

OSCE Supplementary Human Dimension Meeting

Freedom of Religion or Belief in Education

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1.- Complex in its implementation as it is important in its substance, freedom of religion or belief in education is well articulated in post-World War II human rights law, but it still raises many operational questions today, and it still remains to be universally applied. In the practice of States, a variety of approaches and adaptations is evident. For example, I leafed through a preliminary survey of the link between Church and State regarding Catholic schools in Europe and in the 29 countries member of the European Committee for Catholic Education that educate 7.637.779 pupils in their Catholic schools in 2009-2010, the modalities of religious education in these and the State schools take on several different forms. The same diversification applies in the relationship between confessional or private schools and the State with regard to subsidies for teachers' salaries and construction and maintenance of educational structures¹. The linkage between education and freedom of religion or belief remains a vast area of concern and of still-developing policies.

In my short presentation, I will refer a) to some available evidence on how States address the issue of education and related aspects of religious freedom, b) to the international and regional agreements reached in this area of human rights, c) and, more in detail, I will look at Catholic teaching and d) conclude by pointing out some open questions.

2.- A December 2009 Pew Forum study found that about one third of the world's countries, encompassing almost 70 percent of the world's population, have high or very high restrictions on religion. Those restrictions are both governmental (limiting proselytism, registration requirements, biased funding) and societal (threats and harassment leading to crimes and violence to compel adherence to religious norms). These restrictions may relate to states or societies discriminating against some religions over funding religious education programs and providing resources for religious property or religious activities. This high level of restrictions on religion exists despite the fact that 76 percent of the 198 countries and self-administering territories surveyed, representing more than 99.5% of the world's population, include freedom of religion in their constitutions or basic laws².

According to the Pew study of the member states of the OSCE, those in North America and Western Europe generally have low to moderate levels of government and societal restrictions while those nations in Eastern Europe and Central Asia tend to have moderate to high levels of restrictions. Each of the 56 OSCE member states has varying demographics concerning their internal religious composition, and dominant religious preferences differ. Nine of the OSCE states are predominantly Muslim. In four states, non-believers (atheists) form the largest group, although only in Russia and Latvia do they constitute the majority of the population. In the remaining 43 countries, most of the population belongs to various Christian denominations. In particular, significant for our discussion are the answers to the question if any level of government provide

¹ European Committee for Catholic Education. *Information sur l'Ecole Catholique en Europe*. Edition française, 2008..Pp. 106. Also : <http://www.ceec.be>

² (<http://pewforum.org/Government/Global-Restrictions-on-Religion.aspx>) This study does not attach normative judgments to restrictions on religion. Every country studied has some restrictions on religion, and there may be strong public support in particular countries for laws aimed, for example, at curbing "cult" activity (as in France), preserving an established church (as in the United Kingdom) or keeping tax-exempt religious organizations from endorsing candidates for elected office (as in the United States). The study does not attempt to determine whether particular restrictions are justified or unjustified. Nor does it attempt to analyze the many factors - historical, demographic, cultural, religious, economic and political - that might explain why restrictions have arisen. It seeks simply to measure the restrictions that exist in a quantifiable, transparent and reproducible way, based on reports from numerous governmental and nongovernmental organizations.

funds or other resources for religious education programs and/or religious schools. 106 countries answered no; 8 answered yes, but with no obvious favoritism to a particular group or groups; 84 answered yes, and with obvious favoritism to a particular group or groups. It can be assumed that the religious, ethnic, historical and cultural differences of the member states will present significant challenges for the OSCE to address as it considers how to implement its commitments related to education and religion.

3.- OSCE, of course, has taken a clear stand on religious freedom and it has formulated also some specific principles on its relation with education through a logical development of the foundational principles and agreements reached with the Helsinki Final Act of 1975, especially principle VII³. In the Concluding Document of the 1986 Vienna Meeting, in order to ensure the freedom of the individual to profess and practice religion or belief, participating States committed themselves to dialogue with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom and “respect the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others; in this context respect, inter alia, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions; allow the training of religious personnel in appropriate institutions...”⁴ OSCE follows the international community that already had developed several binding instruments on human rights that, beginning with art. 18 of the Universal Declaration of Human Rights, had progressively specified its implications⁵. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by General Assembly resolution 36/55 of 25 November 1981, paid particular attention to education. Thus article 5.1 states: “The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.” There is a recognized right to religious life within the family and to the parents’ religious education of their children. This latter aspect is clarified in article 5.2: “Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.” Probably, the Concluding Document of the Vienna Meeting of 1986 was influenced by these articles. Two issues have emerged in the various conventions: the right of the child and the right of parents to transmit their

³ <http://www.hri.org/docs/Helsinki75.html#H4.7> “VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief...The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion...Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.” This section concludes with the acceptance of the Universal Declaration of Human Rights and the other International Covenants on Human Rights.

⁴ Concluding Document of the Vienna Meeting 1986 etc., Principles, 16, 16.5, 16.6, 16.7, 16.8. National minorities, including religious minorities, have the right “to establish. And maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance....and to conduct religious educational activities in their mother tongue.” 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 32.2; 32.3.

⁵ The Universal Declaration of Human Rights, adopted and proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948; Art. 18 “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.”; Art.19. “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

religion or belief. In this connection, the role of so-called private schools also has entered the picture, and, for example, the Covenant on Economic, Social and Cultural Rights (art. 13) and the UNESCO Convention of December 14, 1960 (art. 5) deal with this right. The Convention on the Rights of the Child (art.14 and 28) affirms that “States Parties shall respect the right of the child to freedom of thought, conscience and religion” and that they ...”shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.” (Art.14) The Declaration on the Elimination of All forms of Intolerance is very explicit on the right of the child to have access to a religious education in line with the desire of the parents, to non-discrimination, and, on the positive side, to an education leading to respect for other people’s religions, to universal friendship and altruism⁶. Similar expressions are found in the Final document of the International Consultative Conference on School Education in Relation with Freedom of Religion or Belief, Tolerance and Non-Discrimination of Madrid in 2001.

The principles agreed do not seem to have been uniformly interpreted. The risk may occur that the interpretation of experts may not be that of religious communities with regard to the very content and identity of a religion, in which case freedom of religion would not be really be respected.

4.- On some basic principles, there is a convergence of human rights provisions with the teaching of a major religious tradition, the Catholic Church.

Some of these principles in the exercise of religious freedom, as they relate to education, have already been presented at OSCE meetings on the part of Holy See Representatives, in solemn occasions such as at the Second Vatican Council, and by public addresses by the recent Popes⁷.

These include the freedom:

- Of parents, to transmit their religious values to their children;
- Of families, to see that the religious convictions of their children are respected in all educational activities;
- Of every individual, to receive religious instruction individually or as part of a larger community;
- Of all believers, to be able to exchange information, to produce, acquire, receive and make free use of religious materials;
- Of all believers, to be able to meet and communicate openly with other believers within the same country and in other countries; and
- Of religious communities, to be able to train future religious leaders and send them where they are needed;
- Of establishing religious schools.

These basic needs have not changed, but in a world where religion is often used as a tool to advance political, economic and social agendas, more attention must be given to how religious values are taught and transmitted to promote tolerance of differences, leading to developing the mutual respect and understanding that are necessary for peace.

The Church believes that all people should have the right to profess their religious ideas freely, but this must be done “within the limits imposed by the common good and public order, and, in every

⁶ Art.5. 3: “The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.”

⁷ In looking at some past documents, see remarks made by Msgr J.L. Tauran at the CSCE Cultural Forum in November 15, 1985 and of Msgr A. Backis at a Vienna Meeting of the CSCE in January 30, 1987, and reported in *Words That Matter: The Holy See in Multilateral Diplomacy Anthology (1970-2000)*. New York: The Path to Peace Foundation, 2003. Pp. 152-153 and 144-145 respectively. See also Andre’ Dupuy, Pope John Paul II and the Challenges of Papal Diplomacy, 1978-2003. Pp. 143-174 on the right to religious freedom.

case, in a manner characterized by responsibility.”⁸ This carries forward into the realm of education so that religious education should likewise transmit values and beliefs, but should do so in a manner that still acknowledges and respects the fundamental human dignity of every person, even if that individual does not adhere to or share the same religion or belief system. This respect for the human dignity of every person should apply in interactions among individuals, between individuals and the larger society, and between individuals and their religious community and the state.

As far as the role of parents in educating their children is concerned, the Church recognizes the vital role that parents and family play in raising children. Pope John Paul II said that parents have an *essential* right and duty to educate their children; however, he acknowledged that parents are not the only educators. Civil and ecclesial agents also have a role to play.⁹ Parents have the right to choose the type of education for their children that best corresponds to their convictions, and public authorities should ensure that these choices can be exercised, even if that education is in a faith that is different from that of the majority of the population of the nation or the faith promulgated by the state. This right poses fundamental challenges when a state has defined itself in religious terms and members of a minority community want to exercise their right to provide education in a faith other than that which is promulgated by the state.

In those instances, the Church reaffirms the principles of human dignity, as stated in the Declaration *Dignitatis Humanae* of the Second Vatican Ecumenical Council, “all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits” [2:AAS 58 (1966), 930-931]. As nations, as communities, as families and as individuals, we need to work toward guaranteeing “the right of each person to a human and civil culture ‘in harmony with the dignity of the human person without distinction of race, sex, nation, religion, or social circumstances’.”¹⁰ Education, rather than legislation, is the best way to stop religious intolerance. Education teaches tolerance and respect for one another which lead to mutual understanding and peace, rather than dissension and anger which lead to conflict and turmoil. It is in the long-term interest of a state to work toward the stability and peace which is necessary for development and progress to occur.

5.- Education is important as a ‘multiplier right’ since it helps the person to develop and become able to enjoy other human rights. In this process of development, religion and fundamental convictions play a critical role. Reference to freedom of religion constituted a major point of confrontation between East and West in the Cold War period. Today, the confrontation involves intolerance and religious extremisms, sects, the *laïcité* of the State, social pluralism, and the exercise of the rights linked to freedom of religion, like education for both individuals and communities. Religion does not identify with culture, even though it influences it, and religion is not the equivalent of tolerance, even though it promotes tolerance. The uniqueness of a religion, therefore, claims those positive and negative rights that allow a person to exercise his or her deepest convictions with freedom from discrimination and impediments and that require the State to provide an adequate social environment for their fulfillment. In this perspective, the right to religious education maintains its specificity and becomes a contribution to the entire society and the common good.

⁸ *Compendium of the Social Doctrine of the Church*. Rome: Libreria Editrice Vaticana, 2004, No. 200

⁹ *Ibid*, Nos 239, 240.

¹⁰ *Ibid*, No. 557.