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GLAUBE UND FREIHEIT

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THE JOURNAL OF
THE INTERNATIONAL
RELIGIOUS LIBERTY
ASSOCIATION

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DECLARATION OF PRINCIPLES

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 safeguarding 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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SPECIAL MESSAGE

ALHAJI ALIU MAHAMA

Vice President of the Republic of Ghana

(Delivered at the IRLA All-Africa Religious Liberty Congress,

Accra, Ghana, April 25-27, 2006)

I give glory to God for making it possible for us to witness the 2nd All-Africa International Religious Liberty (IRLA) Congress. The first one was about five years ago. Your choice of Ghana must have been guided by the noticeable co-existence and unity amongst various religious groups in this country, and the liberal nature of our constitution which creates an enabling environment for religious bodies to partner with the government for the socio-political development of our republic.

Judging from the theme of the congress, “Religious Liberty: Co-Existence in Peace and Freedom in Diversity,” the organizers deserve commendation for spending time and money to address the issue of religious tolerance. There is no gainsaying that the absence of religious tolerance has created disunity, distrust and hatred in several parts of the world. Within the past few days participants have been made to appreciate the need for more religious dialogue that could result in better co-existence and peace among adherents of various religious beliefs. Your topics for this conference adequately justified the belief that the right to freedom is the corner stone of democracy.

Millions of people around the world live under totalitarian or authoritarian regimes where the freedom of religious beliefs and practices are restricted. Some countries have discriminatory laws and policies that are of great disadvantage to some religious groups, while others are negligent in ensuring that religious minorities or adherents do not suffer discrimination or persecution.

I appeal that countries with discriminatory rules seize the opportunity provided of the efforts of the IRLA to make rules and laws that protect citizens’ rights of worship. I am also appealing to religious leaders in Africa and other continents of the world to be circumspect in their pronouncements and those of their adherents that have in the past contributed to the high level of religious unrest in the world.

I believe that the congress organized by IRLA has not only contributed a new idea to religious unity, but has the potential to serve as a medium for

better co-existence, freedom, and better understanding of religious liberty all over the world.

Thank you for holding your congress in Ghana.



END



RELIGIOUS FREEDOM FROM AN AHMADIYYA MUSLIM PERSPECTIVE

MAULVI A. WAHAB ADAM

Head, Ahmadiyya Muslim Mission, Ghana, Africa

A friend of mine went to Northern Ireland. He says on arrival at the airport, he boarded a taxi which was to take him to his hotel. The moment he was in the taxi, the taxi driver asked him, ‘My good friend, are you a Catholic or Protestant?’

My friend was puzzled. He knew that if he said he was a Protestant and the taxi driver happened to be Catholic, he would be in trouble. On the other hand, if he said he was a Catholic and the taxi driver happened to be a Protestant, here again, he would be in trouble!

He therefore had to think fast and find something which is not only sensible, but also acceptable to say. What would you have said?

This is how my friend responded. He said, “I come from Africa. In Africa there is a big tree and all of us worship under it.”

On hearing this, the driver was satisfied and took my friend safely to his hotel!

It is really surprising that the taxi driver could believe that in the whole continent of Africa, there existed a tree under which everybody in the continent worshipped. Yet when you ponder over it, you will agree that all of us, whether we are Jews, Christians, Buddhists, Hindus, Zoroastrians or Muslims—all of us worship One Supreme Being and as such, there is absolutely no justification to fight, to torture, to persecute and to kill because of differences of religion. How sad that there are parts of the world today in which man or woman cannot freely profess, practice, and propagate his or her religion. Consider the hardships, anguish, pain, and the devastation that such fanaticism and bigotry cause to individuals, families, nations, and the world.

HUMAN RIGHTS CHARTER

The Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948, embodies the broadest consensus of contemporary civilization on the subject of human rights.

To me, Article 3 which states that “Everyone has the right to life, liberty and security of person” together with Article 18 which reads that “Everyone has the right to freedom of thought, conscience and religion” are the most profound of all the freedoms under the Charter, in as much as they recognize, in a full measure, the dignity the Creator Himself accords to man when He describes man as the vicegerent of Allah on earth (Holy Quran 2:31).

The article also states: “This right (i.e. of freedom of religion) includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

ALLAH BE PRAISED

Allah be praised that as far back as some 1500 years ago, these freedoms were accorded to man by Allah Himself through His Noble Prophet, Muhammad, on whom be peace and blessings on Allah.

It is common knowledge that the Holy Quran is believed by all Muslims all over the world as the verbal revelation of Allah vouchsafed to the Prophet of Islam, on whom be peace, for the guidance of mankind.

All Muslims also believe that the Traditions of the Holy Prophet of Islam, on whom be peace, constitute the most authentic interpretation of the Holy Quran.

UNAMBIGUOUS VERSES

On the basis of unambiguous verses of the Holy Quran and well known Tradition of the Holy Prophet of Islam, on whom be peace, I will try to show that Islam accords to each human being the right to freedom of religion and, therefore, the right to believe, practice and propagate any religion of his or her choice, without let or hindrance.

The first of the decisive Quranic verses on the subject is:

“There should be no compulsion in religion. Surely guidance has become distinct from error.” (Holy Quran 2:256)

“Proclaim: It is the Truth from your Lord; wherefore let him who will, Believe, and let him who will, disbelieve.” (Holy Quran 18:29)

These verses of the Holy Quran make it abundantly clear that nobody has the right to compel or coerce anybody, against his or her will, to accept any religion. Everybody must be free to choose any religion of his or her choice. Even the Holy Prophet of Islam, on whom be peace and blessings of Allah, is

told in clear terms that he has not been appointed a *keeper* over people. (Holy Quran 10:108-109)

The Holy Quran also says:

“Admonish, therefore, for you are but an admonisher, you have no authority to compel.” (Holy Quran 88:21-22)

In other words, not even the Holy Prophet of Islam, on whom be peace, has the right to compel people to accept a religion against their will.

Indeed the Holy Quran goes even further than that. It states:

“If thy Lord had enforced His will, surely all who are on the earth would have believed together. Can you then force people to become believers?” (Holy Quran 10:99)

The verse takes away from all men, no matter their standing in society and no matter the power they wield on earth, the right to deny anybody his right to freedom of religion. The reason is simple. Man is the centre of the universe. He can rise even above the angels.

The Holy Quran states that Allah commanded the angels:

“So when I have fashioned him (man) in perfection and have breathed into Him of my spirit, fall ye down in submission to him.” (Holy Quran 15:29)

The only thing that distinguishes man from an angel and raises him above the angels is man’s freedom to choose. Take that right from him and man ceases to be man.

Besides, swords can win territories, but not hearts. Force can bend heads but not minds. Compulsion can create hypocrites, not sincere commitment to a cause.

PRINCIPLE

Another principle upon which the concept of freedom of religion is based is Allah’s impartiality. It must be stressed that Allah is NOT a partial God. Ever since the creation of the world, God has been providing guidance for all nations, because He cares for all His creation. He cares not only for the people of Israel, but also for the people of India, Europe, Australia, Africa, and Arabia.

MESSAGE OF PEACE

The last of the 80 books written by the Founder of the Ahmadiyya Movement in Islam, Hazrat Mirza Ghulam Ahmad, is titled “Message of Peace.” The book was completed on the day he breathed his last. The circumstances in which he wrote the book and dedicated it to all those who truly and honestly aspire for peace between religious communities invest the book with special appeal. That he finished writing the book on the day he was called back to His Creator makes the message of the book his last testament to all religious communities of the world.

He begins the book with a declaration which is self evident.

“That religion is no religion which does not inculcate broad sympathy.”

He continues:

“God is not a partial Being. He has not withheld His bounty from any people. For all people of the world, the earth of God serves as a floor and for the sake of all, the sun, the moon and the stars give their light and perform such other functions as God has charged them with. All people derive benefit from the air, water, fire, earth and other things created by God and all of them use the produce of the earth—its maize, its herbs, its flower and its truth.

These liberal ways of God teach that we also should do good to help mankind and should not have a cramped outlook, or a confined sympathy.”

Muslims, therefore, have enjoined to believe that Prophets have been sent to all peoples.

“You are but a warner—Verily We have sent you with the Truth, as a bearer of glad tidings and as a warner and there is no people to whom a warner has not been sent.” (Holy Quran 35:23-24)

That is why the Holy Quran demands of Muslims to declare their faith in all the prophets of God, revere them all and refrain from making distinction between any of the prophets:

“Say: We believe in Allah and what has been revealed to Abraham and Ishmael and Isaac and Jacob and his children and what was given to all

other prophets from their Lord. We make no distinction between any of them and to Him we submit ourselves." (Holy Quran 2:136)

INTELLECT

The Holy Quran also refers, again and again, to the need to exercise our divine given intellect in determining the truth. It demands proof and authority for claims that anybody may put forth. For instance, it poses the question.

"Or have you clear authority? Then produce your Book if you are truthful." (Holy Quran 37:156-157)

It is said that a Muslim fanatic had demanded of a non-Muslim to recite the *Kalimah*. *Kalimah* is the Islamic creed. Everyone who desires to be a Muslim is required to recite it.

The fanatic demanded "Recite the Muslim *Kalimah*." He was not ready to become a Muslim. So he wouldn't recite it. When he saw that the matter was becoming rather serious, he told the fanatic. "I don't know the *Kalimah*." "Please recite it so I can recite it after you."

The fanatic said, "I don't know it myself!"

The truth is, all the fanaticism and bigotry that we see in our world today—wherever they come from—whether they come from Christians or Muslims, Hindus or Sikhs, Buddhists or Zoroastrians—it is due to ignorance.

BELIEF

Islam requires a person to profess what he truly believes in and not to profess belief in what he does not sincerely believe in or continue to profess belief in that which he has ceased to believe in. That is why it baffles us when a country claims its constitution is based on Islamic Law, yet would declare death as punishment for apostasy.

On this, the Holy Quran is emphatic:

"Those who believe, then disbelieve, then again believe, and then go on increasing in disbelief, Allah will never forgive them." (Holy Quran 4:137)

The point to note here is, if a Muslim is to be killed after abandoning Islam, how can he have the chance to believe again and then disbelieve and go on increasing in disbelief?

Far from asking us to kill apostates, the Holy Quran gives Muslims the assurance:

“O ye who believe whoso from among you turns back from his religion, should know that in his stead Allah will bring a people whom He will love and who will love Him....” (Holy Quran 5:54)

From where then do such Muslims derive the authority to punish apostates with death?

MOSQUE

The history of Islam tells us the beautiful story of the Holy Prophet’s permission to a Christian delegation to worship in his own Mosque. How refreshing. No mosque, anywhere in the world, can be said to be more sacred than the Holy Prophet’s own mosque.

It stands to reason, therefore, that no Muslim can deny a Christian the right to worship in his mosque.

There are the charming teachings of Islam on the right to freedom of religion.

Fortunately for us here in Ghana all religious leaders—Christians and Muslims of all denominations have agreed to use religion to unite not to divide; to inculcate affection and love and not hate; harmonious and peaceful co-existence, and not conflict and blood letting.

Indeed religious bodies in Ghana have together appealed to our compatriots through a joint letter to promote peace. We have collaborated to counsel compassion toward those living with HIV/AIDS.

We have observed elections to give credibility to election results. So have we have been partners with government in expanding facilities for our people in the education, health, and agricultural sectors.

No wonder Ghana continues to enjoy relative peace in the whole region. We need to acknowledge this as a favor of the Almighty and do everything in our power to protect and promote the relative peace that we enjoy in the country.

I have always wondered that if we, as people of religion, cannot live together in mutual respect, harmony and peaceful co-existence, then what right do we have to ask any other group of people—politicians, for instance, to live in peace?

Certainly, we would not have the moral right to do so. And our last word is: All praise is due to Allah, Lord of all the worlds.



END



RELIGIOUS LIBERTY:

IMPARTING VALUES OF TOLERANCE IN A PLURALISTIC SOCIETY—A CATHOLIC VIEW

TED NELSON-ADJAKPEY

Director, Justice and Peace Commission, Accra Archdiocese

I would like to presume that there is no doubt in anybody's mind that all religions preach peace or should preach peace. In addition they must also present themselves as instruments or agents of peace. But painful experience shows that religious conflicts and atrocious cruelties continue to disturb peace and tranquility all over the world. True, some countries may be enjoying complete peace, and some, a relative peace. But this has eluded the world as an entity or as we say today, as a global village. For is it not true that Dr. Martin Luther King said that "an injustice anywhere is a threat to justice" and that "whatever affects one directly affects all indirectly?" Not only that, unfortunately some individuals and groups of persons find nothing wrong, acting in the name of religion, in engaging in violence, crimes, and atrocities. Such behavior definitely deprives the world the needed peace.

When Pope John Paul II was alive, he said "Today peace has become, throughout the world, a major preoccupation not only for those responsible for the destiny of nations but even more so for broad sections of the population, and numberless individuals who generously and tenaciously dedicate themselves to creating an outlook for peace and to establishing genuine peace between peoples and nations. This is comforting." He continued, "But there is no hiding the fact that, in spite of the efforts of all men and women of good will, there are still serious threats to peace in the world. Some of these threats take the form of divisions within various nations; others stem from deep-rooted and acute tensions between opposing nations and blocs within the world community" ("Peace: A Gift of God Entrusted to us" World Day of Peace, 1982). This stresses the fact that there are many areas in the world that are deprived of the needed peace, as well as the freedom to live and act in a healthy God-given atmosphere. It is also clear, then, that there is the need for the unconditional and effective respect for each person's inalienable rights to affect the necessary conditions for peace to reign in any society. But we cannot also overlook the fact that "peace on earth is always a challenge, because of the presence of sin in man's heart" (ibid. 12).

It is in this context that I find the theme of this conference, “Religious Liberty: Co-Existence in Peace and Freedom in Diversity,” very important and opportune. Hence, there is the urgent moral need for a new solidarity, which should as well be spearheaded by moral tenets of religion for peace and freedom, not only in the religious sphere, but also as a necessity to the entire world. John Paul II again put it in this way: “Today’s world though marked in many regions by tension, violence and conflict, is nevertheless seeking a new composition and a more balanced stability, with a view to a true and lasting peace for the whole of humanity” (From the Justice of Each Comes Peace for All, WDP 1998).

Now let us consider the theme in fragmented order. In the first place, what do we mean by religious liberty? This may be defined as “the freedom of individuals to believe in, practice and promote the religion of choice without interference, harassment or other repercussions—as long as practices based on, or resulting from those beliefs do not break the law.” This is part of everyone’s inalienable human right that is intrinsically related to his inherent dignity as a creature of God.

In 1948, after a war characterized by the denial for certain peoples of the right to even exist, the United Nations promulgated the Universal Declaration of Human Rights. This was a solemn pronouncement recognized after some sad experiences of war and devastation. There was a desire to formally recognize that the same rights belong to every individual and to all peoples. An interesting part of the document states: “Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” There is even a warning which says, “Nothing in this declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set herein.” These are strong words that hold good to religious rights and freedoms as well.

What the formulators did not realize was the fact that this was indeed a declaration of what the Creator-God Himself has imposed on all humankind right from the time of creation. That is why it is tragic today that this provision “is still being blatantly violated through oppression, conflict, and corruption, in a more subtle way, through an attempt to reinterpret, or willfully misinterpret the very definitions contained in the Universal Declaration,” said John Paul II, and adds that that document must be observed integrally, in both its spirit and letter (*ibid*).

It is clear, therefore, that anything done by persons or groups of persons to derail any aspect of religious liberty/freedom could easily result into a religious intolerance. By this we mean the refusal to acknowledge and support the rights of individuals to have their own beliefs and related legitimate practices. It could also mean the unwillingness to have one's own beliefs and related practices critically evaluated. Unfortunately, religious intolerance leads ultimately to religious persecution in its diverse forms. Religious liberty must therefore be backed by religious tolerance—whereby acknowledgement and support are given to individuals to have the right and freedom to their own beliefs and related legitimate practices, without necessarily validating those beliefs or practices.

Flowing from the concept of religious liberty are also religious pluralism and religious diversity. Religious pluralism is concerned with the theory that there are more than one, indeed there are several kinds of ultimate reality and/or truth—and therefore more than one religion can be said to have the truth; that is, way to God, salvation, etc. Religious diversity deals with the concept that society includes and allows for a plurality of religious beliefs, movements, experiences, and practices. Logically then, acknowledging and allowing religious diversity is a necessary component of religious freedom and religious tolerance. Yet, what we see and experience today continues to give a gloomy picture to the religious world. So what do we do?

I think that for a pluralistic society to maintain its religious values there must necessarily be an enormous amount of tolerance from all and sundry. Hence, let us look at the question of “Imparting Values of Tolerance in a Pluralistic Society.”

IMPARTING VALUES OF TOLERANCE IN A PLURALISTIC SOCIETY: A CATHOLIC VIEW

The Catholic Church has always concerned herself with religious purity and its relevance to society. Following after her Master the Lord, Jesus Christ, the church has always been concerned with the salvation of the whole world. The mandate of the founder to his followers: Go out to the whole world; proclaim the Good News to all creation (Mk. 16:15), continues to be the mandate for all times. All this has been the concern of the church throughout the centuries. In recent times, especially after Vatican II—forty years ago—much emphasis has been laid by the church on religious liberty and religious tolerance in order that there would be peace in the world (cf. *Gaudium et Spes*).

THE VALUE OF RELIGIOUS TOLERANCE

Tolerance, as we have already pointed out, tolerates different and diverse religious forms and practices. God created us to live together in peace so that we would be free to serve him in freedom, despite our various differences. When God created mankind he “saw everything that he had made, and behold, it was very good” (Gen. 1:31). This is the goodness God himself had instilled in us and so wanted and still wants our worship of him also to be very good. No one, therefore, has the right to interfere with anyone’s attempts to express this unique character in his worship of God. This would bring lasting peace into the world. But is that what we see?

For the Catholic Church, the greatest value that can be derived from tolerance in a pluralistic society is peace. This is why since 1968 the church has set aside January 1 each year as World Day of Peace. Thus, from Pope Paul VI through Pope John Paul II to Pope Benedict XVI, the church continues to address the importance of peace in every aspect of our being: religion, economics, politics, and other human relationships. As John Paul II said in 1988, twenty years after this innovation, his purpose was to address “the leaders of the nations and heads of the international organizations, as well as all brothers and sisters throughout the world who have at heart the cause of peace. For I am deeply convinced that to reflect together on the priceless treasure of peace, is in a way to begin to build it.” And the topic for that year’s World Day of Peace was “Religious Freedom: Condition for Peace.” In these words, John Paul II clearly expressed the mind of the entire church and perhaps that of all men of good will. In December 2003, he reemphasized this point in another letter to the world: *An Ever Timely Commitment: Teaching Peace*, when he said *inter alia*, “In the twenty-five years of Pontificate which the Lord has thus far granted me, I have not failed to speak out before the church and the world, inviting believers and all persons of good will to take up the cause of peace and to help bring about this fundamental good, thereby assuring the world a better future, one marked by peaceful co-existence and mutual respect.” Indeed peaceful co-existence and mutual respect are arguably the greatest values in the development of any religious liberty.

This is the same sentiment expressed by the Pastoral Constitution *Gaudium et Spes*, promulgated forty years ago at the conclusion of the Second Vatican Council. It stated that mankind would not succeed in “building a truly more human world for anyone, everywhere on earth, unless all people are renewed in spirit and converted to the truth of peace” (n.77). And to make this requirement more forcefully, Pope Benedict XVI, admitting the risks which humanity is facing in our time, calls on all Catholics in every part of the world to make it

a duty to proclaim and embody ever more fully the “Gospel of Peace” (cf. “In Truth, Peace,” 2006).

But should this all-important assignment be the preserve of Catholics only? Certainly not. The church believes that the building of peace in the world should spring from a united front of all believers through a mutual understanding and cooperation. This is a divine mission in which all should feel obliged to participate in, so that all may be one (cf. Jn. 17:20-2). It is this divine urging of peace among all humankind that motivated Pope John Paul II, in the wake of September 11, 2001 terrorism, to invite as many as two hundred religious leaders, representing nearly all the religions of the world, to Assisi, Italy in January 2002. The purpose of this assembly was “to pray for the end to conflict and the promotion of true peace... (and) to declare before the world that religion must never become a cause of conflict, hatred and violence” (cf. *Angelus*, Nov. 18, 2001).

Ghana and Benin were represented by traditional religious leaders, with Okomfo Afua Serwah Mensah coming from Ghana (cf. Charles G. Palmer-Buckle, “Religious and Conflict: Synonymous or Paradox” in *Conflict: What has Religion got to do with it?* Goethe Institut, Accra, p. 116). Commenting on this inter-religious assembly, the Pope said: “At Assisi the spiritual leaders of the major religions from the different continents gathered together: the meeting was a concrete witness to the universal dimension of peace, and confirmed that peace is not only the result of skilful political and diplomatic negotiations or a compromise between economic interests, but depends on a fundamental way upon the One who knows human hearts and guides and directs the steps of all mankind.” He continued, “As people concerned for the future of humanity, we fasted together meaning thereby to express our compassion and solidarity with the millions and millions who are victims of hunger throughout the world. As believers concerned with the events of human history, we went on pilgrimage together, meditating silently on our common origin and our common destiny, over limitations and our responsibilities, and on the prayers and expectations of all our many brothers and sisters who look to us for help in their needs” (*Believers United in Building Peace*,” p.2). This observation is a very strong point for religious tolerance that gives way to many positive actions to be taken together by people of different religious persuasions.

PEACE: THE WORK OF JUSTICE AND LOVE

All religions have the capacity and the capability of establishing, maintaining and sharing peace: the peace that comes from religious tolerance. But real peace can only come from justice and love, for it is known that true

peace is the work of justice. The prophet Isaiah puts it this way: “Justice will bring about peace; right will produce calm and security (32:17). For the Second Vatican Council, peace “is the fruit of that ordering of things with which the divine has invested human society and which must be actualized by man thirsting for an ever more perfect reign of justice” (*Gaudium et Spec*, 78).

Religious intolerance continues to generate certain situations of conflict which lead to divisions, hatred, tragedies and wars. In such cases justice and fair play are denied people, even in their own God-given lands. Actions of revenge and retaliations are then employed to seek “justice”. But each situation only go further to inflame the situation to escalating proportion. Justice is therefore further denied! And so on it goes! It is for such unfortunate situations that the church calls for a third dimension—forgiveness. No doubt, forgiveness is not easy when we are exposed to traumatic experiences or to age-old divisions, be they from ethnic origin, cultural background or religious beliefs. Yet no process of peace can ever begin unless an attitude of sincere forgiveness takes root in our hearts. When such forgiveness is lacking wounds continue to be cut deeper, spilling over into those who may sympathize with us, resulting in endless resentment, producing a desire for revenge and causing fresh destruction in society. Here, offering and accepting forgiveness is the only essential condition that leads to authentic and lasting peace. This was the mind, for instance, of the Holy Father in 1997, when he vehemently called on everyone to seek peace along the paths of forgiveness (cf. John Paul II, “Offer Forgiveness and Receive Peace” for World Day of Peace).

Undoubtedly, forgiveness may seem contrary to human logic in such situations; the desire for revenge and conflict may seem more logical, more natural. Yet, Christian charity makes forgiveness sensible: for “forgiveness is inspired by the logic of love, that love which God has for every man and woman, for every people and nation, and for the whole human family,” reechoed the Pope (*ibid*). Therefore, if the church insists on proclaiming what from the human stand-point might appear to be sheer folly, it is precisely because of unshakable confidence in the infinite love of God (cf. Ez. 18:23; Os. 32:5, 103:8-13; Php. 2:4-5; 2 Cor. 1:3).

RELIGIOUS TOLERANCE, PEACE, AND INTER-RELIGIOUS DIALOGUE

From all we have said so far, it should be clear that there is, or should be, a lot of give and take in any pluralistic society. But this is only possible if people have real love and respect for one another. It is imperative, therefore,

for religious leaders to recognize this weighty responsibility. The various Christian confessions, and the world's great and small religions need to unite and work together to eliminate unnecessary suspicions and all elements that militate against peace, justice, and reconciliation. Inter-religious tolerance, understanding, and cooperation will serve as the surest way of establishing trust, love, forgiveness, and reconciliation.

Recently, cartoons depicting Mohammed as a terrorist were published in many newspapers. These cartoons were offensive to our Islamic brothers and sisters, so the Holy See Press Office thought it necessary to declare its position in the spirit of justice and peace. It said: 1) The right of freedom of thought and of expression, sanctioned by the Universal Declaration of Human Rights, cannot imply the right to offend the religious sentiments of believers. This principle obviously applies in reference to any religion whatsoever. 2) Moreover, human coexistence demands an atmosphere of mutual respect in order to foster peace among peoples and nations. In addition, certain forms of exasperated criticism or the derision of others denote a lack of human sensitivity and, in some cases, can constitute an inadmissible provocation. The interpretation of history teaches that this is not the way to heal the wounds that exist in the lives of peoples. 3) However, it should be said straightaway that the public institutions of the country concerned, whose authorities will and must eventually intervene in accordance with the principles permitted by the national legislation, cannot be blamed for offences caused by an individual person or by the press. Violent actions of protest are, therefore, likewise to be deplored. Indeed, in reaction to any offence the true spirit of every religion cannot be lacking. Moreover, physical or verbal intolerance as an action or reaction, regardless of its origin, is always a serious threat to peace. (cf. *L'Osservatore Romano*. Feb. 2, 2006, p.8).

In a situation like this, one needs to be very objective and non-judgmental in order to promote understanding, freedom and justice in a pluralistic society. Partiality aggravates tension and brings conflict.

CONCLUSION

Every individual and all groups of individuals want security in life, and so expect others to accord them this right. Religion can be one of the greatest, if not the greatest agent of security. But this will only materialize if religion is tolerant and has a huge capacity for going after and maintaining truth, justice, love, forgiveness, and reconciliation. All people are members of one and the same family with God as our Lord and Master. We all share a common destiny

no matter our religious leanings. We must, therefore, endeavor to establish peace at all times—not the peace that is merely the absence of war—but the peace of a harmonious coexistence of individual citizens within a society, governed by justice and love. This might seem difficult or even impossible. But that is where real Christian charity is put to the test.

All religions (and their leaders) must endeavor to educate for peace and encourage work for a lasting peace. Undoubtedly, peace has become, throughout the world today, a major preoccupation not only for those responsible for the destiny of nations and peoples, but also for all those who spend their lives in charity for others, and who work tirelessly for the creation and maintaining of peace in their various environments. Let us all, therefore, endeavor to work tirelessly to create and maintain peace, love, and reconciliation without counting the cost. And may the Risen Lord who is at this very moment greeting all of us with Peace (cf. Jn. 29:19-28) allow this Peace to remain in us and make us effective messenger of Peace.



E N D



THE ROLE OF THE MEDIA IN PROMOTING RELIGIOUS LIBERTY

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Journalism is neither politics nor religious service; it is not trading in flowers or giving a university lecture; it is not a compilation of the telephone directory or a football match, even though it is a bit of each of those things. Each area of life has its own peculiarities, its own rules, and its own ethical codes.

A politician should not pretend to be a priest; a journalist should not pretend to be a politician. A businessman must seek a decent profit and the journalist must stick to truth and freedom.

Corruption can infect all areas of public life. We know politicians who get rich when they should not get rich; we know priests who incite hatred; and we know businessmen who steal and give bribes. We also know corrupt journalists who promote propaganda instead of providing information; pseudo-advertisement instead of reliable descriptions, noisy smear campaigns instead of sensible discussion—Adam Michnik, Editor-in-chief of Gazeta Wyborcza

One of the principles of the American Society of Editors emphasizes that the primary purpose of gathering and distributing news and opinion is to serve the general welfare by informing the people and enabling them to make judgment on the issues of the time. Newspaper men and women who abuse the power of their professional role for selfish motives or unworthy purposes are faithless to the public trust.

An American editor once remarked that “American journalism is the best in the world. I think we can defend ourselves against any attacks. But to do so, we must be standing on solid ground—ground not tainted by corruption and irresponsibility. And we must not be standing in concrete; we should be bright and bold enough to admit that we do make mistakes and to work towards the day when we can deliver information to the American people in a more accurate and understandable way.”

The former US Secretary of State, General Colin Powell once remarked that "America's hometown papers, whether large or small, chronicle daily life of our nation and of our people. Put it all together and community newspapers do not just tell the story of America story, they are the story."

Wilbur Schramm in *Mass Media and National Development* (1964) has argued among other things that "it is hardly possible to imagine national economic and social development going on at the present pace without some modern information multipliers, and indeed, without mass communication probably the great freedom movements and national stirrings of the last few decades never would have come about at all."

A Ghanaian communication expert, Dr. Kwame Boafo (1985), also argued that the media could be employed to aid and enhance the processes of socio-economic, political, and cultural change. It could be used as a planned, conscious and systematic channel of communication to bridge the informational and attitudinal gaps to establish and sustain a climate that favors sustained change and development.

The media have a duty to help educate and inform people to enable them to make rational and intelligent decisions. People need accurate, timely and unbiased information, especially on religious issues. People rely on the media to explain policies and programs aimed at moving nations forward.

Prof. Carlos Morales, a Costa Rican media expert has noted that "journalism in a democracy should be critical, overseeing, free to the point that its most honest commitments allow it to be and varied so it represents the normal divergences in any social grouping. (Journalism) can offer the necessary checks and balances that modern democracy requires." He submits further that "honest journalism has a role to play in avoiding this trap of false democracy to denounce it, investigate it, analyze it, delve into its origin and open up new channels so that its waters are refreshed and cannot stagnate." Prof. Morales emphasizes that "journalism is a weapon, a power, a business, an art, but before all these, it is a public service."

That is really where the problem lies. It is necessary to look at the role that the media could play in religious liberty, which necessarily means religious pluralism, although religion thrives on dogma, beliefs or creeds and is thus conservative.

The great Indian patriarch, Mahatma Gandhi has noted that the media are capable of good and evil and it is imperative that journalists exercise caution in the discharge of their responsibilities if they are to contribute meaningfully to religious liberty.

Gandhi states that “the sole aim of journalism must be service. The media is great power but just as an unchained torrent submerges the whole countryside and devastates crops, even so an uncontrolled pen serves to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within.

This position is echoed by Mc Nair (1994) who quotes Jock Young that “journalism can create social problems, can present them dramatically and overwhelmingly and most important, can do it suddenly. The media can quickly and effectively fan public indignation and engineer what one might call a moral panic about a certain type of deviancy.”

The media is important because they provide information to the people. Information is crucial in all human endeavors. The media thus have responsibility to provide the people with all their information needs to enable them to make voluntary and informed decisions.

The right of individuals to associate freely and organize themselves in groups is fundamental to democracy and development. When people of common interest bond together, their voices must be heard since that determines their changes of influencing social debate and the course of national development.

In Ghana, journalists and all others are enjoined to work conscientiously in our lawfully chosen professions against the background that we must work to uphold religious pluralism. That means we have to relate fairly to all established religious groups without pandering to the interest of any. Adherents must be well-informed since all ill-informed congregations cannot hold their leaders accountable to their mandate when there is any perversion of the faith.

In Ghana, our constitution guarantees both religious freedom and freedom of expression, including freedom of the media. The laws of Ghana are the constitution, legislative enactment, constitutional and legislative instruments and the common law.

“The common law of Ghana shall comprise the rules of law generally known as the common law, the rules generally known as the doctrines of equity and the rules of customary law including those determined by the Superior Court of Judicature.” It is provided further that “for the purpose of this article, ‘customary law’ means the rules of law which by customs are applicable to particular communities in Ghana.”

It is particularly in the area of ensuring a balance between religious freedom and free expression that sometimes the Ghanaian media have been challenged.

We have not endured the situation in Nigeria, where a fashion writer commenting on the organization of the Miss World Pageant, in a preview caused mayhem when she wrote that if Mohammed were alive, he could have chosen one of the beauties for a wife.

We were also spared the orgy of the protests that were recently aroused because of the reproduction of a derogatory cartoon of the Holy Prophet Mohammed by some Western media. Moslems in Ghana joined the protest, albeit peacefully.

I cannot conjecture what would happen if Christ Jesus were to be cartooned in a similar mold. What would be the reaction of devout Christians? However, in two incidents, one in Accra and the other in Kumasi, two radio guests who made statements considered heretical by some Christians were nearly beaten up and had to be sneaked from the studios to safety. One of the individuals claimed that he was Jesus Christ. On a daily basis, however, Christians taunt idol worshippers and mention the names of their gods in vain.

In the specific instance of our situation, our constitution guarantees freedom of thought, conscience and belief, which shall include academic freedom as well as freedom to practice any religion and to manifest such practice. An issue that continually arises in Accra is the conflict between Christians and the Gās custom of a ban on drumming during a certain time of the year annually.

There are also some religious bodies whose beliefs run counter to provisions for blood transfusion. Article 28(4) states that “No child shall be deprived by any other person of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs. Children under Ghanaian law are those below eighteen years.”

Thus in our attempt to reconcile freedom of expression and religious liberties, we have to exercise caution in situations when some religious adherents refuse or deny their children medical treatment, including immunization due to religious faith.

Again, in the annual battle between Christians and Gās over the ban on drumming, the media are sometimes divided. What is important, however, is the constitutional provision against any custom or practice that is unconscionable.

The fact is that whereas Article 26(1) provides that “Every person is entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the provisions of this constitution.” Article 26(2) on the other hand states that “All customary practices which

dehumanize or are injurious to the physical and mental well-being of a person are prohibited.”

The issue then is, at what point does a practice become dehumanizing or obnoxious? Are there any practices even amongst Christians, which are contrary to the spirit of the constitution?

Faced with such issues that could be subjective, the media must seek to provide the public with information that will enable the people to make intelligent meaning and choices of the religious faith they want to practice.

Therefore, whilst religious adherents may speak ill of others, the media must be circumspect in the way they report such things to avoid creating unnecessary tension. In our own small way of promoting religious tolerance for example, we try to ensure fairness and objectivity in our coverage of religious events. Whilst we may not achieve equality, we attempt to ensure equity.

Thus, whereas religious activities and celebrations are of differing dimensions and impact, we aim at giving coverage to all. Between Christmas and Easter as compared to Moslem celebrations there is more public interest in Christian celebrations, but we are bound to carry that as well as any of the Moslem celebrations. Even with the Moslem festivals, we have to make the conscious effort not to discriminate between the Orthodox and Ahmaddiyya. The Orthodox also has the Sunnis and Tijaniyas.

Our constitution obligates journalists and media organizations to be fair to all religious groups and be balanced in their reporting. It also emphasizes under Article 41 that “the exercise and enjoyment of rights and freedoms is inseparable from any performance of duties and obligations and accordingly it shall be the duty of every citizen to respect the rights, freedoms and legitimate interest of others and generally to refrain from doing acts detrimental to the welfare of other persons and to work conscientiously in his lawfully chosen occupation.”

There is the need for journalists to be responsible. The need for the responsible use of the media is central to their effectiveness in the promotion of religious liberty. The media must be fair, just, and equitable before they can seek to promote justice. They must learn to serve the whole society and as noted by Chinua Achebe, journalists are like cocks; they are owned by individuals, but their services are for the whole society. In his own words, Achebe states “the cock that crows in the morning belongs to one household, but its voice is the property of the whole neighborhood.”

The media must serve to reach the hearts and minds of men, in building for ourselves a better future. We must have a new focus. We must let our people have a belief in human dignity and the essence of religious pluralism and liberty

in reason rather than in force and guarantee the use of the media to support and promote open and religious liberty.

As our contribution to quality religious relationship, journalists have to be honest, fair, and courageous in gathering, reporting, and interpreting information by always seeking the truth. Journalists must at all times treat their sources, subjects, and colleagues as human beings deserving respect; we must be free of obligations to any interest other than the public's right to know, public interest and religious liberty. Journalists have to be conscious of the fact that they are accountable to their readers.

This is why we were not exercised when after we published a story on an American Catholic priest who died of AIDS, a delegation led by the Apostolic Pro-Nuncio came to our offices to curse us. Neither were we disturbed when the Presbyterian Church lashed out at us for publishing a story of the church member who raped a sick woman on her hospital bed. Nor were we dismayed when the Methodist Church sent us a contemptuous letter over a case involving the Synod Secretary. So also were we not discouraged when the Anglican church sent an emissary to dissuade us from the publishing the story of the Anglican Bishop in the US who admitted being a homosexual.

But perhaps as the poet Adam Mickiewicz wrote:

“There are truths which a sage tells all men; There are some which he whispers to his nation; There are those which he entrusts to his friends; And there are those which he cannot disclose to anyone.”

We may have acted impertinently.

Since I began with Michnik, it is good to end with him when he submits that “We must defend freedom for all, because this is the essence of our profession and vocation. The only limitation to our freedom is the truth. We are allowed to publish everything we write, but we are forbidden to lie. A journalist's lie is not only a sin against the principles of our profession; it is also a blasphemy against our God. A lie always leads to enslavement. Only the truth has liberating power.”



END



THE MUSLIM ADVOCACY FOR PEACE, CO-EXISTENCE, AND FREEDOM OF WORSHIP

ABDUL GHAFUR EL BUSAIDY

Chair, Supreme Muslim Council of Kenya

It is important to discuss the importance of knowledge on approaching whatever topic of discussion because most of the confusion and misunderstandings between peoples, communities, and even nations is due to misconceptions brought about by lack of knowledge in the subject matter. The Holy Qur'an states:

“And pursue not (O man) that of which thou hast no knowledge; for every act of hearing, or of seeing or of (feeling in) the heart will be enquired into (on the Day of Reckoning).” (Qur'an 17:36)

There is a lot of emphasis on us all to discuss issues based on knowledge, the Holy Qur'an urges even the Holy Prophet to seek for more knowledge:

“...and say: 'O my Lord! Increase me in knowledge.'” (Qur'an 20:114)

And the Holy Qur'an further states:

“...are those equal, those who know, and those who do not know? It is those who are endowed with understanding that receive admonition.” (Qur'an 39:9)

The root meaning of the word Islam is to enter into peace, and a Muslim is one who makes his peace with the Almighty God and Man (human beings).

Peace with the Almighty God implies complete submission to His will, and peace with Man is not only to refrain from evil or injury to another, but

also to do good to him; and both these ideas find expression in the Holy Qur'an itself as the true essence of the religion of Islam.

“...whoever submits himself entirely to Allah and he is the doer of good to others, he has his reward from his Lord,...” (Qur'an 2:112)

Islam is thus, in its very inception, the religion of peace, and its two basic doctrines, the unity of God, the unity of God and the unity of brotherhood of human race, afford positive proof of its being true to its name—Peace. But then what about Jihad? Doesn't that mean the fighting against unbelievers with the object of either winning them over to Islam, or subduing and exterminating them in case they refuse to become Muslims, and causing Islam to spread and triumph over all religions? This is a very grave misconception; and in most cases it is a deliberate one. The Holy Qur'an categorically forbids compulsion in religion:

“Let there be no compulsion in religion. Truth stands out clear from Error: whoever rejects Evil and believes in God hath grasped the most trustworthy hand-hold, that never breaks and God heareth and knoweth all things.” (Qur'an 2:256)

So what does Jihad mean? The word Jihad is derived from the word jahd, meaning ability, exertion or power. Jihad and mujahida mean the exerting of one's power in repelling the enemy. Jihad is of three kinds. Carrying on of a struggle against: a) a visible enemy, b) the devil, and c) one's self (nafs).

Jihad is therefore far from being synonymous with war. In the Holy Qur'an there are many verses which illustrate the meaning of the word jihad to be: striving hard to understand the powers of the Almighty—that is spiritual striving to attain nearness to God; striving hard for attaining patience (sabr) and restraining from doing evil deeds.

The struggle made to attain nearness to God, to subdue one's passions (desires) and the struggle made to win over the unbeliever, not with the sword but with the Qur'an is, therefore, a jihad in the terminology of the Qur'an, and the injunctions to carry on these two kinds of jihad, were given long before the command to take up the sword in self-defence as expressly stated in the Holy Qur'an:

“So obey not the disbelievers, but strive against them (by preaching) with the utmost endeavor, with it (the Qur'an).” (Qur'an 25:52)

The permission to fight was given because the enemy had already taken up the sword and they (the Quraishis of Makka, the disbelievers) had the intention of wiping out the Islamic state which had been established in Madina:

“Permission to fight is given to those upon whom war is made because they are oppressed...” (Qur’an 22:39)

Although permission to fight was given the Qur’an at the same time forbids aggression:

“And fight in the way of Allah those who fight you, and be not aggressive: surely Allah does not love the aggressors.” (Qur’an 2:190)

It is clear here the condition is plainly laid down that the Muslims shall not be the first to attack. They had to fight because it had become a duty, and only against those who fought them. Aggression was expressly prohibited, stressing the peaceful nature of Islam. Fighting in self-defense is called fighting in the way of Allah (fi sabilillah), because fighting in defense is the noblest and just of all causes. If the Muslims had not fought against the oppressors, they would have been wiped out of existence.

There are many instances where the Holy Prophet went out of his way to avoid fighting and to accept peace under very humiliating conditions. One such incident was where the Holy Prophet himself and many of his companions (about 1,400 of them) were prevented from performing a pilgrimage (umra) and were not allowed to proceed beyond Hudaibiya (a place outside Makka), though they could have fought their way. (At that time Makka was still under the Quraish— the enemies of Islam.)

I have tried to deal with this topic at length because of the misconception therein.

CO-EXISTENCE

Co-existence amongst people can only be achieved if there is justice. If oppression, discrimination, intimidation, corruption, and overall disobedience to the creator persists then there will be no co-existence. Hence the Holy Qur’an has emphasized on those who believe in the creator to stand firm for justice even if it is against oneself:

“O ye who believe! Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or your kind, and whether it be (against) rich or poor: for God can best protect both, follow not the lusts

(of your hearts) lest ye swerve, and if ye distort (justice) or decline to do justice, verify God is well acquainted with all that ye do.” (Qur’an 4:135)

The other factor which builds up the co-existence between is to forgive one another, and to avoid saying bad things about others:

“God (Allah) does not love evil talk in public, except where Injustice has been done...” (Qur’an 4:148)

Co-existence is built on avoiding suspicion and spying on each other, that is to have confidence in one another and being transparent.

“O you who believe! Avoid suspicion as much (as possible): for suspicion, indeed some suspicions are sins. And spy not, neither backbite one another. Would one of you like to eat the flesh of his dead brother? You would hate it (so hate backbiting)...” (Qur’an 49:12)

Co-existence is further built on pronouncing the good deeds by others to individuals and to the society as a whole:

“Whether you (mankind) disclose (by good words of thanks) a good deed (done to you in the form of a favor by someone); or conceal it, or pardon an evil...” (Qur’an 4:149)

These factors are catalytic of building up co-existence not only between individuals but also between: groups, communities and even nations.

The Almighty God (Allah) calls upon the Holy Prophet Muhammad (PBABH) to stretch a hand of co-existence and partnership to the people of the Book (Jews and Christians):

“Say (O Muhammad! [PBABH!]) O people of the Book! (Torah and Gospel) Come to a word that is just between us and you, that we worship none but one true God, and that we associate no partners with Him, and that none of us shall take others as lords besides (the Almighty) God!....” (Qur’an 3:64)

This invitation should not be taken as dispute, but an attempt to bring us together and co-exist. The Holy Qur’an forbids Muslims to engage in religious

discussion with the people of the Scriptures (Jews and Christians) unless it is done in good words and in good manner:

“And argue not with the People of the Scriptures (Jews and Christians), unless it be in (a way) that is better (with good words and in good manners)”...(Qur’an 29:46)

The Holy Qur’an asks the Muslims to deal justly and kindly with others so long as they (others) do not fight them (the Muslims) nor do the others drive the Muslims out of their homes:

“Allah does not forbid you (Muslims) to deal justly and kindly with those who fight you not an account of your faith (religion), nor drive you out of your homes. Verily, Allah loves those who are just.” (Qur’an 60:8)

The co-existence in Islam is practically demonstrated in the Madina Charter drawn by the Holy Prophet (PBBH) in the city-state of Madina in 622AD almost six centuries before the famous Magna Carta of 1215. The Madina Charter dealt with several issues leading to the co-existence of several communities and multi-religious groups of more than 10,000 citizens of the city-state of Madina.

Not only is the Madina Charter important in the sense that it is one of the first written constitutions; it is also modern in the sense that it was promulgated for a plural society. It gives equal rights to every citizen as well as giving them a say in governmental matters.

Among its clauses the charter declared that all Muslims and Jewish tribes of Madina to be one community—the Ummah, at the same time each tribe to retain its identity, customs, and cultural values. It provided for the principle of fairness and equality for Jews and Muslims. For example no one could be punished for the wrong committed by another even if the person was an ally. It stated that none was better than another except in righteousness which is clearly stated in the Holy Qur’an:

O mankind! We created you from a single (pair) of a male and a female; and make you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honored of you in the sight of God is the one who is the most righteous of you. Verily, Allah is all-knowing, all-aware.” (Qur’an 49:13)

The charter, in clause 25, further guaranteed freedom of worship for each community to practice its own religion. The implication of this clause is that each individual was also free to choose his/her religion; as quoted earlier in Qur'an 2:256.

As far as Muslims are concerned, the Holy Qur'an asks them to take people who call themselves Christians to be nearest in love:

“...and you will find the nearest in love to the believers (Muslims) (are) those who say: We are Christians: Because amongst them are priests (men devoted to learning) and monks (men who have renounced the world) and they are not arrogant (proud).” (Qur'an 5:82)

Islam is very much in favor of the co-existence of the entirety of humanity and does not compel any person to believe in Islam, but allows and urges people to think and ponder on the presentation of its doctrines, as quoted in the verse of the Holy Qur'an 2:256:

“There is no compulsion in religion...” And this is further made very clear in the Holy Qur'an: “Say (O Muhammad [PBABH]!) To you be your religion, and me My religion (Islamic monotheism)” (Qur'an 109:6)

FREEDOM OF WORSHIP

The freedom of worship has been covered when discussing co-existence. The two verses 2:256 and 109:6 clearly show that there is no compulsion in religion. The right path is clearly distinct from error from the Islamic point of view, and each individual is free to make his/her own decision by conviction.

Some Christian Arabs went to Madina to visit Prophet Muhammad (PBABH) to discuss with him the new religion he was teaching. The Prophet was operating from his Mosque and the discussion and deliberation took place in The Prophet's Mosque. The Christian delegation was there and it was a Sunday and they wanted to conduct their MESSA, the Holy Prophet (PBABH) allowed them to conduct the MESSA in his own Mosque.

Several Arab tribes had gone to the Prophet (PBABH) to inquire about Islam, and they were given all the hospitality and were protected and were allowed to leave the Islamic state in peace irrespective of whether they accepted Islam or not.

During the Caliphate of Omar, Egypt came under the Islamic state and the governor appointed Umar Bin Ass who found that the Coptic Church

was being run by the state and the Bishops were being paid by the state. The governor had to get the ruling from Caliph Omar on what to do. Caliph Omar instructed the governor to give the Copts complete freedom of worship, protection, and pay the running of the churches including the payment of the upkeep of the Bishops.

There are many other incidents to demonstrate the freedom of worship and religious intolerance in Islam.



E N D



STATE CHURCH RELATIONSHIP IN ROMANIA— TRADITION AND MODERNITY

DANIEL CIOBOTEA

Metropolitan of Moldova and Bukovina, Romanian Orthodox Church

THE BYZANTINE TRADITION ADAPTED TO THE ROMANIAN REALITIES

Traditionally, the church-state relations in the predominantly Orthodox countries were based on the Byzantine principle of symphony, that is of harmony, understanding, and cooperation between two distinct institutions: a spiritual one and a political one, which were, however, united by the common social life of the church believers of the state citizens.

However, in the Romanian Principalities the symphony of the Byzantine Empire was adapted to the realities of the Principalities and then of the modern Romanian state, influenced by the secularized Western spirit. Furthermore, the church-state symphony was nowhere symmetrical in the sense of equality of similar forces, but almost always asymmetrical and uneven. The church was permanently praying for the state, and often it was also entreating the state to help it. The state, in its turn, supported the church, but it was also often tempted to subjugate the church.

Anyway, in the life of the Romanian people, the Orthodox church was never a real rival or a competitor of the state, but the sphere where the temporary world of this earth meets the everlasting Kingdom of Heaven, the arch between the “scorching heat” of the present day and the hope of the last day.

In this sense, in all its history, the symphony between church and state was marked by the tension between ideal and insufficiency, between the tradition of continuity and the tendency of renewal.

THE COMPLEX AND DYNAMIC MODERNITY

The Romanian Constitution from 2003, as in the one from 1991, defines the state-church relation, or more specifically the state-religious group relation (Art. 29), using the following terms: “All religions shall be free and organized in accordance with their own statutes, under the terms laid down by law; religious cults shall be autonomous from the state and shall enjoy support from it, including the facilitation of religious assistance in the army, in hospitals, prisons, homes and orphanages” (Art. 29.5).

The autonomy of the church from the state and the support of the latter one summarize, in fact, the tradition of church and state coexistence even from the beginning of the first Medieval Romanian States in the XIV century.

Of course, both the form of church autonomy from the state, and the intensity of the support granted by the state to the church was different, depending on the Prince-Lord and on the age. There were great differences between the way Prince Steven the Great and Holy treated the church (XV century), who increased the properties of the monasteries, compared with Prince Alexandru Ioan Cuza, who secularized or nationalized the monastery proprieties (XIX century), ensuring, however, the salaries of the clergy.

The tradition of the church autonomy from the state and of the support offered by the state to the church was maintained in a minimal form even during the communist regime because the Constitution of the Republic of Romania or of the Socialist Republic of Romania didn't stipulate a separation between state and church, and the state granted a minimal financial support for the salaries of the priests.

Of course, the autonomy of the religious groups during the communist regime was very limited, and the control of the state on the religious groups was oppressive, because atheism was the official state ideology. Recent studies show that the church was never fully autonomous from the state and hasn't enjoyed a material situation sufficiently substantial and stable in order not to need the support of the Romanian state. This situation still exists today, especially because of economical crisis. Thus, the support of the state for the religious groups, stipulated in the Romanian Constitution after 1989, is not only due to tradition, but also to present reality. However, the share of tradition is larger than the economical situation. In this sense, there are Western European countries with a rich economy like Italy, Germany and Belgium. In spite of this, the support of the state for the church or for some traditional religious groups in those countries is based on the centuries-old tradition.

This tradition of state support for the church means also a constant recognition by the state of the role the church has played in the life of a people—its promotion of the national language, culture, and the spiritual and social life of a state.

In this sense, in Romania, the new draft law on religious liberty and the general regime of the religious groups starts with the fundamental assumption of the state acknowledging the positive role of religious groups in the life of Romanian society:

“The Romanian State recognizes to the religious groups the spiritual, educational, social-charitable, cultural role and that of social partners, as well as their statute of factors of social peace” (Art. 7,1).

“The Romanian State acknowledges the important role of the Romanian Orthodox Church and of the other officially recognized churches and religious groups for the national history of Romania and for the life of the Romanian society” (Art. 7,2).

“The recognized religious groups are legal persons of public utility. They organize and function themselves based on the constitutional provisions and on this present law, autonomously, according to their own statutes” (Art. 8,1).

As a consequence of this attitude, a special feature in the new draft law on religion is the possibility of social partnerships of common interest. Such as, the social cooperation-partnership between the state and church or religious. Also in this perspective is mentioned the fact that the state supports the activity of the religious groups as a social services provider (Art. 10,6).

These new emphases concerning the cooperation between state and church in the field of social life is justified only by the trust the church is credited by the Romanian population. Romanians are one of the most religious peoples in Europe and are facing many social problems, such as poverty, precarious health of the population, migration, unemployment, and the need for assistance for the elderly, children, and handicapped persons. All these problems are not only social problems of the state, but are pastoral problems of the church or religious groups.

In other words, the liberty—autonomy of religious groups and the capability of religious groups in relation to the state—doesn't exclude the co-responsibility and cooperation with the state in solving the major and urgent problems of the modern Romanian society.

In this sense, tradition should be understood as being a dynamic process of creative loyalty to the fundamental principle, and not the simple duplication of some past models.

The social and religious pluralism requires an increased effort for a peaceful cohabitation of the religious groups and even a cooperation of them in common interest activities. If in the Romanian Constitution is stipulated that “Any forms, means, acts or actions of religious enmity shall be prohibited in the relationships among the cults” (Art. 29, 4), in the draft of the new law on religion the same principle is completed with the phrase: “The relations among the religious groups are based on the mutual understanding and respect” (Art. 13, 1).

The draft of the new law on religion stipulates that the liberty of the religious groups is associated with their obligation “to respect the Constitution and the laws of the country and to not affect the national security, the public order, health and moral, as well as the fundamental human rights and liberties” (Art. 5, 3).

Special importance is given in the draft of the new law on religion to the religious and theological education organized by the religious groups and supported by the state (Art. 32-25). Furthermore, the possibility of organizing denominational education of all levels and forms, according to the national law of education, is also mentioned (Art. 39). By this, in fact, is underlined the recognition of the positive role of the religious groups in the field of education. We can see here, too, the relation between tradition and modernity, between the positive experience of the past and the necessity of new ways of applying it.

It is worth mentioning that the new draft of the law on religion was not limited only to the Romanian experience, but also had in view the European international context. Also considered was the necessity of harmonizing the new law with the international treaties to which Romania is a signatory (cf. Art. 1, 1).

The project was drafted with the consultation of officially recognized religious groups and international experts in the field, as well as different institutions (ministries) of the Romanian state. This process became complex, but was necessary and beneficial.

CONCLUSIONS

Based on the new law on religion, the relations between the state and the religious groups will be, we hope, better defined and with multiple practical results, favorable to the present Romanian society. However, this implies a systematic dialogue between state and church regarding the possibilities and the areas of state-church cooperation.

On the church's part, it is necessary to provide theological meditation regarding the relationship between ethics and politics, spiritual and social, national and universal, and between local and global.

Special attention should be given to the common meditation on nature and the finality of liberty, as well as on the relation between liberty and responsibility in today's society, especially between individual liberty and social solidarity.

During Communism we were concerned with the question: how do we gain liberty? Now we should always ask: how do we use our liberty, created in the image of God?

For the religious groups, the life of man doesn't have only a temporal historical dimension, but an eternal one, too. However, everlasting life or salvation depends on our deeds done in history, in relation to our fellowmen. That is why liberty in action has not only an earthly or social consequence, but also a transcendent or spiritual one.



E N D



RELIGIOUS FREEDOM FROM A CHRISTIAN PERSPECTIVE—A BAPTIST VIEW

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Freedom of religion is the right of a person to form personal religious beliefs according to his or her own conscience and to give public expression to these beliefs in worship and teaching, restricted only by the requirements of public order. Religious liberty differs from toleration in that toleration presupposes preferential treatment of a particular creed by the state because it is an established church, or in some cases, is the predominant religion of the population.

A case by Tony Cupit of the Baptist World Alliance (BWA) states, “We were Australian Baptist missionaries in Papua New Guinea in an area which, because of comity agreements, were solely Baptist. A few Seventh-day Adventists arrived in “Baptist country.” One day the Baptist leaders came running up to me to announce that the Adventists had built a church on the side of a cliff. I asked what they were going to do. “Oh, we’ve already pushed the church over the cliff.” (Our missionaries had obviously not adequately conveyed the important Baptist principle of freedom of religion!)

I must say that I can easily see what Tony talks about happening among Ghanaian Baptists, too, since this vital Baptist teaching and historic stance has not featured in many of our teaching sessions in our churches. If at all, the principle of religious liberty, separation of church and state, priesthood of the believer may be more at home in the Baptist seminary.

Baptists trace their origins to a period and environment of religious persecution in Britain in the early 17th century. For much of their history Baptists have been, in many parts of the world, a persecuted minority.

One of those credited with founding the Baptist faith, Thomas Helwys, was possibly the first one to formally espouse the principle 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 Mystery of Iniquity” is a remarkable attack upon the divine right of the king. Here is part of the statement, “Hear, oh King, and despise not the counsel 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 stance Helwys was thrown into the Newgate Prison and died there sometime about 1616.

One of the major premises upon which Baptists stand is the separation of church and state. 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 Baptist context that have argued persuasively and worked for religious freedom.

Among those are names like John Clifford, Martin Luther King, Jr., President Jimmy Carter, Saboi Jum from Myanmar, and Thorwalk Lorenzen. The basis for our belief in the freedom of 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.”

According to Cupit, “There is a measure of self interest when Baptists underline the need for freedom of religion. As a historically persecuted people it will be understandable that religious freedom is high on the Baptist agenda. One of the reasons that Baptists engage in international theological conversations with the Christian World Communions is because we anticipate that by engaging in conversations with sister denominations the difficult situation for our people in countries where they face oppression 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...”

When Mother Teresa was beatified by Pope John Paul 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 treatment given 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 Philip (10) and Timothy (7), 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, abuse, and indeed death.

There are various international documents that affirm freedom of religion as a basic human right and which have been ratified by many governments over the last half a century. 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 UN 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 such documents. It highlights the importance of some of the major rights: (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 religious group can pick and choose those rights which they wish to keep (or not keep). So often the rights that fall into that latter category happen to be issues having to do with freedom of religion and belief.

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 countries 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. The 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 develop structures which it considers necessary for community building. It should be able to acquire property and build on it.

In some places in the Middle East and elsewhere the struggle is intense. Religious communities, Christians and others, are not able to associate freely in society and to organize their affairs without interference from governmental authorities. It is not right that religions who deny other religions freedom to worship, even 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 the practice of religious rites (baptism, Eucharist, marriage). People being denied the opportunity of freedom of worship are being denied the right of religious liberty.

6. Freedom of religion in the public domain. Religious faith is not only concerned with people's private relationship to their deity, as much as the secular world would wish this to be. 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 believe that any person of faith should be able to tell his or her story in word, deed, and literature and invite people to join their religious group if they so wish. People who voluntarily and without coercion decide so to join should experience no social, political or other disadvantage.

What then is the relationship between Christian witness/evangelism and proselytism?

Christian witness (i.e. 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 theology, 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. The Baptists in Papua New Guinea who pushed the church over the cliff were way out of line, but probably illustrative of what can happen anytime a dominant religion or ideology thinks territorially.

If a person is born in a country and is assumed to belong to the religion of that country yet shows no interest at all in the religion of that country and 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 is 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 and 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 educational facilities to meet needs in their respective situations. These should not be used as a way to enlist people from another faith 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. Baptist people suffer from it—and so do many others.

Tony Cupit recounts with grief some situations around the world where freedom of religion is denied:

“In refugee camps in North Thailand and Myanmar refugees are denied basic freedoms like the freedom to work and to travel and are denied opportunity to worship and live in their own land and worship in their own churches.”

“At an international liberty conference in Baku, Azerbaijan it was realized that not only Baptists, but Muslims, Seventh-day Adventists, Catholics, and others all had their stories of harassment and denial of freedom.”

“In the Chiapas region of Mexico the indigenous people are marginalized by the government with the consequent effect on the religious life on 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.”

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 rights that is often withdrawn when unscrupulous people are in power is the right of people to worship as they believe is appropriate.

Baptist theologian and author Thorwald Lorenzen said “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



MODERN TRENDS IN EUROPEAN STATE- CHURCH RELATIONS:

A GENERAL COMPARATIVE PERSPECTIVE

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I. INTRODUCTION

I have been following developments in the area of religious liberty in the Romanian and the European context closely for over a decade. Much progress has been made, and the time may finally have arrived to adopt a new religious associations law. I have long believed that Romania has a unique opportunity in this regard. It is a country with a rich Orthodox tradition, and yet it has traditionally had closer ties with the rest of Europe than virtually any other predominantly Orthodox country. It also has a rich tradition of pluralism, having provided a home for citizens from many other religious traditions over the years. As a result, it is in an optimal position to develop a church-state system that can simultaneously be sensitive to the Orthodox tradition while protecting and respecting the rights of others to live under a regime that fully protects freedom of religion or belief.

Seizing the present moment is particularly important as Romania moves toward membership in the European Union. While there is much to be done in preparation for accession, freedom of religion and belief ought to be an area in which exemplary progress could be made. In Silvio Ferarri's (Professor of Church and State Relations at Università degli Studi di Milano) conclusion to a book on *Law and Religion in Post-Communist Europe* that he and I edited, he noted first how East European countries have been moving, in the main, toward "cooperation" church-state models that characterize most West European church-state systems. He concluded by stating that the results are "at the same time encouraging and disappointing."¹ The developments were encouraging because of the great progress that has been made. They were disappointing in part because "there is a gap between what is written in the laws and what happens in practice,"² but perhaps even more

importantly, in all too many cases, “the opportunity to construct a new model of relations between church and state in the Central-Eastern part of Europe has been lost.”³

I mention this point because Romania stands at a juncture where it can take this opportunity, rather than lose it. It can aim not only to meet international standards, but to go beyond them. It can take what is best from other parts of Europe, without accepting some of the problems in need of reform. Professor Ferrari identifies the following as areas “where potential progress could be made:”

1. to amplify and consolidate the rights of freedom recognized for all religious communities (including the newest and most distant from the traditionally shared social values);
2. to maintain a certain proportion between the collaboration and the support that states offer to the various religious groups;
3. to guarantee the mobility of the religious denominations..., allowing for passage from the lowest steps (registration, recognition) to the higher ones (obtaining a statute of public corporation, stipulation of agreements with the State);
4. to reduce the degree of discretion enjoyed by the public authorities in establishing the level of each religious denomination...; and
5. to ensure an efficient system of appeal against the decisions of the executive power.⁴

As new legislation is considered in Romania, each of these areas should be considered. The draft that has been prepared goes some distance in this direction. But it could go farther. It has been drafted with the cooperation of the currently recognized religions, but it sometimes falls short in terms of the treatments of smaller groups.

While I could write a very abstract article about differing types of church-state structure, ranging from the confessional states of the past to certain secularist states of the present, I think what would be most helpful at this historical moment is to give more particularized comparative perspective on features of the draft “Law Regarding Religious Freedom and the General Regime of Religion” (hereinafter the “Draft Law”) that is currently under

consideration in Romania. In particular, I will focus on issues that are relevant to Professor Ferrari's suggestions about areas "where potential progress can be made" or where opportunities may be missed in three areas, corresponding to his first three points: (1) ease of acquiring legal entity status; (2) ease of "promotion" to recognized religion status within the system; (3) reasonable proportion in collaboration.

In this effort, I draw in part on efforts that have emerged over the past year to coordinate review of such legislation by the Council of Europe, the Venice Commission, and the Organization for Security and Cooperation in Europe (OSCE).⁵ The *Guidelines for Review of Legislation Pertaining to Religion or Belief*⁶ were prepared last year by the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief in Consultation with the European Commission for Democracy Through Law (Venice Commission).⁷ These Guidelines are based on the relevant provisions of international treaties,⁸ UN Declaration,⁹ case law of the European Court of Human Rights, and OSCE commitments¹⁰ that codify the fundamental right to freedom of religion or belief in international law.¹¹ The *Guidelines* were designed to be flexible, and to recognize that many configurations of church-state relations can be designed to meet the unique historical situation in each country, while at the same time complying with international standards.

II. FAVORABLE PROVISIONS

The proposed draft has many provisions that are forward looking, fair to all, and eminently deserving of praise. The following are a few, not suggesting that these are the only laudable provisions.

1. Reaffirmation of the fundamental commitment to freedom of religion and belief along the lines of the major international human rights documents.¹²

2. The commitment to state neutrality in matters of religion.¹³

3. An expanded list of recognized religions that includes the Jehovah's Witnesses. (What is important is recognizing that the group of recognized religions is open and may expand over time.)¹⁴

4. Significant attention to equal treatment for all recognized religions and religious associations, as manifested by making tax exempt status of church property and deductibility of contributions from income taxes available to all.¹⁵

5. Short time lines for review of applications for association and recognized religion status, with clear rights to appeal from denials.¹⁶

6. Attention to protection rights of religious autonomy for all religious groups.

III. PROBLEMATIC PROVISIONS

A. Excessive Minimum Member Requirement for Religious Associations

Article 41(1) provides that religious associations must composed of “at least 300 people, Romanian citizens residing in Romania and associating with a view to display a faith.” With respect to this provision, the *Guidelines* provide: “High minimum membership requirements should not be allowed with respect to obtaining legal personality.”¹⁷ These particular guidelines reflect the fact that it is now well-settled under case law of the European Court of Human Rights (and under OSCE Commitments) that the right of a religious community to acquire legal entity status is protected under Articles 9 and 11 of the European Convention.¹⁸ High minimum member requirements, such as the figure of 300 proposed in the draft, can result in significant violations of international human rights standards. A smaller group organized on a congregational basis that wishes to acquire legal personality for its religious community, but that lacks the requisite number of members is barred from attaining legal entity status. For such smaller religious communities, minimum membership requirements that exceed as few as 10-30 adult members can be extremely problematic. It is important to remember in this regard that many religious communities are organized on a congregational rather than a hierarchical basis. This is not merely a matter of convenience; it is very often a matter of deep religious belief. In such organizations, the congregation is the appropriate church unit for acquiring legal recognition. Because many smaller groups have relatively few members in any particular city, it is often the case that their congregations may be quite small. They may consist of a handful of families, with the result that the total number of actively participating adults may be less than 20, or even 15.

It is also important to remember in this regard that high minimum member requirements in religious association laws in effect discriminate against religious groups in comparison to civil associations, with respect to which the required number of founders is almost always less than ten. Religious communities should be granted equivalent treatment—not heavier burdens.

They have a right under the European Convention to legal entity status, and particularly where smaller groups cannot organize as normal associations, it is vital that such status be accorded them without a large number of founders.

Only five former socialist block countries have minimum member requirements that are greater than thirty,¹⁹ but they represent a distinct minority position, and a strong argument can be made that these provisions are inconsistent with international human rights standards. The majority require 15 or fewer members. The trend is toward 10. The Constitutional Court of the Former Yugoslav Republic of Macedonia and the Constitutional Council in Kazakhstan have both struck down laws including a minimum member requirement of 50.²⁰

It is important to distinguish the situation in other states that have higher thresholds for “intermediate tier” religious organizations, such as confessional communities (*Bekenntnis-gemeinschaften*) in Austria,²¹ but in these states, base level legal entity status is available through some other vehicle (e.g., organization as a normal civil association) that does not have high minimum membership requirements.

The pressure to adopt high minimum member requirements and other burdensome requirements often comes from fears that low thresholds will facilitate operation of dangerous groups, as well as groups that use the cloak of a religious entity status to obtain inappropriate tax advantages. The reality, however, is that the real burden falls on legitimate religious groups. Genuinely dangerous groups will not be deterred by registration requirements; they simply go underground. If anything, the higher threshold for registration makes them more difficult to monitor. And tax authorities can find better methods for cracking down on abusers than making registration virtually impossible for legitimate groups.²²

B. Other Potentially Burdensome Requirements

Initial Patrimony. The *Guidelines* provide that “other excessively burdensome constraints or time delays prior to obtaining legal personality should be questioned.”²³ In this regard, one requirement of the Draft Law stands out as being unusual. The provisions of article 42(2)(a) and (c) require that a group seeking registration provide evidence of an “initial patrimony of at least two gross minimal incomes of our economy.” It is not clear whether this refers to monthly or annual minimal incomes. For a small religious congregation with 50 to 100 members (including children), this could be a prohibitive amount.

Distinct Name Requirements. Another requirement is very understandable, but could lead to problems if applied in an unfair or restrictive manner. Articles 18 (c) and 42(2)(a) provide that groups applying respectively for recognized religion and registered status may not have names “identical or similar to that of another recognized religion or religious association.” This is consistent with comparable rules in the commercial sector for trademarks and trade names, and is important for avoiding fraud or one organization masquerading as another. On the other hand, it is clear that there may be subgroups within a family or religions that decide to organize separately, but wish to use a name that reflects the broader religious tradition. For example, some of the leading European Court cases have dealt with disputes resulting from religious schisms, ultimately holding that both groups must be registered and legally recognized, at least at a basic level.²⁴ It would be inappropriate in such cases to rule that only one of the groups could include the term “Orthodox” or “Muslim” in its title. Some other distinguishing method must be found which meets the state’s concern about giving appropriately descriptive names, while allowing religious groups the freedom and autonomy to name themselves in a way that is consistent with their religious beliefs. After all, the name by which a religious group is called may itself be a matter of religious conviction and religious autonomy that deserves respect.

C. Excessively Burdensome Requirements for Recognized Religion Status

The draft law also imposes excessive requirements for acquiring the status of a “recognized religion.” It is important to note that certain heightened requirements at this level are legitimate, because “recognized religion” status carries with it significantly higher levels of state cooperation, often involving direct subsidies or ongoing interaction with religious communities. Where the state is providing significant funding, there is a necessarily associated responsibility to monitor and make certain that funds are being used appropriately. This needs to be done in ways that respect religious autonomy, but some heightened requirements are reasonable. According to the *Guidelines*, it is important that “legislation should be reviewed to assure that any differentiations among religions are justified by genuinely objective factors and that the risk of prejudicial treatment is minimized or totally eliminated.”²⁵ The point is to make certain that the eligibility requirements for recognized religion status are reasonable and are based on objective factors that are religiously neutral.

Minimum Membership Requirements. Article 18(b) of the Draft Law requires it to demonstrate that it has “a number of Romanian citizens (as) members residing in Romania representing at least 0.1% of the population of Romania, according to the last census.” This would be approximately 23,000 citizens. The “one thousandth” approach has been used as a threshold figure for recognized church status in Austria,²⁶ and has been used in some Länder in Germany as a rule thumb for determining eligibility for “public corporation” status. Note that both in Austria and in individual Länder in Germany, the absolute number of members required is much smaller than 23,000. Significantly, in Germany, there is no constitutional or statutory basis for the “thousandth” principle in Germany, other than the vague specification in the German Basic Law providing that religious communities may acquire public corporation status “if their constitution and the number of their members offer an assurance of their permanency.”²⁷ Quite reasonably, several much smaller groups have been accorded this status in Germany, and once a religious community has this status in one of the German Länder, it is recognized in the others.

Requiring 23,000 members for recognized religion status seems clearly excessive. Much smaller numbers are sufficient to assure the stability and continuity that the state needs to organize meaningful cooperation. Smaller groups can play a significant role in contributing to society, commensurate of course with their size. Significantly, the list of recognized religions that are automatically recognized by the Draft Law includes some with membership that is more at the level of 2,300 than 23,000 members. Also, while the number of Muslims in Romania may be larger, what does it mean to speak of “The Muslim Religion.” As is well known, the Muslim tradition tends to organize by mosque and is in fact highly fractionated. Does this mean that small Muslim groups, whatever their doctrinal orientation, are automatically part of a “recognized religion.”? That would be a more reasonable level to set as a minimum requirement for recognized religion status. It is difficult to see any objective factor other than exclusion of smaller religious groups in a requirement as high as 23,000.

Twelve Year Duration Requirement. The draft law specifies not only a very high minimum member requirement to become a “recognized religion,” but also a requirement that the community “is constituted legally and has been functioning uninterruptedly as a religious association on the territory of Romania for at least 12 years.”²⁸ The *Guidelines* provide that “It is not permitted.”²⁹ This provision does not apply directly to “upper tier” religious

structures of the “recognized religion” type to which the 12-year requirement applies. In fact, one of the positive features of the Draft Law is that it imposes no time barrier to acquiring religious association status. Further, the draft law recognizes that if a religious community previously organized as a civil association is transformed into a religious association, the judge approving the transformation should determine the length of time the group has been organized with exercise of a faith as the object of its activity,³⁰ and this time “is to be taken into consideration and added to the functioning period of the religious association”³¹ at such time as it applies for recognized religion status. But lengthy time requirements can be problematic. Where the concern is to determine that the religious community is likely to be a stable and continuing presence, another approach, suggested by legislation in Portugal, is to consider extended history elsewhere as an alternative method of establishing stability and continuity.³²

D. Agreements

Article 9(5) indicates that the Romanian State “can sign agreements with the recognized religions in domain of common interest, as well as agreements for the regulation of the aspects specific to religious traditions, which are submitted for (approval as a law).”³³ The use of agreements or concordats has a long tradition within the Roman Catholic faith, and agreement systems are most common where Roman Catholicism has a strong presence. This approach makes particular sense where the Holy See is involved, because the agreements take on ratified treaty status, which gives them some preeminence over normal legislation. The trend in recent years has been to afford greater equality among religions in predominantly Catholic countries not by lowering the level of status afforded the Catholic Church (i.e., by abrogating existing agreements), but by raising the level of other churches by giving them similar agreements. There are a number of technical issues here, but let me proceed directly to the core difficulty that needs to be addressed. First, when extensive cooperation is contemplated, it is often helpful to regulate the details by contract. This has the advantage that individual differences in religious traditions can be taken into account. But it also opens up significant risks of discriminatory treatment. Second, and more troubling, while the strategy of “equalizing by lifting” is good in theory, it tends to run out in practice after agreements for the largest groups are arranged. Other smaller groups are left without possibilities for equal treatment. After seven or eight agreements are concluded, there is simply

not the political will to do them for numerous smaller groups. Experience in other countries suggests that many of the provisions in the various agreements recur, often almost verbatim. Thought ought to be given from the outset to developing certain basic provisions that could be available to all recognized religions, and simply embody them in a statute. Thought also should be given to determining which of these provisions could be extended without undue difficulty to smaller groups. There are provisions in the draft law granting smaller groups tax exemption and tax deductions privileges, as well as protections with respect to language and property.³⁴

E. Technical Issues

One of the things that become clear in working with religious association laws is that there are a variety of technical issues that must be addressed with precision about how religious entities interact with the secular legal order. These are typically not grand and dramatic issues of freedom of conscience, but practical issues which, if not resolved, entail significant burdens on religious communities. Some of these concern issues such as how clergy get access to pension systems, how labor law applies to the distinctive domain of religious personnel, how property restitution issues are resolved in post-communist space, and so forth. I remember listening to the discussions of the drafters on problems involving cemeteries. At the conclusion, Metropolitan Daniel turned to me and said, “we have just had a very lively discussion about the dead.” I understand that a number of these issues are being addressed by others.

Let me just note two examples of the myriad detailed issues that should be thought through as clearly as possible. First, orderly transition rules are extremely important. Religious communities have been operating for differing periods of time—some for centuries, some for much shorter periods. In relatively short order, however, they acquire interests in property and establish various other legal relationships. It is important to assure that these are not disrupted. The law provides a 12-month period for recognized religions listed in the Annex “to present statutes and canonical codes to the Ministry of Culture and Religious Affairs for their being recognized.” Is twelve months enough? What does it mean to bring the “canonical codes” of the Orthodox and Catholic traditions? Probably these transition rules will work, since it is unlikely that specific beliefs of these groups will be challenged, although there is a lurking problem for the Jehovah’s Witnesses. Article 51(3) provides that “the statutes and canonical codes” that must be submitted will be approved “on condition that they do not affect by their

content the national security, order, health and public morality or the human fundamental rights and liberties.” As is well known, health issues could be an issue for Jehovah’s Witnesses because of blood transfusion issues. More generally, there is a problem because “national security” is involved as a basis for limiting acceptance of the “statutes and canonical codes,” but under international norms, national security is not a permissible ground for limiting freedom of religion.³⁵

For religious association, transition issues are different. Here, the more typical situation is that a religious community will be organized at the time of adoption of the Draft Law as an ordinary civil association. Under Article 48, such organizations may be reconstituted as religious associations. There is no minimum period for doing so, because they can presumably elect to remain as civil associations. The procedures for making the “transformation” appear to be relatively easy, though it is important to make sure this is the case and to minimize difficulties organizations would have in making the transition. Care must be given to practical issues. For example, property owned and contracts entered into by the civil association were obviously entered into in the name of the latter. Title to property on the land registers is no doubt shown in the name of the civil association. Provision should be made so that transfers of title or contractual rights to the new entities can be assigned without cost or transfer fees.

IV. CONCLUSION

In conclusion, I come back to the point made at the outset. This is a time of important opportunity for Romania. The country is uniquely positioned to develop a new church-state system that is sensitive to Romania’s traditions. At the same time, it can take advantage of the opportunities to create an improved model—one that learns from systems of religious freedom elsewhere, and at the same time, makes significant improvements that redound to the benefit of all of Romania’s religions, large and small, traditional for Romania and new. The proposed Draft Law already incorporates a number of praiseworthy features. My hope is that before the legislation is adopted further improvements can be made that will make it a genuine model for the future in Europe.



END

1. Silvio Ferrari, *Conclusion*, in Silvio Ferrari and W. Cole Durham Jr., eds., *Law and Religion in Post-Communist Europe*, 422 (Leuven: Peeters, 2003).
2. *Id.*
3. *Id.*
4. *Id.*
5. I also draw on work that the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief has done in commenting on legislation elsewhere. I have not specifically footnoted such references. I have been involved in drafting such comments in particular on a draft Serbian law, and have drawn to some extent in what follows.
6. Available at http://www.osce.org/odihr/item_11_13600.html (last visited on Sept. 11, 2005) (hereinafter referred to as "*Guidelines*").
7. The *Guidelines* were adopted by the Venice Commission at its 59th Plenary Session (Venice, June 18-19, 2004), and were welcomed by the OSCE Parliamentary Assembly at its Annual Session (Edinburgh, July 5-9, 2004). The *Guidelines* have also been commended by the U.N. Special Rapporteur on Freedom of Religion or Belief. Report of the Special Rapporteur on the Freedom of Religion or Belief to the 61st Session on the Commission on Human Rights, E/CN.4/2005/61, para. 57. The Advisory Panel has been restructured and expanded over the past year, and the body referred to in the *Guidelines* as the 'Advisory Panel' is now called the 'Advisory Council on Freedom of Religion or Belief.'
8. See, e.g., International Covenant on Civil and Political Rights, adopted and opened for signature by United Nations General Assembly Resolution 2200A (XXI) on December 16, 1966, entered into force March 23, 1976 (hereinafter "ICCPR"); International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature by United Nations General Assembly Resolution 2200A (XXI) on December 16, 1966, entered into force January 3, 1976 (hereinafter "ICESCR"); Convention on the Rights of the Child, adopted and open for signature by United Nations Assembly Resolution 44/25 on November 20, 1989, entered into force September 2, 1990 (hereinafter "CRC"); European Convention for the Protection of Human Rights and Fundamental Freedoms and its First Protocol, open for signature by the Council of Europe on November 4, 1950, entered into force September 3, 1953 (hereinafter "ECHR").
9. Most notably, the Universal Declaration of Human Rights, adopted and proclaimed by United Nations General Assembly Resolution 217A (III) on December 10, 1948.
10. For a list of relevant OSCE commitments which the Union of Serbia and Montenegro has accepted as a participating State in the OSCE, see OSCE Human Dimension Commitments: A R
11. The major international instruments relied upon are excerpted in Appendix I of the *Guidelines*. *Guidelines*, Appendix I, pp. 31-51.
12. Law Regarding Religious Freedom and the General Regime of Religions (hereinafter "Draft Law."), arts. 1-5.
13. Draft Law, art. 9.
14. Draft Law, Annex containing a list of the recognized religions in Romania (as of the date of adoption of the legislation). The process for a religious association to become recognized is set forth in articles 17-22.
15. Draft Law, arts 10(2), 45(2).
16. Draft Law, arts. 20 (60 days for applications for recognized religion status); art. 43 (3 days for registration).
17. *Guidelines*, 17.
18. Freedom and Democracy Party (ÖZDEP) v. Turkey (ECtHR, App. No. 23885/94, December 8, 1999); United Communist Party of Turkey v. Turkey (ECtHR, App. No. 19392/92, January 30, 1998); Sidropoulos & Other v. Greece (ECtHR, App. No. 25528/94, December 16, 1997) (legal personality of the Roman Catholic Church protected); Hasan and Chaush v. Bulgaria (ECtHR, App. No. 30985/96, October 26, 2000); Metropolitan Church of Bessarabia v. Moldova (ECtHR, App. No. 45701/99, December 13, 2001); OSCE Vienna Concluding Document, Principle 16© (1989).
19. Armenia, 200, Law on the Freedom of Conscience and Religious Organizations (1991) (amended 1997, 2001) (Armenia), art. 5(e); Croatia, 500, Law on Legal Position of Religious Communities (2002) (Croatia), para. 1, art. 21; Czech Republic, 300, Law on Churches and Religious Societies (2002) (Czech Republic), tit. III, sec. 10, para. 2; Hungary, 100, Law on Freedom of Conscience and Religions and the Churches, Act No. IV (1990) (Hungary), ch. 2, sec. 9, para. 1(a); Slovak Republic, 20,000, An Amendment to the Law on the Registration of Churches and Religious Societies, Act. No. 192 (1992), para. 2. The foregoing laws are available at <http://www.religlaw.org>, and in W. Cole Durham, Jr. and Silvio Ferrari, eds., *Law on Religion and the State in Post-Communist Europe*, (Leuven: Peeters, 2004).
20. Decision the Constitutional Council of Kazakhstan, April 2002, Reported by US Department of State, International Religious Freedom Report 2002: Kazakhstan, sec. II, available at <http://www.state.gov/g/drl/irf/2002/13942.htm> (last visited November 4, 2003); Decision of the Macedonian Constitutional Court of 23-24 December 1998, p.3.

21. See Herbert Kalb et al., *Religionsgemeinschaftenrecht* (Vienna: Verlag Österreich, 1998) (containing Austrian laws and commentary).
22. For more extensive discussion on these issues, see W. Cole Durham, Jr., *Facilitating Freedom of Religion or Belief through Religious Association Laws*, in Tore Lindholm, W. Cole Durham, Jr., and Bahia Tahzib-Lie, eds., *Facilitating Freedom of Religion or Belief: A Deskbook* 388-390 (Leiden: Martinus Nijhoff, 2004).
23. *Guidelines*, 17.
24. Hasan and Chaush v. Bulgaria (ECtHR, App. No. 30985/96, October 26, 2000); Metropolitan Church of Bessarabia v. Moldova (ECtHR, App. No. 45701/99, December 13, 2001).
25. *Guidelines*, 10.
26. See ((1998 Austrian Law.))
27. German Basic Law, art. 140 (incorporating art. 137(5) of the Weimar Constitution).
28. Draft Law, art. 18(a).
29. *Guidelines*, 17.
30. Draft Law, art. 48(3).
31. Draft Law, art. 48(4).
32. ((Portuguese Law.))
33. It is not clear from the translation I am using actually says “are submitted for law approval.” What this “law approval” entails is not clear. I am assuming it means that in order to be approved, the agreements must be approved as a law by the parliament, as is typically the case in many other countries.
34. Draft Law, art 45(2).
35. See International Covenant on Civil and Political Rights, Article 18(3); European Convention, Article 9(2). See U.N. Human Rights Committee, General Comment No. 22 (48), adopted by the U.N. Human Rights Committee on July 20, 1993, U.N. Doc. CCPR/C/21/Rev.1/Add.4(1993), reprinted in U.N. Doc/ HRI/GEN/1/Rev.1at 35 (1994).



COMBATING RELIGIOUS INTOLERANCE:

THE UN CONTRIBUTION

JONATHAN GALLAGHER

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“Freedom of religion or belief is not a reality for many individuals throughout the world.” Asma Jahangir, UN Special Rapporteur for Freedom of Religion or Belief

RELIGIOUS INTOLERANCE IN TODAY’S WORLD

In today’s world, over a billion people live under regimes that do not allow full religious freedom. Religious intolerance is on the rise, and inter-religious conflict is identified as one of the major causes of strife. So combating religious intolerance must be a primary objective for all of us, not just governments and the United Nations.

However, it is at the level of nations that much needs to be done. In 2003 the International Religious Liberty Association was granted special consultative status with the Economic and Social Council of the UN. What does this mean? It means we have the opportunity to attend and speak at UN conferences and commissions, most particularly the Commission on Human Rights. In the past few years the IRLA has presented several statements on different subjects at the Commission, and worked to stop the use of the death penalty for religious conversions.

Despite its many defects, the UN is, in Secretary-General Kofi Annan’s words, “an important place not just for convening power; it also brings governments together to discuss common and mutually important issues. And many governments stand by the Charter; they stand by the Universal Declaration of Human Rights.”¹ From the perspective of combating religious intolerance, it is vital that we are involved!

Though many criticize the UN and fear it may become the means of achieving the dictatorship of one-world government, others see it as the savior of democracy and fundamental freedoms, the beacon of hope for the future. So what is the truth?

If you have ever attended any kind of UN meeting, the most that could be said is that it currently could not become a world government, nor is it the universal panacea for the ills of humanity. The United Nations is a misnomer—it may be a group of (currently) 192 nations, but it is far from being united. In fact, much time is spent on protocol and procedural issues because of the fractured relationships between nations. In my role representing the IRLA at the UN, the frustration is not so much over its potential world hegemony or Golden Age of universal brotherhood or harbinger of the Apocalypse, but in getting something done on the vital issues that confront our world. Lost at sea in an ocean of paperwork, submerged by points of order and rights to reply, overwhelmed by political waves and international storm surges, it's a wonder the ship is afloat at all. Yet float it does, and the contributions of the UN, especially in the area of human rights, are sizeable and significant. For the UN does provide the venue and the structure for global decisions and dialogue, for concrete action on specific problems, and ensures the opportunity for civil society (you and me) to be involved.

THE UN ROLE IN DEFINING RELIGIOUS FREEDOM

From its beginnings, the UN has placed strong emphasis on civil liberties and human rights. These are commented on in the UN Charter, and specifically elaborated in the 1948 Universal Declaration of Human Rights.

On religious freedom, Article 18 is blunt and unequivocal: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”²

Accepting this Declaration sets the ground rules for religious freedom and clarifies violations. In combating religious intolerance, the UN has established both standards and mechanisms for action. In fact, one of the primary contributions of the UN has been to spell out exactly what religious freedom is, and what rights exist in practice. Through the 1948 Declaration, the 1966 International Covenant on Civil and Political Rights, and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the internationally-agreed norms are clearly established.

Indeed, the 1981 Declaration also paved the way for the establishment of some structure for the monitoring of religious freedom and for the reporting of violations. It must still be admitted that the legal aspects are weak, since

there are few available sanctions or legal remedies available. However, through the High Commissioner for Human Rights and the yearly Commission and Committee, at least some mechanisms are available for the disclosure of religious freedom violations, and it is important for states, parties, and non-government organizations to take such opportunities to expose the egregious violations of fundamental human rights.

The fact that there are international standards, and a forum for publicizing religious freedom issues, are major contributions of the UN that deserve appreciation. In a global context, nations that try to ignore their commitments under the international document discover that they *will* be called to account.

For example, when I challenged the representative of one extremist regime for the continued imposition of the death penalty on religious converts, I was able to point to the clear language of the UN declarations and covenants. Supported by the representative of a European government, we made the blunt point that nations cannot sign human rights documents, make promises and give undertakings, and not expect to be challenged when they violate fundamental religious rights. In this way the principle of combating religious intolerance can be directly addressed.

The reporting mechanisms, particularly through the UN special *rapporteur* on Freedom of Religion or Belief, who is an independent expert, provide great opportunities to ensure that repression of religious freedoms do not occur in secret. Countries are required to respond to such reports and requests from the special *rapporteur*, and while the process that some nations term “naming and shaming” can be controversial, it does at least mean there is some knowledge of what is actually happening in religious freedom trouble-spots around the world.

The availability of national representatives at the yearly six-week UN Commission on Human Rights³ (now in the process being transformed into the new Human Rights Council) provides the opportunity for bilateral intervention—and can lead to a kind of third-party resolution between parties in religious freedom disputes. Frequently, appeal to a nation’s permanent mission in Geneva or New York can be far more effective than a direct approach to the national government.

THE IRLA ROLE AND THE GLOBAL CHALLENGE

Representing the IRLA at the UN, our delegation made a presentation regarding the death penalty for conversion. We outlined the case and made the request for the UN to explicitly condemn this most extreme form of religious intolerance.

The permanent mission of Morocco asked for the right of reply. Of course, I was expecting some strong opposition. But to my surprise, the representative of Morocco thanked us for making this clear statement, and affirmed that the death penalty for conversion was not part of Sharia law, and then went on to condemn those countries that practice it. In this way the IRLA has highlighted such matters and influenced those at the highest level to work towards better religious freedom.

The challenge before us is great. Let me just cite a few examples:

In Saudi Arabia there is no religious freedom. The only state-sanctioned faith and worship is Islam, with all other religions expressly forbidden. There are no churches permitted, not one. It is even a crime against the state to read a Bible in the privacy of your own home, or even to utter a prayer in your head to any God but Allah. Persecution by religious police awaits anyone foolhardy enough to contravene the draconian laws against Christian worship, which is even forbidden in the U.S. Embassy in Riyadh. Many thousands of Christians have been imprisoned and tortured, some losing limbs and lives, especially the “guest workers” from countries like India and the Philippines.

In North Korea, the communist dictatorship has tried to destroy every religious element in the country. Christians remain, but under very difficult circumstances. Forcible ‘re-programming’ of those Christians deemed hostile to the state puts into practice the police state of George Orwell’s novel “1984.” The “religion” is worship of the country’s leader, and variance is not permitted.

Attacks in such countries as Pakistan, Egypt, and Indonesia are part of the strategy of containment—to prevent the growth and development of other religions and to enforce the dominant religion. How tragic that once-tolerant Islam is so often being used today as a weapon of force, a hijacking of faith by extremists who wish to bend the power of religion to their own ends!

A Muslim “holy war” in Indonesia against Christians is the source of continuing killings and property destruction in a number of the islands. Stories include such atrocities of these “warriors” attacking unarmed villages and killing indiscriminately, including women and children, in an effort to expel the Christian population or to force conversions to Islam. Reports also indicate that security forces have at times not only allowed the carnage, but actively participated.

Even in such countries traditionally known for tolerance and liberty, challenges have now surfaced. The “anti-sect” law proposed in France

provoked much criticism since it can be used against any religious group, and the punishments are severe. Added to this is the prohibition of displaying “religious symbols” in the public arena, a clear denial of the freedom to practice religion. It is disturbing to see anti-religious discrimination and hostility in the country known for “liberty, equality and fraternity.”

Persecution continues against religious minorities in some parts of Russia, and the new requirements for the registration of religious groups has provided an opportunity for regional leaders to intimidate and repress Christians who do not belong to the majority church. The media has also mounted a hostile campaign against what they describe as “foreign religions.” For example, sensationalist media reports have described Seventh-day Adventist Christians as practicing child sacrifice and cannibalism.

In Bhutan, religious liberty is non-existent. Only Hinduism is permitted in this mountain kingdom near India, and other religious activities are banned. No permission is given for the construction of Christian churches.

The Maldives allows no religious freedom. The president has announced that no religions apart from Islam will be permitted in the country. Christianity is banned.

While some religious pluralism is permitted in the mainly Muslim country of Syria, hostility to some Christians is evident. For example, the Seventh-day Adventist Church is banned by the government.

In Algeria, a law just passed makes it a criminal offense to try to convert a Muslim. The sentence? Seven years in jail, just for trying... Imagine how this chills any Christian witness in this country, and the terrible prospect for anyone so convicted...

HOW TO COUNTER RELIGIOUS INTOLERANCE

Events like the UN Commission on Human Rights also give opportunity for media attention, providing focus for attention on important ideas and events. Visibility is often key in ensuring continued freedom of religion and conscience, for most dark deeds of intolerance, intimidation, and persecution are attempted in secret.

While the need for structural overhaul of the UN’s bureaucratic functions is clear to most, including the current UN secretary-general,⁴ this should not be at the expense of what has been achieved for religious freedom. The danger is that in seeking to work for a “more efficient” UN, the vital work of protecting and promoting religious freedom will be lost in the drive for global security and effective government.

While the UN is far from perfect, it has clearly defined the importance and scope of religious freedom, and provided opportunities for scrutiny, reporting, and debate. In a time when such freedoms are under increased scrutiny everywhere, when security concerns are seen as “paramount,” and when freedom of conscience has been called “a luxury we can no longer afford,” the efforts to maintain religious freedom and human rights must be greater now than ever.

Only by working together can we hope to combat religious intolerance and advance the mutual respect needed to avoid conflicts based on treating others of different beliefs as enemies who must be destroyed. Every human being has the right to choose his or her own beliefs, and does not have the right to force those beliefs on anyone else.

Here, as in all areas of human life, the Golden Rule applies: Treat others as you yourself would wish to be treated.

CONCLUSION

As a non-sectarian organization dedicated exclusively to foundational principles of religion freedom, the IRLA continues to work single-mindedly in achieving its goals of freedom of conscience and worship for all, regardless of belief or political persuasion. Focusing on the need to combat religious intolerance, the IRLA advances significant initiatives, especially at the UN. We invite support from all those of like mind who also recognize that much needs to be done in national and international arenas to preserve religious freedom, protest violations of conscience, and maintain the separation of spheres of influence in politics and religion.



E N D

1. Kofi Annan, response (as detailed in UN press release July 30, 2003, SG/SM/8803).
2. <http://www.unhchr.ch/udhr/lang/eng.htm>
3. <http://www.unhchr.ch/html/menu2/2/chr.htm>
4. Note, for example, Annan's September 8, 2003 remarks as detailed in UN press release SG/SM/8855 available at www.un.org, and also his July 30, 2003 response (SG/SM/8803) to the question, How do you ensure that the United Nations remains an essential stage for international security decisions? "This is the only organization where all the governments can come to discuss these issues. In our earlier discussions, I also made it clear that I am not the only one saying this. Governments are telling us, the world and their people that the United Nations is important for them and that they take its decisions seriously. Those governments are also saying, for example, "If you want us to become involved in Iraq, go to the United Nations and get what we perceive as a United Nations mandate". So it is an important place not just for convening power; it also brings governments together to discuss common and mutually important issues. And many governments stand by the Charter; they stand by the Universal Declaration of Human Rights. It is important to them, so we need to listen to what the other governments are saying."



RELIGIOUS FREEDOM IN THE THIRD MILLENNIUM

JOHN GRAZ

Secretary-General, International Religious Liberty Association

During the night of March 27, 2005 in Belgrade, Serbia, large graffiti was scrawled on walls of the Adventist Theological College: “Death to Adventists” and “Death to Sabbatarians.” Serbia is not North Korea or Saudi Arabia, where religious freedom does not exist at all, but in 2004, there were attacks on 26 Adventist churches and institutions. In fact, more than one hundred incidents targeting religious minorities were recorded in the same year.¹

Similar attacks have been recorded in the countries of Georgia and the Russian Federation, where religious minorities are the target of religious nationalists with the support of the media and the passivity of the police. In some parts of Russia, rumors have been spreading about Pentecostals and Adventists sacrificing their children. At the beginning of March 2005 in the city of Eisk, Krasnodar Region, Seventh-day Adventists were accused by the media and religious authorities of undermining the morality of the society because they do not believe in immortality. “A local TV channel stated that Adventists made a sacrifice of children,” reported a contact in the area.

In some states in India, Christians are regularly attacked. A report from *Compass Direct* (New Delhi, June 21, 2005) says, “Eleven Christian families who were physically attacked in Jamanya village, Jalgaon district, Maharashtra state, on May 16, now face social ostracism after they accused Hindu villagers of sexual assault.”

THE RELIGIOUS FREEDOM WORLD REPORT 2004-2005

The *Religious Freedom World Report 2004-2005*,² documents some important aspects of the state of religious liberty worldwide:

- Religious freedom is still protected in a majority of countries. This is the good news. We can be encouraged that **124 countries** provide a great deal of religious freedom for their citizens.

- Religious freedom is more frequently being challenged. In **48 countries** there are serious restrictions for people of faith. Of grave concern is the fact that there is no religious freedom in 32 countries.
- Religious intolerance does not spare any group. Intolerance affects Muslims, Christians, Hindus, and other religious minorities.

Several basic challenges or threats to religious freedom were also identified in this report:

RELIGIOUS EXTREMISM

In Muslim cultures, a growing number of religious extremists seek to replace constitutional law with traditional Shari'ah regulation. In Hindu and Buddhist societies, there is growing sentiment to curtail or prohibit the fundamental human right of religious conversion. In Western societies, even in the United States, there are much-publicized assaults by religious extremists on medical centers which practice abortion.

NATIONALISM

National identity often has a religious dimension. Being faithful to the majority religion is frequently perceived as a sign of loyalty to country and to national culture and identity. Practicing or adopting a minority faith frequently results in societal marginalization and even accusations of disloyalty to the nation.

INTOLERANT SECULARISM

In some countries the constitutional secularism of the state is actually the guarantee of religious freedom for all and a protector of human rights. But that is not always the case where secularism is supported by activists who are hostile to religion. For them, a good religion is a dying religion. France has recently provided noteworthy examples of anti-religious secularism.

SECURITY NEEDS

In an era of international terrorism, religious activists or religious minorities are sometimes regarded by authorities as security risks or even as potential terrorists. Media use of labels such as "fundamentalist" convey a pejorative identity for religious conservatives who may very well be peaceable, good citizens. Believers can be conservative - that is, defending

what they believe is fundamental in their faith - without threatening human rights and public order. The vast majority of religious conservatives worldwide are not violent.

HOW ARE RELIGIONS INTERACTING IN THE WORLD TODAY?

In his controversial 1997 book, *The Clash of Civilizations and the Remaking of the World Order*, Samuel P. Huntington wrote: "In the modern world, religion is a central, perhaps the central, force that motivates and mobilizes people."³

A generation ago religion played a less significant role, or at least a less overt role, in world affairs. Today religion has a real public influence on national politics and international relations. When religious forces destabilize a country or region, religious leaders are frequently asked to play a large role in restoring civil peace and public order. The riots in England a few years ago, and later in France, led civil authorities to ask religious leaders for help in calming the violence. In particular, Muslim Imams were encouraged to speak out for calm in the media.

The growing role of religion and religious figures in public life may also have an adverse effect. Many religious groups have occasion to feel threatened at one time or another by developments in their culture or nation, especially in relation to other religious organizations. In spite of an increase in dialogue and inter-religious meetings, there is growing tension between religions.

WHEN RELIGIONS FEEL THREATENED

I visited Ambon in Eastern Indonesia in December 2003. In that part of the country Christians and Muslims had been killing each other. In the midst of this carnage I observed an interesting perception in both groups: that Americans would likely come and drop bombs to protect the Christians.

Although viewed as a secular military action in the West, the war in Iraq and Afghanistan has been understood as a Christian invasion by many Muslims who have come to believe Islam is under attack. I saw similar reactions from fundamentalist Hindus in India and from nationalist Buddhists in Sri Lanka. Threats, real or imagined, are empowering extreme and violent "protective" measures.

Among Christians, the same sense of invasion is felt by the Orthodox Church in Eastern Europe and Russia and by some Catholics in Latin America,

where traditional religion feels it is under attack from Protestants or new religious movements. In majority Christian cultures, there is a noticeable increase in apprehension by believers who feel that increased immigration is threatening or even attacking their way of life.

In a 2005 Washington Post article entitled “Vatican Is Rethinking Relations with Islam,” authors Daniel Williams and Alan Cooperman maintained: “Many people in the Vatican view Christianity as under siege in parts of the world. They say that Christian populations are shrinking in countries in the Middle East in part because of long-term discrimination and repression by Muslim majorities.”⁴

Whatever the cause, there is an observable increase in the number of mosques in historically Christian countries and a reduction in the number of churches in Muslim countries. It might be impossible to build a Christian church in the territory of Saudi Arabia, but Saudi Arabia finances construction of many mosques and schools in Europe, including in Rome itself.

Samuel P. Huntington wrote: “In the long run, however, Mohammed wins out. Christianity spreads primarily by conversion, Islam by conversion and reproduction.”⁵ Huntington’s observation is, of course, only partially true. In fact, we should at least add the factor of immigration to conversion and reproduction.

RELIGION AND POLITICS TENDING TO ALLY

Ideally, church-state separation should guarantee religious freedom for all. In practice, it is important that this separationism not veer toward an anti-religious bias, and care should be taken so religions do not make inroads by use of intimidation or other non-democratic means.

Paradoxically, however, the Western concept of church-state separation is leaving Christianity the least defended religion in the world.

Islam is the religion of the majority in 44 countries and the official religion in 22 countries. In addition, 10 countries are Islamic states according to their constitution.⁶ At least four countries have Buddhism as the state religion. Most of the traditional Christian countries, however, are now secular. Christianity does not have a geopolitical visibility. This makes a big difference in the international dynamic. For example, the United Nations adopted without any question the idea that anti-Semitism and Islamophobia are a violation of human rights and should be sanctioned. It was more difficult for the nations represented to accept that Christian phobia is also a violation of human rights.

THE MOST PERSECUTED RELIGION

In the article, “Church of Martyrs,” avowed atheist Anthony Browne persuasively wrote: “Rising nationalism and fundamentalism around the world have meant that Christianity is going back to its roots as the religion of the persecuted.”⁷

I call to mind the thousands of Christians who have been killed in the Moluccas, Eastern Indonesia; the five million Christians who live as an underclass in Pakistan; and the Christians who live under the oppression of the Shari’ah law in 12 states of Nigeria. In Sri Lanka, anti-conversion legislation is pending and, according to Christian leaders I met there, approximately 150 Christian churches were attacked in 2004.

In many parts of the world where they are a minority, Christians are seen as pro-American and promoting pro-Western culture, and even as potential spies.

The blasphemy law in Pakistan is aimed essentially at Christians and establishes systematic religious discrimination in promoting a culture of intolerance. In some states of India anti-conversion legislation has been passed and some pastors have been beaten and others killed to terrorize the Christian community.

According Paul Marshall, Senior Fellow at the Center for Religious Freedom in Washington DC, 200 million Christians face violence because of their faith and 350 million face legally sanctioned discrimination in terms of access to jobs and housing.⁸ Today, almost all religions feel threatened; but we can say that Christianity, even though it is not without resources, is probably the least defended religion on a geopolitical level.

WHERE NOW?

The concept of a “clash of civilizations” is a little simplistic when it comes to reality, but it stimulates our understanding of the current situation. A global religious war is very difficult to imagine unless religious and nationalist extremists take control of the world. Religious extremists do, however, wield enough power and influence in several countries to change politics and sharply increase the level of discrimination for religious minorities.

We seem to be heading for a time of greater tension between religions. While we may have religious wars in parts of the world, such as India and Nigeria, persecution will be the most likely byproduct of that tension. In periods of crisis, there is a strong tendency for people to find a scapegoat. Religion has become the number one vehicle of hope and identity,

and each dashing of hope—each challenge to unity—will more easily lead to religious scapegoating.

Christians are becoming the scapegoats in the Middle East and Asia. They are in the minority and they have links with the West - especially with America, which is seen as a Christian nation in a way that United States fundamentalists barely aspire to.

Muslims are often the scapegoats in America and Europe because of their links, real or imagined, with terrorism. There are numerous examples of innocent Muslims being arrested and detained on terrorism issues.

Evangelicals are almost the perfect scapegoat. They are a minority everywhere. Their links with America are strong even if they are not necessarily pro-American. They are involved in proselytism everywhere and have conversions everywhere. There's a great deal of media opposition against them. They don't have a strong centralized organization. They don't have the support of any country, and their activism creates hostile reactions even within the Christian community.

In Asia and the Middle East, Evangelicals are accused by mainline Christians of threatening the status quo and provoking anti-Christian violence. Orthodox Patriarch Emmanuel Delly said about the activities of Evangelicals in Iraq: "I'm not against the Evangelicals. If they go to an atheist country to promote Christ, we would help them ourselves."⁹ Why? The answer is: "Even if a Muslim came to me and said, 'I want to be a Christian,' I would not accept. I would tell him to go back and try to be a good Muslim and God will accept you." He added: "Trying to convert Muslims to Christianity is not acceptable."¹⁰

In various Orthodox countries, Evangelicals are accused of destabilizing the traditional religion. Mainline Protestants and Catholics in Latin America are opposed to proselytism by Evangelicals. In some parts of the former Soviet Union, Evangelicals are seen as extreme fundamentalists and potential terrorists. If Evangelicals keep on growing and evangelizing everywhere in the world, we can easily imagine a tacit agreement between traditional religions against this perceived common threat.

Jehovah's Witnesses are also in a perfect position to fill the role of a scapegoat. They are non-violent, not involved in politics, not accepting of any support or alliance with any kind of organization, and non-ecumenical, yet they proselytize everywhere and refuse to enroll in the army. Who is there to speak out in their behalf? They were among the first to be arrested by the Nazi regime of the last century, and they were almost wiped out in Europe. Nobody

cares. They have been persecuted in many countries for refusing to salute the flag or go into the army. They have been listed as a sect in France and fined 45 million euros (58 million dollars) for taxes on the sale of their books. It is unfair, but who cares?

WHAT CAN WE DO?

The global trends today are not in favor of continued religious freedom. There is a great battle to come and we must be ready to defend religious freedom for all. We must defend the principle of church-state separation. We must work to create respect between religions. We have to explain to governments that religious discrimination is not good politics. In his article, "The Politics of Persecuted Religious Minorities," Philip Jenkins aptly stated: "The more they (minorities) are excluded, the more they will devote their loyalties and efforts to the religions subculture, and the more they will be seen as clannish, separatists, or subversive."¹¹

Don't give up. Be the voice of the voiceless. Be the voice of the millions persecuted for their faith. We need to promote, defend, and protect religious freedom for all people everywhere. Religious freedom is the gift of the Creator to humanity.



E N D

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FREEDOM OF RELIGION IS FREEDOM OF EXPRESSION AND FREEDOM TO HOLD AND IMPART DIFFERENT VIEWS

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WHAT IS RELIGION?

According to the Harvard Human Rights Journal (Vol. 16, 2003), the term “religion” remains undefined as a matter of international law. The absence of a definition of religion is not peculiar to international human rights conventions; most national constitutions provide for freedom of religion without defining religion.

Notwithstanding the absence of a definition, we can tell what religion is when we perceive it in different ways, such as:

1. Religion as a belief: It pertains to the convictions that people hold regarding such matters as God, truth or doctrines of faith. It emphasizes the importance of individuals having a proper understanding of doctrines together with the critical importance of religious communities of like-minded believers.

2. Religion as identity: It emphasizes affiliation with a group. In this sense, it is akin to family, ethnicity, race or nationality. This form of perception views religion as something people are born into as opposed to conversion after a process of study, prayer or reflection. It emphasizes shared histories, cultures, ethnicities and traditions. Religion is seen as a search for identity in the face of what could be perceived as “foreign influences.”

3. Religion as a culture and way of life: This view associates religion with actions, rituals, customs and traditions that distinguish believers from

adherents of other religions. It is inextricably linked with a culture and identity of a community especially before the rise of Christianity and Islam, which are the only two religions that focus on “conversions.”

FREEDOM OF RELIGION OR BELIEF

The Universal Declaration of Human Rights defines freedom of religion as: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Article 18 of the International Covenant on Civil and Political Rights provides that:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.
4. The state parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

The UN Human Rights Committee in its General Comment No. 22 in 1993 elaborated the meaning of this right to also include the freedom to practice no religion (irreligion) or the belief that there exists no deity (atheism).

Freedom of religion as a legal concept is related to but not identical with religious toleration or separation of church and state. Historically, freedom

of religion has been used to refer to the tolerance of different theological systems of belief, while freedom of worship has been defined as freedom of individual action.

The concept allowing individuals to believe in, practice and promote their religion of choice without repercussions are legitimate and worthwhile. Religious freedom means that individuals have the liberty to promote the religion of their choice without interference or harassment by both state and non-state actors, so long as these practices do not break the law (e.g. encourage fraud, tax evasion, murder terrorism, etc.).

THE PLACE OF RELIGION IN SOCIETY: IS IT IN THE PERSONAL OR NATIONAL SPHERE?

The protection of freedom of religion is a matter to be guaranteed by the State by refraining from interference with its enjoyment. Nevertheless, the practice of religion—and, indeed, when and how to practice it—is a matter of personal choice as opposed to being regulated in the national sphere. This assumption is only correct though, when we talk of freedom of religion in a secular state.

In the middle ages in Europe, the Catholic Church kept a tight reign on religious expression. For instance, Jews were alternately tolerated and persecuted with the most notable example being the Spanish Inquisition. Throughout history, attempts have been made by states or religious communities to enforce religious conformity in a community. The Christian Crusaders fighting to free the holy land from the “infidel,” or the Ottoman Empire’s efforts to put all Muslims under the wing of the Caliph are examples.

Freedom of religion becomes much more problematic in non-secular states when religion moves from the private realm to the public sphere. In Saudi Arabia, the Commission for the Promotion of Virtue and Prevention of Vice may walk through the marketplace and arrest women who are not completely veiled. Many will agree that religious freedom should not override other freedoms.

No group, organization, or even religious fundamentalists should seek to monopolize the space and crowd out all other religions/beliefs while claiming to represent the only legitimate path. As Mahatma Gandhi noted, there is not a single path to the truth. We may all take different routes to reach the same destination. Religious pluralism essentially asserts that no one religion can be said to have the sole truth. There is a disturbing trend,

however, where various nations are increasingly leaning toward religious norms as guiding political principles with examples from Christianity, Islam and Hinduism.

FREEDOM OF RELIGION IN THE CONTEXT OF FREEDOM OF EXPRESSION

One of the hallmarks of religious intolerance has been the unwillingness of adherents of one religion to entertain alternative thought. There is the obvious lesson that much of the ethnic violence, nationalist bloodletting and civil war that have occurred in history have flowed from a context of cynical intolerance to opportunism, isolation of some groups, and disorder, which results in a vicious cycle of blame allocation among the “competing” religious groups. Getting to a happier social equilibrium cannot be possible for humanity without a culture of toleration. The profusion of different religions and beliefs cutting across existing schisms, individual preferences, attitudes and beliefs in society must be accommodated.

High levels of free expression enable citizens to choose and discuss religious beliefs openly. Individuals ought to be free to practice their religion as they deem fit and to freely mobilize their peers, including engaging in protest without infringing on the rights of others. Encapsulating society within an environment that isolates them from alternative views, religious practices, and ties only inculcates a rigid ideological belief system that demands total obedience and weakens individuals’ freedoms.

By being part of civil society, religious groups must never seek to win control or position within the state by seeking to govern the polity. Rather, their role is to pursue concessions, benefits, policy changes, institutional reforms, relief, redress, justice and accountability by seeking to reform the structure of power as opposed to taking power themselves as religious groups.

CONCLUSION

The victims of intolerance and discrimination on grounds of religion or belief are quite diverse. They may be believers or non-believers, or belong to society at large. It is, therefore, paramount for states not to make or apply laws that would criminalize adherence to any religious beliefs and practices.

Freedom from religious hatred and violence is an essential element of religious freedom. Advocacy of religious hatred constitutes incitement to discrimination and article 20 of the ICCPR provides that it shall be prohibited by law.

There is an inherent complexity in reconciling the right to freedom

of expression (article 19 ICCPR) with the right to freedom of religion and belief. Be that as it may, freedom of expression has never been an absolute right. It carries with it special duties and responsibilities and may be subject to restrictions necessary to ensure respect for the rights and reputations of others, to protect public order, public health and public morals.

In a nutshell, freedom of expression can never justify incitement to religious hatred.



END



CULTURE, RELIGION AND NATIONAL IDENTITY IN A POSTMODERN WORLD

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INTRODUCTION

Invoking the term, “postmodern,” as I do in the title, I am bound to raise questions. Since being postmodern is to assume a skeptical attitude toward the coherence of all ideologies, theories, and general concepts—is to go around “problematizing” everything and “essentializing” nothing. As they say, the best we can hope for is to understand what a “Postmodern World” is *not*. If we wish to rebuild as well as break apart, revive as well as dissect, it is not clear how far postmodernism will get us.¹

However, there is a more serious problem. Richard Wolin, author of *The Seduction of Unreason: The Intellectual Romance with Fascism from Nietzsche to Postmodernism* lays down the following startling claim: “In academic quarters, postmodernism has been nourished by the doctrines of Friedrich Nietzsche, Martin Heidegger, Maurice Blanchot, and Paul de Man—all of whom either prefigured or succumbed to the proverbial intellectual ‘fascination with fascism.’”² Wolin’s thesis and evidence concerning the links between postmodernism and fascism, especially in regard to Jacques Derrida and Michel Foucault, are no doubt controversial and subject to review. Nevertheless, Wolin mounts a strong case for a close connection on the part of central figures, like Heidegger and Hans-Georg Gadamer, and for concluding that even individuals like Derrida and Foucault shared, to a disturbing degree, the deep anti-liberal bias characteristic of fascist thinking. Wolin’s book ought to cause considerable discomfort within the postmodern movement.

Still, there is one point at which postmodern thought has, by implication, made an illuminating contribution, and one that, *within limits*, bears constructively on our topic. That has to do with a way of examining three other ideas referred to in our title, “culture,” “religion,” and “national identity.”³ As we said, postmodernism is congenitally suspicious of unified theories and “master narratives,” and has the same attitude toward general ideas. In face of

such things, the first instinct of a postmodernist is to “deconstruct” them into their subparts, which, it is believed, are typically in conflict with each other. For postmodernists, the main problem with unified theories, ideologies, and general ideas is that they cover a multitude of tensions and contradictions, all of which are obscured when they are thought of as smoothly coordinated parts of a harmonious whole. Indeed, following Nietzsche, the belief is that any alleged “order,” “harmony,” or “unity” is in reality the product of power and domination, not a display of intrinsic rational or moral coherence. As Nietzsche once said, epitomizing postmodern thought (if that is possible!), the dominant language of any given nation is nothing more than a dialect backed by an army.

Postmodernism, then, contributes two important ways of thinking about culture and religion, including how these ideas interact with each other in a national context. Following postmodernists, we ought, first, to conceive of these ideas *not as something orderly, unitary and stable, but rather as a congeries of differing and often conflicting perspectives and attitudes that are constantly being contested and challenged*. As someone has said, culture is not a thing, but a process. It is not fixed and settled once and for all, but is always in flux. The same is true of religion, and of its impact upon the formation of culture and national identity.

Second, we ought to appreciate *the role of power and domination* in what gets established as a “prevailing culture,” including the place of religion, of any nation. Though, as I shall argue, postmodernists go much too far on this point, their emphasis on the influence of governments and allied groups in favoring and imposing one system of national cultural and religious values and suppressing and restricting others is quite important. Governments and allied groups are undoubtedly instrumental in all nations, to a greater or lesser degree, in sponsoring one set of religious and cultural beliefs over others. They thereby determine, too often by arbitrary and injurious methods, what does and does not get counted at any given time and place as the official culture (and religion) of a particular society.

But however insightful all this is, postmodernists tend to lose control of the analysis by overgeneralizing it. They cannot bring themselves to admit that there are better and worse ways of dealing with the temptation of governments and allied groups to dictate what is and is not acceptable. For example, postmodernists are inclined, as we hinted above, to be particularly suspicious of “liberal discourse,” including human rights rhetoric, as an effective way of restraining arbitrary governmental power. As Wolin points out, postmodern philosophy considers the language of human rights to be a

“discourse of pseudo-emancipation” that invariably conceals sinister forms of power and domination.⁴

In contrast, my view is that it is precisely in light of the two valid points postmodernists make about the shaping of culture, religion, and national identity—1) irreducible pluralism and persistent controversy, and 2) liability to arbitrary domination by governments and allied groups—that makes clear exactly why we need the system of human rights protections, including special protection of religious freedom, or, more precisely, of “conscience, religion, and belief,” in the language of the human rights documents.

In summary, my thesis is this: If the character of religion, culture, and national identity is as plastic, variable, and contested as postmodernists say it is, and, likewise, if beliefs about culture, religion and national identity are as liable to arbitrary domination as they suggest, then it will be urgently important to find protection against discrimination and repression for the widely different and often conflicting opinions concerning these subjects present in all nations, whether American, French, Turkish, Japanese, or any other. And that is exactly where human rights protections come in. This is particularly true of the special safeguards for “religious freedom,” which are best referred to as “belief rights.”⁵

Since the claim about the special validity of the human rights system in confronting the realities of culture, religion, and national identity is what distinguishes the above thesis from postmodern thought, a defense of that claim is obviously required. It will be necessary to support the conviction that it is especially the human rights protections of “religion or beliefs,” including those that inevitably challenge and seek to revise prevailing views of culture, religion and national identity that are crucial today. The critical assumption is that these protections, which provide outside constraints and limits on *all* national cultures, are themselves not discreditable or dispensable, as postmodernists seem to think they are.

A DEFENSE OF BELIEF RIGHTS⁶

All nations who are party to international human rights instruments, such as the International Covenant on Civil and Political Rights, and who are consequently obligated to promote human rights around the world, have three reasons to be urgently concerned about violations of belief rights, all related to the excesses of what we may call, “pathological nationalism.”

First, the whole edifice of human rights standards is based on the need to protect individuals against collective domination and the unlimited opportunity for arbitrary abuse that follows from it. Universal recognition

of that fact constituted the fundamental lesson drawn after World War II from the effects of fascist pathology, whose root is the absolute subjection of the individual to the will of the nation. As Hitler put it, "National Socialism takes as the starting point...neither the individual nor humanity... (but) *das Volk*... (and) desires to safeguard (it), even at the expense of the individual."⁷ Revulsion against such views gave rise to the human rights revolution, which contributed to what Mary Ann Glendon calls, "A World Made New" in the title of her book on the drafting of the Universal Declaration of Human Rights.⁸

A prominent feature of nationalist domination is abrogating the right to dissent in matters of "conscience, religion, and belief."⁹ In particular, fascism constituted a direct, comprehensive, and systematic assault on the four categories of belief right that were subsequently guaranteed in the documents, and that were explicitly formulated against the background of fascist offenses.¹⁰

1. The *right of free exercise in matters of thought, conscience, religion and belief*, which amounts to the right of liberty. This right includes a guarantee against being "subject to coercion which would impair (the) freedom to have a religion or belief of (one's) choice,"¹¹ and "does not permit any limitation whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice."¹² Also guaranteed is the freedom, "either individually or in community with others and in public and private, to manifest (one's) religion or belief in worship, observance, practice and teaching."¹³ "The observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head covering," etc.¹⁴

The only allowable limitations are those that governments may impose on the "freedom to manifest religion or belief," as opposed to holding or choosing one, for the purpose of protecting "public safety, order, health, or morals or the fundamental rights and freedoms of others."¹⁵ At the same time, the burden of proof clearly rests with the government in regard to such actions. The government must show that any limitation on the manifestation of conscientious belief is both "necessary" and "proportionate"; that is, the limitation must be designed and administered so as to impose the least restrictive burden consistent with protecting a truly compelling state interest.¹⁶ It should be noted that limitations on the freedom of religion or belief are *not* permitted for unspecified considerations, such as national

security.¹⁷ Since fascists justified the abridgement of any and all rights on grounds of national security, this is an important exclusion.

2. The *right against discrimination based on religion or belief*, which is another way of stating the right of equality. According to this principle, “the expression, ‘intolerance and discrimination based on religion or belief’¹⁸ means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.”¹⁹ This means that while a state or official religion is not ruled out as such, its existence may not be used as a basis for “any discrimination against adherents of other religions or non-believers.” For example, any “measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths,” are prohibited.²⁰

3. The *right of the protection of minorities, whether “ethnic, religious, or linguistic.”*²¹ Authoritative interpretation of this right by the Human Rights Committee has gone some way toward overcoming the weakening of this provision that took place at the time of the drafting of the UDHR,²² mainly at the urging of representatives of the United States, Canada, and Australia, who were concerned to reduce the scope of cultural autonomy for minorities in favor of a policy of assimilation. The recent pronouncements by the Committee suggesting that in the interest of “correcting conditions which prevent or impair the enjoyment” of minority rights, “positive measures by States may...be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion...,”²³ recall more robust formulations of the right of minority protection that were rejected at the time of drafting.²⁴

4. The *right against “religious...hatred that incites to discrimination, hostility or violence.”*²⁵ Considerable perplexity surrounds this right. Against the background of fascist practice, it makes good sense to “prohibit by law” actions aimed at and capable of producing discrimination, hostility and violence against religious and other groups and individuals. There is no lack of vivid examples of impermissible behavior from the Nazi time. Moreover, bringing about discrimination (as defined above under belief right 2) is by now indisputably a violation of human rights, as is inciting violence (except as

an expression of “the sovereign right of self-defence or the right of peoples to self-determination”²⁶).

On the other hand, it is particularly difficult, for legal purposes, to specify the meaning of “religious hatred” and “hostility,” as referred to in the provision. Hatred and hostility, which are largely matters of attitude and emotion, are notoriously hard to police, and, because of that, invite conflicts with the rights of free speech and expression, as was already clear from the debates surrounding the drafting of this provision.²⁷ It is predictable that this right, however indispensable, will continue to generate considerable controversy around the edges.²⁸

The wholesale denial of the rights of free exercise, nondiscrimination, minority respect, and protection against abuses caused by religious and other forms of hatred, as were practiced by mid-twentieth-century fascist governments, illustrates perfectly the two aspects of postmodern analysis of culture and religion. A society otherwise culturally and religiously diverse comes to be dominated by a repressive national system arbitrarily imposed from above. The obvious practical inference, it seems to me, is to adopt the human rights solution—namely, to embrace and promote belief rights, along with other human rights provisions, all of which are designed to protect pluralism and dissent by thwarting or reducing arbitrary national domination.

The same message applies to the second reason for being urgently concerned about the violation of belief rights. It is that the “pathological nationalism” associated with fascism did not end after World War II. Rather, it mutated into various forms of authoritarianism and ultra nationalism, as became apparent especially after the collapse of the former Soviet Union, and came to represent new versions of the same threat represented by fascism.

Of special concern nowadays is what may be called, “ethnoreligious nationalism,” whereby one group, with a specific ethnic and religious identity, attempts to gain political and legal control over the inhabitants of a given territory, and to assert and preserve its cultural and religious preeminence at the expense of minorities within the territory. As Bosnia, Kosovo, Sudan, Sri Lanka, India, Northern Ireland, Israel/Palestine, and many other cases illustrate, such efforts variously involve intolerance, discrimination, persecution, expulsion, and even liquidation, particularly toward minorities, usually at the hands of national governments. As we say, societies otherwise culturally and religiously diverse come to be dominated (to varying degrees) by a repressive national system imposed from above. Again, the only reasonable antidote, it would seem, is to

sponsor the spread of belief rights and other human rights. Happily, there is some evidence that that is happening to a significant degree and with distinctly positive effects.²⁹

A third reason to be concerned about the violation of belief rights, and about the need for their protection, is the rise of terrorism, and its connection to pathological nationalism, as described in Robert Pape's recent study, *Dying to Win: The Strategic Logic of Suicide Terrorism*.³⁰ Pape's central thesis is that "the taproot of suicide terrorism is nationalism—the belief among members of a community that they share a distinct set of ethnic, linguistic, and historical characteristics and are entitled to govern their national homeland without interference from foreigners."³¹

While religion is not the primary cause of suicide terrorism, it is a critical factor, according to Pape, in consolidating group identity and in intensifying the divisions between the in-group and outsiders, particularly occupiers like the Israelis in Palestine, and the United States in Iraq and elsewhere in the Arab world. Because of the "mechanism of exclusivity" and the potential for "demonizing the enemy" that are especially associated with religion, it is the case that "under the circumstances of a foreign occupation..., religious difference can inflame nationalist sentiments in ways that encourage mass support for martyrdom and suicide terrorism,"³² sentiments that encourage the "the willingness to die, and the willingness to kill innocents."³³

Obviously, the methods of terrorism, including suicide terrorism, systematically violate human rights norms, and insofar as terrorism is linked to nationalist liberation, promise a political arrangement in which religious and cultural life would be subject to the most extreme form of arbitrary domination. For example, Osama bin Laden, in advocating the expulsion of foreign troops from Arab states like Kuwait, Saudi Arabia, and Iraq, and the creation in these and other states of what he regards as an authentic Islamic national government, has given a glimpse of his specific ideals and objectives by supporting and affiliating with the National Islamic Front in Sudan, and the Taliban government in Afghanistan. These regimes are two of the most notorious violators of human rights, including all four of the belief rights, in recent history.

By singling out these three examples of "pathological nationalism," we intend both to show the appalling consequences of a systematic denial of belief rights (and other human rights), and to inspire and/or reinforce a commitment to them. We should emphasize that the temptation to repress religious and cultural diversity by means of arbitrary domination is by no means limited to the three examples we have considered. Actually, all modern nations

are to a greater or lesser degree caught up in struggles between majorities and minorities over cultural and religious identity. It is just because there is indeed *no place* where the subject of cultural and religious identity is 'something orderly, unitary and stable,' and where it is not comprised of 'differing and often conflicting perspectives and attitudes that are constantly being contested and challenged', or where the tendency of governments and allied groups to impose arbitrary order is absent, that the need for belief rights is so universally critical.

Ultimately, my entire defense of belief rights rests upon the following conviction: In face of the events of the mid-twentieth century and after, it seems morally unavoidable to believe that each and every human being is bound to regard what the Preamble to the UDHR calls "barbarous acts which outraged the conscience of mankind" with the same "shared outrage" that united the drafters of the UDHR and animated their work, and that "explains why the Declaration has found such widespread support." By employing the phrase, "outraged the conscience of mankind," "the drafters generalized their own feelings over the rest of humanity. Taking a position diametrically opposed to Hitler's, they believed that any morally healthy human being would have been similarly outraged when placed in similar circumstances."³⁴ Moreover, it seems equally morally unavoidable to commit to embracing and upholding the basic standards of restraint designed by the drafters to prevent the recurrence of those barbarous acts, and to follow the Declaration in holding all people, including religious people, accountable to the standards.

It is this conviction that there exists an irreducible and common moral foundation for belief rights (and other human rights), then, that distinguishes the position here defended from postmodern thought. However much postmodernists illumine our understanding of national culture and religion, their doctrinaire skepticism is, in my opinion, finally self-defeating. It leaves them with no basis for embracing the indispensable means by which to protect cultural and religious pluralism and dissent from arbitrary domination within a national context.

CULTURE, RELIGION AND AMERICAN NATIONAL IDENTITY

We may briefly apply what we have so far worked out to a specific case, namely recent controversies surrounding American national identity. The controversies are focused on a much-discussed recent book by Samuel P. Huntington, *Who Are We? Challenges to America's National Identity*,³⁵ in which

Huntington argues that what he calls, “Anglo-Protestant National Identity” is a relatively consistent and unified cultural pattern throughout American history. It is a special combination, he says, of definitive British influences, particularly language and political-legal institutions, and religion, namely a distinctively American form of Protestant Christianity.

Huntington is emphatic about the idea that American religion is of critical importance. He calls the 21st century “a century of religion,” and says that in America “evangelical Christianity has become an important force, and Americans generally may be returning to the self-image prevalent for three centuries that they are a Christian people.”³⁶ He finds that Americans in large numbers view atheists unfavorably, and “seem to agree with the founders that their republican government requires a religious base...,”³⁷ and he himself declares that America’s “civil religion,” as he calls it, “is not compatible...with being an atheist...”³⁸ While the idea of what is called the “American Creed”—namely, a set of civil and political ideals, assuring equal freedom for all citizens in regard to press, assembly, speech, religion, etc.—is important, it is itself, Huntington claims, “the unique creation of a dissenting Protestant culture.” In short: no Protestantism, no creed.³⁹

But however unified and coherent the Anglo-Protestant identity has been historically, there now exist two significant challenges to it, according to Huntington.⁴⁰ One is the large and growing bloc of Latino, and especially Mexican, immigrants, who manifest a set of characteristics that in the history of U.S. immigration are uniquely opposed to American national identity. Unlike earlier immigrants, Mexicans are very unlikely to adapt to American identity because of their extraordinary numbers, their proximity to their homeland, their tendency to isolate themselves once in the United States, and their “often contemptuous” attitude toward American culture. On the contrary, they are likely to try to undermine it.⁴¹

The second challenge is represented by a collection of “dead souls,” as Huntington calls them, who make up the “denationalized elites.” These Americans are part of an “emerging global super class” alienated from the vast “patriotic public” because of a set of shared “transnational ideals” according to which nationalism is regarded as “evil, national identity suspect, and patriotism passé.”⁴² Huntington invokes approvingly the following description of academics and intellectuals, political leaders (especially in the Clinton administration), business people, employees of international non-governmental organizations, etc. who, he believes, are members of this group:

The cosmocrats are increasingly cut off from the rest of society: Its members study in foreign universities, spend a period of time working abroad, and work for organizations that have a global reach. They constitute a world within a world, linked to each other by a myriad global networks but insulated from the more hidebound members of their own societies...They are more likely to spend time chatting with their peers around the world—via phone and email—than talking with their neighbors in the projects around the corner.⁴³

There are three kinds of these deracinated Americans. “Universalists” believe in “the triumph of America as the only global superpower,” underscored by the “widespread acceptance of American popular culture and values by other societies,” such that America becomes the “universal nation.”⁴⁴ The “economic approach” “focuses on economic globalization as a transcendent force breaking down national boundaries, merging national economies into a single global whole, and rapidly eroding the authority and function of national governments.”⁴⁵ Lastly, the “moralistic approach” “decries patriotism and nationalism as evil forces and argues that international law, institutions, regimes, and norms are morally superior to those of individual nations.”⁴⁶

Two questions need to be raised about these alleged challenges to American national identity. One concerns the accuracy of the threats purportedly represented by Mexican immigrants and by members of the denationalized elites. A number of critics have taken issue with Huntington’s description of the outlook of Mexican immigrants, citing evidence that points to a much more favorable attitude toward American culture, and a much greater readiness on their part to learn English and participate in the society than Huntington provides.⁴⁷ The same objection has been applied to his description of the views of the denationalized elites. According to one critic, “the erosion of national identity at the hands of multiculturalists and liberal elites is something people were fretting about five or ten years ago,” but “a lot of the conviction leaked out of the argument after the attacks of September 11th.” That event produced both a surge of patriotism and national unity, and a shared belief that “the cultural pluralism that had once seemed threatening became, overnight, an all but official attribute of national identity.”⁴⁸

But suppose Huntington’s descriptions are even partially accurate, and that at least some Mexican Americans and some denationalized elites do pose the kind of challenge he says they do. There remains the second question

regarding what we ought to make of that fact. *How exactly should we go about deciding whether to welcome or resist a challenge (if it is such), as put forward by Mexican Americans or by denationalized elites, or by anyone else, for that matter?*

Huntington himself displays considerable unclarity regarding this second question. On the one hand, he appears to operate as a “value-free social scientist,” simply mapping out in a disinterested way the various options available to Americans regarding who they are. These options are described in last chapter as what he calls, the “cosmopolitan,” “imperialist,” and “national” approaches, and they might be understood as purely descriptive generalizations, based on historical and sociological evidence, which constitute the major choices concerning national identity that Americans face at present.⁴⁹ The fact that Huntington devotes most of his book to the “national approach,” and to its Anglo-Protestant characteristics, might similarly be understood as a purely empirical argument.

On the other hand, much more seems to be at work in *Who Are We?* than a purely descriptive exercise. It is impossible to avoid the conclusion that Huntington is himself passing evaluative judgment among the options in favor of the “national approach.” “The alternative to cosmopolitanism and imperialism,” he writes, “is nationalism devoted to the preservation and enhancement of those qualities that have defined America since its founding.”⁵⁰ “Cultural America is under siege.” The American people are likely to “postpone their demise and halt disintegration, by renewing their sense of national identity, their national purpose, and the cultural values they have in common.”⁵¹

Huntington’s support for his evaluative preference—unfortunately never carefully developed or defended—is, it seems, a combination of two arguments, one *majoritarian* and the other *functional*. The majoritarian argument holds that whatever “most people,” as inferred from historical and contemporary sociological evidence, decide is the country’s national identity is what it is; in short: *majority rules*. According to the functional argument, unless the national identity (as determined by “most people”) is preserved and enhanced, the nation will disintegrate.

Huntington is serious about these arguments. He draws lessons from two recent legal cases that illustrate the depth of his commitment to majoritarianism, and the degree of his apprehension over threats to majority beliefs.⁵² The first case involves a legal initiative, undertaken in 2002 by Dr. Michael Newdow, an avowed atheist, to remove the words, “under God” from the Pledge of Allegiance. The initiative was upheld in a lower California court,

and then later overturned by a higher court on the grounds that Dr. Newdow did not have proper legal standing. The second case concerns one Brian Cronin, who, in 1999, sought the removal of a sixty-foot cross that had stood on public land in Boise, Idaho for forty-three years.

In response to the first case, Huntington comments on Newdow's claim that the words, "under God" in the Pledge made him feel "like an outsider," a claim the lower court agreed with.

Dr. Newdow and the court got it right: atheists are 'outsiders' in the American community. As unbelievers they do not have to recite the Pledge or to engage in any religiously tainted practice. They also, however, do not have the right to impose their atheism on all those Americans whose beliefs now and historically have defined America as a religious nation.

Is America also a Christian nation? The statistics say yes; 80 percent to 85 percent of Americans regularly identify themselves as Christians.⁵³

As to the case concerning Brian Cronin and his attempt to remove the sixty-foot cross from public land in Boise, Idaho, Huntington takes the same position. In response to Cronin's claim, "For Buddhists, Jews, Muslims, and other non-Christians in Boise, the cross only drives home the point that they are strangers in a strange land," Huntington writes:

Like Dr. Newdow, Mr. Cronin was on target. America is a predominantly Christian nation with a secular government. Non-Christians may legitimately see themselves as strangers because they or their ancestors moved to this 'strange land' founded and peopled by Christians, even as Christians become strangers by moving to Israel, India, Thailand or Morocco.⁵⁴

Huntington's responses to these cases illustrate the problems with his position. The difficulties are several. In the Newdow case, it is incorrect to say that removing the words, "under God," from the pledge is the same as imposing atheism. That would be true only if some such words as, "*not* under God (since God does not exist)," were substituted. Simply removing reference to the deity leaves the matter of religious or anti-religious commitment open.

In the Cronin case, Huntington himself appears to worry, very obliquely, about discrimination. He points out that in similar cases in other

cities, people supporting the presence of a cross on public property have “attempted to preserve it by transferring ownership of the land to private groups, *thus implicitly recognizing problems involved in the blatant government display of the symbol of only one religion.*”⁵⁵ This admission may also imply sensitivity on Huntington’s part to the fact that a “secular government,” to which he refers, has obligations to treat all religions equally, rather than unfairly privileging the majority.

However, these hints of sensitivity make all the more surprising Huntington’s unwavering readiness to dismiss Cronin’s and Newdow’s concerns about being considered “outsiders” and “strangers.” Is it self-evident that because they are members of a minority “religion or belief,” and wish to challenge what they regard as the arbitrary domination of the majority, they ought to be told that they have no cultural or religious standing to do so? Should they be told that because they are not members of the “Anglo-Protestant majority,” they are not full-fledged members of the American national community, and ought properly to be satisfied with the status of outsiders and strangers?

Moreover, ought they to pause if they are informed that the changes they seek are likely to produce “demise” and “disintegration” in regard to certain aspects of the dominant American national identity? Should they not rather be expected to rejoice, as have countless minorities in the history of this and other countries, at the prospect of some disruption and transformation of the dominant religious and cultural patterns? Is that not exactly the point of their protests?

Incidentally, it does not help Huntington’s case to contend, as he does, that minorities in Israel, India, Thailand, or Morocco have no more reason to worry about being called outsiders and strangers than do non-Christians in America. In each of those countries, the legal and cultural status of religious and other minorities is an acute and continuing problem, which, one can only hope, will be allowed to be debated and contested fairly and openly, rather than concluded and closed down in the name of majority dominance and predictions of imminent demise if change occurs.

In essence, Huntington’s central arguments do not work because he has failed to appreciate the three basic points about culture, religion, and national identity we have tried to make: 1) the susceptibility of these matters to irreducible pluralism and persistent controversy, 2) the liability to arbitrary domination (including majoritarian domination), and 3) the urgent need (in face of the first two conditions) for a system of standards, best expressed by

human rights, and particularly by belief rights, that assure maximum fairness and openness in respect to debating and contesting the cultural and religious character of national identity.

CONCLUSION

Though I have hardly thought it through, or begun to elaborate it adequately, I offer the following sketch of an alternative view of American national identity as a way of summarizing the framework of thinking I have laid out in this essay.

We are a people who freely and fairly debate and contest the question of who we are culturally and religiously, and agree to accept provisional answers according to a set of constitutionally guaranteed procedures (roughly referred to as “the American Creed”). These procedures, together with the institutions and customs that embody them, are historically embedded in particular ways (something that is undoubtedly very important for American national identity). However, these procedures are also subject to scrutiny and modification in the light of international human rights standards (especially belief rights).



E N D

1. We should not forget the additional problem of the incomprehensibility of much postmodern prose, well captured by this irreverent query: What happens when you are addressed by a Mafia member in league with a postmodernist? Answer: you are made an offer you can't understand.
2. Princeton; University Press, 2004, p. xii.
3. Further following the lead of postmodernists (up to a point, at least), we are concerned in this essay with the connection of “culture” and “religion” and “national identity.” As Wolin points out, postmodern thought is deeply influenced by the thought of J.G. Herder, who stressed the importance of the national setting of cultural and religious life (the critical role of *das Volk*), as over against the cosmopolitanism of the Enlightenment (*ibid.*, pp. 113-118). One need not agree entirely with this interpretation (as I do not) to accept the contemporary salience of the idea of nation as an appropriate context for starting the analysis of culture and religion. Accordingly, by “culture” we shall mean “a set of shared understandings and ideals taken to describe what a given nation is and ought to be.” (We need not provide a specific definition of “religion” since, following human rights practice, we shall be interested in all conscientiously-held beliefs, religious or not, and their bearing on the formation of national culture. See fn. 5, below).
4. *Ibid.*, p. 22. For an expression of this skeptical postmodern attitude toward human rights language, see Talal Asad, “Formations of the Secular: Christianity, Islam and Modernity. Stanford: University Press, 2003, esp. ch. 4. Asad concludes that international human rights are little more than biased instruments in the service of the existing nation-state system. They are, he says, “floating signifiers that can be attached to or detached from various subjects and classes constituted by the market principle and by the most powerful nation-states” (p. 158). I have provided a lengthy critique of Asad's views in my forthcoming essay: “Religion, Human Rights and Secularism: Preliminary Clarifications and Some Islamic, Jewish and Christian Responses.”
5. I have coined this term as the most satisfactory way of expressing the broad interpretation of “religious freedom” provided by the Human Rights Committee in its authoritative commentary on Article 18 of the International Covenant on Civil and Political Rights. On this interpretation, all conscientiously-held beliefs, whether “theistic, nontheistic, (or) atheistic,” are included under the protection of Article 18, which states: “Everyone shall have a right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of (one's) choice.” See Tad Stahnke and J. Paul Martin, eds., *Religion and Human Rights: Basic Documents* (Center for the Study of Human Rights, Columbia University, 1998), para. 2, p. 92. The term, “religious rights,” which is often used, seems to me to be too restrictive and improperly to favor religion. On my understanding, “belief rights” would include

- all conscientiously-held religious and nonreligious beliefs, placing them on an equal footing. See Little, "Studying Religious Human Rights': Methodological Foundations," in Johan D. van der Vyver and John Witte, Jr., eds., *Human Rights in Global Perspective: Legal Perspectives* (The Hague: Martinus Nijhoff Publishers, 1996), pp. 45-47, and esp. fn.12, p. 50.
6. In this section, I borrow from my essay, "Rethinking Religious Tolerance: A Human Rights Approach," in David Little and Avid Chidester, *Religion and Human Rights: Toward an Understanding of Tolerance and Reconciliation* (Emory University Humanities Lectures, no. 3, 2001), pp. 3-30.
 7. Cited in Alan Bullock, *Hitler* (New York: Harper & Row, 1962), 401.
 8. Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001).
 9. "Thus, it will be recalled that although the German Constitution of August 11, 1919, assured full freedom of conscience and belief to all inhabitants of that country, and permitted each group to administer and control its own affairs, the National Socialist regime completely reversed the whole attitude of the State towards religion and belief.... They gradually restricted the activities of the Catholic Church in the sphere of charity, education, sports and work among youth: and at the same time they made determined efforts to assimilate the Protestant church into their organization and gradually, through the use of terrorist methods; to gain complete control over it." Arcot Krishnaswami, "Study of Discrimination in the Matter of Religious Rights and Practices," *Stahnke and Martic, Religion and Human Rights: Basic Documents*, p. 10.
 10. Johannes Morsink in his generally excellent book, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 1999), is uncharacteristically inattentive to the fascist background of the articles relating to belief rights, with the exception of prohibitions against "hate speech"; see pp. 69-72. As we point out in fn. 7, above, Krishnaswami is much more acute in this regard.
 11. International Covenant of Civil and Political Rights, article 18, para. 2. (cf. Declaration on the Elimination of all Forms of Intolerance and Discrimination, article 1, para. 2).
 12. UN Human Rights Committee General Comment on Article 18 of the ICCPR, Stahnke and Martin, *Religion and Human Rights*; *Basic Documents*, p. 92, para. 2.
 13. Article 18, para. 1, ICCPR; cf. article 1, para. 1 of DEID.
 14. Stahnke and Martin, *Religion and Human Rights: Basic Documents*, para. 4, p. 92.
 15. Article 18, para. 3. ICCPR; article 1, para. 3 of DEID.
 16. Stahnke and Martin, *Religion and Human Rights: Basic Documents*, para. 8, p. 93.
 17. *Ibid.*, para. 8, p. 93.
 18. While "intolerance" and "discrimination" seem to be equated here, they are not so equated in DEID, article 4, para. 2, where the declaration requires that governments "enact or rescind legislation where necessary to prohibit any such discrimination," and then goes on to call for "all appropriate measures to combat intolerance." The obvious implication is that intolerance and discrimination (and, conversely, tolerance and nondiscrimination) are not the same thing. See my discussion in Little, "Rethinking Religious Tolerance," pp.4-17.
 19. Article 2, para. 2 of DEID. Cf. articles 2 and 27 of the ICCPR, and articles 2 and 7 of the UDHR.
 20. Stahnke and Martin, *Religion and Human Rights: Basic Documents*, para. 9, p. 94.
 21. Article 27, ICCPR; cf. article 27, para. 1, UDHR. Article 27 in the UDHR completely eliminated any reference to minority protection, something that was restored to some degree in article 27 in the ICCPR. However, the Committee Comment goes well beyond the wording of article 27 in the ICCPR.
 22. See Morsink, *The Universal Declaration of Human Rights*, pp. 269-280.
 23. Stahnke and Martin, *Religion and Human Rights: Basic Documents*, para. 6.2., p. 99.
 24. See Morsink, *The Universal Declaration of Human Rights*, esp. pp. 272-274.
 25. Article 20, para. 1 of the ICCPR. Cf. article 7 of the UDHR.
 26. Stahnke and Martin, *Religion and Human Rights: Basic Documents*, para. 2, p. 96. Of course, introducing the qualification regarding self-defense and self-determination is bound to create its own perplexities when it comes to distinguishing between legitimate and illegitimate force.
 27. Morsink, *The Universal Declaration of Human Rights*, pp. 69-72.
 28. It is taken up thoughtfully, if in places inconclusively, in my opinion, by Natan Lerner in *Religion, Beliefs, and International Human Rights*, ch. 3. See my discussion in Little, "Rethinking Religious Tolerance."

29. See particularly the work of Ted Robert Gurr et al., especially his book, *Peoples versus States Minorities at Risk in the New Century* (Washington, DC: U.S. Institute of Peace Press, 2000). There Gurr reports that the "outlook (concerning the incidence of ethnic national violence around the world) is conditionally positive" (p. xv), and that "the number of groups using armed violence has been declining after decades of increase." (p. 275). Significantly, these encouraging developments are the result to an important degree, says Gurr, of "the recognition and active protection of the rights of minority peoples: freedom from discrimination based on race, national origin, language, or religion, complemented by institutional means to protect and promote collective interests" (p. 278). Gurr's work underscores the connection between human rights compliance and just peace.
30. (New York: Random House, 2005).
31. *Ibid.*, p. 79.
32. *Ibid.*, p. 79.
33. *Ibid.*, p. 90.
34. Morsink, Universal Declaration of Human Rights, p. 91. The assumption here—not unreasonable in my view—is that expressing moral outrage in response to Hitler's actions is itself a critical (if minimal) defining characteristic of what it means to be a "morally healthy human being." If there is skepticism toward this point, "it is recommended that the skeptic spend a few hours in the Holocaust Museum in Washington, D.C.," as I once put it (Little, "Tolerating Intolerance: Some Reflections on the Freedom as a Human Right," in *Reflections*, vol. 90, no. 2 (Summer/Fall, 1995), p. 23).
35. (New York: Simon & Schuster, 2004).
36. *Ibid.*, p. 15.
37. *Ibid.*, p. 88.
38. *Ibid.*, p. 103.
39. *Ibid.*, p. 68.
40. Huntington appears to have applied his earlier theory of worldwide civilizational conflict, as developed in his book, *Clash of Civilizations: The Remaking of World Order* (New York: Simon & Schuster, 1996), to what he believes are potentially deep fissures inside America. For the reasons enumerated in the text, Huntington regards Mexican immigrant as creating a "cultural clash" between their values and established American identity (p. 253). The second threat, posed, various forms of cosmopolitanism, internationalism, and transnationalism, represents for Huntington an equally profound cultural or civilizational threat to American traditions.
41. *Who Are We?*, pp. 254-55.
42. *Ibid.*, p. 273. See pp. 263-274 for a discussion of these "dead souls."
43. From John Micklethwait and Adrian Woolbridge, *A Future Perfect*, 241-242 cited at *ibid.*, p. 269.
44. *Ibid.*, p. 266.
45. *Ibid.*
46. *Ibid.*, p. 270
47. See Louis Menand, "Patriot Games: The new Nativism of Samuel P. Huntington," *New York Times* (Feb. 24, 2004), p. A 27. This reaction was confirmed by my Harvard colleague, Professor David Carrasco, in a public discussion of *Who Are We?* With my Professor Huntington that took place at Harvard Divinity School in the fall of 2004. It must also be said that the evidence Huntington himself supplies (on pp. 254-256) to support the explosive claim that Mexican-Americans are "often contemptuous of American culture" is surprisingly weak.
48. Menand, "Patriot Games," p. 92.
49. Huntington, *Who Are We?*, pp. 362-366.
50. *ibid.*, p. 365.
51. *ibid.*, p. 12.
52. *Ibid.*, p. 81-83.
53. *Ibid.*, p. 82.
54. *Ibid.*, p. 83.
55. *Ibid.*, p. 83.



CONSTITUTIONAL PROVISIONS FOR THE PROTECTION OF THE FREEDOM OF WORSHIP

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NATURE OF THE CONSTITUTION

The constitution is part and parcel of the law of the land. It nevertheless occupies a special status in a country's legal system. It is superior to the ordinary law. It is the fundamental law of the land. All other laws and, indeed, the very legal order of a country owe their existence to it. The constitution regulates the way the country is governed; it determines its form of government: whether a republic or monarchy, unitary or federal, presidential or parliamentary, secular or theocratic; it sets up the principal organs of the government (the legislature, the executive and the judiciary), sets out the manner in which they are to be constituted; allocates powers to them and prescribes the way those powers must be exercised; regulates the relations between those organs inter se; it also proclaims those fundamental values or principles which the people cherish and consider sacrosanct and pivotal to the country's political system. For example, article 3 of the Constitution of Ghana provides that:

“(1) Parliament shall have no power to enact a law establishing a one party state. (2) Any activity of a person or group of persons which suppresses or seeks to suppress the lawful political activity of any other person or any class of persons, or persons generally is unlawful.”

This provision is informed by Ghana's past political experience when free political activity was suppressed and competitive politics severely curtailed, resulting in people being detained without trial or being forced to flee into exile. The people of Ghana did not want a repeat of such nasty experience; hence the entrenchment of the prohibition of a one-party state into the

constitution. Similarly, the First Amendment of the U.S. Constitution, the oldest surviving constitution in the world, provides thus:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Again, this prohibition, particularly as it relates to religion, was informed by American history and experience. The early European immigrants to what is today the United States left old Europe because of religious intolerance. Because of the existence of established churches in their homelands they were not free to worship according to their beliefs or consciences. So they founded the American colonies where they hoped to be able to practice their religions freely without hindrance or compulsion. To avoid a repeat of the experience of their forebears, the drafters of the First Amendment entrenched the prohibition of an established church in the constitution.

What is entrenchment and what is its significance? And what is an entrenched provision to the constitution? Entrenchment means to establish firmly; to safeguard; or to accord special protection in such a way that what is protected cannot be easily removed or altered. An entrenched provision therefore means a provision of the constitution that cannot be repealed or amended except under more stringent conditions than those that are used to repeal or amend ordinary provisions. To repeal or to amend entrenched provisions, special and often involved procedures must be followed and special majorities in parliament must concur in the amendment of the provision. Entrenchment then may be linked to putting multiple locks and other security devices on a door in order to secure it against easy ingress into a room by intruders.

The constitutions of Namibia and Ghana provide good examples. In Namibia, given that country's past experience of oppression under apartheid, the constitution outrightly forbids any amendment to Chapter 3 of the constitution; that chapter deals with fundamental rights and freedoms. Article 131 of the constitution provides as follows:

“No repeal or amendment of any provisions of chapter 3 hereof, in so far as such repeal or amendment diminishes or detracts from the fundamental rights and freedoms contained and defined in that chapter, shall be permissible under this constitution, and no such

purported repeal or amendment shall be valid or have any force or effect.”

In the case of Ghana, the constitution singles out certain provisions, including those that prohibit the establishment of a one-party state and those relating to the fundamental human rights and freedoms, which it bills as “entrenched provisions.” To amend an “entrenched provision” the following requirements must be satisfied:

1. Before the Bill containing the proposed amendment is tabled before Parliament, it must be submitted to the Council of State;¹ the Council deliberates upon it and renders its advice to parliament within 30 days after receiving it.

2. Before the Bill is introduced before Parliament is must be published in the *Gazette* for a period of not less than six months. Publication for such a long period facilitates public discussion and consultations on the Bill.

3. The Bill is then introduced and is read for the first time in Parliament. Parliament merely notes it.

4. The Bill is thereafter submitted to the people as a whole at a referendum. For the referendum to be valid at least forty percent of the people entitled to vote, the registered voters, must vote at the referendum. It is thus not any number of voters who care to turn up to vote, as happens elsewhere,² that can legitimately amend the constitution. A substantial portion of the electorate, at least forty percent, must be mobilized and must turn up to vote at the referendum. Further more, for the Bill to pass at least seventy percent of those who vote at the referendum must vote in favor of passing the Bill. Thus a simple majority or two thirds majority of those voting will not suffice to amend an entrenched provision.³

5. Where the Bill is approved at the referendum, Parliament must pass it. The President, too, must assent to it.

Besides making it difficult for those with partisan motives and selfish or momentary interests to juggle with cherished values, entrenchment of key provisions into a country’s constitution has these added advantages. The first is that the value of principle contained in the entrenched provision acquires an

elevated status; it becomes a constitutional value or principle. This is because the constitution has a higher status than an ordinary act of parliament. It is said to be the supreme law of the land. The effect of this supremacy is that all other laws must conform to its provisions. If any law is found to be inconsistent with the constitution, then that law is null and void in its consistencies. Ordinarily parliament, which is supreme in the law-making sphere, has power to pass and amend any laws without any inhibition. However, such laws must not conflict with the provisions of the constitution. In other words, short of amending the constitution, parliament has no power to abridge a right that has its basis in the constitution.

The other advantage of entrenching or generally embodying human rights in the constitution is that they can be asserted before and enforced by the courts. Enforceability of rights takes them away from the realm of mere slogans, often found in party manifestoes and in communist-type constitutions. As is often said, rights without enforcement are like shadows without substance.

Thus, because of its values as a tool for safeguarding their political systems and for protecting their hard-won freedoms, a number of countries revere their constitutions and jealously guard them. This explains why, in such countries as Ghana and Uganda, it is a capital offense for anybody to attempt to unlawfully overthrow or abrogate the constitution.⁴

How best, then can the constitution be used to safeguard the freedom of worship? In discussing this issue we shall consider provisions in some African constitutions that spell out the relations between the church and state.

CONSTITUTIONAL MODELS FOR CHURCH AND STATE RELATIONS

It is the postulate of this paper that the nature of the relationships between church and state affects the extent of the freedom of worship in a country. It may either promote or hinder the exercise of that freedom. There are two models on this issue that are followed by African constitutions. In the first model the church and the state are fused together; the state is in a way a religious or theocratic state. In the second model, the state and the church are separate institutions and are independent of each other; here the state is secular.

(a) Fusion of church and state

Generally speaking, in Arab-speaking African states, where the majority of the inhabitants adhere to Islam, the church or mosque and state are fused. Indeed in some of these countries the appellation “Islamic” forms

part of the official name of the state. An example is the “Islamic Republic of Comoros.” Although the appellation “Islamic” is not part of the official name of Mauritania, the constitution proclaims that “Mauritania is an indivisible, democratic and social Islamic Republic.”⁵ A non-Arab-speaking, non-Muslim African state that bears a stamp of religion is Zambia. Through a constitutional amendment in 1996, the Zambians “Declare the Republic a Christian nation while upholding the right of every person to enjoy that person’s freedom of conscience or religion.”⁶

Another characteristic of states that follow this model is that one religion enjoys special status as the official religion of the state. The constitution of Mauritania, once again declares that “Islam” shall be the religion of the people of the state.⁷ The Constitutions of Algeria and Egypt similarly declare that “Islam is the religion of the state.”⁸ The implications of a religion being a state religion is that religious dogma guide state policies and laws. On this point the constitution of the Comoros provides that “The Comorian people solemnly proclaim their aspiration to draw from Islam, the state religion, abiding principles and laws that shall govern the state and its institutions.”⁹ That of Egypt provides that Islamic jurisprudence is the principal source of legislation. That of Libya goes even further. It proclaims that “The Holy Koran is the constitution of the Socialist Peoples Libyan Jamahiriya.”¹⁰

Additionally, in countries where there is fusion of church and state, the church is to some extent a branch of the government; church workers are treated as state employees: they are appointed by the state and paid out of state funds. For example, in Britain, acting on the advice of the Prime Minister, the Queen appoints the bishops of the Church of England. In other countries the leader of the state is also the leader of the church. Constitutions of countries such as Mauritania explicitly provide that the President, who is the chief of state, “shall be a Muslim.”¹¹ Where the leadership of the church and the state resides in different people, the leader of the church may have supreme authority over that of the state. In countries where such a state of affairs obtains, the church leader has power to vet and veto state policies, laws and decisions and even to depose political leaders who may not be complying with ecclesiastical injunctions and directives.¹²

(b) Separation of church and state

In countries where there is separation of church and state, the two institutions exist for different though complementary purposes. They operate in separate domains: the state in the secular and the church in the

spiritual domain. They are organized and administered separately. The state is administered according to its constitution and laws; the church is administered according to its constitution laws, teaching and traditions. Both institutions do not involve themselves in the governance or administration of the other. The Constitution of Senegal neatly captures this aspect of church-state relations when it provides that:

“The religious institutions and communities have the right to develop themselves without hindrance. They are free of the oversight (de gages de la tutelle) of the state. They regulate and administer their affairs in an autonomous manner.¹³

Thus neither the church nor the state meddles in the internal affairs of the other. Organs of the state, in particular, do not intervene in the internal disputes within a denomination. Those disputes must be resolved by the church itself in accord with its constitution, laws, teachings and traditions. The only time when state organs would be justified to intervene is where the dispute threaten the order, peace and safety of the state. The church, too, does not involve itself in partisan politics, or try to impose its dogma on the state.¹⁴ With the unhappy and invidious past of fusion of church and state during the imperial era and the interference into church affairs by the Derge during the days of Mengistu Haille Mariam, the current Constitution of Ethiopia attempts to break with that past. Article 11 provides as follows:

1. “State and religion are separate.
2. There shall be no state religion.
3. The state shall not interfere in religious matters and religion shall not interfere in state affairs.”

It is apposite to point out, however, that though not subordinate to or under the “guardianship” of the state, the church is subject to the law of the state. This is so because the church exists and has freedom to operate in the context of organized society of which the state is the expression. The law passed by the state regulates conduct of its citizens to ensure that there is order and tranquility in the society.¹⁵ The law is thus an antidote to chaos. Therefore the church and its followers, as good and responsible citizens, must

be exemplary in observing the law.¹⁶ Needless to say, the law must be just and fair and in accord with internationally-accepted standards.

Another characteristic of a polity where there is separation of church and state is that the state is secular. It is not governed by religious dogma. It does not have a state or “official” church. It is neutral toward religion and religious denominations. Neutrality here does not mean hostility toward religion as it used to be the case in communist and other totalitarian states. The neutrality is benign; the state assumes a positive, friendly and supportive stance toward religion generally; but it does not show favor or leanings toward any denomination.

Virtually all French-speaking and Portuguese-speaking African states proclaim in their constitutions that they are secular states. They do at the same time guarantee free exercise of religion.¹⁷ Few constitutions of English-speaking African countries have similar provisions. It is only Namibia that declares Namibia to be “a sovereign, secular, democratic and unitary State.”¹⁸ Liberia, most likely because of its past association with the United States, has a more expansive provision. It reads thus:

“No religious denomination or sect shall have any exclusive privilege or preference over any other, but shall be treated alike; and no religious tests shall be required for any civil or military office or for the exercise of any civil right. Consistent with the principle of separation of religion and state, the Republic shall establish no state religion, and no person, while serving as the leader of any religious denomination or faith shall at the same time hold any political office.”¹⁹

Among the former British African dependencies, only Uganda has a provision prohibiting adoption of a state religion.²⁰ The paucity of provisions of this nature in the constitutions of other former British dependencies may be explained from the fact that Britain does not practice separation of church and state. The Church of England is a state church, and the Queen, the “Defender of the faith” is both the Head of the Church and the Head of State. So, Britain could not bequeath to her former colonies what she did not have. In practice, however, churches in these countries are generally separate from the state.

(c) Evaluation

The fusion model of church-state relations may be justified on the ground that in those countries where it is followed, the state religion is invariably the

religion of the overwhelming majority of citizens. It expresses their beliefs; it is part and parcel of their culture; it permeates and controls all aspects of their life; it directs their conduct. It cannot therefore be extricated and separated from the state, laws and politics. The fusion model is thus in accord with majoritarian democracy.

However, the problem with the model is that it does not leave the individual with much meaningful choice. This assertion is born out by pronouncements such as those found in the Constitution of Mauritania, which proclaim that "Islam shall be the religion of the people." Further support for the assertion may be found in the fact that in some countries where the model is followed, apostasy is a capital offense, as is proselytism. The effect of these laws is that one is not free to change one's religion, yet true religion is a matter of will and free choice. Additionally, in some countries where there is fusion, heresy is also a crime. This means that an individual is not free to dissent from the official line; he cannot interpret for himself his religion and what he believes. Yet religion is supposed to be intensely personal, a matter of conscience. Additionally, where the religious power is vested in the hands of politicians there is danger that they may abuse it to silence or eliminate their opponents. For example, in 1985 the Sudanese government under Jaffer Numeiry executed Mahmud Mohammed Taha, its inveterate critic and leader of the Sudanese Muslim Republican Brotherhood, on the ground that he was "a heretic;" he interpreted the Koran in a way that differed from the official interpretation.²¹ Lastly, the fusion model is inherently discriminatory, particularly against minority religious groups. The discrimination is evident in those countries where the state favors the official religion and showers it with numerous privileges and advantages which are denied to minority groups. The discrimination is no less so by the fact that freedom of conscience is guaranteed by the constitution.²²

The separation model, on the other hand, is informed by ancient and modern history: that entanglement between church and state often results in denial of the freedom of worship, not only of members of minority groups, but also of dissenters within the majority groups. Thus when Idi Amin declared himself leader of the Muslim faith in Uganda, in addition to persecuting Christians, he also persecuted members of the Ahmadiyya sect of Islam; he banned under the pain of death the translation of the Koran into a local language; he forbade Muslims to celebrate certain religious holidays on days that were reckoned by methods that he did not approve of; and he arrogated to himself the power to hire and fire Muslim leader.²³ The church, too, when given political power, can be and has been as ruthless and cruel a persecutor of

dissenters as the state itself. The history of the church, particularly in Europe, bears eloquent testimony to this assertion.²⁴

Separation enables religion to develop and thrive without the corrupting influence of the state. It ensures equality of treatment. It enables the church to play its prophetic role of witnessing to the state, particularly on the momentous matters of peace, justice, freedom and human rights without inhibition. It also enables religious leaders to concentrate on spiritual matters for the good of their followers. Separation also enables representatives of the state to concentrate on temporal matters for the good of all the members of the community irrespective of their religious affiliation. In an era of pluralism, separation of church and state appears to be the best model for protecting the freedom of worship.

THE ROLE OF THE JUDICIARY

In addition to guaranteeing human rights, the constitutions of many African states establish mechanisms for their enforcement by the courts. The courts are often empowered to provide remedy and relief to victims of human rights abuses. As is generally the case, human rights, particularly the freedom of worship, are often formulated in broad and sometimes indefinite terms. For example, the Constitution of Namibia merely states that “All persons shall have the right to... freedom to practice any religion and to manifest such practice.”²⁵ It does not say what manifesting or practicing a religion entails. Similarly, the Constitution of Uganda merely provides that “Uganda shall not adopt a State religion.” It does not state what practices amount to “adoption of a state religion.” It is submitted that even those constitutions that attempt to be more elaborate than Namibia’s or Uganda’s cannot exhaustively spell out all the ramifications and nuances of the freedom of worship or of the principle of separation. In any case rights are organic and grow along with society. New religions, beliefs and practices that did not exist yesteryear keep on mushrooming. The courts must therefore be left to put flesh to the bare bones of the constitution and to breathe life and meaning to its provisions according to the lights of the day. They are thus able to apply the constitution to new situations and phenomena as and when they are called upon to do so. In doing so, the courts rely on the changing social conditions and outlook, as well as new scientific and technological developments. They also rely on current social morality, social data and contemporary experience.

In discharging their responsibility, courts must be particularly sensitive to the need to protect the rights of members of minority groups. By belonging

to minority groups, these people are already disadvantaged. They are often forced to forego or compromise conscientiously held religious scruples in order to claim benefits that are enjoyed by members of majority groups. Yet, as Thurgood Marshall of the U.S. Supreme Court has emphasized, “a society that truly values religious pluralism cannot compel adherents of minority religions to make the crude choice of surrendering their religion or their job (or benefits by other citizens).”²⁶ In this respect, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities also proclaims that:

“No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.”²⁷

Public authorities and the courts in particular must thus evince a liberal and generous attitude, one that endeavors to broaden and not abridge every person’s ability to enjoy the rewards of liberty and of living in a free and democratic society.²⁸

An example of a member of a minority religious group who was disadvantaged because of his religion can be found in the Zimbabwe cause of *Re Chikweche*.²⁹ In that case a Rastafarian lawyer was initially denied the right to practice his profession because he was considered not to be “a fit and proper person” to be allowed to appear in the courts. This was on the ground that he was “unkempt and not properly dressed,” as is required of all members of the legal profession. His problem was that he wore dreadlocks, a symbolic expression of the Rastafarian religious belief.³⁰ Thanks to the liberal and open attitude of the Zimbabwean Supreme Court, the lawyer was admitted to practice with his dreadlocks on. According to Gubbay CJ:

“Refusal by the (trial) judge to entertain the application placed the applicant in a dilemma. Its effect was to force him to choose between adhering to the precepts of his religion and thereby foregoing the right to practice his profession and appear before the courts of this country, or sacrifice an important edict of his religion in order to achieve that end.”³¹

To present the applicant with such crude choices would amount to hindering him in the exercise of his religion and would be contrary to the Constitution of Zimbabwe.³²

In contrast, in a Botswana case a Rastafarian was charged with illegal possession of marijuana. His defense was that he was using the drug for religious purposes in the same way a Christian uses wine for Holy Communion. The court rejected the defense. Societal interests of public morality and health through the suppression of the nefarious activity of drug trafficking were compelling grounds that overrode the claimed right to practice the defendant's religion by smoking the prohibited drug.

Again, while not usurping the legislature's powers to pass laws, courts must also be creative when interpreting and applying constitutional provisions on freedom of religion to new situations before them. Here one has in mind the principle of accommodation originally formulated and developed by the American courts and which is worthy of emulation by the courts in other jurisdictions.³³ That principle requires employers and other institutional administrators to make special arrangements to enable employees or students who belong to minority religious groups to continue to enjoy benefits that other employees or students enjoy without having to forego their religious tenets. The duty is discharged where the employers or institutional administrators make reasonable attempts to make such arrangements,³⁴ unless they can show that the arrangements will be too costly or will unduly hamper the proper functioning of the business or institution. If no such attempts are taken, then members of minority religious groups would suffer disadvantages which members of majority groups do not. Such a result would amount to discrimination on the ground of religion, which is prohibited.

As for non-establishment of religion, American courts have also formulated rules and guidelines for determining what amounts to a breach of those tenets. However, these rules and guidelines are divergent and sometimes controversial. They cannot therefore be copied wholesale. Any court that is minded to rely on them must, as with all other foreign authorities cited before it, adapt them to suit its country's situation, taking into account historical, political and other realities obtaining there. That said, however, this writer would not hesitate to declare as inconsistent with the tenet of the non-establishment of religion the practice where a head of state, using state funds, purchases vehicles for some religious leaders or contributes to the construction of their places of worship. Besides being discriminatory, such a practice compromises the church and corrupts religion. In this respect Benjamin Franklin was correct when he asserted that:

“When a religion is good, I conceive it will support itself; and when it does not support itself, and God does not take care to support it so

that its professors are obliged to call for help of the civil power (the Government), 'tis a sign, I apprehend, of its being a bad one."³⁵

The citing and following of foreign authorities, as advocated above, is legitimate and desirable. It enables judges to benefit from the wisdom of fellow judges elsewhere. It saves them the task of having to reinvent the wheel. It provides them with handy material with which to fill gaps in their own constitutions or laws and to address novel situations. International human rights instruments, such as the UN Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, are also extremely useful.³⁶ These instruments are often adopted unanimously or by overwhelming majorities by international bodies; they thus represent international consensus on the issue at hand. Their use by national courts serves yet another significant function: it underscores the truism that human rights are universal.³⁷

It is highly advantageous to entrench in the constitution provisions that guarantee human rights in general and the freedom of worship in particular. This is because of its special and elevated status. Additionally, in today's pluralistic world, it is vital that such provisions provide for separation of church and state. Religion is safer when it is free from the corrupting influence of the state, which accompanies entanglement with it. Nevertheless, it is submitted that constitutional provisions in and of themselves are not enough to protect freedom of worship. For instance, Uganda's Independence Constitution embodied elaborate provisions on the freedom of worship. Sad to say, the government unilaterally abrogated that constitution in 1966. It summoned Parliament and ordered it to adopt a new one. Even without having seen the document or discussing it, Parliament adopted the new constitution. This it did with military aircraft hovering over and soldiers surrounding the Parliament building. This "pigeon-hole constitution," as it came to be called, eviscerated the human rights provisions of the former constitution, including the freedom of worship. Be that as it may, several years afterwards Idi Amin Dada who had assisted the government in overthrowing the Independence Constitution, also overthrew that government and later on declared himself president for life. Once firmly in power, Amin proscribed all save four religious denominations, including my own, saying that they were too many and harmful to national unity.

Therefore, in addition to formal constitutional provisions, there must exist in any given country a constitutional culture to serve as the bulwark for

those provisions. A constitutional culture is one where the rulers voluntarily accept restraints on their powers; where the majority recognize and respect the rights and interests of the minority; where there is tolerance for opposing views; and where human rights and the rule of law form part of the people's daily experience. In the absence of such a culture, constitutional provisions, as we have demonstrated, are not worth the paper they are written on. Indeed, where the constitutional culture exists, paper provisions are of secondary importance, since their essence is inscribed on the people's hearts and imbedded in their culture.

Additionally, since courts play such a vital role in watching over and enforcing the human rights, their independence and impartiality is of monumental importance. Oftentimes when public opinion is cowed or numbed, when all voices of dissent are silenced and when all avenues of recourse are closed, courts remain the last bastions in the defense of liberty. Therefore judicial independence must be guaranteed and jealously guarded. Additionally, the men and women who staff the courts must be supported by the public. They must also be educated and sensitized on existing international norms and standards on the freedom of religion.

Lastly, it must be emphasized that freedom of worship is but one of the many fundamental rights of the individual. Freedom-loving people everywhere must be vigilant to ensure that all human rights are respected and observed all the time and everywhere. The same dictators who violate the right to life, the right of assembly and association, and the right to freedom of expression will not hesitate, when it is convenient, to trample underfoot the freedom of worship. Vigilance is the price of liberty.



E N D

1. The Council of State is an advisory body consisting of eminent citizens, including a retired Chief Justice, a retired Chief of Defense Staff of the Armed Forces, a retired Inspector-General of Police, the President of the National House of Chiefs, an elected representative from each region of Ghana and eleven other members appointed by the President. See Chapter IX of the Constitution of Ghana.
2. This is the case in Botswana, where section 89(4) which requires the holding of a referendum in the case of "specially entrenched provisions" does not provide for a minimum number of electors who must turn up and vote before the exercise can be considered legitimate. As a result, at referendum in 1997 only 16.7 percent of those entitled to vote turned out to vote and were able to amend the Constitution. Generally see D.D. Ntanda Nsereko, *Constitutional Law in Botswana* Pula press, Gaborone. 2004), at para. 35.
3. Under the Constitution of Botswana the Bill would be passed if "the majority of electors voting" vote in support of it. *Ibid.*
4. See for example article 3(3) of the Constitution of Ghana and article 3(2) of the Constitution of Uganda.
5. Article 1

6. See the Preamble to the Constitution as contained in the Constitution of Zambia (amendment) Act of May 28, 1996.
7. Article 5.
8. Article 2 of the Constitution of Algeria. Article 2 of the Constitution of Egypt.
9. Article 1.
10. Article 1 of the Constitution of Libya.
11. Article 23
12. This position was articulated in the Pope Boniface III's bull, the "Unam Sanctum of 1301." See *Catholic Encyclopedia* 15:216. this seems to have been the situation in Iran under the Ayatollah Khomeini.
13. Article 19. See also article 14 of the Constitution of Guinea, which provides that "The free exercise of religious sects shall be guaranteed. Religious institutions and communities freely create and administer themselves. They shall not be subject to the tutelage of the State." Similarly, article 23 of the Constitution of Benin provides that "the institutions and religious or philosophical communities shall have the right to develop without hindrance. They shall not be subject to the guardianship of the State... They shall regulate and administer their affairs in an autonomous manner."
14. Article 18 of the Constitution of the Republic of the Congo (Brazzaville) explicitly forbids church involvement in politics. It provides as follows: "The freedom of belief and the freedom of conscience are inviolable. The misuse (usage) of religion for political purposes is prohibited."
15. It is in this context that this author reads article 9(2) of the Constitution of Mozambique, which provides that "The activity of religious institutions shall be subject to the law."
16. The Bible enjoins Christians to subject themselves to civil authorities by obeying the laws and meeting all civic duties required of all citizens. See 1 Peter 2:13,14: "Submit yourselves for the Lord's sake to every authority instituted among men; whether to the king, as the supreme authority, or to governors, who are sent by him to punish those who do wrong and to commend those who do right." (NRV)
17. See for example, article 2 of the Constitution of Benin, article 4 of the Constitution of Burundi, preamble to the Constitution of Cameroun, article 1 of the Constitution of Chad, article 1 of the Constitution of Congo (Brazzaville), article 2 of the Constitution of Ivory Coast, 9 of the Constitution of Mozambique, article 1 of the Constitution of Madagascar, and article 1 of the Constitution of Senegal.
18. Article 1.
19. Article 14 of the Constitution of Liberia.
20. Article 7 provides that "Uganda shall not adopt a state religion."
21. See John Spayne, "Sudan: Outcry Over Execution," *Africa Now* (March 1985), at p.15. See also Moyiga Koroto Nduru, "Taha's Martyrdom," *New African* (March 1985), at p.28.
22. See for example, article 46 of the Constitution of Egypt, which provides that "The State shall guarantee the freedom of belief and the freedom of practice of religious rites;" article 36 of the Constitution of Algeria, which provides that "The freedom of conscience and the freedom of opinion are inviolable;" and the preamble to the Constitution of Malawi, *supra*.
23. See "Amin: the Muslim Leader," *the Kenya Weekly Review*, April 7, 1975. Generally see Nsereko, "Religion, the State, and the Law in Africa," 28 *Journal of Church and State* 269 (1989).
24. Generally see Malcolm D. Evans, *Religious Liberty and International Law in Europe*, (Cambridge University Press, 1999).
25. Article 21(1) (c).
26. *Transworld Airlines, Inc. v. Hardison* 62 (1976),dissenting.
27. General Assembly Resolution 57/135, December 3, 1992. Article 2(1) of the Declaration provides that: "Persons belonging to national or ethnic, religious and linguistic minorities (Hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without discrimination."
28. See the Canadian case of *Morgentaler v. R* (1990) LRC (Const) 242 where Wilson, J. said: "In a free and democratic society 'Freedom of conscience and religion' should be broadly construed to extend to conscientiously-held beliefs, whether grounded in religion or in a secular morality. Indeed, as a matter of statutory interpretation, 'conscience' and religion should not be treated as tautologous if capable of independent, although related, meaning."
29. (1995) Law Reports of the Commonwealth 93.

30. The Rastafarians justify the wearing of dreadlocks on the Book of Numbers 6:5, which provides that "All the time of his separation no razor shall pass his head, until the day be fulfilled of his consecration to the Lord. He shall be holy, and shall let the hair of head grow."
31. *Ibid* at p.100.
32. Article 19(1) of the Zimbabwe Constitution provides that "...no person shall be hindered in the enjoyment of his freedom of conscience, that is to say, freedom of thought and of religion... and... to manifest and propagate his religion or belief through worship, teaching, practice and observance." For a similar interesting American case see *People v. Lewis* (1986) 510 NYS 2d. 73, 68 N.Y. 2d. 922. Here the New York State Prisons regulations required male inmates to receive an initial haircut and shave for reasons of health and sanitation, as well as to permit the taking of an identification photograph. As an avowed Rastafarian the plaintiff wore his hair in dreadlocks. It was achieved if the plaintiff were to pull his hair back for the photograph instead of compelling him to cut off the dreadlocks.
33. See for example, *Sherbert v. Verner*, 374 U.S. 398 (1963). But also see *Transworld Airlines, Inc. v. Hardison*, note 42, *supra*.
34. The following are some examples such arrangements by American universities to accommodate students who are unable to participate in school activities because of religious tenets. In its 1997-98 Bulletin, Columbia University Law School, New York, in a section titled "University and Law School Regulations" and the subheading "Religious Holidays", Columbia states that: "It is the policy of the University to respect its members' religious beliefs. In compliance with the New York state law, each student who is absent from school because of his or her religious beliefs will be given an equivalent opportunity to register for classes or make up any examination, study, or work requirements that he or she have missed because of such absence on particular day or days. No student will be penalized for absence due to religious beliefs and alternative means will be sought for satisfying the academic requirements involved." Similarly, in a memo dated August 1, 1997, the associate provost for faculty affairs at the University of Maryland stated that: "The policy of our university and the University Systems of Maryland states that students should not be penalized in any way for participation in religious services. We now enroll students of many religions, and I ask that you be sensitive to their requests for excused absences and make-up exams for reasons of religious absence. Students should be informed that they are responsible to give the instructor notice of intended observances by the end of the scheduled assignment period."
35. Quoted in Anson Phelps Stokes, *Church and State in the United States* (New York: Harper, 1950) Vol. 1, at p. 298.
36. Generally see Roger S. Clark, "The United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief," 31 *Chitty's Law Journal* 23 (1983).
37. See Thomas M. Franck, "Are Human Rights Universal?", 80 *Foreign Affairs* 191 (2001)



BACCI BLESSINGS?:

ON CREATIVE TENSIONS BETWEEN
FAITH AND CULTURE

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A few years ago I led a delegation from the Institute for Global Engagement on a visit to the small village of Keng Kok, Savannahket Province, in southern Laos. In the late 1990s Keng Kok was the scene of some of the worst persecution of Christians in all of Laos. This day, however, was supposed to be different.

We were greeted warmly by the district officials, given gifts, and, in an act of great cultural hospitality, were treated to a bacchi ceremony. We were invited to join our host committee in a circle around a “tree” of chicken parts, rice wine, fruits, and some unknown objects designed to provide color, substance and stability to this central icon. A “spiritual leader” would chant over the “tree”, and then begin to splash his holy water over the icon as well as those of us seated on the floor around it. This lasted for some 15 minutes before we were given a number of short white strings. We were requested to tie the strings around a neighbor’s wrist, thereby conveying a blessing on those around us. Each string represented a new blessing. This part of the ceremony would continue until all the strings were used up. By this time we would have 20 or more strings on our wrists as well as a number of very pleased, new friends. To maximize the blessings, we were encouraged to keep the strings on our wrists for three days.

The spiritual roots of this hospitality rite are a little fuzzy, even to the Lao. The ceremony today is more cultural than anything else. It is designed to underscore the traditional Lao concept of community complete with hospitality.

Following the ceremony, the district official briefed us on “religious freedom” in the village. With a straight face he explained that on a single day a few years ago the entire region’s population of Christians, 1,135 of them, had voluntarily renounced their faith. Therefore, since there were “no more Christians,” we needn’t worry about religious freedom for Christians because there were “no more Christians” wishing to exercise the freedom. Furthermore,

because Christianity had now disappeared from the village, the local church building was no longer needed—hence we shouldn’t be concerned that the government had appropriated it and turned it into an elementary school.

All of this tested the limits of credulity, of course, and before we left the village we asked to see this church-turned-school. It was a Sunday afternoon and the building was locked, but as we walked around to the back of the building we heard very familiar songs of praise rising from an area adjacent to the church. Amazingly, there was a demonstration being staged specifically for us by about 50 of the village’s “no more Christians”. They wanted us to know that the church had not disappeared, that the forced renunciations of those dark days in 1999 never completely “cleansed” the village of its Christians. As we walked towards the gathering, our official hosts were visibly nervous. Demonstrations like this almost never happen in Laos. Our government friends were embarrassed; “face” was in the process of being lost, the ultimate cultural offense in this part of the world.

Fortunately, times have changed in the years since that incident. Through the Institute for Global Engagement’s intervention, the church got its building back, and we were able to construct a new school building. A measure of “face” was saved for everyone, and we facilitated a “win-win” scenario for everyone involved. For this our brave Christian brothers and sisters from Keng Kok were indeed grateful, but at the same time they had an interesting reaction to the nature of our intervention, one that highlights the complex relationship between culture and faith. And it all started with the bacci ceremony that the government officials had arranged.

CULTURAL STRINGS ATTACHED

The Christians at Keng Kok were somewhat confused by me; they had heard I was a Christian, but when I arrived at the scene of their demonstration I was wearing the strings of a pagan ceremony, the bacci. They wanted to give me the benefit of the doubt, so they concluded that I was a Christian, but “not a good Christian.” Essentially they were confused by a clash of kingdoms, one of cultural hospitality that had formed in a secular environment, the other, a Christian minority community that had stood firm under considerable duress.

While some of the Lao Christian community’s rejection of “worldly” Lao culture is a product of the persecution they have endured, it is also a byproduct of sectarian attitudes that originated with Western missionaries in Asia. Many Lao have adopted a starkly culture-rejecting, separatist mentality. In a highly group-oriented culture, Laotian Christians have still managed to reject the

“group,” thereby segregating themselves from Lao national identity. That is, most Lao Christians have not seen principled cultural engagement as part of their Christian calling. They haven’t sought out a way to be authentically Christian and authentically Lao at the same time. Hence, the idea that I could be a “good” Christian—as sincere, pious, and orthodox as they are—yet participate in Lao culture’s bacci rituals simply did not compute.

Forcing unnecessary cultural rules onto faith is a recipe for, at best, irrelevance, and at worst conflict. This is particularly evident in the Western evangelistic enterprise. For example, Western teachers of Christianity have often uncritically promulgated a highly individualistic version of the faith, because that is what is congruent with Western culture in general, where the individual is extolled and rugged individualism is praised as a way of life. Nations tend to evangelize other nations in the same way that they have received the faith. But if the introduction of a religion from the outside goes hand-in-hand with the destruction of a culture inside, much harm can be done that may take generations to fix.

Again, Laos has a community-based culture. In addition, the Laotian government is communist, focusing much more on the state, i.e. the collective, than on the individual. Notwithstanding Lao-Christians’ tendency toward unLao-like sectarian withdrawal from the national collective, they interestingly retain certain characteristically Lao communal tendencies in how they think. Steven Bailey, a Ph.D. in anthropology and someone who has lived and worked in Laos for 16 years, tells the following story. He was teaching the parable of the Good Samaritan in Laos, followed by a time of feedback and discussion from the Lao Christians. Inevitably, the Lao would refer to the Good Samaritans (plural) as opposed to a single individual. When Steve tried to correct this misunderstanding he was rebuffed by the Lao. “In Laos, we would never travel the road alone,” they explained. “There would always be more than one of us. It is unthinkable that the Samaritan would be alone.”

BACCI LESSONS

What lessons can we draw from tensions between faith and culture in places like Laos? The challenge has always been this: to make faith culturally congruent without compromising beliefs. To be sure, culture and religion have always been uneasy co-inhabitants. One need only recall the biblical account of Abraham and the forging of the nation of Israel. Abraham was asked by God to take the people “to a place that I will show you,” a country that turned out to be deeply pagan. In Canaan he was admonished not to assimilate with

the dominant culture, as that culture could contaminate his faith. A couple of generations later, however, (and a few pretty pagan faces) all that changed. A total assimilation followed mixed marriages and a negative acculturation of the faith began.

Joseph, a member of the fourth generation from Abraham, was ultimately sold into slavery by some jealous brothers. He was taken to Egypt where, in nothing short of a miraculous series of events, he rose to some prominence in Pharaoh's court. Meanwhile, a deep famine enveloped Canaan, the brothers were sent to Egypt where food was still plentiful, reconciliation took place between Joseph and his brothers, and ultimately the entire extended Abrahamic family was invited to come to Egypt.

They stayed for 430 years! But Egypt was a culture of non-assimilation. The Israelites were given their own piece of land to occupy, Goshen, and that is where they stayed. Even Joseph, a great friend of the Pharaoh's, was not allowed to dine at the Pharaoh's table. Presumably, if one cannot eat with his host, one cannot date the host's daughter! Interestingly, the nation of Israel was formed, not in the Promised Land (where upon returning, they were not given the choice to assimilate but rather to totally dominate and destroy the local culture,) but in the iron furnace of Egypt. All of this to say that the clash of religion and culture has deep historical roots.

In America, with varying degrees of success and, over time, a number of differing rationales, the "separation of church and state" has been maintained. However, religion and culture have presented a different kind of challenge. We have never quite been able to disentangle one from the other. Frankly, I don't believe we can, or should. The effort, it seems to me, should be directed towards creatively managing the tension that exists between the two.

Faith *qua* faith should of course transcend culture. At its best, faith is "other-worldly" in the sense of responding to a higher power and holding fast to timeless and eternal truths. It is primarily concerned with the sacred, and that concern historically has been organized around formal places of worship. Culture, however, should not be summarily dismissed as the corrupt realm of secular worldly affairs. It is culture that provides the context for faith, the environment in which faith is exercised.

Without societal engagement "faith" becomes privatized, a mere personal hobby, or a form of therapy—or, perhaps worst of all, a kind of special-interest politics. Faith that isn't incarnated authentically in a cultural context is a selfish faith, which makes it difficult for others to relate to and which precludes the opportunity for a larger impact.

In recent decades, negotiating the lines of faith and culture in America has become increasingly challenging. In the words of Stephen Carter's influential book *The Culture of Disbelief*, "our public culture more and more prefers religion without political significance, less an independent moral force than a quietly irrelevant moralizer, never heard, rarely seen." Obviously we have some work to do in the U.S. Culture cannot be allowed to domesticate or trivialize faith. Religion, on the other hand, should never run rough-shod over culture, whether in the form of overt evangelistic schemes or more subtle patterns of discrimination and preferential treatment.

Consider the witness of the Mennonites, historically a persecuted group of religionists. This persecution was so intense that through most of their history they inappropriately withdrew from the world. They existed quietly on the periphery, which is where today's leaders of the "culture of disbelief" would like to put all religious believers.

With an experience of persecution so seared into their collective psyche, however, the Mennonites also became students of peace. Many were pacifists, a deeply held belief, and used their strong inclinations towards peace to help solve conflict in areas where they were located. In the latter decades of the 20th century many Mennonites began emerging from their sectarian shells. And when they did, they discovered that their expertise and commitment to peacemaking was highly desirable and very much needed in the larger culture in which they found themselves. Conflicts needed to be mediated, relationships needed to be reconciled, and the Mennonites have re-emerged over time as one of the most successful, well-practiced, well-intentioned and best motivated group of reconcilers that the world has seen. We should be grateful. Culture could do a lot worse than to be formed and informed by communities motivated by peace.

Unfortunately in contemporary America we are also seeing negative examples of the religion-culture mix unfold. Many religious communities now say they support faith-based cultural engagement, but they do not have a nuanced and constructive philosophy of this engagement and are therefore dangerously confusing it with political partisanship and ideology. Indeed it has been difficult for many to remember that their faith should transcend their ideology. Once the hard edge of ideology is wedded to faith, faith and ideology inevitably gravitate towards power. Truth becomes a hammer; power becomes a sword that divides.

Media commentators call what has been happening a polarization defined by the "red-blue divide," referring to the ubiquitous red-state (Republican)

and blue-state (Democrat) electoral maps used in coverage of recent elections. Most often Christians are “red”, a political stripe that gives far too much power to Caesar. A theology co-opted by ideology, at least in principle, has the same potential for theocracy and the same theocratic abuse that we worry about in other faiths. The irony is palpable. Why is there so much focus on “our man in the White House” when religion has always enjoyed a sovereign in the heavenlies? Stephen Carter aptly summarized this historical development:

In recent decades, religious argument has seemed largely a captive of the right, whereas the left, which once gloried in the idea that God stands for social progress, has more and more shied away from it. This imbalance may be less a result than a cause of the fact that more and more religiously devout people have come to see their natural home as the Republican Party.

Carter is on to something. Politicized culture and politicized religion have conspired together to make a witch’s brew in which the creative tension has evaporated.

CONCLUSION

Faith and culture are not like oil and water. They do mix, and they must mix. While the risks must be acknowledged, we must not lose sight of the positive potential. The following vignette makes the point. My pastor in Washington D.C. was inexplicably invited by the number two civilian in the Pentagon to come and visit over lunch. When he arrived, he was greeted by a host of senior military officials, from all branches of service, uniformly starched and attentive. Over lunch, the agenda quickly emerged. An admiral who was about to assume command over the Seventh Fleet (headquartered in Italy with responsibilities including most of Europe) gave the reason for their coming together that day. “Tell us about forgiveness. We are seeing things in Kosovo that we have never encountered before.”

Personally I find this to be an extraordinary picture. In the halls of power in the Pentagon, in a city of power, and in a nation that many have called the last remaining superpower, a question was asked not about power but forgiveness. Apparently there are at least some Pentagon leaders who appreciate that “hard” power is not enough. A yearly budget in excess of \$400 billion and the largest military force ever assembled is somehow missing the body armor of forgiveness. Admirals need to listen to pastors because military

hardware does not fill all the gaps in our world and in our communities that presently exist. Century-old differences cannot be ameliorated through a demonstration of “shock and awe” power.

Such differences ultimately can be reconciled, not merely negotiated, by people of faith. Kingdoms need not clash. The best “realpolitik” and the best of the moral imperative can work together, indeed, must work together if we are to develop a more attractive future. The articles of culture and the articles of faith need to be preserved, congruent and without compromise.

I believe this is what Christ had in mind when he sent his disciples out on the evangelistic mission. He not only told them to be “innocent as doves,” he also reminded them to be “shrewd as snakes.” He was alluding to the best virtues of genuine faith, such as sensitivity, compassion, love, respect—all marks of the dove. But he was equally aware of cultural realities. His disciples would also need to be shrewd—pragmatic, practical, and commonsensical. Culture and religion would both be at stake. The best of both would need to be creatively fused so that the attraction of religious faith could be maximized.



END



CULTURAL AND RELIGIOUS IDENTITY IN POST- MODERN SOCIETY

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INTRODUCTION

Something is going on with religion in the Western world, although it is not clear exactly what. On the one hand, the public role of religion increases, as a result of terrorism, indeed, but also positively in the light of building up an emerging multicultural society. On the other hand, at least in Western Europe, there is no evidence whatsoever that people are becoming more religious than they used to be before.

One could summarize this idea in a somewhat caricatural way: religion is becoming more important for the state and less important for the people.

Yet, is this nicely-sounding one-liner correct? Or should we look beyond appearances in an attempt to reveal what really is at stake?

Let me start with some methodological remarks. As mentioned, I will try to go beyond appearances. Probably this attempt will lead to a picture that is not always crystal-clear or that fails to avoid all contradictions. I guess that any credible approach leads to rather unclear conclusions, for the simple fact that we live in a time that experiences simultaneous evolutions in various directions.

I shall start my paper with some remarks concerning the absence of God. These thoughts will function as a catalyst for a further analysis of five specific themes which are important for current thinking about religion in Western Europe. I will discuss these five key themes and some legal consequences they may entail.

THE ABSENCE OF GOD

Make no mistake: God is still quite absent in Western Europe. Secularization has not been stopped yet. Many people question the existence God. They are inclined to disbelief rather than belief. This situation did not change radically during the past several years. Of course, many religiously inspired people hope secularization will stop. It is not scientifically correct to give the impression that it has.

However, even if God remains absent, he is absent in a different way. His absence is smoother, less radical, surrounded by an overall atmosphere of goodwill and sympathy.

Several centuries and even decades ago, the absence of God was seen as a success. He was dismantled by scientists and denied by philosophers.

At times, the absence of God was the result of a long struggle. Therefore it tended to be very radical. God was declared absent as if he never had existed. His absence at the same time was his denial. The reasoning more or less went as follows: people in the past believed in the existence of God, but found good arguments in the opposite direction, so they can conclude that God does not exist. In other words, the absence of God does not succeed to his presence; it is just a denial of his existence.

Today, however, I have the idea that this traditional, radical theory about the absence of God is losing ground. "Absence" gradually became a more neutral notion. It is no longer a rational absence, but rather a narrative absence. One could describe the current absence of God as follows: God is absent; he is not here any more, or he is not here yet. He may come back, and in a sense regret that he is not with us.

This smooth, gradual, sometimes hardly visible paradigm shift can be illustrated and concretized by the following example. In the past, the absence of God was seen as a victory, as a form of emancipation. Today, the opposite is true. Non-believers feel very often slightly sad. They may say: "Lucky you, you who believe. Unfortunately, I did not receive that gift or that grace." Clearly, by reacting in that way, the non-believer abandons his intellectual superiority. And the absence of God becomes less ontological. He is absent, yes, but he may come back home sooner than one thinks.

This different way of being absent can (but should not necessarily) be seen in the light of post-modernity, transferring even absence into a less radical notion than it used to be. Yet, it could also be something else than yet another sign of post-modernism. The new absence could be described as a synthesis bridging the gap between the thesis of presence and the antithesis of radical absence.

Legal consequences of the new elusive absence could be observed in a more ad hoc, contractual legislative approach vis-à-vis religious groups in general. To put it in another way: the state should maintain with religious groups a relationship, a dialogue as the draft project for a European constitution mentions. In any case, religious groups should not necessarily enjoy a fixed and static status.

Implicitly starting from the key notion of elusive absence, I shall try to describe five characteristics of culture and religious identity in the current Western European post-modern society.

FIRST THESIS: RELIGION AS A WEAPON OF THE WEAK

This idea may be more important in Central or Eastern Europe than it is in Western Europe. Various reasons explain this phenomenon.

Firstly, in so far as the Orthodox churches are involved, they may feel slightly discriminated against, through the writings of Samuel Huntington, as well as through the European Union—often perceived as a Catholic, or as a mixed Catholic-Protestant project.

Secondly, many people in Central and Eastern Europe live in countries with less prestige (e.g. Russia) and even fewer inhabitants (Ukraine is a striking example) than they used to have once. The Soviet Empire was perhaps not the nicest place to live, but after all, it was an empire.

In case one combines both aspects described here, namely the minority position of the Orthodox in Europe and the general loss of prestige suffered by several, often Orthodox countries, a reaction of frustration is not excluded.

But then, the question is whether such a minority-feeling entailing a stronger link between cultural and religious identity does play a part in Western Europe as well. In any case, the situation in Western Europe is very different from the reactions in former Soviet, Soviet dominated, or Soviet influenced states. At the same time however, minorities do rely upon their religious identity more than they did before. Two examples can underpin this point.

1. Muslims today affirm their identity more clearly than they did in previous times. Women wear headscarves more often. One can wonder whether a religious revival is at the basis of this changing attitude. Couldn't one argue that a partly failed integration in Western society, led to a feeling of humiliation that can be counterbalanced only by proudly affirming one's religion? The underlying reasoning may be: the more people have the idea to be in a minoritarian position, the sooner adherence to a religious group will be expressed in public. The weak are not more religious than the strong, but they need more religion in order to restore hope.

2. Native Europeans who feel marginalized by the pressing demands of society seek and find consolation in religion. Success and results are of

paramount importance in a modern neo-liberal society. Yet, churches, that take care of the poor, offer an alternative to these very demanding requirements. According to many churches, one's personality does not exclusively depend on the results he achieves. This clement attitude is attractive, because it questions an apparently inevitable rat-race towards money and glory. At the same time, churches may reach two different categories of people which are not always overlapping each other, namely those who are seeking the depth of life and those who are avoiding the speed of life.

To sum up, religion as a weapon of the weak is certainly not a typical Western European phenomenon. It is openly present in other regions of the world as well. And yet, religion as a weapon of the weak is not without importance. It can help Muslims in the West to strengthen their dignity. And it helps Christians to obtain an identity which is not directly linked up with the economical performances they are able to deliver.

With regard to religious freedom, religion as a weapon for the weak requires a nuanced strategy by the secular authorities. In so far as religion is just a façade for activities, including terrorism and endangering public order, limitations of religious freedom are necessary. Yet, unexpected or unusual expressions of religious freedom should be accepted. The wearing of a headscarf by pupils at school was perceived in France as incompatible with the role of the school as "*un sanctuaire républicain*" (a republican sanctuary), as President Jacques Chirac stressed in December 2003, a few months before a law prohibiting important religious signs at schools was issued. Probably, the point made by Jacques Chirac was too ideological and too emotional. Moreover, authorities restrict their own information by issuing prohibitive norms. Indeed, if headscarves are forbidden, authorities do not know anymore who would wear a headscarf in case they just had been allowed.

But then again, even with regard to religious signs and dresses, there are limits to religious freedom. Women wearing a *burka* while walking on the street cannot be recognized or identified any longer. That situation endangers public security. Quite rightly it leads to restrictive measures.

SECOND THESIS: RELIGION BECOMES INCREASINGLY EMOTIONAL.

Sociologists often asked themselves the question why religiosity in Europe differs so much from religious life in the United States. Perhaps these differences have not always been analyzed adequately. It is just too simple to say that

Western Europe is very much secularized, while for some reason the United States is not. The situation is much more complicated. For Western Europeans, religion traditionally has another meaning than it has for Americans. Religion in Europe used to have very large ambitions. It tended to explain life and the world as a whole. Conversely, for many Americans, religions used to concern life, certainly, but even more so life style and emotions. Religious activities were and are just a part of life that can be reasonably well disconnected from other segments of human existence. Perhaps, Europeans are more secularized because they take religion too seriously, because they see it, almost without an exception, as an engine and explanation model for life as a whole. If that is true, in case expectations with regard to religion are very high, the disappointment afterwards can or will be very cruel.

But then, during the last years, we see a paradigm shift with regard to religious life in Western Europe. Young people tend to be either non-believers or rather emotional believers, practising a form of faith that “goes to the heart”. Faith becomes more “charismatic” in the broad sense of the notion.

This phenomenon should not surprise anybody. The United States is the world’s dominating political, economic, and military power. Such a situation always entails cultural consequences. So Europe follows, with some delay, the American trend towards a more emotional approach to faith and religion.

Sometimes this smooth and implicit evolution becomes visible in an unexpected way. For instance, one can argue that the new Roman Catholic pope, Pope Ratzinger, indirectly and certainly against his own intentions, stimulates an emotional approach of religion. This may be a strange opinion, since the pope is generally perceived as an outspoken intellectual. He is a former *peritus* of the Second Vatican Council as an advisor to Cardinal Frings. He was a highly considered university professor in Münster, Tübingen and Regensburg. So how on earth could his approach to faith be an emotional one?

Again, the new pope’s intentions are not emotional, but the outcome of his approach is.

A striking example of that thesis is the homily he delivered in August 2005, at the occasion of the mass closing the World Youth Day in Cologne. In his homily, the pope gave a detailed analysis of the sacrament of the Eucharist, of what exactly happens to bread and wine, including an etymological source of some key notions.

In the eyes of the pope, his exposé certainly was both rational and deeply theological. Yet, how did the audience of young people experience the papal allocution? Many of the youngsters among the audience are theologically poorly

educated. Twelve years of religious education at school, strangely enough, generally do not lead to some form of deep knowledge. The young people in Cologne are just enthusiastic boys and girls eager to share their faith and their happiness with others. Yet, most of them did not understand the theological analysis made by the pope properly. They just like the pope. They also enjoy the “love of the moment” as the British author Evelyn Waugh would have described it.

To put it briefly, while the pope intended to make a rational analysis, many among the audience highly enjoyed what they perceived emotionally as a form of religious secret language. They did not properly understand the sense of this language, but they loved and enjoyed it. In other words, the intention of the papal homily was rational, whereas its reception was emotional.

Should this new trend in Western European religiosity lead to legal consequences? Religious freedom, obviously, allows both a rational and an emotional version of religion. A point of concern, however, is that a more emotional approach of religion can lead more easily to certain “sectarian” characteristics. I prefer the notion “sectarian characteristics” to the blunt and heartless notion of sect. Sectarian characteristics are not unacceptable as such, as long as they are not combined with illegal activities including the use of force or the limitation of physical freedom. They do not require new legislation, but the application of already existing general (and thus not only focused on religion) legal norms.

THIRD THESIS: RELIGION TENDS TO BECOME A CONCEPT. “CONCEPTUAL RELIGION” FOLLOWS CONCEPTUAL ART.

The third trend in European society is different from the previous one and, at times, finds itself at odds with it. This trend, rather visibly present in leading intellectual and political circles, is characterized by a very conceptual vision on religion. Religion becomes a concept, an idea, which is not given shape by factors external to the religious system. In that perspective, the idea of “revelation” does not make any sense. Nothing can be revealed to people, which is not already part of their own creation and imagination. Religion is not the result of what God reveals, but of what people define as religion.

Religion follows art. Indeed, also in the field of arts, external points of reference (such as the concept of beauty or traditional theories and norms concerning aesthetics) became very suspicious. Today, art is what we decide that art will be. Art becomes conventional or formal. It is a result of human decision making and consent. It lives on its own; it does not depend any longer on external criteria.

This phenomenon can or could be seen as a victory of human control (and in that regard it is clearly anti-emotional). Yet, it also impoverishes human experience. Full control is a form of poverty, a reduction of human capacities. It shows a lack of openness to the unexpected. It is perhaps even slightly “petit bourgeois”. Conceptual art and conceptual religion are nice terms, at least at first glance. Yet, perhaps, they hide some form of decline. Just imagine the notion of conceptual love also emerging. It may be everything but true love, and it certainly is not attractive.

In the meantime, traces of conceptual religion can be found at various places. Sometimes sophisticated people with important, highly technical jobs engage in sorcery or participate in Druidic rituals at Stonehenge or elsewhere. Some religious denominations are conceptual in their overall approach, such as Scientology. Here, we are confronted with a strange paradox: the more human, the more conceptual religion is; the more distrust it creates. Religion as a conceptual construction leads to suspicion. Scientology has a lot of legal problems in various European countries.

With regard to religious freedom, one can ask the question whether conceptual religion finds itself protected by religious freedom. The answer is positive. Requiring a form of divine revelation or the existence of a God as a condition for enjoying collective religious freedom, is in itself already an infringement of religious freedom. Definitions can be a subtle way of limiting freedom. Certainly, some people just fear them because they are post-modernists. Yet, others reject them for better reasons, namely because definitions generate discrimination.

FOURTH THESIS: THE COMEBACK OF WEAK CHRISTIANITY

Let me explain the notion of weak Christianity by turning to a concrete example. In 2005, the French female director Coline Serreau made a film called “Saint-Jacques...la Mecque.” In this film, nine different people more or less representative of French society as a whole, undertake a pilgrimage to the Spanish town Santiago de Compostela. The reason for their pilgrimage is not really religious. They just “pilgrimized” in order to inherit the fortune of their mother. Her will included such a requirement. Yet, during the pilgrimage, the nine people gradually reach consent on certain facts and ideas of life.

They conclude that all religions are interchangeable. No real differences do separate them. That idea sounds nice. Yet, when one looks deeper, this apparent message of tolerance is not as neutral as it seems to be. “Tolerance” is

used as opposed to patriarchal, discriminatory Muslim values. Consequently, the film is a plea for vague Christian values, but without any religious feelings, without any concrete faith, and certainly without any institutional church. Institutions are not popular in most European countries.

Probably this approach is typical for a new trend in certain Western European countries. It may be true that churches lost a lot of their credibility, and that people lost most of their personal faith, but some weak Christianity remains the source of the dominating value system.

At times, this value system is just implicit, a hidden element of European identity. Yet, when confronted with otherness, including of course with Islam, which is becoming very present and visible in today's Europe, hidden elements of identity turn to concreteness. Sometimes, these "Christian values" as a sign of European religious identity lead to paradoxes. That may be the case for the weak Christianity as evoked by Coline Serreau in her film: she uses the concept of "tolerance" as an instrument to be rather intolerant vis-à-vis the Muslim minority.

The danger of weak Christianity is that it is not always aware of its own roots, nor is it actively inspired by its proper tradition. Christianity often is narrowed to a petrified set of values. In that regard—and here I come back to the first thesis I developed in this paper—it could become a tool like a placebo in the hands of people who feel weak or uncertain.

In the legal field, weak Christianity as a form of cultural and religious identity should not lead to an extension of the concept of *ordre public* that can limit religious freedom. Indeed, a danger is that activities which are not in line with weak Christianity are perceived as incompatible with the basic values underpinning society, which could make these activities illegal.

Another legitimate question, however, is whether weak Christianity is always more dangerous for the religious freedom of others than strong Christianity is. For instance, in Poland or Italy, the Roman Catholic Church tries to influence political debate as much as it can. Finally, what is there to say about the active participation of religious groups in the discussion of secular (and thus not religious) homosexual marriages? No doubt this discussion point will come back in the coming years.

FIFTH THESIS: RELIGION LOSES ITS TIES WITH SCIENCE AND ABANDONS RATIONAL DISCUSSION.

For a very long time, the never ending, although sometimes implicit, discussion between religion and science has been the drive for philosophical

thinking and the engine of social progress in Europe. Today, this is no longer the case. In recent years, the discussion between science and religion has been somewhat neglected.

One can look at this phenomenon in two different ways, in a positive as well as in a negative one.

Positively, one can argue that today a sharp discussion between religion and science is no longer needed. Science and religion are no longer competitors, as they are not dealing with the same questions. *How* is the first scientific question, whereas *why* is the basic religious question. Both questions cover the same fields of human existence; there is no demarcation line between science and religion in that regard. Yet, within that identical playing field, the questions are different, *how* versus *why*. So far a positive explanation of the weakening dialogue between religion and science.

But then again, a more negative analysis is equally possible. Perhaps the decreasing dialogue is just a sign of degradation of religion. For many no nonsense Europeans implicitly or explicitly guided by a neo-liberal ideology, religion is not important enough to be a true factor of discussion in society. One can put this also in a seemingly more positive way: religion is too sacred to be involved in ordinary scientific, political and practical discussion. Yet, in both cases the result is the same, namely the absence of a true dialogue between science and religion and the supremacy of practical life. Sacredness leads to too much apparent respect, and respect leads to exclusion.

The dialogue between religion and science is often replaced by the so-called inter-religious dialogue. Many governments foster the latter, as it is important for both security and the elaboration of a true multicultural society. Yet, this idea alone is already a clear illustration of the loss of status suffered by religion. Religion is just a factor that can be important to government policy. Yet, it is not really important for discovering the truth. The opposite idea is true: in order to come to a fruitful inter-religious dialogue, the notion of truth can be quite embarrassing.

So, in a way, the absence of a real dialogue between science and religion is a characteristic of European religious identity today.

Certainly, the inter-religious dialogue remains necessary. Yet, the false dilemma created by some between science-religion and inter-religious dialogue is a mistake. A lack of dialogue with science could lead, also in Europe, to questions with regard to the teaching of Darwinism or creationism at school, a problem which used to be nonexistent. Here again, Europe could follow the United States. In the Netherlands, the very first

questions concerning creationism at school do already emerge. It may be the beginning of ... an evolution, as American ideas often reach Europe through the U.K., Scandinavia or the Netherlands.

CONCLUSION

The title of my paper was: Cultural and Religious Identity in Post-Modern Society.

The scope was Western Europe.

The approach was inductive. Which trends and evolutions do we see in the field, and what are their consequences with regard to religious freedom?

My introductory idea focused on the slowly changing content of the *absence of God*.

Then, I developed five characteristics of current religious identity in Western Europe:

- Religion as a weapon of the weak
- Religion becomes increasingly emotional
- Religion tends to be just a concept
- The comeback of weak Christianity
- The declining dialogue between science and religion

Is religion in Europe in crisis? Of course it is. It always has been. Yet, the fact that there are trends and tendencies is a sign of life and vitality as well.

Is religious freedom in Europe endangered? Freedom is always endangered. Religious freedom is a supreme form of freedom. Consequently it is more endangered than other rights and liberties. Yet, by describing these dangers adequately, one already contributes to their solutions.

Vigilance is important. Just vigilance.

Too much pessimism makes life sad.

Too much optimism endangers freedom.



END



THE IMPLICATIONS FOR AFRICA OF GLOBAL RELIGIOUS CHANGE

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During the last few decades, changes in the world of religion and in the status of religion in many societies have been seismic. On one hand, we have seen religion move from a preferred and honored position to being under suspicion. On the other hand, we have seen religion grow both in numbers of adherents and in societal influence. These seemingly contradictory changes reveal trends of importance to the world, in general, and of heightened importance to Africa.

In more secular and/or developed societies, we have moved from a time when religion was almost universally considered to be a societal good to a time when religion is seen as a source of discord and conflict—something dangerous, something to be kept under close surveillance.

The reasons for this shift are numerous. Many will cite the obvious culprits: secularism and the diminution of religious faith that seems to inevitably accompany it. But we must also consider the role of the conduct of religious people in this erosion. In the West, the sentiment is often heard, though rarely so directly, that ‘religiously motivated people fly airplanes into tall buildings, therefore you can’t trust people who take their religion that seriously: they’re dangerous.’ People read of hostility and open warfare that is often based on religious animosity. Then they read of other behaviors by religious leaders that contradict the teachings of the faith, such as the head of a church being deposed because of the misuse of funds or because of moral lapses. They read of pedophile clergy and of a priest indicted for a murder committed in the church, and they see hypocrisy. They say to advocates of religious freedom “Religion has always claimed to provide the moral framework of society. In light of what I see happening, explain to me why I would want to be part of organized religion?” Obviously, the answer lies in a more consistent example by religious people and their advocates.

Concurrent with this demotion of religion in many places, momentous demographic change has occurred within religions: worldwide growth in numbers, power and visibility. I will address the changes in and affecting Christianity because that is my faith group, and what I know best. But similar observations could be made about every major religion.

In Western Europe, where the European Union (EU) refused to put any reference to religion in its new constitution, we see a confused picture. Church attendance continues to be low, yet Atheism is in decline. As Munich theologian Wolfhart Pannenburg said, Godlessness is in trouble. “Atheism as a theoretical position is in decline worldwide.” And according to Oxford theologian Allister McGrath: Atheism’s “future seems increasingly to lie in the private beliefs of individuals rather than in the great public domain it once regarded as its habitat.” But as atheism is in decline, and overall church attendance remains low, there is a resurgence of religion in a surprising group: young Europeans. The *London Sunday Times* of April 9, 2006, carried this headline: “God is the new drug of choice for today’s young rebels.” Young Brits are turning to religion. And, to the dismay of their parents, they are attracted to the most conservative, fundamentalist, literalistic versions of their religion, whether Christianity, Islam or Hinduism.

In the United States, church attendance continues to be reported at close to 50 percent, although there are questions as to the reliability of that figure. As in Europe, church growth is largely in conservative, fundamentalist churches. The so-called ‘mainstream’ churches are hemorrhaging members and, as a result, there really is no longer a religious mainstream as in the period before 1980. At the same time, thoughtful people are questioning how to reconcile the exclusivity and almost cultish outlook of the various fundamentalists with their claims of the universality of god’s love, and with the goals of governmental neutrality in matters of religion. One unfortunate result of these patterns is the continued erosion of religion’s place in intellectual leadership.

While the west struggles with changing patterns in religious adherence, Christianity is flowering in unexpected places—like China. It has been estimated that Christianity is growing so fast in China that it’s in the process of becoming the dominant religious or belief system. In 20 to 30 years, if things go on as they are, China will be effectively Christianized. And many of these new Christians feel that they have a ‘national calling’ to evangelize Muslims.

Christianity is not only alive, but dynamic and changing—although in different and sometimes unexpected ways. Mark Noll, professor of religious

history at the University of Notre Dame, has made observations concerning the following four important characteristics of this change:

1. The magnitude of change

Christianity has moved south. Note the following random examples of the magnitude of the shift:

- More Roman Catholics attended church last week in the Philippines than in any single country of Europe.
- In China, where in 1970 there were no legally functioning churches at all, now more believers gather for worship than in all of the countries of so-called 'Christian' Europe.
- In Europe, the church with the largest attendance is in Kiev, and it's a church of Nigerian Pentecostals. The same is true in many other European cities.
- Last Sunday, more Anglicans attended church in *each* of Kenya, South Africa, Tanzania and Uganda than in Britain, Canada and the USA combined.
- The largest chapter of the Jesuits is now in India.

2. The multiplicity of change

- Consider a major vehicle of this change: the translation of the Bible into more than 1600 languages in the past century. The results may be described as conservative, ironic, liberating and chaotic.
- **Conservative**, because once marginalized people have been given literature in their own language that anchors them in their own culture. As Prof. Lamin Sanneh of Yale, himself Senegalese, has observed, while the spread of Islam draws ever increasing numbers to the globalization of Arabic, the spread of Christianity binds ever increasing numbers to their own languages. Thus it serves as a vehicle for the conservation and preservation of innumerable local cultures.
- **Ironic**, in that translators may know very well what they intend when they translate, but local people often find in the text things the translators did not want them to see—such as strait-laced Victorians unintentionally providing support for polygamy by putting the stories of Abraham and David into local languages.
- **Liberating**, because it has given peoples a sense of being themselves the hearers of the word.

- **Chaotic**, because translation has weakened the bonds of cohesion in worldwide Christianity and pointed in the direction of religious pluralism and even organizational chaos. By the best estimates, of all the world's Christians are independent of any church, denomination or tradition.

3. The material conditions accompanying change

The rapid diffusion of Christianity into parts of the world where it barely existed a century ago has left a skewed distribution of resources: The money and strong educational institutions are in one part of the world, while most of the adherents are in another. The result is that a Western Christian minority continues to exert disproportionate influence over the non-Western Christian majority. To be sure, theological education is given all over the world, but Rome, London, Paris, Tübingen, Chicago and Boston remain destinations of choice for Christians who seek out the highest forms of higher education.

Similarly, missionary activity has become truly global. While the percentage of foreign missionaries from the West has fallen dramatically, there are now more than 2,000 missionaries from Africa and Asia at work in Britain. Brazil and Korea both account for over 12,000 Christian missionaries sent to other parts of the world. Yet even with this growth, the preponderance of funding still comes from the West.

What is true for missions is also true for that elusive construct often called "Christian civilization"—societies marked by internalized self-discipline, respect for the law, and altruistic care for those least able to care for themselves. To greatly over-simplify the situation that now exists, if on a Sunday evening you want to attend a lively, jammed full, fervent and life-changing service of Christian worship, you want to be in Nairobi, not Stockholm. But if you want to walk home safely after the service, you want to be in Stockholm, not Nairobi. Given the totality of the circumstances, which is more like the ideal Christian society?

These changes in the material conditions of the new world Christianity create both opportunities and significant challenges for the community.

If African nations aspire to exemplify 'Christian societies,' the Nairobi/Stockholm dichotomy must be addressed.

4. Manifold political implications exposed by the new situation

While the list could be much longer, let us examine only four.

- As Philip Jenkins and others have shown, both Christianity and Islam are expanding with great rapidity precisely in those areas of the world that have been most buffeted by the forces of colonization, decolonization, and now economic globalization. As David Martin has put it, Pentecostalism, the most rapidly expanding form of Christianity, is flourishing where people have been recently detached from 'local practices, obligations, and authority.' But where Islam and Christianity *both* offer the balm of spiritual stability to growing numbers of people conscious of threat from outside, and where that balm is offered in contiguous areas or in the same area, as in Africa, the potential for trouble grows exponentially.
- The rapid spread of Christianity in economically marginal areas exposes delicate questions for those interested in the global economy. In the great favelas of Latin America and the Philippines and the teaming cities of Africa, Christian faith thrives among those whose economic existence is precarious. Sometimes that thriving comes about when Christianity is preached as a means to wealth; more often it results when Christianity is embraced as a point of stability in an economically insecure and chaotic world. Interpreted either way, it would be shortsighted for policy makers to discuss economic globalization without also considering religious globalization. But that is exactly what seems to be happening.
- It is a different story where Christianity spreads in regions of economic strength, as in China. There, the systems of belief that once guided society are passing away. Christianity seems to be taking off in China because more and more Chinese seem to be seeking a new moral compass as China itself makes a commanding entrance onto the world stage. David Jeffrey, the Provost of Baylor University, who has for years been invited to lecture on religious subjects at premier universities in China, remarks that once before, a great world power passed through tumultuous times as Christianity expanded on the margins of its society. It was the late 3rd and early 4th centuries. In that turmoil the Emperor Constantine adopted Christianity and became, from the top of the imperial system, a supporter of the new religion as the glue for empire. Is it possible that a new Constantine might exist somewhere in the junior ranks of the Chinese communist party? The potential effect of such is mind boggling.
- The rapid spread of Christianity into new regions means that these regions will be more and more likely to bring their religious principles with them to international venues. Those principles will reflect the form of the religion that is spreading most rapidly, and that form is virtually never

liberal or modernist. It is much more likely to be syncretistic, Pentecostal, strongly papal, neo-fundamentalist, or starkly supernaturalist.

- As the worldwide Anglican Communion has so publicly experienced, the moral voice of the newer Christian regions can be a very strong voice indeed. The attachment of the world's new Christian communities to sterner interpretations of the faith is likely to have an ever growing influence on international affairs.

Martin Marty, distinguished professor at the University of Chicago and perhaps the world's leading expert on the subject, sees fundamentalism as identified with "a process of selective retrieval, embellishment and construction of 'essentials' or 'fundamentals' of a religious tradition for the purpose of halting the erosion of traditional society and fighting back against the encroachment of secular modernity."

With that in mind, notice these recent newspaper headlines:

- India—Conversions and missionaries: our society's greatest threat, says Hindu leader. He continued: "Conversions comprise the greatest danger to our society: we cannot allow the demographic profile of the country to be changed. We will not let Hindus become a minority, as somebody has said they would be by 2060. As long as the Bharatiya Janata Party is on the political scene, it will fight such attempts tooth and nail".
- Onitsha, Nigeria—After 5 days of violence, Christian mobs stopped their killing and looting and turned to burning corpses —disposing of the evidence in the crudest of ways.

The potential for inter-religious conflict is all too obvious now.

The magnitude, multiplicity, material conditions and manifold political implications of the new world Christianity open a new epoch in religious history. They may also open something new for the economic and political realities of the 21st century.

HOW DOES ALL THIS APPLY TO AFRICA? IN AT LEAST FOUR WAYS:

1. Africa is the new geographic center of Christianity. Philip Jenkins has produced a chart of the geographic center of Christianity since the first century. The center was, of course, first in Palestine, and then began to move

in a northwesterly direction through Europe, eventually touching the eastern seaboard of North America. Then, in recent years, it began to move elliptically back to the southeast, until now it is found somewhere between Lagos and Dakar.

2. The place where Christianity and Islam interface across the widest territory—hence the place with great potential for continued and increased inter-religious strife—lies along a line from Senegal to Sudan.

3. African societies are strongly group-oriented, and thus susceptible to the negative results all too often seen when such societies feel collectively threatened by change. Two non-African examples of the negative results of this nexus of group orientation and the perception of external threat:

- Colombo (*AsiaNews*) – Despite pledges by the new government to uphold religious freedom in Sri Lanka, the Bill on Prohibition of Forcible Conversion, better known as the anti-conversion bill, continues its journey through parliament.

The bill requires anyone converting to inform local authorities within a given time. Breaking the law would result in a prison term of up to five years or a fine that could reach US \$1,500. The sentence can be extended to seven years and US \$5,000 if converts belong to the so-called “Schedule 1” category, i.e. people most at risk: women, children, prison inmates, the mentally or physically challenged, refugees, military or police.

For some Christian analysts in Colombo, there are great chances that the bill will become law, “despite the fact that it violates the principles of the Universal Declaration of Human Rights.” “Parliament could stop it, but only if the vote is secret; otherwise no one will have the courage to stand against it,” the experts warn.

- Another example of the worst results of group orientation and the pressure to conform appeared in a recent story in the *Washington Post*, detailing the life of Margaret Berthel, the only self-admitted guard from Ravensbrueck, the infamous Nazi prison camp for women. Berthel remembered her time at Ravensbrueck as a pleasant one, and initially insisted that she did not know what was causing the foul odor from the camp smokestacks. She had successfully blotted out the horrors of that time from recollection in her own mind.

A historian of the period, asked to comment on the story, said: “Key to understanding this behavior is to realize that under the Third Reich, a gradual process of exclusion took place. By the time war broke out, the perception of the ‘other’, primarily Jews, as a threat to the majority had become so pervasive that otherwise moral people accepted their ‘duty’ to do whatever was required to protect their community. Remember, all Ms. Berthel’s memories of Ravensbrueck seem to underscore one dynamic: The guards belonged to the in-group, Jews and other ‘undesirables’ did not. It was easier to decide to participate in mass murder than to break away from the dominant group.” Such is the power of group orientation. Challenging people to stand for the right even if it means breaking from the group is necessary for full religious freedom to flourish in a society. But it is best done by faith communities and not governments.

4. Africa may well find itself caught in the pressure of a coming clash of civilizations—not between the West and Islam, but between the West, particularly the United States, and China. This clash will involve more than exports and the balance of payments. It will also involve deep differences over democracy, freedom of speech and freedom of religion. These differences will be obvious in the foreign policies of the two giants, one of which follows an amoral, self-interest guided policy, and the other of which seems to have an almost evangelistic fervor in its foreign policy.

This clash already involves Africa. China now owns 40 percent of Sudan’s oil infrastructure, and has used its United Nations veto to block pressure on the regime to halt the violence in Darfur. China has extended a \$2 billion line of credit to Angola to rebuild infrastructure shattered by years of civil war. And the pariah Mugabe regime in Zimbabwe is propped up by Chinese cash and arms, motivated by access to Zimbabwe’s coal and platinum.

In a number of ways, this may be the ‘African moment.’ Africa has a position of numerical strength in Christianity. Africa therefore has an opportunity for leadership. But leadership will require more than the exercise of numerical power. To make the most of this moment of opportunity, there must also be intellectual and moral leadership—not just defending traditional ideas, but showing how faith properly may be applied to new problems and situations

Africa stands at the intersection of Christianity and Islam, at a time when the world desperately needs an example of how these two faiths may live side by side peacefully.

Africa today has the opportunity to demonstrate how traditional group-oriented societies can place even higher value on freedom and equality than on group conformity.

Africa today stands in a position of potential leadership it has perhaps never occupied before. The world, and the cause of religious freedom, requires that this leadership be more than numerical; Africa must also lead the way in promoting inter-religious respect and in demonstrating how believers may differ from one another without the necessity of coerced conformity. May Africa use its newfound position and opportunities with creativity, responsibility and dignity.



END



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