have earnest respect for the Russian Orthodox Church, but we cannot coordinate each project of building a mosque or creating a new Muslim community with its officials; nor are we required to do so under law,” the muftis said in a letter to the leaders of the country.

They cited a number of cases when the Muslims were denied an opportunity to register their communities to build mosques under the pretext that “traditional Russian territories” would be affected. This kind of practice might trigger reciprocal actions on the part of those who live on “the traditional Tatar, Bashkir, Balkar, Uzbek, Azerbaijani, Dagestani, or other territories,” the muftis warned.

The Russian Muslims were particularly disappointed by a campaign to introduce Orthodoxy on a massive scale in the law enforcement agencies, which began a few years ago. “We are strongly concerned by the actions of certain officials at the Defense Ministry, who put Russian Orthodoxy in opposition to all other creeds, thus shaking the foundations of the Armed Forces and splitting them along ethnic and religious lines,” the Council of Muftis said in a comment on the exclusive cooperation of the Russian Orthodox Church with the law enforcement agencies.

The government’s cooperation with the Russian Church is really gaining momentum, especially in the military-strategic area. The Moscow Patriarchate, the Defense Ministry, the Interior Ministry, and several agencies that had been affiliated with the KGB in the Soviet times—all signed a range of exclusive agreements in the mid-1990s. The Armed Forces newspaper *Krasnaya Zvezda* published a notification for all the servicemen on April 29, 1997, that any interaction between the army and religious organizations could only be done via a department of the Russian Church’s Holy Synod in charge of communications with the Armed Forces and law enforcement agencies.

In the meantime, it is worth recalling Alexii II’s saying: “All the religious associations registered in Russia—Christian, Muslim, Buddhist, Judaic, or others—must enjoy an opportunity to organize services and exercise spiritual guidance [of their followers] in military units.”⁷ It looks like the decision-makers at the law enforcement agencies think differently.

RUSSIA AT THE CROSSROADS

Few people can doubt that the prospects of civic peace in Russia are contingent on whether a real multi-ethnic and multi-confessional Russian identity will emerge (as it is taking shape in present-day Europe), or on whether we will be trying to adapt the traditional combination of Russian ethnicity and Orthodoxy to the twenty-first century, pretending that the two notions are congruent. To all appearances, future developments will take one of the two routes described below.

Option 1. Government organizations will observe the Constitution, other laws, and Russia's international commitments. In this case:

- The state will remain secular, and no singular religion or ideology shall be adopted as the official state religion or ideology, while all the religious associations shall enjoy real equality before the law (Constitution, Articles 13-14);
- The state shall guarantee genuine equality of the rights and freedoms of man and citizens, regardless of religious views; any restrictions of civil rights along the criterion of religious affiliation shall be banned (Constitution, Article 19);
- Each citizen shall have the right to espouse any religion individually or in assemblies with other citizens; to choose freely or disseminate any religious convictions; also, citizens shall have the right to have no religious convictions.

The Russian Orthodox Church will also observe in practical terms the provisions of the Basic Social Concept which its Council of Bishops endorsed in August 2000. They stipulate that:

- The church shall not assume the functions typical of government agencies (Concept, III. 3);
- Clergymen and canonic clerical structures shall not cooperate with the state in political struggle; civil wars or external wars; direct involvement in intelligence operations or any other activity that requires safeguarding of state secrecy (this means even through confessions or reports to the church hierarchs (Concept, III. 8);
- Clerics shall abide by the canons precluding their engagement in government activity (Concept, III. 9).

It would seem that the above is an axiom. However, far from all state officials and high-ranking Russian Orthodox Church officials adhere to those principles.

If the state and Russia's largest religious organization translated into life what their representatives say in public, that would be a complete turnaround from the present policy of a very influential part of Russia's political elite and influential Orthodox bishops.

Option 2. Nothing changes. Encroachments on the Constitution of the Russian Federation, other laws, and international commitments remain as systematic as they have been so far. The recommendations of the Councils of Bishops are buried in oblivion as if they were never adopted. As a result, the country slides into a conflict of two identities—the new Russian multi-ethnic and multi-religious identity and the other, based on the experience of medieval Muscovy, i.e., a combination of Russian ethnicity and Russian Orthodoxy. That this is a possibility has been proved by recent demands of the Russian Orthodox Church to replace Archbishop Tadeusz Kondrusiewicz, the head of the Roman Catholic Church in Russia; by debates on plans to introduce religion-oriented subjects at secular schools; by a decision of the lower house of parliament to make the Cyrillic alphabet mandatory for the languages of all the peoples inhabiting the Russian Federation.

After the crisis of those two identities reaches its climax, the Russian Federation may find itself on the verge of a breakup along ethnic and religious principle. The process will be accelerated by non-religious factors—the selfish interests of local elites, a crime-ridden economy, the crisis of security and law enforcement agencies (the Armed Forces and police, in the first place), the difficult problems of post-Soviet society, and great divergences in the density of the population in the European and Asian parts of the country against the background of overpopulated neighboring countries. One more factor will speed up Russia's disintegration—during the czarist rule and Soviet power, the government expelled convicts and opponents (including religious ones) to Siberia and the Far East.

Russia's state interests require averting developments under the second version and channeling them into the lines specified by the Constitution of the Russian Federation, legislation, and this country's international commitments. The Russian Orthodox Church can make an invaluable contribution to the rise of a new all-Russia cultural identity without ceding the canons of Eastern Orthodoxy, if it acts persistently upon provisions of its own social concept.



END

1. Will Russia survive as a sovereign federal state in the twenty-first century, or will it fall apart into several independent states, possibly coming under the control of Russia's present neighbors? This may seem like a fantastic supposition, but let us recall that a mere 15-20 years ago, the prospect of the Soviet Union disintegrating looked equally improbable.

The Russian Federation, as the official successor to the Soviet Union, has retained the Soviet nuclear arsenals, yet it is inferior in its military and industrial potential—well as in many other crucial features—to its former rival of the Western world. Not only have other countries lost the fear of our might (this is a good sign in itself, though); they simply disregard us as an equal partner, and must be persuaded to heed our views when considering any particular international issue. Quite obviously, Russia does not have the same type of visible external threats now as in the past.

However, recently there has been a rise of new domestic threats. These grave threats intertwine with each other, and each may represent extreme consequences for the future of the Russian state. The most immediate were listed in a newspaper interview with Mr. Nikolai Kovalyov, former chief of Russia's Federal Security Service (FSB). He singled out eight threats: domestic and international terrorism, including the Chechen problem; drugs trafficking; crimes against individuals, opposition between society and the state; external threats to economic dependence; corruption; refugees and displaced persons; manmade disasters and natural calamities; and parental neglect of children.

Mr. Kovalyov made no mention, however, of another factor, the significance of which he definitely underestimated. In the Soviet era, the role of religion was replaced by state ideology; today, the religious factor has moved to the forefront of internal threats these days.

2. Country of Real Plurality of Beliefs

The religiosity of one half of Russian society has ebbed markedly, while the other half is demonstrating a clear trend toward a great diversity of religious convictions. The chart below shows this denominational plurality as reflected in the official data on the registration of nationwide and regional religious associations as of January 1, 2002, released by the Russian Ministry of Justice. (The "Protestants" category features religious associations of all the denominations related to Protestantism; the "Muslims" category includes organizations affiliated with all Muslim Boards in Russia).

Federal Districts	Russian Orthodox Church	Old Believers	Catholics	Protestants	Islam	Jews	Buddhists	Others	Total
Central	4030	74	30	1056	54	82	26	433	5785
North-Western	1026	18	39	561	15	24	8	111	1802
South	1154	27	42	673	860	30	47	166	2999
Volga Region	2570	83	28	642	1755	34	11	146	5269
Ural	584	17	12	282	254	23	3	78	1253
Siberian	834	29	90	557	89	31	90	156	1876
Far-Eastern	317	13	21	409	11	19	10	108	908
In all	10515	261	262	4180	3038	243	195	1198	19892

This data puts the Russian Orthodox Church into the lead among Russian religious denominations, accounting for over 50 percent of all registered religious communities across Russia. Its presence in different parts of the country is uneven, however. The summarized number of Russian Orthodox communities is greater than that of all the other denominations taken together in the Central and North-West Federal Districts. The Orthodox Church is also ahead of other communities, although it does not exceed the level of 50 percent in the South, Volga, Urals, and Siberian Federal Districts. As for the Far-Eastern Federal District, the Russian Orthodox communities ranked second after the Protestant churches, although it is worthwhile noting that the Protestants in Russia, as everywhere, do not have a centralized governing body and act as several autonomous religious organizations.

Islam has given up its former second position to the Protestants, yet it remains a powerful and dynamic force with impressive potential capabilities (partly explained by the higher birthrates among the Muslims, and by the inflow of refugees from conflict zones in the Caucasus and Central Asia). Another three major world confessions, the Roman Catholic Church, Judaism and Buddhism, have smaller number of followers.

Overall, the list of organizations officially registered and re-registered in Russia under the Law on Freedom of Conscience and Religious Associations contains about 20,000 communities representing almost 70 confessions. Their followers, including representatives of new religious movements, stress their abidance by the law, call for moral purification, and denounce terror and violence.

The adherents of some creeds, like Jehovah's Witnesses, reject participation in political life or service in the armed forces, but their position does not contradict the laws of the Russian Federation. The Constitution makes participation in government affairs a right for the citizen, not a compulsory duty (Article 32). It also empowers those men who are eligible for army service to opt for an alternative civil service, if military occupations contradict their religious convictions (Article 59).

3. The issue of sects is one of the most entangled issues in the history of world religions. It came into the limelight in Russia and abroad at the end of the twentieth century, when the mass media carried stories on several glaring crimes committed for pseudo-religious motives in America, Europe, and Asia, unwinding debates among clerics,

scientists, and politicians on criteria for distinguishing between genuine and fake religiosity. From the semantic angle, a sect is part of an entity breaking away from it. Christianity itself was born out of a different religion, Judaism, and kept branching out into various denominations over the centuries. Before the revolution of 1917, Russian Protestants, recognized by the government, published a magazine titled *The Sectarian*. They did not see anything insulting in the word.

4. The Russian Chapter (in 2002 renamed the Euro-Asia Chapter) of the International Religious Liberty Association was founded in 1992 by all the most authoritative religious organizations in the country, including the Russian Orthodox Church, as well as a large group of scholars, lawyers, and public figures. Its elected President is always a secular scholar. It also has vice-presidents—today these are the chairman of the Council of Muftis of Russia, Russia's Chief Rabbi, the Chairman of the Conference of Catholic Bishops of Russia, and the top leaders of Protestant denominations (the Union of Pentecostal Christians of Evangelical Faith, the Russian Union of Christians of Evangelical Faith, and the Russian Union of Evangelical Christians-Baptists). The Euro-Asia Chapter of the IRLA is headed by the Secretary General—a representative of the Seventh-day Adventist Church. The Russian Orthodox Church has been taking part in the association's procedures with the status of observer beginning in 1997.
5. *Parlamentskaya Gazeta* (April 3, 2002) put a capital-letter headline saying "Orthodoxy is our Ideology" over an interview with Vyacheslav Khinzhyakov, President Putin's plenipotentiary representative in the upper house of Russian parliament.
6. Numerous instances underlining the encroachments on the rights of believers are found in abundance in the documents of annual conferences of the International Religious Liberty Association, reports by the Ombudsman of the Russian Federation, in publications of non-governmental human rights organizations, newsletters, and analytic materials of the Institute of Religion and Law, group monographs of the Institute of Europe, the Institute of Comprehensive Social Studies, and other institutes of the Russian Academy of Sciences.
7. See *Blagovest*, No. 1, 1992.



GOVERNMENTAL REPORTS ON MINORITY RELIGIONS: AN ASSESSMENT

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INTRODUCTION

Over the past several decades, officials in many societies have grappled with small and controversial religions groups, sometimes referred to by the pejorative terms “cults” or “sects.” Such groups are referred to as the New Religious Movements (NRMs) by most scholars, if referring to some of the newer faiths that have come to the attention of the public and policy makers in recent decades in Western societies. The term “minority religion” is used if referring to a longer-lasting but small religious groups within a society. This latter terms will be used therein, defined broadly to incorporate both NRMs and minority faiths.

In some societies, minority religions have attracted considerable attention from the media and public officials and have become a focus of attention and policy development. This has occurred on every continent, and in many different types of societies. It is worth noting, however, that not all societies have seen significant levels of concern develop among the general public and political leaders. Reasons why controversies have developed within a given society vary greatly, as have the responses to such groups (Richardson, 2004).

Quite often the attention paid to minority religious groups is significantly disproportionate to the size and potential impact of the groups, suggesting that a “moral panic” (Jenkins, 1998; Richardson and Introvigne, 2001) may have developed over the groups, where the response is quite disproportionate to the actual threat posed by such groups. When this occurs, questions can be raised about who is promoting such a response, and who or what groups gain from development of a moral panic? The answers to such questions can be very revealing about the basic values of a society and some subgroups within the society (Beckford, 1985).

One response to concern about minority religions is for government bodies to authorize studies of the phenomena. Such studies, which have been numerous over the past few decades, can be ordered by the executive branch or bureaucracies within the government, or by parliaments and other legislative bodies. Law enforcement organizations sometimes have also done reports on "cults and sects," as well (Richardson and Introvigne, 2001).

While this paper will focus on formal reports that have been done around the world, it should be noted that sometimes the report process has been "short-circuited" when special urgency was felt by individuals or groups with the political power to affect a more rapid response. This is best illustrated when legislation is introduced to exert control over minority faiths without the benefit of a formal study of any kind. This short-circuiting may occur when a general consensus about a perceived problem and what to do about it is felt by key political and religious leaders. There have been a number of such examples from the early history of social control efforts toward NRMs in the United States, most of which went for naught because of the constitutional protections afforded religious groups in the U.S. (Flynn, 1987; Gutman, 1985; Richardson, 1986). There are also examples of short-circuiting in other societies, such as the successful efforts to pass stringent new laws in Austria, and in some former communist countries such as Belarus.

Another variant on the idea of a formal report involves a specially organized conference focusing on what is thought to be an obvious problem with minority religions. Such efforts, which usually attract major media attention, are usually made to promote legislation or policy change concerning minority faiths. This happened, for instance, in Russia in 1994 when the Orthodox Church and representatives of the executive branch of government, working with Western anti-cult organizations, organized a special "International Christian Seminar on Totalitarian Sects" in Moscow (Shterin and Richardson, 2000). This was part of the eventually successful effort to modify the liberal laws concerning religious freedom that had been passed a few years earlier in Russia.

Similarly, the Chinese government organized a special conference in November 2000 in Beijing to promote the official view of Falun Gong as a "dangerous cult." This conference was attended by a number of leading anti-cult figures from around the world (Edelman and Richardson, 2002), and contributed considerably to legitimation of government efforts to define and control the Falun Gong. The impact of this conference occurred in part because of media attention to the conference within China, but also because of the publication and wide distribution of the conference proceedings.

An earlier example of the “conference motif” was the famous unofficial hearing organized by Senator Dole in 1976 in the U.S. Senator Dole, a powerful political figure at the time, used his influence to schedule an informal government hearing on the “cult problem,” which was attended by several hundred governmental officials, at the behest of Senator Dole. High-level officials from a number of federal bureaucracies received their marching orders from the widely publicized hearing, which has been credited with giving impetus to further actions such as the tax evasion trial of Reverend Moon, and crackdowns by immigration officials on the Unification Church and the Bhagwan Shree Rajneesh group centered at that time in Oregon.

These and other responses to minority religions are described in my forthcoming volume, *Regulating Religion: Case Studies from Around the Globe* (Richardson, 2004), which has 33 chapters discussing various governmental reactions to the presence of NRMs or other minority religions, including official governmental reports.

OFFICIAL REPORTS

The just-described alternatives notwithstanding, there have been a significant number of official governmental reports done over the past three decades in various countries. Starting in 1974 with a report on the Children of God done in New York State (Wallenstein, 1974), there have been other reports done in some states within the U.S., as well as by U.S. federal governmental entities. Also, this motif has been used in other countries, such as Canada (Hill, 1980), Israel (Richardson, 2000), France (Richardson and Introvigne, 2001; Luca, 2004; Duvert, 2004), Belgium (Fautre, 2004); Sweden (Richardson and Introvigne, 2001; Swedish Commission, 1998), Germany (Seiwert, 2004; Deutscher Bundestag, 1998), The Netherlands (Kranenborg, 1994; Richardson and van Driel, 1994), Italy (Richardson and Introvigne, 2001), Switzerland (Richardson and Introvigne, 2001), Argentina (Frigerio and Wynarczck, 2004), Spain (Motilla 1999), Poland (Koscianska, 2004; Doktor, 2004), Australia (Richardson, 2000; Bouma, 2004), and Switzerland (Richardson and Introvigne, 2001). Broader political organizations such as the Council of Europe’s Parliamentary Assembly and the European Parliament of the European Community also have engaged in producing reports on the activities of “cults and sects” (Beckford, 1985; Richardson, 1995; Richardson and Introvigne, 2001).

There are several ways to organize a study of official government reports. One obvious way is to do so chronologically, noting any timing patterns that

become apparent. Doing so suggests some particular impact of major events, such as the mass murder/suicides at Jonestown in Guyana in 1978, and especially the suicides and murders involved with the Solar temple in the early and mid-1990s, which provoked considerable concern and report writing within European countries (Richardson and Introvigne, 2001).

Timing of reports sometimes interacts interestingly with the type of report. For instance, a number of European reports provoked in part by the Solar Temple episodes in Switzerland and Quebec were initially quite critical of minority religions, adopting a purely anti-cult perspective being diffused around the world via efforts particularly of private American and semi-private Western European anti-cult groups (Richardson and Introvigne, 2001). See especially the French and Belgium reports done in the mid and late 1990s for examples of extremely negative efforts that were uninformed of scholarly research or even explicitly denigrated such work. Some, but not all, later reports in Europe were more balanced, having been done in aftermath of considerable scholarly critical reaction, as well as criticisms from political entities and traditional religious organizations to some of these earlier reports.

This difference is so striking that Massimo Introvigne (2000) has developed a typology built around the timing of the reports, and their content. This typology, which he and I used in our later detailed study of the content of the several European reports done over the last decade (Richardson and Introvigne, 2001) posts two major types of such reports:

“Type I” reports, best exemplified by French and Belgium reports, assume the following:

1. “Cults and sects” are not true religions, and thus are not due the respect and protections usually afforded religious groups.
2. “Brainwashing” and “mental manipulation” are real processes used by cults and sects to trick people into participating and staying in such groups.
3. Apostates from the groups offer the best information about them, certainly better than that offered by scholars who have studied them or members and ex-members who claim to have had a positive experience in the group.
4. Anti-cult organizations play a major role in developing these reports, and are recognized within them as doing valuable work which should be supported, including with public funds.

“Type II” reports differ significantly and are much more balanced (even if occasionally self-contradictory; see Seiwert, 2004, on the German report),

taking into account scholarly criticisms of Type I reports and other research done on such groups. Major features, illustrated by reports from Switzerland, Italy, Sweden, and the Council of Europe, include:

1. Problems of defining “cult and sect” are admitted, often leading to a conclusion that such definitions are not the business of the state or other governmental bodies.
2. Problems defining processes such as “mental manipulation” and “brainwashing” are also admitted, even if some reports still rely on such ideas to support recommendations.
3. Although some information from critical ex-members is used, other data sources are also recognized, including the minority religious groups themselves and especially scholarly research results; and some reports, such as the recent German one, actually include new research efforts funded by the entity doing the report.
4. While private anti-cult organizations are recognized as sometimes doing an important service, state funding and support for such organizations is not recommended.

This typology is a useful tool which can be applied to other reports as a way of characterizing them overall. To do so leads to the conclusion that the timing of the report usually is not as important as other variables, such as what governmental entity produces the report and for what society. One potentially fruitful way to analyze official reports would be to assume a correlation between the type of report and the character or cultural values of a given society producing the report. For instance, one might expect that, if a society was known for tolerance in the area of lifestyles or structurally was more pluralistic, it would either not engage in producing official reports, or if it did, the reports would be more moderate in tone, eschewing anti-cult rhetoric and analysis, while attending to scientific research on the topic.

Support for this “correlational hypothesis” does not seem to exist, for instance, in the report done in The Netherlands in the early 1980s (Subcommissie Sekten, 1984). The quality of this 320-page report has been noted (Kraneborg, 1994; Richardson and van Driel 1994), with special attention called to its use of social science research. Another important report that illustrates the correlational hypothesis was that done in Ontario, Canada, in 1978, after the Jonestown tragedy gave impetus to a study. The 600-page report written by Daniel Hill (Hill, 1984) is a balanced report stating that no new laws had been called for by Crown Attorneys, police, or scholars, and concluded that none were needed (see

Hexham, 2001). This very early report is one of the very best ever done, and I commend it to scholars and policy makers alike.

Another example of a society with a reputation for tolerance and openness producing a report that generally reflects that posture is Sweden. A report completed there in 1998 (Swedish Commission, 1998) reviews social science research, taking seriously the results of such work, and also is critical of France and Belgium for political actions taken by those governments toward minority faiths. A substantial report done in New South Wales in Australia (NSW Anti-Discrimination Commission, 1984) is also quite cognizant of both social science research and the important value of religious freedom, and appears to reflect the more tolerant values of Australia. (However, a later federal government report from Australia was not so balanced: Richardson, 2000).

There are other ways that official reports can be examined besides chronologically and focusing on content. Governmental reports can, for example, be categorized in terms of whether they have an impact on policy development. Some reports may have been authorized to respond to concerns of citizens, and were not intended to directly impact policy, a form of "symbolic politics." It is a truism that doing a study on something is a way to placate, and often is tantamount to doing nothing. However, some reports were clearly intended to affect policy development and were developed with that in mind. Some succeeded, such as in France, with its recent much-criticized law dealing with "sects and cults" being supported by earlier official studies. Other reports which might not have been expected to have much impact could, because of changed circumstances, end up influencing policy. One report done in France and released the same week as the first Solar Temple episode illustrates this point well (Luca, 2004), as does the German Enquete Commission report, which had no impact on policy until the September 11, 2001, tragedy allowed an opportunity to make it easier to dissolve religious groups (Seiwert, 2004).

Some official reports were more influential in other parts of the world than in the country of origin, the contents having being diffused to other societies. Several French reports have been widely disseminated around the world as part of vigorous efforts by the French government to promote its approach to "cults and sect" in other nations. There are reports of visits from French official to places such as Poland, China, Lithuania, Hong Kong, Russia, Uzbekistan, and a number of other countries, seeking to convince governments of the efficacy of the French approach. Such efforts eventually contributed to the downfall of the French Mission to Fight Cults, as word of the travels of French officials became

public knowledge and led to criticism (see discussion of MILS travels at www.CESNUR.org/fr_mils.htm).

Some reports done by pan-European political bodies, such as the Parliamentary Assembly and the European parliament, have also been influential in a number of countries. These reports have been cited in other reports or in legislative attempts to exert control over minority faiths, including in former Communist countries.

Occasionally reports that had little influence within the country of origin may have contributed considerably to developments in other nations. One such example may be the impact of the so-called Fraser Report (Fraser, 1978) done by a subcommittee of the U.S. Congress. This report, which included descriptions of several groups but focused mainly on the Unification Church, is credited by French sociologist Nathalie Luca (2004) with “alerting” the continent of Europe about the alleged dangers of “cults.” She thinks that this report caused several European governments to be wary of efforts of the Unification Church to develop in Europe. Also, the report may have motivated French Deputy Alain Vivien, who later became head of the Mission to Fight Cults to begin his campaign to exert control over “cults and sects” in France. This report did not, however, impact policy very much in the U.S., although some publicity was received at the time of the report.

Reports can also be compared in terms of policy recommendations made in them. Some reports such as the Hill report from Ontario, most of the several reports done in Switzerland, and the one from the Netherlands did not recommend additional laws and policy changes. However, most other reports do make recommendations, some quite draconian in nature. Reading the recommendations and seeing the disconnect that sometimes occurs between recommendations and findings in some of the reports, one gets that feeling that those doing the reports believed that, after going to so much effort, some recommendations must be made. Even the otherwise impressive Swedish report ends up recommending additional legislation to deal with what is termed “improper influence” and “manipulation.”

The final report of the German Enquete Commission on “So-Called Cults and Psycho Groups” is a classic illustration of the disconnect between findings and recommendations. All the research authorized by the Enquete Commission concluded that the groups were not harmful to society or individuals, yet some far-reaching recommendations end up being made, a fact commented on at length by a minority part of the report (Seiwert, 2004). (The German report also cautioned in one place about use of the nonscientific term “brainwashing,” but then later used the term when discussing Scientology).

CONCLUSIONS AND RECOMMENDATIONS

I will close with my own small set of recommendations for those involved in such reports or considering authorizing them. Plans to develop official reports should be checked carefully to ensure that they are not based on some problematic assumptions from the outset that will lead to contradictory conclusions or ones that are detrimental to religious freedom in a society. To assume that any nontraditional religious group that wants to operate within a society is bad or evil is a dysfunctional approach and can lead to difficulties for the society, as well as for its citizens wanting more freedom of choice.

Of special note is the assumption that underlies many official reports that “brainwashing” or “mental manipulation” is an adequate explanation of why people participate in minority religious groups. In an earlier study, Introvigne and I (Richardson and Introvigne, 2001) demonstrated that this key assumption could be found even in all Type I reports and most Type II reports. It can also be found in other reports as well, such as the one done in Israel (Richardson, 2000). Perhaps the most extreme use of this crucial assumption can be found in the second French report on finances of the 173 minority religious groups that found themselves named in the first French report (Richardson and Introvigne, 2002, pp. 151-152). After reluctantly reporting that there were no serious financial problems to be found in the data gathered under force of law on finances, the report concludes (Assemblée Nationale, 1999, p. 187) that cults, “whose use of mind control certainly does not need further evidence,” use a “modern form of slavery founded on mind control” (p. 176) to convince their “victims” to contribute money, thus justifying governmental actions to control such groups. Making such blatant assumptions should obviously be avoided, if an official report is to be treated with respect.

Any report should also be balanced in both its sources of information and in the conclusions drawn from the study. Both ex-members and members should be allowed to offer information, both positive and negative, about their experiences, and both should be taken seriously. Religious groups should be allowed to offer information, and those being directly discussed should be informed about what is being said about them, so they can defend themselves if needed. Anti-cult organizations will certainly seek involvement in any study, but scholars should also be invited to participate and offer comments. Indeed, scholars should be represented on any panel that is preparing an official government report on minority faiths within a given society, if possible.

Any suggestions for new laws or practices concerning the control or management of minority faiths should be considered very carefully before being included. Long-term implications of any such recommendations should be considered, and the basic assumptions should be examined of any recommendations that are considered. Otherwise, recommendations that are not supported by the research that goes into a report may be made, leading to problematic consequences and embarrassment for those producing the report.



E N D

- Assemblée Nationale (1999). Rapport fait au nom de la Commission d'Enquete sur la situation financiere, patrimoniale et fiscale des sects, ainsi que sur leurs activites economiques et leurs relations avec les milieux economiques et financiers (document n. 1687). Paris: Les Documents d'Information de l'Assemblée Nationale.
- Beckford, James (1985). *Cult Controversies*. London: Tavistock.
- Bouma, Gary (2004). Social Justice Issues in the Management of Religious Diversity in Australia." In J. Richardson (ed.), *Regulating Religion* (pp. 333-342). New York: Kluwer.
- Deutscher Bundestag (1998). New Religions and Ideological Communities and Psychogroups in the Federal Republic of Germany. Final Report of the Enquete Commission on "So-Called Sects and Psychogroups" (Translated by Wolfgang Fehlberg and Monica Ulloa-Fehlberg). Bonn: St. Bundestag, Referat Öffentlichkeitsarbeit.
- Dockor, Tadeusz (2004). "New Religious Movement and the State of Poland." In J. Richardson (ed.), *Regulating Religion* (pp. 259-266). New York: Kluwer.
- Duvert, Cyrille (2004). Anti-Cultism in the French Parliament: Desperate Last Stand or Opportune Leap Forward? A Critical Analysis of the 12 June 2001 Act. In J. Richardson (ed.), *Regulating Religion* (pp. 41-52). New York: Kluwer.
- Fautre, Willy (2004). "Belgium's Anti-Sect War." In J. Richardson (ed.), *Regulating Religion* (113-126). New York: Kluwer.
- Flinn, Frank (1987). "Criminalizing Conversion: Legislative Assault on New Religions." In J. Day and W. Laufer (eds.), *Crimes, Values, and Religion* (pp. 153-192). Norwood, NJ: Ablex Publishing.
- Fraser, D. (1978). Investigation of Korean-American Relations: Report of the Subcommittee on International Organizations of the Committee on International Relations, U.S. House of Representatives. Oct. 31. Washington, D.C.: U.S. Government.
- Frigerio, Alejandro and Hilario Wynarszyk (2004). "Cult Controversies and Government Control of New Religious Movements in Argentina." In J. Richardson (ed.), *Regulating Religion* (pp. 453-476), New York: Kluwer.
- Gutman, Jeremiah (1985). The Legislative Assault on New Religions." In T. Robbins, W. Shepherd, and J. McBride (eds.), *Cults, Culture, and the Law* (pp. 101-110). Chico, CA: Scholars Press.
- Hexham, Irving (2001). New Religions and the Anti-Cult Movement in Canada. In *Nova Religio*, 4, 281-288.
- Hill, Daniel (1984). "Study of the Development of Groups, Sects, and Cults in Ontario" (1984). Report to Ontario Government, June. ISBN 0-7743-5266-3. <http://berni.cnfamily.com/Ontario.htm>.
- Introuge, Massimo (2000). Moral Panics and Anti-Cult Terrorism in Western Europe." In *Terrorism and Political Violence* 12, 47-59.
- Jenkins, Philip (1998). *Moral Panic: Changing Concepts of the Child Molester in Modern America*. New Haven, CT: Yale University Press.
- Koscianska, Agnieeska (2004). "Anti-Cult Movements and Government Reports on Sects and Cults: The Case of Poland." In J. Richardson (ed.), *Regulating Religion* (pp. 267-278). New York: Kluwer.
- Kranenborg, Reender (1994). "The Anti-Cult Movement in the Netherlands: An Unsuccessful Affair." In A. Shupe and D. Bromley (eds.), *Anti-Cult Movements in Cross-Cultural Perspective* (pp. 221-236). New York: Garland.

- Luca, Nathalie (2004). "Is There a Unique French Policy of Cults?" In J. T. Richardson (ed.), *Regulating Religion* (pp. 53-72). New York: Kluwer.
- New South Wales Anti-Discrimination Board (1984). *Discrimination and Religious Commitment*. Sydney: NSW Anti-Discrimination Board.
- Richardson, James T. (2004). *Regulating Religion: Case Studies from Around the Globe*. New York: Kluwer.
- Richardson, James T. (2001). "New Religions in Australia: Public Menace or Societal Salvation?" In *Nova Religio* 4, 256-265.
- Richardson, James T. (2000). "Minority Faith and Religious Freedom in Israel." In *Religion, Staat, Gesellschaft* 1, 23-40.
- Richardson, James T. (1995). "Minority Religions, Religious freedom, and the New Pan-European Political and Judicial Institutions." In *Journal of Church and State*, 37, 39-60.
- Richardson, James T. (1994). "New Religions in Europe: A Comparison of Developments and Reaction in England, France, Germany, and the Netherlands." In A. Shupe and D. Bromley (eds.), *Anti-Cult Movements in Cross-Cultural Perspective* (pp. 129-170). New York: Garland.
- Richardson, James T. (1986). "Consumer Protection and Deviant Religion." In *Review of Religious Research*, 28, 168-179.
- Richardson, J.T. and Massimo Introvigne (2001). "Brainwashin" Theories in European Parliamentary and Administrative Reports on 'Cults' and 'Sects.'" In *Journal for the Scientific Study of Religion*, 40, 143-168. Reprinted in J. Richardson (ed.), *Regulating Religion*. New York: Kluwer.
- Seiwert, Hubert (2004). "The German Enquete Commission on Sects: Political Conflicts and Compromises." In J. Richardson (ed.), *Regulating Religion* (pp. 85-102), New York: Kluwer.
- Shterin, Marat and James T. Richardson (2000). "Effects of the Western Anti-Cult Movement on Development of Laws Concerning Religion on Post-Communist Russia." In *Journal of Church and State*, 42, 237-246.
- Swedish Commission (1998). *In Good Faith: Society and the New Religious Movements* (Official Language summary). Stockholm: Norstedts Tryckeri AB.
- Subcommissie Sekten (1984). *Onderzoek Betreffende Sekten*. Den Haag.
- Wallenstein, Herbert (1974). *Final Report of the Activities of the Children of God*. Submitted to Honorable L.J. Lefkowitz, Attorney General of the State of New York, Albany: Charity Frauds Division.



CHURCH AND STATE IN THE NEW MEMBER STATES OF THE EUROPEAN UNION

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Ten countries—Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia—joined the European Union on May 1, 2004.

All the new members except Cyprus have a history and an identity linked to Western Christianity, and throughout their history strove to belong to the western part of the continent. Thus, in a sense, the enlargement of the Union was not based on a cost-and-benefits analysis but in reality was a moral issue.

The eight new members from Central-Eastern Europe suffered Communist governance and curtailment of religious freedom for more than four decades after World War II, though there were differences between countries and periods. The record of Czechoslovakia was definitely worse than that of Poland. Practices ranged from open persecution to administrative harassment and discrimination with one common element: there was no religious freedom as such.

The historical background, the process, and the effects of the forceful secularization of society showed great differences. In Poland, Lithuania, and Slovakia, Catholicism played a significant role in safeguarding the national conscience. Estonia is the only new member where Lutherans outnumber Catholics, whereas Hungary and Slovakia have a Catholic majority with firmly established Protestant minorities (Calvinists in Hungary and Lutherans in Slovakia). Latvians are divided between Catholics and Protestants. Orthodoxy in the new member states is linked to the national minorities, especially to Russians in the Baltic states.

In the Baltic states as well as in other countries such as like Hungary, a jurisdictional conflict emerged between the Moscow Patriarchate and the

Ecumenical Patriarchate of Constantinople concerning the difficult issue of the limits of legitimate government involvement in inter-church disputes. Hungary is the only new member country where the Jewish community remains a significant mainstream religious community.

Religion plays a firmly established social role both in Cyprus and in Malta, and religiosity of these island-states is high compared with other European countries. The connection of religion and ethnicity is obvious in Cyprus, where religious minorities within the ethnic groups are not significant.

New religious movements were active throughout the region in the 1990s, but their activity did not bring significant changes to the denominational landscape. Since notions of church membership vary from country to country, as well as from denomination to denomination, it is difficult to discuss real numbers. In some cases, only registered church members are regarded as church members, whereas in other countries even cultural affiliation matters. Some countries regard those having no religious affiliation as atheists, whereas in others, only those declaring to be atheists are regarded as such.

Despite the heavy losses they suffered during the Communist rule, churches were among the most respected and trusted social institutions at the time of the transition. Freedom opened new possibilities but has brought new challenges as well. Churches needed to catch up rapidly with developments in the world, while the countries themselves were changing rapidly. At the same time, nostalgia played a significant role, as many worked to reconstruct pre-war structures.

Article 6 of the Treaty on European Union states, "The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on November 4, 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law." Article 13 lays special emphasis on the principle of non-discrimination.

PRINCIPLES OF THE ECHR

All new members states joined the European Convention on Human Rights and submitted themselves to the jurisdiction of the European Court of Human Rights.

Case law of the European Court of Human Rights has set the common European minimum protection of religious freedom. Over the last ten years the court has established the following principles:

- States have to make a legal entity status accessible for religious communities¹—but this status does not have to be equal for all communities;
- Democratic states can have no legitimate interest not to respect the autonomy of religious communities²;
- Religious communities must have a realistic possibility to open places of worship³—that does not mean that restrictions in this respect would all be unjustifiable;
- Church property serving genuine religious purposes enjoys qualified protection⁴ —that does not mean that all church property would be respected to the same extent;
- When the manifestation of religious beliefs and the protection of the rights of others conflict, the way beliefs are manifested and the circumstances are determinative⁵

Generally, the court, located in Strasbourg, has respected the historically different patterns of church-state relations. The new member states generally comply with this standard. Their records are not worse than those of some of the earlier members of the European community.

The Orthodox notion of symphony of church and state and the national character of Orthodox churches leads to concrete challenges. The cultural differences determined by the differences between the Eastern and the Western Christianity need understanding, tolerance, and adjustment at the same time.

New member states are not likely to gain an especially bad record in issues of religious freedom. I say this because most of the new member states have enacted elaborate legislation on human rights issues during their transition to democracy or into membership in the European community.

In addition, basically all constitutions of the new member states contain provisions on the freedom of religion and on church-state relations. Special recognition to one (traditional, national) religious community on the level of the Constitution is characteristic for the Orthodox countries. Separation of church and state is explicitly stated by the constitutions of Croatia, Hungary, and Latvia. The Slovak Constitution recognizes that religious communities administer themselves independent from the state. The Polish Constitution follows the Italian model by making a reference to the concordat with the Holy See and the system of agreement-based laws determines the relation of the state and other religious communities.

Beyond basic constitutional provisions for religious freedom, the new member states have resolved a number of sensitive issues, ranging from the status of religious communities to relationships to the Holy See, in a variety of ways.

STATUS OF RELIGIOUS COMMUNITIES

Some new member countries provide the same legal status for all religious communities, while others have a two-tier system.

In Hungary and Poland, 100 individuals may register a religious community, and registered religious communities have basically the same rights and obligations.⁶ A significant difference between these two countries is that in Hungary, registration is a formal court procedure,⁷ whereas in Poland it is done by “the executive”.⁸ In Latvia the executive Board of Religious Affairs decides on registration of congregations, religious associations, and dioceses. Likewise, in Slovenia, the Office for Religious Communities grants the legal entity status under private law for religious communities without examining the contents of the religion or judging its merits. In Estonia as in Hungary, registration of religious communities is done by courts.

Lithuania differentiates between traditional religious communities and others that have a status as associations.⁹ In Slovakia there are some registered religious communities, but getting a religious community registered as such is difficult because 20,000 members are required. Newer or smaller religious communities can obtain a legal entity status as associations. The Czech Republic adopted a two-tier system similar to the Austrian model: 300 individuals can register a religious community; after 10 years, if the community gathers 0.1 percent of the population and fulfills a number of requirements, special rights can be granted to religious communities.

RESTITUTION

During Communist rule, much church property was confiscated. Restitution issues came to the agenda in all the new democracies. Restitution went the furthest probably in Poland and Slovakia. Significant obstacles and controversies remain in the Czech Republic. Other countries are finding compromises between an *in integro restitutio* and present-day needs. Generally the restitution of church property cannot be regarded as a mere property dispute but must be evaluated as an issue concerning free exercise of religion.

FUNDING

Besides education, funding is probably the hottest issue in church-state relations. Many states provide subsidies to churches, but comparing different

schemes of funding is hardly possible. No country has introduced a church tax system, like that of Germany, or a church contribution system, like that of Austria. Hungary adopted a tax-assignment system similar to that of Italy. Similar models are being considered in some other countries. Slovakia, on the Belgian model, provides state salaries to clergy of recognized churches.

Public funds for church schools are a general rule. In this respect, the situation of church-run educational institutions is more favorable than in many Western European countries.¹⁰

Subsidies are also the general rule for cultural activities, including maintenance of the architectural and artistic inheritance of churches.

RELIGIOUS EDUCATION

Schools play a central role in educating new generations, so finding an adequate space for religious instruction is important not only to ensure parents' rights and religious freedom but also for re-shaping the education system. In the Czech Republic and in Hungary, religious education at the public schools is optional and in addition to the normal curriculum. In other countries, religious education has the same standing as other subjects, but parents must opt in for their children to participate.

THEOLOGICAL EDUCATION

In Hungary, strict institutional separation ruled out the possibility of reintegration of the theological faculties into the state universities. Courses *about* religion can be held at public universities, but courses *of* religion cannot. Theological faculties are maintained by the churches. However, the state provides the necessary funds equal to the per capita funds of teacher training to ensure the free choice of education for students. To get public funding, the institutions must be accredited, though content of theological subjects is not subject to scrutiny.

Before 1990, under Communist governments, the only non-state university providing secular-course training was the Catholic University of Lublin in Poland. Now similar curriculum developments are taking place in Hungary, Poland, and Slovakia.

Theological faculties were reintegrated into some state universities, like Prague (Catholic, Lutheran, Husite), Olomouc and eské Bud jovice (Catholic), Zagreb (Catholic), Bratislava (Catholic, Lutheran), Tartu (Lutheran), and for the first time

integrated at other universities, like Opole and a number of other Polish universities (Catholic). In Lithuania, the Klaipeda University has a faculty for Evangelical (Lutheran) theology, and the Vytautas Magnus University in Kanuas has a faculty for Catholic theology. At the University of Latvia, there is a multi-confessional Faculty of Theology. The Agreement between Latvia and the Holy See foresees that the diplomas and courses of the Major Seminary of Riga will be considered valid and equivalent to those of the educational institutions of the State.¹¹

There is no uniform pattern for theological education in the region. The tension between independence and the advantages of integration continue, with the integration model (German) predominating. Hungary is the exception, following the Italian model with independent theological faculties and colleges.

BILATERAL RELATIONS WITH THE HOLY SEE

All post-socialist countries have reestablished diplomatic relations with the Holy See. Bilateral accords determine the situation of the Catholic Church in the Baltic states,¹² in Poland (the only agreement qualified as a concordat),¹³ Slovakia,¹⁴ and Slovenia.¹⁵ Estonia and the Czech Republic have negotiated treaties with the Holy See since the fall of Communism. In some instances such agreements were based on pre-World War II traditions. In other cases, the conventions were matter of expression of the national conscience, especially in newly emerging states such as Slovakia.

Arguments against concordats mainly raise two objections: (1) such settlements or agreements limit the sovereignty of the state, and (2) the privileges of the Catholic Church raises the danger of inequality between denominations. In my opinion, these objections do not hold.

First, international agreements do limit state sovereignty, but we have good reason to appreciate this, especially when human rights are in play. Practice disproves the second argument as well. A thorough survey of the content of recent agreements shows the Catholic Church does not seek exclusive rights in the agreements concluded with states, especially not since the Second Vatican Council. Thus concordats or other agreements with the Holy See may promote the issues of religious freedom for all.

The juridical persons in canon law enjoy juridical personality in the civil law of Latvia, Lithuania, Poland, and Slovakia according to the agreements concluded with the Holy See.

The agreements maintain that the establishment, modification, recognition, and suppression of dioceses is an exclusive church competence, an issue that has

been a sensitive part of institutional freedom for a long time. The agreements prescribe that the nomination of bishops (who shall be citizens of the given country) is to be communicated to the governments out of courtesy and that the borders of dioceses do not cross state borders. The agreements comply with the claim of independence underlined by the Second Vatican Council¹⁶ and canon law,¹⁷ as the agreements do not grant any rights to civil authorities to influence the nomination of bishops.

Religious education at public schools is guaranteed by all the agreements. Primarily, the rights of the parents are recognized. The program of the teaching of Catholic religion is conducted on the basis of a curriculum approved by the bishops' conference in agreement with the competent state authorities.¹⁸ In Poland the ecclesiastical authority only has to let the competent civil authority know the program and the textbooks.¹⁹ Alternative education to religion (ethics) is foreseen in Lithuania.²⁰ Teachers of Catholic religion need a certificate of competence issued by the bishops' conference in Latvia,²¹ a written authorization of the local bishop (*missio canonica*),²² or an authorization of the Catholic Church.²³

Equal funding for church schools is granted in Hungary,²⁴ Lithuania,²⁵ and Slovakia;²⁶ financial support is foreseen in Latvia,²⁷ whereas in Poland the criteria of the subventions are to be determined by the civil laws.²⁸

Canonical marriage has civil effects in Estonia,²⁹ Latvia,³⁰ Lithuania,³¹ Poland,³² and Slovakia,³³ but Czechs also have a free choice between church and civil weddings; Lithuania and Slovakia also acknowledge the decisions of ecclesiastical tribunals on the nullity of marriage, whereas in Poland, there is separation in this respect. Civil effects of canonical marriages depend upon the explicit wish of the spouses in Poland.

For reasons of parity, some counties also concluded agreements with other denominations. The Hungarian Government signed agreements with the Reformed (Calvinist), Lutheran, Baptist, and Serb Orthodox Churches, as well as the Alliance of Jewish Communities. The Slovak government concluded two agreements with registered denominations, though one small Christian community and the Jehovah's Witnesses did not join.

CONCLUSION

The standards of religious freedom in the new member states are generally in compliance with the European standards. It can be observed that none of the new member states established a state church model, but none of them followed

a *lacistic*, rigid separation model either. Most new member states established models that can be described as benevolent separation or coordination models. Religious freedom is definitely treasured in a special way by those who experienced Communism. The difference of historic experiences enriches Europe in a special way.



END

1. Canea Catholic Church v. Greece.
2. Serif v. Greece; Hasan and Caush v. Bulgaria.
3. Manoussakis v. Greece.
4. The Holy Monasteries v. Greece.
5. Kokkinakis v. Greece; Larissis and Others v. Greece; Otto-Preminger-Institut v. Austria; Wingrove v. United Kingdom.
6. For Hungary: Act IV/1990, section 15, for Poland: Constitution Art. 25., Act from May 17, 1989, on the freedom of conscience and belief, article 9.
7. Act IV/1990, section 8.
8. Act cited, article 33.
9. Traditional religious communities are the following: Roman Catholic, Greek Catholic, Lutheran, Reformed Russian Orthodox, Old Believers, Jewish, Sunni Muslim, and Karaites. Traditional communities have a history of at least 300 years in Lithuania. Žiliukaitė, R. *ta—Glodenis, Donatas, State and Church in Lithuania*, 67, 76.
10. Equal funding is the rule in the Czech Republic, Hungary, Lithuania, Poland, Slovakia; in Latvia, "in accordance with the laws of the Republic of Latvia."
11. Article 20. para. 4.
12. Estonia—verbal note AAS (1999) 414-418, Latvia – agreement, signed on November 8, 2000, Lithuania: Agreement concerning the Juridical Aspects of the Relations between the Catholic Church and the State AAS (2000) 783-816, Agreement on the Cooperation in Education and Culture AAS (2000) 783-795, Agreement on the Pastoral Care of the Catholics serving in the Army AAS (2000) 809-816.
13. AAS (1998), 310-329.
14. Basic Agreement AAS (2001), 136-155. Separate agreements were signed on the army chaplaincy (2002) and on education (signed in 2003, ratified in 2004).
15. Signed on December 14, 2001. Ratified by Parliament on January 28, 2004, after the Constitutional Court did not raise objections (in an interpretative decision the Court stated, that in conflict cases, state law was applicable).
16. E.g., CD 19-20.
17. CIC can. 377. para. 5.
18. Latvia, Art. 15., Lithuania—Agreement on co-operation in education and culture Art. 6. para. 1.
19. Art. 12 para. 2.
20. Agreement on cooperation in education and culture Art. 3. para. 1.
21. Art. 15.
22. Poland, Art. 12.; Lithuania, Agreement on cooperation in education and culture, Art. 3. para. 2.
23. Slovakia Art. 13. para. 5.
24. Agreement on financial issues, Part I, Art. 2.

25. Agreement on cooperation in education and culture, Art. 9. para. 1.
26. Art. 13. para. 2.
27. Art. 19.
28. Art. 14. para. 4.
29. Para. 8: "Marriages celebrated in the Catholic Church, upon registration and for which a certificate of marriage has been issued by the civil registry office, have civil effect."
30. Art. 8.
31. Agreement concerning juridical aspects, Art. 13.
32. Art. 10.
33. Art. 10.



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