

## **Freedom of religion a precious human right.**

My name is Hanneke Gelderblom-Lankhout.

I am a former member of the city council of The Hague and former member of the Senate of the Netherlands. I am here as board member representing the NL-Helsinki Committee and I feel honored to have been asked to present some ideas about the topic of today.

Freedom of religion is a concept for the first time used in 1670 in “tractatus theologico-politicus” by the Dutch philosopher Spinoza, a child of refugees for the Spanish inquisition .

Now the concept is worldwide guaranteed by a.o. the UN human rights treaty and the European Convention on Human rights.

### ***Laïcité as norm***

Let me start with some of my own experience. In my country there is separation between state and church. Laïcité as the French call this policy is the norm in our western part of Europe.

Religion as such was hardly ever an issue in our parliament. Only being touched upon when sensitive items like euthanasia, family planning or the freedom for shops to be open on Sunday are on the agenda.

Religion is considered to be something to practice at home or not.

The conflict in the Middle East is regarded as only a territorial conflict. It has nothing to do with religion.

Strangely my minister of foreign affairs when speaking about the conflict in the Balkan mentioned Croats, Serbs and Muslims . When I tried to correct this and asked to use instead of Muslims the term Bosniacs - as they themselves wanted to be called - , this was not appreciated and is still not done..

### ***Religion is back in politics***

What the majority in our part of Europe (mostly coming from a Christian background ) did not realize was that in the Muslim world, the division between state and Church or better between State and Mosque is not known or regarded an absurd idea. The Koran its rules and the hadith, the explanation of its rules is omni-present in all aspect of everyone's life. Even (with some small exceptions) for non Muslims in the majority of countries where Islam is the main or state religion.

With our new citizens coming from Turkey and Morocco the concept of division of state and church is suddenly challenged. The cartoons in the Danish journal, the murder of Van Gogh, and ..... well I don't want to use my precious time on many examples.

But one thing is clear : Religion is back on the political agenda.

This year we celebrate the 60 anniversary of the UN-universal declaration of human rights.

The NL minister of Foreign affairs stated in a memorandum to parliament that my country will pay special attention in its human rights protection program at promoting individual freedom of religion. It is the first time that in the context of human rights this freedom is so explicitly mentioned.

### ***The comeback of the religious Leader.***

I refer now to the questionnaire of today: *What are the main difficulties encountered when implementing relevant legislation* Being a member of a multi religious think-tank we believe more is needed than new or amended legislation. Let me try to analyze why in so many states the existence of freedom of religion is in jeopardy.

I think it is essential but not enough if politicians put freedom of religion back on their agenda.

We have to realize that there is another player more and more trying to be back in the political arena.

Not a new one. The religious leader.

### ***Power struggle***

Separation of state and church has provided us the people an escape, away from the long arm of religious leaders. But they seem to be back . Trying to reclaim political territory.

Especially those religious leaders who want a return to conservative interpretation of holy writ.

They want political power. They claim that their interpretation is the only right one.

(not only in the Muslim world this tendency is visible)

Therefore other religious groups are dangerous, with an interpretation that is a threat to traditional values or national security.

We are talking about men who want power to rule the life of people, specifically women and yes freedom of religion is also a gender issue.

They claim that if their strict interpretation of Islam or Christianity or Judaism is not accepted, the safety of the country is in danger, therefore minority religions can't be permitted.

Only their interpretation, they claim, gives national identity to people and that is a necessity in a frightening and globalizing world.

Do we realize that religious leaders by using that mechanism are able to pervert the freedom guaranteed by the signed treaties and conventions?

### ***The limitation becomes the main rule***

Everyone has the right to freedom of religion as stated in art 9-1 of the ECHR.

art 9-2: Limitation is only permitted if prescribed by law and necessary for the protection of public order or the rights and freedoms of others.

What is the sad reality? Written as limitation as secondary it becomes the main rule and by doing so the primary rule the guaranteed freedom is lost more and more.

This perversion of the signed treaties is being imposed by religious leaders on political leaders

I have attached a detailed list of 6 OSCE countries where this is happening at this moment, collected by our colleagues from National Helsinki Committees and available for you to read..

What is my recommendation?

- ***We the people should call on our political leaders not to walk away from religious leaders but to engage in a discussion with them.***
- ***We should explain and defend our values of freedom. (Mayors do in my country).***
- ***We should not allow religious leaders solely to formulate that agenda.***
- ***Politicians including the OSCE should put our topics on freedom on the agenda for those discussions.***

This not a plea to break away from the separation of state and church. On the contrary.

We have to realize religious leaders are there and have a lot of influence.

In the discussion we should ask then urgently to return to the practice of constant reviewing, seeking to understand what is the true reflection of the prophetic views of those great men from the past for our present time and problems.

To finish something quit personal. Besides a former member of parliament and representing the NL Helsinki-committee, I am Jewish. These weeks with Rosh Hasjana , NewYear and Jom Kipur, the day of atonement I am, according to tradition supposed to be home and in the synagogue.

But I am not.

We have a special saying pekuah nefesh, which means that if life is in danger, the saving of live takes priority over every rule or commandment.

To many religious leaders want power beyond their religious boundaries. They want the power to decide how we live our daily life, how we should behave toward our fellow citizens of other religious denominations.

I belief the freedom of people to belief the way they want , that freedom of religion is worldwide in danger.

That's why I am here. I belief that my G'd agrees with that decision.

2 October 2008



OSCE Human Dimension Implementation Meeting 2008

**Attachment to the Intervention by the Netherlands Helsinki Committee (NHC)**

**Tuesday, 7 October - Working Sessions 12-13: *Freedom of religion or belief***

*Prepared by International Partnership for Human Rights (IPHR)*

Respect for freedom of religion or belief is soundly anchored in OSCE commitments and international human rights instruments binding to OSCE participating states. Under international human rights law, these rights are subject to limitations only in very exceptional cases.<sup>1</sup> Notwithstanding their international commitments, however, governments continue to uphold old, and introduce new, discriminatory and repressive legal regulations and practices that are often justified by the need to defend “traditional values,” “national security” or “to combat extremism.” These regulations are often misused to curtail legitimate minority religious activity. Sadly also in the OSCE region intolerance toward these minorities is increasing.<sup>2</sup>

While **Turkmenistan’s** overall human rights record remains worrisome, the UN Special Rapporteur on freedom of religion or belief Asma Jahangir stated on 10 September, at the end of her visit to the country,<sup>3</sup> that developments in Turkmenistan with regard to religious freedom show improvements since 2007. The Netherlands Helsinki Committee applauds these positive news and hopes that the remaining problems in all sectors of human rights protection are also promptly addressed. The UN rapporteur pointed as examples of remaining problems to vague or excessive legislation<sup>4</sup> and at its arbitrary implementation, the prohibition on activities of unregistered religious organizations, as well as to restrictions relating to places of worship and imports of religious material.<sup>5</sup>

In contrast to its neighbour, **Kazakhstan** is taking steps to further deteriorate the already vulnerable position of minority religious groups. Restrictive legal amendments put forward by some parliamentary deputies have already passed two readings in the *Majilis* and are expected to reach the Senate in early October, but authorities have refused to make public the current version of the bill. The amendments published earlier *inter alia* increase government control over religious activities, restrict registration requirements for religious communities, increase penalties for unregistered activities, and virtually outlaw missionary, education and publishing activities of local religious groups. According to the **Almaty Helsinki Committee**, the bill “destroys all freedoms of conscience” and is “in violation of the country’s constitution.”<sup>6</sup> Regrettably, the bill is a logical continuation to the already widespread

<sup>1</sup> Article 18 (3) of the ICCPR states: 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.

<sup>2</sup> Trends of increasing intolerance have been reported, *inter alia*, in OSCE, *Hate Crimes in the OSCE Region: Incidents and Responses - Annual Report for 2006*, at [http://www.osce.org/odihr/item\\_11\\_26296.html](http://www.osce.org/odihr/item_11_26296.html); European Union Agency for Fundamental Rights, *Annual Report 2007*, at [http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=4860badc7f081](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=4860badc7f081); and Pew Global Research Center, Pew Global Attitudes Project, “Unfavorable Views of Jews and Muslims on the Increase in Europe,” 17 September 2008, at <http://pewglobal.org/reports/display.php?ReportID=262>.

<sup>3</sup> Asma Jahangir is the first UN Special Rapporteur received by the Turkmen government.

<sup>4</sup> Especially the 2003 Law of Turkmenistan on Freedom of Conscience and Religious Organizations.

<sup>5</sup> UN press release, 10 September 2008.

<sup>6</sup> AP, Peter Leonard, “Kazakh lawmakers present bill to increase state control over faith groups,” at [http://labs.daylife.com/journalist/peter\\_leonard](http://labs.daylife.com/journalist/peter_leonard); Forum 18, “Kazakhstan: a law on non-freedom of conscience,” 6 May 2008, at [http://www.forum18.org/Archive.php?article\\_id=1125](http://www.forum18.org/Archive.php?article_id=1125), “Restrictive draft religion law to reach full parliament tomorrow,” 10 June 2008, at <http://www.forum18.org/Archive.php>

practices that appear to aim at curtailing all religious activity that is not conducted by a few large communities regarded as “traditional”; the targets include among others members of Hare Krishna, Baptist, and Jehovah’s Witnesses communities.

In **Belarus**,<sup>7</sup> the 1996 amendments to the constitution established preferential treatment of the so-called traditional religions, and the 2002 adoption of a law on religious activity<sup>8</sup> was publicly justified with the need to protect citizens against dangerous “sects.” The law awards the Orthodox Church under the Moscow Patriarchate a special status and restricts religious activities of “new” religions while other legal regulations<sup>9</sup> prohibit non-registered activities. Members of “new” religions are warned, arrested or issued fines and they can hardly hire publicly owned premises for worship. In January 2008, a leading official in religious matters stated that it is “necessary to strengthen the fight [...] against the spread of pseudo-religions and neo-cults.”<sup>10</sup> A further blow against minority religions was regulation no. 123 of 30 January 2008, which legitimized the already common practice to arbitrarily deny entry to Belarus to foreign religious clergy.<sup>11</sup> Visa denials have been frequently justified with national security reasons. According to Forum 18, the Catholic Church and the Jewish community are particularly affected. Pressure against minority religious groups has reportedly increased recently as they have been collecting signatures petitioning for changes to the 2002 law.<sup>12</sup>

In **Russia**, the practical enjoyment of religious freedom varies greatly from region to region depending on local legislation and practices, which are often at variance with federal laws, with acquiescence of federal authorities. Also in Russia, the primary victims of violations are religious minorities that are considered “new” and “untraditional.” Their main problems include: obstacles to registration and questionable de-registrations<sup>13</sup>; refusal of building permits or lease of spaces for worship; harassment of believers; and vandalism or destruction of property. Moreover, religious professionals of foreign-led groups often face problems with obtaining visas. Prosecutions motivated by religious intolerance are also conducted: Jehovah’s Witnesses have been charged under anti-extremism legislation because of criticism of “traditional” religions in their publications that are commonly distributed in other countries,<sup>14</sup> and Muslims operating outside mainstream Islam are increasingly facing similar charges, or for terrorism. Legal proceedings against Muslims typically fall seriously short of international due process standards. Muslims are also subjected to discrimination, hate-speech and harassment. The violations are usually accompanied by failure of authorities to act adequately.<sup>15</sup> In a positive development, the notorious NGO law<sup>16</sup> was amended in spring 2008 to exempt religious association from burdensome reporting to authorities.

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[?article\\_id=1141](#), and “What restrictive legal changes will pass the Senate ‘within days’?”, 29 September 2008, [http://www.forum18.org/Archive.php?article\\_id=1194](http://www.forum18.org/Archive.php?article_id=1194).

<sup>7</sup> Unless otherwise noted, information on Belarus is based on: Belarusian Helsinki Committee, Ed. Dzmitry Markusheuski, *Human Rights in Belarus, From the elections of the local councils to the elections of the parliament, 2007-2008*.

<sup>8</sup> Law “On Freedom of Religion and Religious Organizations”

<sup>9</sup> E.g., Edict of the President of the Republic of Belarus of 9 September 1999, No. 36 “On Certain Measures to Prevent Emergencies at Holding Mass Events”

<sup>10</sup> Leonid Gulyako, Authorized Representative for Matters of Religions and Nationalities under the Council of Ministers of Belarus, according to the IA Interfax-West, 22 January 2008.

<sup>11</sup> Information from Dzmitry Markusheuski, Belarusian Helsinki Committee, on 25 September 2008.

<sup>12</sup> Forum 18, Geraldine Fagan, “Belarus: New controls on foreign religious workers,” 20 February 2008, at [http://www.forum18.org/Archive.php?article\\_id=1090](http://www.forum18.org/Archive.php?article_id=1090).

<sup>13</sup> In Tyumen region alone, 25 Muslim, several Protestant, one Russian Orthodox and one Roman Catholic organization were closed in 2007 at the request of the Federal Registration Service for failure to comply with reporting requirements. SOVA-Center, Alexander Verkhovsky and Olga Sibireva, *Restrictions and Challenges in 2007 on Freedom of Conscience in Russia*, March 2008, at <http://religion.sova-center.ru/publications/194EF5E/AD31F17>.

<sup>14</sup> SOVA-Center, “Jehovah’s Witnesses, considered ‘extremist’ by the Russian authorities,” 17 July 2008, at <http://xeno.sova-center.ru/6BA2468/6BB41EE/B66F870>. For an analysis on the enforcement of the anti-extremism legislation, see SOVA-Center, Alexander Verkhovsky, *Anti-Extremist Legislation, its Use and Misuse*, July 2007, at <http://xeno.sova-center.ru/6BA2468/6BB4208/B577A2C#r5>. For organizations and materials regarded as “extremist,” see SOVA-Center, at <http://xeno.sova-center.ru/6BA2468/6BB4208>.

<sup>15</sup> SOVA-Center, Alexander Verkhovsky, *Anti-Extremist Legislation, its Use and Misuse*, July 2007, at <http://xeno.sova-center.ru/6BA2468/6BB4208/B577A2C#r5>.

<sup>16</sup> For details on NGO legislation, see Moscow Helsinki Group (MHG) and Human Rights Without Frontiers (HRWF), *Control and Punishment: Human Rights Implications of Russian Legislation on NGOs*, February 2008, at <http://www.iphronline.org/12>. See also press releases “New report highlights repression on NGOs in Russia,” 22 February 2008, at <http://www.iphronline.org/19> and “Appeal to the EU: Demand Concrete Action to Improve the Situation of Russian Civil Society,” 15 April 2008, at <http://www.iphronline.org/18>.

Incidents of growing religious intolerance are reported from **Bulgaria**, where the predominantly Muslim Movement for Rights and Freedoms on 18 September 2008 submitted an appeal to the country's parliament drawing attention to a number of attacks on Muslims and mosques by extremist nationalists and the failure of the police to protect the places, and individual victims. Several mosques have recently become targets of arson and Muslim property has been destroyed or damaged while neo-Nazi graffiti have been painted on the walls of religious buildings. On 11 September a young Muslim was so seriously beaten up by skinheads on his way to morning prayer that he needed hospitalisation. At the time of writing, the perpetrators remain at large.<sup>17</sup>

In **Serbia**, the privileged status of the Serbian Orthodox Church was established immediately following the October 2000 democratic changes and it has been maintained despite the 2006 constitutional guarantees<sup>18</sup> for the state's secular status and for equality between all religious communities. The legal prohibition to register only one religious body of each confession has relegated other Orthodox Churches and many small denominations to quasi-illegality. The privileges enjoyed by the majority church include *inter alia* financial subsidies and access to state institutions such as schools and the army, and a platform for the church to play a central role in national politics for the "preservation of Serbian identity." The judiciary and law enforcement react ambiguously to alleged religiously motivated criminal acts: while common crimes are easily and without evidence associated with "sects," the frequent phenomena of desecration of minority religious places of worship and cemeteries, assaults on their clergy and adherents, and the destruction of their property typically go unpunished. The authorities also violated law<sup>19</sup> by contributing to the schism in the country's Muslim community, which culminated in police intrusion into the central mosque in Sjenica in October 2007, resulting in the physical assault of two imams.<sup>20</sup>

In **Macedonia**, too, the government appears to question the constitutional principle of secularity by engaging in the building of a Macedonian Orthodox cathedral at the centre of Skopje, and eventually a mosque in Tetovo. These plans clearly show governmental preference for the two largest religious communities, the Macedonian Orthodox Church and the Islamic Religious Community. The state is not known to have supported the building of any other religious places of worship in the recent past – on the contrary, minority religious communities have been constantly struggling to get permits for their on construction works. Moreover, the introduction of religious instruction into schools, which starts this autumn, also reflects inconsistency in the principle of separation of state and church, enshrined in Macedonia's constitution. Similar to Serbia, Macedonia prohibits registration of more than one religious legal entity within one confession.<sup>21</sup>

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<sup>17</sup> Information from the Bulgarian Helsinki Committee, 18 September 2008.

<sup>18</sup> Article 11 of the 2006 Constitution

<sup>19</sup> Article 7 of the Law on Churches and Religious Communities

<sup>20</sup> Information from the Helsinki Committee for Human Rights in Serbia, 25 September 2008, and its *Annual Report 2007: Serbia – Self-isolation, reality and the goal*, 2008, at <http://www.helsinki.org.yu/doc/Report2007.pdf>.

<sup>21</sup> Helsinki Committee for Human Rights in the Republic of Macedonia, *Monthly report on the human rights situation in the Republic of Macedonia*, December 2007 and January 2008, and additional information from 22 September 2008.

## Recommendations:

*The Netherlands Helsinki Committee calls on all OSCE participating states to:*

- Respect international human rights guarantees for freedom of religion or belief with regard to all peaceful activities regardless of the status of registration of the community conducting them and irrespective of faith;
- Ensure equal treatment to all religious communities, and equal protection against acts of discrimination, harassment, hate speech, destruction of property, and violence, promptly investigate such acts and bring to justice those responsible for them;
- Exercise strenuous caution when invoking national security reasons in order to regulate religious activities so as to ensure that international standards for religious freedom are not violated.

*The NHC also appeals to*

- the **government of Turkmenistan**, to continue efforts to bring the country's legislation and practices in conformity with its international commitments and to remove all restrictions for the peaceful exercise of religion or belief;
- the **government of Kazakhstan**, to withdraw the restrictive draft bill on religious activities currently under debate, to carefully review it in light of international standards and in negotiation with local minority religious communities, and to amend it in accordance with advice provided by experts of ODIHR;
- the **government of Belarus**, to remove from legislation pertaining to religious activities all references to preferential status of any religious community and to review all legal provisions and regulations on religion, including regulation no. 123 of January 2008, in light of OSCE and other international standards;
- the **government of Russia**, to take a firm stand against discrepancies between federal and regional laws, ensure that they are in conformity with international standards and react promptly to any arbitrary interpretation by authorities that violate Russia's international commitments with regard to freedom of thought, conscience, religion and belief;
- the **government of Bulgaria**, to make publicly clear that discriminatory and violent acts against representatives of minority religions are not tolerated, and to engage in information campaigns to promote religious tolerance;
- the **governments of Serbia and Macedonia**, to respect the existence of different traditions and practices within religions and lift all legal restrictions on the registration of their representatives as legal entities; and to treat all religious communities on an equal footing, refraining from any interference in affairs that concern solely their internal affairs.