

## **RELIGIOUS LIBERTY: THE STATE CHURCH AND MINORITY FAITHS**

### **Commission on Security and Cooperation in Europe**

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While religious liberty problems exist in other OSCE states, such as Greece and Turkey, my talk will focus on the former communist countries of Central and Eastern Europe, where the transformation in the area of religious liberty has mirrored the broader transformation in these countries since 1989. The current situation is incomparably better for religious believers than it was six years ago, but religious freedom continues to be a matter of considerable turmoil and tension, oftentimes but not always because of tensions between majority and minority religions. As a representative of the U.S. Catholic Bishops' Conference, I will focus specifically on the experience of the Catholic Church in this region. The situation of other religious bodies is more adequately addressed by others on this panel and the presentations during the September hearing on this topic.

First, I will outline the Catholic perspective on religious liberty. Second, I will summarize the major religious liberty problems that remain unresolved in Central and Eastern Europe. Third, I will look at the church-state separation question as it relates to majority-minority issues. Finally, I will conclude with a few suggestions on a constructive approach by the Helsinki Commission and U.S. policy towards this delicate issue.

#### **A Catholic Perspective on Religious Freedom**

In Catholic teaching, religious freedom is an essential requirement of the dignity of every person. Because it is a "cornerstone" of the structure of human rights," it is an "irreplaceable element" of both the good of the individual and a just and peaceful social order. As a social and civil right, religious freedom has both a personal dimension--the freedom of conscience--and a social dimension--the free exercise of religion.

Freedom of conscience is the freedom to make a personal religious decision free of external coercion and discrimination based on one's beliefs. Freedom of conscience also requires that government policies, the media and other institutions respect religious beliefs and not attempt to destroy or undermine them.

Because human nature is both personal and social, freedom of conscience is tied to the social dimension of religious liberty: the free exercise of religion. Free exercise means that no one is forced to act contrary to one's beliefs, nor may one be restrained from acting in accordance with one's beliefs. The free exercise of religion may be divided into three interrelated components. Freedom of religious expression and evangelization includes, *inter alia*, freedom to worship as a community, freedom to publish and to communicate through the media, freedom to educate one's children in their faith, and freedom to address the religious and moral dimensions of social, economic and political questions. Ecclesial or institutional freedom is the right of religious bodies to internal autonomy, including the right to a legal personality, the freedom to develop and teach religious beliefs, to choose, train, appoint and train ministers, and to obtain and use property. Freedom of religious association affirms the freedom of a person to enter or leave a religious community, the freedom to form religious groups for educational, charitable and other purposes, and the freedom to associate with co-religionists at home or abroad.

A state may restrict or limit religious freedom only for serious reasons, such as when the exercise of religious freedom is violating the rights of others, the public peace or order is threatened, or public morality is at risk.

It is clear from this brief summary that religious liberty is not just a right of the individual believer but is also a right of religious communities. Denial of juridical status to a religious body violates religious liberty just as discrimination against an individual believer does. It is also clear that religious liberty covers a broad range of

activities, from freedom of worship to freedom to establish charitable groups and to participate in and to seek to influence public affairs. Finally, it is clear that religious freedom is inextricably linked to other human rights, such as freedom of association and speech, and legal recognition of voluntary associations. The countries of Central and Eastern Europe that continue to restrict religious liberty also tend to restrict these other rights, and vice-versa.

### **Current Concerns in Central and Eastern Europe.**

It is difficult to generalize about the situation of religious liberty in Central and Eastern Europe, except to say that for virtually every type of religious believer, the situation is far better than it was during the final years of communism in the region. As before the demise of Communism, the situation varies greatly from country to country. The problems that exist today arise from a variety of sources: lingering intolerance of religion among former Communist bureaucrats who remain in places of influence; conflicts within and between religious groups; the general difficulties involved in moving from communism to democracy and instituting the rule of law; ethnic and nationalist conflicts with a strong religious dimension; and vastly different conceptions of religious liberty and church-state issues. Efforts of majority or traditional religious bodies in some countries to limit the freedom of minority religions is just one of several factors that sometimes leads to infringements of religious liberty in Central and Eastern Europe today.

The most serious religious liberty problems include the following:

Consequences of the interplay between religion and nationalism. The "ethnic cleansing" of whole communities and the destruction of churches and mosques in Croatia and Bosnia-Herzegovina is a form of religious repression that was unmatched even in the darkest days of communism. The war in the Balkans is not a religious war, but it has a religious dimension because of the way religion and nationalism have interacted in these countries. The integral link between religion and national identity in Transylvania, Slovakia, Ukraine, and several other countries in the region also exhibit tendencies

Restrictions on 'foreign' religious bodies. Several countries are attempting to restrict 'non-traditional' religions by imposing special restrictions on so-called foreign religions, often at the behest of the majority religion. In Belarus, for example, the law prohibits foreigners from holding church leadership positions, and gives the Council of Religious Affairs considerable discretion in excluding foreign religious workers. Numerous attempts have been made to impose similar restrictions in Russia.

Restrictions on proselytizing and sects. Sometimes legitimate concerns about aggressive tactics of new religious groups (mostly from the West) and a general fear of so-called 'sects' has led to anti-proselytizing legislation in some countries and a failure to grant legal recognition to small religious groups. In Bulgaria, a March 1994 ordinance in Plovdiv forbids religious groups from inviting people under age 18 to religious activities and from advertising in public places. According to the International Helsinki Federation, only 24 of 78 groups seeking registration as non-profit religious entities have been approved. High minimums for legal registration as a religious group in Croatia (30,000) and Slovakia (10,000) leave many small religious groups without the essential benefit of juridical status.

Return of church property. The return of property confiscated under communism has been a contentious issue in most countries of the region. It is most problematic in Romania where the Eastern-rite Catholic Church continues to seek to regain properties given to the Romanian Orthodox Church under communism. In the Czech Republic and Lithuania, the Catholic Church's relationship with the state has been severely strained because of disputes over restitution of property. In Russia, it is common practice for the Orthodox Church to be consulted before a local official agrees to return a Catholic Church property or before permission is given to build a new one.

Bureaucratic obstacles. In many countries of the region, religious leaders, minority and majority alike, complain that administrative agencies or local governments fail to comply with laws on religion or place burdens on religious believers. For example, in Russia, government officials charge relatively large sums to license a new priest or to grant permission to purchase or build a church building.

### **Church-State Separation and Religious Freedom**

The place where tensions between the rights of minority and majority religions is played out most visibly is in the area of church-state relations. In general, the historical experience of religions in many Central and Eastern Europe has been one of two models. The pre-Communist model was a 'state' church, which had a monopoly of religion in society and relied on the state both for special privileges and to limit or deny the rights of minority religions and nonbelievers. During the Communist period, a second model, the atheist state which was intolerant of all religion, was the norm. Obviously, the state church and the atheist state model present serious religious liberty problems.

With the transformation of 1989, many in the West hoped and expected that Central and Eastern Europe would quickly adopt something akin to the American model of religious pluralism based on a sharp separation of church and state. Instead, in some countries, there is a tendency of majority churches to revert to the pre-communist model of a state church, because, among other reasons, it was the model under which the majority church was free and flourishing and it is a model which can be manipulated to serve the interests of nationalist politicians.

In other countries, the majority church has not reverted to a state church model of the past but neither has it embraced a third model, the strict church-state separation that we know in this country. Instead, their approach fits better under a fourth model, in which the state gives practical preference to the majority church (i.e., Roman Catholicism) or religion (i.e., Christianity) but the majority church is not a state church because it and the state remain independent of each other and minority religions enjoy full religious freedom. The Catholic Church in Poland, Hungary, and Lithuania, for example, seem to be opting for a version of this model over strict church-state separation because they see it as more in keeping with their historical and cultural realities. They are skeptical of the radical church-state separation model because they fear it is being promoted, often by former communists, as a way to promote secularism and to exclude the church from social life, effectively marginalizing religion. The way church-state separation was misused under communism to repress religion only reinforces this skepticism.

Since the Second Vatican Council, the Catholic Church would consider both the church-state separation model and the preference model acceptable means for protecting religious liberty. Obviously, if one accepts this view, then one will be less inclined to reject outright religious education in state schools, clergy salaries paid by the state, state funding for religious groups and other policies that might not pass muster under the current American version of church-state separation. One might not agree that religious liberty can be protected under both models, but it is helpful in understanding majority-minority church dynamics in Central and Eastern Europe if one appreciates an alternative view and the important theological issues that underlie it.

## **Conclusion**

In conclusion, I would like to offer a few suggestions on a constructive approach by concerned Americans to promoting religious liberty in Central and Eastern Europe.

(1) Be careful not to impose peculiarly American solutions to the church-state question on countries of Central and Eastern Europe, where very different histories, cultures, and perspectives on this issue exist. Advocates for religious liberty should not fall victim to the temptation to remake Central and Eastern Europe in the image of the United States. As deep divisions in our own country reflect, there is no simple answer to the church-state question nor is there only one legitimate way to protect the moral right to religious liberty through law.

(2) Understand and respect the differing theological approaches of religious bodies to these issues; listen to all of the churches; do not simply adopt the perspective of one or a set of religious bodies as normative.

(3) The importance of responsible use of religious freedom, even acceptance of voluntary restrictions (e.g., Orthodox-Catholic agreement) Religious believers, for their part, must act responsibly and be strong voices for tolerance and understanding. The intolerance exhibited by some religious groups in some OSCE states is deeply troubling. One underlying source of the problem is a deep-set feeling of insecurity. Western groups could help by establishing ties with leaders of the majority churches and even helping them rebuild, especially in countries where religion was persecuted or severely restricted under communism.

(4) Welcome the acceptance of the Holy See's proposal to devote a seminar to the question of legal protections for religious liberty.