

A Global Review of the Denial of Religious Freedom Fall 2002

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European Union

Controversy is beginning to brew over whether the future Constitution of the European Union (EU) should refer to the role of religion and, if so, in what form. Institutions like the Vatican believe that Christianity and religion are central to the spiritual and cultural identity of Europe and, as such, should be included in the forthcoming document. Others, however, are concerned about any dominant role of the Church in a pluralistic Europe, which is composed of many different religious affiliations and none.

The Vatican has expressed disappointment that there is no reference to God or to Christianity in the document, which is presently being drafted in Strasbourg. Pope John Paul II has reportedly pressed Valéry Giscard d'Estaing, chairman of the Convention on Europe's future, to include reference to Christianity and its role in Europe's heritage. In comments made in early September, the Pope expressed concerns about the "marginalisation of religions" in the European forum and noted that religion has "contributed and still contribute(s) to the culture and humanism of which Europe feels itself legitimately proud." He went on to add that recognising "an undeniable historical fact does not at all mean to be unaware of the exigency of a just secularism of states and, therefore, of Europe." To what degree the Vatican would be satisfied with broader references to religion, rather than more specific references to Christianity, remains uncertain.

Meanwhile, EU officials, while recognising the legitimacy of religious opinions, are keen to have a formulation which is not discriminatory. When the Charter of Fundamental Rights was drafted in 2000, reference to religion was avoided altogether due to the controversy over these questions. It remains to be determined whether this will also be the fate of the European Constitution. (Sources: *European Voice*, *Zenit*, and *CWNews*.)

Hungary

The IARF Secretariat sent a letter of concern in late November to Hungary's Prime Minister regarding legal provisions which may come into effect in that country in January 2003. In sum, it has been proposed that Census data be used to determine entitlement of financial assistance to religious associations, rather than the more acceptable method of citizen's selected tax donations. Since 1996 until the present time, the Hungarian Government has provided subsidies to religious groups according to income tax statements. However, a law passed in December 2001 would change this practice effective as of 1 January 2003 to use census data for financial support of religious communities in Hungary.

Various religious and human rights organisations have expressed concern, over some 2 years of negotiations, on the potential use of census data for political purposes. Certainly, in the context of European history, religious communities such as the Jewish one have good reason to fear attempts to enumerate and locate them. If this law went into effect, says Ilona Szent-Ivanyi Orbok of IARF's European office, it would mean that only the Roman Catholic Church would see increases in its

financial contributions whereas minority religious groups (such as Unitarians, Jews, Buddhists and others) would see significant decreases. The *British House of Commons* issued a motion against this legislation in mid-November and noted that the law would violate the principle of freedom of conscience and religion and discriminate against minority religions in Hungary. A number of Hungarian intellectuals have also signed a letter of protest to the Prime Minister, asking him to withdraw the law. Perhaps based on such public pressure, it was reported in early December that the Government intends to amend the law governing the disbursement of funds to religious organisations, although pressure to cater to the majority Catholic community will also be strong. (Sources: IARF's European Office and *Human Rights Without Frontiers*.)

India

In late October, a bill was passed into law by the southern Indian state of Tamil Nadu which penalizes those who convert to a religion other than Hinduism with imprisonment and a hefty fine. After a reportedly acrimonious debate, the law was passed by the Tamil Nadu Assembly on a vote of 140 in favour and 73 against. While the ordinance on Prohibition of Forcible Conversion of Religion does not specify particular religious groups, it does target conversions by “force, allurement or fraudulent means.”

Opponents note that these terms are not adequately defined and do not make clear, for example, whether charity work such as feeding the poor would be considered an “allurement.” In any case, they note that the new law offers the means to challenge all conversions other than to Hinduism. Opponents believe that the law is primarily aimed at preventing lower-caste Hindus from converting to other religions. Low-caste Hindus in India have often been attracted to Islam or Christianity, for example, to escape feelings of discrimination and exclusion. Christian missionaries in India are also often accused of using social services as a conversion technique.

In a positive vein, the passage of this law has had the effect of bringing together several minority communities in the region (including Christians, Muslims, and Buddhists). Minorities in Tamil Nadu, including the Dalits (untouchable castes), are planning to challenge the new law in court and/or defy it in other ways. After the passage of the law itself, thousands of Christians and Muslims gathered to hold a fast in protest. Human rights lawyers across India have also opposed the new law, which they claim is a fundamental breach of the Indian Constitution's provisions for religious freedom.

Chief Minister Jayalalitha in Tamil Nadu stated that the legislation was meant to curb conversions “through force and allurement,” but that “those changing religion on their own volition” would not be covered by the legislation. The ruling Hindu nationalist Bharatiya Janata Party (BJP) has welcomed the new law, as religious conversions have long been an issue of concern to the BJP. Detractors, however, claim that the BJP is primarily using the law for political mobilisation and to support a pro-Hindu ideological bias. (Sources: *CS Monitor*, *Washington Times*, *Times of India*.)

Russia

In mid-October, the Education Ministry sent a 30-page prototype of a new curriculum on “The Foundations of Orthodox Culture” to regional education

departments around Russia. The course will encompass the history and foundations of Russia's traditional faith and, reportedly, can be taught directly by priests. While government officials claim that the course is lawful because it is only being recommended to the regions and is voluntary in nature, opponents see this move as an attempt by the Russian Orthodox church to incorporate its religious views into compulsory state school subjects.

The document from the Education Ministry, for example, does note that the course should be included in the general education curriculum at all levels for between 1 and 2 hours a week. The course is also already taught in some regions by state-employed teachers. The Moscow-based *Institute on Religion and Law* indicates that the 1997 law on religion stipulates that such classes must occur outside the state curriculum and be taught by religious organisations themselves rather than state-employed teachers.

For its part, the Orthodox Church has argued that secular religion classes do not offer students a choice of worldview because religion is taught from a nonreligious perspective. They note that adding a moral dimension, otherwise missing in the post-Soviet school system, would help reverse the proliferation of crime, drug-addiction, and alcoholism. The Education Minister Vladimir Filippov added that Orthodox culture has existed in Russia for over a thousand years and, thus, there is a need to learn about it in school.

As for the "optional" nature of the course, critics say that this only means that each school has the option of including the course in the curriculum, but this would not mean that children would have the option of choosing another subject over 'Orthodox culture' during the same time slot. Hence, it would potentially pose problems for those children from minority faiths. Political scientist Vladimir Ilyushchenko maintained that "this change in the secular character of the state is fraught with Orthodoxy becoming a state religion, with discrimination against other confessions." (Sources: *Moscow Times* and *Keston Institute*.)

United States

The Religious Freedom Protection Act passed into law in the Pennsylvania legislature this fall, making Pennsylvania the 10th state to pass a bill meant to give new protections to religious groups. Basically, the Act states that the laws that burden a person's religious practice or belief could be challenged in court if the state lacks a compelling interest in passing the law. The language of the Act reads, "The General Assembly intends that all laws which it has heretofore enacted or will hereafter enact, or which have been or will be adopted by political subdivisions and executive agencies acting pursuant to authority asserted to be conferred by statutes enacted by the General Assembly, shall be construed so as to avoid the imposition of substantial burdens upon the free exercise of religion without compelling justification."

An aide to the Pennsylvania senator introducing the bill, Sen. Jubelirer, gave the following examples of how the law might apply in practice. If the legislature were to pass a law banning the wearing of yarmulkes in the Capitol, state employees could still wear the Jewish headpiece unless the state could prove a compelling reason for the ban. Alternatively, a Muslim woman would not necessarily be able to wear a veil for a driver's license photo because there would be a compelling state interest in having a license that shows identity.

To date, nine states in the United States have passed such religious-freedom acts and the move is meant to reestablish what is perceived to be a diminishing level

of protection that religious freedom enjoys under the Constitution. *The Institute on Religion and Public Policy*, based in Washington, D.C., noted that, in June 1997, the U.S. Supreme Court declared the Religious Freedom Restoration Act unconstitutional as applied to the states. Hence, since that time, “state legislators across the country have been considering ways in which to restore the protection of religious rights.”

While meant to renew rights to religious freedom, critics of the legislation say that the bill is too broad and could open the door to religious groups arguing for exemptions from important laws. (Other Sources: *Associated Press*)

Vietnam

A report from *Compass Direct News Service* states that, by the end of September, some 354 of 412 churches had been forcibly disbanded in Dak Lak province in Vietnam. Additionally, by mid-October, about 50 Christian pastors and elders in the province had been arrested or had ‘disappeared.’ While the Vietnamese Government had tolerated the existence of the largely Christian Montagnard (‘mountain people’) for some 20 years, a new wave of crackdowns has been taking place. There are now, for example, hundreds of Montagnard refugees in camps in Cambodia who have fled from well-documented religious persecution in Vietnam.

Compass Direct clarifies that Montagnard churches were historically part of the Evangelical Church of Vietnam (ECVN), which was granted legal recognition just last year. However, only a handful of the hundreds of Montagnard churches were allowed to identify with the ECVN. As such, the majority of churches have been forcibly closed and it is expected that remaining churches in the province soon will be. Normally cautious in speaking out about abuses, the ECVN has apparently sent a letter to the Prime Minister and relevant government agencies describing the persecution and noting that these actions are against both the country’s constitution and to promises made by Vietnam’s Religious Affairs Bureau.

The Montagnard people are, however, not alone in their suffering. There are also well documented cases of repression in Vietnam against Buddhist, Catholic, and Protestant communities. The Cao Dai community suffers similarly and its organisation in exile is associated with IARF and attended the IARF World Congress in July 2002.

A 2001 statement from the *U.S. Commission on International Religious Freedom* summarises the situation in Vietnam as follows: “Despite a marked increase in religious practice among the Vietnamese people in the last 10 years, the Vietnamese government continues to suppress organized religious activities forcefully and to monitor and control religious communities. . . . The government prohibits religious activity by those not affiliated with one of the six officially recognized religious organizations. Individuals have been detained, fined, imprisoned, and kept under close surveillance by security forces for engaging in ‘illegal’ religious activities. In addition, the government uses the recognition process to monitor and control officially sanctioned religious groups: restricting the procurement and distribution of religious literature, controlling religious training, and interfering with the selection of religious leaders.”