

## FREEDOM OF FAITH: INTERNATIONAL NORMS AND STALINIST LEGISLATION

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Freedom of thought, conscience and religion not only follow those natural human rights such as the right to life, to the inviolability of the individual and his property and the family, but also constitutes the basis for other rights and the human rights movement as a whole. From the time of the Apostle St. Paul who called for the observance of civil freedoms, from St. Justin the Martyr who petitioned, as early as 2nd Cent. A.D., the Roman Emperor "for the people of all nationalities who were unjustly hated and persecuted", through the blood of confessors and martyrs for freedom of faith such as the Metropolitan St. Philip Kolychev in Russia or St. Thomas More in the West, the Christian Church had to come a long and difficult road before the ideas of tolerance and justice became the property of not only Church consciousness but of all humanity. At the same time the wonderful theoretician of the religious and political movement called "Arminianism", the Dutch theologian and writer Hugo Grotius, established the concept of international law and formulated principles which became the basis for the contemporary Charter of Human Rights.

It is in the struggle for religious tolerance, for respect for the rights of religious minorities and abrogation of all forms of discrimination against the human spirit and conscience that the idea of the social contract has arisen. The contract calls for mutual security and peaceful co-existence and incorporates the inviolability of an individual as well as universal international law.

Before we attempt to examine to what extent the Soviet legislation on religion (and cult) conforms to the principal international documents that regulate cooperation among governments in the area of human rights (which documents were ratified in our country [USSR]), it is important to note that aside from the legislative level there can exist, at a minimum, two more levels of discrimination against believers -- ideological and propagandistic.

In comparison to the Yezhov-Beria period of genocide against believers, the current situation in regard to religious organizations in the USSR can be viewed as much more satisfactory. However, the discontinuance of open persecution does not yet signal the absence of discrimination.

What are the basic criteria of religious freedom and religious discrimination? Although this article is concerned with the situation regarding Christians in the USSR in general and the Russian Orthodox Church in particular, the criteria to one degree or another are equally applicable to Islam, Judaism and Buddhism.

According to the teaching of the Church, as accepted from Jesus Christ, the Church possesses, if one can phrase it that way, three hypostases.

First, the Church is a gathering of believers, i.e. a community, which implies constant brotherly/sisterly relations and mutual aid among its members, as well as collective study of God's Word.

Second, the Church is a religious institution united in its mysteries (sacraments) and religiosity. In its temples and houses of worship ("small churches") public religious services take place known as the liturgy, the core and center of which is the Eucharist.

Third, the Church is the apostolate, i.e., permanent testimony to the world about Christ through homily and active service to its neighbors.

One or two of these points will not suffice. Only the three together constitute the essence of the Church as the purpose of life for the people that form it. Even if a single of these aspects of Church life were to be defeated through legislation the Church would find itself discriminated against and persecuted.

The later the inevitable secularization process takes place in a society, the more difficult and more painful it is. It is enough to recall the "Kulturkampf" under Bismarck in Germany and the year 1905 in France. Therefore, it is not surprising that this process turned out to be even more severe in Russia, although the decree of the Council of People's Commissars of 1918, dealing with the separation of church from the state and school from the church might be acceptable to the church, with the exception of the unjust and discriminating Article 12 (this decree was essentially copied from the works of French legislative authorities at the turn of the century): "No church or religious communities have the right of ownership. They do not have the rights of a juridical person."

This politically fully explainable maximalism would have been corrected in time in the course of history. However, in 1929 when Stalin declared war on all of Russian society including the Leninist faction of the Party, a resolution "On Religious Associations" was accepted by the All-Russian Central Executive Committee and the Council of People's Commissars of the Russian Soviet Federative Socialist Republic. The severe consequences of this resolution (action) will continue to plague our society until the time that this odious document is rejected.

The Stalinist legislation on religion which is still in existence today is in total contradiction to the International Charter on Human Rights.

Since the juridical validity of the documents that made up the Charter do vary (the UN Declaration of Human Rights merely lays out recommended norms), the Soviet legislation on religion ought to be compared with the Agreement on Civil and Political Rights which contains obligatory norms of behavior.

Article 18 (par. 1,2) of the Agreement states:

Every human being has a right to freedom of thought, conscience and religion. This right includes the freedom to have and accept religion or convictions according to personal choice, and to practice religion or conviction individually or jointly with others as well as publicly or privately and freedom to perform religious rites, rituals and teachings.

No one is to be subjected to coercion by belittling one's freedom to have and accept religion or convictions according to one's choice.

Article 19 of the Agreement is directly connected with Article 18.

1. Every human being has a right to his opinions without hinderance. 2. Every human being has a right to freedom of expression; this right includes the freedom to search receive and disseminate all sorts of information and ideas regardless of official constraints, whether it is done by word of mouth, in written form, printed form or artistic forms of expression as well as other methods according to one's choice.

Notwithstanding the foregoing norms of international law, Article 11 of the Stalinist legislation on religion prohibits religious communities from renting presses to print religious and moral books. Article 17c prohibits: "organization of biblical and literary meetings, groups, clubs, departments to study religion, etc, or to open libraries and reading rooms. In the houses or worship only books necessary to perform religious rites of the given denomination are permitted.

Article 18 of the Decree of 1929 goes even further: "The teaching of religious dogma can be permitted exclusively in religious educational institutions opened according to an established order".

It is not difficult to note that these articles do not leave any opportunity to search for, receive and disseminate religious views, or accept religion according to one's choice. These articles would not have been so discriminatory if the Russian Orthodox Church, as well as other religions in our country, would have had under their jurisdiction a network of libraries and Sunday or catechism schools in order to teach these principles of religion to children of religious families and essentially everyone willing to get baptized (or join Islam or any other religion). Nothing of the kind exists in the USSR. The religious educational institutions which the official bureaucrats and Church officials have referred to in the recent decades of non-glasnost offer special theological education which cannot be recognized as sufficient even for the elementary understanding of religious dogma and its practice. Yet they claim to prepare priests and theologians. The libraries of academies and seminaries are closed to ordinary believers and are inaccessible for the majority of clergy whose eparchies are located far from Moscow, Leningrad and Odessa.

In general, in our country [USSR], it is impossible to obtain freely even a Bible, a Gospel, a prayer book or any liturgical text. No private person can buy or subscribe to even the small number of periodicals published by the Moscow Patriarchate and other religious centers. Catechetical facilities within the church buildings do not exist. While in the Baltic republics the priests and pastors have official office hours for the population,

the Russian Orthodox Church is totally unaware of it. In instances when the priests, at personal risk and fear, decide to counsel or teach religion to their members they subject themselves to heavy pressure from the representatives of local government as well as persecution in the press (see "Literaturnaya Gazeta" Oct. 21, 1987, p.12). Moreover, The Journal of Moscow Patriarchate is available in the USSR only to a very small group of people. It is published in English. Foreigners have access to it; not the local population. The Patriarchate does not publish catechisms, commentaries on the Bible, reference books or indexes. Neither does it publish books by the Teachers and Fathers of the Church, Orthodox or other Christian theologians or religious writers.

The word 'confession' in Russian, as in all languages, means "to openly follow a religion, teaching or conviction"; it assumes the right to preach and the rights, as stipulated in the International Charter, to receive and disseminate information through the press, free from all state restrictions. In spite of Article 52 of the Soviet Constitution which stipulates the right of citizens to profess any religion, all forms of open and public confession of faith were immediately labelled as "religious propaganda" and even "extremism", even though no legislative document contains anything regarding a ban on "religious propaganda". The only right not qualified as propaganda was the right to participate in a religious service in a limited number of temples. This is odd because the right to profess faith implies the right to "propagandize". As a result, a fallacious practice came into being in our country [USSR], where the theologians, publicists and fiction writers for many decades were forced by the government to be published in the foreign religious press. This subsequently gave the same government an opportunity to accuse the authors of "collaboration with emigre anti-Soviet publications". In the meantime, all these writers would have been only too happy to be published in their homeland -- where else?

The foregoing is equally relevant to the problem of receiving religious information. The total absence of religious literature in the USSR (existing limited editions of journals and almanacs cannot be classified as such) has naturally forced Christians to obtain, in any possible way, foreign editions in Russian or a foreign language. All such literature was termed "religious literary pulp" by the Soviet government bureaucrats and propagandists and was called "a product of clerical anti-Communist centers whose goal it is to plant and support religiosity in the USSR." This, indeed, is an unconditional insult to the feelings of believers. Unfortunately, this discriminatory and unlawful concept has not changed one iota to date.

On November 17, 1988, the official anti-religionist A. Belov announced on Soviet television, appearing on the program "Religion and Politics", that the sending of religious literature to the USSR from abroad is "an ideological sabotage--an action of militant anti-Communists in alliance with militant clericalist!"

Presented as "anti-Soviet literature" and shown in magnified form on the screen were publications not only of an exclusively religious character such as "The Bulletin of Russian Christian Movement", the newspaper "Orthodox Russia", the book "Coming Christ", but the Bible, as well! The edition shown was the Holy Bible which is being received officially in limited quantities from overseas by Soviet Baptists.

As a result of police searches, officially conducted in the houses of believers justified on the basis of the "anti-Soviet" Articles of the Constitution, all literature of purely religious nature is being removed from circulation and is even being confiscated. Total lawlessness and arbitrariness prevail in this area.

For example, during the apartment searches of the famous Orthodox writers, such as F. Svetov and Z. Krakhmalnikova, several dozens of clearly religious books were removed including

the works of B. Pasternak, N. Erdman's "The Suicide" and M. Bulgakov's "The Heart of a Dog". In answer to numerous inquiries, the office of the public prosecutor stated that all these books and also a large part of the personal archives belonging to F. Svetov and Z. Krakhmalnikova, including the letters of the deceased mother of Svetov "were destroyed as material unworthy of dissemination of the USSR" (incidentally, none of these books were listed when the case came up for prosecution).

One does not have to look far for such examples, they are plentiful.

On January, 28, 1984, my apartment was searched by an investigator from the Zhdanov district office of the public prosecutor in the city of Moscow. They were looking for "slanderous" literature but did not find it. As a result of this search, practically all my books and brochures on theological and religious/philosophical matters, commentaries on Holy Scripture, works on biblical issues in English and French were all confiscated. Editions of the New Testament in Russian, French, English and German were also taken.

In response to my recent inquiry to the office of public prosecutor, I received a communication from the district deputy prosecutor, I.A. Kudryavtsev, dated October 22, 1987, stating that "the literature taken from your apartment during the search was destroyed in accordance with an expert's conclusion that it does not lend itself to dissemination in the territory of the USSR". It is important to note here that in spite of the absence in our society of official lists of prohibited literature, the office of the public prosecutor as well as Soviet television officially state that the Bible and the New Testament are forbidden for distribution in the country.

These statements do not leave any illusions regarding freedom of religion in the USSR. Free elections and the acceptance of religious practice, even the dissemination of the Bible and the Gospels so far do not exist here.

With regard to the children of believers, the Stalinist legislation of 1929 violates all norms of international law. Article 29 in the Agreement recognizes the family "as the single and basic unit in the society". Article 24 affirms the primacy of the family before society and state in the upbringing of children and Article 18 (par. 4) states:

Governments who are signatories to the International Agreement are obliged to respect the freedom of parents, or in certain cases legal guardians, to provide religious and moral upbringing of their children in accordance with their own convictions.

However, in our land, any organized form of children's religious education are not only prohibited but are punished in accordance with a special article of the Criminal Code (yet it is obvious that education has to be conducted by professional teachers of catechism and not by parents). Article 142 of the Criminal Law Code of the Russian Soviet Federative Socialist Republic (and the corresponding articles in other republics) warns that:

organizing and systematically educating minors on the subject of religion is punishable by correctional labor for a period of up to one year or by a fine of up to fifty rubles.

Repeated actions as well as organizational activity directed towards the completion of these deeds are punishable by the disenfranchisement of the personal rights to freedom for a period of up to three years. (Decree of the Presidium of the Supreme Soviet of the Russian Soviet Federative Socialist Republic dated March 18, 1966).

In the previously cited Article 17 of the 1929 Stalinist legislation it says:

"It is forbidden for religious associations to organize special children's and adolescent prayer meetings, set up clubs for the study of religion or organize excursions."

These injunctions irrefutably attest to discrimination towards believers and violate the rights of children in the USSR. However, even more discriminatory articles are contained in the 1969 Legal Code on Marriage and Family (Article 52) and in the 1973 Resolution of the Supreme Soviet of the USSR titled "On Public Education" (Article 57). These articles emphasize that parents or their substitutes are invested with the responsibility of bringing up their children in an atheist atmosphere. We, the believers, consider ourselves responsible for bringing up our children in an atmosphere of patriotism, respect towards government and loyalty towards ruling ideology. However, we cannot accept an atheist system of values, morality or principles upon which to explain the world; consequently, we shall be considered offenders against the law.

Further, Article 18 of the International Agreement on Civil and Political Rights talks about person's right to publicly practice religion. Article 21 of the Agreement recognizes the right to peaceful meetings and Article 22 of the Agreement states that:

Everyone has a right to free association with others to defend one's interests. The use of this right is not subject to any limitations aside from those which are essential in a democratic society.

In contradiction to these articles, again, the same Stalinist Article 17 forbids religious associations the right to organize all types of meetings, groups, clubs and sections for Bible study and prayer, as well as literary, handcraft and labor groups to study religious issues. The same article forbids the believers:

to create centers of mutual benefit,, cooperation and industrial associations; to offer material support to its members to organize sanatoria and to render medical assistance.

In some other articles of the presently existing religious legislation the discrimination against believers in the USSR is further consolidated by the principles of complete government control over them as if they were criminals or mentally ill:

General meetings of religious societies and believers' groups (with the exception of the prayer groups) are to be conducted only with the permission of the local Party executive committee (Article 12). In premises not specifically adapted for religious activities, prayer meetings are not to be conducted without proper notification of the Party executive committee (Article 57). Religious processions and the performance of religious rites and ceremonies under the open sky as well as in the apartments and home of believers are permitted upon special permission from the local Party executive committee (Article 59).

All these articles are directed towards general meetings of the most active members of the community.

This last Article 59 violates Article 17 of the International Agreement which emphasizes that:

"No one is to be subjected to an arbitrary an unlawful intrusion into one's personal and family life by an arbitrary an unlawful encroachment upon the inviolability of one's dwelling."

The existence of all types of groups, assemblies, cooperatives and associations of believers are forbidden in the USSR. To government bureaucrats the idea of such association seems so unacceptable and forbidding that the former president of the Council on Religious Affairs in the USSR, V.A. Kuroyedov, in his book Religion and Church in Soviet Society (Moscow, 1984, p. 157) writes: "Recently the Baptist extremists held discussions on the possibility of creating a Baptist Youth League, the so-called "Bapsomol".

It ought to be added to the foregoing that nothing whatever belongs to religious communities. Thus, it is maintained in Article 25 of the 1929 Stalinist legislation that all Church property belonging to religious communities, including all which has been voluntarily donated, is considered nationalized. Article 36 states that the government can arbitrarily confiscate Church belongings for its own need and unilaterally notify the religious community of this.

Returning to the issues of the basic criteria of religious freedom and religious discrimination as applicable to the existing legislation in the USSR, it would not be difficult to arrive to the following conclusions:

1. All organized forms of social relations and mutual assistance among believers are forbidden in the USSR. Also forbidden are all forms of joint study of the Holy Scripture and the Holy Legend as well as all types of religious associations, with the exception of the primary "parish members" without whom the Church would simply not exist.

2. Church buildings and other related property do not belong to the religious communities and can be taken away by the government, if needed, without any regard as to needs of believers, who, incidentally, have no opportunity to obtain annotated texts of the divine service.

3. Organized charitable work by the Church is forbidden by legislation in the USSR--work which is an integral part of the Church's social raison d'etre and which indeed, sprang up within its inner depths and subsequently created a sense of social security in society. Also forbidden are all forms of private and public expression of faith through fiction and the mass media. Teaching religion to children and adults is also not allowed.

In other words, of all the functions necessary for the normal religious activity of the Church and its individual members, the only one permitted is worship. This aspect, in itself, is extremely important--first, without it we would have only one alternative--an underground Church (as it was under Stalin), second, however, this aspect cannot substitute for the two other aspects (church relations and apostolic work) which are as essential and are guided by principles. To this day, believers in the USSR have been living in a totally discriminating atmosphere; this discrimination has been further reinforced through legislation which contradicted all basic norms of international law.

Until now the discussion has concerned itself with legislation, which is the most scandalous level of discrimination against believers in our land. The degree of intensity of discriminatory propaganda is controlled by professional "anti-religionists" and functions in the following forms:

--in admissability of religious preaching or, using non-religious terminology, "religious propaganda"; it is impossible for believers to defend themselves in the press against accusations and false allegations;

--disinformation directed at the general public, which is based on a conscious misinterpretation of religion and the church, promotes the goals of atheist propaganda;

in a book called 100 Answers for Believers (Moscow, 1974) it is maintained that Christians had canonized the goddess Aphrodite and the "gods, Hermes and Mercury", that most of the saints are "people who had left an evil memory of themselves among the populace", and that the concept of God had sprung up from the worship of evil spirits. In the book written by A. Grigorenko called The Magic of Multi-Imaging (Moscow, 1987) the Christian sacraments (mysteries) are equated not only to various acts of witchcraft, fortune-telling and occult practice but to the rituals of the "Church of Satan" as well;

--slander and defamation as methods of struggle against believers who protest discrimination. For example in a book by O. Vakulovsky called The Double Bottom of Amnesty International it is claimed that Father Gleb Yakunin "was methodically buying up, for the purpose of retail, various Church-related articles, antiques, books, industrial products, articles made from precious stones and metals, and silver coin of pre-revolutionary minting" (Moscow, 1987, p.60).

--introduction of certain quasi-mythological stereotypes for propaganda purposes which are conveniently used for especially harsh measures against the most active believers. Without these stereotypes atheistic propaganda, in some sense could not exist. One would hope that it will find within itself some measure of dignity and strength to renounce these stereotypes as not serious and as unworthy.

There is no sense in listing these propaganda slogans--stereotypes; it would only be sufficient to say a few words to refute them;

--the clergy in pre-revolutionary Russia was rather poor and limited in its rights and did not, by any means, belong to the "ruling, wealthy classes" (a significant number of Russian revolutionaries came from this socio-economic class); right up to the reforms of Peter the Great, the Church remained the leading cultural force in society and did not, in any way, "contribute to the backwardness of the country".

--The Russian Orthodox Church did not take a counter-revolutionary position vis a vis the Soviet regime. It had numerous sub-groups all the way up to the totally pro-Soviet ones, whereas the opponents of Bolshevism existed in all strata of the society without exception, including peasant and workers.

--in the USSR there are no "religious extremists demanding unrestricted freedom of action" because whoever speaks out in defense of the freedom of faith accepts from the outset certain restrictions which are essential in any democratic society. The believers only petition for review of the discriminatory legislation and permission to live in accordance with their faith.

--foreign institutes researching the state of religion in the USSR are not anti-Communist centers. They are attempting to reflect the situation objectively. At times, their information does get distorted because of the absence of glasnost which was caused by the "period of stagnation".

Two television programs, one which aired on October 10, 1987, (titled "Behind the Mask"), the other on November 17, 1987, were both about Keston College [in England] and the Institute called Glaube in der 2. Welt [Switzerland] and could not muster up even one argument in favor or an anti-Communist position by these institutions. The programs simply confined themselves to unsubstantiated slogans.

The third level of discrimination against believers in our land is ideological, the premises of which are unacceptable for the predominant "Weltanschauung" of theism, in general, and objective idealism in philosophy, in particular.

This is a case of diametrically different convictions, therefore, arguments and discussions in this situation are meaningless with the exception of those which are mutually benevolent. Nonetheless, the discrimination on this level remains discrimination because until recently the ruling ideology made two mistakes:

1. The interpretation of laws regulating the relations between Church and State was subjected to the influence of ideology as a result of confused concepts--"Ideology" and "State". The result was the discriminatory Stalinist legislation of 1929 and the anti-religious Articles of the Criminal Law Code of the Russian Soviet Federative Socialist Republic (Art 142, 227).

2. In the ideology itself there prevailed a notion, which is presently recognized by the president of the Council on Religious Affairs as erroneous, that of "the total withering away of religion in a Communist society". This resulted in a flagrant and, at times, openly hostile and aggressive actions by the bureaucrats as well as atheist propagandists. Actions which took place in the past and, unfortunately, at times are taking place now.

Such practices, legislatively unchecked, violated for decades yet two other Articles of the Agreement on Civil and Political Rights.

"Any public statement in support of religious hatred instigating discriminations, hostility or violence has to be forbidden by law" (Art. 207).

"The right to life is an inalienable right of every human being" (Art. 6).

The following are the commentaries of a Soviet jurist, L.N. Shestakov, on this Article printed in an introduction to a collection of articles titled "Human Rights" (Moscow, 1986, p. 12).

Genocide does not equal only murder. This crime can be committed in ways other than murder. Thus, a transfer of children from one human group to another can be defined as genocide, if the purpose of this transfer is to end the existence of a certain human group.

The current uniqueness of the situation of believers in the USSR is that the Soviet government has formally signed all basic international documents on human rights, however, in practice the discrimination against believers continues re-enforced by the Stalinist laws which put all religious organizations into a sort of "invisible ghetto". There is a Soviet signature on the Helsinki Accords, the text of which states that:

Member governments shall honor human rights and basic freedoms of thought, conscience, religion and convictions of all people regardless of race, sex, language or religion. . . Member governments shall recognize and honor the freedom to profess any religion or faith individually or jointly with others according to personal conscience". (The final document of the Conference on Security and Cooperation in Europe -- Helsinki, July 30 - Aug. 1, 1975. Moscow, 1987, p. 7).

Regardless of the recognition and the signing of all mentioned documents by the USSR, the ideological pressure, the propaganda and the existence of anti-religious discriminatory legislation unprecedented in the 20th century, breach the basic principles of freedom of conscience. These measures transform the official Church hierarchy into a

passive appendage of the state and limit to the utmost the life and activity of separate independent religious groups composed of believing and loyal members.

The presently developing processes of glasnost and perestroika are closely related to the potential furthering of democratization and humanization of our society. It gives believers hope that the government will review the obsolete and archaic Stalinist dogmas regarding religion and that it will consider abolition of legalized discrimination and thus create, in principle, a new relationship with the State based on mutual and free agreement in the interest of all parties. We are also hopeful that there will exist mutual respect and a real separation of church and state. Any violation of freedom of faith causes injury not only to a person's self-respect but also undermines the fundamentals of freedom, justice and universal peace. This means that it is imperative to put an end, once and for all, to all forms of intolerance of the human spirit and to all forms of religious hatred and one-sided unscrupulous propaganda.

An effective move in this direction would be convening of an international conference of experts on freedom of faith and the creation of an authoritative controlling commission composed of official hierarch as well as lay people. We are calling upon all countries and religions to participate.

Translated from Russian by Leonidas Tax