



Associazione culturale “**Giuseppe Dossetti: i Valori**”
TUTELA E SVILUPPO DEI DIRITTI

Osservatorio per la Tolleranza e la Libertà Religiosa
Observatory for Religious Tolerance and Freedom

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Despite many commitments adopted by the participating States, in the OSCE Area – both East and West of Vienna – violations of freedom of religion or belief still subsist against Christians, not only where they are minority but also where they are majority. It is therefore necessary to avoid an improper hierarchy, implying that violations against majority religions are less serious than those against minority ones: the human dignity is breached exactly in the same way in both cases.

Especially East of Vienna undue restrictions remain against the registration of Churches: civil authorities do not recognize the legal personality of Christian communities and these are therefore subjected to limitations in other several issues often linked to acquiring legal personality (as such acquiring property for a place of worship and other religious use; eligibility to establish educational institutions for training clergy; arranging visits and ministries in hospitals, prisons, and the military; and so forth). In the same way undue restrictions persist against the importation and distribution of religious material as well as against visas for missionaries or volunteers so legitimate proselytism is strongly constrained.

The OSCE participating States not always respect the right of parents to ensure the religious and moral education of their children in conformity with their own convictions, as happens for example in Spain. Children should not be forced to a compulsory sexual, religious or ethical teaching which can be not consistent with the convictions of the children’s parents: in this case participating States should provide non-discriminatory opt-out possibilities. On the other side, the raising multiculturalism is in no way contrary to a facultative confessional religious teaching in public schools.

Also the right of the religious communities to organize themselves according to their own hierarchical and institutional structure and the right to select, appoint and replace their personnel in accordance with their respective requirements and standards are not fully respected. Sometimes there are undue interference of civil authorities, as happened for example in the election of the Ecumenical



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Patriarch. In certain cases even anti-discrimination laws (as the UK’s Equality Bill) could violate the autonomy of Churches.

By arguing from the article 18 of the International Covenant on Civil and Political Rights, the UN Human Rights Committee has sustained – in the General Comment No. 22 and in the case *Raihon Hudoyberganova v. Uzbekistan* – that freedom of religion or belief encompasses the right to wear in public areas religious symbols and attire. Additionally, according to the VII Principle of the Helsinki Final Act, in the field of human rights and fundamental freedoms participating States should fulfil their obligations as set forth in the International Covenants on Human Rights. Consequently laws (such as the one which France is going to adopt) that prohibit the wearing of religious symbols and attire in public areas seem to be in contrast with the OSCE commitments.

The existing OSCE commitments expressly recognize the conscientious objection only to military service. But nowadays participating States should guarantee the right of conscientious objection also to other ethical sensitive questions (as abortion, same sex marriage, children adoption by homosexuals, research on human embryo *et cetera*) in regard to the fact that religious freedom includes, *inter alia*, the right to live and act in accordance with the dictates of the conscience.

As regard the place of worship, there are people who subdue the building of mosques in non-Islamic States to the reciprocity with Islamic Countries but – as was remarked also by the UN Human Rights Committee – the principle of inter-State reciprocity in human rights has no place. However the availability of place of worship will be subdued to the zoning laws and ordinances which keep into account the demand of an equilibrated and correct land use, of its artistic, cultural, religious and environmental features. The participating States should also promote a dialogue between the Muslim representatives and the religious communities present in the places where mosques are to be built in order to foster a climate of mutual tolerance and respect between believers of different communities.

In addition, the right of property and freedom of religion imply the return to religious communities of the place of worship which were confiscated by public authorities. These properties should be returned to the original owner and not allocated to other religious communities.

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