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Ideology, theology
and practicality



INTERNATIONAL JOURNAL FOR RELIGIOUS FREEDOM

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Cover Art

Facets of Prayer

This painting by Canadian Vanessa Brobbel depicts Madilah, a young woman in Central Asia, who is married to an evangelist. Currently, societal protocols prevent women of the village from exiting their homes unescorted. This leaves many of them feeling isolated. Madilah has opportunities to accompany her husband as he visits the homes of their Muslim and Hindu neighbours. He meets with the men, and she quietly develops relationships with their wives. Madilah uses her skill as an English teacher as a platform to share the Gospel. When asking these ladies if she can pray for them, they welcome her prayers. It is a wonderful example of how Christians take risks and opportunities to share the gospel in challenging places. Used with permission.

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Editorial

Ideology, theology and practicality

I am pleased to present this general issue of the *International Journal for Religious Freedom*. Many of our issues are on special topics, usually containing a series of papers from a single conference. But we also receive unsolicited articles on interesting topics. For this issue, we even received a poem, which we are pleased to include directly after this Editorial. Following that is another unusual piece: a personal reflection on the importance of relationships across religions by a Muslim author, Ikhtiar Mohammad.

We are delighted to have an opinion article from Willy Fautré, director of Human Rights Without Frontiers, highlighting issues of discriminatory taxation.

The first three articles in the academic section focus on China, North Korea and India, three very challenging countries for religious freedom. Paul S. Rowe, with assistance from Lucy Chuang and Hannah Kendon, elucidates the state corporatism evident in the People's Republic of China. Xi Jinping has sought to deepen Chinese Communist Party control of religion, insisting that religious practice must demonstrate Chinese characteristics, a policy known as "Sinicization." Flirting with religious terminology to justify the Party's role in determining the limits of Chinese religious freedom, a common slogan coined by Xi links the people's faith and hope with the state's power.

Timo Schmitz has written a very interesting discussion of the state of religion in North Korea. Very little is written about this country, since it is so closed to outsiders. The dominance of the Juche idea of state sovereignty leaves very little room for individual beliefs. Despite this, Schmitz states that there are many house churches throughout North Korea, largely supported by South Korean churches, although they do not function with a great degree of freedom. He concludes with suggestions for increasing religious freedom within the confines of the Juche idea.

D. Apostle provides a critical analysis of state laws on religious freedom in India and their effect on minority communities, especially Christianity. While there has been considerable criticism of Prime Minister Modi and of the Bharatiya Janata Party's (BJP) protection of Hinduism at the national level, state laws are also frequently used to repress minority communities, sometimes to the point of threatening their survival.

Jose Philip and Godfrey Harold have contributed an interesting article from a theological perspective proposing a new apologetic for India. Western apologetics tends to focus on propositional truth, but Philip and Harold suggest that this is not the best approach for the Global South, particularly where Christians are

a minority and face persecution. They propose instead that Christians in India should adopt a posture of servitude and embrace suffering as part of their witness.

Peter Olsen has contributed another theological article, arguing that Augustine and Luther both moved from toleration toward intolerance as they grew older. He elucidates their interpretation of the Parable of the Weeds to show their changes in interpretation. Olsen concludes that it is people on the bottom of society who argue for tolerance; “the powerful see no need for it.” Those of us who advocate for religious freedom for all must be aware of the temptations in this regard.

David Hodge analyzes the Hungary Helps program, an initiative to provide practical development assistance to Christians who are persecuted. Hodge reviews data on persecution and state responses to it before giving an outline of Hungary’s program, which he recommends for other countries’ consideration.

Werner Nel’s article on mandatory COVID-19 vaccine policies at South African universities continues to contribute to our understanding of the impact of the pandemic on religious freedom following the special issue of this journal in 2023 on that topic. Among the various restrictions on religious freedom that occurred during the pandemic, vaccine policies without religious exemptions had a significant impact on many believers who object to vaccinations.

Finally, Rasa Pranskevičiūtė-Amoson has contributed a very interesting article on state recognition of the Baltic Romuva movement in Lithuania. She argues that Lithuania, like many European states, has a regulatory regime for religions that is based on Christianity, making it difficult for a non-Christian religion to receive equal treatment.

As usual, we have a good variety of book reviews and our regular Noteworthy section highlights current reports on religious freedom from around the world.

Yours for religious freedom,

Prof Dr Janet Epp Buckingham

Executive Editor

Legendary Wrath

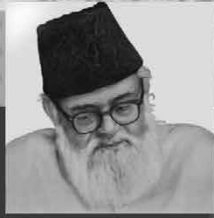
A poem by Boghos Luder Artinian, MD

Are their pitiful shrieks still reverberating
In the burned-down churches of Armenian towns, O Lord?
Is their unclotted blood still seeping
In the soil of our desecrated lands?
Are a million ghosts haunting the very homes
In which their physical twins were massacred, O Lord?
Is the earth shaking under the feet of murderers
And toppling their dwellings on their heads?
Are the heavens raining fires to chastise
Earthlings so blind to injustice?
Where is your legendary wrath, O Lord,
For the horrible deeds of the Ottomans?

Christine Schirrmacher

“Let there be no Compulsion in Religion” (Sura 2:256)

Apostasy from Islam as judged by
contemporary Islamic Theologians



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Interfaith harmony in Bangladesh

Ikhtiar Mohammad¹

On a recent visit to Shyamnagar, one of the most vulnerable coastal subdistricts in Bangladesh, I encountered Father Paggi Luigi. The trip was organized by the Christian Commission for Development in Bangladesh as part of its Climate Change Adaptation and Mitigation Training Program. I heard about Father Luigi from the locals and decided to meet him, which was a pleasant experience.

Having begun my primary education at a missionary school and having studied subsequently at Notre Dame College, Dhaka, Bangladesh, I grew up with profound respect for Christian priests, especially their sacrifice and dedication to humanity. Father Luigi is no exception. He has been living in this region of Bangladesh for 46 years after coming from Italy at age 30.

We had an excellent discussion on issues related to local agro-ecology, socio-economic vulnerabilities, slow-onset and sudden-onset climatic events, and (of course) interfaith cohesion from global and local perspectives. I shared with him my experiences of participating in and contributing to weekly Bible discussions and universal worship services during my stay in the United States. Also, we discussed spirituality, which is essentially the ultimate purpose of all overt religious practices and beliefs.

We reached the conclusion that sensitizing adolescents and youths to inter-religious cohesiveness and coexistence should be an effective means to promote social harmony. In this way, we could perhaps prevent unfortunate incidents such as the last March attack on the Ahmadiyya community in Panchagarh or the attack on 14 Hindu temples in Thakurgaon last February. Such violence is completely contradictory to the teachings of every religion, and it also hurts Bangladesh's pluralistic religious heritage and long tradition of communal harmony.

While seeing me off, Father Luigi advised me to continue my effort to study the scriptures, preachers, literature, and scholars of multiple religious traditions, and he suggested that I take up some social work in context to Bangladesh. He also shared with me the contact details of some of his peers working on interfaith communal solidarity. The final compliments that Father Luigi paid to me, "Ikhtiar Mohammad is a Fulbright and U.S. Department of State alumnus. Email: iikhtiar@gmail.com.

¹ Ikhtiar Mohammad is a Fulbright and U.S. Department of State alumnus. Email: iikhtiar@gmail.com.



tiar, over the past 46 years in Bangladesh, I have not met anyone like you,” will remain a life-long inspiration for me.

I hypothesize that in Bangladesh the periodic communal violence, racial discrimination, and growing intolerance in recent decades can be traced back to the introduction of Wahhabism, a rigid version of Islam exported globally by Saudi Arabia over the last couple of centuries. This relatively newfound religious zeal is taught in madrassas (religious schools) and preached in mosques. There are a few exceptions to Wahhabi encroachment (e.g., High Court Memorial Mosque and Shahjahanpur Gausul Azam Railway Mosque in Dhaka), though they are very limited in numbers.

Being a follower of Islam (of course not the rigid version), in my day-to-day life the most common complaint I receive from my multireligious acquaintances and friends is that they have been labeled as “Kaaafir” (people who deny God) by the so-called imams (religious leaders) of the mosques. To my dismay, I also heard the imams convey this kind of hate speech during Friday sermons. However, according to Dr. Muhammad Raushan Ali, a retired professor and former chairman of the department of psychology at the University of Dhaka, “Islam does not give permission to call anyone Kaaafir.” He added, “It is not in the authority of any human being to do so.” Dr. Ali undertook 15 years of research on the Quran and published several books including a translation. I have been honored to interact with him regularly over the past several years to discuss the philosophy of religion.

As a grassroots development worker, I can tell that this problem is acute in rural areas of Bangladesh. And it is exacerbated by the local imams of the mosques. Unfortunately, these insincere religious leaders are contributing to communal conflicts and societal dysfunction. However, they could have served the higher purpose of uniting diverse religious followers by encouraging altruistic values such as compassion, kindness, and mercy.

To address the problem of growing social intolerance, educating diverse religious leaders (e.g., through consultation workshops) could be instrumental in constructing a cohesive social environment. Also, bringing together various faith leaders and promoting interfaith dialogues at the ward, union, subdistrict, district, divisional, and national levels could help to eradicate social incoherence related to faith.

In addition, school, college, and university students can be mobilized to organize interfaith dialogues in their respective institutions and communities. Besides, formation of youth organizations at academic institutions or the community level could provide a local coalition to promote interreligious social coherence as well as a local platform for social activism in civic life. Furthermore, youth organizations can offer opportunities for youth leadership, innovation, entrepreneurship, social inclusion, community service, political pluralism, and climate advocacy.

To conclude with a verse from the Quran (109:6), “Lakum deenukum wa liya deen,” which means, “For you is your religion, and for me is my religion.” It suggests that people are free to choose what they follow and that religion cannot be forced upon anyone. The early preachers of all major religions, including Moses, Jesus, Mohammad, Ramakrishna Paramhansa, and Gautama Buddha, left the same nonviolent lesson for their followers. That teaching is still relevant today on the issue of tolerance in society.



BEYOND A REASONABLE DOUBT

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COMMIT GENOCIDE AGAINST
CHRISTIANS IN IRAQ?

- Áquila Mazinghy



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Abusive taxation of religious minorities

A comparative study of Tai Ji Men in Taiwan and the Jehovah's Witnesses in France

Willy Fautré¹

1. Introduction

On 23 April 2023, US Senator Orrin Hatch passed away at age 88. Two of his main interests were tax reform and religious liberty, topics that sometimes happen to intersect.² Senator Hatch was well aware that abusive taxation can target religious or spiritual movements or religiously motivated advocacy groups which, for whatever reason, are disliked by some tax bureaucrats.

One such instance is the case of Tai Ji Men in Taiwan, which remains unresolved after more than 25 years of legal battles and public advocacy.³ I will compare that case with ones that the European Court of Human Rights has considered in the last two decades.

2. Tai Ji Men

Tai Ji Men is a school of qigong, martial arts, and self-cultivation carrying forward Taoist philosophy. It was created in 1966 by Dr. Hong Tao-Tze, also known as the Shifu.⁴ Since an early age, Hong has inherited the wisdom of esoteric Daoism and has studied qigong, martial arts, medicine, yin-yang philosophy, life wisdom, and “heart Kungfu.”

After Taiwan ended martial law in 1987, Hong started to accept large numbers of *dizi* (disciples), hoping to help others enjoy good health and happiness. In that framework, they followed an ancient ritual specific to the *shifu-dizi* relationship. As a sign of gratitude to and faith in their *shifu*, *dizi* made voluntary monetary gifts to their *shifu* in a red envelope when they were officially accepted as *dizi*

1 Willy Fautré is the director of Human Rights Without Frontiers. This paper was presented at the ISFORB seminar of the Evangelical Theology Faculty in Leuven on 6 May 2022.

2 Marco Respinti, “Religious Liberty and Tax Reform: Remembering Senator Orrin Hatch,” *Bitter Winter*, 5 Nov. 2022. Available at: <https://bit.ly/3Gc8RsZ>.

3 “Tai Ji Men Case Chronology,” <https://taijimenecase.org/chronology/>.

4 Kenneth A. Jacobsen, “Abrogating the Rule of Law: The Tai Ji Men Tax Case in Taiwan,” *Journal of CESNUR*, 2020, 4(5): 101-120. Available at: <https://bit.ly/47uPSWz>.

and on major traditional holidays. This constitutes a necessary component of the realization of an inner belief or religion, which is protected by the International Covenant on Civil and Political Rights.

2.1. *The historical context*

The historical context is important in understanding what has happened to Tai Ji Men. After a long period of dictatorship and authoritarian rule in the aftermath of World War II, free elections took place in 1996 but were followed by a series of heinous major murder cases which remain unresolved.

To divert public attention, the ruling party carried out a political purge at the end of 1996. The Minister of Justice launched a comprehensive attack against dissident religious groups labeled as *xie jiao*,⁵ including investigations, tax inspections by the National Taxation Bureau (NTB), asset seizure, demolitions of allegedly “illegal” structures, and exorbitant fines. Tai Ji Men was caught in the crossfire of that campaign against religious groups that did not support the ruling party in the presidential elections, although it had not taken any political position. The crackdown was supported by the media, most of whom were not independent from the ruling politicians.

2.2. *The Tai Ji Men case*

On 19 December 1996, Prosecutor Hou Kuan-Jen led hundreds of armed police officers on an unwarranted search at all Tai Ji Men Qigong Academy branches and at private residences of several Tai Ji Men *dizi*. Subsequently, Dr. Hong, his wife, and two *dizi* were detained for several months.

Prosecutor Hou charged the defendants with both fraud and tax evasion on the ground that amounts of money put by the *dizi* in the so-called red envelopes were not tax-free donations but tuition fees for the Qigong Academy. The case was then forwarded to the National Tax Bureau (NTB), which issued bills for the alleged tax evasion. The NTB did not carry out the investigation required by its statutory duty, nor did it wait for the decision of the criminal court to ascertain the nature of the income; rather, it issued heavy penalties for alleged tax evasion from 1991 to 1996, simply based on the indictment.

Since Tai Ji Men Qigong Academy’s establishment in 1966, its activities had never been taxed by the NTB. Additionally, the Ministry of Education had explained that Tai Ji Men was not a cram school, contrary to what Prosecutor Hou

5 *Xie jiao* is often incorrectly translated as “evil cults.” The term, used since the late Ming era, means “heterodox teachings” and indicates religious movements which the government regards as hostile. See Bitter Winter, “About China,” <https://bitterwinter.org/vocabulary/>.

had argued. So why should these six years be treated differently because of the action by Prosecutor Hou? That was the question.

After 10 years of judicial proceedings that I will not describe here, Taiwan's Supreme Court issued an important decision. On 13 July 2007, it found Tai Ji Men not guilty of fraud, nor of tax evasion or violation of tax codes. The Supreme Court also determined that the red envelopes given by his disciples to the *shifu* were gifts by nature and were thus tax-free income under Taiwan's Income Tax Act. Nevertheless, in 2019, although the NTB corrected five of the six years of the taxes it had assessed to zero, it still violated the principles of consistency and equality by surprisingly maintaining the tax bill for 1992 only, treating that year's income as alleged cram school tuition.

Over 25 years, Tai Ji Men has followed legal procedures to seek an administrative remedy. In 2010, at a public hearing in the Legislative Yuan, the Ministry of Finance promised to revoke the tax bills and withdraw enforcement within two months. However, the tax bills continued to be issued in violation of this promise.

In 2011, the Executive Yuan held an inter-ministerial meeting and resolved to revoke the tax bills if a survey among Tai Ji Men *dizi* would show that the red envelopes given to the *shifu* contained gifts (rather than tuition payments). After a two-month survey, even though 7,401 answers from Tai Ji Men *dizi* all confirmed that they were indeed gifts, the NTB refused to accept the survey results and continued to issue ill-founded tax bills to Tai Ji Men.

Afterwards, the unjustified 1992 tax bill was transferred to the Administrative Enforcement Agency (AEA), resulting in the auction and confiscation of sacred land belonging to Hong and Tai Ji Men by the government in August 2020.

Notably, behind this never-ending harassment there exists a bonus system providing for a financial reward for the disclosure of tax fraud cases. This system mainly benefits staff of the NTB and AEA. The bonus system has been repeatedly denounced because it is arbitrarily used and abused by the NTB hierarchy to protect the bonuses they can get from successful prosecutions, and also to fabricate alleged fraud cases for financial benefit.

3. Cases of harassment by the tax administration in France

Unfortunately, Taiwan is not the only democracy that has engaged in misuse of the taxation system to weaken or destroy a religious movement. The unfortunate experience of Tai Ji Men with the Taiwanese tax administration presents some striking similarities with the cases of four religious groups which were arbitrarily persecuted by the tax administration in France: Jehovah's Witnesses, the Evangelical Church of Besançon, the Association of the Knights of the Golden Lotus, and the Religious Association of the Pyramid Temple. In these cases, the French

tax administration suddenly decided to impose a 60 percent tax on all the manual gifts (literally, “hand to hand” donations, or donations in a collection plate) they would receive.

In January 1996, a French parliamentary report classifying the four aforementioned religious groups as harmful cult-like movements (*mouvements sectaires* in French) led to their stigmatization in the media and resulted in various forms of hostility and discrimination by state bodies, including the tax administration.

In both Taiwan and France, there were suspicions of fraud and tax evasion related to manual gifts. For Tai Ji Men and the incriminated French religious organizations, this was the beginning of a long obstacle race through their respective domestic courts.

3.1. *Jehovah’s Witnesses v. France (application 8916/05)*

On 10 January 1996, the French National Assembly published a report about 172 allegedly dangerous cults (*sectes* in French), which were portrayed as tantamount to criminal associations.⁶ That “blacklist,” as the media described it, had a devastating impact on the religious and spiritual groups identified. Jehovah’s Witnesses were on the blacklist. Following that report, they were discriminated against, stigmatized and ostracized in both their private and public life. State administrations took steps to marginalize them and treat them differently from mainline religions. In particular, the tax authorities carried out an audit.

On the basis of the information gathered during that audit, the Association of Jehovah’s Witnesses was given notice to declare all the manual gifts they had received from 1993 to 1996 and to pay taxes on that money. This was an unexpected new interpretation of the General Tax Code that was suddenly applied to the Jehovah’s Witnesses.

The association refused and asked that the tax exemption applicable to manual gifts and legacies to be applied as every year before 1993 as there had not been any change in the Tax Code in this regard.

As the Association of Jehovah’s Witnesses failed to submit the declaration requested by the tax authorities, it was subjected to an automatic taxation procedure on all the manual gifts received from 1993 to 1996. The tax administration justified its decision by claiming that the manual gifts “[had been] disclosed to the tax authorities in the course of the accounting audits to which it [had been] subjected.”

The term “disclosed” is a key word in the French taxation administrative language because it implies that the “disclosure” was a voluntary move by the asso-

6 Assemblée Nationale, “Rapport fait au nom de la Commission d’enquête sur les sects,” 22 December 1995. Available at: <https://www.assemblee-nationale.fr/rap-enq/r2468.asp>.

ciation in order to pay tax on the gifts it had received. But this was not the case, as the audit was not requested by the Association of Jehovah's Witnesses; rather, it was imposed on them by the administration and therefore could not be refused. Moreover, there had never been any legal obligation to disclose manual gifts to the tax administration. Obviously, there was a clear manipulation of the administrative terminology to corner the Association of Jehovah's Witnesses and, as it appeared afterwards, to kill them financially. This is an important similarity with the Tai Ji Men case.

In May 1998, the Association was notified of a supplementary tax assessment of approximately 45 million euros (about 23 million euros for the principal and 22 million in default interest and surcharges). The Association of Jehovah's Witnesses stressed that the tax claimed concerned manual gifts made by 250,000 individuals over four years (or an average of 4 euros per person per month for the period from 1993 to 1996).

During the next six years, the Association of Jehovah's Witnesses used all the domestic remedies that it could to assert its rights. In the meantime, with the accumulation of fines for non-payment of the contested taxes, the amount claimed by the tax administration rose from 45 million to more than 57.5 million euros.

The only possible way out for Jehovah's Witnesses was to go to the European Court of Human Rights in Strasbourg.

3.1.1. The European Court of Human Rights

On 24 February 2005, the Association of Jehovah's Witnesses lodged a complaint against France with the European Court of Human Rights. The complaint alleged, among other things, that the imposed taxation of manual gifts interfered with the association's right to manifest and exercise its freedom of religion as guaranteed by Article 9 of the European Convention.

The procedures lasted for six years, until 2011, and focused primarily on the controversial interpretation of the "disclosure" of manual gifts and the allegedly undue state interference in the freedom of religion of Jehovah's Witnesses through punitive taxation.

The Jehovah's Witnesses claimed that in imposing the controversial tax, the state was attacking the freedom of religion of their 200,000 members. Indeed, if the 60 percent taxation were confirmed, it would result in the seizure and sale of their headquarters, the loss of their national place of worship, and perhaps the complete elimination of this religious group in France.

The association's attorney, Philippe Goni, argued that the collective practice of a religion implies the possibility of relying on material resources, generally obtained through the adherents' financial contributions, to rent or acquire a place

of worship, among other things. The manual gifts, Goni contended, are religious in nature and represent a major source of income (specifically, 86.47 percent of total revenue) for the Jehovah's Witnesses' collective exercise of their religion. Lastly, Goni counsel accused the state of discrimination, since the manual gifts given to mainline religious groups were exempt from taxation.

3.1.2. *Decision of the European Court*

In its judgment of 30 June 2011 (6),⁷ the European Court found a violation of Article 9 (on the right to freedom of religion), noting that the supplementary tax assessment had concerned the entirety of the manual gifts received by the association, although they represented the main source of its funding. Its operating resources having thus been cut, it had no longer been able to guarantee to its followers the free exercise of their religion in practical terms.

Consequently, the Court held that France was to reimburse 4,590,295 euros for the taxes unduly claimed by the tax administration that the Association of Jehovah's Witnesses had paid under coercion, along with 55,000 euros for costs and expenses.

It cannot be said that it was a happy ending, in the usual sense of this expression, of this 15-year judicial saga, because the damage caused to the association and its members went far beyond the financial issue. But that is another story.

The legal victory gained by Jehovah's Witnesses in 2011 has become a precedent that the European Court of Human Rights has since cited on other similar cases of arbitrary prosecution of religious and spiritual groups by France's tax administration, such as *Missionary Evangelical Church in Besançon and Eric Salaun v. France*,⁸ *Association of the Knights of the Golden Lotus v. France*⁹ and *Religious Association of the Pyramid Temple v. France*.¹⁰

Tai Ji Men's legal battles have continued for 25 years and no end is in sight. Unfortunately for Tai Ji Men, there is no Asian Court of Human Rights where the group could lodge a complaint, but it is hoped that one day the current government of Taiwan will repair the damage caused under previous governments since the mid-1990s.

7 Decision of the European Court of Human Rights and other documents, in the case *Association Les Témoins de Jehovah v. France* (Ref. 8916/05). Available at: <https://bit.ly/46rCH7z>.

8 Decision of the European Court of Human Rights and other documents, in the case *Église Évangélique Missionnaire et Eric Salaun v. France* (Ref. 25502/07). Available at: <https://bit.ly/47JOP4L>.

9 Decision of the European Court of Human Rights and other documents in the case *Association des Chevaliers du Lotus d'Or v. France* (Ref. 50615/07). Available at: <https://bit.ly/47F5TcN>.

10 Decision of the European Court of Human Rights in the case *Association Culturelle du Temple Pyramide v. France* (Ref. 50471/07). Available at: <https://bit.ly/3RaLq9z>.

4. Conclusions

All four of the controversial cases in France targeting non-violent and law-abiding religious and belief groups involved abusive blacklisting by the legislative and executive powers, in the form of sudden, blatant manipulation of the Tax Code and related administrative terminology for the purpose of destroying the groups financially. This is another similarity with the Tai Ji Men case. The big difference is that Europe has a supra-national court which can correct questionable national judgments, namely the European Court of Human Rights.

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Faith, hope, and power

Corporatism, ideology, and religious freedom in China from Mao to Xi

Paul S. Rowe, with Lucy Chuang and Hannah Kendon¹

Abstract

Xi Jinping's renewal of authoritarianism in the People's Republic of China (PRC) highlights the way in which patterns of repression change over time. Xi's effort to reinvigorate party rule hearkens back to earlier periods of repression but has not reached levels common during the early years of the PRC. This pattern holds for the regulation of religion in the PRC. This article considers the PRC's management of religion, in particular Christianity, over the past seven decades. Whilst authoritarianism has taken diverse characteristics, one permanent feature of government repression in the PRC is the pursuit of state corporatist management of religion.

Keywords

China, religion, state corporatism, religious freedom.

1. Introduction

Persecution and intolerance of people of faith in China, particularly Christians, have waxed and waned since the declaration of the People's Republic in 1949. While on the surface there remains significant institutional permanence, the informal politics of the Chinese Communist Party (CCP) has shaped the broader contours of political life. Today, the People's Republic of China (PRC) has experienced a profound shift away from a long period of liberalization toward renewed repressive authoritarianism. The regime now led by President Xi Jinping is commonly compared to the Maoist period of arbitrary party control from 1949 to 1976. How has this had an impact on the religious freedoms of Christians?

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Under Xi's leadership, the CCP has sought to upgrade its control over Chinese society. Xi himself has consolidated permanent leadership of the party and has also bolstered central party control of every aspect of Chinese economic and social life. Xi's approach hearkens back to the prior age of "mass line" control, "returning to the Mao-era playbook for governance."² This involves the cultivation of ideological dogma among the masses that allows the regime to burnish its populist credentials. As Xi himself has noted, dedication to party dogma gives "faith," "hope," and "power" to the nation – all terms that resonate with religious significance. Indeed, one might argue that the mass line has never been fully repudiated despite several decades of reassessment of the Maoist era.³ A significant aspect of the CCP's mass line was the condemnation of foreign (neo-)colonial threats to the Chinese regime, with which Chinese Christianity was often conflated.

The renewal of authoritarianism, including increasing reliance on the cult of personality, ideological conformity, state repression, and a protectionist and assertive foreign economic policy, suggests that the PRC is reverting to the form of highly regulated and arbitrary rule that characterized the state during the Maoist period. This should not be overstated; as one scholar notes, "Xi is not Mao," in the sense that he does not seek to perpetuate a social revolution so much as to promote the interests of the CCP elite and Chinese state and economic power.⁴ Nevertheless, Xi has demonstrated a desire to go beyond mere management of Christian institutions toward enforcing an ideological conformity with Communist dogma that is reminiscent of the Maoist era.

In their wide-ranging survey of the global context of religious persecution against Christians, Daniel Philpott and Timothy Samuel Shah argue that Christians respond in three general ways. They may seek simply to survive, preserving their mere existence through flight or adaptation to their external circumstances. They may seek to associate with other actors, to find allies or forge partnerships with other groups. Or they may engage in direct confrontation with governing authorities or persecutors, usually in the form of non-violent challenges to their legitimacy.⁵ Although these internal choices reflect the political theology and dynamics of the religious groups in question, external dynamics of the permissive environment, especially the government's management of groups, also shape the opportunities and choices available to people of faith.

2 Steven P. Feldman, *Dictatorship by Degrees: Xi Jinping in China* (Lanham, MD: Rowman & Littlefield, 2021), 41.

3 Lin Chun, "Mass Line," in Christian Sorace, Ivan Franceschini, and Nicholas Loubere, eds., *Afterlives of Chinese Communism: Political Concepts from Mao to Xi* (Canberra: ANU Press/Verso, 2019), 121-126, 126.

4 Rebecca E. Karl, "Xi Is Not Mao," *Dissent* 69, no. 2 (Spring 2022), 75-76.

5 Daniel Philpott and Timothy Samuel Shah, "Introduction," in Philpott and Shah, eds., *Under Caesar's Sword: How Christians Respond to Persecution* (Cambridge: Cambridge University Press, 2018), 14-19.

In this article, we demonstrate that a key feature in the enforcement of party control under both Mao and Xi is the application of state corporatism to the management of religion. Dictatorships that deal with religious groups often prefer to engage in corporatist organization of religion, if religion is tolerated at all. As it is used here, corporatism implies the cultivation of religious groups under the aegis of state authorities. In single-party states such as China, this means the incorporation of the religious movement in some way under the leadership of the ruling party. Preference for corporatist organization aligns with the ideological discipline of a Communist, one-party state.

The PRC has intermittently tolerated the practice of Christianity under tightly regulated corporatist organizations, or “patriotic movements.” It has frequently demanded ideological control over the political theology of the officially tolerated religious sects. Given this corporatist preference, the PRC government takes a dim view of religious heterodoxy and pluralism. The spread of religious innovation, welcomed in pluralist environments, is problematic in a corporatist space. Groups that exist outside the officially tolerated forms of religious practice are therefore commonly viewed as dangerous sects, which are then repressed and persecuted. Chinese Christians most typically conform when possible or pursue mere survival when the regime veers toward more totalitarian control of religious belief. Direct confrontation is undertaken only by the boldest of non-conformist religious sects.

With regard to state management of these choices, we find that while Chinese corporatism is a persistent theme, the depth of ideological colonization of the Christian religion has ebbed and flowed over time. CCP rule in the 1950s and 1960s introduced a corporatist structure that was dismantled under the extremist ideology of the Cultural Revolution from 1966 to 1976. It was resurrected during a more tolerant ideological period from the 1980s to the first decade of the 21st century, but at the same time the regime allowed informal, pluralist church organizations to emerge and even subvert the corporatist religious sector. The advent of a more ideological and nationalist turn under Xi Jinping suggests that the choices for Christians will once again be constrained, but so far there remains little reason to presume that it constitutes a return to the bitter Maoist era, or the extreme repression of the Cultural Revolution.

2. Christianity under Mao

In the 20th century, indigenous believers and foreign missionaries were responsible for the spread of the Christian faith in China. Christian missionaries arrived in China in increasing numbers beginning in the late 1800s, spurred on by the founding of the China Inland Mission in 1865. They established highly reputable

educational institutions and promoted access to lucrative foreign contracts for enterprising Chinese. Chinese nationalism was cultivated in part by the growing embrace of Christianity; notably, Dr. Sun Yat-sen, founder of the Chinese Nationalist Party (Kuomintang, or KMT), was a convert to Christianity, as was his ultimate successor, Chiang Kai-Shek. From the late 1800s until the 1930s, the number of Chinese Christians, both Roman Catholic and Protestant, grew dramatically.⁶ So did the number of foreign Christian missionaries active in China, reaching a high point of 8,325 in the year 1928 – a year after the Nationalist government of Chiang Kai-Shek began his nationwide offensive against the CCP.⁷ Ian Johnston notes that both nationalists and Communists sought to marginalize or shut down traditional religion, though the Communists more broadly condemned religion as a whole.⁸ The polarizing rivalry that emerged between the KMT and the CCP, along with KMT leaders' embrace of Christianity, doubtless had an impact on the CCP's policy toward Christianity in particular.

The CCP took the view that Christianity was largely a foreign colonizing religion, and when it took power over all of mainland China in 1949, foreign missionaries were expelled and the party instituted direct management of church activities. One CCP demand was that Christian leaders demonstrate their patriotic credentials and disavow foreign influence over Chinese Christianity. While this was especially difficult for the Roman Catholic Church, which maintains a global hierarchy out of the Vatican, it was also problematic for many Protestants, who relied on foreign support. Nonetheless, many Chinese Protestants shared the desire to reduce foreign ties and establish more independent Chinese denominations. In May 1950, Chinese theologian Y. T. Wu composed the "Direction of Endeavor for Chinese Christianity in the Construction of New China," popularly known as "The Christian Manifesto." The Manifesto declared the Chinese church's intent to disavow imperialism and to support the political goals of the government, "opposing war and upholding peace, and teach[ing Christians] thoroughly to understand and support the government's policy of agrarian reform."⁹

With the outbreak of the Korean War in 1950, Chinese authorities raised the intensity of their efforts to monitor and control the activity of Christians. In 1951, the government established the Religious Affairs Bureau and compelled Protestant Christian leaders to embrace the "three-self" principles that had been articulated in the Christian Manifesto. Churches were to be self-governing, self-supporting

6 Daniel H. Bays, *A New History of Christianity in China* (Chichester: Wiley-Blackwell, 2012), 75-77.

7 David Aikman, *Jesus in Beijing: How Christianity is Transforming China and Changing the Global Balance of Power* (Washington, DC: Regnery, 2003), 43.

8 Ian Johnston, *The Souls of China: The Return of Religion after Mao* (New York: Pantheon Books, 2017), 22-23.

9 Thomas Alan Harvey, *Acquainted with Grief: Wang Mingdao's Stand for the Persecuted Church in China* (Grand Rapids, MI: Brazos Press, 2002), 164.

and self-propagating, the stated intention being to detach Christian churches from foreign influence. This led to the establishment of the Three-Self Patriotic Movement and the Chinese Patriotic Catholic Association in 1954. To this day, these corporatist patriotic churches are the only officially registered and tolerated forms of organized Christianity in China.

Application of the Christian Manifesto went beyond the governance and independence of the Chinese churches and embarked upon a wholesale revision of Christian teaching and public theology. Public denunciation meetings were *de rigueur* in post-revolutionary China, including among Chinese Christians. Christians were compelled to accept a reformulation of their faith that conformed with CCP ideological dogma, whereby “political ideology confronted and then transformed traditional Christian belief so that the latter was in accord with the more fundamental ideological narrative.”¹⁰ This meant a redrafting of essential Christian beliefs to conform to Communist Party teaching. For example, under the CCP regime, three-self theology taught that “sin is the failure to denounce, exclude, and punish the enemies of the state.”¹¹

For the better part of the Maoist era (1949-1976), Christian churches were highly regulated and persecuted, and finally their doors were shut by public mandate. Church survivors recall the depth of persecution against Christians. In the words of a Christian leader from Yunnan province, “The revolutionary masses had been mobilized to attack Christians. The slogan was ‘hurting their flesh to change their souls.’ As a result, people left the church in droves.”¹² Moreover, the creation of the Three-Self Patriotic Movement was opposed by independent church leaders who rebuffed government efforts at control.

The most notable opponent of the Three-Self principles was Wang Mingdao, whose resistance to the unification of Christians led to the establishment of the first independent (or “house”) churches in 1955. Wang was arrested in that year for his supposed counterrevolutionary activities and was imprisoned for over 20 years. With the announcement of the Great Leap Forward in 1958, some 90 percent of churches were shut down and a large proportion of the clergy were sent to re-education camps in the rural hinterland. The Great Leap was primarily an economic plan to accelerate the collectivization of Chinese industry and agriculture through “improvisation and mass spontaneity,” with spectacularly ambitious goals for levels of production.¹³ The plan reflected the personal ambi-

¹⁰ Harvey, *Acquainted*, 65.

¹¹ Harvey, *Acquainted*, 66.

¹² Liao Yiwu, *God Is Red: The Secret Story of How Christianity Survived and Flourished in Communist China* (New York: HarperOne, 2011), 46.

¹³ Alfred L. Chan, *Mao's Crusade: Politics and Policy Implementation in China's Great Leap Forward* (Oxford: Oxford University Press, 2001), 3.

tions of CCP Chairman Mao Tse-Tung, who imposed unattainable demands on the Chinese people throughout the two years of the Great Leap. Internal exile proved paradoxically to promote Christianity, as Chinese Christian leaders were exposed to a new and receptive audience among their compatriots.¹⁴ Some found that exile sheltered them from the more severe repression meted out against supposed counterrevolutionaries in the larger cities.¹⁵

Mao had launched the Cultural Revolution in 1966, seeking to root out any possible threats to his direct authority over the CCP and Chinese society. The Cultural Revolution's chief purpose was to undermine the authority of reformists within the Party, but it took the form of a diffuse attack on Chinese traditional culture as well as influences associated with Western capitalism. Mao "made sure that much violence and humiliation was carried out in public," subjecting the entire country to mass terror cloaked in an ideological mantle.¹⁶ Numerous stalwarts of the CCP and its societal allies were arrested, imprisoned, tortured, and in some cases executed during the Cultural Revolution.

The Cultural Revolution sought to eliminate all forms of religion in China as well. The Religious Affairs Bureau of the United Front Work Department, which had been tasked with supervising approved forms of religion, was shut down. Even the Three-Self Patriotic Movement churches were compelled to close, and leaders such as Y. T. Wu were sent to labour camps.

Persecution of religious believers during the Cultural Revolution era was as extensive as it was severe: celibate clergy were forced to marry; Muslims were forced to eat pork; Christians were compelled to renounce their faith; stubborn clerics were beaten or even executed; residences of religious leaders were ransacked; recalcitrant believers were imprisoned, exiled, or put to death.¹⁷

But state repression of official forms of religion paradoxically strengthened the role of house churches, which already operated underground.

Throughout the Maoist era from 1949 to 1976, Christians survived through perseverance and adaptation, though public worship and displays of religiosity were eliminated step by step. The sudden resurgence of Chinese Christianity that occurred in the decade following Mao's death suggests that persecution masked the natural incidence of Christian worship. Indeed, by the year 2000, the number

¹⁴ Bays, *New History*, 176.

¹⁵ Liao, *God Is Red*, 174.

¹⁶ Jung Chang and Jon Halliday, *Mao: The Unknown Story* (New York: Anchor Books, 2005), 512.

¹⁷ Philip L. Wickeri, *Reconstructing Christianity in China: K. H. Ting and the Chinese Church* (Maryknoll, NY: Orbis Books, 2007), 171.

of Christians in China had grown to 50 times that in 1950.¹⁸ Yang notes that “The irreligiousness of the masses under Communist rule was superficial, illusory, or temporary at best.”¹⁹ Christianity grew primarily due to the underground, pluralist church movements that had been repressed since the mid-1950s.

3. The relaxation of government control and the spread of Christianity

The end of the Maoist era brought about a gradual reform of the economy and society that accelerated after the late 1980s. In 1978, Deng Xiaoping rose to become paramount leader of the CCP. He established a new form of “socialism with Chinese characteristics” and cultivated a new generation of CCP leaders. Beginning with his resignation from key leadership positions in 1992, there was regular turnover in the Chinese leadership, including the paramount leader. From 1993, Jiang Zemin served as President of the PRC, General Secretary of the CCP, and Chairman of the Central Military Commission. He was succeeded ten years later by Hu Jintao, who retained his position until November 2012, when Xi Jinping assumed central leadership of the state and party. Throughout this period, the Chinese economy increasingly accepted integration into the global economy and rising levels of foreign investment. Nevertheless, predictions that economic restructuring would lead to greater democratization and political liberalization proved to be in error.²⁰ What followed instead was a very gradual loosening of ideological control and some liberalization of social life, coupled with a refusal to embrace more democratic forms. The dramatic proof of the latter came with the regime’s violent clampdown on protestors at Tiananmen Square in June 1989.

Although democratization was not in the cards, gradual societal liberalization and a highly limited acceptance of societal pluralism created a significant break from the Maoist regime. By the 1980s, the CCP was allowing some interrogation and criticism of the Maoist past. From 1978, practice of the Christian faith was once again allowed in public and the Three-Self Patriotic Movement was able to open new churches, the first in Ningbo, Zhejiang. The next year, the Religious Affairs Bureau resumed its operations.²¹ In 1982, the CCP introduced Document Number 19, its official statement on the legal practice of religion, which authorized only five patriotic religious movements – Buddhist, Daoist, Muslim, Protestant, and Roman Catholic. This reinforced the traditional corporatist manage-

18 Lian Xi, *Redeemed by Fire: The Rise of Popular Christianity in Modern China* (New Haven, CT: Yale University Press, 2010), 206.

19 Fenggang Yang, *Religion in China: Survival and Revival under Communist Rule* (Oxford: Oxford University Press, 2011), 4.

20 Bruce J. Dickson, *The Dictator’s Dilemma: The Chinese Communist Party’s Strategy for Survival* (New York: Oxford University Press, 2018), 262-71.

21 Aikman, *Jesus in Beijing*, 162.

ment of religion. Tsai notes that “narrowing religion down [to these categories made it] easier to define and more expedient to control.”²² He acknowledges that the regime offered some level of religious freedom.²³ Nevertheless, official toleration was not extended universally to all Christians, particularly those deemed likely to disrupt public order or CCP rule.

In 1983, the government cracked down on independent members of “heretic cults” who had been denouncing Christian worship in Three-Self churches.²⁴ Since that time, the government has issued further ordinances that mandated the growth of Religious Affairs Bureaus at the local levels and registration requirements for places of worship. Their expansion provides an opportunity to monitor developments in the religious arena. Sometimes, the rapid rise of religious fervour is perceived as an existential threat. In 1999, the government banned the practice of Falun Gong as an “evil cult” and engaged in widespread repression of the movement.²⁵

While the house church movement suffered periodic persecution, it has grown substantially in numbers and scope.²⁶ By 2007, the total number of Protestant Christians in China was likely well over 60 million, most of whom worshipped in independent “underground” churches.²⁷ More recent Pew Research figures indicate that the number of people who claim Christianity in China lies somewhere between 3 and 7 percent, or around 42 to 99 million.²⁸ The growth of Christianity paralleled a wider embrace of faith, if not formal religious adherence.²⁹ In other words, spirituality has become popular in post-Mao China, a lesson that the CCP has learned in both cultivating cultural forms of spirituality and condemning non-conformist religious groups. While the government persecuted independent forms of religion, it largely refrained from efforts to shape the political and ideological commitments of the faithful, merely ensuring that practicing Christians were not offered membership in the CCP.

The spread of Christianity from the 1980s to the 2000s can be related at least in part to the relative costs of repression to the CCP government. In her study of informal house churches in China, Marie-Eve Reny argues that the dramatic ex-

22 Yen-zen Tsai, “‘We Are Good Citizens’: Tension between Protestants and the State in Contemporary China,” in Cheng-tian Kuo, ed., *Religion and Nationalism in Chinese Societies* (Amsterdam: Amsterdam University Press, 2017), 309-338, 326.

23 Tsai, “Good Citizens,” 331.

24 Lian Xi, *Redeemed by Fire*, 218.

25 Fenggang Yang, “The Red, Gray, and Black Markets of Religion in China,” *Sociological Quarterly* 47, no. 1 (2006), 93-122, 101.

26 Yang, “Red, Gray, and Black,” 102.

27 Xi, *Redeemed by Fire*, 230, indicates over 50 million Chinese Christians in 2007. Rodney Stark and Xiuhua Wong argue that there were about 61 million Chinese Christians in 2007 and that at historic rates of growth, that number would have reached 149.7 million in 2020. Stark and Wong, *A Star in the East: The Rise of Christianity in China* (West Conshohocken, PA: Templeton Press, 2015), 115-16.

28 Pew Research Center, “Measuring Religion in China: Christianity,” *Pew Research Center*, 30 August 2023. Available at: <https://bit.ly/3SKoIXn>.

29 Ian Johnson, “China’s Great Awakening,” *Foreign Affairs* 96, no. 3 (2017), 83-95.

pansion of religiosity arose as a result not only of the regime's retreat from totalitarianism, but also of the expansion of the Chinese economy and its concomitant consumerism and rising inequality.³⁰ In such an environment, public toleration of some forms of religiosity helps to shield the regime from criticism. She relates how many house churches have been allowed to thrive due to the limited threat they pose to the governing authorities. In many cases, Christian house churches have goals that are "reconcilable" with those of the government: they promote economic growth and social discipline, and they do not encourage democratization at the expense of the CCP.³¹ They remain small, and in most cases they are not strongly networked with other churches so as to pose a nationwide pole of resistance to the CCP (with the exception of Roman Catholic institutions, which have suffered far greater official interference). In the case of independent house churches, the regime seeks merely to contain their institutional growth rather than intervening to persecute and eliminate the house church phenomenon.

As a result, regulation of religion in China has created multiple layers of approved, banned, and tolerated forms of worship, forms that Fenggang Yang refers to as "red, black, and gray" religious markets. Government regulation created a massive religious black market during the Maoist period, which emerged in the 1980s to the 2000s. However, CCP regulation of religion has been erratic, and the boundaries of government approval and toleration "are constantly shifting."³²

As mentioned above, government repression extended only rarely to efforts at ideological indoctrination or steering the theology of indigenous churches. Up to the 2010s, their primary means of promoting Communist orthodoxy within the church was by monitoring teaching from the pulpit and through indoctrination of pastors in state-approved seminaries.³³ Although foreign missionaries were not welcome in China, large numbers of foreign workers began to arrive in the 1990s as businesspeople, contractors, instructors, and English language instructors.³⁴ Many of these served unofficially as Christian missionaries.³⁵ At the same time, many Chinese have explored Christianity as a way of enjoying a sort of intellectual freedom otherwise denied to them.³⁶

While Christians may be identified throughout China, the community is especially notable and influential in the country's southeast, in the provinces of Zheji-

30 Marie-Eve Reny, *Authoritarian Containment: Public Security Bureaus and Protestant House Churches in Urban China* (New York: Oxford University Press, 2018), 47-49.

31 Reny, *Authoritarian Containment*, 14-15.

32 Yang, "Red, Gray, and Black," 115.

33 Reny, *Authoritarian Containment*, 70-74.

34 Li Ma and Jin Li, *Surviving the State, Remaking the Church: A Sociological Portrait of Christians in Mainland China* (Eugene, OR: Pickwick Publications, 2018), 38-44.

35 Aikman, *Jesus in Beijing*, 278.

36 Yang, *Religion in China*, 57.

ang and Fujian. The coastal city of Wenzhou in Zhejiang has the reputation of being “China’s Jerusalem,” in view of the number of churches that have arisen since the Maoist era.³⁷ By the early 2000s, Western scholars and journalists marvelled at the numerical growth of Christianity in China. In addition to the burgeoning numbers of underground and independent churches, the official Three-Self churches were seeing remarkable growth, indicating patterns of both alliance and deviance among Christians.³⁸ Some even began to speculate about the possibility of a “Christian” China emerging, as perhaps 30 percent of the population embraced the faith.³⁹ But as the country entered the 2010s, the CCP demonstrated increasing concern to restore centralized control over aspects of Chinese governance. This implied reforms that would rein in subaltern and regional power centres to maintain the rule of the central party apparatus and the President.

4. Christianity and renewed authoritarianism under Xi

Each year, Open Doors assesses the status of religious freedom for Christians in various nations around the world in its World Watch List. During the period from 2017 to 2022, the PRC moved from 43rd to 17th place, ranked by the severity of concern over repression of religion.⁴⁰ This rise coincides with the increasingly restrictive rule of Xi Jinping, who has sought to restore the central position of the CCP and its corporatist institutions in Chinese society. What policies have reversed the trend of the 1990s and 2000s?

Since taking power in 2012, Xi Jinping has moved dramatically to change the socio-economic system and foreign policy of China. He has combined economic and strategic nationalism with deepening societal repression. Xi has fused “dramatic centralization of authority under his personal leadership” with increased state penetration of civil society, tight controls on economic and cultural flows into the country, and an ambitious and expansionist Chinese foreign policy.⁴¹ Xi has asserted the need to strengthen CCP discipline – meaning the purging of putatively corrupt poles of opposition within the party. During his first term in office, Xi introduced an anti-corruption campaign which led to the official discipline of over 1.4 million CCP members, including important rivals for party leadership.⁴²

37 Ian Johnson, “Church-State Clash in China Coalesces Around a Toppled Spire,” *New York Times*, 29 May 2014.

38 Pitman B. Potter, “Belief in Control: Regulation of Religion in China,” *China Quarterly* 174 (June 2003), 317-337, 333-35.

39 Xi, *Redeemed by Fire*, 241-42.

40 Open Doors, *World Watch Research – China: Full Country Dossier*, March 2021, 5. Available at: <https://bit.ly/3SBIsGd>.

41 Elizabeth Economy, *The Third Revolution: Xi Jinping and the New Chinese State* (New York: Oxford University Press, 2018), 10.

42 Susan L. Shirk, “China in Xi’s ‘New Era’: The Return to Personalistic Rule,” *Journal of Democracy* 29, no. 2 (2018), 22-36, 22-24.

He has dismantled the model of collective leadership introduced by Deng Xiaoping in the 1980s, centralizing leadership in the person of the President and General Secretary of the CCP.⁴³ His efforts to personalize his regime and drive out his rivals resemble some of Mao's tactics, but he has never descended to the level of terror and arbitrary authority employed in the Cultural Revolution.

Even so, Xi's innovations have gone beyond mere institutional restructuring and a crackdown on corruption. He has stationed himself in the long line of ideological visionaries who have defined the Chinese political system. Since 2017, the Chinese constitution has enshrined Marxist-Leninist and Maoist thought alongside "Xi Jinping Thought." This is notable as it arguably stands as the first official revision of Marxism-Leninism in China since the time of Mao.⁴⁴ The formulation of such thought is somewhat amorphous, but it affirms socialism with Chinese characteristics, combined with "ensuring Party leadership over all work" and "adopting a new vision for development," all the while "exercising full and rigorous governance over the Party."⁴⁵ Since that time, Xi has demonstrated a higher propensity to speak in terms of a nationalistic form of Chinese socialism. He combines a grandiose nationalism that vaunts Chinese culture with the socialist legacy of the CCP.

Moreover, Xi has fastened onto Deng Xiaoping's socialism with *Chinese* characteristics to celebrate the "spiritual" aspects of Chinese civilization. His promotion of "the construction of spiritual civilization" raises the profile of traditional Chinese Confucianism, with the slogan "The people have faith, the nation has hope, the country has power."⁴⁶ Xi's embrace of spirituality in an officially atheist country comes without any note of irony.

A crucial aspect of this process for religious practice in China has been an insistence on the "Sinicization" of Chinese religion. Xi initially called for the Sinicization of Chinese religion at a meeting of the United Front Work Department in 2015. Since that time, the PRC has pursued a program of Sinicization, by which the CCP might *inter alia* "provide active guidance to religions so that they can adapt themselves to socialist society."⁴⁷ While it most certainly includes efforts to

43 Jonathan Tepperman, "China's Great Leap Backward," *Foreign Policy*, 15 October 2018. Available at: <https://bit.ly/46coIPQ>.

44 The preamble to the Chinese constitution mentions only Mao Zedong Thought and Xi Jinping Thought, establishing a sense of equivalence between the two. At the same time, each paramount leader has added elements to Chinese socialism in the preamble. See the English language version of the Constitution of the People's Republic of China, available at: <https://bit.ly/47x6YCC>.

45 Goh Sui Noi, "19th Party Congress: Xi Jinping Outlines New Thought on Socialism with Chinese Traits," *Straits Times*, 18 October 2017. Available at: <https://bit.ly/3QZbZid>.

46 Kerry Brown and Una Aleksandra Bērziņa-Čerenkova, "Ideology in the Era of Xi Jinping," *Journal of Chinese Political Science* 23 (2018), 323-339, 336-37.

47 Richard Madsen, "Introduction," in Madsen, ed., *The Sinicization of Chinese Religions: From Above and Below* (Leiden: Brill, 2021), 1.

impose Han Chinese culture in regions with national minorities, such as in Tibet and Xinjiang, it also requires deepening institutionalization of party control of religion. The vague articulation of Sinicization policies leads Kuei-min Chang to argue that it amounts to little more than an attempt to deepen party and state control over Chinese religions.⁴⁸ However, as early as 2011, leaders of the Early Rain Reformed Church were protesting that Sinicization violated the principles of the Christian faith by insisting that there are specifically Chinese means by which to enjoy salvation.⁴⁹

Sinicization has been communicated with an increasingly positive attitude toward Buddhism over other Chinese religions.⁵⁰ For other religions, it involves the greater imposition of regulatory control, especially those that appear to threaten Chinese national unity. It also implies deepening the CCP's dominance over religious teaching, something that Fenggang Yang prefers to call "Chinafication."⁵¹ For Uighurs and Tibetans, Sinicization may suggest the erasure of unique cultural traits and practices. In Xinjiang and Tibet, Muslim and Vajrayana Buddhist religious practice is associated with a national belonging that resides outside the Han-dominated PRC and CCP leadership. Furthermore, both regions witnessed widespread demonstrations against Chinese dominance in 2008-2009. However, in the cases of both Uighur Muslims and Tibetan Buddhists, there is good reason to consider the mixed motives of the regime, including both the repression of civil forms of religion and the desire to persist in the colonization of China's western regions⁵² – motives that do not apply to the Christian minority. While many Chinese Christians support the development of an authentic Chinese Christianity, the intimate association of the nation with the dictates of the CCP is unnerving.

One might also understand Sinicization as a reflection of the nationalist policy of restoring control over every square inch of territory claimed by the PRC. For example, the PRC claims sovereignty over the disputed Nansha (Spratly) Islands in the South China Sea and the de facto independent state of Taiwan. It has also deepened its commitment to integrating the politics of Hong Kong and Macau, areas that previously enjoyed more liberal regimes concerning press freedom and religion.

As noted, Christians do not form an ethnoreligious group that threatens to divide the People's Republic, nor has religious practice among Christians been the

48 Kuei-min Chang, "New Wine in Old Bottles: Sinicisation and State Regulation of Religion in China," *China Perspectives* 1-2 (June 2018), 37-44, 43.

49 Tsai, "Good Citizens," 322.

50 Johnson, "Church-State Clash."

51 Fenggang Yang, "Sinicization or Chinafication? Cultural Assimilation vs. Political Domestication of Christianity in China and Beyond," in Madsen, ed., *The Sinicization of Chinese Religions*, 16-43, 16.

52 Dibyesh Anand, "Colonization with Chinese Characteristics: Politics of (In)security in Xinjiang and Tibet," *Central Asian Survey* 38, no. 1 (2019), 129-47.

central focal point of Xi's interventions into religious affairs. Even so, "the insight that Communism is a faith – and therefore faces competitors – is not new, but it is likely to have far-reaching consequences for the future."⁵³ For Christians, the primary consequence appears to be heightened scrutiny and monitoring – the deepening of institutional controls that have been in place for decades. China's declining scores on religious freedom in the Open Doors World Watch List relate mainly to the increasing pressure faced by church leaders, who have seen church structures destroyed, forcibly closed, or pushed into mergers with other church organizations.⁵⁴ Persistent forays into arbitrary closure of churches and church buildings or detention of Christian leaders may have increased in number, but they fit into the long-term policy of promoting corporatist partners over the regime as opposed to heterodox house churches or "evil cults." However, there have been occasional indications that Xi Jinping Thought might involve a deeper dive into totalitarian control of religious doctrine and practice.

Beyond Xi's efforts to consolidate his control over the party, the first indications that his regime wanted to increasingly limit the influence of Christianity came in the state of Zhejiang in 2014. Provincial governor Xia Baolong, a close ally of Xi, oversaw the destruction of numerous crosses dotting the skyline of the city of Wenzhou, including the monolithic 180-foot cross at the Sanjiang Church.⁵⁵ Over the next three years, approximately 1,700 crosses were removed from public display.⁵⁶ Citing concern over the resort to superstition over party innovation as a means of alleviating poverty and illness in a remote community, in November 2017 the CCP demanded the removal of Jesus icons and their replacement with images of Xi.⁵⁷ This insistence that the CCP offered the panacea for health and social ills previewed later draconian restrictions applied after the emergence of the COVID-19 virus two years later.

Protestant seminaries have been encouraged by the government to dismantle core Christian religious doctrines under the demand for Sinicization. In 2014, the head of China's State Administration for Religious Affairs announced an initiative to manage Christian theology, noting that "the construction of Christian theology should adapt to China's national condition and integrate with Chinese culture."⁵⁸ The effect of this effort to promote new forms of theological construction is to advance state and party authority over that of religious authorities and texts. Simi-

53 Open Doors, *World Watch Research – China*, 24.

54 Open Doors, *World Watch Research – China*, 31.

55 Johnson, "Church-State Clash."

56 Ma and Li, *Surviving*, 96.

57 Nectar Gan, "Want to Escape Poverty? Replace Pictures of Jesus with Xi Jinping, Christian Villagers Urged," *South China Morning Post*, 14 November 2017.

58 Wang Hongyi, "China Plans Establishment of Christian Theology," *China Daily*, 7 August 2014. Available at: <https://bit.ly/46dfi9p>.

lar efforts are afoot to promote the rescripting of Muslim and Buddhist texts.⁵⁹ At the end of 2019, the CCP announced an official undertaking to rewrite the Bible in Chinese to reflect Party doctrine. Wang Yang, a member of the Politburo Standing Committee, among the most powerful institutions in the PRC, hosted a meeting at which party appointees were commissioned to make “accurate and authoritative interpretations of classical doctrines to keep pace with the times.”⁶⁰ Some time later, the Chinese government demanded that Apple remove the Olive Tree Bible and Qur’an Majeed apps, citing that these apps violated Chinese laws governing the hosting of religious texts. Apple complied.⁶¹ In perhaps the most egregious act of revisionism aimed at distorting Christian teaching, a report emerged in September 2020 that an officially approved ethics textbook had altered the story of Jesus forgiving an adulterous woman. In the revised version of the story, Jesus executes the woman by stoning in order to uphold the superiority of law over grace.⁶² The incident appeared to be a single, unauthorized publication indicating how a zealous application of Sinification would alter Christian tradition.

By 2021, Xi’s ambitions went beyond the need to deepen corporatist control over religious organizations. In December 2021, Xi attended the first national conference of the CCP to concentrate on religious affairs since 2016. At the meeting, he doubled down on his demand for Sinicization. He indicated that the program involved “alignment with the CCP’s principles, goals and directions,” and that the process of disciplining religious organizations had not proceeded fast enough.⁶³ He argued that bureaucrats needed to increase surveillance of online communications that promoted proselytization or criticism of the government’s religious policy. He went even further by arguing that religious leaders themselves needed to be schooled in “Marxist religious studies,” so that they could articulate religious defences of socialism with Chinese characteristics.⁶⁴

China’s highly draconian measures to control the spread of COVID-19 from 2020 to 2022 also affected public displays of religion. As religious organizations were among the most active civil groups seeking to mitigate the pandemic, including donations of money, face masks, and disinfectant, in early 2020, the government

59 Cook, *Battle*, 17.

60 Matthew Taylor King, “The Gospel According to Xi,” *Wall Street Journal*, 4 June 2020. Available at: <https://on.wsj.com/3QATSOa>.

61 Anugrah Kumar, “Apple Takes Down Bible App in China to Appease Communist Regime,” *Christian Post*, 23 October 2021. Available at: <https://bit.ly/3VWNK6U>.

62 UCA News, “Chinese Catholics Angry Over Book Claiming Jesus Killed Sinner,” *UCA News*, 22 September 2020. Available at: <https://bit.ly/477R5Dd>.

63 “China: Xi Jinping’s Sinicization, the new Cultural Revolution Dear to Mao,” *Human Rights without Frontiers*, 4 January 2022. Available at: <https://bit.ly/3ugcBag>.

64 Hu Zimo, “China: First CCP National Conference on Religion Held Since 2016,” *Bitter Winter*, 8 December 2021. Available at: <https://bit.ly/3QWh7DB>.

viewed such public engagement as a threat to state control over health policy.⁶⁵ In May 2021, the government issued a new law governing the Administration of Religious Clerical Personnel, which reinforced the role of “national religious groups” in qualifying “religious professionals,” whose role was to support the CCP and the Sinification of religion.⁶⁶ This was immediately followed by a new law governing the financial management of venues for religious activities.⁶⁷ The new rules disregarded the existence of house churches, which were deemed illegal by definition, and supported the more general clampdown on social gatherings that attended the pandemic. Yet despite the restrictive attitude taken toward civil society during the pandemic, some scholars have suggested that the experience has caused an uptick in interest in religion within the PRC.⁶⁸

5. Conclusions

Many observers today compare contemporary China to the Maoist period during the formative years of the PRC. The rise of Xi Jinping to the position of President, General Secretary of the CCP, and Chair of the Central Military Commission in 2012 has ushered in a period of rapid acceleration of government centralization, repression and restriction of social activity and liberties. A period of relative liberalization of civil society that arose from the 1990s to the early 2000s has come to an end. What began with an anti-corruption drive led by President Xi has extended to an effort to entrench more deeply the CCP’s ideological control over Chinese society. The government’s often draconian response to the COVID-19 pandemic has justified even more sweeping restrictions on the normal conduct of civil society. These initiatives do not reflect the deep repression of the Cultural Revolution, but they may be compared in some ways to the earlier imposition of party dictatorship in the 1950s and early 1960s.

Xi’s ideological program, reflected in the constitutional recognition of “Xi Jinping Thought,” certainly has profound implications for freedom of religion in China. It flirts with religious terminology, cast in nationalist and Confucian guise. Xi may be responding to a malaise of purpose whereby “hundreds of millions of Chinese are consumed with doubt about their society and turning to religion

65 Ian Johnson, “Religious Groups in China Step into the Coronavirus Crisis,” *New York Times*, 23 February 2020. Available at: <https://nyti.ms/3ulw7in>.

66 Yang Ming, “New Chinese Decree Tells Religious Leaders to ‘Support the Communist Party,’” *Voice of America* [online], 24 April 2021. Available at: <https://bit.ly/49C5yso>; China Law Translate, “Measures on the Management of Religious Professionals (Draft for Solicitation of Comments),” 18 November 2020. Available at: <https://bit.ly/3ubdfGz>.

67 John Wang, “Recently, the State Administration of Religious Affairs Launched the ‘Measures for the Financial Management of Venues for Religious Activities,’ Which Will Come into Force on June 1,” *China Christian Daily*, 11 April 2022. Available at: <http://chinachristiandaily.com/article/11367>.

68 Rongping Ruan, Kenneth R. Vaughan, and Dan Han, “Trust in God: The COVID-19 Pandemic’s Impact on Religiosity in China,” *Journal for the Scientific Study of Religion* 62, no. 3 (2023), 523-548.

and faith for answers.”⁶⁹ So far, however, he has engaged in only limited efforts to control religious practice. State corporatist management of religion was introduced in the early years of the PRC and has remained government policy since its inception. It forms a sort of policy floor for government control over religion. This limited toleration of religious organizations was suspended under the totalitarian Cultural Revolution from 1966 until the return of institutional tolerance in 1978-1979. While arbitrary changes and reversals of official policy – as well as somewhat erratic periods of persecution – characterized the religious arena of civil society during the 1980s to the 2000s, the official Three-Self Patriotic Movement churches and unregistered house churches have grown and even thrived. Xi’s return to a more ideological program aimed at nationalizing and rescripting Christian doctrine is an alarming shift toward a more totalitarian program of party control over the *content* of religion. Nevertheless, it has not assumed the level of persecution exhibited by the Maoist state.

On its face, Xi Jinping’s slogan that “the people have faith, the nation has hope, and the country has power” might suggest that Xi aspires to renewing spirituality in 21st-century China. However, the last phrase may equally be translated to indicate that “the state has power.” Indeed, faith and hope in Xi’s China are intended primarily to strengthen the position of the CCP and the state institutions that it controls, including the corporatist religious movements that it tolerates. In this context, Christians may continue to find convenient means by which to present their faith as a patriotic partner of the regime, one that has natural resonance with its aspiration to cultivate faith and hope (which are, after all, Christian virtues) without destabilizing the party-state. However, to the extent that Xi’s vision of Sinicization requires compromising Christian principles, it would force Christian groups to confront the CCP regime more deliberately. So long as CCP governance extends mostly to the extension of corporatist control, it will mean that most harassment of believers will remain at the institutional level. If China faces a more concerted effort to return to cultural revolutionary standards, it will usher in a dark period for both Chinese civil society and the Christian church in particular.

69 Johnson, *Souls*, 16.

A path toward religious freedom in the DPRK

Is it possible?

Timo Schmitz¹

Abstract

North Korea is one of the most authoritarian states in the world, and members of religious groups face severe persecution. This article explores how deeply religious persecution is anchored in the state system and how it is handled in practice. It presents a six-point plan to improve the situation of believers short of waiting for a regime change. The plan focuses on strengthening the role of religious organizations in inter-Korean dialogue, international cooperation with religious organizations of the DPRK, encouraging the DPRK in liberalizing religion in its country, while avoiding a foreign infiltration through religious organizations, and conducting reforms by taking other countries as role models.

Keywords

DPRK, North Korea, Juche, leader cult, religious persecution.

1. Introduction

The government of North Korea, formally called the Democratic People's Republic of Korea (DPRK), is notorious for its low regard for religious freedom. It is "described as a 'Antireligious State,' characterized by an officially hostile attitude toward religions and state policies which oppose any important public role for religion" (Levi & Husarski 2021:82), despite the constitutionally guaranteed right

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of free religious activities. It is generally acknowledged that “the Period of the Soviet occupation and formative years of the new political system in the Northern Part of the Korean Peninsula was disastrous for traditional religious life” (Levi & Husarski 2021:82). This situation persists today. In this paper, I analyze how this religious oppression is established in the state ideology, depict how different religious groups can function in practice (to the extent that this information is known or can be assumed with a high degree of certainty), and suggest a six-point plan to advance religious freedom without treating regime change as a prerequisite.

2. Juche idea as guiding ideology

The state ideology of the DPRK, the Juche idea, is concerned not only with how to manage a state, but also with providing holistic truth. It sees the progression of knowledge from a Marxist perspective, regarding itself as at a new and higher stage than 19th-century Marxism, claiming to target the demands of a socialist society in today’s era. But it fails to be either holistic or scientific (Schmitz 2022). Like Marxism, Juche highly rejects idealism, and as religion transcends matter and purely materialistic processes, it is also targeted as unacceptable. Religion is contrasted to philosophy, and as Juche accepts only a materialist philosophy – and even declares itself to be the right view within materialism – no true attitude of philosophical inquiry is pursued; rather, Juche is a closed ideology which exists simply to be followed (Schmitz 2022).

Thus, the Juche idea is extremely hostile toward any form of pluralism. But to understand why this is the case, one has to understand that Juche itself consists of multiple core principles. First, man is the master of the revolution and as such is an independent being whose independence can be upheld only by fighting against the enemies of freedom, which Juche identifies to be imperialism and the bourgeoisie of a society which wants to uphold imperialism (Schmitz 2022). Nonetheless, Juche teaches that Kim Il-sung liberated Korea in 1945 from the Japanese occupation and, by doing so, inaugurated a new era in which every individual is said to enjoy the taste of freedom, by being able to shape his fate on his own. To do so, however, the revolutionary cause must be upheld by the so-called “Democratic Front” and the Korean Worker’s Party in particular who has a leader at its top. The leader principle in fact relativizes the independence of the people, up to the point that man (who is praised as being in the highest position in Juche) becomes nothing more than a machine. He is one tiny tool of the machine called the “masses” (sometimes synonymously with “people”), and everyone has to fulfill his role as part of the masses. As a result, if one does not do what the government tells him to do, he is treated like a disease or tumor in the otherwise healthy body or machine, and as such he has to be replaced, according to the North Korean understanding (Schmitz 2022).

In other words, ideologically speaking, there is no space for individual choices because the state demands uniform thinking from its citizens. This concept is called *Ilsim Tangyŏl*. Ko Yŏng-hak writes, “The Juche idea reveals the highest level of unity in which the leader, the army and the people are most united in a scientific way as the essence of a *single-minded unity*” (Ko 2015, my translation). All citizens are thus (formally) bound to a materialistic worldview in which one has to serve the leader, and therefore religious activities are in opposition to the state doctrine, which explains why there is such a low appreciation of religious freedom in practice.

The paradox within Juche, however, is that Juche itself is not materialistic anymore, because the leader occupies a quasi-godlike position. This can be seen in the vivid veneration of Kim Il-sung (1912-1994) and Kim Jong-il (1942-2011; he succeeded Kim Il-sung as supreme leader in 1994) even after their deaths, with Kim Jong-un (who succeeded Kim Jong-il after his death in 2011) continuing this tradition.

3. Religion as one of many worldviews and as a cultural heritage

The Juche idea recognizes that there exist different worldviews. However, Juche claims to be teaching the sole legitimate worldview, and other worldviews are labeled as wrong (Schmitz 2022). A worldview, according to Kim, is “a view of the world and an attitude toward the world as a whole, which includes a religious worldview and a philosophical worldview” (Kim 2014:10, my translation). However, religion is quickly “exposed” as a supposedly wrong worldview, as it is seen as a sign of backwardness in the DPRK. This assumption within Juche is based on Marxist philosophy (see the explanation in Kim 2014:20). As a result, the citizens of the DPRK do not have access to a free religious education and there is no independent information on religion. The superior position of the state ideology becomes the foundation of religious oppression.

In fact, though citizens of the DPRK are discouraged from adopting a religious belief and are highly encouraged to follow the materialist state doctrine, there do exist legal churches, as we will see below. As this stands in a large contradiction to what was noted above (the demand for unquestioned loyalty to Kim as quasi-divine), it is crucial to consider how religious groups operate and in which frame they are able to operate at all (and, of course, what it means in consequence for the regime and its operations).

It is intriguing that Kim Il-sung himself cherished religious groups, including Christianity, as part of Korea’s historical past, and the Kims praise the national heritage and history. For instance, Kim Il-sung wrote in his memoirs in appreciation of Korea’s 1919 uprising:

The March First Popular Uprising was scrupulously planned and carried forward under the leadership of people in the religious world, from *Chondoism*, Christianity and Buddhism, and patriotic teachers and students. The national spirit of our people which had been inherited and sublimated through the reformist revolution in 1884, the movement for defending justice and rejecting injustice, the peasant war in 1894, the patriotic enlightenment movement and the volunteers' struggle, erupted at last like a volcano in a call for sovereignty and independence. (Kim 1994:37)

Kim further stated, "I do not think the spirit of Christianity that preaches universal peace and harmony contradicts my idea advocating an independent life for man" (1994:103). This is interesting because the independent life of man is a core theme of Juche ideology. Jo (2004:337) pointed out that Jucheist thinkers claimed similarities between Juche and Christianity. Nonetheless, this should not lead us to false conclusions, because Kim Il-sung also strikingly rejected Christianity and tried to teach Christians (long before taking power) that there was no God (see for instance Kim 1994:102ff., 237ff.).

To understand the ambiguous relationship between Kim Il-sung and religion, we should note that the Kim family has a Christian background themselves and that Kim Il-sung was brought up as a Christian, "serving as an organist in his family's church" (Levi & Husarski 2021:84). However, "when he became leader of North Korea [he] adopted a hostile attitude toward religion" (Levi & Husarski 2021:84) and especially Christianity, as a foreign-perceived religion. As a result, Christianity suffered greatly during the 1957 anti-religious campaigns (see also Jo 2004:335, who describes the campaign activities in 1958).

Immediately after World War II, the communists' policy toward religion was more tolerant:

Until the end of 1946, the policies of northern communist authorities toward religion were not yet repressive. Among the basic principles behind these policies was an outstretched hand to progressive religious groups, which led democratic Protestants to participate and take responsibilities on People's Committees. Communist authorities also followed other principles: not interfering directly in religious matters, punishing only those acts which violated the law, while encouraging progressive religious forces to purge themselves of 'illegal characteristics'. (Chérel-Riquier 2013:75)

The shift toward incorporating religion as part of Korea's cultural heritage and national pride started in the 1960s (cp. Levi & Husarski 2021:84), after the anti-religious campaigns were terminated.

4. Eradication theories vs. remnant theories

Concerning the question of whether religion was actively professed between 1957 (when the anti-religious campaigns began) and 1972 (the date of the restoration of religious institutions in the DPRK), there are two main theories. Eradication theories assume that the government successfully eradicated all forms of religion on its territory. These theories “reflect the Cold War perspective that has long dominated the South Korean and western view of North Korea since the division of the nation. The fundamental aim of these anti-communist theories has been to condemn North Korea and to emphasize the superiority of the capitalist-liberal South Korean system” (Ryu 2006:660). The revival of religious organizations in the DPRK, therefore, was often labelled “fake” by adherents of eradication theories (cp. Ryu 2006:662).

In contrast to that view stand the remnant theories which do not “accept a complete obliteration of North Korean religion, despite the attempts of the government. Supporters of the Remnant Models believe that religious practitioners, in whatever form, have existed” (Ryu 2006:664). There has been a very intense discussion concerning evidence backing either one or the other theory. I will not summarize every argument here, since that would go beyond the scope of this paper. Instead, I will cite Ryu's conclusion: “Evidence for the persecution-eradication models is not altogether trustworthy” (2006:663). Therefore, we should assume a constant continuation of religious practice on an underground or family basis, despite the different policies over the decades under the Kims' rule, and that religion was always present in the DPRK in some form.

Since 1972, there have existed legal religious organizations. In that year, Marxism-Leninism was constitutionally diminished and mainly replaced by Juche as a constitutional concept (see Hale 2002). Despite the presence of official state-sanctioned churches, illegal religious activities may also be continuing up to the present; however, we have no solid or verified information as to how intensively such activities are conducted. Logistically, they are most likely to be found in border regions, supported by cross-border smuggling of illegal religious materials.

5. Legal temples and churches as a niche: Buddhism and Chondoism

In the DPRK, Buddhism and Chondoism are appreciated as traditional religions, each having had its own religious association within the country since 1972. However, both groups are supervised by a state entity and only activities authorized by the state organizations are allowed. Senécal reminds us:

Northern Buddhists are often described as the ‘most active and powerful’ North Korean religious organization. Moreover, many Korean Buddhists see their tradition as an indigenous one, unlike Christianity, which they deem ‘imported.’ Accordingly, Buddhist representatives from both sides of the DMZ believe that a merger of North and South Korean Buddhism is an essential key to the peninsula’s reunification. (2013:9)

The Buddhist tradition traditionally prevalent in Korea is Mahayana Buddhism, which claims “that all sentient beings, because they are originally endowed with Buddha-nature (*pulsŏng* 佛性), can achieve full awakening, i.e. become Buddha (*sŏngbul* 成佛). Since the realization of full awakening provides freedom from the cycle of rebirths or samsara, ... [they] consider that becoming a Buddha ought to be the ultimate goal of any human life” (Senécal 2013:10). The Korean Buddhist Association represents Buddhists in the DPRK. The purpose of the institution is defined as following: “Based on the basic idea of relieving suffering and bringing joy through compassion (*palgoyŏrak*), the fundamental mission is to realize the ‘Pure Land on Earth’” (Ryu 2009, my translation). This means that the cosmic principles of Buddhism are projected on the immanent world and therefore materialized to make them in accordance with Juche. As such, Buddhism is not considered an anti-revolutionary activity; instead, Buddhists enjoy significant prestige and a frame for religious activity.

Buddhists, in both the DPRK and Republic of Korea (ROK), engage in mutual activities, including food aid from southerners to their northern counterparts (Senécal 2013:9). One of the most famous South Korean Mahayanists working in North-South relations is the Venerable Sin Pŏpta, sometimes called the “Bodhi-sattva of Reunification” (Senécal 2013:11). Originally, like most people in the ROK, he “basically accepted the anti-communist interpretation” (Ryu 2006:665) that religious institutions in the DPRK had been eliminated by the regime, “but several visits to North Korea since the late 1980s convinced him that Buddhism and other religions, although not in a familiar form, had been practiced there” (Ryu 2006:665). As a result, he emphasized the need for inter-Korean religious dialogue, since “Seeing North Korean religion as nothing more than a propaganda tool simply because it is in the communist North Korean society ... would eliminate any possibility of constructive dialogue” (Ryu 2006:665). In the 1980s, the Korean Buddhist Federation of the DPRK was present at several international Buddhist events, and during Kim Dae-jung’s period of sunshine policy (1998-2003), they “took part in dialogue with South Korean Buddhist organisations” (Levi & Husarski 2021:85). They also focused on “receiving humanitarian aid and funds

from a well-known Buddhist organization called Good Friends, led by the Venerable Pomnyun, a South Korean Buddhist monk, who has been working inside North Korea for over 25 years” (Levi & Husarski 2021:85).

In summary, Buddhism is actively practiced in the DPRK though the theology is syncretized with the state doctrine’s demands. Nonetheless, Buddhist activities in the DPRK also aim to represent national interests of the DPRK and, as such, are used as a political tool (Levi & Husarski 2021:84ff.).

Chondoism is a native religion of Korea, founded in the 19th century by Confucian reformist Choe Je-u. Kim et al. point out, “At the time of liberation, Chondoism was the largest religion in North Korea with over 2.8 million believers” (2002:4, my translation). Chondoism was targeted in 1958 during the anti-religious campaigns (Jo 2004:335). However, since the legalization of religions in 1972, it is the religion that has adapted most fully to the DPRK system, and it has over 800 locations nationwide (Kim et al. 2002:4). Chondoism “is a monotheistic religion emphasizing the equality of humanity and the oneness of humans and God, known as *Hanulnim*. Because man and God are the same, there must be equality among humanity. Doing evil deeds runs counter to the will of the universe and distances a person from his or her true nature as part of the cosmos” (Malinowski 2002:73-74). As such, like Buddhism, Chondoism can be materialized by focusing on the immanent, and the leader can be regarded as the most self-perfected human being.

The Chondoists in the DPRK even have their own party, the Chondoist Youth Party, which is part of the Democratic Front, although it has little real influence on DPRK politics and is de facto subject to Kim’s authority. The party’s purpose is to defend the homeland against imperialism and to promote Korean reunification through peaceful means (Han 2016:41). Notably, “A few prominent South Korean Chondoists have defected to the North ..., where they became anti-South spokespeople” (Malinowski 2002:74). The most prominent of these is former party leader Ryu Mi-yong (1921-2016), the wife of ROK foreign minister Choe Deok-sin (who also defected to the DPRK). However, I strongly disagree with Malinowski’s claim that Chondoism functions mostly as a political tool to maintain contact with the ROK and for intelligence purposes. The Chondoist organizations, like all religious organizations in the DPRK, of course also have a political function, but primarily, their members are true believers in Chondoism and practice their religion. As an indigenous Korean tradition, Chondoism enjoys a certain respect as part of the national heritage. Boer appropriately describes Chondoism as “the primary religion supported by the state as a revolutionary movement” (2018:17). As such, Chondoism is not a focus of persecution, but neither is it something that one can freely practice independent of the state.

6. The special case of Christianity

As for Christianity, one may be surprised to learn that in the recent past:

Scriptures and a hymnal have been published, churches have been newly built for the first time since the Korean War, and the Protestant seminary in Pyongyang has nurtured future leaders. These changes are not limited to the external environment, but rather there has been a striking rebirth in religious activities. Worshippers fill churches each Sunday, and many other Christians reportedly attend hundreds of 'house churches' scattered throughout the country. In addition, church leaders have been actively involved in dialogues and exchanges with South Korean and international Christians and Christian organizations. (Ryu 2006:659)

This is in a sharp contrast of how the country is generally perceived, "because the Democratic People's Republic of Korea was infamous for its intolerance of religion and its particularly harsh treatment of Christians" (Ryu 2006:659), and, as pointed out before, it was long believed that Christianity had been violently eradicated (Ryu 2006:659). Among adherents of the eradication theories, the revival of Christian organizations was often labeled as fake, and it was accordingly proposed as a consequence that true Christianity and the actual reconstruction of churches would have to be conducted by the ROK and foreign countries (Ryu 2006:662). The remnant theories, on the other hand, suppose that Christianity never completely vanished and "Therefore, they do not think of Christian and religious organizations and activities in recent years, awkward and political as they might seem, as mere propaganda exhibition" (Ryu 2006:664). However, it is indisputable that Christian churches are in the most difficult situation, because unlike Buddhism and Chondoism, Christianity is perceived as foreign. Moreover, a belief in Jesus Christ as Savior is a necessary precondition for Christians, and thus the religion cannot be materialized. There is no way to confirm reports of religious persecutions presented by defectors, and it is not clear whether these testimonies are credible. The underlying problem is that much of the audience outside the DPRK wants to hear about the DPRK only what fits with their worldview and has been previously believed by rumor (see Rohlich 2014).

In this regard, it is also important to pay attention to churches in the ROK and their attitude toward North Korean refugees in the South. Jung points out:

The evangelical churches provide the second most substantial resources after the government to help these famine-scarred 'brothers and sis-

ters' in their southern resettlement. I have argued elsewhere that while former defectors were publicly celebrated by the South Korean state as anticommunist 'heroes and heroines,' at present it is only in the logic of religious conversion and human rights regimes that North Korean migrants are empowered to claim leadership roles in envisioning a reunified Korea. (Jung 2016:124)

Therefore, we must recognize that the discourse on religious freedom and persecution is also heavily influenced by South Korean stakeholders, such as certain churches whose focus is on evangelization according to their doctrines and on increased influence in the North (Sawa cited after Ryu 2006:665). An important factor in this regard is the strong state-church relationship in conservative circles in the ROK: "The intimate interrelationship between conservative political power and the evangelical churches is not unknown and it is often equated with the American evangelical tradition" (Jung 2016:128).

On one hand, it is evidently unreasonable to neglect the evidence of persecution of Christians in the DPRK, because Christianity has been seen as an ideological enemy throughout the Cold War period and is still in conflict with the DPRK state doctrine, which emphasizes a strict materialism, and as such is incompatible with what the state demands of its citizens, namely an undivided loyalty to the Kims. On the other hand, as already noted, one must be careful about quoting actual testimonies, since they cannot be confirmed and their credibility might be contested, especially in view of the fact that refugees from the DPRK receive considerable resources from evangelical organizations. The latter try to influence North Korean refugees (which are thus not an objective source), possibly to gain greater influence among North Koreans and maybe to gain some type of foothold within the DPRK. As Jung states:

Nearly all the megachurches in the Seoul metropolitan area run special support programs for North Korean migrants. The programs serve as contact zone in which established South Korean evangelicals can project, experiment, and develop migrant-tailored services as well as missionary training that are potentially applicable to future missionary work in North Korea. (Jung 2016:128)

Thus, without diminishing the pain and the suffering of Christians in the DPRK, I want to focus on the facts we can know, or at least on what is most likely true. Second, I agree with Ryu that the eradication theories are an anti-Communist Cold War relic, which was not built on facts but rather on foreign narratives,

as Ryu convincingly explains in depth with some examples, such as the cases of professing Christians in the DPRK who attained high-ranking positions. As such, the remnant theories seem more suitable. Also, the Venerable Sin Pöpta “concludes that North Korean religious organizations have been allowed to operate, albeit not independently” (Ryu 2006:665). This remark was not limited to Buddhism, but was meant to refer to religion in general, thus including Christianity. The advocates of remnant theories do not diminish the persecution of Christians in the DPRK, but they want to clarify that despite extreme restrictions, there was no full eradication of Christians.

Turning to the hard facts, there are four Christian churches organized by state institutions in the DPRK. Pongsu and Chilgol Churches are run by the Korean Christian Association, which is the Protestant church body in the DPRK. The association has six goals, including advancing national reunification processes, advocating world peace, and the training of house church leaders (Yu 2009). With regard to Catholicism, the situation is much more complicated. They have only one official church (cathedral), run by the Korean Catholic Association, which was founded in 1988, much later than its Protestant counterpart. Therefore, Catholicism is likely to have been legalized much later than other religions. In the 1980s, “The institutional South Korean Catholic Church aimed, in quite a traditional conception of its role, at establishing direct contacts with North Korean Catholics and evangelizing North Korea” (Chérel-Riquier 2013:81). The first official visit by a Catholic priest from the ROK to the DPRK was in 1984, and in 1987, “priest Chang Ik also went to P’yöngyang as a member of the Vatican delegation and had the opportunity to meet five North Korean Catholics” (Chérel-Riquier 2013:82). Even further, “Some South Korean Catholic priests based in the United States also had the opportunity to travel to P’yöngyang” (Chérel-Riquier 2013:82). Despite various delegation visits and dialogues, the overall results were unsuccessful. The process was marked by several ups and downs. For instance, as a consequence of the North-South rapprochement under Kim Dae-jung’s sunshine policy, Catholic contacts largely revived, including humanitarian aid to the North (Chérel-Riquier 2013:84), and Catholic bodies in the ROK continue to promote dialogue and cooperation.

The Church of Life-Giving Trinity in Pyongyang is the only Orthodox Christian church, and it serves the Russian community in the capital. Except for the clergy, who were selected by the government to study theology, there are no known Korean converts. The church is run by the Orthodox Commission of Korea, which was established in 2003. It seems to be a sign of good relations with the Russian Federation and a gesture of friendship.

As for the overall situation of Christianity, it was speculated in the early 2000s that there are at around 520 Christian house churches in the DPRK, with most

locations being assumed in South Pyong'an and Pyongyang City (Jo 2004:337), which shows that despite all the odds, Christianity is still a vital religion.

7. The Council of Religionists

All these religious groups are members of the Council of Religionists (the official English name given by the DPRK), formed in 1989, which is a council of religious leaders headed by the Chondoist Church. In fact, it is simply a higher body that supervises the independent associations and is itself supervised by a party organ. According to the DPRK:

It struggles for socialist construction and the independent, peaceful reunification of the country and peace against war and nuclear weapons. It conducts activities to promote cooperation among its affiliate religious organizations and strengthen ties of friendship with the international religious institutions and organizations. (Uriminzokkiri)

However, little is known about the Council's activities and the organization mainly remains a black box to us. At the end of the last millennium, the Council officially estimated that there were approximately 38,000 religious believers in the DPRK (in a total population of about 25 million), with 15,000 Chondoists making up the biggest number, followed by Christianity (about 10,000 Protestants and 3,000 to 4,000 Catholics) (Kim et al. 2002:43). We do not have any reliable independent figures, but the statistics – if they bear any relationship to the truth – show that the access to religious institutions is still scarce, and that many citizens either are not aware of their existence or feel too intimidated to visit or join such an organization.

8. What could be done?

First, we can summarize that the DPRK government allows certain religious institutions to operate, but that all religious institutions are required to join the Council of Religionists, which is strongly allied with the party. The Council supervises the church organizations that operate the temples (in the case of Buddhism) and churches and house churches (in the case of Christianity). All religious activities are strongly monitored, and no independent practice of religion is possible at this time. Religious activities are thriving among a small number of North Koreans, although access to religious activities is still difficult, given the low number of legally reported religious adherents. Joining a religious community is highly discouraged by the state ideology, which citizens have to study repeatedly and which demands loyalty to the leader. The restriction of religious freedoms violates not only the freedom of individual conscience, but also human rights in general.

Several attempts to improve inter-Korean religious exchanges have been made in the past. These included dialogues between religious communities. As a positive observation, it must be remarked that not only Buddhist and Chondoist religious groups, which are preferred by the state, were involved, but also Christian organizations took part. The religious organization members in the DPRK, though they are closely supervised by the party, are most likely real believers, and therefore it is necessary to continue regarding the DPRK religious bodies as authentic and not as fake or propaganda. For instance, the Theological Seminary in Pyongyang accepts a few Protestant students each year and regularly consults the Methodist organization known as KMC in the ROK (UCA 2000).

Nonetheless, freedom of religion is extremely restricted, and it is important to support means that could benefit religious believers in the DPRK. I believe that only soft solutions could help religious groups as long as the regime relies on the Juche ideology as it does now. A dismantling of the authoritarian elements of Juche seems unlikely in the foreseeable future, so working with the existing structures is the only possible way to produce any change. Therefore, I propose the following six points as keys to improvement:

- 1) Religious organizations can (continue to) make important contributions to the inter-Korean dialogue. This dialogue might help to strengthen human rights.
- 2) Religious institutions of the DPRK should be treated as serious religious institutions and not dismissed as mere propaganda. These bodies might play a stronger role in liberalization processes.
- 3) All citizens must have the right to join these religious institutions. Therefore, we must encourage the DPRK to open up religious institutions to the whole public. The DPRK must become transparent on this issue for international observers. (The DPRK propaganda claims that anyone is free to join a religious group, but this is not true.)
- 4) Foreign interference in the structures of religious institutions should be avoided. The Korean people should be able to organize themselves. The risk of religious institutions being abused by foreign interests contrary to those of the Korean people must be avoided.
- 5) To win the trust of the DPRK government, the churches must follow the guidelines of the Workers' Party of Korea (WPK). The WPK in turn must recognize all worldviews as legitimate.
- 6) It is absolutely possible to establish a socialist Christianity in Korea. The WPK can be inspired by the examples of socialist Christians in other countries.

The first point focuses on the fact that political and religious institutions are in a strong relationship with each other, in both the DPRK and ROK. As the reli-

gious bodies of the DPRK are under the direct control of party institutions, religious groups are also an important political player, and strengthening religious rights is a political decision that can happen only with DPRK support. The inter-Korean dialogue is a good forum for such opportunities (despite Kim Jong-un's most recent statement ruling out rapprochement and reunification; see Tagesschau 2023).

Second, it is difficult to work for change from the outside, and therefore certain aspirations must be pursued from within the DPRK by North Koreans themselves. Pressure from the outside has not helped North Koreans up to now, because the government seems to regard this pressure as a sign that religions are affiliated with foreign countries and oppose the DPRK's self-understanding. However, it is important to advocate for openness from outside the DPRK by appealing to the DPRK that all citizens should have unlimited opportunity to join a religious organization without fear or threat. The DPRK must be transparent in proving that they do not hinder believers from entering a church or temple or joining a religion.

The fifth and sixth points are extremely important. If we cannot expect a regime change, then the churches and temples must win the trust of the party to receive more freedom. As such, it is important to ensure that foreign influences do not undermine the self-determination of North Korean religious institutions, because of the danger that foreign stakeholders may try to use religious organizations to enhance their power. This danger comes partly from religious organizations themselves, such as several evangelical organizations in the ROK. As the DPRK mistrusts foreign missionary work, all religious activities should be organized by indigenous citizens themselves, so that the party does not fear any uprisings or unrest. Achieving this objective is important if we want to achieve any real change for believers in the DPRK. Furthermore, the Juche idea's claim that there is only one legitimate worldview should be given up for the sake of pluralism, by admitting that there are several worldviews which could be applied.

In summary, the two keys are (1) *encouragement* of liberties and (2) *exchange* between religious groups and foreign counterparts without infiltrating the DPRK. An agreement should be reached so that all religions are promoted, and the WPK should participate in it in a trusting spirit. It is unreasonable to expect the DPRK to give up the core of its existence, as a counterforce opposing the United States and Western states, so we simply cannot exclude the values of the WPK unless we want to wait for a regime change before trying to make the situation for religious groups in the DPRK better.

Finally, the DPRK could learn from other states that religion and socialism are not necessarily in contradiction. A possible role model could be the development of the People's Republic of China (PRC) between 1983 and 2017. Despite its strong

persecution of Christians during the Cultural Revolution (1966-1976), the country opened up for religious activities in the 1980s, even establishing a forum for exchange with Protestant leaders, the China Christian Council. Famous Chinese Christian socialists include Wu Yaozong (1893-1979), Deng Yuzhi (1900-1996), and Ding Guangxun (1915-2012), though the situation in the PRC is not yet perfect, given that the 2017 reforms on religion (“2017 Regulations of Religious Affairs”) led to a wave of crackdowns on non-state-affiliated churches and gatherings outside of official religious sites, which are regarded to be illegal. However, the DPRK could use the Chinese example of the Post-Cultural Revolution advancement to allow the promotion of Christian socialism within its borders as a first try to open up or to conduct a set of soft reforms. Another possible role model for a first change could be Cuba, which is a close ally of the DPRK, though here as well, the situation is not perfect, and especially evangelical pastors are a target of crackdowns.

9. Conclusion

Although it is commonly assumed that all religious activity in the DPRK is forcefully suppressed, in practice the situation is not as tense, and the suppression is not conducted as notoriously as suggested by the Juche ideology. Of course, this finding does not give us any reason for euphoria. The DPRK is a highly authoritarian state in which daily life revolves around its leader, Kim Jong-un, and his divinely venerated family as part of a personality cult, while religious activities beyond a narrow legal framework are not allowed and are strongly persecuted. There have been several talks between DPRK religious bodies and their southern counterparts in the past, and despite Kim Jong-un’s announcement that he will not consider reunification with the ROK or continue rapprochement, the hope for inter-Korean activities between religious bodies should not be abandoned and the channels should not be dismissed (point 1). Meanwhile, we should not stop appealing to the DPRK to relax its tight controls and we should continue monitoring the situation (points 2 and 3). At the same time, we must ensure that religious cooperation is not used as a means of foreign infiltration into the DPRK, as religious persecution might be relaxed only if the regime trusts religious adherents and their loyalty to the party (points 4 and 5). The DPRK could look at other countries as role models demonstrating that a co-existence between Christianity and socialism is possible.

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Christians under Pressure: Studies in Discrimination and Persecution 2

Kay Bascom

Overcomers

*God's deliverance through the
Ethiopian Revolution as witnessed
primarily by the Kale Heywet Church community*



VKW

False accusations, arrests, and persecution of Christians

Formative factors and impact of state laws of religious freedom in India

*D. Apostle*¹

Abstract

This article provides a critical analysis of state laws on religious freedom in India and their effect on minority communities, especially Christianity. It identifies the formative factors underlying these laws, along with the role played by religious political parties in their formulation. It also examines the motives behind the enactment of these laws and how they obstruct minorities' rights to propagate their religion and stand as a threat to their survival. The article further explores religious violence, false accusations and arrests inflicted on Christians because of these laws.

Keywords

State anti-conversion laws, religious political parties, Hindu nationalists, false accusations, persecution.

Religion is for man and not man for religion. For getting human treatment, convert yourselves. Convert for getting organised. Convert for becoming strong. Convert for securing equality. Convert for getting liberty. Convert so that your domestic life should be happy. – B.R. Ambedkar's speech at the Bombay Presidency Mahar Conference on 31 May 1936

1. Introduction

India is a heterogeneous, pluralistic society that is rich in its social, cultural, and religious traditions. Pluralism has been the part of the country's heritage along with democracy and secularism.² The secular principle encourages the country

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2 The Indian meaning of secularism is different from the Western concept of secularism. The term "secu-

to stand firm on ethical values such as peace, harmony, and tolerance concerning religion, race, caste, culture, and language. India is acknowledged as a land of many languages and religions. Hence, mutual respect, tolerance, peace, harmony, and communal co-existence are important highlights of India's secular identity. As the birthplace of four major religions – Hinduism, Sikhism, Jainism, and Buddhism – the country binds all diversities together and abides in unity. This makes the country a complex amalgam based on unity among diverse religious and cultural identities. However, what was popularly understood as a pluralistic society is now experiencing hate crimes, arrests, persecution, mob lynching, and violence due to increasing religious fundamentalism. These actions are encouraged by certain state laws on religious freedom that have been enacted by religious political parties governing those states.

Freedom of religion in India is a basic fundamental right endorsed by Articles 25-28 of the Constitution of India. Article 25 ensures “freedom of conscience and free profession, practice and propagation of religion”³ for all citizens of the country. In addition, Article 15 strictly prohibits any discrimination on grounds of religion, race, caste, sex, or place of birth.⁴ These articles provide the right for every individual citizen of the country not only to practice their religion but also to propagate their belief. According to the Pew Research Center's national survey on religious attitudes, behaviors, and beliefs, approximately 91 percent of Hindus are exercising religious freedom in their day-to-day life, while 85 percent agreed on the matter of respecting all religious beliefs “one to truly live as an Indian.”⁵ But ever since the inception of the state laws of religious freedom, the freedom of religion among minority communities in India is at risk as they face barriers to propagating their religion to others.

2. State laws on religious freedom: an overview

The Freedom of Religion Laws were enacted by the governments of certain states to stop the forced conversion of an individual from one religion to another. The

larism” is not explicitly defined in the Indian Constitution, but it is implicitly incorporated into the Preamble and various provisions of the Constitution. Based on the preamble and various provisions of the constitution, secularism can be defined to the notion of strict separation between religion and the state, guaranteeing that the state neither supports nor interferes with any specific religion and upholding the principle of religious freedom for all people. According to D.E. Smith, “Secular state is a state that guarantees individual and corporate freedom of religion, deals with the individual as a citizen irrespective of his religion, is not constitutionally connected to a particular religion, nor seeks either to promote or interfere with religion.” D. E. Smith, “India as a Secular State,” in *Secularism and its Critics*, ed. Rajeev Bhargava (New Delhi: Oxford University Press, 1998), 177-233, 178.

3 The Constitution of India, *Government of India Ministry of Law and Justice Legislative Department*, as of 9 September 2020. Available at: <https://legislative.gov.in/sites/default/files/COI.pdf>.

4 Constitution of India. Available at: <https://bit.ly/3tEUBWT>.

5 “Indians value religious freedom and tolerance but not great at integration, finds Pew survey,” *The Hindu*, 30 June 2021. Available at: <https://bit.ly/3TJDm1l>.

first ones, passed by the states of Odisha and Madhya Pradesh, took effect during the 1960s after the failure to pass anti-conversion bills at the federal level.⁶ At present, the laws are in force in ten of 28 Indian states: Odisha (1967),⁷ Madhya Pradesh (1968 and 2020),⁸ Arunachal Pradesh (1978),⁹ Chhattisgarh (2000 and 2006),¹⁰ Gujarat (2003 and 2021),¹¹ Himachal Pradesh (2006 and 2019),¹² Jharkhand (2017),¹³ Uttarakhand (2018),¹⁴ Uttar Pradesh (2020),¹⁵ and Karnataka (2022).¹⁶ Among these, the Karnataka Protection of Right to Freedom of Religion Act, 2022 passed recently by the previous BJP government is likely under discussion to be repealed by the present Congress government as of this writing.¹⁷ All these state laws were enacted to prevent *forcible conversion* or even an attempt made on any person by either directly or indirectly utilizing “*fraudulent means or by allure-ment/inducement.*”¹⁸ All ten states included the terms *force*, *fraud*, and *allurement* in their legislation. After the BJP government came to power nationally in 2014, states such as Himachal Pradesh, Uttarakhand, Madhya Pradesh, Uttar Pradesh, and Karnataka passed anti-conversion bills along with ones prohibiting marriage involving religious conversion, which are also famously called “love jihad” laws by the exponents of Hindutva ideology. Madhya Pradesh’s religious freedom laws included the prohibition of marriage conversion after its Cabinet approved an ordinance in 2020.

Despite being similar in their form and content, the elements of the laws of religious freedom vary significantly based on their state context. A person violating anti-conversion laws by abetting conversion must pay a fine of 5,000 to 50,000 Indian rupees, based on the particular state’s penalty law for forced con-

6 James Andrew Huff, “Religious Freedom in India and Analysis of the Constitutionality of Anti-Conversion Laws,” *Rutgers J. L. & Religion*, (2009), 10(1):1-36, 6.

7 The Orissa Freedom of Religion Act, 1967, *PRS Legislative Research*. Available at: <https://bit.ly/3RGCvVE>.

8 The Madhya Pradesh Dharma Swatantrya Adhinyam, 1968, *Manupatra*. Available at: <https://bit.ly/47h6qkz>; The Madhya Pradesh Freedom of Religion Ordinance, 2020, *PRS Legislative Research*. Available at: <https://bit.ly/3NHJ2oF>.

9 The Arunachal Pradesh Freedom of Religion Act, 1978. Available at: <https://bit.ly/3NKwYmF>.

10 “Chhattisgarh Passes Anti-Conversion Bill,” *Gulf News*, (4 August 2006). Available at: <https://bit.ly/3txVGZM>.

11 Gujarat Freedom of Religion (Amendment) Bill, 2006, Act 30 of 2006. Available at: <https://bit.ly/3tpuCTV>; see also Mahesh Langa, “Gujarat Assembly passes ‘love jihad’ law,” *The Hindu*, (2 April 2021). Available at: <https://bit.ly/3TGowca>.

12 The Himachal Pradesh Freedom of Religion Act, 2019. Available at: <https://bit.ly/48sXEAC>.

13 Virginus Xaxa, “Voiceless in Jharkhand: Freedom of Religion Act, 2017,” *Economic and Political Weekly*, (October 2017), 52(40):23-26.

14 The Uttarakhand Freedom of Religion Act, 2018, *PRS Legislative Research*. Available at: <https://bit.ly/41FAa8P>.

15 The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, *PRS Legislative Research*. Available at: <https://bit.ly/48cPZgd>.

16 The Karnataka Protection of Right to Freedom of Religion Ordinance, 2022, *PRS Legislative Research*. Available at: <https://bit.ly/3v8GEAX>. See also, “India’s Karnataka state passes anti-conversion law despite opposition” *Vatican News*, (23 September 2022). Available at: <https://bit.ly/3vcZneN>.

17 “Karnataka to scrap anti-conversion law, reverse textbook changes,” *The Hindu*, (15 June 2023). Available at: <https://bit.ly/48DbQXH>.

18 Saadiya Suleman, “Freedom of Religion and Anti Conversion Laws in India: An Overview,” *ILI Law Review*, (February 2010), 1(1):106-129, 118.

version. Further, the convict may also be imprisoned for one to five years based on the particular state's provisions. Apart from this, certain laws penalize abetting conversion of a minor, woman, or person belonging to Scheduled Castes (SC) or Scheduled Tribes (ST). In these cases, the imprisonment period increases to two to seven years and the fine rises to 10,000 to 100,000 rupees.

The Freedom of Religion Laws do not completely deny a person's right to convert. Rather, they attempt to prevent illegal conversion. Hence, procedures were included in the laws for those who are seeking to convert by their own free will. The procedures require the person who wishes to convert to provide a declaration to the district magistrate or an equivalent officer in charge regarding his conversion. In states such as Uttar Pradesh, Uttarakhand, Himachal Pradesh, and Odisha, the convert is required to send an advance declaration to the district magistrate about his or her conversion. In addition, the priest presiding over the conversion is also required to send an advance notice to the district magistrate before conducting the conversion process. Similar to the penalties of abetting forced conversion, violating religious conversion procedures is also punishable by a fine and imprisonment. The fine amount varies from 1,000 to 25,000 Indian rupees, and imprisonment can be for one to five years (including both the convert and the person encouraging conversion) based on the respective state laws.

Apart from the ten states listed above, laws were also enacted in Tamilnadu (2002) and Rajasthan (2006). But the Tamilnadu Prohibition of Forcible Conversion of Religion Ordinance was repealed in 2004 after protests by minority communities, while the Rajasthan anti-conversion bill failed to receive approval from the state governor and the president. More recently, an anti-conversion bill was also passed in the Haryana (2022) state assembly amidst disapproval from the opposition party; it is awaiting action in the parliament as of this writing.¹⁹ Several other states ruled by the BJP are also making efforts to pass anti-conversion laws which include Goa and Maharashtra.²⁰

3. Formative factors of state laws on religious freedom

3.1. Pre-independence state laws

The state laws on religious freedom are not something new or even just a phenomenon that has arisen since India's independence and the establishment of the Indian constitution. Some state anti-conversion laws were in place during the

¹⁹ 'Explained: What is the Haryana Prevention of Unlawful Conversion of Religion Bill, 2022?' *Financial Express*, (24 March 2022). Available at: <https://bit.ly/41GBPLw>.

²⁰ Krishna Kumar, "Studying anti-conversion laws of other states, says Maharashtra Dy CM Fadnavis," *The Economic Times*, (10 December 2022). Available at: <https://bit.ly/3vhNPXT>. See also, "CM Sawant: May bring new law to curb conversions in Goa," *The Times of India*, (15 June 2022). Available at: <https://bit.ly/47b5EFF>.

British colonial period. Pre-independence India was ruled by two types of states: the princely states and the provinces. The provinces were completely ruled by the British while the princely states were ruled by the Indian Hindu kings under the administration of the British Empire. The anti-conversion laws were first introduced by Hindu princely ruled states in the late 1930s and 1940s, to safeguard Hindu tradition from the Western Christian missionaries who were involved in religious conversion. Some of the pre-independent state laws established by the Hindu princely states are the Raigarh State Conversion Act of 1936 (the present Raigarh district in Chhatisgarh); the Patna Freedom of Religion Act of 1942; the Surguja State Apostasy Act of 1942 (the present state of Chhattisgarh); and the Udaipur State Anti-Conversion Act of 1946 (the present state of Rajasthan).²¹ The laws did not have much impact in prohibiting conversion due to the British colonial control until 1947 and lost their significance after the adoption of the Indian Constitution in 1950. Even though the pre-independence state religious laws failed in their attempt to stop the spread of Christianity, they laid the foundation for the establishment of post-independence state laws on religious freedom.

3.2. *The Hindutva movement*

The late 19th-century social reformation movement,²² along with Dayananda Saraswati's Arya Samaj which advocated *shuddhi* (purification ritual)²³ and *sangathan* (organization), aimed at reclaiming converted Hindus accompanied by an urgent wake-up call for the defense of Hinduism against the growing Muslim and Christian communities, developing a militant spirit in the minds of certain staunch Hindus and zealots. This resulted in the formation of an increasing number of militant Hindu organizations taking aggressive approaches against minority communities in an effort to reclaim their lost power, land, and identity. Among these militant Hindu organizations, the Hindu Mahasabha and Rashtriya Swayamsevak Sangh (RSS) became the most prominent, aggressive, and dominant Hindu forces.²⁴ The Hindu Mahasabha, formed in 1915, was a Hindu religious organization that strongly advocated Arya Samaj's ideology of *Shuddhi* to bring back those Hindus who were converted to Christianity and Islam. The

21 Neha Chauhan, "Religious Conversion and Freedom of Religion in India: Debates and Dilemmas," *ILI Law Review*, (Summer Issue 2017), 1:126-136, 132. Available at: <https://www.ili.ac.in/pdf/paper817.pdf>.

22 The socio-reformation movements include Raja Ram Mohan Roy's Brahma Samaj (1828), Dayananda Saraswati's Arya Samaj (1875), Swami Vivekananda's Ramakrishna Mission (1892), Jyotirao Govindrao Phule's Satyashodhak Samaj (1873) and Sir Sayyid Ahmed Khan's Aligarh Movement (1860). These movements aimed at resurrecting ancient Indian cultures, Vedas (scripture), traditions and ethos against the new western thinking minds.

23 John Zavos, *The Emergence of Hindu Nationalism in India* (New Delhi: Oxford University Press, 2002), 91.

24 Kailash Kumar Chatry, "Saffronisation of Education: A Christian Response," in *Reclaiming Diversities in Secular India: Theological Response to Religious Fundamentalism*, edited by Sentiwate Aier and Limatula Longkumer (Serampore: Department of Research/SATHRI, 2019), 107-140, 113.

Mahasabha also aimed at making the Indian nation a completely Hindu nation and strongly emphasized Sanskrit and Hindi as prestigious historical languages rooted in the Indian soil. It described India as a holy land for *only the Hindus*. This ultimate motive of the Mahasabha developed patriotism in the minds of the Hindus.

The RSS was formed in 1925 in Nagpur as a response to the Hindu-Muslim riots that erupted in several parts of India during the early 1920s. It presented itself as a Hindu socio-cultural, nonpolitical organization dedicated to making India a completely Hindu nation. Along with the Hindu Mahasabha, it strongly opposed the Congress Party's notion of referring to India as a land of many religions.²⁵ The organization's leader, Madhav Sadashiv Gowalkar, was influenced by V. D. Savarkar Hindutva (Hinduness) ideology, promulgated in 1923, which strongly emphasized Hindu culture and adapted it to the RSS to transform Hindu nationalism into action. The ideology provides three essential qualifications for the critical question of who is a Hindu. The first essential is that one considers India as both their *pitribhu* (fatherland) and *punyabhu* (holy land). The second essential is to be a descendant of a Hindu parent possessing the blood of the ancient *Sindhu* (central land area of the Indus valley civilization). The third essential is to revere Sanskrit as the common classical language by which their culture, literature, and history are expressed.²⁶ Based on this ideology, Christians and Muslims can easily affirm the first essential but will completely fail the second essential, for they cannot consider India as their community's holy land since Israel and Palestine (for Christians) and Mecca (Muslims) are their holy lands.²⁷ As a result, the RSS effectively views Hindus alone as the indigenous citizens of Indian soil, while Christians and Muslims are subjected to communal violence and hatred for rejecting Hinduism. Significantly, the pre-independence anti-conversion laws came into existence only after the formation of the RSS and Hindu Mahasabha. This is because the Indian rulers of the princely states strongly adhered to the RSS's aim to build Hindu Rashtra (Hindu Nation). The RSS faulted the concept of secularism promoted by Gandhi and Nehru, which treated India as a land for people

25 David Ludden, "Introduction," in *Making India Hindu: Religion, Community, and the Politics of Democracy in India*, edited by David Ludden (New Delhi: Oxford University Press, 1996), 13-14.

26 Vinayak Damodar Savarkar, *Hindutva: Who is a Hindu?* (Bombay: Veer Savarkar Prakashan, 1989), 110, 115-116.

27 For Christians, the Holy Land comprises the regions of both Israel and Palestine, as both places possess religious significance owing to their link to biblical events in the New Testament. Jerusalem, a city of profound religious significance for Christians, is located in both Israel and the West Bank, which is part of the Palestinian territories. Similarly, Bethlehem, another important site, is situated in the West Bank. The Christian interpretation of the Holy Land's significance is influenced by the intricate geopolitical and historical dynamics of the Israeli-Palestinian conflict. It is essential to acknowledge that the perspectives on the region's importance may vary among individuals and groups due to diverse cultural, religious, and political contexts.

of all religions and races. This concept of secularism opposed the principles of the RSS, as for them, *India is only for the Hindus, and other foreign religions such as Christianity and Islam along with their adherents must be driven out of Indian soil*. In addition, they also criticize minority rights provisions such as Articles 29 and 30 of the Indian constitution, which provide special rights and privileges for minority communities. Justice Khanna in St. Xavier's College, however, affirmed:

Special rights for minorities were not to create inequality. Their real effect was to bring about equality by ensuring the preservation of the minority institutions and by guaranteeing to the minorities autonomy in the matter of the administration of those minority institutions. The differential treatment for the minorities by giving them special rights, ensures that the ideal of equality may not be reduced to a mere abstract ideal but should become a living reality and result in true, genuine equality, an equality not merely in theory but also in fact.²⁸

The RSS failed to recognize that the importance of providing special rights and privileges to minority communities was to protect and safeguard them against the majority. It is a form of equality that enables the minority to not be subject to the majority. Hence, to carry out its driving vision of Hinduizing India, the RSS became the mother of various Hindu religious, social, and political organizations which are commonly known by the term "Sangh Parivar". The Sangh Parivar is an umbrella name given to those Hindu organizations that come under the family tree of RSS – *Sangh* means "organization" or "association." In the context of the RSS, *Sangh* refers to the organization itself and *Parivar* means "family/household". The name "Sangh Parivar" means "Family of the RSS" – which expresses the intent to transform India into a complete *Hindu Rashtra* and safeguarding *Hindu Dharma* from Western cultures. The political party Bharatiya Janata Party (BJP), religious organization Vishva Hindu Parishad (VHP), all India Hindu students' union Akhil Bharatiya Vidyarthi Parishad (ABVP), Hindu militant organization Bajrang Dal, and the farmers' union Bharatiya Kishan Sangh all come under the family tree of the RSS.

According to Christophe Jaffrelot, a French political researcher and scholar of South Asian politics, the VHP was assigned among these Sangh Parivar organizations to coordinate the drive to achieve "*Hindu awakening*" by bringing many Hindu sects together to promote Hindu unity and mobilize support for the Hin-

²⁸ Quoted in Brenda Cossman and Ratna Kapur, *Secularism's Last Sigh? Hindutva and the Mis Rule of Law* (New Delhi: Oxford University Press, 2001), 106-7.

du Nationalist cause.²⁹ Savarkar's Hindutva ideology is carried in a deeper sense with much intensity by the Sangh Parivar. Indian social activist Ram Puniyani states that Sangh Parivar is "an idealistic mix of fascist and fundamental traits."³⁰ Through Sangh Parivar's Hindutva movement, the RSS made various failed attempts to change the constitution of India, which emphasized secularism. So, to meet its primary objective of making India a completely Hindu nation, the RSS played a crucial role in enacting the state laws of religious freedom in the states ruled by their political party, as a catalyst to achieve their goal.

3.3. *Religious political parties*

The state Anti-Conversion laws or Freedom of Religion Laws were also used as a tool to win the legislative assembly general elections. The political parties emphasized religion as a strategy to lure the majority of religious people to vote for them. The anti-conversion laws were also used as an instrument in the religious-political party's manifesto and campaign to gain the support of the majority religious community in that particular state. After winning the election, the political party proceeded to fulfill the promised manifesto in that state.

In India, Hindus constitute 79.80 percent of the total population. Developing Hindu sentiments by obstructing the spread of minority religions like Christianity and Islam will eventually result in gaining support from the majority religious group. The remaining 20.2 percent of the population has little chance to affect election results if the Hindu majority is unified. Freedom of Religion Laws have been passed by the BJP alone in seven³¹ of the ten states that have such laws in force at this writing. The BJP had also won successive state elections in Gujarat and Chhattisgarh after enacting the Freedom of Religion Laws.³² After the BJP established its national government under the leadership of Narendra Modi in 2014, four states have enacted anti-conversion bills to date. However, this strategy is applicable only in the states that have a majority-Hindu population along with the influence of RSS. It is not possible to impose such laws in the states where Christians and Muslims combined represent a majority, and where Hindus tend to be "broadminded, peace-loving, and tolerant towards people of other faiths

29 Christophe Jaffrelot, *Modi's India: Hindu Nationalism and the Rise of Ethnic Democracy*, translated by Cynthia Schoch (Princeton: Princeton University Press, 2021), 21.

30 Ram Puniyani, "Religion, Politics and Fundamentalism," in *Reclaiming Diversities in Secular India*, edited by Sentiwate Aier and Limatula Longkumer (Serampore: Department of Research/SATHRI, 2019), 25-51, 41.

31 The seven states include Gujarat (2003), Chhattisgarh (2006), Jharkhand (2017), Uttarakhand (2018), Himachal Pradesh (2019), Uttar Pradesh (2020) and Karnataka (2022).

32 Raman Singh won successive elections (2008 & 2013) after imposing Chhattisgarh Freedom of Religious Acts in 2006. Narendra Modi won successive election (2002 & 2007) after imposing Gujarat Freedom of Religious Acts in 2003. Both men established their rule under the BJP.

and their religions.”³³ The political party’s manipulation of religious sentiments in their campaign to succeed in elections feeds the deepening of religious division, which causes disputes.³⁴

3.4. *The conversion issue*

Indian Christian missionaries are falsely accused of engaging in conversion in rural and tribal areas through allurements, forcible and other fraudulent means by the high-caste Hindus. This is because high-caste Hindus feared losing dominance over the lower castes if they convert to Christianity.³⁵ Moreover, the Christian mission’s aim of improving the quality of life of the downtrodden people by providing free food, free education, and job opportunities created anxiety in the minds of the high-caste Hindus, as they feared that the lower castes would become economically equal to them. In addition, Hindu nationalists view religious conversion as completely anti-secular, which aims at reducing the Hindu majority population to the minority level. They conceive that conversion is disingenuous as allurements somehow play a role in it, involving money, food, education, job, free houses, etc. They criticize Christian missionaries’ acts of giving alms to the poor as a trick to lure them to Christianity. According to RSS Chief Mohan Bhagwat, Mother Teresa’s service to the poor was predominantly aimed at converting the person to Christianity.³⁶ Christian efforts at conversion also stand as a hindrance to Sangh Parivar’s vision of making India a completely Hindu nation. The Christian theology of inculturation which accentuates Christian teachings, gospels, and liturgy in the light of different cultures, especially Hindu culture, is perceived as religious prostitution by the Sangh Parivar.³⁷ They also misjudge conversion as a religious phenomenon directed to transform Indian culture into Western culture. Their misjudgment lies in their failure to distinguish between conversion and acculturation. While conversion is a complete change in one’s religious belief due to inner spiritual transformation which excludes their culture, acculturation is assimilating to a different culture and its customs. The Sangh

33 Rodinmawia Ralte, “The Hindutva Movement of the Sangh Parivar: Historical and Ideological Survey,” in *Reclaiming Diversities in Secular India: Theological Response to Religious Fundamentalism*, edited by Sentiwate Aier and Limatula Longkumer (Serampore: Department of Research/SATHRI, 2019), 75-106, 103.

34 Subodh Ghildiyal, “Congress: BJP creating Hindu-Muslim divide to win polls,” *The Times of India*, (13 May 2022). Available at: <https://bit.ly/3NKWEZw>.

35 Sarah Claerhout and Jakob De Roover, “The Question of Conversion in India,” *Economic and Political Weekly*, (9 July 2005), 40(28):3048-3055. Archived at: <https://www.jstor.org/stable/4416875>.

36 Aarti Dhar, “Mother Teresa’s aim was conversion, says Bhagwat,” *The Hindu*, (24 February 2015). Available at: <https://bit.ly/3HomuMo>.

37 Sebastian Kim, “Public Theology in the History of Christianity,” in *A Companion to Public Theology*, edited by Sebastian Kim and Katie Day (Leiden: Brill, 2017), 40-66, 57; See also, “Christian inculturation of Hinduism is religious prostitution – B. R. Haran,” *Bharata Bharati*, (10 January 2015). Available at: <https://bit.ly/3RY2foC>.

Parivar misunderstand Christian conversion to acculturation and blame it for polluting the rich Indian culture, heritage, and tradition, since Christianity is from the Western world.

Kali Charan Banerjee, a Bengali Christian and a prominent figure of the Indian National Congress, posited the Indianness of Christianity in 1870 in his newspaper, *The Bengal Christian Herald*, arguing, “In having become Christians, we have not ceased to be Hindus. We are Hindu Christians ... We have embraced Christianity but we have not rejected our nationality. We are as intensely national as any of our brethren.”³⁸ In support of Charan’s argument, Indian educationalist S. C. Mukherjee stated in 1923 that the Hindus’ misconception of viewing the Indian Christian community as a denationalized one had to be removed.³⁹ Both Charan and Mukherjee made a strong claim that Indian Christians have only changed their religion but not their Indian cultural values including their national identity.⁴⁰ Nevertheless, the Hindu nationalists regard Hinduism as the only supreme cause of the nation’s identity;⁴¹ converting or quitting it is considered a betrayal of the nation. Hence, to eliminate the existential threat to their vision, community, and culture in the form of conversion, the Hindu nationalists, along with the upper-caste Hindus, falsely accuse the Christian missionaries of engaging in disingenuous conversion. This has led to the enactment of state anti-conversion laws in several states in India.

4. False accusations, arrests, and persecutions as an outcome of religious freedom laws

The implementation of state laws on religious freedom in India has resulted in arrests, violence, and mob lynching perpetrated against minority communities due to the liberty it provides to the Hindu community. The anti-conversion laws are biased as conversion to Christianity or Islam is questioned, whereas conversions to Indian religions are not. According to the United States Commission on International Religious Freedom (USCIRF), the anti-conversion laws are responsible for creating “a hostile, and on occasion violent, environment for religious minority communities because they do not require any evidence to support accusations of wrongdoing.”⁴² The non-consideration of evidence to charge a person

38 Kaj Baago, “The First Independence Movement Among Indian Christians,” *Indian Church History Review*, (1967), 1(1):65-78, 67.

39 “Indian Christians and the Councils,” *The Guardian*, (4 May 1923), 1(18):207.

40 See also Aruthuckal Varughese John, “Religious freedom and the subversive adaptation of Christian converts from Hinduism,” *International Journal for Religious Freedom*, (2023), 16(2):105-116. Available at: <https://ijrf.org/index.php/home/article/view/248>.

41 Milan Vaishav, “Religious Nationalism and India’s Future,” *Carnegie Endowment for International Peace*, (4 April 2019). Available at: <https://bit.ly/3vhqoOI>.

42 USCIRF ANNUAL REPORT 2016, Tier 2 Countries – India. Available at: https://www.uscirf.gov/sites/default/files/USCIRF_Tier2_India.pdf.

of forced conversion naturally develops a majoritarian psychological mindset/attitude among Hindu nationalists with the liberty to falsely accuse any minority religious person/group at their will. This creates an unpleasant environment in which the minority lives under the hegemony of the majority. Therefore, Christians have become the victims of many hate crimes and outbreaks of violence for exerting their fundamental right to profess, practice, and propagate their faith. According to Chad M. Bauman, an American scholar, the widespread nature of religious violence, hate crimes, and persecution of minority religious groups in India is an “*everyday*” endemic outcome of Hindu nationalism.⁴³ By characterizing them as “*everyday*” Bauman implies that violence against Christians was not restricted to high-profile or isolated incidents, but rather a constant issue affecting India’s Christian minority. The laws of religious freedom are used as a catalyst by Hindu nationalists like RSS to implement extreme militantism against minority religions. Apart from these interreligious conflicts, the anti-conversion laws also stand as a hindrance to sharing and propagating their faith. This leads them to live in a state of isolation and separation from other religious communities. USCIRF in its 2021 annual report criticized the anti-conversion bills as responsible for the numerous continuing false accusations, harassment, and violence imputed against minority communities that ensued with impunity.⁴⁴ It also included India among the four countries on the list of worst religious freedom violators to be designated by the US government as a Country of Particular Concern.⁴⁵ After Uttar Pradesh passed an ordinance prohibiting interfaith marriage as a means of conversion in late 2020, several Hindu nationalists campaigned to boycott interfaith relationships which resulted in attacks and violence on non-Hindu communities.⁴⁶

Some of the recently reported violence on Christians as a result of false accusations are as follows:

- In 1999, Australian Pastor Graham Stewart Staines along with his two sons was burnt alive on the charge of conversion work by a Hindu mob. The Wadhwa Commission, which inspected the murder, determined that Staines was not involved in any conversion work.
- During the 2008 attacks on Christians in southern Karnataka, Hindu nationalist groups such as the Bajrang Dal and the Sri Ram Shiv Sena stormed many churches and prayer halls, accusing Christians of participating in forced con-

43 Chad M. Bauman, *Anti-Christian Violence in India* (Ithaca, New York: Cornell University Press, 2020), 4, 115-118.

44 USCIRF ANNUAL REPORT 2021, (April 2021), 23. Available at: <https://bit.ly/3K3x2Kg>.

45 Anugrah Kumar, “USCIRF urges US gov’t to add 4 countries to list of worst religious freedom violators,” *The Christian Post*, (8 November 2021). Available at: <https://bit.ly/47cangr>.

46 USCIRF ANNUAL REPORT 2021, (April 2021), 22. Available at: <https://bit.ly/3K3x2Kg>.

versions. The groups accused several non-denominational Christian churches, including New Life Fellowship Trust (NLFT), and other Christian institutions of pressuring Hindus to convert to Christianity.

- In July 2017, Christians protested in Ludhiana, Punjab, after a pastor was murdered in public on suspicion of engaging in conversion.⁴⁷
- In 2020, due to false allegations, Hindu mobs stormed churches and disrupted worship services for allegedly engaging in forced conversions.⁴⁸ The same year, a Korean Christian along with three Indians were imprisoned in Uttar Pradesh under the indictment of forced conversion attempts by luring people with food during the COVID-19 lockdown.⁴⁹
- On 18 July 2021, nine Christians were arrested on false accusations for violating Uttar Pradesh anti-conversion laws after radical Hindu nationalists attacked them during their prayer meeting in Gangapur. One of the arrested had reported that the police officials demonized them by commenting that they have neglected India's traditional religion by accepting a foreign religion.⁵⁰

The Hindu extremists brought forth six accusations against Indian churches for the violence inflicted:⁵¹ 1) there is a tremendous rise in the number of Christians; 2) conversion to Christianity is forced; 3) missionaries are promoters of foreign power; 4) to transform India into a Christian nation through western influence; 5) Indians become de-culturized when converted; and 6) Christian social work is a stimulus for conversion.

The imposition of several new state anti-conversion laws along with the persecution of Christians has peaked under Modi's government since 2014. Even though Prime Minister Modi has made assertions denouncing mob violence, associates of his political party have connections with Hindu fanatics, and many have used prejudicial language against religious minorities.⁵²

On 30 October 2021, Narendra Modi visited Pope Francis, and the photographs of the two embracing each other were released. This became a controversy as many Christian leaders questioned the Pope's silence on ongoing anti-Christian violations in India during their meeting. In reaction to their encounter, Chen-

47 USCIRF ANNUAL REPORT 2018, Tier 2: India, (April 2018), 165. Available at: https://www.uscifr.gov/sites/default/files/Tier2_INDIA.pdf.

48 USCIRF ANNUAL REPORT 2021, (April 2021), 22. Available at: <https://bit.ly/3K3x2Kg>.

49 "First Christian Arrested under New 'Anti-Conversion' Law in U.P., India" Morning Star News, (4 January 2021). Available at: <https://bit.ly/3NEJ068>.

50 "Another Twelve Christians Arrested on False Forced Conversion Charges in India," *International Christian Concern*, (22 July 2021). Available at: <https://bit.ly/41M6cAb>.

51 Theodore Srinivasagan, "Facing Persecution in the Adivasi Areas of Western India," *India Missions Journal*, (July-Dec 2015), 1(2):75-80.

52 USCIRF ANNUAL REPORT 2018, Tier 2 Countries – India, 162. Available at: https://www.uscifr.gov/sites/default/files/Tier2_INDIA.pdf.

nai-based researcher Joshua Iyadurai stated, “The hug will not heal the wounds of the persecuted Church in India.”⁵³

5. BJP’s attempt to nationalize religious freedom laws

Post-independence, the RSS using its wing organizations has made various attempts to nationalize anti-conversion laws. The national-level freedom of religion bill introduced by the then Janata Party in 1979, failed to gain political support from the people and was ultimately discarded by Prime Minister Indira Gandhi in the subsequent year. Several ministers of the current Bharatiya Janata Party (BJP) government, including its former president Amit Shah, spoke in favor of a countrywide anti-conversion law.⁵⁴ But enactment of a national law would completely hamper the liberty of minority religions. Besides, many sources had reported the current BJP government’s plan and preparations in enacting a bill to prevent any sort of religious conversion.⁵⁵ However, from a constitutional perspective, any bill contradicting constitutional rights will be declared invalid and unsanctioned. As per the constitution, law and order is a state subject, so a law prohibiting forced and fraudulent conversions cannot be enacted at a federal level because it contradicts the fundamental right to propagate one’s religion under Article 25 of the Indian Constitution. Moreover, it violates the principle of “unity in diversity” by negating religious plurality in society. On 9 April 2021, the Supreme Court ruled that people over the age of 18 have the right to choose their religion, in response to a petition filed by BJP advocate Ashwini Kumar Upadhyay, who sought the formation of a committee to prevent illegal religious conversion by implementing a strict central-level Conversion of Religion Act.⁵⁶

6. Freedom of Religious Acts – Decline of Christian population in India

Table 1 shows the post-independence census (1951-2011) of the various religious population in India. In this table, the percentages are calculated from population data for individual religions.

The data show that Hinduism has suffered only a 4.3 percent population drop from 1952 to 2011, while Christianity’s percentage has not changed much. From the first three censuses, it can be seen that Christianity has increased, in terms

53 Jules Gomes, “Pope Hugs Anti-Christian Hindu Nationalist,” *Church Militant*, (2 November 2021). Available at: <https://bit.ly/3NjkGLI>.

54 “‘Bailing out’ Modi, US religious freedom panel attacks his right-hand Amit Shah’s call for national anti-conversion law,” *Counterview*, (30 April 2015). Available at: <https://bit.ly/3tzoRzz>; Saurav Datta, “India’s Mass Conversion Problem,” *AL JAZEERA*, (4 January 2015). Available at: <https://bit.ly/3NLUgJE>.

55 Santhosh Kumar, “Modi government likely to bring bill to prevent religious conversion in next Parliament session,” *ZEENEWS*, (10 August 2019). Available at: <https://bit.ly/3Hk1dxr>.

56 Krishnadas Rajagopal, People are free to choose religion: Supreme Court, *The Hindu*, (9 April 2021). Available at: <https://bit.ly/3RYC15n>.

Religious Group	Population 1952	Population 1961	Population 1971	Population 1981	Population 1991	Population 2001	Population 2011
Hinduism	84.1%	83.45	82.73%	82.30%	81.53%	80.46%	79.80%
Islam	9.8%	10.69%	11.21%	11.75%	12.61%	13.43%	14.23%
Christianity	2.30%	2.44%	2.60%	2.44%	2.32%	2.34%	2.30%
Sikhism	1.79%	1.79%	1.89%	1.92%	1.94%	1.87%	1.72%
Buddhism	0.74%	0.74%	0.70%	0.70%	0.77%	0.77%	0.70%
Jainism	0.46%	0.46%	0.48%	0.47%	0.40%	0.41%	0.37%
Zoroastrianism	0.13%	0.09%	0.09%	0.09%	0.08%	0.06%	n/a
Others/Religion not specified	0.43%	0.43%	0.41%	0.42%	0.44%	0.72%	0.9%

Table 1: Population trends for major religious groups in India (1951-2011)

2011 Census of India. <https://www.censusindia.gov.in/2011census/c-01.html>, (accessed on August 6, 2020). See also, Sagnik Chowdhury, Abantika Ghosh and Ruhi Tewari, "Census 2011: Hindus dip to below 80 per cent of population; Muslim share up, slows down," *The Indian Express*, 27 August 2015. Available at: <https://bit.ly/4aQg3Z6>.

of the percentage of the population from 1952 to 1971. The growth of increase is about 0.30 percent in 30 years. But in the following decade (1972-1981), it has seen a heavy decline of about 0.16 percent concerning the previous census of 1971. The reason for this sudden fall in its growth is due to the intervention of the state laws of religious freedom in three states namely Odisha (1967), Madhya Pradesh (1968), and Arunachal Pradesh (1978). It has further dropped to 0.12 percent in the next ten years which is again due to the effect of the anti-conversion laws from the three states. Despite that, Christianity has seen a slight increase ever since its fall of about 0.02 percent in the 2001 census. The increase is due to the non-implementation of any new state anti-conversion laws from 1979 till 1999. But in the next census, Christianity has succumbed to the same amount of population to 2.30 percent as in the first census of 1952. Even though Christianity has its ups and downs it remains the same (2.30 percent) in terms of population growth in 60 years (1952-2011). The 2021 census has been delayed due to the pandemic COVID-19, but it seems that Christianity will go down further below 2.30 percent population due to the enactment of state anti-conversion laws in four states namely: Jharkhand (2017), Uttarakhand (2018), Uttar Pradesh (2020) and

Karnataka (2022), as well as the efforts made to implement them in other states, post-2011 census.

The primary reason for the fall of Christianity including other minority religions in the late 20th and 21st century is the imposition of several state laws of religious freedom with the prohibition of conversion as its central element. From the census, it can be observed that Hinduism is the only religion in India that has never seen growth in terms of its population post-independence among other religions. So Hindu fundamentalists perceive the minority communities such as Muslims and Christianity as a threat to their existence, faith, and culture. Hence, they resort to violence, mob lynching, persecution, and false accusations as they visualize them as a major reason for their community's downfall.

7. Conclusion

Freedom of Religious Laws, as the term suggests, must promote the right for equal propagation of all religions irrespective of diversity. But instead, they stand as a hindrance to the survival of minority communities in India. The state religious freedom laws must be inclusive, not partial by favoring a particular community. Moreover, religious conversion is a "divine-human encounter"⁵⁷ in which an individual experiences an inner-spiritual transformation. All religions in the world gain their adherents only through propagation. It is a global phenomenon; without it, religions would cease to exist. Conversion is the outcome of the successful propagation of religion. All genuine conversion embraces secularism by adding diversity to the modern pluralistic world. The right to freedom of conversion is a human right implicit under Article 18 of the Universal Declaration of Human Rights (UDHR), which acknowledges the *freedom to change one's religion or belief*. Therefore, religious conversion is a universal human right to be exercised by all individuals irrespective of their caste, race, language, or regional area. False accusations are impediments to the right to freedom of religion. They are the derivatives of religious hatred and fundamentalism. It is unethical to perceive a person's action of aiding the needy by providing alms, shelter, and education to inducement/allurement. In a secular country, anti-conversion laws violate democratic principles and the peaceful coexistence of religious communities as they make the minority always subject to the majority. They indirectly destroy the fabric of a secular democratic state. Hence, in this 21st century, people should act in a more inclusive way so as not to fall prey to the sentiments of religious politicization. The Sangh Parivar would do well to embrace tolerance and recog-

57 Joshua Iyadurai, *Transformative Religious Experience: A Phenomenological Understanding of Religious Conversion* (Eugene, OR: Pickwick Publications, 2015), 2.

nize the fact that Christianity is Indian not because of its origin, but because of Christians who are citizens of India as their ancestry is rooted on this soil. They must understand that their exclusive vision of transforming India into a nation of “one religion, one language, and one culture” mutilates religious peace and secularism.

To conclude in the words of Annie Besant, “A common religion is not possible for India, but a recognition of a common basis for all religions, and the growth of a liberal, tolerant spirit in religious matters, are possible.”⁵⁸ This possibility of religious tolerance must become a reality.

⁵⁸ Annie Besant, *The Birth of New India: A Collection of Writings and Speeches on Indian Affairs* (Madras: Theosophical Publishing House, 1917), 32.

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Truth enfleshed

An apologia for embodied presence in the midst of persecution in India

Jose Philip and Godfrey Harold¹

Abstract

Apologetics, in general, is commonly known as the logical establishment of the truthfulness of the Christian faith. The approach taken towards apologetics involves a combination of various methods and a conversational style, while still emphasizing the importance of reason, rational inference, and consensus as the objectives of this apologetic engagement. The authors acknowledge the limitations of the Western approach to apologetics, which solely focuses on propositional truth. This article aims to find ways to accurately represent Jesus in the Global South, with a specific focus on India. The intention is to develop an approach that can effectively connect with individuals of different faiths, following the example of Jesus, particularly in situations where the Christian community is a minority and persecution is heightened.

Keywords

Embodied, love, truth, apologetics, persecution, India.

1. Introduction

Apologetics, for the most part, is understood as rationally establishing the veracity of the Christian faith. The approach developed to apologetics is eclectic and conversational, while still privileging reason, rational inference, and agreement as the goals of this apologetic engagement. The authors acknowledge the inadequacies of the Western approach of apologetics, which focuses only on propositional truth. In this article, we seek ways to represent Jesus appropriately in the Global South. We focus on India, intending to develop an approach that relates to people of other faiths in the manner of Jesus, especially in situations where the Christian community is a minority and where persecution is intensified. This article attempts to develop a personal and communal apologetic as embodied

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presence – truth in the flesh as a defense of the Christian faith in the face of persecution. Before doing so, we first summarize other common approaches.

1.1. *The traditional/classical method*

The traditional method follows a twofold process and is closely associated with prominent figures such as Thomas Aquinas and modern exponents such as William Lane Craig, R.C. Sproul, and Norman Geisler. The initial step involves establishing theism, which asserts the existence of God, through a series of philosophical reasoning. These logical arguments encompass the concept of causation (known as the cosmological argument) and the idea that an infinite chain of moments before the present moment is impossible (the Kalaam cosmological argument). Additionally, the classical approach delves into the intricacies of finely calibrated and precisely designed natural systems, ranging from the intricate order of the cosmos to the delicate balance found within biological mechanisms (the teleological argument). It also addresses the necessity for objective and personal foundations for moral obligations (the moral argument). Once this solid groundwork of theism has been laid and skepticism has been successfully refuted, the classical apologist proceeds to the second stage, which involves incorporating historical arguments that narrow down the various theistic possibilities, ultimately leading to Christianity as the sole viable option. Here, the apologist tackles the challenges posed by religious pluralism, explores the reliability and preservation of biblical texts, and focuses on presenting evidence for the historical resurrection of Jesus Christ.

1.2. *The evidentialist approach*

The evidentialist approach is like the classical one in many ways, with little disagreement on the arguments' substance. It is most closely associated with such figures as Josh McDowell, John Warwick Montgomery, and Gary Habermas. For the evidentialist, the suggested two-step approach of the classical method is one step more than necessary. Gary Habermas (2000:92) argues:

Evidentialism may be characterized as the “one-step” approach to this question, in that historical evidence can serve as a species of argument for God. Instead of having to prove God's existence before moving to specific evidences (the “two-step” method), the evidentialist treats one or more historical arguments as being able both to indicate God's existence and activity and to indicate which variety of theism is true.

For the evidentialist, properly presented and supported historical arguments answer the inherent questions that arise in the classicalists' first step. Jesus' res-

urrection can be reasonably demonstrated through historical examination, thus proving miracles are possible. The Bible is reliably passed down to us through the ages, then the truth of Christianity is explicit.

1.3. *The cumulative case approach*

Distinct from both methods described above is the cumulative case approach. This method is associated with such figures as Paul Feinberg, C. S. Lewis, G. K. Chesterton, and Douglas Groothuis. Feinberg (2000:151), “Such an argument is rational but does not take the form of a proof or argument for probability in any strict sense of these words.” For this reason, the cumulative case method is a multi-step approach. Logic, history, science, and philosophy all stand on equal ground. According to Feinberg (2000:152), this means that “one may start with any element of the case, and depending on the response, appeal may be made to some other element to support or reinforce the claim that Christianity is true.” Note that the goal here is not to merely argue in favor of a particular Christian belief (such as the existence of God), but rather is a defense of the entire biblical worldview.

1.4. *The presuppositional approach*

Several approaches to apologetics have been given the rubric “presuppositional,” including the works of Gordon Clark, Carl F. H. Henry, E. J. Carnell, and Francis Schaeffer. Though there are notable differences in the work of these apologists, they all share a common fundamental principle, namely that the presupposition of the truth of Christianity has maximal explanatory power. Only Christianity explains and accounts for both creation and corruption, answers our longings for truth, good, beauty, and justice, and takes evil seriously.

No strand of presuppositionalism is better known than the approach of Cornelius Van Til. For Van Til, Christianity alone is the key to unlocking human experience. Logic, beauty, the fundamental assumptions underlying modern science, morality, and human dignity are rendered meaningless unless grounded in the biblical worldview of creation-fall-redemption. Van Til believed this was best argued indirectly, not by directly appealing to supposedly neutral evidence but by showing non-Christians that their worldview assumptions destroy meaning itself. This indirect approach leaves Christianity as the last man standing and is the strongest proof of the Christian faith.

2. *The Indian context*

The fundamental changes in cultural and intellectual attitudes over recent years, influenced by the decline in confidence in the Enlightenment’s dictum of universal human rationality, have left many questioning the purpose of Christian apologetics.

This is particularly so in the Indian context, where religious diversity runs deep and “many gods, many ways” is a prized mantra. Almost anything can be understood differently and appropriated at will, from its pantheon to its philosophy. However, with growing nationalistic sentiments and the persecution of adherents of minority faiths – especially Muslims and Christians – on the rise, we believe the question is not whether there a place for Christian apologetics in India, but what apologetics is appropriate and how it could be meaningfully practiced. In other words, the time is ripe for a renewed vision and a revitalized practice of Christian apologetics in India.

We argue that biblically informed apologetics offers more than a case for Christ. It offers “truth enfleshed.” As a community that embodies and represents Christ faithfully, believers undertaking the task of apologetics are to present the gospel with gentleness and respect, inviting and nurturing participation. The apologetic of embodied presence guards the gospel against being reduced to a proposition, apologetics against being reduced to mere verbal persuasion, and evangelism against being polarized between proclamation and social action (Harold 2022:253). On the contrary, it nurtures a vision of holistic mission, and inviting message, and a participatory posture, even in the face of persecution and suffering.

In developing an apologetic for embodied presence, we begin with an outline of the history of Christianity in India, highlighting key developments and the contextual and contemporary challenges for apologetics in India in the wake of the rise of Hindu religious nationalism, known as Hindutva. Next, we explore the work of apologetics as presented in the New Testament. Finally, we propose embodied presence – truth in the flesh – as an approach to apologetics that is both biblical in its content and viable in the Indian context. But first, we discuss our methodology.

3. *Apoloigia as doing contextual theology for India today*

For the gospel to be meaningfully understood and faithfully lived out, it has to be contextualized (Harold 2022). As Pachuau (2018:91) asks, how else will a people make faith practices distinctly their own while allowing others to do the same? Moreover, contextualization is essential for the gospel revealed in Scripture to take root and bear fruit in cultural soils different from its own, thereby emphasizing the receptor’s context. Therefore, critical reflection on the receptor’s culture; attending to contextual realities, is vital to the work of theology. It helps us to appreciate that God is at work in the world and enables us to participate in his continuing work (Pachuau 2018:94-99; Coe 1973:238-241). Seen in this light, apologetics provides the foundations for contextual theology.² It calls for serious reflection on what the gospel is, how the gospel can be meaningfully articulated and accepted,

2 The goal of apologetics, in our view, is to serve the purposes of evangelism.

and what it means to become a Christian. This undertaking is fully cognizant of Christianity's long history in the country, the changing landscape of Indian politics, the upsurge of Hindu nationalism, the implementation of anti-conversion laws, and the meteoric rise of religious persecution, to mention a few factors.

Doing apologetics in India today (like doing theology) is neither simple nor straightforward. As Bevans (2006:15-16) points out, taking the contextual realities of human experience into account is not just adding an element but "changing the whole equation."

This also provides the first two building blocks of developing an appropriate apologetic for India: the canonical text and the recipient's context. Given the contextual nature of the Christian message and the implications of context on the respondent, Bevans highlights the need to pay close attention to the complexities inherent in contexts at two levels. First, one needs to attend to external factors such as historical events and cultural shifts; second, one must attend to internal factors such as the incarnational nature of Christianity, the sacramental nature of reality, the nature of divine revelation, the catholicity of the church, and the nature of God. Bevans uses six models to categorize the different approaches to contextual theology and plots them along a continuum from experiences of the past to experiences of the present. He warns against adopting any model exclusively as it risks distorting the theological enterprise.

Moreover, Bevans (2006) posits that the main criterion for judging a model's efficacy should be its ability to nurture positive change. This means that Christian apologetics demands more than the defense of a proposition; it calls for an explanation that makes sense to the receptor. In other words, apologetics is contextual theology that is "constructive" (Ezigbo 2021:8-9).

Laurie Green, likewise, urges us to steer clear of the deeply misguided "supra-cultural" expectations of our methods; a problem that plagues most apologetic methods, but which most apologetics seem oblivious to.³ For any theological task to be transformative, according to Green, it must be theoretically thorough and practically pertinent. By implication, Christian apologetics must seek to deal with real issues of the people being engaged incarnationally, rooted in context, making divine presence manifest in its heart for the marginalized; all this demands meaningful presence and participation in context (Green 2009:17-37). This consideration provides us with the third building block: the community of believers and unbelievers.⁴

3 Using the quadrilateral of experience, exploration, reflection, and response to do theology in the community, Green seeks to liberate theology from the clutches of a privileged few and put it into the hands of every Christian, transforming it into "an open system of discovery and transformation" (2009:18).

4 At the heart of doing apologetics that is contextually sensitive, as Ezigbo (2021:76) argues, one must "attend properly to the actual context of the community," which is sufficiently addressed only through the rubric of love.

There is one final piece to complete this puzzle: the content. What should make up the content of Christian apologetics in India? Given the contextual and personal nature of the God-human interactions in Christianity – that is, the incarnation – it is important to frame the content of Christian apologetics around the person and work of Jesus Christ, taking great care not to reduce the person of Christ to be just a proposition. This calls for a multi-dimensional understanding of Christology. K. K. Yeo effectively espouses the *Christocentricity* of all things – that is, humans growing into the fullness of Christ. Therefore, there is not just a monolithic (Western) Christology but a multi-dimensional, global view: “While Jesus is singular, Christology is plural” (Green et al. 2020:214, 216-232).⁵ This ought to be at the heart of our apologetic endeavor, as Peter exhorts, to exalt “Christ as Lord” (1 Peter 3:15).

These four aspects – Christ, canon, context, and community – form the building blocks of apologetics in India today. With a distinct commitment to the Lordship of Jesus Christ and a firm grasp on the canonical text, it is the privilege and responsibility of the community of believers to engage in contextually appropriate ways, so that those who currently do not believe may know and experience the love of God for them in Jesus Christ and come to place their faith in him. With this purpose in mind, we will consider the fabric of Christianity in India.

4. The history of Christianity in India

Christianity in India lacks a clear, distinct starting point (Hastings 2000:147). Robert Frykenberg observed that Christianity in India can be traced to multiple waves, beginning with an ‘ancient’ wave that is traditionally believed to begin with a visit by the apostle Thomas. Over the first four centuries, Hastings notes influences from Babylonians, Chaldeans, and the Syrian Orthodox Church as well. This was followed (centuries later) by a medieval wave of the Roman Catholic Church in the 15th century, and finally by the modern Protestant wave from the 18th century.

Although Christianity did take root very early in Indian soil, it remained relatively subdued and silent for the first 15 centuries (Frykenberg 2003:36-37). Christianity’s diminutive, non-invasive, and fragile nature over this time period caused Stephen Neill (1990:112) to label its continued presence “a miracle of church history.” Neill reasoned that the Indian church’s distinct language and liturgy preserved it from being amalgamated into Hinduism.

5 Complementing Yeo’s reflections from a Chinese perspective, Mbuvi’s Christology from an African perspective (Green et al. 2020:201-213) and Amos Yong’s (237-250) and Rene Padilla’s (334-352) pneumatologies from Asian and Latin American perspectives emphasize the same pursuit of multi-dimensionality.

Much of this changed with the second and third waves, when (unfortunately) merchants, mercenaries, and missionary influences rechristened Christianity as a foreign and oppressive faith. Frykenberg observes that Christianity in India after the 15th century teetered between systematic exploitation, marginalizing and murdering Indians, on one hand and missionaries working tirelessly to bring them the good news of Jesus Christ on the other hand. However, 20 centuries after Christ's resurrection, India is still less than three percent Christian.⁶ The challenge today, however, is not colonial imperialism, but other factors including Hindutva, or fundamentalist Hindu nationalism.

5. The birth of a nation

Several ideologies were at play as India began to find its feet as a sovereign nation. As S.M. Michael (2003:3) argues, India's national consciousness "found its earliest expressions not in the realm of politics but in social and religious reform movements, with the search for an appropriate cultural foundation for Indian society." Michael further notes that three visions of how India ought to be developed vied for supremacy as the nation sought its identity: (1) Western ideals cradled in the Enlightenment, (2) ancient Hindu traditions, and (3) aspirations of the oppressed and marginalized. The coalescing of these three visions, through multiple iterations, resulted in the framing of the Indian Constitution, which granted, guaranteed, and guarded India's cultural, religious and ethnic plurality (Michael 2003:3-4).⁷

Christophe Jaffrelot argues that the framing of the Indian subcontinent as a secular nation with multiple identities – including linguistic, caste, and religious identities as part of its national fabric – was largely due to the influence of the Indian National Congress (INC). "For the founders of Congress," Jaffrelot argued, "the Indian nation was to be defined according to the territorial criterion, not on the basis of cultural features: it encompassed all those who happened to live within the borders of British India" (2007:4). While the INC had many credible leaders, none were as charismatic as M.K. Mahatma Gandhi and his spiritual son and political heir, Jawaharlal Nehru.

The INC's vision for nationhood was significantly influenced by both Mahatma Gandhi's universalist definition of the Indian nation and Nehru's secular, individualistic, view. Gandhi "looked at the Indian nation as, ideally, a harmonious collection of religious communities all placed on an equal footing. He promoted

6 The Pew Research Center indicates that "Christians have made up between 2% and 3% of India's population in every census since 1951." Stephanie Kramer, "Religious Composition of India," 21 September 2021. Available at: <https://pewrsr.ch/46oGPoB>.

7 The cradle that nurtured Indian identity, unlike Pakistan which chose nationhood based on a singular religious (Muslim) identity, was territorial.

a syncretic and spiritual brand of the Hindu religion in which all creeds were bound to merge, or converge,” and Nehru believed that “the construction of the Indian nation could only be rooted in secular, individual identities” (Jaffrelot 2007:4-5). This vision, Gyanendra Pandey argues, was squarely rejected by Hindu nationalists (Pandey 1990). After seven decades of being the world’s largest democracy and a secular state, it appears as though the country is leaning increasingly towards Hindu nationalism.

6. India at 70 and beyond: The ascent of Hindu nationalism and Hindutva

The clearest articulation of what Hindu nationalism entailed can be found in Savarkar’s *Essentials of Hindutva*. In this booklet, published in 1923, Savarkar argues why India must get rid of everything foreign and return to ‘pure’ Hinduism. It was the duty of every true Indian, he insisted, to engage in this quest to purify India and make it a Hindu nation. While originally Hindutva was used (as early as the 1890s) by social reformers such as Chandranath Basu and Bal Gangadhar Tilak to articulate a cultural vision of Hinduism, Savarkar reframed it to delineate a political ideology in his famous work *Hindutva: Who is a Hindu?* (1923). Savarkar envisioned India as built on the threefold assertion of a common nation (*rashtra*), a common race (*jati*), and a common civilization or culture (*Sanskriti*) (Mathew 1999:163-192).

Savarkar disagreed with the INC’s vision of a secular India and with Gandhi’s approach to freedom. Whereas Gandhi adopted nonviolence as his political strategy, Savarkar espoused overt and deadly violence. While Savarkar’s role in the struggle for India’s independence was no match for Gandhi’s, his influence must not be underestimated. In particular, his influence on Keshav Baliram Hedgewar, founder of the Rashtriya Swayamsevak Sangh (RSS),⁸ and the Bharatiya Janata Party (BJP), the current ruling party of India, which is the largest political party in the world.⁹

Although Hindutva is not explicitly a religious party and does not include the ritual or religious tenets in its manifesto, its commitment to secular India is highly contentious, as the political manifestos of the BJP make clear.¹⁰ Moreover, much

8 According to Hedgewar, “The Hindu culture is the life-breath of Hindustan. It is therefore clear that if Hindustan is to be protected, we should first nourish the Hindu culture. If the Hindu culture perishes in Hindustan itself, and if the Hindu society ceases to exist.” The RSS currently has over a million members, and it argues that there can be only one explanation for its exponential growth in secular India: “The emotive response of the millions to the vision of Bharat’s national glory, based on the noblest values constituting the cultural and spiritual legacy of the land and collectively called ‘Dharma.’” RSS Website, <https://bit.ly/3MRAmf5>.

9 The BJP has over 170 million members. The Communist Party of China is the world’s second-largest party with 96 million members (Wade 2022).

10 In its political manifestos (1984) before becoming the ruling party, the BJP argued that the need of the hour was for national integrity, unity, and cohesion. The reestablishment of national consensus around

of Hindutva ideology can be traced back to neo-Hinduism, which, as C.V. Mathew argues, is a missionary religion in its ethos. Neo-Hinduism is “the reinterpreted, modernized and revitalized nationalistic Hinduism” (Mathew 1987:15). Mathew’s thesis was validated in a major survey conducted by the Pew Research Centre in 2020 on religion in India. The survey revealed that a significant majority of BJP voters believed that to be Indian one must be Hindu, speak Hindi, and vote for the BJP.¹¹ Not surprisingly, there are close ties between the rise of Hindutva and the marginalization of religious minorities in India.

With the triumphalist approach of Hindutva and the Hinduization of India, the rise of anti-minority violence is inevitable. Moreover, the implementation of anti-conversion laws in several states, along with the drive to ‘reconvert’ (*ghar wapsi*) religious minorities back to Hinduism, raises serious questions about the ongoing well-being of Christians and the task of developing Christian apologetics for India.

7. Apologetics in the New Testament: Review and reflections

From the time of the apostles, the main task of apologetics has been to present faith in Jesus Christ as reasonable and transformative, despite the suffering it might produce for followers. Our English word ‘apologetics’ is derived from the Greek word *apologia* (noun), which literally means offering a reasonable defense. Apologetics, in that sense, has always been an integral part of the practice of bearing witness to Jesus and is always contextually conditioned.

The New Testament refers to at least three distinct apologetic devices: miracles, fulfilled prophecy, and personal testimony of eyewitness. In this section, we will consider the New Testament’s apologetic thrust in the light of selected passages from Luke’s apologetic work (in both the Gospel of Luke and the book of Acts).

F.F. Bruce refers to Luke as the pioneer among Christian apologists, and the book of Acts gives us ‘contextualized’ models for apologetics in various settings, in engaging diverse audiences such as civil authorities, Jews, pagans, philosophers, and skeptics (Bruce 1988:13). Likewise, Joel Green (1997:17) argues that “the genre of Acts suggests Luke’s concern with legitimation and apologetic” that is primarily eschatological, centered on the invitation to participate in God’s project.

the secular identity of the country, preserving its democracy and constitution, especially in the light of the diverse and inclusive nature of India, was stated as a non-negotiable to pursue the well-being of all. However, in 2019, now that the BJP is in power, the manifesto speaks about its “nation first” policy, the overall economic development of the country, and the preservation and development of Indian (read Hindu) cultural heritage. Conspicuous by its absence was any reference to preserving the secular or diverse nature of India. The manifestos of the BJP are available online: “Party Booklets and Manifestos: Bharatiya Jana Sangh & Bharatiya Janata Party,” available at: <http://library.bjp.org>.

¹¹ Based on the Pew Research Center’s survey of religion across India, based on nearly 30,000 face-to-face interviews of adults conducted in 17 languages between late 2019 and early 2020 (Sahgal et al. 2021).

Luke's Gospel is the only one accompanied by a sequel (Acts). Moreover, Acts is the only canonical account of the early church, and much of Paul's writings would be devoid of a context if we did not have the book of Acts. Also, Luke is the only Gospel writer to state the purpose of his narrative (Luke 1:1, 4; Acts 1:1-3).¹²

The introduction of Jesus follows a similar pattern. Luke uses context-specific motifs to expose the identity of Jesus. To Mary, a devout Jew from the house of David, Luke notes that the angel Gabriel introduced Jesus as "Son of the Most High" who would sit on David's throne and rule over the house of Jacob forever, and whose kingdom would never end (Luke 1:32-33; cf. 2 Sam 7:6-16). Jesus is introduced as "Christ the Lord" to the shepherds by a host of angels (Luke 2:11b). Simeon, a righteous and devout man, through the Holy Spirit, recognizes Jesus as "the Lord's salvation ... a light for revelation to the Gentiles and for the glory of his people Israel" (2:30-32; cf. Isa 60:1-3). Anna the prophetess proclaims him as the one the Jews were looking forward to for the redemption of Jerusalem. These assertions are reaffirmed in John the Baptist's declaration that in Jesus "all mankind will see God's salvation" (Luke 3:4-6; cf. Isa 40:3-5; 52:10; Ps 98:2, 3). Although both John and Matthew quote from Isaiah 40, Luke alone includes the words "and all humankind will see God's salvation."

It is important to recognize the contextual emphasis in Luke's account. Luke's focus is to announce God's salvation to Jews and Gentiles alike through the person and work of Jesus and the continuing work of the Holy Spirit through the disciples (and, by extension, the church today). These themes can also be found in Mark and Matthew but are presented somewhat differently.¹³

While not as well defined or elaborate as Luke's, the apologetic aim of the rest of the New Testament is beyond doubt. Jesus did not appeal to faith devoid of knowledge. Rather, he persuaded people to believe in him because of the evidence that corroborated his claims.¹⁴ In Mark 2, Jesus demonstrated that he had the power to forgive sin (which the Jews recognized as something only God could

¹² A close reading of Luke's "undertaking" (ἐπιχειρήσαν) reveals that Luke was especially concerned to offer a contextual apology for the completed work of Christ and the continuing work of the Holy Spirit.

¹³ If Jesus is a prophet in Luke, he is more of a teacher in Matthew, as this gospel emphasizes fulfilled prophecy as an apologetic for the claims of Christ (see for example Matt 1:2-23; 2:6, 15, 17-18). Matthew and Mark present Jesus' message more in terms of the kingdom of God/heaven, whereas Luke has a more salvific thrust. In Luke, we see Jesus making it known that everything that happened (his life, death and resurrection) was in fulfillment of what was written about him in the Old Testament (Luke 24:44, cf. Ps 2, 16, 22, 69, 72, 110, and 118). For Luke, Jesus's suffering and rising from the dead on the third day were a fulfillment of Old Testament prophecy (Luke 24:46b; cf. Isa 2:3), and his preaching repentance and forgiveness of sins from Jerusalem to all nations in his name was also foretold in the Old Testament (Luke 24:47). The disciples would be his witnesses to all these things through the enabling power of the Holy Spirit (Luke 24:48, 49). Isaiah prophesied through the Holy Spirit that some Jews would not accept the gospel of Christ (Acts 28:25; cf. Isa 6:9). God's salvation was sent to the Gentiles, and they would listen (Acts 28:28). The gospel was being preached in Rome without hindrance (Acts 28:31).

¹⁴ For more appeals to objective evidence in the NT, see John 19:31-36; 20:24, 30-31; Acts 1:1-3; 2:32; 3:6-16; 4:8-14-20; 9:3-8; 14:8-14, 20; 17; 22:6-9, 14; 26:12-18, 26; 1 Cor 15:1-8; 2 Pet 1:16.

do) by healing the paralytic of his physical disability, raising questions of who Jesus really is.¹⁵ In Matthew's account of the discussion that ensued following the healing of a demon-oppressed man (Matt 12:23-30), Jesus reasons with unbelieving skeptics to help them see the truth about his identity.¹⁶ Likewise, John affirms that what he writes about is what he had seen (John 1:14). In 1 John 1, he describes what "we have heard, which we have seen with our eyes, which we looked upon and have touched with our hands." He continues, "That which we have seen and heard we also proclaim to you, so that you too may have fellowship with us; and indeed, our fellowship is with the Father and with his Son Jesus Christ. And we are writing these things so that our joy may be complete" (1 John 1:1-4).

Like the original apostles, other early followers of Jesus likewise commended Jesus to others and sought to persuade others. This is demonstrated in Acts 18:25-28, where we read that Apollos was "instructed in the way of the Lord, and fervent in Spirit" (v. 25) and "powerfully refuted the Jews in public, showing by the Scriptures that the Christ was Jesus" (v. 28). The word διακατηλέγχετο (powerfully refuted) literally means to argue, dispute, or reason. The same word is used in Paul's apologetic and instruction in Acts 17:2-3, 11, 17, 22-31; 18:4, 19; 19:8-9; 26:25; 1 Timothy 6:20.

Apologetics in the New Testament performs the twofold task of commending the truth about Jesus Christ and confirming the continuing work of the Spirit in the world through the church.¹⁷ The New Testament also makes it plain that God is sovereign in making himself known. Apologetics, therefore, is not about arguing or reasoning people into the kingdom of God. The apologist does not shoulder the burden of conviction, but of clear communication. Conviction and conversion are exclusively the work of the Holy Spirit.

Moreover, the very ability to hear, consider, and respond to the Gospel is the gift of God.¹⁸ This does not preclude the use of reason and evidence; on the contrary, it provides the proper place for the use of it. The use of evidence and the appeal to rationality in the New Testament were not intended to undermine the authority of the Scriptures or to undervalue the work of the Spirit. On the contrary, it is because of the authority of the Word that the Christian can argue for the truth (without being argumentative), empowered by the Spirit. The goal of

15 The authority Jesus exercised over nature, disease, demons and even death gave rise to the same question: who is this man? A similar line of argumentation suffuses the Gospel of John (see John 2:18-21; 10:30-33, 37-38; 15:24-25; 20:24-29).

16 In Matthew 12, we see Jesus argue from analogy three times (25-26, 27, 29), appealing to the law of logical inference twice (26, 28-29); exposing the absurdity of their erroneous reasoning (25-26); applying the law of non-contradiction, and upholding the law of the excluded middle (30).

17 To dispel error, one has to defang or dismantle arguments against Christianity (2 Cor 10:3-5; Titus 1:9-11), and to preserve truth we must embody truth in a truthful manner (1 Peter 3:15; Acts 1:3; Luke 24:39; Rom 1:19-20).

18 See: Rom 1:17; 3:10-13; Eph 2:8-10, Acts 17:22-34; 1 Pet 3:15.

Christian apologetics is the glory of the risen Lord Jesus Christ, its resources are the Word and the Spirit, and its reward is the salvation of souls.

8. Truth enfolded: An apologia for embodied presence

Dialogue is foundational to engagement in a pluralistic religious environment. It must be conducted based on mutual respect between Christians and non-Christians. While dialogue implies respect, it does not presuppose agreement. This dialogue is most crucial in India today because the socio-cultural-religious context is in flux. With the consolidating of its position and political influence over the past decade, Hindutva is on the ascent and Hinduization of the Indian identity is in full swing. Apologetics in this context, appropriating what Pachau says that contextualization does, must attempt “to relate the gospel to both traditional culture and the changing sociopolitical [context of India]” (Pachau 2018:141-142). Moreover, to develop an apologetic that genuinely engages, adapts to, and appropriates the religio-cultural aspects of India, Tanchanpong’s “context-to-text approach” (Green et al. 2020:69), which calls for a posture in which elements in the receiver or interpreter’s context are held to as “dynamic and modifiable,” and typified by constructive dialogue with Scripture is invaluable. This is especially true given that the discipline of apologetics has hardly had a greater appeal. “We stand at the dawn of the grand age of human apologetics,” observed Os Guinness (2015:15), “and never before in human history have we had the means to engage in the business of relentless self-promotion.” Yet it is hard to miss the signs warning us that apologetics is deemed by many as unnecessary, disadvantageous, or even detrimental to the Christian faith. The grand age of apologetics is not without its troubles.¹⁹ The greater the persuasion to follow Jesus, the louder the dissenting, disillusioned, and disappointed voices disapproving of apologetics.

As noted earlier, the book of Acts shows how the first followers of Jesus were almost always engaged in persuading others to follow Jesus. It should come as no surprise that the history of missions is the story of the lives of “ordinary Christians living lives faithful to Jesus, in tangible ways – as ‘integrated members of their communities’” (Smither 2014, electronic edition:43). Nor should it surprise us that persuading others to follow Jesus, even if it cost them their lives, was the normal Christian life in the early church. That was how they were encouraged and empowered to live.

¹⁹ The contemporary challenges to apologetics can be attributed in part to what Lyotard in *The Postmodern Condition* calls “incredulity towards metanarratives,” but are mostly because of why (and how) it is practiced, which in our view is a greater problem. Sean McDowell (2017) highlights four reasons why apologetics has a bad name: (1) apologists often overstate their case; (2) apologists often do not speak with gentleness, love and respect; (3) apologists are often not emotionally healthy; and (4) apologetics is often done in a cold, mechanical and rationalistic manner.

Apologetic discourses in India, then, will have to be dialogical – both with the contemporary context and the ancient text, and among believers and those who are yet to believe in Jesus – if they are to be meaningful and fruitful. This calls for the Christian community in India to embrace a posture of servitude, even in the face of suffering, modelling our defense of Jesus, the Jesus way. The Christian community must embrace a biblical theology of suffering and instill in every believer that suffering is a price to pay to be a witnessing disciple.

Previously, four aspects (Christ, canon, context, and community) were proposed as forming the building blocks of apologetics in India today. We also noted that the work of apologetics in India calls for an unflinching commitment to the Lordship of Jesus Christ and to engaging those who are yet to believe in Jesus with authentic love. Through this oneness, the spiritually lost will come to believe in Christ and his mission (John 17:3). In other words, the church's collective community and the individual Christian's loving engagements in society, using principles from the canonical text based on the patterns of divine-human interaction found in it, are foundational to its apologetic. It sets the stage for the gospel to be meaningfully communicated and for communities to be genuinely transformed as well.

Three implications for apologetics follow: first, the need for a community that is unafraid to love unreservedly, even the undeserving; second, an unflinching resolve and willingness to engage with gentleness and respect; third, a visible demonstration of Jesus' tangible Lordship individually and communally.

The foundation of the gospel is love, so the fountainhead of the gospel must also be love. This is especially so because the Scriptures reveal a God whose love compelled him, through the pain of his participation in human affairs, through his incarnation, to redeem humanity. The Scriptures also call us to follow his example (1 Pet 2:21; Matt 11:28-30; John 20:21; 1 Cor 11:1). The community of believers gives us three of the four building blocks with which to construct an apologetic for India – Christ, canon, and community.

The eight key findings (listed below) about Christians in India from the Pew Research Center's recent study of religion in India provide us with the fourth building block, context.²⁰ For the purposes of this article, focus will be given to points 1, 4, 5, 6, and 8.

- 1) Among Indians, 0.4 percent of adults are Hindu converts to Christianity.
- 2) There is no clear majority denomination among Indian Christians.

²⁰ Although the eight findings in the list are not always true for everyone everywhere in India, they present a good representation of the Indian context and a helpful reference point for our discussion on developing an apologetic that is contextually framed (Sahgal et al. 2021).

- 3) Three-quarters of Indian Christians (76 percent) say religion is very important in their lives, and Indian Christians engage in various traditional beliefs and practices.
- 4) Substantial shares of Indian Christians follow religious practices and beliefs not traditionally associated with Christianity.
- 5) Indian Christians disproportionately identify with lower castes (74 percent), including 57 percent with Scheduled Castes (SC) or Scheduled Tribes (ST).
- 6) Lower-caste Indian Christians are much more likely than upper-caste (also called General Category) Christians to hold both Christian and non-Christian beliefs.
- 7) Overall, Indian Christians are less prone to religious segregation than some other groups.
- 8) Politically, Christians favor the opposing Indian National Congress (INC) over the ruling Bharatiya Janata Party (BJP).

The first finding (that only 0.4 percent of adults are Hindu converts) alerts us to the challenges associated with witnessing to the vast majority of Indians in India. Points 5 and 8 should help us appreciate that the objectives and goals of Hindu nationalism will make it increasingly difficult for Christians in India to be proud Indians and unashamedly Christian at the same time. This is seen in the growing sentiment that Indian and Hindu are synonyms, as well as the growing discrimination meted out against Christians from SCs and STs. Points 4 and 6 reveal that the vast majority of Christians in India still hold beliefs that are at odds with Christian beliefs and practices and that might serve as bridges.

With the rise of Hindu nationalism, a growing number of states enforcing the anti-conversion law, and the steady shift of the Indian identity from secular attitudes toward *Hindutva*, increased persecution of religious minorities is to be expected.²¹ This makes witnessing for Christ in India today more challenging. However, this should not deter Christians from engaging in apologetics; instead, it should help reframe Christian engagement to reflect the biblical response to suffering, which is not to escape suffering, but to learn to suffer well and love well (James 1:2-4; Rom 5:3; Heb 10:36; 2 Pet 1:6).

Apologetics in India, then, will do well, among other things, to first persuade Christians to follow Christ's example and love even those who harm them unjustly – unreservedly, just as God demonstrated his love for us, while we were still sinners, in that Christ died for us (Rom 5:8). The Gospel accounts of Jesus

²¹ Although Jawaharlal Nehru, India's first Prime Minister, explicitly stated that Christianity is very much a part of the Indian fabric, with the decline of his secular vision of India and the rise of *Hindutva*, the populist propagandists will continue to paint a picture of Christianity as a Western faith or, worse, a corrupting, exploitive, destabilizing influence detrimental to the national interest.

are replete with reports of him taking the initiative to reach out and participate in the lives of others, in love.²² To deal with any predicament with appropriately and adequately, one must be present, and in Jesus, human predicament was met by divine presence. Learning from him, we too must persuade one another to audaciously love each other and the world as Jesus did.

Second, this calls for an apologetics that not only presents a persuasive case for the historical veracity of the resurrection to the unbeliever, but also encourages and empowers the believer in offering a cogent demonstration of “being born again into a living hope” because of the resurrection of Jesus Christ (1 Peter 1:3). Believers should be unafraid of those who persecute them and relentless in doing good to them.

Third, it also calls for an apologetic that nurtures an unflinching resolve and willingness to engage with gentleness and respect. Any apologetics of the Gospel must be done in love, gentleness and respect; failing which we will only sow seeds of discord and reap dissensions. Moreover, through our engagement (in love), we learn to demonstrate the Lordship of Jesus without compromise or coercion, as we seek to be an invitational community that embodies the love of God for the other. In this context, we maintain a posture of servitude to Jesus, which shows the Lordship of Jesus as good, as set before the world the reason for the hope that is in us, for their good.

Communities that embody Christ’s loving, self-giving presence and engage dialogically, making every effort to relate the gospel to Indians who are yet to be Christians, with gentleness and respect, will offer a compelling apologetic for the gospel of Jesus Christ in an Indian context. Such an apologetic will not only rescue apologetics from reducing the person of Jesus Christ to a mere proposition, but it will also present Christ to Indians as with them and for them – truth *enfleshed*.

9. Conclusion

Despite 2,000 years of Christianity in India, Christians in India are a struggling minority, with a growing sentiment that they don’t belong. While it is true that the Indian Constitution grants, guarantees, and guards every citizen’s fundamental right to religious freedom, persecution of religious minorities has become commonplace, especially in light of the rise of Hindu nationalism. The present condition is bleak, yet therein lies the opportunity for Christian apologetics.

²² The good that Jesus went about doing always came at a cost. Sometimes it was at the expense of a meal (John 4), risking defilement and ostracism, which was a big deal for the Jews (Matt 8). He even risked incurring the wrath of the religious and political leaders of his day so that he could do for humanity what only he could do – that is, to save us from our sin. For that reason, he embraced death on the cross (1 Tim 1:15; Phil 2:8).

Cradled by the cross, the Christian church is no stranger to persecution. History attests that persecution has been an integral part of the growth and spread of Christianity. Persecution, however, does not mean that the church can do nothing about its plight, nor does persecution guarantee growth. Persecution is not only an opportunity to experience the sovereignty of God but also an invitation to participate in God's work in the world.

We have offered an *apologia* for embodied presence – truth in the flesh – as an approach to apologetics that is biblical in its content and viable in the Indian context. As a community that embodies and represents Christ faithfully, the task of apologetics is to commend Christ with gentleness and respect, inviting and nurturing participation. The apologetic of embodied presence guards the gospel from being reduced to a proposition, apologetics from being reduced to persuasion, and evangelism from being polarized between proclamation and social action. On the contrary, it nurtures a vision of mission that is holistic, a message that is invitational, and a posture that is participatory, even in the face of persecution and suffering.

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The Specific Vulnerability of Religious Minorities

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Augustine and Luther on toleration and coercion

Peter Olsen¹

Abstract

Augustine of Hippo (354-430) and Martin Luther (1483-1546) both argued in favor of toleration and freedom of religion in their younger years, but both changed their policy toward dissenters as they grew older. They also adjusted their reading of the Parable of the Weeds (Matt 13) to varying situations. The older Augustine and Luther both called on the secular authorities to suppress their theological opponents, using the sword that God has given them (Rom 13) to protect both tables of the law: religion and morals. This article describes and explains their similar development in this regard.

Keywords

Toleration, intolerance, blasphemy, coercion, dissenters, church and state, mirror for princes, the Parable of the Weeds.

1. Introduction

In his *Retractions*, Bishop Augustine of Hippo (354-430) revealed that he had changed his views on tolerance and coercion (Augustine 1968). This change has been examined frequently in research literature. The present article describes and tries to explain the changes. A comparable change in Martin Luther's (1483-1546) writings has been somewhat obscured (1) by the tendency in research to focus on the young reformer as the real Luther and (2) by neglecting the practical consequences of his change of attitude (Estes 2005:212). Due to the lack of agreement in Luther research, this article devotes more space to Luther than to Augustine. For Luther, next to the Bible, Augustine was the primary authority with whom he preferred to agree. A comparison of the changes in Augustine and Luther concerning toleration is long overdue. This article intends to fill the gap.

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2. Augustine

2.1. *Augustine's change of view*

Chris Berg (2012:36) concludes regarding Saint Augustine that he “developed the original theory of Christian persecution.” In his younger days, though, Augustine spoke in support of toleration. In 396, he wrote to Eusebius (letter 34.1), “My desire is, not that any one should against his will be coerced into the Catholic communion, but that to all who are in error the truth may be openly declared, and being by God’s help clearly exhibited through my ministry, may so commend itself as to make them embrace and follow it” (NPNF 1:262; MPL 33:132). In an early work, which has unfortunately been lost, Augustine said, “I am displeased that schismatics are violently coerced to communion by the force of any secular power” (quoted in 427 in his *Retractations* 2.5; Augustine 1968:129; MPL 32:632).

Writing to Vincentius in 408, however, Augustine explained why he had changed his view (letter 93.17). He stated, “Originally my opinion was, that no one should be coerced into the unity of Christ, that we must act only by words, fight only by arguments, and prevail by force of reason, lest we should have those whom we knew as avowed heretics feigning themselves to be Catholics” (NPNF 1:388; MPL 33:329-330). But now he has found reasons to see things differently. He reminded Vincentius of Luke 14:23: “Go out to the roads ... and make them come in” (Vulgate: *conpelle intrare*). Augustine continued (letter 93.5):

You are also of opinion that no coercion is to be used with any man in order to his deliverance from the fatal consequences of error; and yet you see that, in examples which cannot be disputed, this is done by God, who loves us with more real regard for our profit than any other can; and you hear Christ saying, No man can come to me except the Father draw him [John 6:44], which is done in the hearts of all those who, through fear of the wrath of God, betake themselves to Him. (NPNF 1:383; MPL 33:323; Hölzl 2014:165-166; Markus 1988:141-143; Wilken 2019:31-32)

In his sermon 62.8 on Luke 14, Augustine commented, “Let compulsion be found outside, the will will arise within” (NPNF 6:449; MPL 38:647-48). He explained that God threatens us with everlasting wrath in order that we may accept things of everlasting value. Therefore, he concluded, coercion has biblical warrant. So why not coerce heretics? In a letter 185.3.13 to tribune Boniface in 416, he called it a merciful severity to save schismatics from hell by coercion: “It appears that great mercy is shown toward them, when by the force of those very imperial laws

they are ... rescued against their will.”² If a doctor has an unwilling patient, it is a work of love to force the patient to take the necessary medicine. In the same way, God applies force when He turns an unwilling heart into a willing heart. Robert Markus (1988:143) explains that Augustine “considered freedom of choice less and less as something incompatible with constraint and fear. ... The divine *disciplina* uses external pressure to bring about an internal moral development ... Free choice and compulsion were not incompatible.” With Perez Zagorin (2003:30), we could call it “the pedagogy of fear.”

2.2. *Confrontation with Donatism*

In 409 or 410, Augustine wrote a letter to the Donatist bishop of Hippo, Macrobius, rebuking him for withdrawing from the Catholic Church (letter 108.11). The Donatists did so because of the mingling of sinners with true believers in the church. Augustine reminded Macrobius of the parable “concerning the toleration of the weeds up to the time of the harvest.”³ We should not seek to establish the pure church here on earth, he said, because the church is a mixed body (*corpus permixtum*).⁴ In *The City of God* 1.35, Augustine wrote that in this world and even in the church the two cities are “intermixed until the last judgment effects their separation” (NPNF 2:21; MPL 41:46: *permixtæ, donec ultimo iudicio dirimantur*).

Augustine’s change of view on toleration and coercion was related to his confrontation with Donatism. A conference of Donatist and Catholic bishops assembled in Carthage in 411 at which the majority concluded that Donatism was a heresy within the Christian church and ought to be suppressed. Subsequently, converts from Donatist churches poured into the Catholic Church. Augustine concluded in his book *Contra Faustum* (22.21) that even though good theology and the best of morals are freely chosen, it does not follow that bad theology and bad morals should not be punished (NPNF 4:279; MPL 42:412). In the Old Testament, we learn how God uses sword, famine, and plague to discipline the Israelites. Psalm 107:12-13 says, “He subjected them to bitter labor. ... Then they cried to the Lord in their trouble.”⁵ Using fear as a means, God leads a remnant into conversion. There is no reason why God should not apply the same pedagogy today.

Coercion displeased Augustine until experience showed him its efficacy. Some converts even expressed their gratitude: Had they not been coerced, they would

2 Letter 185 is not found in NPNF. It can be read at <https://www.newadvent.org/fathers/1102185.htm>. It can also be read in Ramsey (2004:187). Latin text in MPL 33:792-815, here col.798: *eripluntur invit.*

3 Letter 108 is not found in NPNF. It can be read in Ramsey (2003:75). Latin text in MPL 33:411.

4 For Augustine’s comments on wheat and weeds mixed in the church, see, e.g., *On the Catechising of the Uninstructed* 17.26; 19.31, in NPNF 3:301-303. Latin text in MPL 40:330-334.

5 Augustine comments on Psalm 107 (Vulgate 106) in his *Ennarationes in Psalmos*, in NPNF 8:533; Latin text in MPL 37:1421-1422. An English translation can be read at Augustine: “Exposition on Psalm 107.” Available at: <https://www.newadvent.org/fathers/1801107.htm>.

never have converted (Butterfield 1977:575). Donatists called themselves martyrs, but according to Augustine they were “killers of souls.” Referring to Romans 13, Augustine maintained that it is lawful for the emperor to punish idolatry, “for he does not bear the sword for nothing.”⁶ When the Donatists persecuted the Catholics, they did so out of hatred. The Catholics, on the other hand, persecuted the Donatists out of love (letter 185.2.11; MPL 33:797; Straw 1999:539).

2.3. *The Parable of the Weeds*

Jesus tells His disciples to leave the weeds in the field. Otherwise, they might root up the wheat also (Matt 13:29). Augustine commented on this passage that if the weeds are known and easily recognized, we can remove them without harming the wheat. Sects like the Donatists, he stated, have physically separated themselves from the church. Therefore, it is obvious who is who, and the more you destroy what is evil, the more love is preserved (Bainton 1932:69; Zagorin 2003:28-29).⁷ The worst crime of the Donatists was not their dogmatic aberration but their separation from the church. Rebecca Lyman (2007:305) explains: “The Donatists were not heretics, but rather ‘schismatics’ since they were divided from the church not by doctrinal error, but by lack of charity or discipline.” Because of this schismatic act, Augustine warned them in his letter 76.1, “You may die in a state of heretical separation” (NPNF 1:343; MPL 33:264).

In a letter to Donatus (173.3-9), Augustine described how Christ forced the apostle Paul to convert by striking him blind (Acts 9). Only after this forceful conversion did he learn and accept the content of the Christian faith. According to Augustine, the Catholic Church has learned from Jesus “the measures which out of love to you we are compelled to take” (NPNF 1:544-546; MPL 33:754-757). The Donatists are on a route to eternal damnation. Forceful methods against them, therefore, are acts of love.

H. A. Drake (1996:12) summarizes Augustine’s biblical argument: “Did Christ turn the other cheek to the demons? ... Did he not even persecute with bodily chastisement those whom he drove with scourges from the temple?” What began as church discipline in early Christianity continued as coercive measures in the Christian state of the late fourth and early fifth centuries.

2.4. *The Christian state*

After the accession to power of Emperor Constantine the Great (c. 288-337) and especially after the short reign of Emperor Julian the Apostate (331-363), “bishops expect-

6 *Contra epistolam Parmeniani* 1.8.14 and 1.10.16; in MPL 43:44-45. This work is not found in NPNE.

7 *Contra epistolam Parmeniani* 3.2.13; in MPL 43:92.

ed a Christian emperor not only to suppress violent disorders but also to uphold divine truth” (Chadwick 1998:563). The Christian emperor was vice-regent of God and keeper of both tables of the law (*custos utriusque tabulae*), i.e., doctrine and morals.

Augustine was no exception, defending “the exercise of coercive power by the secular authority in the religious sphere” (Markus 1988:149). In his *City of God* 5.24, Augustine expected of Christian emperors that “they make their power the handmaid of His [God’s] majesty by using it for the greatest possible extension of His worship” (NPNF 2:105; MPL 41:171). Book 5, chapter 24 of this work has been called Augustine’s “mirror for princes.” In 416, Augustine led two African councils in convicting Pelagius (c. 354-c. 420) as a heretic. Rome’s bishop (pope) Innocent I agreed. In the following year, however, his successor, Zosimus, declared that Pelagius was not a heretic. Augustine and the bishop of Thagaste, Alypius, appealed to Emperor Honorius (384-423), who in 418 “expelled all Pelagians from Rome as a threat to public order ... Zosimus bowed to the emperor’s will” (Chadwick 1998:591-592). Though the emperor did not decide on theological questions, he was used by Augustine and Alypius to gain a theological victory.

Augustine did not demand that the emperors should kill pagans. But in his letter 93.3.10 from 408, he asked, “Which of us ... does not speak well of the laws issued by the emperors against heathen sacrifices?” (NPNF 1:385; MPL 33:326). In his letter 97.2, also from 408, written to Olympius (the highest-ranking officer at the imperial court in Ravenna), Augustine encouraged “laws concerning the demolition of idols and the correction of heretics” (NPNF 1:405; MPL 33:358).

Already at two councils in Carthage in 401, the African bishops had “asked the government for further legislation to extirpate ‘the last remnants of idolatry’” (Markus 1988:136). Robert Markus (1988:139) says that Augustine “was probably in full agreement with coercing pagans in 401. ... His ‘conversion’ to coercion against Donatists is no more than a delayed extension to their case of a policy already endorsed against the pagans.”

2.5. Summary on Augustine

In the words of Robert Markus (1988:135), we should not seek “a simple, monolithic consistency” in such a “complex and subtle mind.” Peter Brown (1964:108) calls Augustine “a man of mysterious discontinuities.” In accordance with his *Retractions* from 427, it is probably best to accept that Augustine simply changed his mind on toleration and coercion. God’s pedagogy in the Bible and contemporary experiences had taught him that coercion can lead to a real change of heart. Coercion and freedom, then, were compatible for Augustine.

3. Luther

3.1. *Luther on the Parable of the Weeds*

Martin Luther seems even more complex and subtle. Over the years, he too changed his views on toleration and coercion. Roland Bainton (1932:79-80) says about Luther, “One can almost trace the development of his attitude to religious liberty by merely observing what he makes of the tares.”

In his *Explanations of the 95 Theses* in 1518, Luther stated ironically that even though St. Paul tells us that “there must be heresies” (1 Cor. 11:19), we answer: “Not at all; the heretics must be burned and thus the root must be torn out with the fruit, indeed the tares along with the wheat” (LW 31:245; WA 1:625). Likewise, in a sermon on Matthew 13:24-30 in his *Lent Postil* (1525), printed in 1540-1544 as *Church Postil*, Luther explained that this parable teaches us

how we should act toward these heretics and false teachers. We are not to uproot or destroy them. He [Jesus] plainly says that we should “let both grow together” ... whoever goes astray today can get on the right path tomorrow. ... But if he is burned or otherwise slaughtered, then he has been prevented from getting on the right path ... so that he who could otherwise have been saved must be lost. ... Note how mad people we have been for such a long time! We wanted to force the Turks to believe with the sword, the heretics with fire, the Jews with killing, and so we rooted out the weeds by our own power ... we murder the body for time and the soul for eternity. (LW 76:304; WA 17:2, 125)

However, Luther did not stick with this exegesis. In 1528, he wrote:

The Lord tells his own servants not to uproot the weed ... this does not apply to the servants of the world but to the servants of the kingdom of heaven. *They* should not use a sword, since God has not given it to *them*. ... But the civil government has been given a sword with the command to suppress all offenses, that they may not spread and do harm. Now, there is certainly not a more dangerous and hideous offense than where false teaching and wrong worship gain a footing. Therefore, a Christian government should be anxious to prevent this kind of offenses more than anything else, since it always undermines the authorities and brings with it all kinds of evil and unhappiness, as the entire world history clearly shows (WA 52:134, 36-135, 6).⁸

8 My translation. This sermon is not found in LW. An English translation can be found in *Dr. Martin Lu-*

Jesus did not give the physical sword to pastors and bishops, but he did give it to the princes. Matthew 13 does *not* prevent the princes from suppressing blasphemy and idolatry. Whenever the civil authorities discover heresies

by which the honor of the Lord Christ is blasphemed, or salvation is prevented, and where such false teachers will not be instructed and abstain from their preaching, there the civil government must know that it has been given the office of the sword and of all power, and that it must guard from destruction the pure dogma and the worship of God. (WA 52:135, 21-26)

Luther mentioned with approval Augustine's changed attitude to this question (WA 52:130, 9ff).

There is a more elaborate sermon on the same text in the *House Postil* (*Nachtrag* 1545). Here Luther added:

Christ's kingdom does nothing with fist and sword. God has commanded the civil kingdom to bear the sword and root out the bad. ... A prince or a town must see to it and not suffer more than one kind of preaching in the territory to avoid disunity and commotion. ... The authorities should hear both sides and ... the side which teaches correctly according to Scripture and God's Word should be allowed to remain. The other ... should be dismissed, but there should be no extermination. (WA 52:836,4-6; 838:18-25: *aber ausrotten sol man nicht*)⁹

On 7 February 1546, 11 days before his death, Luther preached again on the Parable of the Weeds. Most of the sermon dealt with the sins that remain in a Christian. But Luther also talked about the church being a mixture of "the righteous and the wicked." Heretics like the Cathari, the Donatists, the Anabaptists, Thomas Müntzer "and the like" do not accept that. "The heretics want to have a church in which there is nothing evil." Therefore, they "would strike dead and uproot whatever they considered unholy" (LW 58:442-443; WA 51:174, 25-26: *die alles tod wolten schlagen und ausrotten, was nicht heilig were*). The Peasants' War and similar incidents gave Luther the impression – or an occasion to claim – that heresy leads to political rebellion. Just as we should root out the remaining sins in our

ther's House Postil: Sermons on the Gospels for the Sundays and Principal Festivals of the Church Year. Translated from the German by Matthias Loy, J. A. Schulze: Columbus, Ohio 1884, 208. Available at: <https://bit.ly/3SYoGLE>. This sermon was preached on 9 December 1528. It was printed in the *House Postil* in 1544 (WA 28:29).

9 This sermon is not found in LW. Quotations in English are taken from Bainton (1932:81-82).

body, we should root out heretics “and yet not strike them dead” (LW 58:454; WA 51:184, 4-5: *ausrotten, und doch nicht tod schlagen*).

To the older Luther, it was important that Christ had *not* spoken the Parable of the Weeds to the civil magistrates. It did not apply to them; therefore, they should see to it that false teaching and blasphemy did not spread in their territories. Now, an obvious question arises: What about Luther’s well-known teaching on the two kingdoms – that is, the secular and the spiritual realms?¹⁰

3.2. *Luther on secular authority*

In his *Temporal Authority. To What Extent It Should be Obeyed* (1523), Luther argued in favor of an almost complete freedom of speech:

As nobody else can go to heaven or hell for me, so nobody else can believe or disbelieve for me. ... How he believes or disbelieves is a matter for the conscience of each individual, and since this takes nothing away from the temporal authority the latter should be content to attend to its own affairs and let men believe this or that as they are able and willing, and constrain no one by force. For faith is a free act, to which no one can be forced. Indeed, it is a work of God in the spirit, not something which outward authority should compel or create. Hence arises the common saying, found also in Augustine, “No one can or ought to be forced to believe.” (LW 45:108; WA 11:264, 12-23)¹¹

According to this argument, the prince and the magistrate should concentrate on worldly affairs. They should make laws regulating our bodies and our public lives in this world. But they should not regulate our consciences and our faith. Such internal affairs are none of their business.

The civil turmoil caused by Thomas Müntzer’s (c. 1488-1525) preaching in 1524 gave Luther occasion to write a letter to the princes of Saxony:

Let them preach as confidently and boldly as they are able and against whomever they wish. For, as I have said, there must be sects, and the Word of God must be under arms and fight. ... But when they want to do more than fight with the Word, and begin to destroy and use force, then your Graces must intervene, whether it be ourselves or they who are guilty, and banish them from the country. (LW 40:57; WA 15:218, 19-219, 7)

¹⁰ For an introduction to the “two swords” and the “two kingdoms” in church history, see Johnson (2013:21-24).

¹¹ The quotation from Augustine is found in *Contra litteras Petilian* 83:184; in MPL 43:315. This work is not found in NPNE.

Words are to be countered by words and swords by swords, not the other way around! Luther was confident that the Word of God could convince and convert.

For the young Luther, this was a question of principle: “Let them preach as confidently and boldly as they are able and against whomever they wish.” But it would prove increasingly difficult for Luther to uphold this principle. As a young reformer, he did not think much of princes. Most of them were inimical to the Reformation. In the latter half of the 1520s and during the 1530s, however, some of the princes became enthusiastic supporters of the Reformation, and during the visitations in Saxony in 1527-1529, Luther learned how little the Word of God had achieved among ordinary Christians. During the Peasants’ War in 1525, Luther also experienced what enthusiastic (*schwärmerisch*) preaching could lead to. For the Reformation to be conducted in an orderly manner, Luther turned to the friendly princes to have them lead the process. James Estes mentions the challenge this action posed to Luther’s principle: “The problem with Luther’s sharply drawn distinction between secular authority and spiritual authority was that it applied not only to ‘papist scoundrels’ like Duke George but, once they had appeared on the scene, to princely supporters of the evangelical cause as well” (Estes 2003:209). It seems to contradict Luther’s theory that he should now let friendly princes suppress his theological opponents.

3.3. *From toleration to intolerance*

Commenting on Psalm 82 in 1530 and on Psalm 101 in 1534, Luther wrote two “mirrors for princes” (*Fürstenspiegeln*). In the latter commentary, Luther claimed:

Once an idolatrous man has killed God’s Word in his heart through lies and idolatry, he is much less able to let people live. ... If they cannot commit murder with their fists or help make it possible by advising or inciting someone else, they certainly do not lack the will to murder; and their greatest sorrow is that they cannot do enough wickedness. ... False doctrine and murder will be together and must be together, as all Scripture, history, and daily experience attest. (LW 13:186; WA 51:232, 4-21)

Killers of souls will soon begin to kill bodies too. Therefore, the princes should prevent the killing of bodies by preventing false teaching. Until recently, unfortunately, this commentary on Psalm 101 by the old Luther “has been somewhat forgotten” among Luther scholars (Brecht 1993:3).

In his commentary on Psalm 82, Luther distinguished between two kinds of heresy. Some teach openly “that no Christian may occupy a position of rulership; that no one ought to have property of his own.” Of these he stated, “They are not

heretics only but rebels.” Others are not so conspicuous, but they are rebels nonetheless: “If some were to teach doctrines contradicting an article of faith clearly grounded in Scripture and believed throughout the world by all Christendom ... as the Turks and the Anabaptists ... such teachers should not be tolerated, but punished as blasphemers” (LW 13:61; WA 31,1:208). Referring to Leviticus 24:16, Luther warned, “We must not abolish or hide the commandment to stone false prophets” (LW 13:67; WA 31,1:213, 19-20).

In 1536, Luther signed a paper written by Philip Melancthon (1497-1560) advising Landgrave Philip of Hesse (1504-1567) on how to treat obdurate Anabaptists (WA 50:9-15). In the words of Martin Brecht (1993:37), the “death penalty was fundamentally permissible as a sentence not only for political crimes, but also for religious offenses because of their significance.” For Melancthon, the prince was the keeper of both tables of the law (*custos utriusque tabulae*; Estes 1998:476). Luther preferred that Anabaptists should be expelled from the territory. But in a sermon in January 1538, he concluded that if an Anabaptist continued his seductive preaching, it should be considered a rebellion (*ein auffrühr*). That would call for severe measures: “I will not excuse you but let the sword speak” (WA 46:139, 12-13: *non excusabo te, sed wil die klingen lassen gehen*).¹²

Of course, Luther had to deal with the objection that he had abandoned his earlier distinction between the two kingdoms. Luther’s replied, in effect, that the princes should not dictate what pastors should teach and preach. They should only support such preaching and suppress what is opposed to it (LW 13:195-197; WA 51:239-241). Luther would undoubtedly have defended his new emphases by saying that he had always had the conviction “that public blasphemy was a crime and that religious divisions threaten the peace and stability of a community” (Estes 2003:216). Also, even in his younger years, Luther would have wanted the princes to punish outright idolatry and blasphemy. Nevertheless, from around 1528 he abandoned the more tolerant policy of 1523-1524.

In the 1530s, Luther’s position had become “essentially the same as Melancthon’s and succeeding generations of Lutheran theologians and court preachers would perceive it to be so” (Estes 1998:480). Estes’s evaluation is correct regarding the first generations after the Reformation. However, since the beginning of the Luther renaissance in the 1880s, very often Luther scholars have concentrated on the young Luther as the *real* Luther, ignoring his later developments. For decades, some of his later works were “somewhat forgotten.”

¹² My translation. This sermon is not found in LW.

3.4. *Summary on Luther*

In 1524 Luther was quite tolerant: “Let them preach as confidently and boldly as they are able and against whomever they wish.” In the 1530s, however, Luther had assumed a more Melanchthonian attitude to religious dissent. The result was, to quote James Estes, “an organized territorial church with an increasingly well-defined and government-imposed orthodoxy of faith and practice” (Estes 2003:216). Here, we see the European state church in the making.

David Whitford defends Luther: “The involvement of princes in religious affairs was always a matter of emergency” (Whitford 2004:62). Indeed, that is how Luther would defend himself. But it is also correct that for the old Luther, a wide range of theological dissent could be considered blasphemy calling for intervention. Secular control of ecclesiastical affairs became the rule more than an exception. James Estes’s conclusion seems more appropriate: “Gone is ... the limitation of princely intervention to emergencies” (Estes 2003:217). I agree with Estes that “Whitford’s reasoning is essentially flawed” (Estes 2005:212).

There seem to be four explanations for Luther’s change of policy: (1) his close collaboration with Melanchthon; (2) their experiences during the Peasants’ War in 1525 and similar incidents e.g., in Münster in 1534-1535; (3) the disappointing visitations in Saxony during 1527-1529 and the willingness of some of the princes to lead the Reformation; and (4) Luther’s lifelong belief that magistrates should punish blasphemy, a belief that gradually evolved into repression of almost all theological dissent.

4. **Conclusion**

At first, Augustine and Luther were supporters of toleration and freedom of speech. Having secured their own position, however, they began to sing a different tune. In late antiquity, pagans and dissenters found little protection. The history of the church from 250 to 450 AD could be called “From Martyrs to Inquisitors” (Hölzl 2014:159). Clifford Ando (1996:199) calls it a “matter of some irony ... that the persecution of pagans forced them to act like Pliny’s Christians and worship together in secret meetings.” At the time of the Reformation, dissenters found themselves in a similar situation. Robert Louis Wilken’s conclusion on the development from toleration to coercion in the ancient church applies to the Reformation as well: “Toleration is a loser’s creed” (Wilken 2019:24). The powerful see no need for it.

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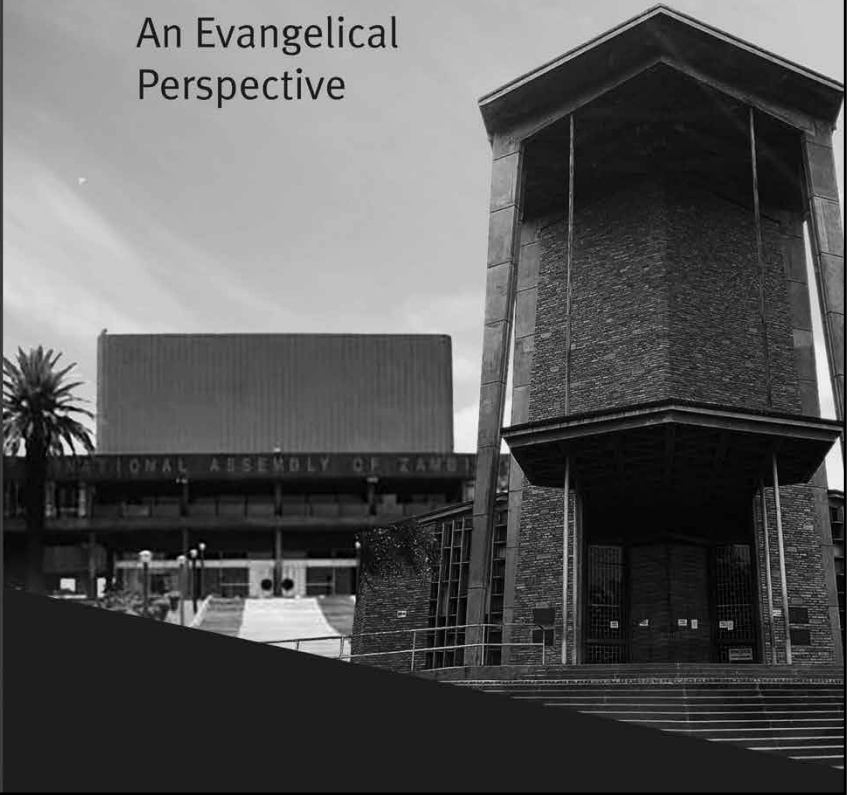
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Addressing the growing global persecution of Christians

Hungary Helps as a model initiative for other state actors?

*David R. Hodge*¹

Abstract

Some states have shown interest in human rights violations targeting Christians, but in most cases the interest has not translated into concrete actions. Hungary is one exception to this pattern. In 2017, the Hungarian government created Hungary Helps, an international development initiative that concentrates on religious oppression with a focus on persecuted Christians. After a review of data on Christian persecution and state responses, this article examines the guiding principles that inform Hungary Helps and its programs. The paper suggests that other states could consider incorporating various dimensions of Hungary Helps into their foreign policy initiatives to address the growing global persecution of Christians.

Keywords

Christians, human rights, religious persecution, Hungary Helps, states.

1. Introduction

The United Nations (2019) General Assembly has highlighted the increasing incidence of violence and oppression directed toward religious believers across the world. According to some estimates, approximately 75 percent of the people who experience discrimination due to their faith are Christians (Fischl 2021). Although estimating the global scale of persecution is a complex task, Christian communities indisputably face extreme persecution in many settings (Petri 2022). Observers have framed the degree of oppression in terms of crimes against humanity (Brown 2016), genocide (MacGuire 2019) and war on Christians (Allen 2016).

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The United Nations (2019) observes that states play a key role in promoting and protecting people's right to exercise their faith without fear of harassment. As data has emerged on the breadth and intensity of Christian persecution, some nations have expressed interest in addressing the human rights violations experienced by Christians (Muller et al. 2019). In most cases, however, that interest has not translated into concrete actions that affect positive change.

A notable exception is the Hungary Helps program, established by the Hungarian government in 2017 (Ochab 2019). This humanitarian initiative focuses on persecuted Christians. In addition to providing assistance to persecuted religious minorities, the program seeks to restore and support suffering people in a manner that fosters sustainable communities in what are often hostile environments.

This paper provides an overview of the various dimensions of the Hungary Helps program. Before that, it discusses global trends in discrimination targeting Christians, followed by an assessment of state responses to the increasing persecution of Christians. This provides the foundation for the subsequent examination of the guiding principles that inform Hungary Helps and its primary programs. The paper suggests that other governments could benefit from incorporating various facets of Hungary Helps into their foreign policy initiatives to address the accelerating global persecution of Christians.

2. Global trends in Christian discrimination

The United Nations (2019) has stated that acts of intolerance and violence targeting religious people are increasing in both number and intensity. However, quantifying religious discrimination on a global scale is a task fraught with complexity (Petri 2022). Different conceptualizations of religious freedom can lead to different results, as can different understandings of the related concept of religious discrimination (Fox 2019). Variations in the methodology selected to operationalize key constructs can lead to differing perspectives on the level of discrimination characterizing nations, the most common unit of analysis in a global frame. The use of nations as the unit of analysis can obscure variation in discriminatory dynamics within national boundaries, an especially acute problem in countries that are geographically expansive and/or culturally diverse (Birdsall and Beaman 2020). Moreover, quantitative approaches often fail to capture the many nuances associated with religious persecution. Although many of these concerns apply to all quantitative approaches, they still should be noted (Slife and Gantt 1999).

Nevertheless, within the parameters of these limitations, quantitative methods provide important insights into the global state of religious freedom. Various datasets exist on the topic of religious discrimination (Fox and Finke 2021). The following discussion draws on data from the Pew Research Center (2021) and Open Doors Ana-

lytical (2022). The approaches used by both organizations have limitations (Buchholz 2021). Nevertheless, they are among the most methodologically rigorous datasets available and are widely used by policy makers, non-governmental organizations (NGOs), researchers, and other parties interested in religious freedom (Birdsall and Beaman 2020; Muller et al. 2019; Petri 2022). In the next two sections, the comprehensive Pew reports are used to examine global trends in the prevalence of discrimination while the more in-depth Open Doors reports are cited to discuss trends regarding the intensity of discrimination experienced by Christians (Sauer 2019).

2.1. Trends in the prevalence of Christian harassment

Perhaps the most widely used source of information on the global harassment of Christians and other religious groups are the reports compiled by the Pew Research Center (2021). Pew's methodology is widely viewed as transparent, rigorous, and comprehensive (Birdsall and Beaman 2020). Pew applies the same evaluative criteria to 198 nations and territories which encompass more than 99.5 percent of the world's population.

Pew (2021) has produced reports on religious harassment since 2007. Its measure of harassment is comprised of two indices, assessing government restrictions and social hostilities, respectively. The Government Restrictions Index consists of 20 measures of laws and policies that restrict religious beliefs and practices (e.g., banning Christian expression and incarcerating Christians; Allen 2016). The Social Hostilities Index comprises 13 measures of religious hostility by private actors (e.g., mob violence targeting Christians and armed attacks on church services; Gettleman and Raj 2021). These two indices are combined to provide a global measure of religious harassment for each nation and territory.

In 2007, Christians were harassed for their religious beliefs or practices in 107 nations (Pew Research Center 2021). By 2019, this number had risen to 153. In other words, Christians encountered harassment in over three-quarters (77 percent) of the 198 nations and territories covered in the Pew report. From 2007 to 2019, the number of nations in which Christians experienced harassment increased by roughly 43 percent.

The Pew data illustrate the increasing prevalence of discrimination encountered by Christians across the globe, but they do not address the issue of intensity (Birdsall and Beaman 2020). Although Pew may offer the most comprehensive global picture of religious discrimination, the resulting data are "thin" in nature (Sauer 2019). In other words, they do not identify variations in the severity of discrimination within or between nations. In the United States, for instance, government actors have banned Christian student groups from public university campuses (*InterVarsity Christian Fellowship/U.S. v. University of Iowa 2021*), while

in North Korea government officials have murdered people for reading the Bible in the privacy of their homes (Marshall et al. 2013). Both acts are discriminatory but differ considerably in the severity of their oppression, an issue not fully accounted for in the Pew reports (Sauer 2019). To address the issue of intensity, the following section relies upon data produced by Open Doors Analytical.

2.2. *Trends in the intensity of Christian persecution*

Open Doors Analytical (2022) produces an annual World Watch List (WWL), which profiles the nations in which it is most difficult to live as a Christian. To ensure the utility of the data, the International Institute for Religious Freedom (IIRF) independently audits the WWL (IIRF 2022). In this process, a team of experts reviews the data gathering, evaluation, and ranking methods. Among widely used datasets, only the Open Doors information is grounded in field research on persecution (Sauer 2019).

Open Doors Analytical (2022) computes a global persecution score for each country using 84 items that cover Christians' experiences in six domains: (1) private life, (2) family life, (3) community life, (4) national life, (5) church life, and (6) violence. Nations are classified based on their level of persecution as *high* (41-60 points), *very high* (61-80 points) or *extremely high* (81-100 points). The results are tabulated in the annual WWL reports (Muller et al. 2019).

In 2014, the first year in which Open Doors Analytical used its independently audited methodology, 22 nations had very high or extremely high levels of Christian persecution. By 2022, 55 nations were placed in these two categories, reflecting increased intensity of persecution. Currently, global persecution of Christians is at the highest level recorded in the approximately three decades of monitoring by Open Doors Analytical.

Sauer (2019) examined three datasets (including Pew) on persecuted Christians and indicated that Open Doors likely provides the most reliable approximation of the total number of Christians living under the threat of persecution. According to Open Doors Analytical (2022), more than 360 million Christians suffer high levels of persecution or discrimination for their faith. Regions where persecution is particularly pervasive and intense include the Middle East, sub-Saharan Africa, and Asia (Pew Research Center 2021).

This increase in both the prevalence and intensity of persecution represents an acceleration of a long-term trend that has been evident for several decades (Hertzke 2004). Over the past century, Christian communities in many areas of the world have been decimated (Marshall 2000; Shea 1997).

The United Nations (2019) acknowledges the importance of engaging multiple actors to address this growing human rights crisis. For instance, it emphasizes that

states, regional organizations, national human rights institutions, NGOs, religious bodies, and the media can all play important roles in promoting the universal right to religious freedom. It also calls all relevant actors to work together to combat incidents of intolerance, discrimination, and violence directed toward individuals on the basis of their religious beliefs. Although numerous voices are required to address the increasing global persecution of Christians, states play a key role in this process. The following section reviews notable efforts by governments to address the global increase in the persecution of Christians and other people of faith.

3. State responses to increasing Christian persecution

The increasing persecution of Christians has sparked some interest among state actors (Muller et al. 2019). However, most initiatives have focused on violations of religious freedom more generally. Several Western democracies have, at various times, incorporated advocacy for religious freedom into ministries for foreign affairs (Philpott and Shah 2016), including Canada, France, Italy, the Netherlands, Norway, and the United States.

In 1998, the United States enacted the International Religious Freedom Act (IRFA), a ground-breaking initiative that helped to set the stage for subsequent efforts by the other nations listed above (Petri and Buijs 2019). IRFA created two major entities: the United States Commission on International Religious Freedom (USCIRF) and an Office of International Religious Freedom within the U.S. State Department. Both USCIRF and the State Department release annual reports on the status of religious freedom outside the United States. USCIRF's reports highlight countries characterized by particularly egregious violations of religious freedom, while the State Department documents religious freedom violations in every country in the world. The reports and associated policy recommendations are designed to promote religious freedom as a significant component of American foreign policy. For instance, USCIRF may recommend that countries engaged in systematic, egregious violations of religious freedom rights be subjected to certain economic sanctions.

The success of these various government responses has been, at best, mixed. Canada's Office of Religious Freedom was closed in 2016, after just three years of existence (Philpott and Shah 2016). Critics suggested that the office was too "Christian-centric" (CBC News 2013). This charge was levelled despite the growing global persecution of Christians, the office's advocacy for multiple religious traditions, and the fact that a broad array of religious groups supported retaining it, including Jewish, Muslim, and Sikh groups (Levitz 2016).

In the American context, the policy recommendations stemming from the IRFA are frequently not implemented (Blitt 2019). Philpott and Shah (2016) contend that

efforts to highlight and sanction egregious violators of religious freedom are often eclipsed by concerns related to trade, terrorism, and the desire to maintain alliances. Attempts to assist vulnerable populations are effectively sidelined by political considerations. Indeed, one recent study found the IRFA has had minimal, if any, impact on the status of international religious freedom (Zellman and Fox 2022).

The limited effectiveness of existing state policies suggests the need for new approaches. The next section presents one possible alternative, the Hungary Helps program. In same way that the IRFA provided a framework for other nations to consider and build on, states and other relevant actors may benefit from considering the Hungarian government's efforts to alleviate persecution (Petri and Buijs 2019).

4. Overview of the Hungary Helps Program

The Hungarian government started Hungary Helps in 2017 to address international development issues, particularly those pertaining to persecuted religious minorities. It has assisted oppressed Jews, Muslims, Yazidis, and others (Azbej 2022). In keeping with the pervasive degree of persecution experienced by Christians, a central focus of the program is on alleviating the suffering of Christian minorities who experience oppression due to their faith (Ochab 2019). Below, the guiding principles of Hungary Helps are described, followed by the specific programs that flow from this philosophical perspective.

4.1. Guiding principles

The Hungary Helps Agency (2021), which operationalizes the program's objectives, is guided by three interrelated principles: (1) to identify the causes of humanitarian crises, (2) to provide direct and local assistance, and (3) to support affected communities so that they can remain in their native home. These aims are designed to contribute to the realization of the United Nations Sustainable Development Goals (SDGs), which seek to eradicate poverty, protect the planet, and ensure that everyone enjoys peace and prosperity by 2030 (Fischl 2021).

The Agency's specific tasks are essentially twofold: to manage the collection and disbursement of project funds and to cooperate with other organizations to leverage humanitarian efforts. Projects are developed in partnership with local communities, reflecting the belief that local organizations are best positioned to articulate their own needs. This collaborative process is critical to ensuring the resulting projects exhibit sufficient levels of social validity, which can be defined as the degree to which local communities view interventions as being congruent with their beliefs, practices, and values (Snodgrass et al. 2022). Social validity plays a critical role in ensuring that projects are both useful and sustainable. Without sufficient levels of social validity, humanitarian interventions are often

discarded after the funding expires and may even exacerbate local problems (Moyo 2009). Involving local communities in the decision-making process helps to ensure that the interventions will provide long-term benefits.

Hungary Helps (2021) works closely with faith-based organizations (FBOs) in its humanitarian efforts. Although Western governments frequently overlook these organizations, they are active players in the provision of services characterized by high levels of social validity in many parts of the developing world (Austin et al. 2022). FBOs are often ideally situated to facilitate development processes due to their social location (Chowdhury et al. 2019). These organizations tend to have strong social networks, are rooted in local communities, and possess a high degree of credibility among people who are poor or vulnerable. These characteristics take on enhanced salience in settings that lack good governance, settings where needs are often most acute (Moyo 2009).

FBOs provide services in many areas that align with Hungary Helps. Included among these are initiatives that promote health, poverty reduction, education, environmental protection, and sustainability (Chowdhury et al. 2019). Furthermore, FBOs tend to be relatively nimble and flexible, able to provide aid that is prompt, direct, and local. These are key priorities for the programs and projects Hungary Helps has established in the Middle East, sub-Saharan Africa, and Asia.

4.2. Programs and projects

Many specific projects fall under the Hungary Helps (2021) banner. These might be grouped into three main categories: (1) development and sustainability, (2) emergency aid, and (3) reconstruction and rehabilitation. The programs are interlocking in the sense they all seek to alleviate human suffering, engender wellness, and position local communities to thrive in their native lands.

The *development and sustainability* category includes projects designed to enhance physical and psychological wellness, such as healthcare facilities and programs. Hungary Helps (2021) also supports various educational initiatives, including the construction of schools and vocational training centers. These programs frequently focus on providing educational opportunities for displaced children, women, and others living in overcrowded slums and isolated rural communities. The projects all share the aim of developing sustainable, peaceful communities.

The *emergency aid* projects provide humanitarian assistance in the aftermath of wars and natural disasters. Programs that fall under this rubric seek to stabilize crisis situations by providing food and other basic necessities. By partnering with FBOs, Hungary Helps (2021) can quickly assemble and distribute food packages that contain locally relevant forms of nourishment. It also allows aid to reach Christians who have been forcibly displaced, a common experience among

persecuted Christians. In some cases, the aim of the displacement is to exclude Christians from receiving humanitarian aid from larger, less flexible entities (Muller et al. 2019). Working with nimble FBOs enables Hungary Helps to circumvent such threats and deliver timely assistance to suffering Christians.

Approximately half of the funding for Hungary Helps is dedicated to *reconstruction and rehabilitation* initiatives. In the aftermath of war and other forms of civil strife, communities must typically address significant damage to their physical and social infrastructure (LeMasters 2018). Residential areas and associated cultural markers are often destroyed, fostering a sense of displacement and insecurity, in tandem with a loss of employment opportunities. Consequently, Hungary Helps prioritizes the reconstruction of residences, churches, schools, and other cultural entities that support local communities (Fischl 2021). Rebuilding these central community pillars helps ensure the survival of religious minorities in their homelands, where they have existed for centuries or even millennia (LeMasters 2018).

An interesting example of this approach is the reconstruction of the Crac des Chevaliers, one of the most important medieval castles in the world (Major 2021). To compensate for a shortage of military personnel during the 12th century, Christians built perhaps the most impressive multi-story fortress in the world at that time. After Muslims captured the Crac des Chevaliers in the 13th century, they upgraded the castle to withstand contemporary attacks. Consequently, the Crac des Chevaliers represents one of the most significant examples of medieval military architecture on the planet and has been classified as a UNESCO World Heritage Site.

The Syrian civil war was especially challenging for the Christian minority in that country, many of whom lived in the valley below the Crac des Chevaliers (Fahmi 2018). During the war, the castle was captured by rebels who used its strategic position to attack the Christian settlements in the surrounding valley. Although the fortress was recaptured by the Syrian army in 2014, it sustained severe damage in the fighting.

Hungary Helps began funding the restoration of the Crac des Chevaliers in 2017 (Major 2021). Prior to the outbreak of the war, the castle was one of the most popular tourist attractions in Syria, providing steady employment for the nearby Christian population. By funding the restoration, Hungary Helps seeks multiple outcomes. Included among these are: providing stable employment for unemployed Christians, preserving an important visual marker of the area's Christian and Muslim cultural heritage, and ensuring the sustainability of an important UNESCO World Heritage Site.

In addition to these three central programs, Hungary Helps (2021) also supports other efforts to alleviate the suffering of Christians and develop more peaceful, sustainable communities. For instance, it facilitates the publication of

the *Budapest Report on Christian Persecution*, an annual volume that provides a forum for a diverse array of academic work on Christian persecution and potential solutions (Ujhazi et al. 2021). It also funds a scholarship program for Christian youth who face persecution or threats of a similar nature. The program equips youth with the necessary professional qualifications and spiritual support to make salutary contributions upon their return to their native communities.

Notably, Hungary is a relatively small nation with a population approximately equal to the Chicago metropolitan area in the United States (Statista 2022). Yet despite the nation's limited resources, Hungary Helps has achieved notable success. According to its 2020 Activity Report (Hungary Helps 2021), the agency had facilitated over 100 projects since it was created in 2017 and helped approximately 500,000 people to either stay in or return to their local communities. These successes suggest that other states may benefit from reconsidering their foreign policy initiatives in light of the Hungary Helps program.

5. Hungary Helps as a model for other states?

The United Nations (2019) underscores the role of states in addressing religious persecution, but current efforts seem to have achieved, at best, marginal success in this area (Zellman and Fox 2022). As Farr and Hoover (2009) observed over a decade ago, the scale of religious persecution is vast, and the resulting level of suffering demands a response from all nations committed to social justice and human rights. Since the time of their study, the prevalence and intensity of persecution targeting Christians and many other religious groups has accelerated dramatically.

The limited success of existing approaches indicates a need to explore alternative methods. This should not be interpreted as a call to eliminate or repurpose existing initiatives. For example, programs stemming from the IRFA have been instrumental in highlighting abuses of religious freedom around the world (Petri and Buijs 2019). Analogous comments might be made about the short-lived Canadian Office of Religious Freedom. Rather than curtailing current approaches, states should supplement existing approaches with new programs, particularly those that focus on groups experiencing the most suffering.

Hungary Helps represents one model that other states might consider. For instance, American initiatives have frequently focused on sanctioning persecutors as opposed to creating the cultural institutions necessary to support religious freedom for religious minorities (Farr and Hoover 2009). As shown above, Hungary Helps has taken a different approach, expending most of its funding on creating the cultural infrastructure needed to support stable and sustainable communities. As such, Hungary Helps offers a new, innovative model for addressing the persecution of Christians and other people of faith.

By consulting with local communities, Hungary Helps facilitates the creation of institutional supports that position religious minorities with the resources they require to survive in what are frequently challenging environments. Partnering with FBOs helps circumvent corruption and enhances the credibility of the assistance (Mayo 2009). In turn, the development or restoration of employment, educational, and religious venues helps support and maintain the livelihood of Christians and other religious minorities in their native lands. Communities with deep roots – sometimes stretching back for millennia – can remain in their homelands.

States might draw on these and other ideas to address the growing global persecution of Christians. As Christians are the population facing the most widespread and intense discrimination, it is appropriate for state actors to prioritize suffering Christians in their humanitarian efforts (Muller et al. 2019). Although commonalities exist among religious groups, each group has a unique cultural value system (Richards and Bergin 2014). This cultural uniqueness underscores the importance of creating interventions that address the lived reality of oppressed Christians.

Regardless of the programs adopted by government actors, it is important to evaluate the effectiveness of the interventions. Independent evaluation of program effectiveness is relatively rare, even among major humanitarian organizations (Raifman et al. 2018). Yet such evaluations play a critical role in identifying areas of effectiveness and of needed improvement. They help to ensure that program funds are used in a manner that maximizes both the alleviation of human suffering and human flourishing.

The international community must not ignore the discrimination encountered by Christians and other religious populations around the world. As the Pew (2021) data indicate, religious harassment is a growing problem that impacts all people of faith. We should all work to ensure that everyone is free to express and practice their religious beliefs without fear of discrimination. The innovative Hungary Helps program merits consideration as one possible option that may contribute to the process of creating a world in which everyone is able to operationalize their right to religious freedom free from harassment.

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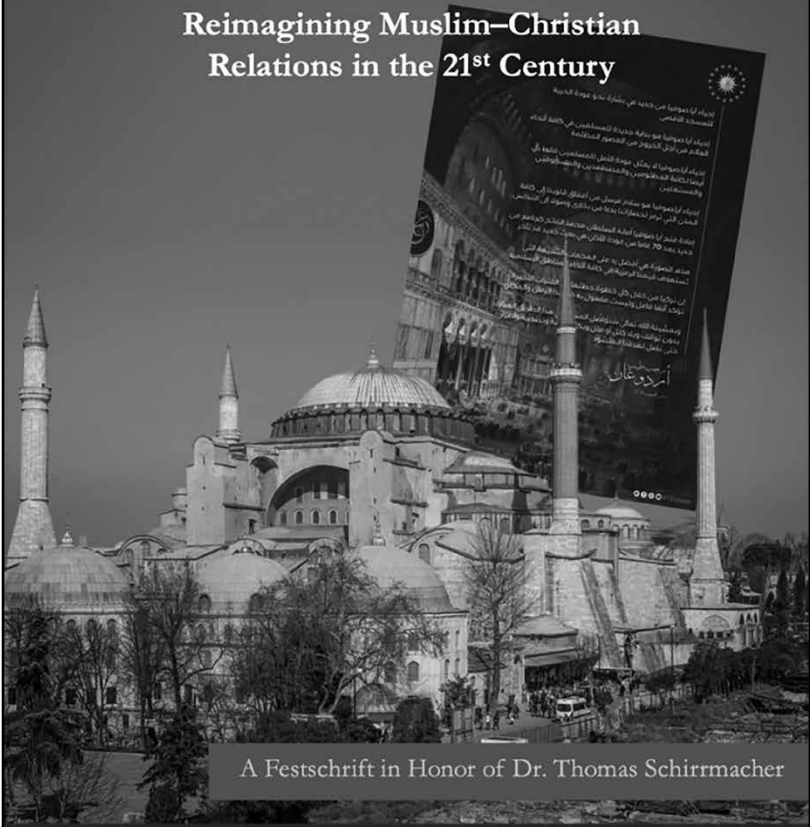
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Respecting individual religious autonomy at secular public universities in South Africa

Werner Nicolaas Nel¹

Abstract

The implementation of mandatory COVID-19 vaccination policies by several South African public universities highlighted the interpretive struggles of a secular polity regarding freedom of religion or conscience. Such workplace policies relied on the claim that society's collective interests took precedence over the individual's constitutional rights. In essence, the policies allowed for accommodating conscientious objectors, but in reality, the conditions for objection went beyond prioritizing collective interests and neglected the constitutional duty to protect human rights. This article examines how the restrictive vaccination policies of public universities reveal the shortcomings in secular polity's engagement with and appreciation for individual religious self-determination.

Keywords

Human rights, freedom of conscience, COVID-19, vaccination mandate, conscientious objection, reasonable accommodation, *ubuntu*.

1. Introduction

Democratic South Africa's challenges in upholding the constitutionally protected right to religious freedom² are apparent not only in human rights jurisprudence but also in the influence of 'secular polity.'³ An illustrative example of the

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2 Religious freedom is used here as a short-hand reference for the right to freedom of conscience, religion, thought, belief, and opinion ("FoRB"). The two main provisions regarding the protection of FoRB in South Africa are sections 15 and 31 of the *Constitution of the Republic of South Africa, 1996* (hereinafter *Constitution*). In addition, several auxiliary and interrelated rights in the Constitution are of importance for the full enjoyment of religious freedom, including sections 7, 8, 9, 10, 14, 16, 18 and 36.

3 The meaning of the term 'secular' (including its derivatives, such as 'secularity' and 'secularism') is further discussed in Part 2. "What is meant by the broader term 'polity' is any secular organized structure

latter involved the implementation of mandatory COVID-19 vaccination policies (MVPs)⁴ in the workplace as a response to the global pandemic.

In early March 2020, South Africa saw its first confirmed COVID-19 case, leading to a disaster declaration and a subsequent national lockdown.⁵ Almost a year later, the national vaccination program began, providing voluntary shots.⁶ During that period, the governing directive⁷ neither explicitly authorized nor implicitly prohibited MVPs in the workplace, instead opting for the implementation of context-specific measures where and to the extent deemed necessary.⁸ Nevertheless, some employers argued that they had both the ethical duty and legal authority to mandate vaccination as a precondition for continued employment,⁹ ostensibly establishing workplace MVPs to meet occupational health and safety obligations.¹⁰ Based on available scientific evidence, vaccination was deemed the most crucial measure to address the public health crisis.¹¹ The drafting and implementation of COVID-19 MVPs became a highly controverted area of competing rights and interests.¹² Employers assumed that, since the virus had been considered deadly, it was

justifiable to limit the constitutional rights of their employees without further considerations. Failure to successfully convince employees – to vaccinate – with concrete scientific evidence meant that employers had

of human society above the family level, one based on some form of hierarchy and involving at least a generally accepted potential for coercion,” J. Rudevskis, “Why Freedom of Religion Matters,” in A. Portaru (ed.), *A ‘Precious Asset’? Analyzing Religious Freedom Protections in Europe* (2020), 10-11.

- 4 In the context of this essay, the term MVP will specifically denote the mandatory COVID-19 vaccination policy, unless a broader interpretation is inferred.
- 5 C. Ramaphosa, “Statement by President Cyril Ramaphosa on Measures to Combat COVID-19 Epidemic” (15 March 2020). Available at: <https://bit.ly/3HCiYrV>.
- 6 S. Fokazi, “‘Can I Close My Eyes?’ Ramaphosa Has Covid-19 Jab with Khayelitsha Hospital Staff.” TimesLIVE. Available at: <https://bit.ly/48Uv6Rr>. The first COVID-19 vaccines were validated for use by the World Health Organization (WHO) in early December 2020. See the WHO website, “Coronavirus Disease (COVID-19): Vaccines.” Available at: <https://bit.ly/42mPUxO>.
- 7 “Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces,” Government Gazette, 4 June 2020, No. 43400. Available at: <https://bit.ly/481cA8a> (hereinafter “Direction”). Public university MVPs were enacted under the *Direction*.
- 8 In June 2022, the “Direction” was replaced with the “Code of Good Practice: Managing Exposure to SARS CoV-2 in the Workplace,” Government Gazette, No. 46596, 24 June 2022. Section 12, read along with section 5(1)(b)(i), made explicit provision for workplace MVPs and necessitated reasonable accommodation for any employee who refused to be vaccinated. By the time of enactment, the COVID-19 pandemic was essentially over, rendering it obsolete.
- 9 Discovery, “Our Position on SA-Based Employee Vaccinations,” 2 September 2021. Available at: <https://bit.ly/3vY0Nxc>.
- 10 See section 9(1) of the *Occupational Health and Safety Act* 85 of 1993. See also the right to an environment that is not harmful to health or well-being, guaranteed by section 24 of the *Bill of Rights* (Chapter 2 of the Constitution).
- 11 Discovery, “Our Position.”
- 12 Due to scattered implementation and possibly COVID-19 psychological fatigue, the enforcement of MVPs led to several legal disputes, among which the most noteworthy were *Mulderij v Goldrush Group* (GAJB24054-21) [2022] ZACCMA 1 (18 January 2022); *Gideon J Kok v Ndaka Security and Services* (FSWK2448-21) CCMA (25 January 2022); and *Tshatshu v Baaroque Medical (Pty) Ltd* (GAB) 20811-21) CCMA (22 June 2022).

to make vaccination mandatory through internal policies. The employers failed to take cognisance of the concerns of their employees.¹³

The mandatory vaccination trend spanned diverse sectors, with many employers seeking ways to address financial challenges amid the global lockdown, exacerbated by a national recession and widespread unemployment. Several public universities also opted for compulsion.

As social justice institutions¹⁴ and organs of the state,¹⁵ public universities are uniquely positioned to express the views of civil society while also representing the government's stance. Therefore, this contribution reflects on the cases of secular public university MVPs in South Africa, especially the preconditions for reasonable accommodation¹⁶ based on religious or conscientious objections,¹⁷ highlighting deficiencies in this secular polity's engagement with and appreciation for religious freedom.¹⁸ To place these deficiencies in context, the scope and protection of religious freedom in secular South Africa is outlined. Subsequently, the temporal and contextual rationale underlying public university MVPs is briefly considered. Lastly, the shortcomings in the formulation of the preconditions for conscientious objections and their causal impact on individual religious freedom is evaluated.

2. Religious freedom in South Africa

To understand religious freedom in South Africa, it is essential to first contextualize the human rights framework. South Africa's transformative and relatively contemporary Constitution¹⁹ was established as a consequence of, and in reaction to, the country's particular history of inequality, repression, and authoritarianism, associated with apartheid.²⁰ In its effort to reshape South Africa's moral landscape

13 K. Mqoboli and M. Nondima, "Mandatory Vaccination Unlawful: Has the CCMA Finally Seen the Light?" De Rebus, 1 October 2022. Available at: <https://bit.ly/3SEgejN>.

14 M. Tight, *Academic Freedom and Responsibility*. Society for Research into Higher Education (1988), 132.

15 Section 239 of the Constitution defines an organ of state as "any other functionary or institution exercising a public power or performing a public function in terms of any legislation." Public universities are conferred with the constitutional rights and obligations under section 8 of the Bill of Rights.

16 Reasonable accommodation in this context "aims at relaxing generally applicable rules in order to guarantee a more substantive equality in which the specificities of everyone are taken into account." G. Caceres, "Reasonable Accommodation as a Tool to Manage Religious Diversity in the Workplace: What about the 'Transposability' of an American Concept in the French Secular Context?" In K. Alidadi et al. (eds.), *A Test of Faith? Religious Diversity and Accommodation in the European Workplace*. Ashgate Publishing (2012), 284.

17 The terms 'religious objections' and 'conscientious objections' may be used interchangeably, although 'conscientious objections' may be preferable as it may be more objectively descriptive of the grouping of freedoms and diverse views protected in section 15(1) of the Bill of Rights.

18 For a broader discussion on this topic, see J. Epp Buckingham et al. (eds.), "The Impact of the COVID-19 Pandemic on Religious Minorities," *IJRF* 16(1) (2023). Available at: <https://ijrf.org/index.php/home/issue/view/vol16/56>.

19 *Constitution of the Republic of South Africa*, 1996.

20 *Shabalala v Attorney General of the Transvaal* 1996 (1) SA 725 (CC) [26]. Section 1 read with the Preamble of the *Constitution*.

and overcome historical human rights violations, constitutional jurisprudence incorporated the spirit of *ubuntu* from traditional African religion into its human rights philosophy.²¹ This notion denotes a view of humaneness that is profoundly and decidedly communitarian: “a person is a person through other persons.”²² Despite its substantive ambiguity, this philosophy has become an implicit hermeneutical lens through which the Constitutional Court has interpreted constitutional values, and through which the content and scope of rights have been determined.²³ Apart from the *ubuntu* philosophy, South Africa’s secular position has had a profound contextual effect on religious freedom, which will be discussed below.

2.1. ‘Constitutional secularity’ in South Africa

According to Barry Bussey, “True freedom is dependent upon respect for a diversity of views, including religious beliefs and practices.”²⁴ To give effect to this adage, the Bill of Rights²⁵ protects, supports, and tolerates *all* religions and beliefs, which may be exercised freely and openly and must not be relegated to the private sphere.²⁶ Consequently, South Africa may be regarded as a ‘constitutional secularity’ or a ‘political secularist state’ with no established or official religion, implying that religion is separated from political and legal interference.²⁷ ‘Constitutional secularity’ (as distinct from doctrinal secularism) infers inclusivity, epitomising open-mindedness towards religious pluralism and a neutral framework for religion-state relationship.²⁸

As an ‘equality right,’ section 9 prohibits unfair discrimination, resulting in “a non-discriminatory implementation of freedom of religion or belief for every-

21 *S v Makwanyane and Another* (CCT3/94) [1995] ZACC 3; separate but concurring judgment of Justice Yvonne Mokgoro, paras 300 to 317. *Ubuntu* was also referenced in the epilogue of the *Constitution of the Republic of South Africa Act 200 of 1993* (Interim Constitution).

22 L. Du Plessis, “South Africa,” in G. Robbers (ed.), *Encyclopedia of Law and Religion* (2015), 8. Available at: <https://bit.ly/47WYUuX>. For some interpretations, see L. Mbigi and J. Maree, *Ubuntu: The Spirit of African Transformation Management*. Knowledge Resources (1995).

23 *City of Tshwane Metropolitan Municipality Afriforum and Another* [2016] ZACC 19, par 11.

24 B. W. Bussey, “Responding to Limitations of the Public Square,” *IJRF* 10(1/2) (2017), 103.

25 The Bill of Rights represents chapter 2 of the Constitution.

26 P. De Vos and W. Freedman (eds.), *South African Constitutional Law in Context* (2018), 488.

27 For purposes of this paper, a ‘constitutional secularity’ is distinguishable from doctrinal secularism, which constitutes a comprehensive secular belief system that promotes an intolerant secular order based on ideological superiority and exclusivity. “By ‘secularism,’ I mean an ideological position that is committed to promoting a secular order as an end in itself.” W. C. Durham, Jr., “Religious Freedom in a Worldwide Setting: Comparative Reflections,” in M. A. Glendon and H. F. Zacher (eds.), *Universal Rights in a World of Diversity: The Case of Religious Freedom*, Pontifical Academy of Social Sciences (2012), 368. See also D. A. Leatt, *The State of Secularism: Religion, Tradition and Democracy in South Africa*, Wits University Press (2017), 8; H. Bielefeldt, N. Ghanaea and M. Wiener, *Freedom of Religion or Belief: An International Law Commentary*. Oxford University Press. (2016), 35-36; Panel of Constitutional Experts, “Freedom of Religion and the Secular State,” 2 June 1995 (CP002065.MEM), 3. Available at: <https://bit.ly/3UtOEXM>.

28 Durham, “Religious Freedom,” 368: “By secularity, I mean an approach to religion-state relations that avoids identification of the state with any particular religion or ideology (including secularism itself) and that provides a neutral framework capable of accommodating or cooperating with a broad range of religions or beliefs.”

one.”²⁹ Consistent with inclusivity and tolerance, the “absence of coercion or constraint” is the overriding principle,³⁰ and religion or similar observances remain significant and visible in South African politics and public life.³¹

A related fundamental principle that fortifies South Africa’s secular nature is the “non-entanglement doctrine”³² under which a certain degree of autonomy is granted to religious communities. Accordingly, South African courts should not “embark upon an evaluation of the acceptability, logic, consistency or comprehensibility of ... belief.”³³ As a result, human rights jurisprudence reveals a measure of restraint in disputes that intersect with religion and their tenets of faith;³⁴ such disputes will preferably be adjudicated on other applicable legal grounds.³⁵ Within this contextual secular setting, the right to and limitations of religious freedom in South Africa will be briefly noted.

2.2. Framework of religious freedom in South Africa

Religious freedom is an extensive and fundamental human right in both domestic and international human rights law.³⁶ This is because religion and belief are expressions of human dignity and equality,³⁷ whether individually or in associ-

29 H. Bielefeldt, “Misconceptions of Freedom of Religion or Belief,” *Human Rights Quarterly* 35(1) (2013), 55-56. See also Bielefeldt et al., *Freedom of Religion or Belief*, 358.

30 *S v Lawrence; S v Negal; S v Solberg* (CCT38/96, CCT39/96, CCT40/96) [1997] ZACC 11; 1997 (10) BCLR 1348; 1997 (4) SA 1176 (6 October 1997), paragraph 92.

31 Leatt, *The State of Secularism*, 1. For a deeper exploration of religion in South Africa, see Du Plessis, “South Africa.”

32 E. F. J. Malherbe, “Enkele kwelvrae oor die grondwetlike beskerming van die reg op godsdiensvryheid,” *Journal of South African Law* (2006), 650.

33 *Christian Education SA v. Minister of Education of the Government of the RSA* 1999 (9) BCLR 951 (SE), 958 (S. Afr.), confirmed in *Christian Education v. Minister of Education* 2000 (4) SA 757 (CC) (S. Afr.) (hereinafter *Christian Education*). Similarly, see the approach by the Equality Court in *Strydom v. Nederduitse Gereformeerde Gemeente, Moreletta Park* 2009 (4) SA 510 (Equality Court, TPA) (S. Afr.). Also see I. Currie and J. De Waal, *Bill of Rights Handbook*, 6th ed. (2013), chapter 15.

34 *Prince v President of the Law Society of the Cape of Good Hope* (CCT36/00) [2002] ZACC 1; 2002 (2) SA 794; 2002 (3) BCLR 231 (25 January 2002) paras 42 and 48 (hereafter *Prince*). See also the case of *MEC for Education: KwaZulu-Natal and Others v Pillay* (CCT 51/06) [2007] ZACC 21; 2008 (1) SA 474 (CC); 2008 (2) BCLR 99 (CC) (5 October 2007) (hereinafter *Pillay*). See also Du Plessis, “South Africa,” 3.

35 G. A. Du Plessis and W. N. Nel, “The Dimensional Elements of the Right to Freedom of Religion or Belief in the South African Constitution: An Evaluation in Light of International Human Rights Standards,” *Journal for Juridical Science* 46(1) (2021), 40.

36 Regarding the international legal framework, FoRB is guaranteed as a fundamental human right in article 18 of the *Universal Declaration of Human Rights* (UDHR; 1948) and article 18 of the *International Covenant on Civil and Political Rights* (ICCPR; 1966). See C. Walter, “Religion or Belief, Freedom of, International Protection,” in R. Wolfrum and A. Peters (eds.), *Max Planck Encyclopaedia on Public International Law* (2021), 864; paragraph 1 of the UN Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion in Terms of Article 18 of the ICCPR*. CCPR/C/21/Rev.1/Add.4, 20 July 1993 (hereafter *General Comment No. 22*).

37 “Religion” is a protected ground in terms of the UDHR and ICCPR; UNGA, *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, UNGA Res 36/55, 73rd plenary meeting, 25 November 1981; and in the context of persecution, article 7(1)(h) of the *Rome Statute of the International Criminal Court*, Doc. A/CONF.183/9 of 17 July 1998 in force 1 July 2002 (hereafter *Rome Statute*). A religious group is considered a protected group in terms of article 2 of the UNGA, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948; and article 6 of the *Rome Statute*.

ation with others. Furthermore, it is a multifaceted right,³⁸ comprising a range of dimensional elements and core values.³⁹ The South African Constitution protects a religious conscience and a religious practice component (section 15), an associative religious practice component (section 31),⁴⁰ and an equal treatment component (section 9).⁴¹ However, this contribution focuses solely on section 15.

2.2.1. *Scope and nature of section 15*

Section 15(1) states, “Everyone has the right to freedom of conscience, religion, thought, belief and opinion.” It protects the following core values of religious freedom through which diverse beliefs are accommodated.⁴²

First, the Constitution does not require a strict separation between the state and religious bodies,⁴³ provided that “the state act even-handedly in relation to different religions.”⁴⁴

Second, freedom “implies an absence of coercion or constraint ... [which] may be impaired by measures that force people to act or refrain from acting in a manner contrary to their religious beliefs.”⁴⁵

Third, the right belongs to everyone. Depending on the nature of the right and the entity involved,⁴⁶ religious freedom may be exercised by natural or juristic persons, potentially extending to all associations, whether formally recognized or not.⁴⁷

Fourth, the essence of the concept includes the right to freedom of religious expression;⁴⁸ “the right to declare religious beliefs openly and without fear of hindrance or reprisal.”⁴⁹

38 H. Bielefeldt, *Freedom of Religion or Belief: Thematic Reports of the UN Special Rapporteur 2010 - 2016*. Religious Freedom Series (IIRF), vol. 3, 2nd ed., Bonn (2017), 341.

39 These normative core values constitute a set of minimum standards regarding the scope of protection of FoRB. See *General Comment No. 22*. For a detailed discussion, see W. N. Nel, *International Criminal Accountability for Religious Persecution in Terms of the Rome Statute: A Taxonomy of Crimes Against Humanity of Religious Persecution* (2019), chapter 5. Available at: <https://repository.up.ac.za/handle/2263/72657>.

40 For a detailed discussion, see Currie and De Waal, *Bill of Rights Handbook*, 628, 633; and De Vos and Freedman, *South African Constitutional Law*, 491-492. The practise of religion in community with others is explicitly protected through related rights, but “cannot be used to shield practices which offend the Bill of Rights.” *Christian Education* (2000), paragraph 26.

41 Section 15, read with sections 31 and 9. See Currie and De Waal, *Bill of Rights Handbook*, 315; De Vos and Freedman, *South African Constitutional Law*, 482.

42 De Vos and Freedman, *South African Constitutional Law*, 483.

43 *Lawrence* (1997), paragraph 119. This is even more apparent when reading section 15(2).

44 *Lawrence* (1997), paragraphs 121-122 (emphasis added). The equality principle compels the government to abstain from supporting or adopting an official belief position as this may, directly or indirectly, “force people to act or refrain from acting in a manner contrary to their religious beliefs.” *Prince* (2002), paragraph 38.

45 *Lawrence* (1997), par 92.

46 Section 8 of the Bill of Rights.

47 I. M. Rautenbach and R. Venter, *Rautenbach-Malherbe Constitutional Law*. 7th ed. LexisNexis (2018), 273-274, when read in conjunction with section 18 of the Constitution regarding associative rights.

48 When read with section 16 of the Bill of Rights.

49 *Lawrence* (1997), paragraph 92; *Christian Education* (2000), paragraph 18, quoting Dickson CJ in *R v Big M Drug Mart* [1985] 1 SCR 295 336. When interpreting the Bill of Rights, a South African court may consider foreign law; see section 39(1) of the Constitution.

Fifth, freedom of religion includes both the *right to have a belief* and the *right to manifest [practice] such a belief*;⁵⁰ without postulating a firm divide between the public and private dimensions.⁵¹

Sixth, an equality-based approach in this regard ensures religious pluralism, which is not limited in scope to traditional notions of faith, but can be expanded to include conscience, religion, thought, belief and opinion.⁵² As a result, an extensive interpretation is attached to this right, effectively including a wide range of profound existential worldviews.⁵³

2.2.2. Section 15 and the general limitation clause

The Constitution provides a general limitation clause (section 36).⁵⁴ In the case of disputes involving a conflict of competing constitutional rights, the court will apply the “proportionality test,”⁵⁵ which entails the “weighing up of competing values, and ultimately an assessment based on proportionality ... which calls for the balancing of different interests” with an aim of conciliation.⁵⁶

To give effect to this approach, *no* right, whether fundamental or not, has an absolute character and may be limited in accordance with the preconditions in section 36.⁵⁷ Therefore, every right has boundaries, informed by the intersecting or diverging rights of others and by important contextual social concerns. In this setting, the advancement of fundamental human rights takes on a community-oriented focus, rather than a hierarchy of rights. As a result, limitations on in-

50 *Christian Education* (2000), paragraph 19. This includes the freedom to engage in all the practices and observances associated with a belief openly and publicly, without fear of hindrance or reprisal, when read with sections 15(2) and 31; see De Vos and Freedman, *South African Constitutional Law*, 488-500.

51 *Christian Education* (2000), paragraph 19.

52 P. Farlam, “Freedom of Religion, Belief and Opinion,” in S. Woolman, T. Roux and M. Bishop (eds.), *Constitutional Law of South Africa* (2013), chapter 41, 13.

53 Currie and De Waal, *Bill of Rights Handbook*, 316.

54 Section 36, limitation of rights, states:

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

55 Malherbe, “Enkele kwelvrae,” 673-701.

56 *Makwanyane* (1995), paragraphs 103-104; *S v Zuma and Others* (CCT5/94) [1995] ZACC 1; 1995 (2) SA; 1995 (4) BCLR 401 (SA); 1995 (1) SACR 568, paragraph 21; *Ex Parte Minister of Safety and Security and Others: In Re S v Walters and Another* 2002 (4) SA 613 (CC), paragraphs 26-27. In these cases, the Constitutional Court formulated a two-staged approach to the limitation of rights. First comes a threshold enquiry, aimed at determining whether the enactment in question constitutes a limitation on one or more guaranteed rights. If there is indeed a limitation, the limitations exercise ensues, which essentially requires a weighing of the nature and importance of the right(s) that are limited, together with the extent of the limitation, against the importance and purpose of the limiting enactment.

57 Confirmed in section 7(3) of the Constitution.

dividual rights are more readily justified in favour of the collective interest than communal rights. Nevertheless, any right, whether individual or communal, may be limited. This includes both the internal freedom of religious conscience and the external freedom of religious practice.⁵⁸ However, in line with the non-entanglement doctrine, “it is difficult to imagine how the freedom to believe can ever be legitimately restricted by the state.”⁵⁹ While manifestations are more likely to be subjected to constitutional limitations,⁶⁰ “not every practice claiming to be an exercise of the freedom of religion ... is treated as such by the courts.”⁶¹

In summary, South Africa’s secular stance and contextual approach to constitutionality have significant implications for interpreting religious freedom and justifying limitations of this right. When viewed concurrently and holistically, the Bill of Rights protects all the core values and dimensional elements guaranteed under international human rights law. Although both dimensions, whether exercised individually or collectively, may be limited under section 36, courts have shown an inclination to avoid limitation clause analysis where possible, preferring to attempt to restrict the scope of the right.⁶² It is especially in this area that the principle of reasonable accommodation is used, rather than a balancing or limitation of rights. Against this established framework of religious freedom in South Africa, attention now turns to public university MVPs.

3. The reasoning behind public university MVPs

Most public universities in South Africa are statutorily established residential universities, providing contact teaching and research along with limited distance-learning options, and hosting community engagement initiatives on their campuses. On this basis, public universities argued that they serve societal interests and thereby justified their blanket limitation of individual rights. Essentially, they said, in “balancing the collective right of the ... community to health and safety, against individual rights to bodily integrity, freedom of religion, belief and opinion, the prevailing view is that the collective right takes precedence.” Aligned with academic freedom, typically, an article of this nature would attribute references of MVPs to the respective universities. However, given the controversy surrounding these policies, doing so here could have posed personal concerns and

58 Du Plessis and Nel, “Dimensional Elements,” 47. For a discussion of the “substantive equality” approach in the realisation of human rights in South African constitutional law, see C. Albertyn, “Substantive Equality and Transformation in South Africa,” *SAJHR* 23(2) (2007) 253-276.

59 D. Meyerson, *Rights Limited* (1997), 2, quoted in Currie and De Waal, *Bill of Rights Handbook*, 323.

60 E.g., the freedom to express religious views that incite violence or advocate hatred – read with section 16 of the Constitution.

61 Currie and De Waal, *Bill of Rights Handbook*, 320.

62 Currie and De Waal, *Bill of Rights Handbook*, 320.

reputational repercussions for the implicated institutions. Accordingly, specific university MVP references have been omitted.⁶³

At the time of writing, access to MVP documents from public universities was no longer publicly available.⁶⁴ Among the 26 public universities in South Africa, at least six prominent institutions implemented MVPs in response to the pandemic.

Certain prominent features were common in these university MVPs. Failure to comply with the mandate resulted in disciplinary measures, including potential dismissal as a last resort.⁶⁵ In most instances, public university MVPs permitted employees who adhered to an “anti-vaccine ideology”⁶⁶ to object to being vaccinated on religious or conscientious grounds, and eligible employees were reasonably accommodated. However, the formulation of the preconditions for reasonable accommodation had significant implications for the interpretation of individual religious freedom. Part four of this article will further scrutinize the shortcomings of the preconditions for conscientious objections and their effect on individual religious freedom.

4. Interpretive consequences for religious freedom

In principle, prioritizing collective interests is reasonable and justifiable in the South African context. However, the implementation of public university MVPs did not effectively serve public interests. Moreover, the formulation of the preconditions for conscientious objections exceeded what was required to prioritize collective interests and displayed a general neglect of the constitutional duty to protect human rights.⁶⁷ Accordingly, these universities exceeded the scope of their designated public functions by unjustifiably restricting individual religious freedom without requisite due diligence.

4.1. Proof of faith or religious beliefs

Exemption applications reasonably necessitated the disclosure of the applicant’s religious beliefs to ground an objection. However, public university MVPs exceeded a mere disclosure of belief in their requirements. Evidently, policymakers intended that conscientious objections must be grounded in a profound belief conviction, necessitating extensive corroborating proof. To exemplify this argu-

63 For verification, contact me at wnnel@uj.ac.za.

64 For a summary of the mandatory vaccination policies of South African universities, see Careerwise, “Universities in South Africa That Require Proof of Vaccination in 2022,” 8 December 2021. Available at: <https://careerwise.co.za/university-proof-of-vaccination-2022/>.

65 It has been argued that such dismissals may have been unjust in view of section 187(1)(f) of the Labour Relations Act 66 of 1995.

66 The claim was based on the incompatibility between their religious beliefs and vaccination policies. See Cliffe Dekker Hofmeyr, “An Employer’s Guide to Mandatory Workplace Vaccination Policies,” 30 May 2022, 7. Available at: <https://bit.ly/3SkaI4K>.

67 Section 7(2), read with section 8 of the Bill of Rights.

ment, the specific preconditions will be briefly outlined, followed by an evaluation of the inadequacies in their formulation.

4.1.1. MVP preconditions necessitating proof of religious belief

In all instances, the onus rested on the applicants to provide written supporting evidence of their conscientious objection, with variations in the required extent of proof.

The strictest policy limited conscientious objections to a “seriously held religious belief that materially conflicts with vaccination.” This required substantiating evidence, including (1) “an affidavit from a *senior* religious leader *setting forth the key tenets of the religion relied upon* and supporting the contention that these ground an objection to receiving the vaccination” (emphasis added), (2) a recommendation for accommodating the employee, and (3) a written motivation, explaining, *inter alia*, that the applicant’s beliefs relate to a “particular religion” and clarifying how vaccination “presents an unavoidable and serious conflict with the applicant’s religious beliefs.”

Another policy granted the exemptions committee sole discretion, when reviewing a religious exemption application, to determine the presence of “a true verifiable religious ground,” which determination could be made either “by the Applicant’s universally recognised umbrella faith institution or body” or by considering “the doctrines of any religion or faith, including existing cultural faith-based religions.”

Furthermore, certain policies required “documentary evidence of previous vaccine exemptions,” demonstrating instances where the applicant’s “adherence to their religious beliefs caused them to adjust their behaviour, particularly in relation to medical interventions.” As vaccinations had not been mandated in recent history, presenting evidence of a prior religious exemption was practically impossible.

4.1.2. Notable inadequacies of this formulation

The specified preconditions illustrate that policymakers approached religious exemption applications with suspicion and a shrug of resignation, revealing two significant concerns.

First, as noted above, exemptions committees were granted sole discretion to perfunctorily assess the verifiability and doctrinal significance of a conscientious objection; this evaluation, concerning inner religious conscience, is a matter that not even the Constitutional Court is willing to undertake (under its non-entanglement doctrine). The reason is that secular polity is existentially incapable to assess the significance that a “deeply held conviction has for the identity of those

holding it.”⁶⁸ Though religious freedom is “a precious asset” for everyone,⁶⁹ including secular (non-religious) beliefs and sectarian views,⁷⁰ these beliefs are existentially different from each other.⁷¹ For some secular believers, the significance lies in freedom from coercion,⁷² often termed ‘freedom from religion,’⁷³ while for some sectarian believers, “Religion is not just a question of belief or doctrine. ... It is part of a way of life.”⁷⁴ Accordingly, respecting and accommodating diametrically and phenomenological opposed beliefs demands “serious engagement with the notion of diversity.”⁷⁵

Inevitably, secular polity is bound to fall short in appreciating the personal significance of a deeply held conviction through empirical observation. In a pluralist society, it is incongruous to grant secular polity the discretion to determine the doctrinal acceptability, scientific logic, rationality, or centrality of others’ existential views. Allowing the secular polity to make such discretionary findings signifies “the primacy of the polity and its worldly preoccupations over the transcendent ... [without] a hint of equality between the two realms.”⁷⁶ Without a genuine understanding of the profound significance of a belief conviction, the individual religious freedom of conscientious objectors was conveniently subjugated to collective interests.

Second, focusing exclusively on established or widely accepted religious doctrines as verifiable grounds left no room for unique, individual conscientious positions. Effectively, an applicant’s subjective beliefs must have been corroborated by a “senior religious leader” as a position that is “*aligned with, or have some relation to, the accepted doctrines, widely adopted practices and known philosophical or theological underpinnings of a particular religion*” (emphasis added).

Understandably, most religious institutions and leaders were hesitant to adopt a definitive doctrinal stance for or against vaccination.⁷⁷ Instead, they delegated this decision to individual consciences, which stance, it is argued, aligns with accepted principles of religious freedom. According to the Constitutional Court

68 Bielefeldt et al., *Freedom of Religion and Belief*, 10.

69 *Kokkinakis v. Greece*, App No 14307/88 (ECtHR, 25 May 1993), par 31.

70 Section 15(1) read with section 9 of the Bill of Rights.

71 *Lawrence* (1997), paragraph 148. See also *Christian Education* (2000), paragraph 19; *Prince* (2002), paragraph 38.

72 *Lawrence* (1997), paragraph 148. See also *Christian Education* (2000), paragraph 19; *Prince* (2002), paragraph 38.

73 Protected by article 18 of the ICCPR. See *General Comment No. 22*, paragraph 2; Bielefeldt, “Misperceptions,” 47; Bielefeldt et al., *Freedom of Religion and Belief*, 22; A. N. Guiora, *Freedom from Religion*, Oxford University Press (2009).

74 *Christian Education* (2000), paragraph 33.

75 De Vos and Freedman, *South African Constitutional Law*, 483.

76 Rudevskis, “Why Freedom of Religion Matters,” 27.

77 This included administrative and economic consequences and possible criminal sanctions, as exemplified in several Canadian cases, notably involving Pastors Artur Pawlowski, Tim Stephens, and James Coates.

in *Pillay*, the centrality of a belief “must be judged with reference only to how important the belief or practice is to the *claimant’s religious ... identity*.”⁷⁸ In other words, “the *subjective view* of the religion taken by the adherent is a *vital factor*,”⁷⁹ whereas evidence of “the objective importance or centrality of a belief to a particular religion” or the community at large is of *subsidiary* value.⁸⁰

Practically, individual religious self-determination implies constitutional protection of the freedom to *interpret* one’s belief convictions,⁸¹ to formulate “deviant ideas”⁸² or evolve one’s opinions about belief convictions without undue influences,⁸³ and to express these religious positions.⁸⁴ In essence, individual religious self-determination allows for a margin of aberration from accepted or known religious doctrine.⁸⁵ Accordingly, a person’s views and adherence to a particular religious doctrine may, to some extent, diverge from the accepted doctrinal position without negatively impacting membership in a related religious community.

As a result, the sanctity of individual religious autonomy renders the compulsory validation of acceptability of a unique conscience-based position by a particular identifiable religious group profoundly objectionable. The Constitutional Court confirmed this view in the *Prince* case, stating:

The beliefs that believers hold sacred and thus central to their religious faith may strike non-believers as bizarre, illogical or irrational. Human beings may freely believe in what they cannot prove. Yet, that ... does not detract from the fact that these are religious beliefs for the purposes of enjoying the protection guaranteed by the right to freedom of religion. The believers should not be put to the proof of their beliefs or faith.⁸⁶

It is unavoidable – though not statistically verifiable⁸⁷ – that the overly restrictive preconditions effectively limited the scope of protection and thus excluded claimants with genuine and deeply held religious objections to vaccination. Sub-

78 *Pillay* (2008), paragraphs 63-66 (emphasis added).

79 Currie and De Waal, *Bill of Rights Handbook*, 321 (emphasis added).

80 *Pillay* (2008), paragraphs 86-88.

81 A. Shaheed, *Freedom of Thought*, A/76/380, Report to General Assembly – 76th Session, published 5 October 2021, paragraph 24.

82 C. Calvert, “Freedom of Thought, Offensive Fantasies and the Fundamental Human Right to Hold Deviant Ideas: Why the Seventh Circuit Got it Wrong in *Doe v. City of Lafayette, Indiana*,” 3 *Pierce L. Rev.* 125 (2005).

83 Bielefeldt, “Misperceptions,” 44. See also N. Manfred, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed. (2005), 412.

84 Section 15 read with section 16 of the Bill of Rights.

85 *Prince* (2002), paragraph 42. See also *Minister of Police and Others v Kunjana* 2016 (9) BCLR 1237 (CC), paragraph 18; *Teddy Bear Clinic for Abused Children and Another v Minister of Justice and Constitutional Development and Another* 2014 (2) SA 168 (CC), paragraph 64.

86 *Prince* (2002), paragraph 42.

87 In this regard, see the effect of the *Protection of Personal Information Act*, No. 4 of 2014.

sequently, such claimants would have faced ‘Hobson’s choice,’⁸⁸ or an unreasonable and coercive choice between adhering to their religious conscience or maintaining their employment. In the *Christian Education* case, the court held that the polity should, “wherever reasonably possible, seek to avoid putting believers to extremely painful and intensely burdensome choices of either being true to their faith or else respectful of the law.”⁸⁹

4.2. Exemptions limited to known and accepted religions or beliefs

The preconditions for exemption from vaccination on religious grounds were strictly interpreted; only a narrow set of religions or beliefs qualified. While there is no unanimous consensus on the definition of religion,⁹⁰ the constitutional jurisprudence resolutely emphasized the importance of a pluralistic framework for interpreting religious freedom.⁹¹ Currie and De Waal opine that the formulation of section 15(1) “makes the debate about the meaning of the term ‘religion’ unnecessary.”⁹² The deliberate intertwining of ‘conscience,’ ‘religion,’ ‘thought,’ ‘belief’ and ‘opinion’ is significant as it “imports a decidedly overt secular element into the clause.”⁹³ This ensures the protection of diverse views, encompassing not only traditional religious beliefs or those with an institutional character but also secular or non-religious beliefs, along with the right not to profess any religion or belief.⁹⁴ Commenting on the significance of this clustering, Farlam notes that section 15(1) embraces

comprehensive views of the good life that are derived from political, socio-logical or philosophical ideologies as well as purely personal moral codes ... even if they stem from ‘personal morality that is not founded in religion’ or from ‘conscientious beliefs that are not religiously motivated.’⁹⁵

88 In relation to the COVID-19 vaccination mandate, see for example *Selina Keene et al. v. City and County of San Francisco et al.*, No. 22-16567 (9th Cir. 2023), paragraph 2.

89 *Christian Education* (2000), paragraph 35. This coercive choice may potentially have been considered a basis for constructive dismissal in the employment law context. See A. Van Niekerk and N. Smit (eds.), *Law@Work*, 5th ed. (2019), 244-247.

90 Guiora, *Freedom from Religion*, 10. Religion is “a set of systematic beliefs in relation to a transcendent being, thing, or principle”. A. Deagon, “Towards a Constitutional Definition of Religion: Challenges and Prospects,” in P. T. Babie, N. G. Rochow and B. G. Scharffs (eds.), *Freedom of Religion or Belief: Creating the Constitutional Space for Fundamental Freedoms* (2020), 108. Durham and Scharffs endorses Tillich’s concept of a person’s “ultimate concern” as a possible orientation. W. C. Durham Jr. and B. G. Scharffs, *Law and Religion: National, International, and Comparative Perspectives*. Aspen (2010), 46. See also Pillay (2008), paragraph 47.

91 *Minister of Home Affairs and Another v Fourie and Another* (CCT 60/04) [2005] ZACC 19; 2006 (3) BCLR 355(CC); 2006 (1) SA 524 (CC) (1 December 2005), paragraph 89 (hereinafter *Fourie*); *Prince* (2002), paragraph 25.

92 Currie and De Waal, *Bill of Rights Handbook*, 316. See also De Vos and Freedman, *South African Constitutional Law*, 485-486.

93 Farlam, “Freedom of Religion,” chapter 41, 13-14.

94 *General Comment No. 22*, paragraph 2. See also De Vos and Freedman, *South African Constitutional Law*, 483-484.

95 Farlam, “Freedom of Religion,” chapter 41, 13-14.

Accordingly, when considered in conjunction with the principle of equality and non-discrimination, the preferred shorthand terms ‘religion’ or ‘religious freedom’ must be understood to include “an extremely wide range of world-views.”⁹⁶ Undoubtedly, this expansive interpretation of religion applies to MVPs.

Without exception, every public university MVP allowed for religious exemptions. However, in contrast with the pluralist interpretation of religious freedom, the preconditions did not adequately account for a spectrum of sincerely held non-religious objections.⁹⁷ Regardless of the potential merit of conscience-based concerns, the formulation of MVPs explicitly limited conscientious objections to traditional notions of religious belief.⁹⁸ Individuals with non-religious objections lacked the means to establish a verifiable religious ground rooted in the doctrines of a recognised religion or faith. Consequently, this exclusive formulation of the preconditions undermined the principle of equality and religious pluralism.

4.3. Justifiability of limitations of fundamental rights by juristic entities

MVPs do “not enjoy inherent legitimacy and [are] open to challenges as to reasonableness and fairness.”⁹⁹ Given that the pandemic has passed without Constitutional Court adjudication on the justifiability of MVPs,¹⁰⁰ a detailed analysis seems futile and is thus beyond the scope of this contribution. However, there are notable concerns about the ease with which public universities justified the restriction of fundamental human rights in the name of serving the perceived public interest. In this section, two related questions will be probed. First, to what extent were public universities authorised to limit rights of employees *in the public interest*? Second, was the limitation of religious freedom through MVPs proportionate to the intended purpose of safeguarding broader public interests?

4.3.1. Authority to limit rights in the public interest

Considering that public universities perform specific public functions; they may legitimately limit certain rights in some instances. But while public institutions

96 Currie and De Waal, *Bill of Rights Handbook*, 316. See also Farlam, “Freedom of Religion,” chapter 41, 13.

97 Illustrative examples include conscientious objections “pertaining to the consumption of animal products or the manner in which vaccines are tested” (Hofmeyr, “An Employer’s Guide,” 4) and concerns that “COVID-19 vaccines are, albeit remotely, ‘derived’ from aborted fetal cell lines,” creating legitimate differences of opinion (Keene [2023], 5).

98 As referenced above, one policy specified that exemption on “a true verifiable religious ground” is determined based on either a “universally recognised umbrella faith institution or body”, or “the doctrines of any religion or faith, including existing cultural faith-based religions.” A different policy limited conscientious objections to “a seriously held *religious belief*” and supported by the key tenets of “a particular religion” (emphases added).

99 Based on the decision in *Tshatshu* (2022). See C. Loubser and T. Laubscher, “South Africa: CCMA Decides That an Employer’s Vaccination Policy Is Unreasonable and Unconstitutional—Should Employers Be Concerned?” 7 July 2022. Available at: <https://bit.ly/3SiuZYl>.

100 For a detailed analysis of the two-stage approach, see Currie and De Waal, *Bill of Rights Handbook*, chapter 7, and De Vos and Freedman, *South African Constitutional Law*, chapter 10.

are generally expected to operate in the public interest, the limitation of rights “in the interest of broader society and the common good” requires a normative framework for objective decision-making. To this end, the justifiability of rights limitations is typically evaluated in a public hearing before an independent and impartial court.¹⁰¹

It was inevitable that public universities would, consciously or unconsciously, consider their self-interests when exercising their discretion in implementing and enforcing MVPs.¹⁰² In a market-based economy like South Africa, reasonable accommodation is generally not cost-effective and does not necessarily fit into the agenda of the secular polity. As an unfortunate consequence, some public universities seem to have regressed into becoming self-appointed, self-governing, and partisan decision-makers without external or objective oversight. In the case of public university MVPs, the limitation of rights ‘in the public interest’ eclipsed the actual interests at stake, thereby concealing a worrying conflict of interest. Under these circumstances, limiting religious freedom in favour of societal interests effectively constituted a pseudo-moralistic stance. Therefore, limiting rights *in the public interest* is the prerogative of government;¹⁰³ this discretion cannot and should not be delegated to secular polity.¹⁰⁴

At its core, workplace MVPs resulted in the unequal enjoyment of rights and freedoms between employees and those individuals not currently in the workforce. If the government wanted to enact legislation mandating vaccination, a more effective and equitable approach would have been to implement it nationally.

4.3.2. Proportionality and necessity enquiry

The second notable concern with public university MVPs pertains to the proportionality between the limitation of individual religious freedom and the purported necessity to protect broader public health interests. Human dignity must have been at the forefront of all intervention measures and in accordance with the principles of necessity and proportionality.¹⁰⁵ The central issue revolves around the constitutional legitimacy of the impact of an MVP on individual religious freedom. More precisely, the proportionality assessment under the general limitation

101 Section 34 of the Bill of Rights.

102 With minimal consultation, employers had to subjectively assess whether (1) implementing an MVP was necessary in their workplaces, (2) limiting employees’ rights was justifiable in relation to perceived societal and self-interests, (3) a conscientious objector had a valid ground for exemption, and (4) reasonable accommodation measures were operationally and financially feasible.

103 This does not rule out the possibility that government itself may not ascribe to a pseudo-moralistic stance.

104 *Tshatshu* (2022), quoted in Mqoboli and Nondima, “Mandatory Vaccination Unlawful” (emphasis added).

105 R. Bottoni, “Implications of the COVID-19 Pandemic for Religious Minorities from the UN Perspective,” *IJRF* 16(1) (2023), 5.

clause must consider whether refusing to accommodate a claimant's sincerely held conscientious objection is reasonable and justifiable.¹⁰⁶

As mentioned, public university MVPs justified the limitation of individual religious freedom by prioritizing collective interests.¹⁰⁷ Although this *ubuntu* approach underlines South Africa's contextual approach to transformative constitutionalism and the limitation of rights,¹⁰⁸ Currie and De Waal warn that if "rights can be overridden simply on the basis that the general welfare will be served by the restriction then there is little purpose in the constitutional entrenchment of rights."¹⁰⁹ Evidently, the limitation of rights is not a mindless exercise in favour of majoritarian interests. Therefore, Calitz questions whether it is reasonable to expect those who refuse vaccination to forfeit fundamental human rights to accommodate another group's preference for vaccination.¹¹⁰

While a communitarian approach may have merit, there is no value or purpose in an MVP where only a handful of employers implement such policies. The COVID-19 vaccinations may have mitigated the severity of the virus for individuals; they did not prevent future infection.¹¹¹ As a result, the scattered implementation of public university MVPs, as opposed to national MVPs, would not have effectively advanced public health interests. A particularly persuasive ruling in this regard was made by the New Zealand High Court in *Yardley*,¹¹² where the court held as follows:

The evidence suggesting that the Omicron variant in particular breaks through any vaccination barrier means that I am not satisfied that there is a real threat to the continuity of these essential services that the [policy] materially addresses. COVID-19 clearly involves a threat to the continuity of ... services. But that threat exists for both vaccinated and unvaccinated staff. I am not satisfied that the [policy] makes a material difference.

Similarly, in *Tshatshu*, the Commissioner asserted that the implementation of MVPs was irrational as the employees "do not live in a cocoon" and would inevitably come into daily contact with other members of society, vaccinated or

¹⁰⁶ *Christian Education* (2000), paragraph 32.

¹⁰⁷ T. Calitz, "Constitutional Rights in South Africa Protect Against Mandatory COVID-19 Vaccination," 21 April 2021. Available at: <https://bit.ly/3SEhCD1>.

¹⁰⁸ See P. Langa, "Transformative Constitutionalism," 17 *Stellenbosch L. Rev.* 351 (2006).

¹⁰⁹ Currie and De Waal, *Bill of Rights Handbook*, 151.

¹¹⁰ Calitz, "Constitutional Rights."

¹¹¹ L. Maragakis and G. D. Kelen, "Breakthrough Infections: Coronavirus after Vaccination," Johns Hopkins Medical Center, <https://bit.ly/4byVVMr>.

¹¹² *Yardley v Minister for Workplace Relations and Safety* [2022] NZHC 291 (25 February 2022), paragraphs 104-108.

not; therefore, mandated employees were still at risk of contracting COVID-19 and infecting others.¹¹³ In other words, while protecting public health interests is undoubtedly important, the restrictive means of workplace MVPs did not effectively advance this purpose, at least not in proportion to the inequitable limitation of rights.¹¹⁴ Alleviating the overwhelmed healthcare system through vaccination necessitated large-scale enforcement,¹¹⁵ an objective that would not have been attained through the scattered implementation of public university MVPs.

Realistically, this situation contradicts public universities' assertion that their MVPs were in the interest of the broader society. Arguably, the only conceivable remaining purpose of workplace MVPs was to promote personal health, an argument that is self-defeating.¹¹⁶ Consequently, the "public health imperative for vaccination" appears incongruous, given that the national state of disaster was lifted on 5 April 2022, still significantly short of the threshold for 'herd immunity' in South Africa.¹¹⁷

In summary, the limitation of rights must always be assessed in relation to their legitimate purpose. It is concerning that contrary to limitation jurisprudence, some MVPs not only required proof of the mandate's limitation on known or accepted religious beliefs but also "reasons" for considering it an unjustifiable limitation of that right. In other words, these policies were formulated based on the legal and moral presumption that an "applicant's rights are justifiably limited by mandatory vaccination," placing an undue evidential burden on the applicant to prove otherwise. Effectively, this approach lacked appreciation for the importance of individual religious freedom, as well as a disregard for pluralism. The limitation of fundamental rights in the public interest – of which religious interests form a part – should never be treated as a foregone conclusion.

5. Conclusion

In the context of the COVID-19 pandemic, a wide range of public responses and opinions emerged. The overwhelming socio-political narrative, especially from

113 Cliffe Dekker Hofmeyr, Employment Law Alert, "Vaccination: Not Necessarily an Operational Requirement?" 1 July 2022. Available at: <https://bit.ly/47YFRjV>.

114 Effective, less restrictive measures that didn't severely infringe on human rights included frequent hand sanitation, remote work, and wearing personal protective equipment.

115 By July 2020, signs of the healthcare system's collapse, in both the public and private sectors, were already evident. BusinessTech, "Signs That South Africa's Health Care System Is Collapsing: Union Official," 10 July 2020. Available at: <https://bit.ly/3SFVPel>.

116 Russo asks, "Why does this freedom of choice over what one does with one's body not work both ways, such as when dealing with vaccine mandates grounded in religious objections?" C. J. Russo, "My Body, My Choice," Vaccination Mandates, and Religious Freedom," *Catholic World Report*, 20 May 2023.

117 Only 46% of the required 67% required for 'population immunity' was achieved by 10 April 2022. In this regard, see B. Steenberg, "Vaccine Hesitancy in South Africa: COVID experience Highlights Conspiracies, Mistrust and the Role of the Media," *The Conversation*, 26 January 2023. Available at: <https://bit.ly/3w6lPqg>.

secular polity, expressed fervent support for the scientific bureaucracy, which favoured vaccination. In hindsight, it appears that this narrative was flawed.¹¹⁸ A minority expressed scepticism, citing safety concerns and conscientious objections regarding the vaccine and its impact on personal rights. Unfortunately, the characterization of sceptical views as “anti-vaccine ideology” and misinformation failed to duly consider the varied reasons underlying the cynicism and opposition to vaccination.¹¹⁹

Whether artificially engineered or naturally derived, COVID-19 was not the first or the final pandemic humanity will confront. Learning from the missteps taken during this most recent global pandemic is crucial to achieve a more respectful and considerate approach to the limitation of individual rights during a time of human adversity. The actions of secular public universities in South Africa, and especially the preconditions for conscientious objections, shed light on secular polity’s sometimes limited appreciation of the significance of individual religious freedom.¹²⁰

Fundamentally, the prevailing view was that collective interests take precedence over individual rights. MVPs made restrictive provision for conscientious objections to vaccination, exposing an ostensibly benevolent but apathetic attitude towards individual religious autonomy. Henceforth, to ensure that the indiscriminate restriction of individual religious freedom does not become a mindless exercise of preconceived inevitability in favour of collective interests, the following recommendations and observations should be considered:

- 1) When framed in the context of human rights, the clustering of “religion” with other interrelated freedoms protects a diverse range of profound existential views equally. Although opposing beliefs may appear irrational or scientifically unverifiable,¹²¹ they hold intense personal significance for human dignity. By implication, principled public discourse should reflect this inclusive understanding and should reasonably accommodate sincerely held religious and conscientious objections.
- 2) Despite a degree of constitutional secularity reflected in substantive human rights law, secular society is still grappling with the realisation that in a truly pluralistic liberal democracy, the public sphere must remain

118 R. L. Blaylock, “COVID Update: What Is the Truth?” *Surgical Neurology International* 13(167) (2022). See also Jordan B. Peterson, “COVID-19 Mandates, Silencing the Opposition” (podcast with Dr. Jayanta Bhat-tacharya), available at: <https://www.youtube.com/watch?v=proLKPMZ-qc>; Peterson, “The Origin of Covid 19” (podcast with Matt Ridley), available at: <https://www.youtube.com/watch?v=Feh5jyZCz18>.

119 M. Debus and J. Tosun, “Political Ideology and Vaccination Willingness: Implications for Policy Design,” *Policy Sciences* 54(3) (2021), 477-491.

120 It’s unclear whether this interpretive lens reflects the majority societal view or if the identified shortcomings represent the failings of all secular politics in South Africa.

121 I. T. Benson, *An Associational Framework for the Reconciliation of Competing Rights Claims Involving the Freedom of Religion*, PhD thesis, University of the Witwatersrand (2013), 108.

inclusive of both secular (non-religious) and religious beliefs. Relegating unpopular or intrusive religious views and practices to the private sphere renders freedom of (religious) thought, opinion, and expression obsolete, affording hierarchical and exclusive recognition to secular (non-religious) beliefs, which is neither pluralistic nor fair.¹²²

- 3) Similar to the judicial non-entanglement doctrine, policies and decision-makers should require disclosure of a person's belief only when necessary and reasonable. As a matter of principle, believers should not be unduly burdened to prove (i) the sincerity of their beliefs, (ii) the centrality of practices related to such a belief, or (iii) a concrete correlation between their subjective beliefs and accepted tenets of a particular belief.
- 4) Whenever feasible, policies and decision-makers should avoid forcing a believer into the excruciating choice between being true to his or her profound convictions or respectful of the law, policy, or other conflicting interest.
- 5) Grounded in constitutional primacy, no law, policy, or official act enjoys inherent legitimacy, and they remain subject to challenges regarding reasonableness and fairness. This becomes more intricate when the limitation of rights is justified institutionally rather than through law of general application. Government has the prerogative to enact necessary measures that limit rights to protect public interests, which should not be delegated. Allowing different secular polities to determine the reasonableness and justifiability of the limitation of rights is not only discriminatory, but also obscures the inevitable conflict of interest.
- 6) In principled discourse, the secular public sphere should inclusively embrace all beliefs and opinions,¹²³ fostering a mutually respectful coexistence between scientific theories and both secular (non-religious) and sectarian perspectives,¹²⁴ even if those views are opposing, irrational, or incapable of scientific proof.¹²⁵
- 7) Constitutional protection for individual religious self-determination allows for a margin of aberration from accepted doctrinal positions. The obligation is not to endorse every conceivable religious position, but to examine, on a case-by-case basis, the significance of the conscientious objection to the claimant.

¹²² I. T. Benson, "Taking Pluralism and Liberalism Seriously: The Need to Re-Understand Faith, Beliefs, Religion, and Diversity in the Public Sphere," *JSR* 23(1/2) (2010), 21.

¹²³ J. Vorster, *Gender Trouble in the Church: Promoting Associational Autonomy Through Ontological Difference*, Master of Laws dissertation, University of the Free State (2023), 21.

¹²⁴ *Fourie* (2005), paragraph 94.

¹²⁵ *Prince* (2002), paragraph 42.

Despite doctrinal and pragmatic differences, religious freedom remains a precious asset in both private and public life for individuals and communities in all spheres of society, whether secular or sectarian. Therefore, for South Africa to embody true pluralism and equality, every person should be free to embrace and profess that belief which – guided by the light of knowledge, reason, morality, will, and conscience – they consider true, and in line therewith assume a measure of religious autonomy that informs normative values. Simultaneously, every person is responsible for respecting the inherent human dignity, equality, and freedom of others to enjoy this same right.¹²⁶

¹²⁶ Paraphrasing Pius IX, *The Syllabus of Errors* (1864), paragraph 15. See also Rudevskis, “Why Freedom of Religion Matters,” 18-23.

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The Old Baltic Faith Romuva movement and state recognition

Rasa Pranskevičiūtė-Amoson¹

Abstract

This article describes the efforts by the Old Baltic Faith Romuva movement to gain official state recognition from the government of Lithuania. By analysing the existing legal basis for such recognition and the national parliament's reluctance to grant this status to the Romuva, it highlights the dynamics of the relationship between the state and religious minorities in Lithuania. The case study describes the difficulties faced by (non-Christian) religious minorities seeking recognition and reveals various problematic issues in the process: discrepancies in the basis for a such recognition; political decision making based not on legal but on cultural and worldview aspects of the issue; and the Roman Catholic Church's ability to influence the process.

Keywords

Contemporary paganism, religion and state, religious minorities, state recognition, Lithuania.

1. Introduction

On 19 September 2023, the Seimas (Lithuania's *parliament*) declined to approve a draft resolution on granting state recognition to the Old Baltic Faith religious community known as the Romuva.² The Seimas later refused to take up an alternative draft resolution, which would have confirmed officially that it was not

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2 Lietuvos Respublikos Seimo 2023 m. rugsėjo 19 d. rytinio plenarinio posėdžio nr. 302 protokololas nr. SPP-302 [The protocol no. SPP-302 of the morning plenary meeting of the Parliament of the Republic of Lithuania on 19 September 2023, no. 302]. Available at: <http://tinyurl.com/53xf65p7>.

granting recognition to the Romuva.³ This was not the first attempt by this religious association to gain recognized status.

The Romuva gained the status of a “non-traditional” religion in 1995, after the Law on Religious Communities and Associations⁴ was passed in Lithuania in the same year. According to Lithuanian law, when a religion has been registered for 25 years, it can receive state recognition, as well as financial support from the state, provided that it has good standing in the society. The Romuva’s pursuit of legal recognition started in 2017. It has been a long and disputed process that is still not complete. The case of the Romuva reveals the difficulties of religious minorities seeking state recognition in Lithuania, as well as the process of change in the relationship between the state and non-traditional religions.

2. The Romuva movement

The Romuva movement is one of the main contemporary pagan denominations in Lithuania. Based on local ethnicity and folklore, the Old Baltic Faith⁵ Romuva⁶ movement envisions the reconstruction of a pre-Christian religion. There have been various studies on the Romuva’s religious worldview and practices (Ramanauskaitė 2002, 2002a; Strmiska 2005, 2013; Delis 2006, Pranskevičiūtė 2014; Aleknaitė 2018; Ališauskienė 2023). More recently, academic interest in the Romuva’s pursuit of state recognition has increased. E. Kūris and D. Pūraitė-Andrikienė (2024) wrote on legal issues of the Romuva case in relation to the decision by the *European Court of Human Rights*. The authors discussed improvements of the model of individual constitutional appeal as one way to address this legal situation and other similar cases in the future. Further publications are expected from M. Ališauskienė, E. Aleknaitė and R. Pranskevičiūtė-Amoson.

3 Lietuvos Respublikos Seimo nutarimo „Dėl atsakymo suteikti valstybės pripažinimą Senovės baltų religinei bendrijai „Romuva““ projektas nr. XIVP-3071 (2023) [Draft resolution of the Parliament of the Republic of Lithuania, No. XIVP-3071 (2023) “Regarding the refusal to grant state recognition for the Old Baltic religious community Romuva”]. Available at: <http://tinyurl.com/bdzdvg9m>; Lietuvos Respublikos Seimo 2023 m. rugsėjo 19 d. vakarinio posėdžio nr. 303 stenograma [Transcript of the Parliament of the Republic of Lithuania, evening meeting on 19 September 2023, No. 303]. Available at: <http://tinyurl.com/4zyfnw36>.

4 Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymas [The Law on Religious Communities and Associations of the Republic of Lithuania]. Available at: <http://tinyurl.com/mc9edh7b>.

5 The term *Old* (i.e. native) *Baltic Faith* is often used to describe Lithuanian, Latvian and Belarusian pre-Christian religion.

6 In the movement, the name Romuva generally refers to the main Old Baltic sanctuary Romovė or Rikojotas, situated in Prussia, which was active in the 6th century. Therefore, the contemporary use of “Romuva” is described by the movement’s adherents as a “sacred place, sanctuary,” or “light and peace” (Trinkūnas 2000:8). The word Romuva does not refer to native Lithuanian religion in general but only to this particular group, one of the biggest pagan organizations.

The Romuva religious community was first registered with the Lithuanian Ministry of Justice on 20 May 1992. Romuva leader Jonas Trinkūnas was ordained as the *krivis* – the supreme priest of the Old Baltic Faith community – in Vilnius in 2002. In this way, the tradition of the institution of the *krivis* (the supreme priest of Lithuania) was restored. After Trinkūnas passed away, his wife, Inija Trinkūnienė, was elected as the *krivė* (the feminine form of *krivis*) on 23 November 2014.

Today, according to leaders of the community, the Romuva consist of around 30 officially registered or informally existing community centres (also called Romuvas) situated in various towns and peripheries in Lithuania and other countries, including Great Britain, Norway and the USA. Communities are represented by the elders – *vaidilas* who belong to the *Vaidilas Circle*. Members of the movement claim that *vaidilas* are experts in old beliefs and rites. They lead rituals and perform family rites at wedding, name-giving and funeral ceremonies. Individual Romuva communities focus on celebrations of calendar dates (related to the cycle of astronomical solstices and equinoxes), family events and national holidays. There are also other pagan groups that do not belong to the Romuva (Pranskevičiūtė 2013).

According to data from the 2001 Lithuanian population census, 1,270 of the nation's 3,483,972 citizens (0.04 percent of the population) classified themselves as believers of the old Lithuanian religion. The 2011 census showed significant growth in this figure, indicating that 5,118 of 3,043,629 citizens (0.17 percent of the population) identified with the old Lithuanian religion.⁷ In 2021, 3,917 of 2,810,761 citizens (again 0.17 percent of the population) identified as such.⁸ During this period, the Romuva became the largest religious minority of non-Christian origin in Lithuania and one of the largest ethnic religions in Europe.

3. Law and religion in Lithuania

The 1992 Constitution of the Republic of Lithuania (Lietuvos Respublikos Konstitucija) stipulates the equality of all people before the law. Freedom of religious belief and practice, together with freedom of thought and conscience, is embed-

7 7 lentelė. Gyventojai pagal religinę bendruomenę, kuriai save priskyrė, 2001 ir 2011 metais. Gyventojai pagal tautybę, gimtąją kalbą ir tikybę. 2011 m. gyventojų ir būstų surašymas [7 table. Population in 2001 and 2011, according to self-assigned religious community. In *Population according to nationality, native language and belief. Population and Housing Census in Lithuania, 2011*]. Available at: <http://tinyurl.com/znaphzf8>.

8 When interpreting the data in the 2021 census, one must keep in mind that the data-gathering methodology changed with that census. The change raises new challenges for the use of recent statistical data in scientific research.

ded in Article 26.⁹ Article 29 forbids the granting of privileges or discrimination on grounds of religion.¹⁰

According to the Constitution, there is no state religion in Lithuania; the state and the church are separate. The state does not use its power to determine the nature of its relationship with religious groups.

However, Article 43 mentions a differentiation of religious communities based on the criterion of traditionality.¹¹ Communities are differentiated into state-recognized ones and other churches or religious organisations:

The State shall recognise the churches and religious organisations that are traditional in Lithuania; other churches and religious organisations shall be recognised provided that they have support in society, and their teaching and practices are not in conflict with the law and public morals.

Despite some statements (Plumpa 2001:36-37) that the provision of the Constitution regarding recognition of traditional churches and religious organizations does not give them state status and therefore does not contradict the Universal Declaration of Human Rights (1948), the differentiation itself implies and strengthens a variation in the status of religious communities in Lithuanian society.

The Law on Religious Communities and Associations of the Republic of Lithuania¹² deepened the initial differentiation among religious communities indicated

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- 9 „Minties, tikėjimo ir sąžinės laisvė yra nevaržoma./Kiekvienas žmogus turi teisę laisvai pasirinkti bet kurią religiją arba tikėjimą ir vienas ar su kitais, privačiai ar viešai ją išpažinti, atlikinėti religines apeigas, praktikuoti tikėjimą ir mokyti jo./Niekas negali kito asmens versti nei būti verčiamas pasirinkti ar išpažinti kurią nors religiją arba tikėjimą./Žmogaus laisvė išpažinti ir skleisti religiją arba tikėjimą negali būti apribota kitaip, kaip tik įstatymu ir tik tada, kai būtina garantuoti visuomenės saugumą, viešąją tvarką, žmonių sveikatą ir dorovę, taip pat kitas asmens pagrindines teises ir laisves./Tėvai ir globėjai nevaržomi rūpinasi vaikų ir globotinių religiniu ir doroviniu auklėjimu pagal savo įsitikinimus“ (Lietuvos Respublikos Konstitucija 1992, 26 straipsnis). [“Freedom of thought, conscience, and religion shall not be restricted. Everyone shall have the right to freely choose any religion or belief and, either alone or with others, in private or in public, to profess his religion, to perform religious ceremonies, as well as to practise and teach his belief. No one may compel another person or be compelled to choose or profess any religion or belief. The freedom to profess and spread religion or belief may not be limited otherwise than by law and only when this is necessary to guarantee the security of society, public order, the health or morals of people, or other basic rights or freedoms of the person. Parents and guardians shall, without restrictions, take care of the religious and moral education of their children and wards according to their own convictions” (Article 26, 1992 Lithuanian Constitution)].
- 10 „Įstatymui, teismui ir kitoms valstybės institucijoms ar pareigūnams visi asmenys lygūs. Žmogaus teisių negalima varžyti ir teikti jam privilegijų dėl jo lyties, rasės, tautybės, kalbos, kilmės, socialinės padėties, tikėjimo, įsitikinimų ar pažiūrų pagrindu“ (Lietuvos Respublikos Konstitucija 1992, 29 straipsnis). [“All persons shall be equal before the law, courts, and other state institutions and officials. Human rights may not be restricted; no one may be granted any privileges on the grounds of gender, race, nationality, language, origin, social status, belief, convictions, or views” (Article 29, 1992 Lithuanian Constitution)].
- 11 The initial criterion of traditionality in the Constitution was developed further in the Law on Religious Communities and Associations, relating to historical, spiritual and social heritage (Ališauskienė 2023:103).
- 12 Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymas, 1995 spalio 4 d. Nr. 89-1985 [Law on Religious Communities and Associations of the Republic of Lithuania, 4 October 1995, No. 89-1985]. Available at: <http://tinyurl.com/mcgedh7b>.

by Article 43, as well as describing a model for cooperation between state and religious organizations. It divides religions into three groups: “traditional” religious groups supported by the state, “recognized” religious groups, and other religious groups, which must register with the government to gain legal status. The first group consists of nine traditional religious communities and associations which constitute a part of Lithuania’s historical, spiritual and social heritage and receive special benefits. These groups are the Roman Catholics, Greek Catholics, Evangelical Lutherans, Evangelical Reformed, Russian Orthodox, Old Believers, Jews, Sunni Muslims and Karaites (Article 5 of the Law). The second group receives state recognition as religious organizations, provided that they do not contradict the Constitution or the law. The requirements for religious associations seeking state recognition are provided in Article 6 of the Law (Article 6). Currently, four “recognized” religious communities and associations receive more limited benefits: the Evangelical Baptist Union of Lithuania, the Seventh-day Adventist Church, the Pentecostal Evangelical Belief Christian Union, and the New Apostolic Church of Lithuania. The third group (other religious communities and associations) must follow the requirements provided in the Law (Article 11) in order to register with the government and gain legal status.

The differentiation of religious communities and the criteria for different treatment contained in the Law on Religious Communities and Associations have been criticized extensively (Vaišvilaitė 2001:127-129; Ališauskienė and Glodenis 2013:23-24; Ališauskienė 2023:101-107). These criteria appear to be historical, but not legal. For example, not all religious communities which existed during the interwar period and had the status of recognition as state religions received the same status under the new law (Vaišvilaitė 2001:128; Ališauskienė 2023:105). It may be that the creators of the law were referring to a specific image of historical Lithuania (most probably, the Grand Duchy of Lithuania) (Aliulis 1993; Vaišvilaitė 2001:127-129).

The differentiation of religious communities has had significant consequences. For instance, some religious communities, instead of seeking to establish a clear relationship with the state, have been forced to prove their cultural and historical value (Vaišvilaitė 2001:128). Moreover, from a legal perspective, the state’s approach to traditional religious communities granted *de facto* recognition is not clear (Vaišvilaitė 2001:128). It has been suggested that the path from registration to state recognition should be the normal means by which a religious community develops a relationship with the state (Vaišvilaitė 2001:129).

4. The Lithuanian religious landscape

According to 2021 census data, religious diversity has been increasing in Lithuania. However, in terms of the population distribution based on affiliation with

a religious community, no substantial changes have occurred. Seventy-four percent of Lithuanians indicated affiliation with the Roman Catholic community in 2021, representing only a modest change from the 77 percent who identified themselves as Catholics in 2011. Four percent indicated that they were Orthodox, and other religious communities claimed no more than 1 percent of the population, 6 percent (down from 9.5 percent in 2001 and 6.1 percent in 2011) said they did not belong to any religious group, and 14 percent (up from 5.4 percent in 2001 and 10 percent in 2011) did not indicate their religion. New religious communities represented among the Lithuanian population were Deists, Gaudiya Vaishnavism, Witches, Rastafarians and Theosophists.¹³

In 2021 (as well as in 2011), the largest religious denominations in Lithuania were Roman Catholics, Orthodox, Old Believers, Evangelical Lutherans and Evangelical Reformed.¹⁴ Reports have been usually focused on the largest religious groups without much attention put to minority religions, or to people who do not identify with any religious group. This situation is also noticeable in studies of nontraditional, minority religions. For example, ethnographic research dedicated to the analysis of religious diversity in Lithuania was accomplished in urban and rural territories, through observation within religious minority communities, and through analysis of contemporary narratives (Ališauskienė and Schröder 2011). According to this research, Catholicism has become the foundation for virtually all discussion about religion and morality in Lithuania, and therefore discussion about religious diversity and secularism occurs only within this discourse.

5. Granting state recognition

5.1. *The procedure and previous experiences of religious communities*

Non-traditional religious associations, when they have been registered for 25 years, may ask to be recognized by the state, as well as to receive financial support from the state, provided that they meet the requirements stipulated by the Law on Religious Communities and Associations (Article 6, paragraph 1). The requirements include being a part of Lithuania's historical, spiritual, and social heritage, having customs and creeds that do not contradict law and morals, and

13 Oficialios statistikos portalas. 2021-12-21. 2021 m. gyventojų ir būstų surašymo pagrindiniai rezultatai [main results of 2021 Lithuanian Census of Population and Housing]. Available at: <http://tinyurl.com/37yes2ef>.

14 Data for the years 2001 and 2011 have been accessed at 7 lentelė. Gyventojai pagal religinę bendruomenę, kuriai save priskyrė, 2001 ir 2011 metais. Gyventojai pagal tautybę, gimtąją kalbą ir tikybą. 2011 m. gyventojų ir būstų surašymas [7 table. Population in 2001 and 2011, according to self-assigned religious community. In *Population according to nationality, native language and belief. Population and Housing Census in Lithuania, 2011*]. Available at: <http://tinyurl.com/2naphzf8>. Data for the year 2021 have been accessed from "Religinės bendruomenės" [religious communities]. Oficialios statistikos portalas. Gyventojų ir būstų surašymai [Census on Population and Housing]. Available at: <http://tinyurl.com/5n8nusun>.

having support in the society. The Ministry of Justice assesses whether an association meets those requirements and delivers its conclusion to the Seimas. The Seimas then decides whether to grant state recognition by adopting a resolution after reviewing the Ministry of Justice's conclusion on the matter (Law on Religious Communities and Associations, Article 6, paragraphs 2 and 3).

Previously, the Seimas granted state recognition to several religious communities, including the Evangelical Baptist Union of Lithuania in July 2001,¹⁵ the Seventh-day Adventist Church in July 2008,¹⁶ the Union of Pentecostal Churches of Lithuania in November 2016,¹⁷ and the New Apostolic Church of Lithuania in March 2017.¹⁸ The resolutions on the Evangelical Baptist Union of Lithuania and the Union of Pentecostal Churches of Lithuania were adopted with little or no debate among members of the Seimas.¹⁹ In the other two cases, before the adoption of resolutions, some discussions occurred, with an emphasis on their good relationship with the Catholic Church. Statements that the religious associations had received positive views from the Catholic hierarchy were presented as a reason for granting approval, even though the applicants met all the official requirements.²⁰

15 Lietuvos Respublikos Seimo 2001 m. liepos 12 d. nutarimas Nr. IX-464 „Dėl valstybės pripažinimo suteikimo Lietuvos evangelikų baptistų bendruomenių sąjungai“ [Resolution of the Parliament of the Republic of Lithuania No. IX-464, 12 July 2001, “On Granting State recognition to the Evangelical Baptist Union of Lithuania”]. Available at: <http://tinyurl.com/5d7he92b>.

16 Lietuvos Respublikos Seimo 2008 m. liepos 15 d. nutarimas Nr. X-1721 „Dėl valstybės pripažinimo suteikimo Septintosios dienos adventistų bažnyčiai“ [Resolution of the Parliament of the Republic of Lithuania No. X-1721, 15 July 2008, “On Granting State recognition to the Seventh-day Adventist Church”]. Available at: <http://tinyurl.com/444dn5ea>.

17 Lietuvos Respublikos Seimo 2016 m. lapkričio 3 d. nutarimas Nr. XII-2730 „Dėl valstybės pripažinimo suteikimo Lietuvos Respublikos evangelinio tikėjimo krikščionių sąjungai“ [Resolution of the Parliament of the Republic of Lithuania No. XII-2730, 3 November 2016, “On Granting State recognition to the Union of Pentecostal Churches of Lithuania”]. Available at: <http://tinyurl.com/yp5es7jz>.

18 Lietuvos Respublikos Seimo 2017 m. kovo 30 d. nutarimas Nr. XIII-269 „Dėl valstybės pripažinimo suteikimo Lietuvos naujai apatašų bažnyčiai“ [Resolution of the Parliament of the Republic of Lithuania No. XIII-269, 30 March 2017, “On Granting State recognition to the New Apostolic Church of Lithuania”]. Available at: <http://tinyurl.com/mr3rb9xc>.

19 Lietuvos Respublikos Seimas. Trisdešimt penktasis (86) posėdis. 2001 m. gegužės 17 d. Seimo nutarimo „Dėl Valstybės pripažinimo suteikimo Lietuvos evangelikų baptistų bendruomenių sąjungai“ projektas Nr. IXP-390 (*pateikimas*) [Parliament of the Republic of Lithuania. Thirty-fifth (86) session. Draft resolution of the Parliament, 17 May 2001, No. IXP-390, “On granting state recognition to the Union of Evangelical Baptist Communities of Lithuania” (*submission*)]. Available at: <http://tinyurl.com/yc5573x6>; Lietuvos Respublikos Seimas. IX (rudens) sesijos rytinio posėdžio Nr. 389 stenograma. 2016 m. lapkričio 3 d. Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Lietuvos Respublikos evangelinio tikėjimo krikščionių sąjungai“ projektas Nr. XII-2035(2) (*priėmimas*). [Parliament of the Republic of Lithuania. Transcript of the morning meeting of the ninth (autumn) session, No. 389. Resolution of the Parliament of the Republic of Lithuania No. XII-2035(2), 3 November 2016, “On granting state recognition to the Union of Pentecostal Churches of Lithuania” (*adoption*)]. Available at: <http://tinyurl.com/36ayauct>.

20 Lietuvos Respublikos Seimas. Šešiasdešimt penktasis (449) posėdis. 2008 m. liepos 15 d. Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Septintosios dienos adventistų bažnyčiai“ projektas Nr. XP-1461(2) (*pateikimas*) [Parliament of the Republic of Lithuania. Sixty-fifth (449) meeting. Resolution of the Parliament of the Republic of Lithuania No. XP-1461(2), 15 July 2008, “On granting state recognition to the Seventh-Day Adventist Church” (*submission*)]. Available at: <http://tinyurl.com/38c7m8v8>; Lietuvos Respublikos Seimas. II (pavasario) sesijos rytinio posėdžio Nr. 41. stenograma. 2017 m. kovo 30 d. Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Lietuvos naujai apatašų bažnyčiai“ projektas Nr. XII-2412(2) (*priėmimas*) [Parliament of the Republic of Lithuania. Transcript of the morning meeting of the

There have been two cases in which the Seimas did not grant state recognition to a religious association despite the conclusion of the Ministry of Justice that the associations met the requirements. The first case involved the United Methodist Church of Lithuania. The Ministry of Justice submitted a favourable recommendation to the Seimas in 2001. On 16 January 2002, the Committee for Human Rights of the Seimas approved the request of the Lithuanian United Methodist Church for state recognition (Delfi 2002a). After the submission, the Seimas approved and began considering the draft resolution on 23 May 2002 (Delfi 2002b). However, the process did not continue beyond that point, and the decision has been pending for more than 20 years. There have been some reflections on this situation and what could be done to change it. For example, in 2019, the Ministry of Justice mentioned that the United Methodist Church could have advocated for its application in the Seimas, but the group had not done so. Commenting on the situation, Methodist minister Remigijus Matulaitis said a rejection would devastate the morale of the Methodist community, and thus the group decided to wait until after parliamentary elections in 2020 to consider advocating for the proposal in parliament (U.S. Embassy in Lithuania 2020:9-10). As much time has passed since the initial application, probably a new application will have to be initiated if the United Methodist Church again wishes to pursue state recognition.

The second case belongs to the Romuva, which has been seeking recognition since 2017. The Seimas did not agree to grant recognized status but has not given any legal explanation to the applicants. Making no decision regarding the Romuva has left the religious association in a state of legal uncertainty, as will be further discussed below.

There have been no cases yet in which a religious association lodged a national appeal against a decision or non-decision of the Seimas. According to the Law on Religious Communities and Associations, there has been no legal obligation to grant recognition to a religious association; the authorities have been free to make their decision. Generally, until May 2023, when Article 6 of the Law on Religious Communities and Associations was amended²¹ to clarify the procedure of seeking state recognition, it was possible for the Seimas not to reach any conclusion even if a religious association appeared to meet the formal requirements.

Moreover, the legality of a decision or non-decision by the Seimas is not controlled by any other legal body; the Seimas is supposed to control itself. According

second (spring) session, No. 41. Resolution of the Parliament of the Republic of Lithuania No. XIP-2412(2), 30 March 2017, "On granting state recognition to the New Apostolic Church of Lithuania" (*adoption*). Available at: <http://tinyurl.com/2k6fraun>.

21 Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymo Nr. I-1057 6 straipsnio pakeitimo įstatymas. 2023 m. kovo 23 d. Nr. XIV-1829 [The law, 23 March 2023, No. XIV-1829, on the amendment to Article 6 of the Law on Religious Communities and Associations of the Republic of Lithuania, No. I-1057]. Available at: <http://tinyurl.com/2aaepypz>.

to the law, there is an obligation for the Seimas to decide on such issues within three months. If there is no decision, a new proposal may be submitted by a member or a group in the parliament for consideration of the Seimas. In this case, the Seimas should continue efforts towards granting state recognition.

There has been a third case with a different outcome as well. In 2017, the Jehovah's Witnesses requested the Seimas to grant state recognition. On 21 November 2022, the Ministry of Justice issued a recommendation that the Seimas reject this application. The Ministry of Justice concluded that, although the Jehovah's Witnesses association had sufficient support in society, its teachings against military service fell short of the country's constitutional standard of public morals. Furthermore, the Ministry of Justice found that the association's teaching on blood transfusion was in conflict with both Lithuanian law and public morals. The Jehovah's Witnesses appealed to the administrative court to annul the Ministry of Justice's negative recommendation to the Seimas on 21 December. They asked the court to annul the Ministry of Justice's recommendation because, they stated, they were not given a chance to participate or comment during its preparation (U.S. Embassy in Lithuania 2023). However, in March 2023, the administrative court rejected the appeal, stating that the contested conclusion of the Ministry of Justice in itself does not affect the legal status of the applicant, since its legal status is affected only by the decisions made by the Seimas regarding the recognition of the religious community. The court stated that the community is not precluded from presenting its explanations to the Seimas, which will make the final decision on the applicant (BNS 2023).

5.2. *The case of the Romuva*

The Romuva was registered as a religion with the government in 1992 and gained recognition as a "non-traditional" religion in 1995. Since 2017, the community has been seeking to obtain the status of a state-recognized religion. As mentioned before, Lithuanian law requires 25 years of existence before a religion can receive recognition by the state, accompanied by eligibility for financial support.

The conclusions reached by the state institutions were positive towards the Romuva. The Ministry of Justice concluded that the Romuva met the criteria for state recognition: they had been functioning in Lithuania for more than 25 years, their teachings did not violate the law or public morals, and they had sufficient public support.²² The Ministry's conclusion was delivered to the Seimas for review and action. In April 2018, a group of Seimas members presented a draft

22 Lietuvos Respublikos Teisingumo Ministerija. 2017-12-29 Nr. (8.3.44 E) 7R-9547. Dėl išvados valstybės pripažintos religinės bendrijos statuso suteikimo senovės baltų religinei bendrijai „Romuva“ klausimu pateikimo. [Ministry of Justice of Lithuania, 29 December 2017, No. (8.3.44 E) 7R-9547. "Regarding the submission of the conclusion on the issue of granting the status of a state-recognized religious community to the Old Baltic Romuva religious community"]. Available at: <http://tinyurl.com/msw24t2s>.

resolution proposing that the Romuva be granted the status of a state-recognized religious association. The draft was examined and supported by the Law Department of the Seimas Registry, by the Seimas Committees of Culture, of Human Rights, and of National Security and Defence, and by the national government (*European Court of Human Rights* 2021:4-5).

The subsequent process revealed ambiguity in the legal application by the state institutions (e.g. positive conclusions by the Ministry of Justice at the same time as decisions by court institutions in Lithuania and Europe regarding the Romuva were disregarded by the members of the Seimas), along with an imbalance of power between politicians and non-Christian religious minorities. The Romuva fulfilled all legal requirements to receive state recognition, but the vote by the Seimas was based largely on cultural and worldview factors, not legal aspects. The Roman Catholic Church played an active role in seeking to influence the decision-making process towards denial. Meanwhile, contemporary scientific research on religious minorities and the perspectives of religious studies scholars were not considered. Overall, the process of granting state recognition was marked by elements of legal incompetence and by pro-Christian political claims in the Seimas.

Several debates were held in the Seimas before the decision was made. In one of these debates, on 25 June 2019, several members of the Seimas spoke in support of the draft proposal and mentioned that various institutions had found that the Romuva met the criteria for state recognition. Some emphasized the connection between the beliefs professed by the Romuva and the history and traditions of Lithuania. Some referred to the importance of freedom of religion and pluralism of beliefs in a democratic society. Of those members of the Seimas who spoke against the draft, several raised doubts as to whether the Romuva had been operating long enough and whether they had sufficient public support. An argument was made that it was too early to grant state recognition, but that the question could be discussed again in the future, after more time had passed. It was also pointed out that the Romuva could already function as a religious association and hold religious services, and that the question of state recognition did not concern matters of freedom of religion but only the granting of additional privileges (*European Court of Human Rights* 2021:2-3).

The Roman Catholic Church sought to influence the parliament's decision, as well as urging the Ministry of Justice to reconsider its conclusions regarding the Romuva (Tubys 2019). A letter from the Lithuanian Bishops' Conference (on behalf of the Roman Catholic Church in Lithuania) opposed granting state recognition. This letter was sent on 26 June 2019 to one of the Seimas members, who later shared it with more than 80 fellow members. "The letter, which was subsequent-

ly made public, asserted that state recognition of Romuva as a religion would unduly mislead Lithuanian citizens and discriminate against all other religious communities” (U.S. Embassy in Lithuania 2020:9-10).

On 27 June 2019, the Seimas decided not to grant the Romuva the status of a state-recognized religion. Recognition as a “traditional religion” was rejected by the authorities, who contended that uninterrupted continuity with the pre-Christian Lithuanian religion could not be proved. When talking to the media, some members of the parliament said the Romuva did not present a counterargument to the claims raised in the letter from the Lithuanian Bishops’ Conference, and others said they viewed the Romuva as a cultural organization rather than a religious institution (U.S. Embassy in Lithuania 2020:9-10). Nevertheless, the authorities did not provide a reasonable and objective justification for treating the Romuva differently from other religious associations that had been in a similar situation, and the members of the Seimas who voted against the granting of state recognition did not remain neutral and impartial in exercising their regulatory powers. Moreover, the Seimas did not agree to grant the status of state religion but did not make any decision regarding the Romuva, leaving the religious association in the stage of legal uncertainty. The day after the Seimas vote, the Ministry of Justice received a letter from the Lithuanian Bishops’ Conference, expressing counterarguments against the Ministry’s position on the Romuva (Tubys 2019). The rejection of the Romuva’s request caused other religious organizations to hesitate before advocating for their applications (U.S. Embassy in Lithuania 2020:9-10).

Subsequently, the Romuva took their case to the European Court of Human Rights. In *Romuva v. Lithuania*, the court ruled in favour of the Old Baltic Faith community and said that the Seimas had violated Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms; Freedom of Thought, Conscience and Religion (*European Court of Human Rights* 2021).

Meanwhile, a group of members of the parliament contacted the Lithuanian Constitutional Court, questioning whether the provision of the law under which religious associations may apply for state recognition following a period of 25 years from the date of their initial registration was in conflict with the Constitution. After examining the matter, the Constitutional Court decided that there was no such conflict (Constitutional Court of the Republic of Lithuania 2021).

The Constitutional Court not only examined this question but also decided regarding the time period, established in the same paragraph of Article 6 of the above-mentioned law, upon the expiry of which other (non-traditional) religious associations may reapply for state recognition in cases where the Seimas has refused to grant state recognition. The Constitutional Court held that the provision stating, “If the request is not satisfied, it may be resubmitted following a period

of 10 years from the day on which the request was not satisfied,” in Article 6, Paragraph 2, was in conflict with the Constitution (Constitutional Court of the Republic of Lithuania 2021). This decision corresponded to a growing call in Lithuania for a change in the law on religious communities. The current period of 25 years of registration before a religious association can seek state recognition has been considered necessary to determine whether the instruction and rites of a particular religious community are contrary to laws and morality, but this determination could be made in a much shorter time period.

The question of state recognition for the Romuva was pushed back to the end of 2021, when the proposal was prepared and registered in the Seimas.²³ On 21 April 2022, a discussion in the context of freedom of thought, conscience, and religion with the title “Legal and Historical Aspects of Granting State Recognition to Religious Communities” was held in the Seimas (Lietuvos Respublikos Seimas 2022:305-313). There were presentations on equal human rights to profess a religion, peculiarities of freedom of religion and belief in Lithuania, manifestations of stigma and intolerance, characteristics of religious communities, and essential differences between organizations operating in the field of religious communities and culture. The results of the European Court of Human Rights and the Constitutional Court of the Republic of Lithuania were presented as well. However, the parliament members did not focus on the issues presented, and they mostly raised questions unrelated to the presentations, such as questioning the authenticity of Romuva practices or their consistency with historical tradition (Lietuvos Respublikos Seimas 2022:311-313).

On 29 September 2022, one more consideration of the Romuva proposal in the Seimas again did not lead to a final vote regarding state recognition of the Romuva (Bieliavska 2022). After no vote occurred on this day, the Romuva announced that they were turning to the Committee of Ministers of the Council of Europe, requesting enhanced supervision of the implementation of the decision by the European Court of Human Rights (Andrukaitytė 2022). Nevertheless, despite the result of the 29 September 2022 deliberations, the resolution was still considered as having a chance in the Seimas, as the members of the parliament had not rejected it but had returned it to the initiators (the Committee for Human Rights) for improvement. The resolution regarding recognition of the Romuva was re-registered in October 2022.²⁴ Subsequently, amendments to Article 6 of

²³ Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Senovės baltų religinei bendrijai „Romuva“ projektas XIVP-893(2) [Draft of the Seimas resolution “On granting state recognition to the Old Baltic religious community Romuva”, XIVP-893(2)]. Available at: <http://tinyurl.com/59v632ys>.

²⁴ Lietuvos Respublikos Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Senovės baltų religinei bendrijai „Romuva“ projektas nr. XIVP-893(3) (2022) [Draft of the Seimas resolution “On granting state recognition to the Old Baltic religious community Romuva”, No. XIVP-893(3) (2022)]. Available at: <http://tinyurl.com/4xh9krxu>.

the Law on Religious Communities and Associations were prepared (approved on 23 March 2023, taking effect at the end of May 2023)²⁵ to clarify the procedure for seeking state recognition. These changes were intended to change the legal situation in which a religious community that seeks state recognition and does not receive a vote on the proposal remains in a legal vacuum, with no decision being made. As the result of adopting these amendments, the Seimas would now be obliged to adopt some resolution regarding the approval or disapproval of the Romuva's request and, in case of a disapproval, to indicate the reasons for that decision. Moreover, if the Romuva disagreed with this decision by the Seimas, they should be able to file an appeal.

However, on 19 September 2023, after newly rejecting (while implementing the decision of the European Court of Human Rights) the draft resolution to grant state recognition to the Romuva,²⁶ the Seimas refused to take up an alternative draft resolution, the adoption of which would have confirmed officially that it was not granting recognition.²⁷ The parliament members also referred this alternative draft resolution for further elaboration. On 15 January 2024, the Romuva appealed for the second time to the European Court of Human Rights, expressing concern about the failure by the Seimas to respond to the previous clarifications of that court about not granting state recognition (BNS 2024).

There are several reasons for the poor treatment the Romuva has received. One reason is the imperfect legal language regarding freedom of religion and belief in Lithuania, both within the laws and in the Constitution. The mechanism of state recognition as a political rather than an administrative process implies some initial difficulties. Despite successful adoption of earlier resolutions, the fact that these questions of human rights and equality before the law are resolved by the Seimas on a case-by-case basis is problematic. Also, the legitimacy of certain acts still cannot be verified in the Constitutional Court of the Republic of Lithuania. This paves the way for the European Court of Human Rights to receive more such petitions like the one submitted by the Romuva (Kūris and

25 Lietuvos Respublikos religinių bendruomenių ir bendrijų įstatymo Nr. I-1057 6 straipsnio pakeitimo įstatymas. 2023 m. kovo 23 d. Nr. XIV-1829 [The law on the amendments to Article 6 of the Law on Religious Communities and Associations of the Republic of Lithuania, 23 March 2023, No. XIV-1829]. Available at: <http://tinyurl.com/2aaepypz>.

26 Lietuvos Respublikos Seimo 2023 m. rugsėjo 19 d. rytinio plenarinio posėdžio nr. 302 protokololas nr. SPP-302 [The protocol no. SPP-302 of the morning plenary meeting of the Parliament of the Republic of Lithuania on 19 September 2023, no. 302]. Available at: <http://tinyurl.com/53xf65p7>.

27 Lietuvos Respublikos Seimo nutarimo „Dėl atsakymo suteikti valstybės pripažinimą Senovės baltų religinei bendrijai „Romuva““ projektas nr. XIVP-3071 (2023) [Draft resolution of the Parliament of the Republic of Lithuania, No. XIVP-3071 (2023) “Regarding the refusal to grant state recognition for the Old Baltic religious community Romuva”]. Available at: <http://tinyurl.com/bdzdvc9m>; Lietuvos Respublikos Seimo 2023 m. rugsėjo 19 d. vakarinio posėdžio nr. 303 stenograma. [Transcript of the Seimas of the Republic of Lithuania, evening meeting on 19 September 2023, No. 303]. Available at: <http://tinyurl.com/42yfhw36>. Parliament of the Republic of Lithuania. Transcript of the morning meeting of the second (spring) session, No. 41.

Pūraitė-Andrikienė 2024:194). One possible solution would be to revise the Constitution, but this option is not considered realistic (Kūris and Pūraitė-Andrikienė 2024:194). However, the Constitutional Court has access to some instruments which could be activated should the Court decide to use them. For example, an improved model for individual constitutional complaints could be applied (see Kūris and Pūraitė-Andrikienė 2024).

The other main reason why the Romuva have not received approval is that they are not a Christian community. They are treated negatively by the Roman Catholic Church in Lithuania, which frequently seeks to influence legislative decision making. For this reason, it is more difficult for the Romuva to achieve state recognition than for other organizations that could claim a good relationship with and support from the Catholic Church. In those instances, as noted above, the fact that these Christian associations had received positive evaluations from the Catholic hierarchy was presented as an argument for granting approval.²⁸

6. Conclusion

The process of considering state recognition of the Romuva community, which began in 2017 and is not yet resolved, reveals not only specific challenges experienced by the community, but also issues to be addressed regarding the relationship between the state and (non-Christian) religious minorities, including obstacles such minorities face when seeking recognition.

The Romuva case has illustrated imperfections in the legal regulation of the freedom of religion and faith in Lithuania. The mechanism of state recognition as a political rather than an administrative process also raises various difficulties. In view of the fact that the parliament will most likely not change the laws or constitutional provisions governing such decisions, another possibility is that the Constitutional Court of the Republic of Lithuania could improve the existing model of filing individual constitutional complaints and apply it to the case of the Romuva and other cases.

28 Lietuvos Respublikos Seimas. Šešiasdešimt penktasis (449) posėdis. 2008 m. liepos 15 d. Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Septintosios dienos adventistų bažnyčiai“ projektas Nr. XP-1461(2) (*pateikimas*) [Parliament of the Republic of Lithuania. Sixty-fifth (449) meeting. Resolution of the Parliament of the Republic of Lithuania No. XP-1461(2), 15 July 2008, “On granting state recognition to the Seventh-Day Adventist Church”]. Available at: <http://tinyurl.com/38c7mv8v>; Lietuvos Respublikos Seimas. II (pavasario) sesijos rytinio posėdžio Nr. 41. stenograma. 2017 m. kovo 30 d. Seimo nutarimo „Dėl valstybės pripažinimo suteikimo Lietuvos naujajai apaštalių bažnyčiai“ projektas Nr. XIP-2412(2) (*priėmimas*) [Parliament of the Republic of Lithuania. Transcript of the morning meeting of the second (spring) session, No. 41. Resolution of the Parliament of the Republic of Lithuania No. XIP-2412(2), 30 March 2017, “On granting state recognition to the New Apostolic Church of Lithuania” (*adoption*)]. Available at: <http://tinyurl.com/2k6fraun>.

It can also be observed that many politicians approached this case from a Catholic perspective, favouring Christian religious communities over others. The situation reflects Catholic hegemony in the country, resulting in the fact that religious minorities are ignored or silenced (with the majority position being justified as the status quo) in Lithuania. In this case, religious minorities do not enter into discourse regarding their legal rights as equal players.

Decisions by the European Court of Human Rights and improvements of the appeal process established by the Constitutional Court of the Republic of Lithuania could strengthen the possibility that the Romuva may eventually gain state recognition. Their success could lead to the reopening of discussions and enhanced possibilities for other religious minorities as well, including the United Methodist Church of Lithuania and Jehovah's Witnesses.

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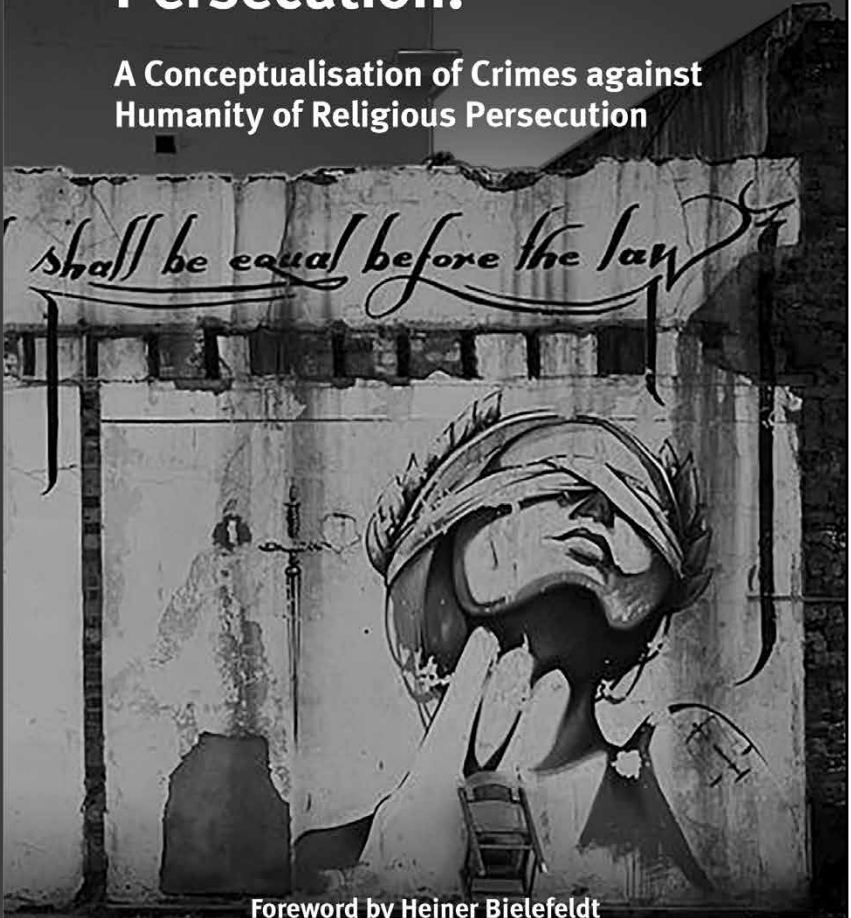
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Werner Nicolaas Nel

Grievous Religious Persecution:

A Conceptualisation of Crimes against
Humanity of Religious Persecution

VKW Religious Freedom Series (IIRF) 5



Foreword by Heiner Bielefeldt

Religious Freedom Series 5, VKW: Bonn, 2021, 496 pp, ISBN 978-3862692040, € 34

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Noteworthy

The noteworthy items are structured in three groups: annual reports and global surveys, regional and country reports, and specific issues. Though we apply serious criteria in the selection of items noted, it is beyond our capacity to scrutinize the accuracy of every statement made. We therefore disclaim responsibility for the contents of the items noted. The compilation was produced by Janet Epp Buckingham.

Annual reports and global surveys

Hatred on the basis of religion or belief

UN Special Rapporteur on Religious Freedom, 8 January 2024

<http://tinyurl.com/3y35xs7b>

The Special Rapporteur calls for greater efforts to counter hate speech, promote freedom of religion or belief, foster interfaith and intercultural dialogue and understanding and protect religious and belief minorities while upholding all human rights.

Freedom of religion or belief, from the grass-roots level

UN Special Rapporteur on Religious Freedom, 19 July 2023

<http://tinyurl.com/bdff4f6>

The Special Rapporteur considers the lived reality of freedom of religion or belief and the range of State authorities that carry the obligation for ensuring its enjoyment, and which can be complemented by the contribution of non-State actors.

World Watch List 2024

World Watch Research, Open Doors International, January 2024

<http://tinyurl.com/59b88a6r>

The WWL 2024 Full Country dossiers provide in-depth information on the situation of Christians in the 78 countries listed. Among the top countries with an extreme degree of persecution are North Korea (96 points), Somalia (93 points), Libya (91 points), Eritrea (89 points), Yemen (89 points), Nigeria (88 points), Pakistan (87 points), Sudan (87 points), Iran (86 points) and Afghanistan (84 points).

Regional and Country Reports

China bans faith for all children

Jubilee Campaign, June 2023 update

<http://tinyurl.com/426wbhs5>

This report comprehensively explains the ways in which the Chinese state has persecuted Christian, Uyghur, Falun Gong, and Tibetan Buddhist children for their family's or their personal religious or spiritual affiliations.

Europe: 2022/23 Annual Report

Observatory on Intolerance and Discrimination Against Christians in Europe, October 2023

<https://tinyurl.com/pk5ztp69>

The OIDAC Europe produces an annual report documenting hate crimes against Christians. The report shows increasing restrictions on Christians' freedom of expression. As well, the conflicts in Ukraine and Armenia have had disproportionate impacts on Christians.

Indonesia: Country update

USCIRE, January 2024

<http://tinyurl.com/mr33c47a>

Blasphemy allegations and convictions continue to be persistent religious freedom violations throughout Indonesia. The new criminal code will further criminalize blasphemy and will expand on other religious freedom violations when implemented in 2026. Additionally, local government initiatives to codify discrimination against minority communities, including religious minorities, continue to gain traction throughout the country.

Iran: Faceless victims: Rights violations against Christians in Iran

Article 18, Open Doors, Middle East Concern, Christian Solidarity Worldwide, 19 February 2024

<http://tinyurl.com/yz9fbdmh>

This 2024 annual report focuses on the many victims whose names and faces remain unknown, due to fear that publication of their cases may worsen their plight.

Libya: Religious freedom conditions in Libya

USCIRE, 19 December 2023

<http://tinyurl.com/2ruush6w>

This factsheet reports on recent religious freedom conditions in Libya, identifying some of the various actors, including successive Tripoli governments and rebel organizations in the east, that have restricted freedom of religion or belief.

Nicaragua: Hostile takeover: Tightening reins on freedom of religion or belief in Nicaragua

Christian Solidarity Worldwide, 13 February 2024

<http://tinyurl.com/2p9ycyp2>

CSW recorded 310 separate FoRB cases during the period covered by this report (November 2022 through January 2024), compared with 156 cases reported in the period covered by its previous report (November 2021 through November 2022). Most cases involved multiple FoRB violations and some affected thousands of people.

Pakistan: Assessing blasphemy law in Pakistan

USCIRF, December 2023

<http://tinyurl.com/za7e8fk5>

Following the mob attack on the Christian community in Jaranwala in August 2023, this report describes the increasing use of Pakistan's blasphemy law during 2023 to target individuals based on their religion or belief, including its disproportionate use against the country's religious minority populations.

Sub-Saharan Africa: VID shows sub-Saharan countries are the epicentre of modern martyrdom

International Institute for Religious Freedom, 29 January 2024

<http://tinyurl.com/bdfa38xa>

In the new Violent Incidents Database, funded by Global Christian Relief and conducted by the International Institute for Religious Freedom, four of the top five countries with the most killings of Christians during the 2022-2023 period are in Africa. Nigeria has by far the greater number, followed by the Democratic Republic of the Congo (second), Mozambique (fourth), and Burkina Faso (fifth).

Tunisia

IPPFoRB and RFI, July 2023

<http://tinyurl.com/yc72ah8a>

Tunisia is one of the less problematic countries in the Middle East and North Africa with regard to treatment of religious communities, and it boasts a long tradition as home to diverse religious communities. However, with the re-emergence of authoritarianism, the decline of democracy and human rights, and the instability created by economic collapse, there is an increased risk of intolerance and persecution of religious communities.

Specific Issues

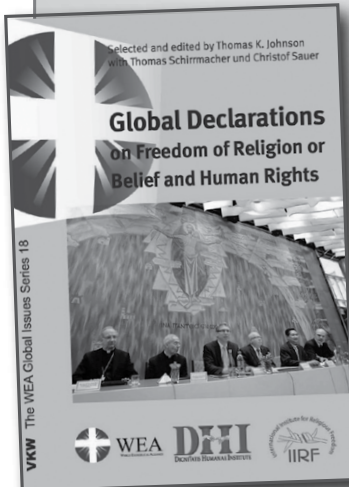
The right to peaceful assembly and freedom of religion or belief (FoRB)

Open Doors, 3 November 2023

<http://tinyurl.com/3y6evzfz>

This policy brief outlines some of the most common violations of the right to peaceful assembly that intersect with the right to FoRB. Four countries are covered as case studies: India, Rwanda, Nicaragua and Algeria.

Global Declarations on Freedom of Religion or Belief and Human Rights



by Thomas K. Johnson,
Thomas Schirmmacher,
Christof Sauer (eds.)

(WEA GIS, Vol. 18)
ISBN 978-3-86269-135-7
Bonn, 2017. 117 pp.,
€12.00 via book trade

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Book Reviews

Religious Freedom in a Secular Age: A Christian Case for Liberty, Equality, and Secular Government

Michael E. Bird

Grand Rapids, MI: Zondervan, 2022. 224 pp., ISBN: 978-0319358882, US \$13.29

The role and place of religion in the public sphere have been under intense scrutiny over the last decade or more. Author Michael F. Bird's home nation of Australia is no exception. This has been a surprise for many, as Australia is a place where religion has been thought of as a "whisper in the mind and a shy hope in the heart."¹ As Maddox has observed "Australians [have] tended to be suspicious of too-overt religiosity, shying away, for example, from American-style civil religion and avoiding anything resembling 'God bless America' political rhetoric."² However, given the ongoing, divisive public debates since Australia's infamous plebiscite on same-sex marriage in 2017,³ it is not surprising to see Australian authors delve into the question of the future of religious freedom in a secular age.

This book has two important features. First, the author draws many of the examples from his own country. This may feel lopsided, given Australia's relative size and international importance, if Bird's nationality is not taken into account. However, relevant case law from the USA is discussed at length in Part II and much of Part III also focuses on the USA. But to understand the book, Australia's unique human rights framework, with no national bill or charter of rights, must also be kept in mind.⁴ International readers may wonder why some of the examples are not simply resolved by reference to a bill or charter of rights; the answer is that Australia has no such document or mechanism.

Second, the author is an Anglican priest, something he refers to numerous times in the text. The book is written from an unashamedly Christian perspective. The text is peppered with references to Christian history, doctrine and examples, including biblical passages, and Part III examines Christian apologetics. This is not to say the text is unapproachable for those outside the Christian faith, and of course, not all Christians would agree with the author's arguments and conclusions. But if you come to this book looking for an atheistic or religion-neutral

1 Gary Bouma, *Australian Soul: Religion and Spirituality in the Twenty-first Century* (Cambridge University Press, 2006), 2.

2 Marion Maddox, 'A Secular Cancellation of the Secularist Truce: Religion and Political Legitimation in Australia' in Patrick Michael and Enzo Pace (eds) *Annual Review of the Sociology of Religion Volume 2 Religion and Politics* (Brill, 2011), 301.

3 See Renae Barker, *State and Religion: The Australian Story* (Routledge, 2019), 150-153.

4 See Louise Chappell, John Chesterman and Lisa Hill, *The Politics of Human Rights in Australia* (Cambridge University Press, 2009), 27-29.

account, you will be disappointed. To fully understand the author's Christian perspective, read the last chapter first.

Part I sets out the author's views and understanding of secularism, Part II examines the concept of freedom of religion and Part III focuses on apologetics.

The argument in Part I rests on a few key points. First, secularism is inherently a good thing for freedom of religion; second, and related to the first point, secularism as properly understood involves the separation of church and state not the removal of religion from the public sphere, and therefore secularism also equals pluralism. Finally, the author argues that secularism is an inherently Christian concept. He argues that secularism cannot exist in Islamic nations as anything more than a transplant or as something grafted on; it cannot be home-grown.

Towards the end of Part I, Bird builds up to the assertion that rising, militant secularism poses a threat to religious freedom. By militant secularism, he means the relegation of religion to a private sphere accompanied by regulation of what the state considers "acceptable" religion.

In Part II, the first of three chapters on freedom of religion focuses on freedom of religion and LGBTQI+ rights, and in particular the right not to be discriminated against on the basis of one's sexuality. One might have hoped for an overview chapter on the wide variety of issues related to freedom of religion before this one on gender and sexuality. In positioning this chapter first, Bird signals that this is the most important issue for freedom of religion in a secular age. I would agree that it is one challenge we need to resolve, but not the only one and perhaps ultimately not the most important one.

In the next chapter, Bird presents three alternative narratives in debates over freedom of religion: Civic Religion: Christian Nationalism, Civic Totalism: Progressive Authoritarianism and Confident Pluralism. Bird criticizes the first two and argues in support of confident pluralism, a position consistent with the view expressed in Part I that secularism equals pluralism. Finally in this part, he discusses two arguments against the narrowing of freedom of religion.

Part III, titled "The Grand Age of Apologetics," is the most obviously Christian aspect of the book, setting out what Bird considers the appropriate Christian response to the secular age and the threats to religious freedom discussed in earlier chapters. He analyses various Christian responses before spending the bulk of the chapter articulating and defending his preferred response, which he calls the Thessalonian strategy. To quote the author "[t]he Thessalonian strategy is about fighting for a Christian pluralism in which we love our neighbors by allowing them to be other than us." It focuses on secularism as pluralism as argued for throughout the book while at the same time asserting a Christian identity and un-

derpinning for plurality. The last chapter of the book is perhaps the most personal, as Bird describes what he views as the way forward for Christian apologetics.

Overall, the book is a useful introduction, from a Christian perspective to secularism and freedom of religion. It is not as comprehensive as one might hope as it is frequently preoccupied with LGBTQI+ issues, but it is an approachable work for a wider (as opposed to purely academic) readership. If you are looking for a balanced Christian perspective on the thorny issues of secularism and freedom of religion, then this book is a great place to start.

Dr Renae Barker, Senior Lecturer, School of Law University of Western Australia, Honorary Research Fellow Centre for Muslim States and Societies, Advocate Anglican Diocese of Bunbury

The Jewish Underground of Samarkand: How Faith Defied Soviet Rule – A Memoir and a History

Rabbi Hillel Zaltzman

Simsbury, CT: Mandel Vilar Press, 2023. 424 pp., ISBN 978-1942134923, US \$17.11

Russian religious politics today is looking increasingly like that of the Soviet Union, as highlighted by Tatiana Vagramenko and Francisco Arquerros in their recent *IJRF* article on the persecution of Jehovah's Witnesses in Russia.¹ As memories of life in the Soviet Union are fading or increasingly deemed irrelevant to the contemporary situation, Rabbi Hillel Zaltzman provides an important glimpse into the life of one highly conspicuous minority community under that regime. With antisemitism seeing an abrupt increase globally since the Hamas attacks of 7 October 2023, the relevance of his book is unfortunately only greater.

The author belongs to the Chabad-Lubavitch strain of Chassidic (Orthodox) Judaism, the small, pious, and close-knit community whose unusually outreach-oriented approach gives it an outsized visibility and profile. Rabbi Zaltzman begins with a brief history of the community under Czarist Russia and the early Soviet Union. He explains how the Nazi advance in Ukraine forced many adherents, including his parents, to flee to Tashkent and Samarkand in modern-day Uzbekistan, where they benefitted from a surprising degree of freedom during the war and built a thriving community. After World War II, many emigrated to Poland through a brief opening of the border for Polish citizens, leaving behind a small but dedicat-

¹ Tatiana Vagramenko and Francisco Arquerros, "Criminotheology: Persecution of Jehovah's Witnesses in Russia," *International Journal for Religious Freedom* 16, no. 2 (2023) 83-103, DOI: <https://doi.org/10.59484/ZFTB7016>.

ed community to manage religious life in the shadow of Stalin's death camps while most Jews sought to assimilate to life in the officially atheist Soviet Union.

In view of the title, one might expect a comprehensive history of Jewish life under the Soviet regime in this Central Asian city, but Rabbi Zaltzman tempers these expectations, stating that the work is a personal memoir and not intended to be all-encompassing. Nevertheless, a significant part of the book meanders through the partially second-hand stories of prominent Chassidic figures of the early to mid-20th century with whom the author crossed paths during his childhood. This abridged version of an earlier work is billed as "a memoir and a history," but it leaves this reader feeling that neither promise has been fulfilled.

The book is organized in roughly chronological order, with each chapter centered around a specific theme (for example, procuring kosher matzah for Passover or trying to avoid school or work on Shabbat) or person. As a result, each chapter stands more or less on its own, but the chronology suffers. For much of the time period covered, the author was a child or teenager, so his personal experiences are mostly found in the last third of the book, which focuses on his early 20s (the late 1950s and early 1960s). The story of the underground Jewish education system that operated in Samarkand and surrounding areas plays a secondary role to characterizations of Chabad personalities. A couple of close calls notwithstanding, the school system seems to have operated with remarkable ease.

Anecdotes about close encounters with the authorities involve measures necessary to avoid possible KGB agents when picking up an ex-con (released after serving a sentence for alleged involvement in the underground) at the airport; purchasing an airplane ticket to go to Moscow for an exit visa at a time when illegal protests over exit visas were planned in the Soviet capital; being stopped by a police officer and having a suitcase full of contraband searched; and a mysterious KGB search of the author's factory. Along the way, the book also provides something of a manual on how to operate a profit-making enterprise in the communist USSR. Zaltzman alludes to other adventures and perhaps close calls experienced during his travels on behalf of the Chassidic community; more of those stories might have been valuable. On the other hand, some difficulties faced by the community are not immediately obvious, as revealed in the author's and his brother's attempts to find suitable marriage partners.

The book ends with the author's long-sought success in obtaining an exit visa and a glimpse of some of the challenges faced by the Russian immigrant community in Israel when expectations clashed with reality. It seems that materially, the community's life was better in the Soviet Union, but ultimately the longing for spiritual freedom won out over physical hardship.

For readers with a connection to the Chabad community, the stories of prominent personalities will be fascinating. However, a reader interested in freedom of religion and belief (FoRB) may be left wanting to learn more about the day-to-day operations, experiences, and challenges faced by the community, how these were overcome, and details about the threats and kinds of counter-measures necessary. Granted, Uzbekistan, even its urban centres, was somewhat at the periphery of the Soviet Union, so perhaps the regime's grip was not as harsh. But the book leaves the lingering impression that maybe life wasn't so difficult under Soviet control after all. Accordingly, a more comprehensive discussion would have been helpful.

Readers with little or no knowledge of Jewish religious practices may find some portions puzzling, but this does not interfere with the story, nor is it a hindrance for a reader with a basic understanding of Orthodox traditions. The author provides an eight-page glossary to assist those unfamiliar with basic Yiddish and Hebrew terminology, and 16 pages of black-and-white photos bring many of the personalities to life.

Overall, this book is an important contribution to the historical record of FoRB in the Soviet Union, and one is only left wanting more information on this front.

Johanna Blom, lawyer, human rights advocate, and graduate student at Reichman University, Israel

The gospel and religious freedom: Historical studies in evangelicalism and political engagement

David W. Bebbington, editor

Baylor University Press, Waco. 2023. 230 pp., ISBN 978-1481319300, US \$49.99 (paperback)

Judd Birdsall's afterword helpfully sets this book in context, and I recommend reading it before the substantive chapters. He notes, "*The Gospel and Religious Freedom* is an interesting book that matters precisely because it relentlessly complicates polarized narratives surrounding its subject" (207-208). Indeed, Evangelicals have often oversimplified narratives on religious freedom to gain attention and/or for fundraising purposes.

The book itself is a compilation of papers from a conference at Baylor University in October 2021. The papers are diverse and take very different positions on Evangelical advocacy for religious freedom. The book is divided into two parts; the first half focuses on the US while the second half considers the situation in four other countries.

The articles on the United States cover issues and personalities from before American independence to the Trump era. Nicholas Miller contributes a fascinating analysis of Roger Williams, founder of Rhode Island, who in the 1640s invoked Magna Carta to argue for separation of church and state in the colonies. Jeffrey McDonald writes of William Jennings Bryan, a Democrat congressman and three-time nominee for president at the turn of the twentieth century. McDonald documents Bryan's connections to the University of Nebraska that motivated his passion for religious freedom, countering a common narrative that portrays Bryan as uneducated. Todd D. Still considers George W. Truett's speech in Washington, D.C., in May 1920, which set forth the Baptist view of religious liberty. These biographical essays note the importance of individuals and context in the development of religious liberty in the US.

The two articles from the current era are quite critical in their assessment of Evangelical political engagement. Melani McAlister critiques the development of Evangelical awareness of global persecution of Christians and advocacy, which culminated in the International Religious Freedom Act (IRFA) of 1998. McAlister tells this history from the perspective of American evangelicalism. I have personal experience with this history, as I was involved with the global development of a Religious Liberty Commission and the International Day of Prayer for the Persecuted Church (IDOP) as a Canadian. McAlister describes the IDOP as an event developed in the US to raise awareness of persecution and thereby energize advocacy for the IRFA. On the contrary, it was part of a much larger movement initiated by the World Evangelical Alliance.

Barry Hankins addresses how Evangelicals have lobbied for religious freedom both internationally and in the US during the Trump era. He argues that some Evangelicals now see themselves as a persecuted minority and advocate for religious liberty in order to advance their own self-protection, including discrimination against LGBT persons. He documents the development of Evangelical public-interest law firms and groups them based on whether they advocate for religious liberty for all or just for Evangelicals. Having interacted with several of these organizations in my roles with the Christian Legal Fellowship and the Evangelical Fellowship of Canada, I agree with his assessment that such organizations have a wide spectrum of approaches. It is challenging to find anyone objective in their analysis in light of the relentless American culture war.

The first chapter in the book's second part, titled "The World," addresses William Wilberforce's promotion of missionary activity to slaves. Wilberforce is well-known for his anti-slavery work, but John Coffey explicates a lesser-known side of his advocacy – on behalf of religious liberty to evangelize slaves in the colonies. The chapter pays some attention to India, but the primary focus is on the Caribbean, where evangelists had more success. It is troubling to see Wilber-

force and Evangelicals depicted as racist colonialists, “sensationalist, reductionist, defamatory” (108). Coffey makes this assessment based on speeches where Wilberforce was denouncing sati (widow burning), the caste system, infanticide, and the juggernaut (where devotees throw themselves under the wheels of the cart carrying the image of the god Krishna). Unquestionably, Wilberforce viewed Christianity as offering a better alternative, though he may have overstated his case. The Indian government itself has not defended these practices and has taken steps to minimize or restrict them.

Similarly, John Maiden paints a very intolerant picture of Evangelical denunciation of Roman Catholics in Britain before Vatican II. He acknowledges some justification for their concerns about a link between Catholicism and totalitarianism, since Mussolini and Franco’s fascism had roots in Roman Catholic countries (139) and high-ranking Nazis were also Roman Catholics (140). But he notes that anti-Catholic discourse continued long after Vatican II. Interestingly, Maiden also notes that Spain and Italy expelled Protestants in the 1950s (138), so intolerance seemed to go both ways. In most countries, Evangelicals and Roman Catholics now at least tolerate one another.

The final three chapters address Nigeria, postwar east-central Europe and China. All these regions have been hot-button areas for religious freedom according to Evangelicals. The chapter on Nigeria, written by Todd M. Thompson, highlights Norman Anderson, an Evangelical lawyer, missionary and expert on Islam who promoted revising sharia law in northern Nigeria, with the support of the UK government. Mary Heimann, author of the chapter on east-central Europe, addresses Evangelical misperceptions that under communism, this region was godless and anti-Christian; in fact, there were many churches and Christians. Wai Luen Kwok describes Allen Yuan, a Chinese house church leader, and Zhu Chengxin, pastor of a Three-Self Patriotic Movement (TSPM) church. Commonly, Christian leaders in the TSPM churches were viewed both in China and abroad as having sold out to the communist government. Yet Kwok shows how both these leaders served the church in their differing contexts.

As Birdsall points out in his afterword, narratives are complex. Wilberforce is a hero of Evangelicals yet denigrated Hinduism. Zhu worked strategically within the TSPM to preserve the faith within the small space allowed by the government.

This book may frustrate and anger some Evangelicals as it pushes outside their comfort zones. Yet that is what academic discourse does. None of the authors is dismissive of evangelicalism or its leadership. But they paint realistic portraits, showing dark corners of revered leaders.

Prof Dr Janet Epp Buckingham, Professor Emerita, Trinity Western University and Director, Global Advocacy, World Evangelical Alliance

The Disintegration of the Conscience and the Decline of Modernity

Steven D. Smith

Notre Dame, IN: University of Notre Dame Press, 2023. 275 pp., ISBN 978-0268206918, US \$55.00 (hardback)

Against the backdrop of the development of insights on the conscience (mainly in the US context), Steven D. Smith brings to the fore three major transformations, each reflected in one of three popular historical figures: Thomas More (1478-1535), James Madison (1751-1836) and US Supreme Court Justice William Brennan (1906-1997). Smith observes that, according to More, a person's judgments of conscience should be based on both the mind and the common faith and traditions of Christendom. Over two centuries later, this view of conscience was transformed into a focus on managing a fragmented Christianity, and here Smith points to Madison's influence. Smith then observes that, approximately 150 years after Madison, Brennan played an influential role in propagating a view of conscience that emphasized "being true to yourself" and, coupled with this, the understanding that religion is a private matter.

Smith comments that for More and Madison, conscience was qualified by the authority of God, whilst for Brennan, conscience is grounded in respect for the individual subject. In this regard, conscience played an integral role in dealing with an increasing and seemingly irrepressible extent of pluralism and fragmentation. The critical mass gained from Brennan's influence regarding the meaning of conscience, together with the ever-increasing pluralism and fragmentation, caused the public sphere to acquire a secular quality. One result of this process has been the alienation from the public sphere of those who understand the authority of the conscience as originating from a religious, communal and traditional source. Toward the end of his work, Smith states, "In comparison with its progenitors, the modern conscience is no humble servant of God and the church or the scriptures; it is proud, inflated, and freestanding." This, says Smith, is not a view that Thomas More would have supported, and, when compared to what More stood for in this regard, we now observe the disintegration of the conscience.

According to Smith, Madison's views represented the birth of the modern self and laid the groundwork for Brennan's further and substantial influence in this regard. Smith elaborates on why this approach threatens to dissolve the self, arguing that contemporary culture offers more questions than answers about what the meaning of the self should be. In contrast, Smith explains that according to traditional sources of authority, there is no such dilemma about how to understand the self. Under the heading "The Present Age Is Demented," he depicts a

tendency in modern society that he views as a manifestation of an inner fragmentation or dissolution of the self. This inner dissolution consists in the individual's incapacity "to know who she is, what she believes, or what she is doing," unlike the capacity of individuals in sixteenth-century Europe such as More.

Especially since about 1950, a profusion of scholarship has criticized the Enlightenment's demotion of God and its elevation of anthropocentrism and science. That massive accumulation of criticism has been further magnified recently over social media platforms. Consequently, it is necessary for a new scholarly work that points to "the decline of Modernity" to truly offer something novel in order to be worth our attention. *The Disintegration of the Conscience and the Decline of Modernity* does exactly this by ably addressing a key theme that has persisted in the modern era. Smith succinctly describes the importance of this theme by stating that his book examines "changing ideas about God or the nature of the human person" and that our understanding of the conscience is intimately related to fundamental issues such as God and human personhood. Conscience, he says, "has often been at the core of live political or legal controversies with existential consequences that have forced participants to articulate their assumptions and commitments not just in abstract or academic ways but in situations where a good deal – life or death, freedom or imprisonment – has been on the line."

This book highlights the enormity, complexity, resilience, danger, disenchantment and importance that accompany matters of conscience, which in turn are inextricably connected to the relationship between law, religion and the state. It offers a novel and convincing defence of conscience as understood both in the context of the pre-modern West and by religious communities and traditions in the modern era. Noting the failures of the idea of reason as the ultimate measure of and solution for the ordering of society, which especially emanated from the Enlightenment, Smith demonstrates that post-Enlightenment views of the conscience share a similar fate.

It is disturbing to be reminded that major transformations of concepts can result from unrestrainable developments within society at large. Communities of traditional faiths are uncontrollably dissolving whilst an ever-increasing pluralism advances. Consequently, concepts will have to be remoulded to adapt to the times, just as was the case with conscience. As to a solution to this "present demented age," Smith (with a reference to his previous published article titled "One Step Enough") calls for "one step, and then another, taken hopefully in accordance with and under the direction of what we might call ... conscience." I leave it to the reader to ponder upon what Smith might mean by these words.

Shaun de Freitas, Professor, Department of Public Law, University of the Free State and Adjunct-Professor, School of Law, University of Notre Dame Australia (Sydney Campus)

I Will Give Them an Everlasting Name: Pastoral Care for Christ's Converts from Islam

Duane Alexander Miller

Oxford: Regnum Books, 2020. 98 pp., ISBN: 978-1913363765, € 9,52

Duane Alexander Miller, who previously served as a Christian minister in Jordan and Israel, now teaches at the Protestant Faculty of Theology in Madrid, Spain, and is an Anglican priest at the Cathedral of the Redeemer. He wrote his University of Edinburgh PhD thesis on doing contextual theology with converts from Islam. Miller is, therefore, equipped to write as both a practitioner and researcher on pastoral care for Christian converts from Islam. His research is based on interviews conducted in multiple countries.

“Pastoral care” here is used in the broad sense of pastoring and discipling, or “feeding the sheep.” Miller begins with the observation that persecution is an issue for many Christian converts from Islam; the biggest challenge for them, however, is “the formation of a firm identity” (5). The book’s title refers to Isaiah 56:5, where an honorable and lasting identity, an “everlasting name,” is promised to people who were previously outside the people of God. In this context, pastoral care involves helping new Christians to find their “new identity in Christ and his community, the Church” (6).

Recently, missiological research has considered the spiritual, psychological and sociological issues connected with the “identity” of converts from Islam. Miller mentions some of this work (5-6). His book is less an academic contribution than a collection of practical advice. As such, it offers useful and sometimes surprising insights on caring for brothers and sisters with a Muslim background.

The book is easily readable, squeezing a lot of experience into 15 short chapters. Miller writes from a broad perspective of historical Christianity, openly noting his Anglican background but without excluding other perspectives. A helpful bibliography for further study appears at the end of the book.

Many of the identified problems and suggested solutions seemed consistent with my experience of many years in Turkey. Just to name a few:

- It is helpful for converts from Islam to learn about Christian roots in their country or in their ethnic group.
- We have to teach inductive Bible study so that believers may learn to find the ingredients of their new Christian identity themselves.
- The liturgical calendar and memorizing of creeds help converts to develop a balanced Christian perspective and to be equipped to answer questions about their new faith.

- The church has to be a new family and a new home for converts, who are often cut off from their social network because of their new faith.
- The time and the manner of the “coming out” of new believers to their families (41-44) has to be seriously considered. However: “There is clearly one course of action that is *not* viable: the convert never revealing their new faith” (41). This is a wise and clear statement against the ideas of some proponents of “insider movements.”

Other topics opened up a new perspective for me. For instance:

- Teaching the Old Testament should be a priority, to correct wrong concepts about God.
- An official status as a “new believer preparing for baptism” (like a catechumen in the Roman Catholic Church) might be a good step towards baptism, as an alternative to either rushing to baptize or postponing baptism to an indefinite future.
- Teaching new believers about the history of the particular Christian tradition we come from makes sense and is an integral part of honesty in “a period of global Christianity” (28).

The short, never-boring book is always thought-provoking and full of practical application to ministry among converts from Islam.

Wolfgang Häde, Martin Bucer Seminar, Turkey

Demystifying the Sacred: Blasphemy and Violence from the French Revolution to Today

Eveline G. Bouwers and David Nash (eds.)

Berlin and Boston: De Gruyter, 2022. 303 pp. ISBN: 978-3110713022, € 51,95 (hardcover)

By critically reflecting upon the evolution of blasphemy and violence in contemporary societies, this book examines the complex relationship between freedom of expression and religious liberty in contemporary times. The original idea for the volume came from a conference organized in 2020 by Liberas (the central archive and research center for the liberal movement in Belgium) in conjunction with the School of History, Religion and Philosophy at Oxford Brookes University, and the Leibniz Institute of European History. The main idea of the conference and of the subsequent book is to critically approach the issue of blasphemy. This subject has been largely overlooked by historians, but it has great relevance for contemporary society, as the case of Samuel Paty in France (2020), the rise of violent Christian nationalism, the attack on Salman Rushdie in 2022, and other

incidents have distressingly evidenced. Although the book is primarily historical in perspective, it should be of wide interest to specialists in multiple fields, including legal, cultural and social history, as well as to anyone concerned about religious freedom.

The work is international in scope, covering various countries in Europe (France, Spain, Italy, Germany, England), as well as other countries with significant ties to European history, such as Russia and Tunisia. It also covers a range of church groups, mostly of Christian origin (Protestant, Catholic, Orthodox). Two chapters address Islam. One or two case studies on the treatment of blasphemy in relation to Judaism could have been useful, but overall, the book achieves a rather impressive comparison between societies with different religious and political frameworks, in different time periods. In fact, the long-term chronological scope (from 1760 to the present) is valuable in helping us to better understand the non-linear evolution of the phenomenon. As a result, the reader can contrast different trends, such as the “medicalization of blasphemy” that took place in the late 18th century (11) and its increasing politicization as a form of religious, ethnic and ideological “apostasy.” We also observe the manifold ways in which legal responses to blasphemy point to “changing views of the sacred that have shaped and regulated modern societies” (118), as well as how they have informed the limits of religious and artistic freedom (121).

The various contributions to this volume achieve a rich dialogue between the legal history of blasphemy and socio-cultural analysis of individual case-studies. Each chapter explores a different aspect of the conceptual richness of blasphemy, along with its relation to heresy, apostasy and sacrilege, and to the multiple facets of sacrilegious violence (symbolic, imagined, felt, lived). As a result, *Demystifying the Sacred* significantly problematizes the association of rationalism and modernity with a simple decline of violence and religion in contemporary societies (17). Indeed, despite the advancement of secularization and the consolidation of religious pluralism in contemporary times, accusations of blasphemy have continued to be used in multiple ways: to damage and delegitimize a political other (chapters 2, 3, 4); to prove one’s allegiance to a revolutionary cause and justify its violence (chapter 2, 4); to stifle reform debates within a particular cult (chapter 5); or to consolidate ideas of public order, hygiene, morality and modernity (chapters 3, 6, 9). In addition, chapters 8 and 10 illustrate that in some instances, the violent way in which blasphemy is perceived and punished can even be a symptom of a broader political and/or religious crisis.

Furthermore, it is interesting to consider the ways in which blasphemy can be charged with a particular meaning within the dynamics of a wider empire. For example, it can become a method of providing legal equality to non-Christian re-

ligions (145). It can also be used as a means of establishing independence against the pressure of two competing imperial authorities (205). Finally, blasphemy can point to crucial questions of national and religious identity (chapter 7, 8), as well as to power imbalances within society (257), and between and within denominations (282).

Overall, the unifying argument of this volume is that in late modernity, blasphemy (and legislation and violence related to sacrilegious speech and acts) has served not only religious ends but also social and political ones. In this sense, it might have been interesting to include gender as a useful category of historical analysis, to cite Scott's well-known essay.¹ As depicted by most chapters in the book, public blasphemy in late modernity seems to be quite a manly affair. Was that really the case, or do we need to look further and rethink our historical approach? Traditionally, the relationship of women to the sacred is very complex. Were women (and their bodies) imagined objects of blasphemy, or could they also be participant agents? And how did the idea of blasphemy inform hegemonic and subversive ideals of masculinity and femininity? Another important insight of the volume that could be explored by further research relates to the way blasphemy could be considered part of a particular sub-culture "ready to be ignited at an opportune moment" (281).

Demystifying the Sacred successfully achieves its main objective of showing that blasphemy is not an anachronistic subject of interest or study today (283). Quite the contrary. As blasphemy laws of the past are being "replaced" in Europe (and other regions of the world) with laws against incitement of religious hatred (284), the latter retain aspects that are somewhat reminiscent of previous conceptualizations and practices (especially with regards to violence). This phenomenon, consequently, needs further consideration.

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1 Scott, J. W. (1986). "Gender: A Useful Category of Historical Analysis," *American Historical Review* 91(5), 1053-1075.

Thomas Schirmacher

The Persecution of Christians

Concerns Us All



VKW The WEA Global Issues Series 5



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WORLD EVANGELICAL ALLIANCE



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Guidelines for authors

This document combines essential elements of the editorial policy and the house style of IJRF which can be viewed on www.ijrf.org.

Aims of the journal

The IJRF aims to provide a platform for scholarly discourse on religious freedom in general and the persecution of Christians in particular. The term persecution is understood broadly and inclusively by the editors. The IJRF is an interdisciplinary, international, peer reviewed journal, serving the dissemination of new research on religious freedom and is envisaged to become a premier publishing location for research articles, documentation, book reviews, academic news and other relevant items on the issue.

Editorial policy

The editors welcome the submission of any contribution to the journal. All manuscripts submitted for publication are assessed by a panel of referees and the decision to publish is dependent on their reports. The IJRF subscribes to the Code of Best Practice in Scholarly Journal Publishing, Editing and Peer Review of 2018 (<https://sites.google.com/view/assaf-nsef-best-practice>) as well as the National Code of Best Practice in Editorial Discretion and Peer Review for South African Scholarly Journals (<http://tinyurl.com/NCBP-2008>) and the supplementary Guidelines for Best Practice of the Forum of Editors of Academic Law Journals in South Africa. As IJRF is listed on the South Africa Department of Higher Education and Training (DoHET) “Approved list of South African journals”, authors linked to South African universities can claim subsidies and are therefore charged page fees.

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- **Scholarly standard:** Is the scholarly standard of a research article acceptable? Does it contribute something substantially new to the debate?
- **Clarity of argument:** Is it well structured, including subheadings where appropriate?
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- **Substantiation/Literature consulted:** Does the author consult sufficient and most current literature? Are claims thoroughly substantiated throughout and reference to sources and documentation made?

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1. Submissions must be complete (see no.6), conform to the formal criteria (see no. 8-10) and must be accompanied by a cover letter (see no. 3-4).
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3. A statement whether an item is being submitted elsewhere or has been previously published must accompany the article.
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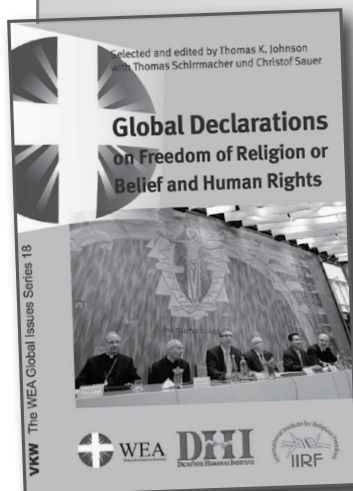
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Global Declarations on Freedom of Religion or Belief and Human Rights



by Thomas K. Johnson,
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Christof Sauer (eds.)

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