

European Human Rights Office
Church of Scientology International
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Religious freedom issues around Europe continue to be a matter of concern. This has been highlighted during the year with regards to different Western European approaches to Islam. The issues concern responsible reporting of Islam (and indeed any religion), freedom of expression and balanced response to whatever sensitivities are offended in the process. The threat of terrorism from a very small minority of extremists is certainly something to be dealt with – but it should not be seized upon as justification to sacrifice fundamental rights, including freedom of religion.

It has never been more important than now to more broadly foster dialogue and understanding between religions, governments and societies in OSCE countries. Religions, even in secular societies, are an integral part of life. Responsible parties made their efforts to do so, especially with regards to Islam, this last year. These efforts must be extended to cover all religions especially whenever there is cause for misunderstanding or misrepresentation of the religion concerned.

Moslems who faced discrimination and misrepresentation in Western Europe have made their voice known, and rightly so, in order to counter this discrimination. As we have seen, it is important to have a balanced response that respects freedom of expression, on the one hand, and freedom of religion on the other, as key factors to be taken into consideration when dealing with the issue to ensure a climate of tolerance and non-discrimination.

There is perhaps only one thing that is advantageous about being a major religion and also being the subject of discrimination – and this is the broader influence and pressure one can bear in order to correct the wrong.

But how is it for the many minority religions? They too suffer from discrimination yet do not have the same clout, political and otherwise, to make the offending party back off from continuing to engage in discriminatory actions.

In Western Europe, minorities are often targeted and vilified in the media to an even greater extent than has happened in recent times with Islam. Unfortunately, the media often incites discrimination through inaccurate and irresponsible reporting towards minority religions that have inadequate resources to effectively respond. Leaders of minority religious are also ridiculed in the press. They and their movements have been impugned with all manner of false allegations just as insulting to their own followers as other examples have been to followers of Islam.

This aspect is given little thought or attention in the discourse about religious sensitivities and is mostly ignored.

A subject that has fuelled intolerance towards minority religions in Western Europe has been that of official and unofficial lists (as in France and Belgium) of 'sects'. The whole 'sect' issue and categorization is focused to separate targeted religious movements apart from 'religions', isolating them and denigrating their practices. Whilst most Western European governments do not adopt this stance, there are still strong movements within the Belgian and French parliaments where 'inquiries' into 'sect issues' continue to be carried out for political purposes in order to maintain a climate of intolerance towards such groups. These inquiries have been characterized by refusal to let the targeted groups take part in the enquiries and to interview only the more biased and intolerant proponents who are 'fighting' against 'sects'. [It is also worthy of note in this context that dialogue and mediation are never seen as tools to resolve conflicts or problems the inquiries focus on. The Belgian Parliament has had one such enquiry this year entitled "*Follow-up of the Recommendations of the Parliamentary Board of Inquiry regarding Sects*" and another is occurring at the time of this conference in the French National Assembly on the subject of "*Parliamentary Commission on Sects and Minors*".

These inquiries are also used as a precursor for legislation to target religious minorities through laws that create a criminal offence using broad generalized wording implying the existence of some form of brainwashing (or similar terminology) – which is not a concept that has validity in law. The French 2001 "*About/Picard*" law was the first example of this in recent Western Europe history (the only other similar law was adopted in Italy during the Mussolini period). The law was criticized by the Council of Europe Parliamentary Assembly who asked for it to be reviewed (though unfortunately this has not been done). The recent Belgian inquiry called for a law on "*Abuse of Weakness or Ignorance of Vulnerable Persons*" that was proposed by Belgium's Minister of Justice. This bill was reviewed by the Conseil d'Etat (as is its function for any law proposals made by the government) which outlined pitfalls of the bill stating that "*deeds qualified as charges must be defined in terms that are sufficiently clear, specific and foreseeable for the citizens to know beforehand what actions or omissions would involve their responsibility*" and that "*one needs to add the question of its being compatible with rights and freedoms recognized by the Constitution and the European Convention on Human Rights*".

Unfortunately, the Minister did not see fit to make any substantive changes in her proposal to cure this defect after the opinion was received. She has also been criticized for forwarding other discriminatory actions in the past¹. The bill now awaits input from the Justice Commission of the Assembly.

¹ As President of the French Community in Belgium in the past she issued a booklet depicting religious minorities in a negative light – the booklet was later withdrawn from circulation. She has also refused dialogue with the Church of Scientology.

In Eastern European countries the problems may often be worse but more hidden. Legislation that should grant a right of registration to religious movement (but not make it mandatory) has been problematic and can be used to restrict activities of groups or to not give them the same rights as other religions. There are areas where religious intolerance has resulted in violence and where governments have not taken effective steps to deal with this problem. The following is a short summary of some examples:

Austria – is mentioned here because it was the first Western European country to introduce a ‘tiered’ registration law in 1998 that differentiates between religions and imposes conditions that are essentially discriminatory. The problem with laws that grant different rights according to arbitrary criteria (e.g. number of members, length of time in existence in the country) is that this denies rights other movements should have under international standards. It may be legitimate to grant certain financial benefits to religious groups (for example) but these should be on grounds of merit and contribution to society – conditions that are directly related to funding – not because of number or time in existence. The OSCE has determined that these duration and population requirements are inconsistent with international human rights standards in its publication, *Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities*².

These criteria have since wrongly been used by a number of Eastern European countries as an example from which to model their own legislation.

- Bulgaria – has a ‘tiered’ law and there are problems existing with the Alternative Orthodox Community which have still not been addressed after a number of years. Romania – has a law proposal which has been criticized for being discriminatory by setting extremely high numbers of members before registration as a religion is possible. This, however, is still a proposal and has not yet been adopted.
- Serbia – its law on registration of religions discriminates by having 5 different ‘status’ levels.³
- Kosovo – the recent law failed to tackle legal status of religious organisations adequately.
- Russia – adopted a discriminatory law in 1997 which has since created many difficulties for religious groups resulting in a number of

² OSCE Review Conference, September 1999.

³ In Serbia there are also violent attacks on religious minorities; whilst they have declined over several years, they still occur. Elements in Serbia are actively spreading false information about religious movements and stirring up the ‘sect issue’.

cases being brought before the European Court of Human Rights. In a very recent development, the European Court delivered, on 5th October 2006⁴, a strong decision regarding registration problems the Salvation Army had in Moscow. The Court affirmed the right to religious freedom, the need for neutrality in religious affairs by the State, and the absolute prohibition on analyzing and attempting to determine the legitimacy of religious beliefs throughout the 46 States that have signed and ratified the Convention.

- Macedonia, Bosnia and Herzegovina – there are problems obtaining permission for religious buildings.
- Uzbekistan and Belarus – problems focus around denial of registration and heavy fines for carrying out unauthorized religious services.
- Turkmenistan – there is a lack of freedom to promote and practice almost any kind of faith.
- Kazakhstan – there are some problems generated by the insistence for groups to register (and penalties for not doing so) when this is not necessary under international standards.

Need for Dialogue

Whilst there may be many things that can be done we consider that dialogue is the central solution on which to focus and think that this can be facilitated far better within the OSCE structure. Through real and constructive dialogue, false information about groups can be dealt with. When there is dialogue it is possible for groups to bring concerns to government and have a way in to resolve the issue and address actual concerns (on either side).

The OSCE is already working in this direction and has two main institutional tools with which it can deal with religious questions. Firstly there is the panel of experts on freedom of religion or belief which can take up matters of concern – though its hands are somewhat tied in that it has to be formally asked by a government to give an opinion before it can properly take up an issue. This of course restricts the work of the panel as it cannot act on its own determination and if a government does not wish

It would be far more effective if the Panel of Experts were able to determine their own priorities in so far as what religious issues they should suggest and not be subject to the whim or veto of a government before they can take action.

⁴ Moscow branch of the Salvation Army v. Russia (application no. 72881/01)

Our first recommendation is to widen the mandate of the Panel of Experts so that it can determine its own priorities and make public (or private) pronouncements on activities of religious intolerance or discrimination that is brought to its attention.

Our second recommendation concerns the Special Assistants to the Chairman-in-Office and the initiation of a complaint procedure. The OSCE has instituted a system of Special Assistants to the Chairman-in-Office to deal with a range of subjects relating to religious freedom. This is an excellent initiative but the personnel assigned are part-time and, from my experience, have a very heavy work load. Furthermore I do not know that there is anything envisioned with regards to reports covering the work of the Special Assistants. It would be very helpful to have a report covering the requests that have been received and the results of any investigations/mediations done. A clear and simple complaint procedure should be initiated so that religious groups and NGOs could raise such complaints against states for investigation and remediation. Special Assistants should receive additional staff support in order that they can be better facilitated to carry out their activities. They should also be responsible for providing a report of their activities and issues that have been taken up. All activities and issues should be oriented towards creating, developing and improving conditions where parties are able to dialogue or, when dialogue is refused, then this is pointed out.

Our third recommendation, and we have made this before realizing it would require the political will and resources to be allocated towards doing so, is that a High Commissioner for Religious Freedom be established in a similar way that there is a High Commissioner for Minorities. As religious minorities do not fall under the mandate of this Commissioner either a new one position can be created or else the mandate of the High Commissioner for Minorities could be extended.

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