

# FIDES ET LIBERTAS



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GLAUBE UND FREIHEIT

International Religious Liberty Association  
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12501 Old Columbia Pike

Silver Spring, Maryland 20904-6600, United States of America  
Phone: +301.680.6686 - Fax: +301.680.6695  
E-mail: [knotttd@irla.org](mailto:knotttd@irla.org) - Web site: [www.irla.org](http://www.irla.org)

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## DECLARATION OF PRINCIPLES

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We believe that religious liberty is a God-given right.

We believe that legislation and other governmental acts which unite church and state are contrary to the best interest of both institutions and are potentially prejudicial to human rights, and hold that it is best exercised where separation is maintained between church and state.

We believe that government is divinely ordained to support and protect citizens in their enjoyment of natural rights, and to rule in civil affairs; and that in so doing, government warrants respectful obedience and willing support.

We believe in the natural and inalienable right of freedom of conscience—to have or not have a religion; to adopt the religion or belief of one's choice; to change religious belief according to conscience; to manifest one's religion individually or in community with others in worship, observance, practice, promulgation, and teaching—subject only to respect for the equivalent rights of others.

We believe that religious liberty also includes the freedom to establish and operate appropriate charitable or educational institutions, to solicit or receive voluntary financial contributions, to observe days of rest and celebrate holidays in accordance with the precepts of one's religion, and to maintain communication with fellow believers at national and international levels.

We believe that religious liberty and the elimination of intolerance and discrimination based on religion or belief are essential to promote understanding, peace, and friendship among peoples.

We believe that citizens should use lawful and honorable means to prevent the reduction of religious liberty.

We believe that the spirit of true religious liberty is epitomized in the Golden Rule: *Do unto others as you would have others do unto you.*

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## STATEMENT OF PURPOSES

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The purposes of the International Religious Liberty Association are universal and nonsectarian. They include:

- 1** Dissemination of the principles of religious liberty throughout the world;
- 2** Defense and safeguarding of the civil right for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others;
- 3** Support for religious organizations to operate freely in every country through the establishment of charitable or educational institutions;
- 4** Organization of local, national, and regional chapters, in addition to holding seminars, symposiums, conferences and congresses around the world.

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## MISSION STATEMENT

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The mission of the International Religious Liberty Association is to defend, protect and promote religious liberty for all people everywhere.



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FIDES ET LIBERTAS  
THE JOURNAL OF THE INTERNATIONAL  
RELIGIOUS LIBERTY ASSOCIATION

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12501 Old Columbia Pike  
Silver Spring, Maryland 20904-6600, USA  
Phone: 301.680.6686 - Fax: 301.680.6695  
[www.irla.org](http://www.irla.org)

**John Graz, Publisher**

Phone: 301.680.6680  
E-mail: [grazj@irla.org](mailto:grazj@irla.org)

**Jonathan Gallagher, Editor**

Phone: 301.680.6682  
E-mail: [gallagherj@irla.org](mailto:gallagherj@irla.org)

**Deborah Knott, Managing Editor**

Phone: 301.680.6683  
E-mail: [knottd@irla.org](mailto:knottd@irla.org)

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# INTRODUCTION: THE WORLD CONGRESS

JONATHAN GALLAGHER

*IRLA Deputy Secretary-General*

The International Religious Liberty Association (IRLA) Sixth World Congress, “Combating Religious Hatred through Freedom to Believe,” convened in Cape Town, South Africa, from February 27 – March 1, 2007. It provided a superb forum for education, debate, and inspiration, bringing together government officials, diplomats, academics, experts and religious leaders in what has become the premier event for the promotion of religious freedom. Two major outcome documents were produced, while the event also provided a great opportunity for advancing religious liberty ideas in the media.

That’s the cold summary. But truly the impact is not in words on paper or on TV or on the radio, but in changes in the hearts and minds of people—people who truly *do* need to be better informed, more aware, and increasingly challenged by the problems of religious intolerance and persecution. It is not enough simply to have a meeting, important though that may be. The IRLA is looking for results—to promote definite change, to see a difference in the way we treat each other when it comes to freedom of religion or belief.

The question is often asked, “So what difference does a World Congress make?” It’s tough to answer, because we don’t have a balance sheet bottom line, or a better profit margin, or increased market share. It’s hard to measure the impact of ideas in practice, religious liberty beliefs translated into clear and definite action. But we at the IRLA do believe that the World Congress has a definite and positive impact. The outcome documents go to international organizations and government leaders. The media reports are widely circulated, and people see the importance of tackling religious intolerance. The publication of this edition of *Fides et Libertas*, which features many of the Congress presentations, also plays a part in this informative process.

But again, the most significant outcome is the immeasurable improvement in understanding—and the decisions to act for freedom of religion—in the minds of the Congress participants. Changing people’s minds is hard to do, and even harder to measure. But it’s essential—as is evident by the vast amount spent on advertising techniques that are supposed to modify our spending habits to choose one particular product.

The IRLA is not in sales. But it is vitally concerned to influence minds, especially those tempted to use civil power to enforce the religious beliefs of one group, or to deny the beliefs of another. To the degree that minds understand better, recognize the evil of religious persecution, and choose to work for the freedom of belief, the Congress is a success. Only as all people experience the freedom to believe, and have the ability to act within that choice, is the theme accomplished.

This edition of *Fides et Libertas* is, then, a snapshot\* of this process that was continued in Cape Town this year, and remains the ongoing objective of the IRLA: *Combating Religious Hatred through Freedom to Believe*.



END

- \* This publication should not be taken as a “proceedings” of the World Congress since not every presentation could be included here. The reader should note that there is a mixed reference style in this volume of *Fides et Libertas*: some articles include traditional endnotes while others incorporate in-text references—depending on the author’s preference. We have also preserved many of the qualities of oral delivery.



# INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION SIXTH WORLD CONGRESS OPENING REMARKS



JOHN GRAZ

*IRLA Secretary-General*

In March 1997, I was traveling when I received an e-mail message about a couple who had been killed by religious fanatics. The circumstances of their deaths were shocking. I saw once again that religious freedom can become an issue of life and death in some places around the world. Their names were Hadgimurat Magomedov and Tatyana Dmitrienko. This couple lived in the city of Buinaksk in Dagestan, a small autonomous republic of Russia. They were arrested and then tortured. Two days later a mob of 5,000 people gathered on the central square of the city. A car arrived with the couple. With the approval of the mob, a man poured a large can of gasoline on them and set them on fire. Local television recorded this ghastly event.

Gadzimurat was accused of murdering a 12-year-old girl. There was no evidence and no trial. Instead, there was a summary execution by a group of religious fanatics who accused Gadzimurat of speaking too much about his new religion.

As I travel around the world, I hear so many stories of religious discrimination and persecution. Religious freedom is not just an abstract idea or a good theme for a congress; it is a necessity because it affects the lives of so many people. In our world today, several million believers are persecuted. In more than ten countries there is no religious freedom at all.

## WHY IS THE SIXTH WORLD CONGRESS ON RELIGIOUS FREEDOM TAKING PLACE IN CAPE TOWN?

When we announced Cape Town as the venue of our Sixth World Congress, some remarked that it was “a good tourist location.” We heard the same comments when we went to Rio de Janeiro in 1997. People have asked

me why we always choose places where religious freedom is practiced instead of where religious freedom is absent. Why don't we go to places like Saudi Arabia or North Korea? I can assure you that if the authorities of Saudi Arabia or North Korea would allow us to have a congress on religious freedom in their country, I would not hesitate one minute. I would be happy to go there.

Unfortunately, we have not been given such authorization, and you can understand why. To promote religious freedom openly, to celebrate religious freedom for all, we need a place where freedom is not just a slogan, but a reality. We need a country which recognizes religious freedom as a fundamental freedom and as a fundamental human right. The Republic of South Africa is such a country.

We thank the leaders of this country. We appreciate the outstanding examples they have been for the whole world. I have a special appreciation for Nelson Mandela and other people of this country who have led South Africa toward reconciliation after the dark years of racial and political apartheid. In my ministry for religious freedom, I often think about Nelson Mandela spending 27 years in a prison not too far from here. While there, he dreamed about a multi-racial South Africa where people wouldn't be discriminated against because of their race. I am sure there were some around him who believed his dream would never become a reality. Mandela maintained his hope, and South Africa became a multi-racial republic. Hope is so important for those who are persecuted and for those who are defending religious freedom.

Being in South Africa reminds us that religious freedom cannot be isolated from human rights. We can openly celebrate religious freedom only when human rights are respected—because religious freedom is at the heart of human rights. In coming to Cape Town, South Africa, we didn't come to satisfy our thirst for tourism, even though we are surrounded here by natural beauty. Rather, we've come to South Africa to be fed by its great example of freedom. We've come to South Africa to be inspired by the history of the people who live here, by their faith, and by their victories. We come to South Africa to learn not to lose hope.

While you are here, I recommend that you visit Franschhoek, which is two hours from Cape Town. There you will find the Huguenot Museum and a beautiful monument, both of which are dedicated to the French Huguenots who came to South Africa because they were persecuted in their own country. They give us a message of freedom of conscience and religion from the seventeenth century. History teaches us that religious hatred which produces

religious intolerance is the seed of discrimination and persecution. We cannot build peace and security on hatred and intolerance. As Dr. Martin Luther King, Jr. has reminded us so well, we cannot respond to hatred with hatred any more than we can eliminate darkness with darkness.

## DO WE NEED A SIXTH WORLD CONGRESS?

The fact that this is the Sixth World Congress means that we have already held five World Congresses. The IRLA was chartered in 1893, but the first World Congress was organized in Amsterdam in 1977. Then we had one in Rome in 1984, and five years later we met in London. As secretary-general, I have had the privilege of coordinating the last three World Congresses and I made sure they were held every five years on a different continent. Religious freedom is for all—not only for Europeans or Americans, but for the whole world.

Every year the IRLA organizes symposiums, international congresses, and meetings of experts. Our team of experts is probably one of the best in the whole world. In addition, we hold, in cooperation with *Liberty Magazine*, the annual Liberty Dinner in Washington, DC. We produce a television program called *Global Faith and Freedom*, and we publish a journal on religious freedom entitled *Fides et Libertas*. But of all these activities, the World Congress makes the most profound impact because it is a unique gathering of dedicated people who are not afraid to travel around the world to promote religious freedom for all people everywhere.

Distinguished guests, dear participants, why should people be forced to practice a religion or belief which is contrary to their wishes or against their conscience? Why have some countries made it a crime for a person to change religions? Does God force people to love Him? The answer is no! God created us with the freedom to choose because He loves us. He does not want us to be forced to love Him.

This Congress is one of the major forums on religious freedom in the world today. It will include:

- 30 speakers who are the best experts in the field of religious freedom,
- 15 workshops with the participation of 60 experts,
- the reports of 26 Regional Secretaries and NGO representatives.

As we cannot accept injustice, oppression, and discrimination based on race, so we cannot accept discrimination and persecution based on religion or belief.

Religious freedom is the best answer to religious hatred. Do we need a Sixth World Congress? Oh yes, we do! The world needs to hear our voice. We need a seventh, eighth, ninth, and tenth World Congress on Religious

Freedom. As long as the right to choose one's religion is not respected, as long as innocent people are discriminated against, persecuted, and deprived of their basic rights just because of their beliefs, we need to have congresses on religious freedom—congresses like this one.

Our coming to Cape Town will not change the world in one day, but it will show the world that religious discrimination and persecution are not inevitable. There are people here from all over the world—people from different faiths and traditions—who want to demonstrate that there is another way to deal with differences. Collectively, we have chosen to come to this World Congress in Cape Town because we are determined to promote peace and justice through religious freedom for all people everywhere.



END



# A CORDIAL WELCOME TO CONGRESS DELEGATES



PAUL RATSARA

*IRLA Southern Africa and Indian Ocean Region President*

**H**onorable members of national, provincial and local government of the Republic of South Africa; honorable ambassadors and members of the diplomatic corps representing various missions and countries; world president of the International Religious Liberty Association; religious leaders from various denominations and faiths; members of civil society; human rights and religious liberty advocates; distinguished guests; ladies and gentlemen: It is my particular delight to offer you a special welcome to the Republic of South Africa, one of 23 countries in the territory of the International Religious Liberty Association in the Southern Africa and Indian Ocean Region. Welcome to the Republic of South Africa, the Province of the Western Cape and the beautiful city of Cape Town.

We would like to thank and congratulate the International Religious Liberty Association for choosing the continent of Africa, for choosing the Republic of South Africa and this city to host the Sixth IRLA World Congress. It was in this very city of Cape Town—on Robben Island not far from here—where the fathers and leaders of this nation such as Nelson Mandela served elongated prison terms under the yoke of human oppression. Yet in their physical bondage, they remained free because they were free in mind and soul. All manner of suffering inflicted upon them only served to strengthen their resolve to persist in the fight against human oppression and for the advancement and protection of individual rights.

They determined to die for the right cause so that others could live a life free from a wanton disregard of human freedoms. Such was their conviction and resolve towards liberation that they even declared, like Steve Bantu Biko: *“It is better to die for a living cause than to live for a dying cause.”*

Today we stand on the highest summit of liberation to celebrate and enjoy the fruits of these men and women who sacrificed all for the sake of such a gathering.



In recognition of the fact that the power of a focused mind, divine-strengthened will, and the liberating experience of a free soul was the cornerstone of any democracy, they insisted that South Africa's freedom would not be complete unless the Right to Freedom of Religion, Belief and Conscience was guaranteed in the Bill of Rights of the Constitution of the Republic of South Africa. It is precisely because of this right, enshrined and protected in the constitution of this beautiful land, that today we are able to gather in this fashion, free from any hindrances, to celebrate the fact that we are diverse and yet united by the common cords of humanity and a free spirit to express our beliefs, thoughts and consciences.

Ladies and gentlemen, your assembling here today is a bold symbol marking your dedication to the protection and advancement of human rights globally. Your coming to this Congress is an attestation of your unwavering commitment to putting a further building block in this house of religious liberty that we are building.

As we gather here, let us be cognizant of the fact that we are facing an uphill task: our theme is "Combating Religious Hatred through Freedom to Believe," but our cause is just and we will be victorious. We are here to affirm and assert our belief that religious liberty is a God-given right. We are here to affirm with love, yet with strong conviction, our belief in the natural and inalienable right of freedom of conscience—to have or not have a religion; to adopt the religion or belief of one's choice; to change religious belief according to conscience; to manifest one's religion individually or in community with others in worship, observance, practice, promulgation, and teaching—subject only to respect for the equivalent rights of others.

Religious liberty is one of cornerstones of any nation because the power of a free, individual conscience rooted in the hands of God is much greater than any wealth or political freedom humanity may ever experience.

I welcome you to this Congress and to the City of Cape Town in this beautiful Republic of South Africa and implore you to not only be free inside this Convention Centre, but to also spare a moment to be free in nature and enjoy the beautiful scenery that this city provides.

Be ye welcome and enjoy our hospitality!



END



# ADDRESS OF ASMA JAHANGIR,



## UN SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF

ASMA JAHANGIR

*Read to the participants of the Sixth World Congress of the  
International Religious Liberty Association, 27 February to 1 March  
2007 in Cape Town, South Africa*

Let me first congratulate the organizers of the Sixth World Congress of the International Religious Liberty Association to have chosen the issue of “Combating Religious Hatred Through Freedom to Believe” as the theme of this IRLA World Congress. This topic area is timely and deserves particular public attention from a human rights perspective. I would like to emphasize the importance of honest debate and of an advocacy approach for promoting tolerance in general.

I was very pleased and honored to receive your invitation to come to the IRLA World Congress in my function as Special Rapporteur on Freedom of Religion or Belief. At the same time, I am very disappointed that I am now not able to join you in Cape Town because the responsibility of my mandate has come in the way as I am currently conducting a country visit.

Concerning your main topic I would like to refer to the recent report on incitement to racial and religious hatred I prepared for the Human Rights Council session in September 2006 together with Doudou Diène, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance. It is my firm belief that religious hatred can best be combated by sound policies and by building strong public opinion against it. However, taking disproportionately harsh action could be counterproductive and degenerate into witch-hunting.

The rigorous protection of religions as such may create an atmosphere of intolerance and can give rise to fear and may even provoke the chances of backlash. My mandate has received numerous examples of persecution of religious minorities as a result of excessive legislation on religious offenses or overzealous application of laws that are fairly neutral. As a limit to freedom of expression and information, it can also limit scholarship on religious issues and may asphyxiate honest debate or research.

As such, the right to freedom of religion or belief does not include the right to have a religion or belief that is free from criticism or from all adverse comment. At the same time the right to freedom of expression can legitimately be restricted for advocacy that incites to acts of violence or discrimination against individuals on the basis of their religion. Freedom of religion or belief and freedom of expression are interdependent and interrelated. Balancing the various aspects of human rights is an extremely delicate exercise which requires impartial implementation by independent and non-arbitrary bodies. In order to achieve peaceful co-existence it is important to protect all aspects of freedom of religion or belief and to ensure that its manifestation does not impinge upon the fundamental human rights of others.

Finally, I would like to wish your meeting a great success. The various lectures, workshops and discussions will provide many opportunities for a fruitful exchange of minds between ambassadors, church leaders and laypersons from many faiths. Of course, I would be very interested to be kept informed of any conclusions of your World Congress. Thank you very much for your attention.



END



# WELCOME FROM WESTERN CAPE PROVINCE PREMIER



EBRAHIM RASOOL

*A member of the African National Congress and a Muslim, Premier Rasool has been in office since 2002.*

## GOOD MORNING. SALAAM ALEKEM. NAMASTE. SHALOM.

I want to welcome you to Cape Town, and I'm hoping that this conference will not be so tight so as not to give you a chance to enjoy the beauty, as well as the history and the culture of this very beautiful and important cosmopolitan city at the southern end of Africa. It has been, against his will, the home of Nelson Mandela for 27 years while he languished in prison out on Robben Island, or at Pollsmoor, or at Victor Verster, where he was released. But that is a person who spent so much of his life in Cape Town. It is also the home of Desmond Tutu, who as archbishop of Cape Town led much of what has become the conscience of the world in dealing with the apartheid situation.

I want to welcome you to South Africa, which I believe is one massive laboratory experiment in humanity—an experiment in which we try to push the limits of reconciliation without sweeping under the carpet the difficulties of human existence, in which we try to take those things which have been uncomfortable in our past, hold them up for scrutiny, argue about them, debate them, but allow at the same time our common humanity to hold us together even while we deal with the uncomfortable parts of the past. And, hopefully, the lesson that South Africa teaches in this great laboratory is a lesson that says that you can deal with difficult issues and still remain committed to a common humanity.

I think that an important conference such as this one organized by the International Religious Liberty Association will do well to look critically at what is happening in this laboratory that is called South Africa—to learn the best lessons and to critique the worst mistakes. And if this conference can do that, then all of the delegates—as you return to your various continents and countries and locations—would have done well to have not only learned from

what you have said to each other in this conference, but from the atmosphere that South Africa presents for a conference such as this.

Religious liberty is more than the freedom to believe. It is also the freedom to *let* believe. Religious liberty is more than the freedom to evangelize. Religious liberty is also the responsibility to find the common ground even as you evangelize: that religious liberty has to assert the great spirituality of all human beings while persuading of better ways to reach and to worship God. And if we can find the balance in all of that, then I believe that this conference will have done well in a world that is deeply troubled, and where religious beliefs and religious behavior is often at the root of such trouble. And if we can assert that balance, I believe we immediately begin to speak to the deeply troubled nature of the world.

The troubled nature of the world manifests itself and justifies itself on the basis of religion, and manifests itself through terrorism, through Islamophobia, through anti-Semitism, through intolerance of a variety of natures across the world. Much of the root cause of all of that is the fact that we who profess a belief in God, in one way or the other, are the first victims of globalizing uncertainty. The first victim of globalization, the first victim of the onslaught of science, the first victim of the onslaught of technology is often tradition, culture, and religious belief—not because they are mutually exclusive, but because they so easily shake the foundations that we hold; they force us to go back and find the relevance we need to present to the world. In the words of J. K. Galbraith, the Canadian-born American economist: “The more uncertain people are, the more dogmatic they become.” This is because they retreat into the few essential truths that they can hold onto, and they become dogmatic about those few essential truths because everything else has changed.

The family structure has changed. And so often, in Muslim communities, we retreat into one truth about the place of women. In much the same way, our children learn far more quickly from MTV, KTV, and all of those kinds of things than they learn from a year of Sunday schools and 10 years of *madrassa*. And they make us uncertain to the core about whether we can control the emerging generations, their value base, and their behavior—whether we can hold them back from drugs and sexual experimentation, HIV and AIDS. They shake our certainties and they shake the essential beliefs, and unless we reinvent ourselves, we will not be able to speak either to women or to the young. Galbraith is absolutely correct: the more uncertain we become, the more dogmatic we become.

This is the cradle of ideologies of certitude which bedevil the world today. Then it is religion being the fig leaf for ideologies of certitude. This is the birthplace of extremism, and we all know extremism: it labels because it cannot debate and argue. It fights because it has forgotten how to love. It isolates and condemns because it doesn't know how to unite and find common ground. And it has perfected the art of dying for a cause because it cannot live for a cause.

The religious dialogues and trialogues and quadralogues that we require, the conversations we require, are not simply between Christians, Muslims, Hindus, Jews, Jains, Sikhs, etc. The conversations we need are conversations of mindsets across all religions because extremists—fundamentalists in Christianity, in Islam, in Judaism, in Hinduism or any other religion—speak far more of a common language than progressive and well-meaning people across all of those religions. Extremists have their own conversations: they slug it out on the battlefields of Iraq; they slug it out in Afghanistan, in Pakistan, or wherever the case may be. They speak that language to each other because they are essentially the same, even if they raise a Christian flag here, a Jewish flag there, and a Muslim flag there.

Traditionalists have their own conversations. They retreat into the churches, the mosques, the synagogues, and the temples, hiding from the world, unable to deal with this world. They have their own conversations because across all the religions, they have the same language.

And those of us who believe that religion remains essential to the world, that its values would be the savior of the world, that its behavior is going to be critical to temper the excesses of globalization, and give the common poor people something to hold onto both in this world and the hereafter—we have to fashion a conversation that crosses the formal lines of division between Muslims, Christians, Hindus, Jews, etc. And unless we find each other, the world will be condemned.

The key, I believe, is in what the Koran teaches when it says, “God says: ‘I have blown of My own spirit into you.’” And in the same vein, when in the First Epistle of John, John says, “Who lives in love, lives in God and God in him.” And it ends up by saying, “This I say to you: I have given you My spirit.”

If the Koran says that God has given of His spirit to each human being, and in John it is declared that God's spirit is left for each person, then we begin to get the answer. We can only go forward if we recognize that each one of us carries a part of the spirit of God in us—that when we speak to each other, we don't speak to the Muslim dress that the one wears and the clerical clothes

that Catholics wear, or the garbs that the Hindus wear. We aren't speaking to their clothes: we are speaking to the divine in each one of them. We are not speaking to the Muslim fez and the Christian collar, whatever the case may be; we are speaking to the divine in each one of them. And even as we differ formally, the common ground is that each one of us carries the spirit of God within us and is worthy of respect, is worthy of love, and is worthy, at the very least, of tolerance.

Thank you very much, and welcome to Cape Town.



END



## SPECIAL MESSAGE

HELEN ZILLE

*Mayor of Cape Town*

**D**r. John Graz, Mr. Donald Robinson, and Dr. Eugene Hsu, who are the chairpersons of this august gathering; all the other ministers here; excellencies; delegates; and honored guests. Thank you very much for inviting me to address this most valuable meeting of ideas and facts at this International Religious Liberty Association. What a great name—International Religious Liberty Association—celebrating so many of the core values that we share. And thank you to the organizers for choosing our wonderful city as its destination.

The theme of your Congress, *Combating Religious Hatred through Freedom to Believe*, is timely and is appropriate to our own nation. I wonder how many centuries of struggle are summarized in that phrase, *combating religious hatred through freedom to believe*. South Africa is renowned as a country of religious and cultural diversity, a country facing the great challenge of reconciliation and collective forgiveness. Cape Town is a city where people from many different backgrounds are able to live and work together in peace, while tragically in many other parts of the world people are sometimes heading in the opposite direction.

The wonderful and the most humbling thing about being mayor of Cape Town is to see people from all our different faiths: Muslims, who form a real core backbone of the society in Cape Town; Christians; Jews; Hindus and many other faiths not only being tolerant of each other—because tolerance implies that you bear something and that you accept it as a necessary part of life—we don't just do that. We celebrate our diversity, especially our religious diversity. And I really do believe that that enormous common wellspring of faith in the one God, no matter which way it is expressed, has been part of what people have called the South African miracle—our transition to democracy. A transition like this, of course, is never really a miracle. It's the result of enormous numbers of people working extremely hard in their own separate and unique ways, but collectively as well, informed by a wellspring of faith. And so we all know that we ought to give thanks for where we are today in Cape Town and in South Africa because if we look back just fifteen years, having come this far was almost unimaginable to us.



In many ways we have defied what seemed to be the inevitable logic about history, which was to end in a race war in South Africa. But we did not do so. And I deeply believe that prayer is one of the waves that brought us through. As we all know, (what was probably originally a Chinese saying) *God helps those who help themselves*. South Africans in all walks of life put an immense amount of effort into it. Particularly, the wellspring of forgiveness, that is the root of all religions, has played a critical, critical role and for that we must all pay tribute—particularly to South Africans who suffered so much under apartheid, of whom our former president, Nelson Mandela, is the worldwide representative and icon, and quite justly.

But despite the fact that we have come a very long way, we are a city and a country that suffers from severe social divisions. In some nations, such as Iraq, religion is at the root of social schisms and conflict. In South Africa, there are other dividers. Race politics and xenophobia, for example, are still a sad part of South African life. And like religious hatred, the politics of race and xenophobia also have their roots in the fear and the distrust that precipitate and are encouraged by hard-line identity politics.

I am very encouraged by the work that the International Religious Liberty Association does to promote communication between religions and between peoples. At the opening of your Congress, Ambassador Robert Seiple, President of the Council for America's First Freedom—I love the idea of religious freedom being the first freedom—said that the respect for the other has been diminished by lack of knowledge. And he also said that if you don't care to know me, how can you ever begin to respect me? What he described then was a vicious cycle that is very difficult to break. It is only by putting together social institutions that work against this cycle that we can begin to dismantle it. The International Religious Liberty Association is one very important institution striving for these values.

Another—and it might seem anomalous to mention this—is good government, wherever it occurs throughout the world, operating a healthy and accountable democracy. Your association and the concept of the halls of power represented by government might sound like very uncomfortable bedfellows, given the generally accepted principle of the separation of church and state. It is my firm belief that good government for all—irrespective of race, religion, and culture—has a critical role to play in diffusing the aggressive identity politics that lie at the root of religious hatred and violence and also at the root of racism and xenophobia. This is because good governance can help to remove some of the key factors that generate the distrust and disrespect that drive

people into groups that label and prioritize themselves according to religious beliefs, skin color, culture, or nationality. We have seen and we still do see these divisive factors at work in Cape Town. But we also know that for every problem in the world there are people working to overcome these problems, and your organization has preeminence above them.

I hope that you will be able to inspire and encourage leaders around the world to see the profound important connection between good governance, leadership, and religious liberty. We need moral leadership and informed leadership in government and in all our religious communities. And so I thank you for the work that you are doing in promoting the values of religious liberty, a celebration of religious diversity in South Africa and across the world. Thank you very much.



E N D



# PRESIDENT'S ADDRESS: TEN



## THESES TO PROMOTE RELIGIOUS FREEDOM

DENTON LOTZ

*IRLA President*

On behalf of the leadership, staff and friends of the International Religious Liberty Association, it gives me great joy to welcome you to the Sixth IRLA World Congress. It is difficult to realize that five years have passed since our last congress in Manila, Philippines. During these past five years, one would have hoped for a world at peace, a world free of terrorism, and a more tolerant world where religious freedom, justice and peace ruled. Unfortunately, this is not the case! The last five years have seen increased religious persecution, more violence, acts of hatred and the misuse of religion.

Let us remind ourselves of the Mission Statement of the IRLA. It is brief and to the point: "The mission of the International Religious Liberty Association is to defend, protect and promote religious liberty for all people everywhere." That is why we are here: to defend, protect and promote religious liberty. And how do we do that? The Statement of Purposes makes this very clear:

1. Dissemination of the principles of religious liberty throughout the world;
2. Defense and safeguarding of the civil right for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others;
3. Support for religious organizations to operate freely in every country through the establishment of charitable or educational institutions;
4. Organization of local, national, and regional chapters, in addition to holding seminars, symposiums, conferences and congresses around the world.

In your Congress booklet are printed the Declaration of Principles which it would be good for you to review during this week. Let me only mention the first, because it is the distinguishing mark of all of us: "We believe that religious liberty is a God-given right." We are not here as politicians, although we may

be politicians. We are not here as theologians, although we may be theologians. We are not here as missionaries, although we may be missionaries. We are not here as lawyers, although we may be lawyers. We are not here as social activists, although we may be social activists. Rather, we are here for one purpose—to defend religious liberty, which we believe is not a right granted by any secular authority or government. Rather, we believe that religious liberty is from God, the Creator of heaven and earth. We believe that at the heart of God is freedom. Therefore, we are here as men and women of many religious and faith traditions. We worship God, and over against secular and other authorities, we are here as a force of people of faith. We are religious people and believe that beyond the material world there is a spiritual world of values—a world of justice, righteousness, peace, harmony, joy and of eternity. Out of this eternity we believe a voice speaks to us and calls us to be a blessing to humankind. A voice calls us to work for justice, to be a compassionate people, and to bring men and women to a deeper understanding of themselves and the world through experience and community with the Creator and Redeemer of humankind. And thus we are here to defend religious freedom for everyone!

It is an awesome responsibility to give this opening address when there are so many more capable leaders here, especially in the field of religious freedom. As IRLA president, it has been my pleasure to work with our secretary-general, John Graz, and his staff. We begin by expressing our gratitude to him and the staff for their tireless work in making this Congress a success and for the generous and hospitable way they have encouraged and kept us informed over the years.

As my contribution to the significant Sixth IRLA World Congress theme, “Combating Religious Hatred through Freedom to Believe,” I would like to present ten theses which, I believe, will encourage religious tolerance, cooperation, and liberty of conscience:

***Thesis One: True religion is the belief in and positive affirmation of a Creator God who loves and has compassion for humankind. Such religion brings cohesion, morality, and justice to society and distinguishes us from animals. To offend God's creation is to offend God.***

As human beings created in God's image we are distinguished from animals in that we are given the capacity to think, reason, create, talk, and thus communicate with a greater reality than this materialist world. This reality is called by the great religions, God. Since religion is concerned about God, who is above us and greater than us, it must be with humility that through our sacred scriptures we adore and reverence God and express this

in our moral, social, and personal behavior. True religion, therefore, attempts to create within its adherents those divine qualities that bring peace, justice and righteousness to earth. As Dostoevsky said, “Without God anything is possible.” Evil is thus the absence of God. Purity and justice in the lives of humankind is a sign of God’s presence.

***Thesis Two: False religion is true religion which has lost its way and instead of concentrating on God concentrates on man and becomes ethno-centric, intolerant and a force for restricting or limiting society’s freedom. False religion is often used by the state as a means to control and divide people groups. False religion creates sectarianism which results in religious wars, suppression, and violence within religion and outside of its borders. For example, the conflict within Christianity of Protestantism and Catholicism, or within Islam, the conflict between the Shiites and the Sunnis, etc.***

There is always a temptation for the good to become evil. The German language has a proverb, “Das verderben der besten ist das schlimmste!” “The spoiling of the best is the worst!” That is why secular society is so horrified when it sees sectarian rivalry and religion used as a means to promote violence, hatred, and prejudice. Religion should be a model of the good, but when it becomes evil it brings great sorrow and tragedy to humankind. The many religious wars are a sad history of how religious virtues can often become false religion.

***Thesis Three: Religious freedom is the basis of all freedoms. Where religious freedom is denied, all other freedoms are weakened and threatened.***

Soviet Communism was a good example of this thesis. Alexander Solzhenitsyn in his *Gulag* wrote of the unbelievable evil that came to humanity when religious freedom was denied and the state became the idolatrous substitute. Totalitarian states do not want religious freedom because such freedom encourages people to have a loyalty greater than the state and thus appears as a threat to the state. It is a fact of history, however, that the denial of religious liberty does threaten all other freedoms!

***Thesis Four: Separation of religion from the state strengthens religious freedom. Such separation guarantees religion its freedom and at the same time frees the state to be tolerant of all traditions and neutral in the face of conflicting religions and ideologies.***

The history of religions shows that when religion uses the state to enforce its doctrine, or when the state uses religion to control the people, both the

state and religion suffer. Much of the conflict today that is often called “the clash of civilizations” comes from the unfortunate unity of religion and the state. Separation of religion and the state is a powerful means of guaranteeing freedom for the majority and the minority. My Baptist forefathers in Germany suffered from a religion that used the government to enforce infant baptism, when our tradition affirmed the freedom of the individual to choose, and thus was best expressed in adult, or believer’s, baptism.

The older civilizations of Africa, Asia, Europe, and the Middle East continue to be plagued by state religions which often bring tension to the world today.

***Thesis Five: Religion must be free to exercise its prophetic role against the sins and evils of a powerful state, if it goes unbridled.***

Martin Luther King, Jr. is a good example of a religious leader who exercised his prophetic role in condemning state-sponsored segregation. In this country of South Africa, very often religion was used by the state to suppress the majority. The prophetic voice of Archbishop Tutu and other religious leaders helped bring down the evil walls of apartheid.

Because we believe in separation of religion from the state does not mean we believe that religion has no role to play in the state. On the contrary, religion that is truly free has the ability and responsibility to condemn the evils in society through peaceful means.

Each generation of religionists must determine what areas of society need the prophetic voice of faith. Could it be to speak out for those suffering from HIV/AIDS? Could it be corruption in government? Or, perhaps, it is the need to attack a materialistic society which has lost compassion for the poor.

***Thesis Six: The state has the right to restrict religious practices that are harmful to the wellbeing of helpless individuals, or society generally—for example, the sacrifice of infants to the gods, the burning of widows, religious prostitution, zoning, and health laws.***

Just as there are advantages for religion to be separate from the state, there are also advantages for the state to be separate from religion! The state has the right to protect the helpless in society. Where society may have believed in the practice of sacrificing infants to an angry god, government has the right to prevent such denial of human dignity, to protect an innocent and defenseless child.

Unfortunately, this thesis has often been used today to justify any law that the state may use as an excuse to deny religious freedom. The state must not be

capricious in the use of laws passed supposedly to protect society but which, in fact, are an excuse to restrict religion. However, the principle remains that a just and righteous government often must protect its people from religious practices that are hateful, e.g. controlling the use of hateful symbols such as the swastika, or the KKK and a burning cross.

Special Rapporteur Asma Jahangir may have been referring to this when she stated in her message, “The rigorous protection of religions as such may create an atmosphere of intolerance and can give rise to fear and may even provoke the chances of a backlash.”

***Thesis Seven: Religious freedom affirms the right of conversion. Soul liberty, or freedom of conscience, means the state should not restrict an individual from following the dictates of their conscience and their desire to change religions, or for an individual to deny religion altogether.***

The United Nations Charter in 1948 affirmed this principle of conversion. In recent years it has been watered down and weakened. Several governments and states have made conversion punishable by law, or have put such restrictions upon such change that the individual is hindered in the exercise of freedom of conscience.

Of course, any type of proselytism that uses unfair means of gaining converts, through the use of money, promises of a job, etc., are to be condemned vigorously!

This thesis really refers to the inviolability of the freedom of conscience. No state can control the mind. Therefore, Thomas Helwys already in 1611 wrote to King James I: “Our Lord the king has no more power over their consciences than ours, and that is none at all... For men’s religion is betwixt God and themselves; the King shall not answer it; neither may the King be judge betwixt God and man. Let them be heretics, Turks, Jews or whatever. It appertains not to the earthly power to punish them in the least measure.”

The right to be a dissident, whether politically or religiously, is a guarantee of human rights and a protection for religious liberty.

***Thesis Eight: Civilization and religion are closely bound, for good or ill. Religious freedom and tolerance prevents a “clash of civilizations.”***

Samuel Huntington’s book, *The Clash of Civilizations*, has made this idea one of the most widely discussed themes of our day. There is no doubt that religion is indeed the basis of most civilizations. If you really want to understand a people or culture, you need to understand their religion.

On the other hand, recent criticisms of this book maintain that the so-called clash is an exaggeration of the situation and does not take seriously other mitigating factors. The fact is—contrary to the idea of the 1960s and the idea of *The Secular City*—religion is here to stay. Therefore, it behooves men and women of faith to use their traditions and sacred scriptures to call upon their faithful not to raise the sword, but to become peacemakers. We must create such models of inter-religious conversations to show that it is possible for different religious traditions to live together. A good example is the Peace Committee of Nigeria which is composed of 10 Christians and 10 Muslims, all of whom are working together to prevent sectarian and religious violence.

***Thesis Nine: Syncretism is no solution. Each religion must be given the freedom to maintain its own history, identity and traditions. Syncretism sponsored by the state (“all religions are the same”) destroys the uniqueness of religion and perpetuates intolerance towards minorities. A forced syncretism by the state does not help, but only creates a new religion which further complicates peaceful co-existence.***

The uniqueness of various religions is best maintained by the institutions themselves and not by the state. Each religion must maintain the right to defend itself. This does not mean that various religions cannot work together on common problems of society—be they environment, HIV/AIDS, poverty, human rights, corruption, etc.

Dialogue between religions should not be an attempt to find the lowest common denominator, but rather should be an open exchange of ideas so that we understand one another better. Truthful exchange of the doctrines and tenets of one's faith creates better acceptance by the adherents of one's tradition than a false alternative which is not faithful to each other's religious doctrines. For example, as a Christian of the Baptist tradition, I believe that God has revealed Himself in Jesus Christ as Redeemer and Savior. This is a basic tenet of my faith. Such faith does not prevent me from dialogue with other religious traditions, but rather encourages and enriches me in my pilgrimage of faith!

***Thesis Ten: World religions in affirming freedom of religion can contribute to a free, just and peaceful society. Beyond co-existence, prophetic religion is the key to pro-existence and encourages all of us to combat religious hatred with a vision of unity, peace and love for the world.***

The IRLA hopes that this Congress will contribute to religious freedom



and peaceful harmony among nations and religions. Our goal is more than just co-existing together on planet Earth, but rather our goal should be pro-existence, living together faithfully for a righteous and just society of all people, especially the poor, the persecuted, and downtrodden. At this Congress, if our search for and defense of religious freedom issues is such a pro-existence lifestyle, then we will combat religious hatred wherever we are. The future of humankind expects that of us. God expects that of us as we await God's judgment and reign, which we believe is indeed coming!

Finally, you have before you a schedule of events and a rich program. Participate, pray, and work for the successful outcome of this Congress. We pray that the Congress plenary speakers and leaders of all work groups and discussions will be listened to with courtesy and respect. We hope that the interaction of so many delegates this week will be the beginning of a new understanding among the many religions of the world, beginning with you and me! God bless you!



E N D



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# COMBATING HATRED: THE HISTORICAL MISSION OF RELIGIONS

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SEYED MOHAMMAD ALI ABTAHI

*Former Iranian Vice President for Legal and Parliamentary Affairs*

**F**irst of all, I would like to thank the International Religious Liberty Association for organizing such a valuable gathering and also thank all its directors for inviting me to this event.

Needless to mention, all religions pave the path to reach God. Unfortunately, in the contemporary world there are a number of people who misuse religion to advance their individual and political objectives. I would like to share seven points with you who are interested in peace and freedom in the world.

1. In the course of history, religion has always been one of the sources of power, able to organize and mobilize people. Religion creates a form of inner relationship with its audience which connects all elements of the society. Rulers have made extensive use of this power throughout history. They have used religiosity to back their own authority. They have practically used religion for its power; most of the great wars of history that have taken place under the name of religion are a result of making use of religion as a tool.

2. Along with political authorities' use of religion, religious leaders have taken the initiative to suggest dialogue and cooperation among religions. The most famous and important example is the Vatican Conference where, along with considering religious reformations in Christianity, dialogue with other religions—especially Islam—received official recognition. Unfortunately, even today, those who have actively entered the contest of violence under the name of religion talk of religious conversion and nullify religions other than their own. Instead of inviting to conversion, religious leaders should support dialogue and cooperation.

3. Without doubt, religious violence has once again become one of the most serious global issues. The bitter incident of September 11 has made violence under the name of religion, especially Islam, much more serious and global. The bloody, violent reaction of the Americans with religious inclinations and support has invited the world into the contest of violence against religious violence, while

the undeniable fact in the community of world religions is that religion cannot be the cause of violence. The silent majority of the followers of Islam, Christianity and Judaism demand life in peace. Basically, from a philosophical point of view, while all religions believe in one single God, how can that same God issue commands to struggle with and kill His other creations? However, whether we like it or not, the voice of violence is a loud one which pushes itself into the position of representing religions and, as a result, the voice of the majority of religious communities—who are against violence, murder and terror—is not heard anymore. Bin Laden attacks America, Bush occupies Afghanistan and Iraq, and Sharon spills the blood of the Palestinians and all this is done under the name of the religions of Mohammed, Jesus, and Moses. None of these religions have given to one person the right to represent them—neither Moslems to Bin Laden, nor Christians to Bush, nor Jews to Sharon.

4. Our current world is the world of communication. The effect of communication on religion has not been less than on other aspects of life. Technology is a tool that cannot be used exclusively by one side. With the advent of the internet, the borders were lifted out from under border guards who previously guarded a nation's land, culture, religion and traditions, but who can now only protect its land. In such borderless times, it is not only the voice of the better West that reaches the East, the voice of the East also stretches to the West. Unfortunately, this technology has been extensively used by exclusivist churches that consider everyone but themselves invalid and have started a violent propagandistic war against other religions. Reciprocally, Islamic fundamentalist and violent movements have defended Islam in much the same way. The consequence of such propagandistic conflict is that the world hears only the voices of violence from the camps of religion. Unfortunately, these voices have political supporters on both sides. However, if long-term human interests are considered, it is to the good of humanity that everyone uses their power to dampen these violent voices of religion. Otherwise, the continued abuse of religious power will direct the world in a darker direction and to wars far bitterer and bloodier than the Crusades.

5. Fear of religion, which is now promoted by different politicians, is one of the main causes of world problems. Islamophobia in the West has become so epidemic that it is promoted at different levels by politicians, university teachers, and even researchers. Although in the short term it might satisfy some political interests of certain Western rulers, in the other half of the world Islamophobia will certainly turn into Westophobia. Consequently, since both the West and the great population of Muslims have considerable political,

economic, and military capabilities, it will only result in the mentality of terror and violence on both sides. This is that point of vulnerability which can drag the world into annihilation.

6. Most of the problems in the world that have gained a religious hue do not have religious roots. I come from the Middle East. The oldest and most serious uses of violence in the world have all taken place in this region and all under the name of religion. Nevertheless, the problems of the Middle East do not have their root in religions and holy books. The root of the problem is political, and politicians know how they have manipulated this region so that political conflicts end up under the name of religion. In my opinion, if Americans had known the reality in the Middle East and had advisors other than Israel, they would not have created so many troubles for themselves, the people of the world, and especially the inhabitants of this region. If they had known the reality in this region, they would also have known that their policies are not only against the interests of the American people, but also most certainly to the advantage of the Israeli government. However powerful the individuals from one country are, the world should not be sacrificed for them.

7. History has shown that whenever politicians have used religion, they have hurt both religion and themselves. Basically, this is the nature of using religious emotion—the start of which may be in the hands of politicians, but its end is out of their hands. The latest example of this can be found in Afghanistan. During the period when the world was bipolar, in order to fight the Soviet Union which had occupied Afghanistan, America—with the help of the Arab countries—made use of the religious motivation of young Muslims. They organized them under the cause of opposition to Communist atheism and gave them the name “Mujahid” (Muslim warrior), tapping a chord that was forgotten in the culture of this region, and sent them to the battlefield. However, when the war ended, those religious thoughts that had been developed did not end; the remains of the American-made Mujahids—still stirred by their sense of religious duty and emotion—targeted America itself and created the catastrophe of September 11. This experience should have convinced politicians not to abuse the element of religion.

The conclusion is that religions in the current world have no choice but to cooperate and fight common threats. To achieve this, I offer six suggestions:

1. Politicians should not use religion as a tool in their global conflicts. They do so at their own peril.
2. The pious leaders, and especially political leaders, of different countries should get to know the reality of other religions and respect their principles.

3. In order to understand a religion, its genuine thinkers must be used so that the doors are closed to those who abuse religion to their own advantage.
4. The dangerous propagandas of Islamophobia and Westophobia, which also include Christophobia and Judophobia, must be limited. No religion should demand the right to talk only of itself and nullify other religions. We can bring religions closer to one another. Religions can either have a constructive dialogue and rely on common points, or stand opposite one another and consequently jeopardize the essence of religiousness. In this domain, dialogue is not a tool, but a goal which can guarantee the survival of religion.
5. Violence-creating conflicts that have political grounds must not be veiled with a religious cause; people need to know that there are only political interests behind these seemingly religious conflicts.
6. All political and propagandistic resources are to be placed in the hands of moderate thinkers of the religious world, so that they can expose violence-seekers who drag the world into wars under the name of religion, and publicize the peacemaking essence of religions.

These things are easy to say, but only the wise and logical of the world can both know them to be true and practice them. The common essence of all religions is love for man; all human beings are created by the same God. Understanding this can help establish global peace.



E N D



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# RELIGIOUS FREEDOM OR RELIGIOUS FUNDAMENTALISM?

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BERT B. BEACH

*IRLA Secretary-General Emeritus*

This year, 2007, we are celebrating thirty years of IRLA congresses. I was privileged to have been involved in organizing the first such congress in Amsterdam in 1977, and have had the opportunity to participate in all six World Congresses. A lot of religious liberty water has flowed down-stream into the ideological oceans, although at times it felt like going up-stream.

The most visible religious liberty enemy thirty years ago appeared to be totalitarian communism. A decade or so earlier, the Roman Catholic Church at Vatican II had officially accepted the concept of religious liberty for all people. At that time the word “integrity” appeared, referring to opposition to religious change in general and, more specifically, to religious liberty. “Fundamentalism” was hardly mentioned in religious liberty circles.

In the title chosen for my presentation, the word *or* has been placed between religious freedom and religious fundamentalism, implying quite rightly that *freedom* and *fundamentalism* are mutually antagonistic or even largely exclusive.

And yet, historically, the word *fundamental* has sounded positive and trustworthy. When we speak of the fundamentals of a situation, policy, or even religion, we try to refer to its basic nature or ethos, that which characterizes a concept or belief, gives it meaning, and without which there is really no stability and bedrock foundation on which to stand and build a structure, including freedom.

However, for some years now, the related term—*fundamentalism*—has taken a turn in a sinister direction. It indicates a turning away from freedom to think toward wearing a confining—not to say paralyzing—ideological strait-jacket. When dealing with religion, the intellectual fundamentalist corset becomes even more strait-laced!

Originally, the term *fundamentalism* began to be used in the United States in the 1920s. At that time it referred to a traditionalist movement confronting

“liberal religion,” particularly “higher criticism,” heavy concentration on the socio-political gospel, and godless evolution.

Since then, it has become clear that the term *fundamentalism* has considerably shifted its denotation. Today, religious fundamentalism has penetrated all major religions, the most obvious being Islam, and has become a dangerous worldwide phenomenon. It is essentially a reaction, at times violent, against most things “modern”, including democracy, and repudiating “secularization.”

Most human societies in our world today are generally favorable to change and pluralization. The fundamentalist, in contrast, is opposed to change in general, and more specifically to pluralism of world-views. He wants one view—always his own view—to have exclusive validity, and therefore domination and control. His world-view or religion protests, even with anger and violence, against the sweeping changes that have already overwhelmed some societies or threaten to do so. Fundamentalism, as an ideological organizing system of thinking, expresses resentment against the secularization of society, with its resulting moral permissiveness and amoral consumer-oriented materialism and globalization.

The cumulative effects, directly or often indirectly, of the eighteenth century Enlightenment, the American, French, and Russian political revolutions, and the scientific revolution of the past couple of centuries have resulted in diminished attention being paid, especially in the industrialized West, to moral and ultimate issues, such as sin, salvation, and afterlife. The focus has shifted more and more to gaining the most now from concrete material opportunities. The trend—at least in theory, if not always in practice—is toward toleration and freedom, to “live and let live,” favoring flexibility in dealing with socio-political and cultural issues.

Religious fundamentalism is in its essence not a doctrinal issue, but a basic outlook directed toward the current world order, protesting against *laissez-faire* societies. The resulting protest often becomes vehement, inflexible, pitiless opposition to anything new, and tramples on the human rights of the exponents of different opinions and progressive change. Fundamentalism makes its case not only in the media, but in bloodshed every day—from misguided zealots who blow up abortion clinics in the name of Jesus, to doctrinaire fanatics who blow up peaceful villagers or city dwellers in the name of Allah.

Despite all the differences of creed and kind, observers can point to some consistent threads running through the tapestry of fundamentalism: the quest for purity and perfection, the search for absolute certainty, tradition and

authenticity, and the predilection for a total, global world-view that controls, or at least strongly impacts all aspects of life. The attention it gives to tradition and the past is often an illusory attempt to “restore” that which historically never really happened nor existed. This false dream characterizes many expressions of fundamentalism. It is wrong to idealize the past, as though life in the distant past was wonderful, with everyone healthy, well-fed, sober, moral, justly treated, free, happy, and at peace.

The paradox of the modern world is that while scientific standards are becoming more and more precise and demands for objectivity ring in our ears, moral standards are becoming vaguer, more situational, and increasingly imprecise. The breakdowns of traditional morality followed by growing social permissiveness and the economic and cultural exploitation of Third World countries and of segments of society in Western countries are some of the evils against which fundamentalists, with some reason, are protesting.

One key reason for the growth of contemporary fundamentalism is *marginalization*. This occurs when any group—by race, ethnicity, language, religion or economic status—is made to feel irrelevant to decision-making and feels excluded from participation in society. This is increasingly the case with the poor in today’s world. The speed of travel and almost instant worldwide communication have placed the poverty, misery, and unequal social structures of whole groups of people in close proximity to wealth and special privilege. Fundamentalism can then become attractive as a form of protest by those who feel hopelessly marginalized and exploited.

An increasing number of people groups feel “out of the loop.” Having won independence and nationhood, many citizens of younger nation states hunger for the esteem they believed would come with national identity. They feel humiliated by economic, cultural, and occasionally military hegemony exerted over them by more powerful states. The resentment of the marginalized may well be the most prolific breeding stable for fundamentalism, and tends to push religious liberty to the back burner.

It would appear that many religious fundamentalists view the human rights-oriented secular nation both as a danger and failure. They say it has not achieved social justice. It has not provided family stability, sobriety, respect, and honor. Often the result, or at least the reality, of secular national government appears to be greatly increased crime and divorce rates, drug culture, pornography, homosexuality, and rampant corruption in business and political life. With this in mind, for the fundamentalist, religious liberty and political democracy become of little importance—non-essential luxuries.



Although we might agree with some of the fundamentalist critique, I believe that their “medicine” is worse than the “sickness.” There is, as already indicated, an element of mythology and historical blindness in the fundamentalist thinking and solution. While its adherents are basically against change, they do favor one selected change: going back to the “golden age” of tradition and perfection. This “going back” can vary a great deal: fundamentalist Muslims want to go back about a thousand years; for Christians, “going back” can vary greatly—to the nineteenth century, to the so-called united Christendom of the Middle Ages, to the time of the church fathers, or to the first century. Some fundamentalist Jews dream of the past theocratic period and temple.

Fundamentalists seek in their own various ways to “traditionalize,” to go back to the past—the theology of the pioneers, the legendary heroism of the Teutonic knights, the fortitude of the Voortrekkers in southern Africa, the firmness and rectitude of the Puritans in North America.

Many fundamentalists seek one major reactive change: they want to place their religious views at the center of life in the home, government, courts, media, schools, even the military—in short, everywhere. Thus, religious fundamentalists today have *both backward looking world-views, and a present mindset*. The latter tends to be inflexible, and requires everybody to march in lock-step to the required religious tune. And woe unto him who does not!

There seems to be in religious fundamentalism an almost inevitable progression (though probably “regression” might be a more accurate term) toward religious extremism, disregard of human rights and religious liberty, and ending up in totalitarian alliance of religion and state.

Fundamentalism does have its complexities and paradoxes. It can be divergent and even move in contradictory ways. Any day’s newscasts show that fundamentalists can act, or react, in different, even diametrically opposite ways. Fundamentalists can very well hate and fight other fundamentalists. That is part of the picture.

While many believers may share with fundamentalists a “high view” of scripture, most do not share their tendency to quote their scripture selectively—be it the Torah, the Bible, or the Koran. Fundamentalists often use an out-of-context proof-text approach. Many devout fundamentalists, without much reflection, take passages and apply them simplistically, without seeing the entire perspective, to very different present-day situations. Some fundamentalists even rationalize extreme interpretations of their scriptures in order to justify the suppression of other opinions, to support violence and

terror, and proclaim the “glory of suicide martyrdom” that kills innocent people.

From a Christian perspective, God inspires His prophets, not in order to provide support for intolerance and rigid, implacable dogmatism leading to persecution, but rather to give spiritual inspiration, hope, the gift of love, and reasoned guidance. The truth that comes from God through His chosen messengers leads to salvation, and, in the words of Jesus, “makes you free indeed.” Yes, humanity is involved in a “cosmic war,” where salvation and eternal life are at stake, but there is no physical war—no conquest, no jihad, no crusade, no poisoning of people’s minds with hate, no extermination struggle between believer and infidel. It is a spiritual contention between truth and error. There is no place for obstinate, merciless, violent intransigence, and harsh punishments. All such human-to-human conflicts are ultimately counterfeit controversies, distractions from the spiritual struggle for hearts and minds.

The fundamentalist mindset is, finally, unacceptable because it is in conflict with the dignity of the human person, a free moral agent with the right to be committed to his or her beliefs and convictions. There is in fundamentalism a built-in resistance to freedom, reason, learning, and creativity. It opposes itself to the God who gave us all these gifts. Fundamentalism, wherever found, reveals its taste for bigotry, fanaticism, rigidity, and exclusiveness at a time when the world is crying out for bridge-builders and peacemakers. It revels in control, and justifies its refusal to dialogue and learn by its suspicions of other opinions and other faiths. I must reject religious fundamentalism because it feeds religious hatred and starves religious freedom. While seeking to preserve the truth about God, fundamentalism ultimately gives a terribly distorted view of God’s character. Religious fundamentalism is in contradiction with a God of love and freedom.



END



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# COMBATING RELIGIOUS HATRED

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JANET EPP BUCKINGHAM

*Associate Professor at Trinity Western University and Director of the Laurentian Leadership Centre. She previously served as Director of Law and Public Policy for the Evangelical Fellowship of Canada.*

I confess that this is a difficult topic for me to address. I am an evangelical Christian living in the very secular country of Canada. During the last 20 years, it has been increasingly difficult to publicly be a Christian. Evangelical Christians are stereotyped. In general, the media has a very negative portrayal of us.

In 2000, the leader of one of the leading political parties was a Pentecostal and made known his strong religious views. He was publicly ridiculed. One news magazine had a cover story, “How Scary?” as though Pentecostals have beliefs that are totally out of step with normal people.

In 2001, I made a formal complaint about a newspaper article in a national newspaper that said that Evangelicals teach their children to throw stones at other children in the schoolyard and that we are responsible for violence against gays.

In Canada, we are facing battles over public funding of religious schools, and even over whether religious schools and institutions can continue to teach our historic beliefs about sexuality, marriage and family.

The constitutionally protected right to freedom of conscience and religion is being withdrawn from those considered “public officials” such as teachers and marriage commissioners on issues of how marriage should be defined.

This is only a small taste of what many minority religious groups face on a continual basis in countries around the world.

I have long been an advocate of dialogue, believing that understanding other points of view will lead to tolerance and respect, even when we agree to disagree. However, when I witness venomous attacks on believers, I am less optimistic about the success of dialogue.

In Canada, I have witnessed attacks in the media and in academic writing. In some cases, the attacks have been on an ideological basis. In other cases, it has been to score political points. This trend can quickly be universalized. And

if people are trying to win politically by tearing down minority groups, there is little one can do to have dialogue towards understanding and tolerance.

The World Evangelical Alliance has noted that persecution has three stages: disinformation (usually through the media), discrimination, and persecution.

In order to combat religious hatred, it is vital to address things at the disinformation stage. This includes trying to have input into school curricula. It includes trying to counteract negative images in the media. It also includes raising the alert in international gatherings when a pattern becomes evident.

In combating religious hatred, there are international documents and mechanisms one can utilize. In 2001, the then United Nations Special Rapporteur on Religious Freedom, Mr. Amor, convened a special conference on religious education in Madrid. The final document from the conference called on countries to promote education about religion in order to foster tolerance and respect. This document has not received sufficient attention and deserves to be supported and promoted.

It is notable that there has been a call at the United Nations Human Rights Council for a dialogue on combating religious hatred. Yet some of the countries issuing the call are ones where we know there is educational material that denigrates other religions, particularly the Jewish religion. This kind of hypocrisy cannot go unchallenged. Islamic states have issued a call for religious tolerance, and rightly so, but they must be willing to examine their own record and ensure that they are practicing religious tolerance themselves.

There is an international trend to combat the spread of religious and racial hatred through legislation. While this sounds like a good idea, it has been used to limit expression related to genuine religious concerns. It is deeply concerning when the very legislation that is meant to protect religions and promote tolerance is used as a weapon against religions. The most recent example of this was in Uzbekistan, where a Pentecostal pastor was convicted of spreading religious hatred and treated as an extremist simply because he was preaching about the truth claims of Jesus in the Christian faith. He was not vilifying other religions. Such cases remind us that even well-intentioned legislation can be used for mischief.

Religious minorities must take leadership in establishing dialogue. This dialogue must be fostered within a country with government officials, with the media and with other religious groups. The dialogue must also be fostered with the international community, officials at the United Nations and like-

minded international organizations. We must build religious civil society and strengthen the structures of supportive organizations.

Religious communities of good will must also be willing to work together to foster religious freedom. This does not mean that we eliminate our differences, but that we give evidence that we respect each other and be willing to stand together to promote religious tolerance.

With new structures at the United Nations that make human rights a high priority, it is a strategic moment to highlight the need for religious tolerance and the importance of religious liberty.

## THE WORLD EVANGELICAL ALLIANCE RELIGIOUS LIBERTY REPORT

The World Evangelical Alliance (WEA) is the global network of Evangelical Christian organizations. We have member alliances in 127 countries around the world representing more than 400 million Christians.

In 1992, the World Evangelical Alliance founded the Religious Liberty Commission (RLC). Rev. Johan Candelin of Finland is the executive director of the Commission and it includes members from around the world. Some of the activities of the RLC include:

- Monitoring religious freedom incidents around the world;
- Informing the WEA network of religious freedom issues;
- Mobilizing prayer through weekly e-mail and International Day of Prayer for the Persecuted Church (second Sunday in November);
- Advocating for the persecuted nationally and at the United Nations;
- Publishing academic reports on religious freedom;
- Maintaining a network of government officials around the world to advocate for religious liberty.

The WEA RLC advocates for religious liberty for all, as a fundamental human freedom in accordance with Article 18 of the UN Declaration on Human Rights. Being a global network, however, our best information is about the plight of Evangelical Christians who are being persecuted for their faith. Where the church is growing, there is often persecution.

We have noted that there are three stages in persecution. The first is disinformation, often through the media. The second is discrimination, often officially by the government or by others while the government turns a blind eye. The third is outright persecution.

We have been tracking two types of governments most likely to discriminate against and even persecute those of minority religious faiths.

Communist governments, such as those in China, Myanmar and Vietnam, see all religion as a threat. The government sees itself as the only place people should turn to for everything. In both China and Vietnam, the governments have slowly been opening the door to official recognition of some religious groups under strict control of the government. But as soon as religious adherents start to ask for more recognition or for justice for their people, there is renewed repression. Minority groups in these countries are often religious enclaves as well, and this leads to double persecution. They are marginalized as a minority group and persecuted for their religious beliefs.

The second worrisome type of government may be seen in countries where a particular religion is tied with nationalism. While this is most notable in India and Sri Lanka at the moment, minority groups in other countries have experienced this to greater or lesser degrees. In India, Hindu nationalists have persecuted both Christians and Muslims. There are various kinds of discrimination against these groups, ranging from restrictive covenants on property, allowing it to only be sold to vegetarians, to not allowing Christians to adopt children. In Sri Lanka, Buddhist nationalists have persecuted Christians, seeing them as a threat to traditional Buddhist beliefs. This has been exacerbated by the renewing of civil war.

This type of discrimination and even persecution is seen in the behavior of Orthodox Christians against Evangelical Christians in countries such as Eritrea, Ukraine, and Greece to varying degrees. It is also prevalent in some Muslim countries—Pakistan, for example—where being Muslim is tied very strongly to national identity.

Laws in these countries frequently require registration of religious organizations and place restrictions on conversion. These laws are in place to protect the place of the dominant religion. In some places—Belarus, for example—the registration laws are applied to restrict the practice of certain religions. Registration is refused to certain groups, and without registration, the group cannot meet, cannot open a bank account, cannot rent facilities or purchase land.

We are also concerned about laws restricting conversions. Some Islamic countries believe that it is necessary to safeguard Islam by prohibiting conversion from Islam. Some countries, notably Yemen and Saudi Arabia, legislate the death penalty for apostasy from Islam. Other countries have laws that prohibit “forced” or “unethical” conversions. In Sri Lanka, the proposed anti-conversion law was so broad that Christian relief and development agencies were concerned they would have to stop providing aid altogether.

Even in countries such as Egypt, where people must list their religion on official documents, the law requires persons to report a change of religion. This can lead to pressure to change religion, restrictions against organizations involved in conversions, and lead to discrimination and persecution.

Given these realities, is there any hope for religious freedom?

There are many areas where advocates for religious freedom can make a difference. The new United Nations Human Rights Council may provide new avenues for advocacy. The Council is to have periodic human rights reviews for all countries of the United Nations. Under the previous Commission on Human Rights, some countries were never called to account for human rights violations: all countries will now be accountable. It will be incumbent on religious freedom advocates, however, to bring religious freedom violations to the attention of the Council.

Along with the new Human Rights Council, there is a growing global network of religious freedom advocates. There are new opportunities to share information around the world and mobilize activism. It is vital that advocates in a country be able to rely on like-minded colleagues to write letters of support and mobilize their governments to work through bilateral and multilateral diplomatic channels to pressure governments to change policies and laws.

As a Canadian, I am aware that my government has a bilateral human rights dialogue with Indonesia. That means that Canadian religious freedom advocates have unique opportunities to raise issues related to this country with the Canadian government, knowing that there is a forum where these issues will be addressed. The Canadian government is also active in encouraging the Sri Lankan government to avoid civil war. We must, therefore, raise the violations of religious freedom towards Christians occurring in that country so that these concerns are part of any peace negotiations.

To be effective, we must act globally and be aware of the international relationships that can help in any given situation. Above all, we must keep religious freedom high on the priority list of international human rights.



E N D



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# PROGRESS ON RELIGIOUS FREEDOM IN LATIN AMERICA

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JOSÉ CAMILO CARDOSO

*General Director of the National Registry of Religions  
Ministry of Foreign Relations, International Trade and Worship  
Republic of Argentina*

**B**efore beginning my presentation, I want to thank the International Religious Liberty Association (IRLA), particularly its president, Dr. Denton Lotz, its secretary-general, Dr. John Graz, and all its leaders for the opportunity they have given me of participating in this Sixth World Congress on Religious Liberty held in this magnificent city. I would also like to express my appreciation for this initiative of IRLA in giving us this excellent opportunity to exchange information on religious freedom with acknowledged international experts, an event which will surely improve and update our knowledge on the matter.

I will survey a variety of different aspects of the current situation in order to highlight current developments related to religious freedom and progress toward religious freedom in Latin America.

## RELIGIOUS FREEDOM WITHIN THE FRAMEWORK OF STATE ECCLESIASTICAL LAW

To understand the religious reality in Latin America, it is necessary to point out that religious freedom, the cornerstone of human rights, is one of the pillars of state ecclesiastical law: the relationship between the State and religions is the other.

In contemporary society, the religious phenomenon is linked not only to spiritual and doctrinal matters but also to social aspects in connection with liberty, human rights, social justice, co-existence, and to the sphere of its relationship with the State.

Ecclesiastical law comprises legal rules at state level, which regulate the civil relevance of the religious fact and address the religious phenomenon within society.

This branch of public law aims at analyzing the religious social fact from the legal point of view. Such analysis involves different stages: a) analyzing



what is meant by “religious”; b) assessing its social incidence or relevance; c) verifying its legal and political transcendence; d) reviewing its historical perspective. The first stage is within the sphere of philosophy; the second is within the sphere of sociology; the third within the general theory of law and political science; and the fourth within historical science. All these sciences make their contribution to state ecclesiastical law.

It is important to make a distinction between two frameworks which often unduly overlap. On the one hand, we distinguish between a confessional religious law created by religious groups to regulate their inner structure, organization and activities; and, on the other hand, a civil or state religious law, derived from the State as the one in charge of interpreting the citizens’ general interests, which addresses the religious phenomenon because of its implications in social life. In view of this, we may ask ourselves to what extent the State may have jurisdiction over the religious social fact?

In the first place, it may be stated that the religious phenomenon should not be under the jurisdiction of a modern, lay, pluralist and non-confessional state, since the State does not have the due jurisdiction to regulate it. The religious phenomenon is neither civil nor political, but rather a different and autonomous category. Even so, the religious phenomenon can certainly have a civil projection, and this “political nature—in the sense of civil nature of the religious phenomenon—is the formality which is characteristic of state ecclesiastical law.

The religious phenomenon, as a sociologic and cultural phenomenon, results from exercising the right to religious freedom, but has different daily manifestations which require a legal regulation. Such manifestations are in connection with religious education at schools; social, welfare, cultural, and charitable activities of the different religions; activities within the civil sphere of law conducted by religious groups; spiritual advice to people at large and especially to those in particular situations, such as people in the armed forces, in healthcare centers, psychiatric institutions or prisons; the mass media, which spread religious messages; the right to consecrate conscientious objection, etc. These examples show that the religious phenomenon as a spiritual dimension of the human being has a decisive influence in human interaction.

The religious phenomenon, which originally belongs to the internal sphere of the person, acquires a group, community or social character.

At this stage, I could safely affirm that state ecclesiastical law covers these essential issues: a) religious freedom; b) the relationship between the State

and religious confessions, which is based on the following principles: 1) the principle of religious freedom; 2) the principle of laicism; 3) the principle of religious equality before the law; 4) the principle of cooperation between the State and religious confessions; 5) the principle of religious pluralism.

Religious freedom should be understood as comprising two basic or fundamental liberties: freedom of conscience, which means each individual may freely choose, change or abandon a religious conviction in their internal sphere; and freedom of worship, which entails exteriorizing religious belief through acts of worship conducted individually or collectively, either in public or in private.

## CONSTITUTIONAL SYSTEMS IN LATIN AMERICA BEARING ON THE RELATIONSHIP BETWEEN THE STATE AND RELIGIONS

The constitutions of various countries determine the relevance of religions and reference to them, and the State's position of neutrality, indifference or rejection of religions. The following descriptions largely encompass the varieties of constitutional approaches to religion:

- **System of sacrality or sacred State:** A union or overlapping between spiritual and temporal power, there is a communion of purposes and objectives between both orders. The head of State may hold the rank or status of religious authority: that which is illegal is confused with sin. The theocratic profile is imprinted in the constitution. This system is not present in any constitutional model in Latin America.
- **System of confessionalism or confessional State:** The State adopts a religion of its own, recognizing it as its official religion. By way of example in Latin America I could mention Costa Rica and Bolivia, whose constitutions recognize Roman Catholicism as the official religion of the State.
- **System of cooperative or autonomous recognition:** The relationships between the State and religions are based on autonomy and cooperation, admitting a prevailing or preeminent religion, with links and communication between both spheres. There is a sociological co-existence of a majority religious sector and other religions, based on religious pluralism. As an example of this in Latin America I could mention Argentina, Paraguay and Peru, which evidence an express constitutional recognition of the Roman Catholic Church, not interpreted as the official religion of the State.

- **System of separation, laicism, or lay State:** Total, strict and absolute separation between the State and religions. In Latin America, this system is found in Uruguay, which does not support any religion whatsoever, while Brazil, Chile, Colombia, Ecuador and Venezuela, evidence a separation or non-confessional system.
- **System of atheism or atheist State:** Based on Marxist philosophy, it does not imply neutrality or indifference, but rather the dissemination and spreading of atheism and dialectical materialism. The political system proposes not only the absence of religion but also opposition to religion. An example of this model in Latin America is the Mexican Constitution of 1917, which was against religion. It should be noted that Mexico overcame its original atheism through legislative reforms promulgating the “Act of Religious Associations and Public Worship” in 1992, which marked a significant progress in terms of religious freedom. Today, Mexico is a model of a lay State.

## GOVERNMENT AREAS WITH JURISDICTION OVER RELIGIONS IN LATIN AMERICA

As an introduction to the legal system of religious groups, I think it useful to address the issue of the governmental areas of jurisdiction on religious matters in Latin America within the framework of relationships between the State and religious groups. I will note that they change from country to country, that they have different hierarchical levels, or that sometimes they are non-existent. The state institutions in charge of this matter are: Argentina (Ministry of Foreign Affairs, International Trade and Worship); Bolivia (Ministry of Foreign Affairs and Worship); Brazil (there is no governmental area in charge); Chile (Ministry of Justice); Colombia (Ministry of Home Affairs); Cuba (Board of Religious Affairs); Ecuador (State Ministry of Government, Police, Justice, Worship and Municipalities); Mexico (Department of Government); Paraguay (Ministry of Education and Culture); Peru (National Board of Justice - Ministry of Justice); Uruguay (no specified body in charge); and Venezuela (Ministry of Home Affairs and Justice).

Religious freedom has progressed remarkably in these countries as a result of historical, social, cultural, legal, and religious factors enhanced by the phenomenon of globalization and the incidence of the international law of human rights protected in recent constitutional reforms.

In Latin America, state ecclesiastical law, understood as part of state law addressing the religious phenomenon, often shows similar development

processes due to historic and sociologic reasons, although differentiating features may be found as a result of different demographic situations.

## THE IMPACT OF MIGRATION ON RELIGIONS IN ARGENTINA

Latin American countries have shown a very similar development, with certain peculiarities, when it comes to religion and the relevant presence of the Roman Catholic Church that was prior to and went hand in hand with the formation of national states.

The religious manifestations which pre-existed the discovery of America were exterminated or gradually disappeared due to the predominance of Roman Catholicism and a legal system in force in America in the colonial period during the sixteenth, seventeenth and eighteenth centuries. During this period the immigration of other religions other than Roman Catholicism was banned in the Latin American colonies, and so there was no diversity or religious pluralism.

It may be stated that migration was the key element which determined the presence of religions other than Roman Catholicism in Latin America. For instance, in the Argentine Republic, migration had barely started in 1825, but showed remarkable development from the mid-nineteenth century to the mid-twentieth century.

The immigrants' religious tradition helped achieve cohesion and generate a feeling of belonging to a group. When faced with the difficult conditions of inserting themselves into a society, immigrants resorted to their religion, seeking community assistance.

Within the framework of Christianity, immigration had a decisive influence, as is the case of the following churches established in Argentina: the Anglican Church (1825); Scottish Presbyterian Church (1829); German Evangelical Congregation in Buenos Aires –currently the Evangelical Church of Río de la Plata- (1843); Waldensian Church (1887); Dutch Reformed Church (currently the Argentinean Reformed Church) (1908); Argentinean Mission of Missouri Synod (currently the Argentinean Lutheran Evangelical Church) (1918); United Lutheran Evangelical Church (1920); Congregational Evangelical Church (1924); Hungarian Reformed Evangelical Christian Church (1938); Swiss Evangelical Church in Argentina (1944).

Also, since the early twentieth century other Christian denomination settled in Argentina, for including the Baptist Church, the Methodist Church, the Seventh-Day Adventist Church, the Free Brethren Church, the Church of

Jesus Christ of Latter Day Saints, the Salvation Army, the Pentecostal Church, and Jehovah's Witnesses, among others.

The Jewish presence in Argentina dates from the mid-nineteenth century. As another example of migration movement in Argentina, Jewish people arrived in Argentina and began settling in colonies in the Littoral area in 1860.

Within this faith community, we could mention Sephardic Jews, who arrived from Spain and Northern Africa, speaking their Jewish-Spanish language, with customs and languages acquired during the exodus from Sefarad. Other Sephardic Jews arrived from Greece, Turkey and the Balkans, Eastern European communities. The early immigrants relied on rabbis from Western Europe to care for their spiritual life.

Many Ashkenazi Jews from Russia, Central, and Eastern Europe emigrated to Argentina to escape persecution during World War I and World War II.

During the era of Argentina's national organization and definition of the institutional order in the first administration of General Julio Argentino Roca (1880-1886), a considerable number of immigrants arrived in Argentina from Syria, Lebanon, and Palestine, provinces of the Ottoman Empire since the sixteenth century. These immigrants originated Christian Orthodox and Islamic communities in Argentina.

The Orthodox Church of Byzantine rite also gradually settled in Argentina. In some cases it represented patriarchies such as those of Antioch, Constantinople and Moscow, and in other cases it depended on autocephalous or independent national churches.

The migration flows which gradually built Orthodoxy in Argentina included Syrians, Lebanese and Palestinians, Greeks, Russians, Belorussians, Bulgarians, Serbs and Montenegrins, Romanians and Albanians, among others.

Although the Catholic Church is not the subject matter of this paper, I cannot overlook the Arabian immigration, largely Lebanese and with a rite of its own, which established the Maronite Church in Argentina, and the Melkite Church, which had Arabian influence as well, and which arrived in Argentina in the late nineteenth century. Other churches such as the Ukrainian Catholic Church of Eastern origin and the Armenian Catholic Church—which has recently celebrated 80 years in Argentina—also settled in this country.

Moving on outside the sphere of Orthodoxy, the Armenian Apostolic Church, which is an old Eastern Church with a rite of its own and which is structured in the Armenian community, arrived in Argentina in the early decades of the twentieth century. In 2001 this Church celebrated 1700 years

of Christianity by commemorating the establishment of Armenia as the first Christian country.

Islam gained a presence in the Argentine Republic with the arrival of Muslims from the Eastern world (Syria, Lebanon, Palestine, Saudi Arabia, Turkey, North Africa, Morocco, Algeria, Tunisia, and Egypt), Western Europe, and minorities from Eastern Europe since the late nineteenth century, most notably during the first half of the twentieth century.

Buddhism gained a presence in the Argentine Republic with the arrival of Chinese, Korean, and Japanese communities, although it must be admitted these communities also include Roman Catholic and Evangelical followers. Since 1930 Chinese, Korean and Japanese families that practice Buddhist rites have been present in Argentina. In the 1980s a Buddhist branch named Tibetan Buddhism appeared in the country.

From the early decades of the twentieth century to almost the middle of that century, ministers from religions other than the Roman Catholic Church were only authorized by short term decrees of the national executive power. In other circumstances, religious dignitaries gained a presence in the national sphere.

## **SOME EXAMPLES OF STATE LEGAL SYSTEM IN LATIN AMERICA**

I will describe the current legislative situation in Argentina, Chile, Colombia, Mexico, and Peru.

### **ARGENTINA:**

The national constitution establishes the full exercise of the freedom of religion or belief and its manifestation. The regulations establish the right of all inhabitants, native or foreign, to exercise freedom of worship (sections 14 and 20).

Since 1983, with the restoration of democracy, the Argentine Republic ratified and accepted the main international legal instruments that were an important development in humanitarian international law and that gave special emphasis to the protection of religious freedom.

Since the 1994 constitutional reform, the international sphere has overtaken the constitutional field because of the inclusion of the main international treaties on human rights. The international legal instruments on human rights dealing with religious matters that the 1994 constitutional reform included in the constitution and that acquired constitutional hierarchy are: The American Declaration of Human Rights and Duties (section 3);

the Universal Declaration of Human Rights (section 18); the American Convention of Human Rights or Covenant of San José de Costa Rica (section 12); the International Covenant of Civil and Political Rights (section 18); the International Covenant of Economic, Social and Cultural Rights (section 13); and the Convention on Rights of the Child (section 14). The rights arising from these international legal instruments, derived from religious freedom and recognized to persons, are: the right to have a religion or not; to practice or change it; to worship in public or in private, individually or collectively; to manifest and teach it; to worship; to celebrate rites; to observe religious precepts; to raise children in religion; to practice and spread religious beliefs; to exercise these freedoms and not be subject to restrictive measures.

There are also two additional rights linked to religious freedom that are recognized and protected by constitutional covenants: the right to assemble and demonstrate peacefully, and freedom of association, meaning a voluntary association for a common purpose.

Besides the international legal instruments on the constitutional level mentioned above, we must take into account the “Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Beliefs” that was approved by the General Assembly of the United Nations on November 25, 1981 through Resolution N°36/55.

In the legal scheme of religions, a field covered by the state ecclesiastical law, the Argentine legislation has distinctive features that I will address.

In the Republic of Argentina, the Roman Catholic Church has constitutional status. In fact, section 2 of the Constitution sets forth: “The Federal Government adopts the Roman Catholic Apostolic Church.” In Section 33, the Civil Code recognizes the Roman Catholic Church as a legal person of public law. Based on the same Code, it has been interpreted that such status must also reach the dioceses, the parishes, the Episcopal Conference and the public legal persons that the canon system recognizes as such.

In 1966, the Republic of Argentina executed with the Holy See a covenant that Law 17.032 ratified, solving some pending matters between the church and the State, such as the appointment of bishops, the establishment of new dioceses and the entry into the country of new religious orders. It was also established that the relationships between the church and the State must be built on autonomy and cooperation. This legal instrument mentions the 1957 covenant on military jurisdiction between the Argentine Nation and the Holy See in relation to the Religious Assistance to the Armed Forces.

Law 24.483, enacted and passed in 1995, established a system to

recognize the legal status of the Consecrated Life Institutes and Apostolic Life associations belonging to the Roman Catholic Church. The legal canonical status of these Institutes means that they enjoy full civil recognition and canon law exclusively governs their organization and relationship with their members. They only have to be officially recorded and must register their statutes and authorities with a special registry that has approximately 400 religious institutions listed today.

In order to obtain the recognition of the national state and the authorization to perform public religious activities, non-Roman Catholic religious institutions must be registered with the National Worship Register established by Law 21.745 in 1978. The religious institutions or associations are considered as legal persons of private law. Once registered with the National Worship Register, they are entitled to start the necessary proceedings to obtain legal status and to be considered as public welfare entities. At the national level, based on the legal system in force, both proceedings are begun at the Ministry of Justice. The application to obtain the legal status must be presented at the General Board of Justice and the formal recognition as a public welfare entity must be obtained at the Organizations National Center under the National Council for the Coordination of Social Policies. At the provincial level, local bodies are in charge of religious groups in their jurisdiction.

One of the declared goals of Law 21.745 was to guarantee the jurisdiction and national competence to solve all matters related to non-Roman Catholic religious institutions.

The religious associations applying for registration must have previously obtained legal status. In this case, the authorities subscribing the articles of association will be legally liable, provided the association and appointment of authorities has been formalized through a public deed or a private instrument duly certified by a notary public. Otherwise, it will be deemed as a *de facto* association and all the members will be jointly liable for the association's deeds. (Section 46, Civil Code).

Since its creation in 1978, 3,700 religious entities have registered with the National Registry of Religions. Of this number, about 2,950 are still active, while the rest have ceased their functions, either by request or for non-compliance with the legal provisions in force. Religious institutions of different origins are registered. Most of them, approximately 70 per cent, belong to the Evangelical field. They may be small independent churches or religious institutions on which hundreds or thousands of local branches depend (Assemblies of God, Free Brethren and Baptist Evangelical Convention). There



are also other denominations such as the Seventh-day Adventist Church, The Church of Jesus Christ of Latter Day Saints Church, or the Jehovah's Witnesses that have many temples, chapels or small worship places throughout the country. Of the total number of registered institutions, many were established long ago, while others have recently arrived at the country (Pentecostal Evangelicals, Chinese Buddhists, Hindus, followers of African and spiritualistic religions among others).

Among other requirements, the applying religious institutions must duly produce the following information:

- a) Name of the institution and date of establishment or constitution in the country;
- b) Domicile and the existence of chapels and branches;
- c) Statutes (official name; principles and purpose; object; religious authorities--appointment, ordination, functions, mandate duration, requirements needed to be religious ministers; civil authorities--appointment, functions; mandate duration; way of government; relationship between civil and religious authorities; amendment of statutes);
- d) Responsible authorities;
- e) Administrative and religious dependence from other institutions;
- f) Approximate number of members or followers;
- g) Educational and training institutions for religious personnel and the pertinent curricula;
- h) Main doctrinal grounds;
- i) Way of appointment of religious authorities;
- j) Form of government;
- k) Permanent and regular religious activities.

The main benefits obtained from the official registration are:

- a) To perform public religious activities;
- b) The national state's recognition of the religious association and its ministers;
- c) The entry, stay permit extension or permanent residence of foreign religious ministers;
- d) Economic benefits, such as: 1) exemption from the income tax in relation to the money received from the religious activity or worship services; 2) exemption from the minimum presumed income tax; 3) exemption from the stamp tax; 4) exemption from the Value Added Tax; 5) exemption from internal taxes of devotional objects used in worship;

6) exemption or payment reduction of sanitary services for worship sites; 7) exemption from taxes and rates affecting the real estate or vehicles of religious institutions.

e) Ownership, management and organization of public schools privately managed at all levels and entitlement to state subsidies and benefits.

The religious institutions belonging to religions with duly accredited existence in the Argentine Republic are registered with the National Registry of Religions: former Oriental churches, Orthodox, Anglican, historic Protestant, Seventh-day Adventist, other Evangelical groups recently arrived in the country; Mormons; Jehovah's witnesses; Jews, Muslims; Buddhists; Hindus; followers of African religions; adherents of spiritualistic religions, etc.

The foregoing is an overview of the legal system operating for almost 30 years for religious institutions other than Roman Catholic that have had a positive relationship with the State and the Roman Catholic Church within the framework of their own particular reality. This regulatory system, now long-established, has allowed a harmonious and peaceful co-existence among all religious sectors of the Argentine community. It would be inaccurate and unfair to interpret it otherwise.

Since 1990, many bills and draft bills of a religious nature that were proposed for discussion have not been passed, sometimes because of lawmakers' lack of consensus and at other times, due to the opposition of Roman Catholic and Evangelical denomination leaders for particular reasons. The truth is that some religious leaders alleged that the proposed bills favoured sects, while others claimed that such bills did not imply a true egalitarian vindication of religious minorities. As an example, it is easy to recall that the Episcopal Argentine Conference never reached a decision concerning the last draft bills proposed because it considered that they were not a priority. Different sectors of the Evangelical community submitted their own draft bill for discussion, although they affirmed that a possible constitutional amendment should be widely discussed and that religious equality between all the religious groups of the Argentine religious community should be considered.

The legislative bills or draft bills on religious matters that governmental areas, minority religious organizations or individual undertakings submitted for discussion from time to time were also criticized, alleging that a legislative amendment was not timely and needed due to the optimal co-existence of the religious groups. Critics also noted the risk that they thought would follow from the repeal of the legislation in force, affecting vested rights and cancelling the benefits obtained from official registration.

It can be emphatically affirmed that in the Argentine Republic, the legislation in force does not restrict or limit the religious freedom in any way whatsoever. Furthermore, based on the religious independence in relation to the State, it allows a voluntary inter-religious dialogue that guarantees a peaceful co-existence.

## CHILE:

In Chile, the 1980 Constitution in force maintains the separation between church and state, ensuring religious freedom to all the inhabitants of the Republic, provided it does not affect moral principles, acceptable mores and the public order.

The recent Law 19.638, setting forth the requirements for the legal establishment of churches and religious organizations, published in the Official Gazette on October 14, 1999, comprehensively defines churches and religious institutions as those entities composed of natural persons professing a specific faith. In this sense, it must be said that the Chilean legislation has taken a different turn, dividing the definition of churches and religions or religious institutions, thus becoming an exception to Western law.

The Law establishes that religious institutions seeking the legal status of public law must register with a Public Registry in the charge of the Ministry of Justice.

To be recorded in this registry and get this legal status, the institutions must be established by public deed or private instrument formalized as a public deed and signed by all the constituting members duly identified and producing the articles of association and the statutes that shall govern them; The Ministry of Justice will control the fulfilment of these formal requirements and, if it considers that the information produced is not sufficient, will be entitled to request any clarification, rectification, amendment or additional background it may deem convenient within the term fixed accordingly.

After all formal requirements have been fulfilled, the Ministry must accept the requested official registration. However, if any of these requirements is missing, the Ministry is entitled to challenge the institution's establishment within 90 days counted from the registration date.

At present, the Chilean legal framework contemplates very few restrictions on the registration and legal recognition of religious entities. The only restrictions in force are based on two provisions, one of which is constitutional and limits religious freedom whenever it affects the moral principles, mores or the public order, and the other legal, established through Decree N° 303, regulatory of Law 19.638. It sets forth that persons

convicted for law infringement shall not be entitled to sign the articles of association, and that the entity's statutes must provide the following information: requirements for admission, permanence and leave, free and voluntary access, change of institution or leave; and that minors must be represented by their legal agents.

Chilean author Salinas Araneda holds that religious institutions must prove their religious nature, that is to say, that they are the facilitators of their members' dialogue with the Supreme Being, whatever name it receives. In this way, those groups that only promote a philosophy of life and those that, despite making references to the Supreme Being, do not seek such dialogue, are excluded.

The author adds that religious institutions also obtain legal status by specifying goals such as: a) the independent establishment, maintenance and management of training institutions devoted to theological and doctrinal studies and educational, charitable or humanitarian bodies; and b) the creation, participation of, sponsoring and promotion of associations, corporations and foundations for the fulfilment of their purposes and goals. (Section 8 of Law 19.638).

The institutions mentioned above are legal persons that, based on express legal provisions, are governed by the legislation in force and are not religious, but legal institutions of private law.

The third and last type of legal persons contemplated by law is the one detailed in section 9: "The associations, corporations, foundations and other bodies created by a church, religion or religious institution that, according to their own legal regulations enjoy legal religious status, are recognized as such. Their legal existence must be accredited by the religious institutions that have created them." It can be construed that this provision includes canon law and the legal regulations of religious institutions with an equivalent regulatory framework, such as the regulatory systems of the Orthodox, Anglican and some Protestant churches, that is to say, legal systems with historical presence that predates the Chilean legislation.

## COLOMBIA:

Section 19 of the 1991 Colombian Constitution guarantees religious freedom, grants the right to free religious practice and to spread it individually or collectively. It also establishes that all religions and churches are equally free before the law.

The new Colombian Constitution eliminated the legal recognition of the state Roman Catholic religion and adopted the non-denominational

principle or religious freedom. This means that the State does not pronounce itself regarding religious issues, but values the religious aspect in its social manifestation and assists religions in all specific issues legally recognized, based on common understanding.

Colombian legal experts have construed that the constitutional reform did not establish the principle of neutrality of the State in relation to religious freedom, but it confirmed religious freedom as a rule.

Law 133 of 1994, Freedom of Religion and Worship, sets forth individual and collective rights, (sections 1° to 6°) and churches' and religious communities' rights (section 7°) in relation to the establishment of worship sites, the exercise of the religious ministry, the appointment of religious authorities, internal organization and the freedom to perform educational or charitable activities.

The Colombian law sets forth that the limits to religious freedom are those established by the public order and the protection of the public security, moral principles, health and third party rights.

Although this Law does not define the concept of churches, religions or denominational groups, it does not include psychic or paranormal phenomena, Satanism, magical or superstitious practices, and spiritualistic practices in its regulatory framework. (section 5°).

Colombia, a country traditionally and mostly Roman Catholic, affirms that it recognizes the Roman Catholic Church's public ecclesiastical status and refers the matter to the pertinent agreement. The recognition of the legal status of ecclesiastical law to churches, religions and religious denominational groups that may require it is also a relevant improvement. The petition must be supported by the pertinent documents. After this requirement is complied with, the petitioning parties will be officially recorded at the Public Registry of Religious Institutions created for such purpose under the framework of the Ministry of Government. A voluntary registration system is established, after which the legal status of all religious institutions accredited as such and with full independence before the State will be recognized. This autonomy means the establishment of their own organizational rules, internal regime and provisions for their members.

Apart from the recognition of their legal status, the churches, religions and religious denominational groups registered have other additional advantages, such as the right to appoint their religious ministers, whose performance of the ministry must be facilitated by the State. Other advantages derived from the registration are: the right to acquire dispose

of and administrate their property; to request and receive financial aid; to collect money among their members and to provide their ministers with economic support.

On the other hand, this law establishes that churches, religions and religious denominational groups with ecclesiastical and State legal status have the possibility of entering into agreements on religious matters.

## MEXICO:

The reform of the Mexican Constitution, accomplished in January 1992, was the initial step that led to the enactment of the Act of Religious Associations and Public Worship in July of that same year.

The constitutional reform further recognized the right to religious freedom, and the Act of Religious Associations and Public Worship revoked the regulations that restricted religious freedom during most of the last century.

The Act establishes several principles: a) the individual right to adopt, practice or not to practice any religion; b) the principle of non-discrimination for religious reasons; c) the right to associate with others for religious purposes; and d) the right not to be obliged to support a religious creed or practice.

Conscientious objection, as a principle included in different international legal instruments and in some legislation, is generically restricted in section 1 of the Act, which sets forth: “No one may be exempted from any duty or obligation prescribed by law on account of the religious practice.”

In addition, section 1 of the aforesaid act sets forth that religious freedom is grounded on the “historical principle of separation of the State and churches.” Section 3 provides a categorical definition of the State: “The Mexican State is lay.” It further sets forth a strict principle of confessional neutrality: “The State shall give no preference or privilege whatsoever in favor of any religion. Neither shall it do it in favor or against any church or religious group.” Section 4 requires that “the individual’s acts within the civil scope are under the exclusive jurisdiction of the authorities.”

The Constitution in section 130 (as amended) and Title II of the Act of Religious Associations refer to the process by which churches are granted legal status. Section 6 of the Act states that “churches and religious groups shall have legal status as religious associations once they have duly registered their incorporation with the Government Secretariat.” This way, the act sets forth the way for churches and religious groups to acquire legal status as a “religious association,” and the requirement to be registered, which is in sync with a system of legal warranties.

The reforms in the regulations on this issue introduced in 1992 allowed the State to open itself to religious entities in the field of education, monastic orders, public worship, the right of the entities to have assets of their own, the right of religious minister to vote, and the right of aliens to exercise ministry in the country.

The reformed constitution and the Mexican Act of Religious Association fully guarantee the right to freedom of individual education and the creation of education centers in churches. Churches were allowed to impart religious education in private schools but not in state schools where, according to constitutional dispositions, education must be kept apart from any religious doctrine. Thus it is confirmed that in Mexico public education is absolutely non-religious or lay.

The new legal framework specified, apart from what has already been said, that emerging religious associations will have the capacity to acquire, own or manage exclusively, the necessary means for their aim, with the requisites and limitations established by statutory law, i.e. celebration of public worship services outside the temples; the impossibility of alleging religious reasons to prevent access to jobs or activities beside the cases foreseen by the law; not being compelled to render personal services or contribute with money or species to support a religious association, or being forced to participate in rites, ceremonies or religious worship services, or being subject to any judicial or administrative inquisition of the expression of religious ideas, etc.

I would like to point out the important development in religious freedom rights that the renewal of the Mexican legal system has brought about, thus including Mexico among the countries devoted to the protection of human beings' inalienable rights.

## PERÚ:

Section 50 of the Constitution in force since 1993 sets forth: "Within an autonomous and independent regime the State acknowledges the importance of the Roman Catholic Church's role in the historic, cultural and moral formation of Peru and ensures its ongoing collaboration. The State may also help other religions."

In Peru, a country of strong cultural and historic Roman Catholic traditions, there now co-exists a mosaic of religious communities of varied origins. On the one hand, there are the so-called historic or centenary groups, and on the other, those considered as "new religions," recently appeared as a result of Andean syncretism, or a combination of different forms of beliefs.

The Peruvian Constitution adopts a systematic grouping of principles and rights as the ones established in section 2: “Every person has the right to ... 2) be regarded equal before the law, therefore no individual should be discriminated on origin, race, sex, language, religion, opinion or any other grounds; 3) the freedom of conscience and religion, be it individual or associated, therefore the public practice of every religion is free, as long as moral principles are not affected or the public order altered.”

There are precise and clear constitutional norms regarding religious freedom in Peru. There have been attempts to promote a few bills on religious freedom that have failed for different reasons. As some prestigious Peruvian lawyers hold, it may be stated that the “new religions,” in a distinct divide from the historical ones, normally press the State to sanction a law which may grant them a similar status to the Roman Catholic Church, thus failing to realize that status they seek is not derived automatically from the application of a new law that would allow a whole historical and cultural tradition, a product of the interrelationship of common interests between the civilian and ecclesiastical sectors, to be wiped out. There is nothing more absurd than believing that a government ruling will automatically change a centuries’ old religious feeling of customs and beliefs. Also, Peruvian religious scholars think—quite rightly so, in my opinion—that the cohesive element in Peruvian society cannot be equivalent to, amendable by, or substituted for by state legislation. They likewise note that some people believe that the passing of a law on religious freedom copied from another country’s legislation can change the past of Peru and thus, its future.

The contents of the bills presented repeat to the letter the general principles of religious freedom and of conscience stated in the State constitution and in International Human Rights conventions subscribed to by the country, and may constitute an unnecessary repetition. These matters could be handled as a State law by the given government without provoking extremely dangerous political meddling.

In 2004 a Resolution of the Ministry of Justice approved the “Regulation of the Register for Non-Catholic Religious Faiths,” published in ‘El Peruano’ Official Gazette, encouraging religious freedom and equality for the different religions, and envisioning state assistance in the form of benefits.

There is currently a bill on Religious Freedom that seeks the legislative development of several constitutional rights, as well as another bill presented by other representatives proposing a constitutional debate leading to a reform of, and the resulting amendment of section 50 of the Constitution in order to honor the constitutional principle of religious equality.



Finally, I would like to add that in Peru the religions themselves should be left alone to generate their own space and special ways of relating to their members or followers and the civilian sector in its diverse manifestations, before dealing with legislative bills that do not include the necessary consultations with all sectors of the Peruvian religious community.

## EVOLUTION AND PROGRESS ON RELIGIOUS FREEDOM IN LATIN AMERICA

In the twentieth century, the states' confessionalism gradually declined until almost completely disappearing, Costa Rica and Bolivia being the lone exceptions

The migration flows which brought their own religions gradually consolidated the presence of different Christian, Jewish and Islamic denominations which, due to their social, business, cultural and religious insertion, became the initial step for a harmonious co-existence and for religious pluralism.

Several important developments which achieved considerable progress on religious freedom marked the beginning of a new stage in the middle of the twentieth century. At the international level, I am referring to the creation of legal instruments of great significance, such as the Universal Declaration of Human Rights in 1948 and, most specifically in America, the American Declaration of Human Rights in that same year.

In addition, several countries ratified other legal instruments protecting religious freedom: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights; the American Convention on Human Rights; the Convention on the Rights of the Child; and the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief approved by the United Nations in 1981 but not binding. These achievements underscore the relevance of religious freedom as a fundamental right.

These international instruments have been progressively incorporated by different Latin American countries which have accorded them constitutional status. This considerable legal progress has helped protect religious freedom and the rights of the different religions existing in the region.

Another important factor which helped consolidate religious freedom was the Second Vatican Council, which greatly influenced the decision of the Roman Catholic Church to begin an inter-religious dialogue based on reciprocal esteem and consideration of other religions, and to accept the autonomy and independence of church and state, leaving behind confessional stances.

Latin American countries progressively relinquished the exercise of patronage, and the Roman Catholic Church admitted its separation from the State, although legislation in some countries allows for different forms of cooperation.

To better understand the situation of religious freedom in Latin America, it is worth mentioning the majority presence of the Roman Catholic religion in the countries of the region and its great influence on public opinion as well as in education, social, and cultural matters. It is also fair to recognize that the Roman Catholic Church has taken part in processes of dialogue with various religions in different countries, including Argentina, Bolivia, Colombia, Chile, Peru and Mexico.

It is also worth noting that Latin America has witnessed in the last decades a considerable growth of the Evangelical churches from different denominations, (including historic Protestant churches, Evangelical branches which split from traditional ones, and new Evangelical movements) which are jointly the second largest religious group, and which have a relatively prominent role in society. The Evangelical churches in this region make up a varied, wide, and heterogeneous mosaic with differentiated appreciations of reality.

Although in recent years there has been considerable progress in the relationship between the Evangelical churches and the State on the one hand, and these churches and the Roman Catholic Church in Latin America on the other, it is worth emphasizing that the dialogues proposed by them and their willingness to take part in dialogues have not been consistent. In fact, the historical Protestant churches have proved to be the most willing to engage in dialogue, while the free Evangelical churches have been inconsistent in their approach to dialogue. Some sectors of the new Pentecostal or neo-Pentecostal Evangelical movements have displayed attitudes which do not facilitate dialogue because of their rivalry and hostility towards the Roman Catholic Church, and, sometimes, towards the State.

More recently, a peculiar situation has been taking place, namely the political activity of certain religious groups within the Evangelical church, which has been questioned in some sectors. These groups have structured independent political parties or Evangelical parliamentary blocks made up of law-makers who belong to these groups and who have been elected. This political action is very common in Brazil, with the Evangelical sectors' intervention in the political sphere and the prominent presence of the Universal Church of the Reign of God which was born in the Brazilian society itself. We may also see similar though less relevant movements in Argentina, Colombia, Chile and Peru, where the proposals of these sectors usually revolve

around their quest for religious equality, presence in the mass media, and greater prominence in the public sphere.

The greater social insertion achieved by some religions in Latin America during the last years is of great significance as a sign of progress in religious freedom. For instance, I could mention the well-known and highly appreciated activity carried out by the Seventh-day Adventist Church in the sphere of education and health, and the charitable activity of the Church of Jesus Christ of Latter-Day Saints, which has donated a large number of wheelchairs to the disabled. These ways of achieving social insertion have been welcomed by the governments of Argentina and Paraguay, and are a sign of progress in the relationship between the State and religions. Also, in Argentina, Paraguay, Uruguay, and Chile progress has been made in the immigration formalities required of Mormon missionaries, making movement swifter and less cumbersome.

Another sign of progress in the field of religious freedom is the legal recognition obtained by members of the Jehovah's Witnesses in connection with conscientious objection to military service, blood transfusions, or the pledge of allegiance to the patriotic symbols.

Orthodox churches from different patriarchies and those which are autocephalous have a close relationship with the Roman Catholic Church in Latin America. Significant progress was made when the Orthodox Church of the Antioch Patriarchy was recognized as a legal entity of public law in Chile. Also, in Argentina this same church obtained legal recognition of their right not to have their property seized, through an analogical interpretation of a legal rule which previously only benefited the Roman Catholic Church.

The Jewish community, which is well integrated in the society of countries such as Argentina, has achieved support from other religions and the society at large in specific issues such as anti-Semitism and discrimination on the grounds of religion. It has also mobilized a generalized rejection of persecution and attacks, such as the bombing of Israel Embassy and the Argentine-Israeli Mutual Association (AMIA) that occurred in the Argentine Republic in 1992 and 1994, respectively.

Moreover, the "Declaration of the United Evangelical Lutheran Church in Argentina and Uruguay rejecting anti-Jewish and anti-Semitic diatribes," filed with the Delegation of Argentine Israeli Associations (DAIA) on September 25, 2002, is a document of great significance. It sets forth a course of action which should be held up as an example of self-criticism aimed at achieving genuine religious pluralism.

However, I must admit there are still minor groups that persist in their intolerance, anti-Semitism, and hostile attitudes against Judaism across the region. Particularly, in Venezuela, the Confederation of Venezuelan Israeli Associations, backed in their claim by the American Jewish Committee and the World Jewish Congress, have repeatedly stated that it is critical to resume dialogue with the Venezuelan government in view of the anti-Semitic attitudes it has adopted in connection with the closure of Jewish schools and places of worship, and their concern about the political alliance between the Venezuelan government and that of the Islamic Republic of Iran.

Cuba is a peculiar situation, with limitations on religious freedom. The Cuban constitution formally recognizes the citizens' right to profess and practice any religious belief. However, in practice, the government imposes strong limitations on religious freedom, such as the control and supervision of religious publications; state intervention in religious gatherings; limitations to the distribution of religious material; immigration restrictions on foreign dignitaries to prevent them from arriving in the country; obstacles to the right of assembly and association for religious purposes, and limitations on the dissemination of religious doctrines in the media, among others.

The Islamic community has recently expanded considerably across the region and has gained prominence in inter-religious gatherings and meetings with different governments. In Argentina, it has succeeded in promoting jointly with Judaism the enactment of a regulation aimed at justifying absence from work and school on the days of their religious festivities.

Buddhist groups of Chinese, Korean, Tibetan or Japanese origin are usually invited to inter-religious gatherings. Also, different expressions of syncretism are present in Latin America, with variations incorporating autochthonous, Christian and African elements. For instance, in Cuba, we may find Santería and Macumba; in Haiti, Voodoo; in Brazil, Candomblé, Umbanda, Quimbanda; Traditional Africanism has expanded to other countries such as Argentina, Paraguay and Uruguay. In addition, in recent years the authorities have tended to look more favorably on the claims made by aboriginal religious groups in Bolivia, Paraguay, Uruguay, Brazil, Peru and Argentina.

Apart from the specific examples of progress I have already mentioned I cannot forget to mention the regional and international political situation affecting Latin America. At international level, the approval of various legal instruments claiming further protection of religious freedom by the states has been a great step forward, and at the regional level, democratic governments in

Latin America allow social petitions to be made, ensuring that Legislature and the Judiciary may respond to them.

To different extents, national constitutions across the region recognize religious freedom as a fundamental right. Some countries, such as Mexico (1992), Colombia (1994), and Chile (1999), enacted laws which deal with religious matters. In other countries, such as Bolivia, Peru and Argentina, bills aimed at reforming the current regulations have been introduced but have not been ratified yet. In Ecuador and Peru, specific regulations on the matter have been approved.

## REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF OF THE UN HUMAN RIGHTS COUNCIL

The Argentine Republic has been the first country in Latin America to be officially visited by the Special Rapporteur on Freedom of Religion or Belief.

The former Rapporteur, Dr. Abdelfattah Amor, predecessor of the current Rapporteur, Dr. Asma Jahangir, drew up a thorough report about his visit to Argentina in April 2001, which was presented at the UN Human Rights Council. I will make reference to some observations made by the Argentine government in February 2002.

1) We have been pleased to see how the Rapporteur, coming from a culture and history notably different to the Argentine has clearly perceived the fundamental traces of the country's public life. Although the report includes minor imprecisions or mistakes, on the whole it accurately reflects the state of the matter in the country.

2) There is a sentence in the report that says quite rightly that "Argentina is a human rights engine."

3) All the religious communities consulted by the Special Rapporteur . . . coincided in verifying a satisfactory situation in relation to freedom of worship and its manifestations, which may be freely exercised in Argentina, without any interference from the State."

4) "Minorities of non-Argentine origin stated that their identities, peculiarities and religious traditions could not only be preserved but also equally expanded in Argentina."

5) Likewise, Dr. Abdelfattah Amor expresses on the part of the Argentine authorities that "it was emphasized that Argentina is an example of religious co-existence" and goes on to say that "the non-aggression declaration signed by the representatives of the Arab Christian, Muslim and the Jewish communities before the INADI (National Institute Against Discrimination, Xenophobia

and Racism) . . . can be undoubtedly held as an example of the prevention of conflict at an international scale.”

6) This harmonious situation that dates from the beginnings of political life in Argentina is now protected by legislation (the constitution, treaties, laws, etc.) that regulates practices. In fact, unlike other countries that had to introduce corrective rules to prevent antisocial behaviors, in the Argentine Republic this network, present in the latest trends in the international order, serves the purpose of preventing possible outbursts and reflects the moral values of the great majority.

7) In the realm of the commentaries received from the representatives of minority religions it should be highlighted that nearly all of them are about the freedom they enjoy to practice their worship and about the general atmosphere already mentioned.

8) As to the equality of treatment concerning religions other than the Roman Catholic in the economic field, it should be noted that the existing difference stems from the plundering of property suffered by the Roman Catholic Church in the nineteenth century.

9) The constitutional rule that establishes that the Federal Government supports the Roman Catholic Church not as an unfair contribution but as a sense of restitution is not the sole source of income that allows the total maintenance of the Roman Catholic Church. It should be pointed out that as to the indirect economic benefits through tax exemptions there is an equal treatment among all other religions as long as they are listed in the National Registry of Religions.

10) Finally, the Argentine government highlighted the following paragraph of the Rapporteur’s report: “To sum up, the Special Rapporteur considers that the Argentine legislation contains sound constitutional bases and legal notions, which are important to ensure freedom of religion or belief.” Such remarks must encourage us Argentines to persevere in this path.

I must say that I have participated in several of the Special Rapporteur’s meetings with the top authorities of the Argentine Republic. In particular, the national government delegated to me the coordination of the meetings carried out in the National Institute Against Discrimination, Xenophobia and Racism and in the National Institute of Native Affairs.

## CONCLUSIONS

Present world experience allows us to discover daily in our cities, towns, districts, workplaces, and even our buildings that there are the faithful of

different religions who worship and witness to their faith in different but no less devoted ways from our own.

Religious differences may be used to foster divisions and tensions. These, in turn, may be used as an excuse to carry out exclusions or persecutions. In this sense, I would like to emphasize that it is of utmost importance that we take the necessary steps to prevent the formation of a 'divisive religious pluralism' which could be a major threat to peace in the twenty-first century.

In order to avoid a "divisive religious pluralism," it is essential to respect difference, equality and non-discrimination, to support human rights, recognize the institutions' legitimacy and encourage the citizens' participation with a fair representation. The aim of this effort must be equality and inclusion, doing away with a lax uniformity. Acknowledging differences will reinforce unity, enabling individuals to enjoy peculiar identities within a legally and socially accepted framework.

In an atmosphere of religious pluralism it is fundamental that human beings do not isolate themselves, but rather socialize, appreciate differences and learn from them, instead of passively accepting the mere existence of a religious pluralism.

The State's role in religious pluralism is of fundamental importance, given the existence of certain vital factors for religious pluralism encouraged by the State, which should avoid a negative influence if those factors only reflect a preeminent group's priorities.

Progress toward religious pluralism should translate into actions that overcome the acceptance of mere declarations of principles and seek to change attitudes and opinions in different societies. Although the resolutions and declarations in favor of religious freedom that condemn intolerance are certainly appreciated, they are not an adequate substitute for tangible actions that impel such principles and locate them in a particular community.

It is timely to point out the contribution made to religious pluralism by different international organizations in congresses such as the one we are celebrating now that allow for the creation of opportunities to carry out enriching debates and exchanges.

It is crucial that public opinion support the fundamental rights and the actions tending to protect religious liberty in order to avoid intolerance and discrimination cases seen in various places in the world today. Religious liberty must be considered as a human rights cornerstone, essential for human dignity and one of the pillars of religious pluralism that must be protected to maintain a harmonious relationship and peaceful co-existence.

In the relationship between the State and religious groups in Latin America, State religions have progressively been attenuated during the last two decades. At present it can be affirmed that only Costa Rica and Bolivia recognize and support the Roman Catholic Church as the State church. Other countries, such as Argentina, Paraguay and Peru preserve a special mention of the Roman Catholic Church in their constitutions that coincides with their historical, social and cultural realities, while at the same time guaranteeing religious freedom for other religions.

Uruguay, in turn, does not support any religion but recognizes the Roman Catholic church's ownership of the churches built with the national state's funds, excepting of chapels, orphanages, hospitals, prisons or public establishments. Brazil, Chile, Colombia, Ecuador and Venezuela make no reference in their constitutions to any religion, presenting a non-religious scheme.

In Latin America the goal of religious pluralism must always bear in mind constitutional norms on religious and conscientious objection freedom set forth in the most state constitutions and international covenants on human rights ratified by the countries of the region. Every day, more examples emerge of international legal instruments achieving constitutional hierarchy. The State's relationship with religious groups, including minorities, and an adequate and balanced relation of public powers with all religious sectors of society, should also be taken into account in order to achieve an adequate religious pluralism, in addition to the full exercise of religious freedom rights.

I would like to conclude by emphasizing that the processes of religious freedom in Latin America in most current political systems, which duly respect the individual's fundamental liberties, should seek a common objective incorporating three essential aspects: ample religious freedom, a relationship of autonomy and cooperation between the State and religious groups, and inter-religious dialogue. Taken together, these aspects lay the cornerstone for peaceful co-existence.



E N D





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# INTERFAITH LIBERTIES A FIRST STEP TO PEACE: THE SOUTH AFRICAN EXPERIENCE

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ELA GANDHI

*A granddaughter of Mahatma Gandhi, Ms. Gandhi heads up the Gandhi Foundation and is National Vice President of the World Conference on Religion and Peace.*

Over the years in our struggle for liberation in South Africa, we learned one very important lesson, which is that when people of different races and cultures or ethnic backgrounds are kept apart and there is no communication or interaction between them, it results in:

1. prejudices against one another based on myths that develop about the other;
2. suspicion of one another because there is no knowledge of what the other feels and thinks; and
3. fear of each other because of internalized anxieties.

All these were manifested in our divided society in South Africa. The lesson, therefore, is that we need to open the doors of communication and interaction among people. This then leads us to the need for interfaith education and understanding.

Let us take the example of Mahatma Gandhi. From his early childhood days he was exposed to many religions. People of many different religious backgrounds used to visit his ailing father and while Gandhiji nursed him, he would listen to the discussions by these wise people on the different faiths. Later when he went to London and then came to South Africa, he not only came under the influence of Christians, Theosophists, Hindus, Muslims, Buddhists, and Zoroastrians, but he also read each scripture and developed a sound knowledge of each of the faiths.

Through this interaction and knowledge he developed respect and understanding for each of the faiths. He saw the similarities and the differences. But he was also able to accept and embrace all of the beliefs and to respect them.

A result of this was that in his monastic communities, the first of which was established in South Africa, he began to have outdoor prayers, and the prayers were chanted by everyone in all the different faiths. We may ask, “So how did this help to develop respect for each other and our different faiths?”

Interfaith education requires us to understand the differences between the elements of religion. Religion as I was taught by my parents is comprised of basic beliefs, rituals, symbols, and values.

1. Beliefs are the gospel, or the knowledge, that each religion imparts about life and death.
2. Rituals are the way we are taught to pray, the manner of dress for different occasions, and the manner in which we perform ceremonies.
3. Symbols are the kind of buildings in which we pray, the décor, the various artifacts that are valued and maintained, and all other adornments.
4. Values are the basic teachings of all faiths and represent the basic standards of behavior for the way we lead our lives, the important things that matter to us and which are prescribed by our faiths.

## IMPORTANT DEFINITIONS

- Religion: the belief in and worship of God, a Power or Spirit, or a particular system of faith and worship.
- Faith: complete trust or confidence, strong belief in a religion, or a system of religious beliefs.
- Spirituality: having to do with the human spirit as opposed to physical things, or having to do with religion or religious beliefs.

## COMMON FACTORS AMONG ALL RELIGIONS

- We all have a strong belief in God, a Power, or a Spirit.
- We all have common values in which we believe.
- We all engage in worship, spirituality.
- We all have faith in what we believe.

## DIVERSE FACTORS

- Where we worship is different.
- Rituals of worship are different.
- Some of our beliefs about life and death and thereafter are different.

Given the fact that there are differences among faith groups, people are less likely to feel threatened when we use a common and neutral place of worship. Open space was, therefore, an ideal spot for people to pray together.

## RELATIONSHIP BETWEEN FAITH AND POLITICS

Gandhi proclaimed that religion and political activism were two sides of the same coin. He said, “Mine is not a religion of the prison-house. It has room for the least among God’s creation. But it is proof against insolence, pride of race, religion or color.”

Gandhiji’s strong patriotism had roots in his strong religious beliefs. Our religions teach us to be kind, gentle, truthful, faithful, compassionate, and so on. Religion is meant to draw on all that is good in human beings. Father Thomas Merton wrote in his book, *Gandhi on Non-Violence*: “Call these values or what you will, ‘natural religion’ or ‘natural law,’ Christianity admits their existence at least as preambles to faith and grace, if not sometimes vastly more (Romans 2:14, 15; Acts 17:22-31). These values are universal, and it is hard to see how there can be any ‘catholicity’ (cath-holos means ‘all-embracing’) that even implicitly excludes them. One of the marks of catholicity is precisely that values which are everywhere natural to man are fulfilled on the highest level in the Law of the Spirit and in Christian charity. A ‘charity’ that excludes these values cannot claim the title of Christian love.”

And Gandhiji said: “The one religion is beyond all speech. Imperfect men put it into such language as they can command, and their words are interpreted by other men equally imperfect. Whose interpretation is to be held to be the right one? Everybody is right from his own standpoint, but it is not impossible that everybody is wrong. Hence the necessity of tolerance, which does not mean indifference to one’s own faith, but a more intelligent and purer love for it.”

It is because of this belief in the good in all religions that Gandhiji was able to embrace all religions and yet be a Hindu.

In daily life we are called upon to make choices. There is no doubt that to pursue a good life, to observe the Ten Commandments, or the Word of the Lord as seen by each faith, every day of our lives, there will certainly be a need for self control: there would certainly be a need for placing your own needs last while upholding the needs of others.

So, it is not easy to be good and to go good. Giving to others means less for you—in terms of time, money, and personal fatigue. Clearly the driving force behind the choices—especially the hard choices—is the faith and belief.

Peace work, social work, and other social science practice is based on the belief that people can change. There is always the potential of a turning point in people’s lives. Repentance, willingness to work on reparations and restoration, are hallmarks for transformation. The need to find the space in religion to facilitate the change is the real challenge to religious communities.

Gandhiji's view was that communities must be brought together not on the basis of religious beliefs, but rather on the basis of broad nationalism which is not sectarian or driven by caste, creed, race, or gender. In fact, it is driven by a strong belief in inclusiveness, diversity, justice, equity, and non-violence. There is certainly a need to actively promote togetherness and good values.

It is not nationalism that is evil; it is the narrowness, selfishness, and exclusiveness which is the bane of modern nations that is evil. Each wants to profit at the expense of, and rise on the ruin of, the other.

The point being made is that there is a need for a force—a belief—which can drive people into making the choices that can lead to a better world, a better life, and a better earth for all people. Such a belief should have sufficient force and sufficient good faith in order to be able to help people make the sacrifices necessary for the harder choices, and unite rather than divide people.

Religion that brings with it spirituality, which is the force that drives people to do things or not do certain things, is no doubt important in bringing about peace, in creating a conscience in people which, in turn, should deter them from being unjust, offensive, selfish, narrow and sectarian.

But it is also important to unite as human beings to deal with issues of poverty and deprivation, to ensure that no one is marginalized, and to make certain that the rights of individuals remain as basic human rights.

The liberation organization in this country consistently worked along these lines, bringing together people from all walks of life and various religions to overcome the oppressive apartheid system. So, we see a time line emanating from the time of Gandhiji in this country in the early days of the last century when people of all faiths were brought together in the Congress movement of the time. In 1955, The African National Congress and its allies organized the Congress of the People, which brought together people of all races, ethnic backgrounds, and faiths to pledge that the doors of learning and culture would be opened to all across race and religious boundaries, and that all would have the right to their own beliefs and cultures. During the years of the struggle against apartheid, South Africa witnessed huge demonstrations and marches led by leaders of the various faiths. The young Christians came together and drew up the Kairos Document, interpreting the scriptures to reflect its values of liberation and equality. This togetherness was further solidified by us in 1992 when we drew up a charter of religious rights and responsibilities. This initiative was further developed and strengthened in the new dispensation. We have a number of instruments to encourage and ensure the importance and freedom of all religions. We have religious rights and freedom entrenched in our constitution.<sup>1</sup>

However, we must remember that while this is one perspective of history, there was another point of view that gave credence to apartheid and continues to this day to oppose the interfaith concept and advocate the existence of only one true belief. It is not any one religion that is guilty of this. While all religions have their advocates of tolerance, respect, and religious liberty, they also have fundamentalist elements which further division, hatred, and even violence.

In the present time, each of us needs to examine within ourselves which is the stronger of the two, for it is in the strengthening of the advocates of religious liberty that we are able to strengthen the fabric of our society and ensure a peaceful society.

## RESPONSIBILITY AND RIGHTS

An important element of Gandhian belief is the concept of self-control, or self-restraint. Gandhiji said, “What chiefly distinguishes man from beast is that man from his age of discretion begins to practice a life of continual self-restraint.”

Gandhiji expressed concern about the issue of rights, whether these were human rights or any other rights. He felt that an important objective is to build responsibility, which goes hand in hand with self-control. He asserted that if we build a culture of responsibility, rights will naturally follow. He said, “The true source of rights is duty. If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed we run after rights, they escape us like a will o’ the wisp. The more we pursue them, the farther they fly.”

Perhaps as we discuss the various United Nations charters, we need to once again consider whether the charters are, in fact, working and whether there is a need to look at duties together with rights. There is undoubtedly a need to rebuild a culture of responsibility in people, groups and communities. All around us, we see the wastage, unconcern, negativity, criticisms, and anger.

In conclusion, I want to quote Gandhiji:

Real disarmament cannot come unless the nations of the world cease to exploit one another. The very first step in non-violence is that we cultivate in our daily life, as between ourselves, truthfulness, humility, tolerance, loving kindness. Non-violence is the law of our species as violence is the law of the brute. The spirit lies dormant in the brute and it knows no law but that of physical might. The dignity of man requires obedience to a higher law to the strength of the spirit.



E N D

- 1 Clause 15 of the Bill of Rights reads as follows:
  1. Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
  2. Religious observances may be conducted at state or state-aided institutions, provided that:
    - a. those observances follow rules made by the appropriate public authorities;
    - b. they are conducted on an equitable basis; and
    - c. attendance at them is free and voluntary.
  3. a. This section does not prevent legislation recognizing
    - i. marriages concluded under any tradition, or a system of religious, personal, or family law;
    - ii. systems of personal and family law under any tradition or adhered to by persons professing a particular religion.
  - b. Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

Clause 31 of the Bill of Rights says:

1. Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community
  - a. to enjoy their culture, practice their religion and use their language; and
  - b. to form, join, and maintain cultural, religious and linguistic associations and other organs of civil society.
2. The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

In addition to this, there is a provision for the setting up of a Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. This commission will be set up during the course of this year and one of its chief aims is to build national unity.



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# RELIGIOUS PLURALISM AND AMERICA'S CHRISTIAN NATION DEBATE

## REVISITING THE INTENTIONS OF AMERICA'S CONSTITUTIONAL FOUNDERS

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GREGORY W. HAMILTON

*President, Northwest Religious Liberty Association*

The constitutional system of the United States of America remains the envy of the world—or so Americans like to think. Ideally and practically speaking—no matter how many flaws and shortcomings some seem to find—America's constitutional system is what has inspired most of the nations on this increasingly free trade global planet to aspire to freedom and equality and to share in the democratic and economic successes that follow in the train of borrowing from its constitutional and economic model. While this has not been without some apprehension due to America's occasional cowboy swagger and arrogance, success over a 220-year period has proven its value to the nations of the world.<sup>1</sup>

In his book, *Diplomacy*, which continues to be used as one of the standard textbooks in many university graduate programs in diplomatic history and political science, former U.S. Secretary of State Henry Kissinger describes America's global reach and influence this way: "Almost as if according to some natural law, in every century there seems to emerge a country with the power, the will, and the intellectual and moral impetus to shape the entire international system in accordance with its own values.... In the twentieth century, no country has influenced international relations as decisively as the United States. No society has...more passionately asserted that its own values were universally applicable."<sup>2</sup>

Kissinger's magisterial description of the global reach and influence of the United States confirms the genius of America's constitutional founders. With its three co-equal but separate branches of governmental power—executive, congressional, and judicial—and more checks and balances than even our

brightest constitutional scholars can keep up with, America's constitutional system continues to be the governmental model most sought after among foreign countries choosing to embark on the path toward representative government.

With the addition of a Bill of Rights to complement our Constitution, Thomas Jefferson was right when he eloquently wrote, "It can never be too often repeated that the time for fixing every *essential* right on a legal basis is while our rulers are honest, and ourselves united." But in the next sentence, Jefferson also warned that America's constitutional experiment in freedom and republican forms of government could either "revive or expire in a convulsion" depending on how long the memories of the people were in remembering and cherishing the bold experiment the founders were bequeathing to them and to us.<sup>3</sup>

It can be said that how a nation interprets its own historical development—or tells its national story in the minds and hearts of its people—will determine its ultimate success or failure. This is how nations are sustained and often how revolutionary convulsions are born. Indeed, as George Santayana once wrote, "Those who cannot remember the past are condemned to repeat it."<sup>4</sup>

This is no less true in the United States today, where the greatest threat to our constitutional system comes from the temptation of a few overzealous souls to reinterpret our nation's constitutional history in a way that suits their own desire for political power.

One of the means employed has been the proposal of so-called Constitution Reform Acts at the state level, as well as a Pledge of Allegiance Act at the federal level. These acts are specifically worded in a way that would bar state courts, and the U.S. Supreme Court, from hearing cases involving acts of religious expression in the public square that are sponsored by the government, thus giving state legislative bodies and the U.S. Congress a blank check to pass whatever the popular will of the people is. This, in turn, would effectively limit courts from interpreting the Constitution over an entire realm of jurisprudence—namely church-state and religious liberty case law. This would represent a dangerous precedent and a major constitutional revolution with potentially devastating consequences to our country's constitutional separation of powers, its system of checks and balances, and the constitutional separation of church and state based on the no establishment provision of the First Amendment. That is the path on which historical revisionists seek to take America.



## THE CHRISTIAN NATION DEBATE

According to a recent survey by the Pew Research Center for the People and the Press, 71 percent of Americans consider the United States a “Christian nation.”<sup>5</sup>

Other polls show that secularism and atheism are on the decline while 82 percent of Americans claim to be Christian. America is a nation with a large Christian majority, but it is a nation of many faith groups and religions. America is predominantly Christian in terms of its population: 251 million, out of a total population of just over 300 million, profess to be Christian. That’s roughly 82-83 percent of America’s population.<sup>6</sup>

Of this 82 percent cited, 25 percent are conservative evangelical Catholics and 29 percent are evangelical Protestants. This means that 54 percent are conservative evangelical Christians, leaving approximately 28 percent in the mainline liberal Protestant churches.<sup>7</sup> All other people of faith make up nine percent, i.e., Jews, Muslims, Hindus, etc. The remaining eight to nine percent range from secularists with no particular antagonism to institutional forms of religion, to atheists, who make up less than two percent of the American population.<sup>8</sup>

From these data, one could reasonably conclude that demographically and culturally America remains a predominantly Christian nation in the midst of a competitive and diverse religious landscape. Spiritually, however, Americans don’t view America as a Christian nation because of any real knowledgeable or passionate creedal commitment to Christianity. Instead, as Hugh Helco of George Mason University argues, “A noncreedal Christianity fits very well with the larger American culture that endorses individual choice, tolerance of different truths, and distrust of anyone’s party line about what morality ought to be.”<sup>9</sup>

But this does not diminish the cultural divide where, as Christopher Clausen reminds us in the most recent issue of *The Wilson Quarterly*, pitched struggles over the proper place of religion in the public square—whether it be over the celebration of Christmas in public venues, God in the Pledge of Allegiance, prayer in public schools, the legality and propriety of same-sex marriage, courthouse displays of the Ten Commandments, and the teaching of Creationism or Intelligent Design alongside evolution in school curricula—spill rivers of ink and spawn endless litigation.<sup>10</sup> Abortion, euthanasia, and stem cell research are also hotly debated. Evangelical Christians unite on these issues, where their social faith transcends into shared cultural, moral, social, and political values, regardless of doctrinal differences.

This culture war in America is not surprising. Secular liberals have been seeking to defame religion in the public square, making it void of religious expression. On the other side of the divide, evangelical Christians have been

vigorously trying—through legislation—to constitutionalize (or enforce by law) Christianity and Christian expression in the public square. In simpler words, “the Left fears that fundamentalists have subverted the Constitution to establish a theocracy, while the Right complains of galloping secularism.” As Clausen eloquently points out, “War between the faiths, as well as between faith and government, is raging again throughout most of the world, and America is part of the picture.”<sup>11</sup>

## VOICES OF REASON AND TRUTH

In this great American debate (or constitutional struggle), the truth is somewhere in the middle and is often not heard by the American people because of the loud and ugly shouting matches that regularly occur in the print and broadcast media.

A few years ago, Supreme Court Justice Sandra Day O'Connor, in a speech at the University of Northern Ireland, argued that America's constitutional founders understood the potential for either extreme to strangle its experiment in freedom and the development of a democratic form of government. She said that today it is no different: “The religious zealot and the theocrat frighten us in part because we understand only too well their basic impulse. No less frightening is the totalitarian atheist who aspires to a society in which the exercise of religion has no place.”<sup>12</sup>

For practical and civil reasons, America's founders, after realizing the need to add a Bill of Rights to solidify their constitutional experiment, sought to uphold both the Establishment and Free Exercise clauses of the First Amendment to a high constitutional standard against very real and powerful forces. Using this standard, the founders meant to do more than just prevent the establishment of a national religion. They intended the federal model to be a subtle, but powerful, inspirational guide to state governments to disestablish their state-supported churches and to be neutral toward religion and people of faith. They did, with Massachusetts becoming the last of the original thirteen states to disestablish its state-supported church. In time, the U.S. Supreme Court, in *Everson v. Board of Education* (1947) concluded that government neutrality meant that religion and religious institutions must be allowed to thrive freely, but without its official endorsement.<sup>13</sup>

The First Amendment, in part, states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” But today, many evangelical Christians seek to reinterpret the no establishment provision separating church and state in ways that would require

government to financially support their institutions and enforce their religious dogmas in the public square, so as to solve the moral ills of the nation. They seek to restore America to a time—a pre-constitutional period—in which government directly supported the church, and thus by default established it. In this case, instead of establishing a particular Christian faith or creed or denomination, it seeks to establish Christianity and its values as a whole.

But there are others, mostly on the Left, who seek to marginalize the free exercise of religion provision in favor of placing a higher level of protection on lifestyles that are not viewed favorably by a society that is predominantly made up of moral and social traditionalists (i.e., evangelical Christians), specifically when it is perceived that any proposed religious freedom legislation competes with same-sex rights.<sup>14</sup>

Both of these approaches are unnecessarily divisive and extremely harmful to our nation's constitutional health. However, the nation's founders anticipated this tension, creating an internal check and balance within the very wording of the First Amendment in order to prevent America from being overrun by either extreme in the great church-state debate. Remove this balancing safeguard and America's constitutional guarantees will be lost, and with it its civil and religious freedoms.

## RELIGIOUS PLURALISM AND SEPARATION — THE CULTURAL AND CONSTITUTIONAL ANSWER TO “IS AMERICA A CHRISTIAN NATION?”

Back to the original question: Is America a Christian nation? Demographically speaking, yes. America is predominantly Christian in terms of its population: 251 million Americans, or roughly 82-83 percent of America's population, profess to be Christian, albeit at varying devotional levels. America is a Christian nation, particularly in a pluralistic sense—a nation of many faith groups and religions.

But there is a more relevant question to ask in our discussion: Is America a Christian nation from a constitutional and legal standpoint? When reading the Constitution on a line-by-line basis, does it make biblical demands on us as citizens, or propose to organize our federal governmental system on the basis of biblically defined principles? Did America's constitutional framers specifically intend the Constitution to make Christianity the established religion or law of the land?

With more and more faith groups escaping from a troubled European continent where religious wars and religious persecutions were a frequent

and well-known condition of those times, our nation's founders knew full well that a greater influx of immigrants would bring a corresponding increase in religious pluralism. To anticipate an increasing flood of new immigrants meant establishing the new and fledgling Republic on a secure basis—on the basis of civil and religious freedom. To do this they would have to at once calculate, acknowledge, enunciate, and apply the radical principle of the separation between church and state in the new Constitution by preventing the establishment of a national church. It would also mean ensuring that the federal government was not involved in financially supporting, officially endorsing or sponsoring any particular religious activity—particularly denominational acts of worship or spiritual devotion.

Constitutionally speaking, then, the United States remains a secular nation with secular laws that are neutral toward religion, religious individuals and religious entities, where no religious belief system, tenet, or church is established through legal enforcement. If America was a Christian nation by law and was specifically spelled out as such in our Constitution, then our government would be no different than some Muslim countries whose constitutions are based on sharia law and *Haditha* writings—laws derived, interpreted and applied from the Koran, the sacred scriptures of Islam and Mohammed's writings. The only difference, of course, would be that our constitutional laws—if placed on a similar footing—would derive its authority, interpretation and application from the Holy Bible, the sacred scriptures of Christianity. How this would be interpreted would be a dilemma.

Perhaps the closest our country came to becoming a Christian nation was when Alexander Hamilton proposed the creation of a “Christian Constitutional Society.” While Hamilton's proposal was contained in an obscure letter to Congressman James Bayard of Delaware, and never saw the light of day, it represented a systematic plan for ensuring the election of “fit [Christian] men,” and thus ensuring the transformation of the American political system into a Christian consensus, effecting generations of legislation with a Christian intent. Hamilton's proposal was, in some distinct ways, a precursor to the Moral Majority and the Christian Coalition in our day—voting guides and all.<sup>15</sup>

So then the question must be asked again: Is America a Christian nation, legally and constitutionally speaking? The simple and direct answer is “No.” If America was, indeed, a Christian nation on a legal and/or constitutional basis, religious freedom in this country would virtually be non-existent. Oh sure, religious tolerance might exist. Muslims, Hindus, Buddhists, Spiritists, and even some Christian minorities might be tolerated (i.e., Mormons, Jehovah Witnesses

and Seventh-day Adventists, all American-born religions). But there would be no true religious freedom in the country we call the United States of America.

John Leland, an itinerant, hellfire-preaching colonial Baptist from Virginia, was motivated to write in *A Chronicle of His Time in Virginia*, “The notion of a Christian commonwealth should be exploded forever.” He argued, “Government should protect every man in thinking and speaking freely, and see that one does not abuse another. The liberty I contend for is more than toleration. The very idea of toleration is despicable; it supposes that some have a pre-eminence above the rest to grant indulgence, whereas all should be equally free, Jews, Turks, Pagans and Christians.”<sup>16</sup> In these words, Reverend Leland echoed the thoughts and words of many other Christians of his day. Indeed, no reasonable historian could accuse Reverend Leland of being a modern secular humanist.

## REVISITING THE VIRGINIA STATUTE OF RELIGIOUS FREEDOM

Perhaps the most convincing proof of the fact that America’s constitutional fathers did not intend to establish a Christian commonwealth comes from a little known piece of our nation’s formative history—from the pen of Thomas Jefferson.

In reflecting on his Virginia Statute for Religious Freedom—what would become the model for the First Amendment to the U.S. Constitution—Mr. Jefferson, then retired at Monticello, noted in his autobiography *Writings* that even though “a majority of the legislature were churchmen...a great majority” rejected an amendment put forward by those who insisted on declaring in the preamble that coercion was “a departure from the plan of *Jesus Christ*, the holy author of our religion.”<sup>17</sup>

While Jefferson had no personal problem with the theological correctness of such a statement, he had a problem with Virginia declaring that it was a Christian state when in fact it was more than a state that merely tolerated other religions, but instead gave them equal status with Christians of every creed and stripe. He observed that “the insertion was rejected by a great majority, in proof that they meant to comprehend, within the mantle of its protection, the Jew and the Gentile, the Christian and Mohammedan, the Hindoo, and Infidel of every denomination.”<sup>18</sup> In other words, all people of faith, including those who chose to refrain from faith altogether, were to be treated equally.

Derek Davis, noted church-state constitutional scholar, comments that “Jefferson wrote this at a time when America was even more culturally

Christian than it is today.” But, he argues, “this never meant that Virginia, let alone America, was to be Christian in a constitutional sense. The Founding Fathers at the Constitutional Convention of 1787 in Philadelphia could have easily included language in the Constitution declaring the nation to be ‘Christian’ had they wanted to. In fact, many citizens argued for this kind of expressly ‘Christian’ language at the state ratifying conventions after the document was presented to the states for approval. But the Founders weathered these proposals, choosing to remain true to their conviction that the nation would embrace a principle of religious pluralism whereby all citizens’ beliefs would be legally protected with none favored.”<sup>19</sup>

## CONCLUSION

From this, another clear line of reasoning emerges: the principled need for religious freedom in a diverse land of many people of varying faiths and faith experiences. John Tyler is one of the least remembered presidents in the history of the United States. Yet on July 10, 1843, he penned one of the most eloquent letters ever written applauding the American constitutional experiment in religious freedom. He wrote:

The United States has adventured upon a great and noble experiment, which is believed to have been hazarded in the absence of all previous precedent—that of total separation of Church and State. No religious establishment by law exists among us. The conscience is left free from all restraint and each is permitted to worship his Maker after his own judgment. The offices of the Government are open alike to all. No tithes are levied to support an established Hierarchy, nor is the fallible judgment of man set up as the sure and infallible creed of faith. The Mohammedan, if he will to come among us would have the privilege guaranteed to him by the Constitution to worship according to the Koran; and the East Indian might erect a shrine to Brahma if it so pleased him. Such is the spirit of toleration inculcated by our political institutions.... The Hebrew persecuted and down trodden in other regions takes up his abode among us with none to make him afraid.... and the Aegis of the government is over him to defend and protect him. Such is the great experiment which we have tried, and such are the happy fruits which have resulted from it; our system of free government would be imperfect without it.<sup>20</sup>

Religious freedom and pluralism thrive in this country because America's founders resisted the temptation to establish a Christian nation when drafting the Constitution. They had the courage to make sure that no religious test could manipulate and control the Constitution they had worked so hard to frame.

And finally, the founders of the United States had the wisdom to understand that political and governmental intrusion into the affairs of the church and individuals of faith would only undermine political and religious freedom and the moral underpinning of any successful Republic. Instead of adopting the worn out and failed slogans of "God save the King," or "God save the Church," America's constitutional founders urged their countrymen to adopt secular utilitarian values when crafting the Constitution and establishing governmental institutions. The absence of any king or clerical rule would ensure that all faith traditions would be welcomed. Religious and political pluralism—not a Christian nation—was the principled foundation that was chosen by America's constitutional founders so that religious and political freedom could truly be lasting. As such, it was intended to serve as a positive model and influence to the rest of the world.



E N D

- 1 Article after article that I read in *The Financial Times*, the European edition of *The Wall Street Journal*, *Foreign Affairs Journal*, *The Economist*, and *The Robb Report* confirms this.
- 2 Henry Kissinger, *Diplomacy* (New York: Simon & Schuster, 1994), 17-18.
- 3 Thomas Jefferson, Notes on the State of Virginia, Query XVII. *Writings* (New York: The Library of America, 1984): 283-87.
- 4 Fred R. Shapiro, ed. *The Yale Book of Quotations* (New Haven, CT.: Yale University Press, 2006), 664.
- 5 The Pew Research Center for the People & the Press, "Many Americans Uneasy with Mix of Religion and Politics," 24 August 2006. In 2006, 67 percent of Americans viewed the United States as a Christian nation, roughly four percentage points lower than in 2005.
- 6 Ibid. Another recent survey by *Newsweek* confirms these numbers. With a few percentage points off here and there in other categories, the 82% percent margin for the number of Americans professing to be Christian is confirmed in this survey: Brian Braiker, "U.S. Poll: 90% Believe in God," *Newsweek* 30 March 2007. See also Todd M. Johnson, "Christianity in Global Context: Trends and Statistics" prepared by Pew Forum on Religion & Public Life, 2005. Mr. Johnson cites the fact that 251 million American citizens in the United States of America profess to be Christian. Out of a total population of 300 million, 82 to 83 percent of all Americans are therefore Christians in one various belief form or another. See also Janice D'Arcy, "Christian Conservatives Flex their Muscles in the Political Arena," *Baltimore Sun* 27 March 2005, in which she refers to "our country's Judeo-Christian roots and its roughly 80 percent Christian population."
- 7 After the 2004 Presidential Election, Rick Warren, author of *The Purpose Driven Life*, observed that "when you get 25 percent of America, which is basically Catholic, and yet get 28 to 29 percent of America, which is evangelical, together, that's called a majority. And it is a very powerful bloc, if they happen to stay together on particular issues." See "Myths of the Modern Mega-Church," an event transcript published by the Pew Forum on Religion &

- Public Life of its biannual Faith Angle Conference on religion, politics and public life, held in Key West, Florida, May 2005.
- 8 According to Barry A. Kosmin, Egon Mayer, and Areila Keysar, in their 2001 American Religious Identity Survey, a mere 2 million of 208 million adult Americans claimed to be atheist, agnostic, humanist, or secular. This survey can be accessed at [www.gc.cuny.edu](http://www.gc.cuny.edu).
  - 9 Hugh Helco, "Is America a Christian Nation?" *Political Science Quarterly*, (Winter 2007): 71.
  - 10 Christopher Clausen, "America's Design for Tolerance: Religious conflicts in multi-faith America are mild compared with those in countries that have only one faith or virtually no faith at all." *The Wilson Quarterly* (Winter 2007): 27.
  - 11 Ibid.
  - 12 Sandra Day O'Connor, "Religious Freedom: America's Quest for Principles," *Northern Ireland Legal Quarterly* 48 (1997): 1.
  - 13 *Everson v. Board of Education* 330 U.S. 1 (1947).
  - 14 See "Myths of the Modern Mega-Church," an event transcript published by the Pew Forum on Religion & Public Life of its biannual Faith Angle Conference on religion, politics and public life, held in Key West, Florida, May 2005.
  - 15 Alexander Hamilton, Letter to James Bayard, April 1802. *Writings*. (New York: The Library of America, 2001): 987-90.
  - 16 John Leland, "A Chronicle of His Time in Virginia," as cited in Forrest Church, *The Separation of Church and State: Writings On a Fundamental Freedom by America's Founders*, (Boston: Beacon Press, 2004): 92.
  - 17 Thomas Jefferson, *Writings*. Autobiography (New York: Library of America, 1984): 34-40.
  - 18 Ibid. When Jefferson refers to "the infidel of every denomination," he is referring to himself. He wrote this in a "tongue and cheek" manner, recalling the presidential election of 1800 when he was falsely accused of being an infidel by Federalists and Puritans in Massachusetts and Connecticut who vigorously opposed his election.
  - 19 Derek H. Davis, "Why Keep Church and State Separate," in *The Christian Nation Debate: Weighing the Founders' Intentions*, Liberty Express, Signature Edition, 2007.
  - 20 Cited in Bernard Lewis, *From Babel to Dragomans: Interpreting the Middle East* (New York: Oxford University Press, 2004): 331.



# THE RUSSIAN REACTION TO RELIGIOUS HATRED

ANATOLY KRASIKOV

*Director, Center for Social and Religious Studies, Institute of Europe*

*Russian Academy of Sciences*

*Past president, Russian Chapter of the IRLA*

Allow me, on behalf of the Euro-Asia Chapter of the International Religious Liberty Association, to greet the organizers and all participants of this unique forum and, above all, our cordial hosts, our African brothers and sisters.

Africa is a vast and diverse continent that has its own difficult problems. In the latter half of the twentieth century, colonialism in Africa was practically abolished. People thought that the time of universal peace and cooperation would come. However, unprecedented cruel conflicts broke out in different countries of the continent. More than five million people have been killed in 50 intertestine wars during the 40 years since many African states achieved their independence. Even more valuable now are the lessons of peacemakers who remind people of God's commandment: "Thou shalt not kill." In this connection, we must not forget the object lesson of South Africa.

In November 1990, when the future of civil peace in South Africa hung on a thread, the leaders of all national churches held a meeting. In his speech before the participants at that meeting, Nobel Prize winner Archbishop Desmond Tutu responded to the contrite words of a certain white pastor as follows: "When they ask me for forgiveness, I cannot deny it." His voice was heard. The ruling white minority agreed to grant equal rights to the black majority which to that point had been denied such rights, contrary to God's commandments and international law.

Some years ago I was fortunate enough to get to know two eminent South Africans, Wilhelm Verwoerd and his wife Melanie. Wilhelm, a grandson of Herdrik Frensch Verwoerd who once created the apartheid system in South Africa, joined the fighters against that unjust system as a young man, became a member of the African National Congress and then was elected to Parliament as a representative from that party. Melanie held the same views in politics. Later she followed diplomacy as a career to serve as the South African Ambassador in London and Dublin.

We met at an international conference in Caux, Switzerland. The agenda included the issues of reconciliation of former enemies through their repentance and mutual forgiveness. Wilhelm and Melanie told me many interesting things about the transformation of South Africa, which had been the site of severe racial discrimination, into a country in which all citizens are equal before the law. Recently I have learned from the internet that Wilhelm is now sharing South Africa's experience of peaceful solutions to difficult domestic conflict with the people of Ulster (Northern Ireland).

Unlike South Africa, both the Russian Federation and Ireland belong to European culture. Nevertheless, we consider the South African positive experience useful and exceptionally important for Europe and especially my country, whose territory extends over two continents, Europe and Asia. The issue of human values has particular importance for each of us.

Some twenty years ago my country, then called the USSR, began abandoning both the totalitarian regime of state atheism and the Cold War that had led our planet to the verge of disaster. In 1988, the Soviet Government, headed by Mikhail Gorbachev, permitted the official celebration of one thousand years of Christianity in Russia. The anniversary celebrations became a starting-point for truly global changes.

Life was changing before our very eyes. In the spring of 1989 we saw an event unheard-of in Soviet history—the first comparatively free election to the supreme legislative body of the USSR. Giving way to strong pressure from below, the Communist Party abandoned its political and ideological monopoly established by Article 6 of the Constitution of the USSR. In the summer of 1990 it was decided to conduct an investigation of the dependence of religious figures on the state. A special parliamentary commission released a report, which corroborated the fact of the “deep penetration of secret service agents in religious associations.” This circumstance was described as “a serious threat to both society and State.”

Unfortunately, bodies similar to the South Africa Truth and Reconciliation Commission have been never established in Russia. Nobody has repented of the errors and crimes of the past. In my view, this fact represents one of the main reasons for the present-day difficulties in Russian society, including the problems caused by attempts to restrict religious freedom.

In any event, the beginning of our journey to open civil society seemed promising. In October 1990 a liberal law “On Freedom of Religion” was adopted. According to this law, the permission of authorities to establish a religious association would not be required. Religious associations could be

dissolved only by their members or by a court action (in case the activities of these associations were found contradicting their constitutions and State law).

In 1991, the fifteen republics that comprised the USSR decided to live independently, and the disintegration of the Soviet Union proved to be peaceful. There were no wars as happened in the same period in another disintegrated country, Yugoslavia. On the contrary, most of former Soviet republics urged the preservation of their mutual relations within the framework of a new Commonwealth of Independent States (CIS).

In December 1993 the Constitution of the Russian Federation, the largest post-Soviet country, was adopted. The Constitution declared human beings, their rights and freedoms, as the supreme value (Article 2) and established ideological diversity (Article 13), separation of religious associations from the State and their equality before the law (Article 14).

The above principles were warmly supported by the Russian Chapter of the International Religious Liberty Association that had been established in 1992. The founders of the Russian IRLA Chapter were the Russian Orthodox Church, Protestants (Seventh-day Adventists, Baptists, Evangelicals, Pentecostals), Catholics, Muslims, Buddhists, Jews, and other religious associations, as well as some eminent public figures and many scientists.

It was both a correct and timely decision to establish our organization. The impenitent former politicians recovered and launched a counter-offensive. Allow me to cite a passage from my report presented at the conference of the Russian IRLA Chapter at which I was elected President in February 1997:

“Religious freedom in this country is mainly threatened by the heirs of the totalitarian regime, who dream of restoring it in one or another form that would enable them to monopolize power over country and people. The second but no less important threat to religious freedom in Russia springs from the activities of unfortunately numerous clergymen and laypersons of the Russian Orthodox Church, who are making extremist demands and are counting on making the church a State church and clericalization of the State under the aegis of Orthodoxy.”

The ‘moment of truth’ came when a draft law “On Freedom of Conscience and Religious Associations”, was introduced into the Federal Assembly (Parliament), with the object of superseding the liberal law adopted in 1990. The draft law substantially curtailed the rights of believers as compared to the 1990 law. The Russian IRLA Chapter urged President Boris Yeltsin to make

use of his constitutional powers to prevent passing a law that would conflict with the Constitution and the international obligations of Russia. The main Legal Department of the Presidential Administration supported our position. These efforts inclined President Yeltsin to veto a new law already adopted by Parliament.

This occurred in July 1997. However, two months later, Boris Yeltsin subscribed his name to a new law that was practically unchanged. Despite being called a 'compromise law', the altered document took a turn for the worse rather than for the better. Such an about-face by the President in his policy could be explained only by the pressure of the opponents of religious freedom. The President was pressured by the Internal Policy Department of the Presidential Administration, dominated by people hankering for bygone days. Limitations on the right of Russian citizens to religious liberty were also advocated by 'hawks' from the Russian Orthodox Church.

The law adopted in the autumn of 1997 teems with contradictions. Its preamble contains a number of very fine statements taken from the Russian Constitution and Russia's international treaties. Punishable offenses are listed. As a matter of fact, that list is applicable to any association or citizen of whatever constitutional status. It was not necessary to specially iterate that list into the law relating to religious associations. This, it seems, was done in order to make the public believe that some religious communities might be especially inclined to criminality. In conclusion, the said law specifies the rights to be henceforth forfeited by religious communities that have not obtained a special State registration.

The central idea of the law is the requirement of mandatory re-registration for all religious associations in Russia. According to the law, all religious associations are to be re-entered in the state register, including the associations already included in that register under the 1990 law. However, it was that cardinal question that caused an unexpected defeat for the opponents of religious freedom.

Let me cite amazing statistics. Before this law was adopted, some 14,000 religious associations had been entered in the state register of the Ministry of Justice. Today, the number of registered religious associations exceeds 23,000. They represent more than 70 various confessions, from Christianity, Islam, Buddhism and Judaism (those confessions are specifically mentioned in the law), to newly emergent religious movements (in Russia) such as Baha'i Faith, Jehovah's Witnesses, the Society for Krishna Consciousness, the Unification Church, the Church of Scientology, and many others.

We would have seen nothing of this development if the Constitutional Court of Russia had not rejected the idea of retroactive application of the 1997 law, thus ruling against excluding many non-Orthodox believers from religious life in Russia.

Two of the co-authors of this ‘miracle’ are among us today. They are distinguished Russian lawyers, co-chairmen of Slavic Center for Law and Justice, members of IRLA Euro-Asia Chapter (former Russian IRLA Chapter), Mr. Anatoly Pchelintsev and Mr. Vladimir Ryakhovsky. It was they and their colleagues who represented the interests of Russia’s discriminated-against religious communities in the Constitutional Court, the judgments of which are legally binding for the President, the Parliament and the government of the Russian Federation. Anatoly Pchelintsev is Baptist, and Vladimir Ryakhovsky is Evangelical, but they are selflessly pleading the cause of believers of all confessions threatened with discrimination by the authorities.

During recent years, the Expert Council of the Ministry of Justice, of which our brother Anatoly Pchelintsev is a member, has been our true ally. Prof. Miran Mchedlov, who was chairman of this Expert Council until his recent death, participated in almost all conferences of the Russian IRLA Chapter. He was my old colleague and friend, with whom we maintained good relations since the 1960s.

Out of necessity, the Expert Council has been preparing, on commission from the Ministry of Justice and according to the 1997 law, legal opinions of a religious nature for communities claiming inclusion in the official state register. Those opinions have been always unbiased and truthful. As far as I know there was only one unfavorable opinion. It was a case of a certain “Old Russian Ingling Community”, whose documents were seen to bear the marks of extremism and whose symbols were based on Nazi attributes.

Unfortunately, even the inclusion of a religious organization in Russia’s state register cannot guarantee that its local branches in the regions of the Russian Federation will be recognized by authorities and permitted to function without obstruction. The municipal authorities in the City of Moscow have been especially intolerant. I would like to give here only the most glaring example.

The Moscow authorities ordered the imposition of a ban on the activities of the world-famous Salvation Army. That church, widely engaged in works of mercy and officially registered by the Ministry of Justice of Russia, was declared “a foreign paramilitary formation.” In the course of a propaganda campaign against the Salvation Army, slogans such as ‘Foreign soldiers, off you go!’ were

heard. In October 2006 the European Court of Human Rights in Strasburg ruled that Russia should put an end to such arbitrary behavior and pay pecuniary compensation for moral damages suffered by the Salvation Army.

This and other similar rulings of the European Court of Human Rights have displeased nationalistic members of the Russian Parliament, whose voices are heard urging the revising of relations between the Russian Federation and the European Council and other international organizations. More radical suggestions were also made for denying Russia's obligations under international agreements and legal documents relating to human rights.

Today, such suggestions are legally and practically impossible. Article 15 of the Russian Constitution reads: "The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied."

It is no mere coincidence that the introduction of possible changes into the Constitution of the Russian Federation is now urgently discussed by the political elite in Russia. The Chairman of the Department for Foreign Church Relations of the Moscow Patriarchy, Metropolitan Kirill, carries his vision to excess. In the address he delivered to the Greek Parliament in 1999, he criticized the international rules relating to human rights as "exceptionally Western and liberal." "Unfortunately," Kirill said, "the Orthodox spiritual and cultural tradition was not presented, for ideological and political reasons, by Soviet diplomacy in elaborating contemporary standards of international relations and human rights."

For Metropolitan Kirill, Muslims, Buddhists and Jews could co-exist with Orthodox Christians in the same Russian State only on condition that they are restricted to non-Russian nations: Tartars, Bashkirs, and North Caucasians (Muslims); Buryats, Tuvinians, and Kalmyks (Buddhists); Jews among their own. Kirill opines that non-Orthodox Christians (Catholics and Protestants) should recognize the "State-building role" and privileges of the Orthodox Church.

Speaking recently in a live broadcast over the Voice of Russia governmental radio station, this man, who is called the "strategist of Russian Orthodoxy," said: "Some 80 per cent of our people have been baptized Orthodox. If anybody is not baptized, his parents were likely baptized. Both culturally and spiritually, such a person must be associated with Orthodoxy . . . Therefore, he himself and his family are to be nurtured by our shepherds, who are bearing such a responsibility to God, people and country. But, all

of a sudden, we come across a missionary in this area who says: ‘We are also entitled to be here’ . . . . It is an attempt to seed another person’s field that was already fertilized.”

The most common problems we have had to deal with over the ten years since the adoption of the 1997 law are as follows:

- The preparation of new legislative acts that would come into conflict with the Constitution and the laws of the Russian Federation, including the 1997 law (as interpreted by the Constitutional Court);
- The refusal of registration (or re-registration) of ‘alien’ (in the opinion of local authorities) religious organizations for purely formal reasons;
- Attempts to hinder the normal functioning of non-Orthodox religious organizations, in particular, through prohibiting the visits to Russia of invited foreign clergymen, mainly Catholics and Protestants,
- The refusal to extend the leasing of State-owned buildings in which meetings were held by churches which had forfeited their own houses of prayer in the days of atheism;
- The use of advanced information technologies for creating an ‘enemy image’ through dissemination of inauthentic and even patently false information about the doctrines and daily activities of ‘non-traditional’ (as determined by some officials) communities of believers.

Nevertheless, we, the members of IRLA Euro-Asia Chapter, make every effort to continue the dialogue and, if possible, collaborate with both politicians and our opponents among religious figures for the sake of protecting religious freedom as a panhuman value. In this dialogue and collaboration, we are trying to explain to other parties that we have a common past, present and future, the twists of history notwithstanding.

As a rule, our conferences are attended by representatives of the Administration of the President of the Russian Federation, Parliament, and Government of Russia. We are visited by official representatives of the Russian Orthodox Church (since 1997 they have had an observer status). The Chairman of the Russian Council of Muftis, the Chief Rabbi of Russia, and top administrators of Russian Catholics and Protestants are the vice-presidents of the IRLA Euro-Asia Chapter. Among the members of our Council there are leaders of new religious movements.

We are learning ourselves and demonstrating to others that it is possible, while being faithful to one’s own religion, not to fight but to cooperate with each other in the name of Him Who created all visible and invisible things.

May God help each of us!



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# THE SPANISH ANSWER TO RELIGIOUS INTOLERANCE FROM INSTITUTIONAL INTOLERANCE TO INSTITUTIONAL TOLERANCE

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ROSA MARÍA MARTÍNEZ DE CODES

*Universidad Complutense de Madrid, Spain*

The history of Spain during the last fifty years provides an interesting case study for reflection on the transition from institutional intolerance to institutional tolerance in religious matters.

In this presentation I would like to introduce a number of historical, political and legal elements which explain the importance of the religious intolerance-tolerance continuum in the process of consolidating the Spanish democratic State.

You have heard on numerous occasions that without memory there is no future. The present lacks meaning if we are not able to reflect upon our past. Consequently, I thought it fitting in this presentation to recall the voices and words of those who led and made possible Spain's transition to religious tolerance.

Nowadays, in democratic societies religious freedom is a right protected by legal guarantees. As a consequence, Church and State—religion and society—are distinguished from each other and interact on the basis of equality in law and freedom. This process started two hundred thirty years ago when Thomas Jefferson, the primary author of the U.S. Declaration of Independence, began to introduce new ideas into the Virginia Statute for Religious Freedom.

He asserted, at a very early stage of the history of thought and freedom, that there was a way to overcome religious intolerance in order to open the way for the idea of freedom: acknowledge that all men and women have equal rights and can freely exercise these. Western societies have moved in this direction since then.

Some countries, however, including Spain, took a long time to discover religious freedom. European history reminds us that the main Christian confessions of faith were once State religions and enjoyed a position of dominance over minorities who were, at best, tolerated. It is clear that those



communities which have always been minorities under the domination of other Christian State churches would be the first to press for equal treatment. Large faith communities which for centuries shared the common destiny of a nation would resist change for longer until they realized that a new chapter of history was unfolding. Legal changes often trail after sociological changes.

Spain has been a confessional country throughout its entire history as a nation. Spain was the first modern state in Europe, a phenomenon which came about at the end of the fifteenth century. As in the case of all European states, the Spanish state arose within a context in which political and religious unity complemented each other.

The 1492 Conquest of Granada and the recapture of the entire country from Islam by the so-called Catholic Monarchs gave Christian Spain a political dimension which it had hitherto lacked.

Religious unity meant the exclusion of Jews and Moors who had not converted to Catholicism from the territory of the Christian kingdoms. The new feature in Spain was not the exclusion of dissidents from the national territory—exclusions which occurred throughout the length and breadth of Protestant and Catholic Europe—but rather the profound institutionalization of the Catholic faith.

Under the Counterreformation, led by the Spanish monarchs, the quality of being Catholic (“Catholicness”) was defended as the true *raison d’être* of the State, until this became a fundamental feature of the national consciousness.

In the nineteenth century and the first half of the twentieth century, Catholicism was formalized expressly or tacitly in all constitutions enacted by the Spanish State with the sole exception of the Republican Constitution of 1931, which remained in force until the end of the Spanish Civil War.

The political leaders of the Republic, set up in 1931, introduced two major changes into the Spanish legal order when they sanctioned Church-State separation and recognized freedom of conscience.

It should be pointed out, however, that this separation, defended by the parliamentary representatives in the Spanish *Cortes*, identified itself with the secularism of the French legislation of 1905 which stipulated that the Republic neither recognized nor subsidized any religious group, i.e. the State did not wish to maintain any type of relationship with any confession of faith, and stated that religious events were no longer public ones. Religious belief therefore was reduced to a problem of individual conscience and a merely private question.

The then President of the Republic, Manuel Azaña, defined this clearly in his speech before the Congress of Republican Action:

The religious problem is not only a private one of the individual conscience but also a political one, and here we are talking as politicians or legislators, not as believers. Consequently, what is usually termed a religious problem comes down to a problem of government i.e. the attitude of the State towards a certain number of citizens who wear full-length tunics, and of State-level relations with a foreign power which is Roman Catholic.

Religious personnel, consequently, were subjected to a special and very restrictive law which limited public manifestations of prayer, prevented them from acquiring and maintaining property, except property destined for private purposes, and prohibited them from working in industry, commerce or education.

The myth of clericalism-anticlericalism had reappeared in Spanish history: two totally different views of Spain, absolutely incompatible one with the other, collided in the public square. Both defined themselves by their respective political relations with religion and with their institutions. Half the Spanish population believed that the cancer which prevented Spain from progressing at the rate of other European countries was the excessive influence of clerical powers. The other half believed that Catholicism, and therefore the Church, was their national heritage: *“Spain could not cease to be Catholic without ceasing to be Spain.”*

The Catholic Church appeared to millions of Spaniards as the guarantor of authentic patriotism and of existing political realities, serving as a bulwark against the censure of many others who considered the Catholic Church to be the party guilty of political, economic and social failures.

The Civil War, begun in 1936, exhibited a fully religious feel in the consciousness of the majority of Spaniards right from the outset. One major element of the population closely linked two sentiments—the religious and the patriotic. This merged consciousness, visible in those who enlisted in the National Movement led by General Franco, ended by finally committing the Catholic hierarchy to the defence of the Church.

The “Collective Charter” which the Spanish Bishporic circulated in 1937, declared that the fratricidal war was a “crusade” against the infidel and other enemies of the fatherland and Western civilization including communists, socialists, anarchists and liberals (ideas which have not lost their relevance today). This document dictated the action of the Catholic Church and linked it definitively to the political regime set up after the war. Among the core principles which defined the Franco regime, we should mention the

confessional nature of the State; the establishment of a legislation commonly agreed upon with the Vatican; and the subordination of the other—non-Catholic—confessions of faith to a system of tolerance with considerable restrictions.

As a consequence of the Franco regime's declarations of confession of faith, the Catholic Church received preferential treatment, visible not only in the way it disseminated its doctrine and its intensive religious instruction in schools, but also in the rights and powers the Catholic Church was granted by the State through commonly agreed regulations.

I would like to underline particularly the Concordat signed with the Vatican in 1953, in which both parties quite naturally granted prerogatives to each other. On the part of the Catholic Church, the right of the Head of State to designate bishops was recognized; and on the part of the State, the Church was granted control over marriage, education and censorship, even as it assumed control of the clergy and worship in general.

The privileged legal position of the Catholic Church which I have described contrasted hugely with that of the rest of the confessions of faith in Spain. Protestants, evangelicals and Jews remained subordinated by a statute, listed under article 6 of the Common Law of the Spanish people, which permitted private worship even as it prohibited external manifestations or religious proselytism:

Nobody may be hindered as a result of their religious beliefs or the private practice of their faith. No other ceremonies or external manifestations will be permitted other than those of the Catholic religion.

The interpretation of what should be understood as “the private exercise of prayer” was left to the discretion of government departments, generating an endless list of conflicts and economic sanctions over non-Catholic confessions of faith, as illustrated by the words of Protestant pastor Juan Luis Rodrigo Marín:

The Common Law of the Spanish people, which came about around 1945, guaranteed that nobody could be hindered as a result of their religious beliefs. This was confusing as, depending on who was consulted this was open to different interpretations. The “private” concept was very elastic: it was either narrowed down or inflated. Thus, in some places it was not permitted to accompany a funeral hearse in a cortège, in keeping with our culture and

customs... Fortunately not everyone thought that way. Some local authorities were more tolerant and made certain allowances. Very few. A police provision authorised up to 20 people as the maximum number permitted to meet in a specific place. For more people a government permit was needed which, naturally, was not given to a religion or religious dissident.

When did the religious transition really begin in Spain? Two dates linked to two other important events have commonly been pointed out: the Constitution of 1978 and the 1980 Organic Law on Religious Freedom. Without doubt, both legal texts were decisive in the configuration of the democratic state and the eradication of religious intolerance in Spain.

Nevertheless, the battle for religious freedom in Spain was fought by the religious minorities who protested, denounced and reported to the foreign embassies on the discrimination members of their churches were subjected to beginning in the 1950s. The international press, echoing these complaints, denounced the situation of the Protestants, evangelicals and Jews in Spain for whom the legislation in force was completely unsatisfactory. It was impossible for them to reduce the practice of their religion to private worship.

The pressure exerted from both inside the country and from abroad, along with the new political openness of the Franco regime, now interested in gaining international support and obtaining economic aid from the U.S. and Britain, gave impetus to drafting *The Statute for Non-Catholics and Their Associations in Spain*.

The individual who, at that time, committed himself to defending the civil rights of minority confessions and was a leader in that field was the Minister of Foreign Affairs, Fernando María Castiella. His strength and tenacity in drafting and later winning approval by parliament of what was termed the first law on religious freedom was recognized in January of 1965 by the then general secretary of the *Association Internationale pour la Défense de la Liberté Religieuse* (International Association for the Defense of Religious Freedom), Dr. Jean Nussbaum.

Dr. Nussbaum wrote to Mr. Castiella on the favorable impression that Franco's New Year speech to the Nation had made on him and congratulated him on the influence the Statute would have for non-Catholics not only in Spain but also in Europe and on the other side of the Atlantic. He expressly mentioned the presence in Spain of open-minded spirits prepared to fight for religious peace in the country. Nussbaum ended his letter by expressing his recognition of the admirable work undertaken by the Minister and attached a copy of the letter he directed to General Franco, the Spanish head of state.<sup>1</sup>

In the letter to Franco, Dr. Nussbaum highlighted his delight and admiration for the work of Castiella who “has painstakingly prepared a statute for the non-Catholics and which, as far as we have been able to ascertain, appears to fully satisfy all those who defend religious freedom... Your speech, General, impressed me deeply and for that reason I shall take the liberty of telling you that I shall follow your movements with the greatest interest, and it is my most fervent wish that you should succeed fully in the task you have taken upon yourself. I pray God bless the Spanish people, their illustrious Head of State and their Government. May your country find in religious peace the strength it needs to carry out the mission it has been called upon to accomplish.”<sup>2</sup>

It may be said that the religious transition in Spain, in fact, began by the recognizing religious freedom. Religious freedom under the Franco regime received a major stimulus from the new approaches propounded by the Vatican through the Second Vatican Council.

The release on December 7, 1965 of “*Dignitatis Humanae*”, the Second Vatican Council’s Declaration on Religious Freedom, was, in itself, an event with far-reaching consequences, especially for countries which subjected non-Catholics to a very restrictive system of tolerance, as was the case of Spain.

Spanish Protestants and Jews received the Declaration in an extremely hopeful frame of mind, trusting that its progressive promulgation would bring the introduction of new criteria in the enforcement of a greater level of religious tolerance, granting basic rights to their communities.

In effect, the Declaration tackled the subject of religious freedom from a legal viewpoint, as announced in the subtitle, *On the Right of Individuals and Communities to Social and Civil Freedom in Religious Matters*, i.e. the concept of religious freedom which is formulated around the fundamental idea of legal-civil autonomy. This is the field to which the subject of religious freedom belongs, according to the Second Vatican Council’s perspective. Religious freedom is not defined in relation to God but rather in relation to a civil institution, the State. Therefore, it must not be confused with autonomy in the moral sphere.

The key to interpretation of the text lies in the affirmation that religious freedom is a true right of individuals, founded on their human dignity, and which must be recognised as a civil right in society. Strictly speaking, it is the demand of a sphere of civil independence facing the coercive power of the State, so that “...in religious matters nobody be forced to go against their conscience or be prevented from following it in private and public life, alone or associated with others, within suitable limits”.<sup>3</sup>

It was also very promising for non-Catholic Christian confessions that the Declaration not only concerned itself with individual liberty, but also with the right to religious association in Spain; the right to freedom of propaganda; and religious rights of a family nature. This also facilitated a satisfactory approach towards ecumenical manifestations by the World Council of Churches.

Summing up, the struggle for religious freedom, in which the religious minorities in Spain had become deeply involved, received important backing with this Declaration, reinforcing their claims to the recognition of freedom of conscience under equal conditions for all.

The impact of the principles contained in this Declaration on Spanish State Law was immense. Public powers were obligated to tailor their legislation to the authority of the Catholic Church. For both the government and the Spanish episcopacy this streamlining was delicate and complex. It meant the transfer over to the State's civil legal system of the notion of civil tolerance for religious freedom, maintaining Catholicism as the key religion. It was no longer possible to combine the private exercise of worship and the prohibition of ceremonies and external manifestations with religious freedom—as per the new definition by the Second Vatican Council.

Consequently, Article 6-2 of the *Common Law of the Spanish People* was revised, clearly expressing that the State took on board the protection of religious freedom, the guarantee of which would be through effective legal protection:

The professing and practice of the Catholic religion, which is the religion of the Spanish State, shall enjoy official protection. The State shall take upon itself the protection of religious freedom which shall be guaranteed by effective legal protection. This protection, in turn, shall safeguard morality and public order.

This reform brought the subsequent enactment of the so-called First Law on Religious Freedom of June 28, 1967, along the lines that Minister Castiella had initiated years before. Experts agree in stating that this Law represented a major step forward in the protection of freedom of non-Catholic confessions and, although imperfect, enabled these groups to come out of virtual hiding and function publicly. I say *imperfect* because in practice the State's unaltered Catholic confession of faith set down limits, controls and restrictions on non-Catholic religious associations.

Until the proclamation of the 1978 Constitution, the Catholic nature of the Spanish State gave the Catholic Church privileged treatment in

accordance with the 1953 Concordat. Since 1978—that is, almost thirty years now—Spain has evolved from a Catholic religious system to a pluralist democratic society envisioned by the 1978 Constitution.

If the Constitution currently in force may be considered the symbol of democracy and of what resolves the confrontation between two ways of conceiving Spain, from the perspective of intolerance-tolerance dialectics the Constitution is the symbol of the implementation of a model of religious freedom and of overcoming the confrontations between anticlerical positions and acutely confessional ones.

This Constitution defines the State as non-confessional, within a context implying a positive definition: as required by the principle of equality and fair treatment, regardless of religious beliefs, the State does not differentiate between believers and non-believers; in the eyes of the State, everyone is equal and equally free.

The right to equality and religious freedom, originally conceived of as individual rights for all citizens, also applies to the religions or communities to which these individuals belong, in order to achieve the communal fulfilment of their religious objectives, without the need for previous authorization or registration in any public registry.

At the same time, and also mandated by the Constitution, the State is obligated, as far as the religious beliefs of Spanish society demand, to maintain relations of cooperation with the different religious denominations for the purpose of making its citizens' right to religious freedom something real and effective. This may be achieved in different ways with the denominations listed in the Registry of Religious Organizations.

Following this constitutional mandate, a new law on Religious Freedom was passed on July 5, 1980. In contrast to the 1967 law, this new law was the first unanimously approved by a democratically-elected Congress and with the participation of all the religious groups registered in the Ministry of Justice.

The Executive Secretary of the Spanish Commission for Evangelical Defence, José Cardona, then affirmed:

We stand before a Law on Religious Freedom without precedent which befits a country deeply rooted in Western democracy. The State shall administer the right of religious freedom without unjustly favoring one party or religious group. Rather, in balanced and measured composition of its rights, it shall respect and promote civic confessional peace in Spain.

In compliance with the Organic Law on Religious Freedom, the State may maintain institutionalized relations of cooperation with religious communities other than the Catholic Church by entering into agreements, or covenants of cooperation, once these religious denominations—duly entered in the Registry of Religious Organizations—have gained a firm foothold in Spanish society.

However, these agreements have not been signed with the churches, confessions and religious communities, but rather with the federations associated with these churches, confessions and religious communities, grouped together around a belief that has been declared to be clearly deep-rooted.

This is precisely the peculiarity and novelty of the Spanish situation.

In effect, there are currently four confessions of faith that have signed these cooperation agreements: the Catholic Church, which currently has several agreements in force with the Spanish State; the Federation of Evangelical Religious Entities of Spain; the Federation of Israeli Communities of Spain; and the Spanish Islamic Commission.

The result of this integrating effort on the part of Protestants, Jews and Muslims has enabled the State to extend the benefits of the Cooperation Agreements to many churches and faith communities that, had they acted alone, would have had difficulties in obtaining recognition of their firm foothold within society and, consequently, the signing of the respective agreements with their representatives would also have been difficult.

In fact, the Agreement is conditioned by the existence of the Federation. The State reaches an agreement with the Federation of Churches or Communities with a particular religious belief, not with each particular church or community. Therefore, if the church or community is not a member, or has withdrawn, or has been excluded from the Federation, it is automatically excluded from the Agreement. This gives the Federation broad authority and discretion in the future evolution of Agreements, since they act as a gateway for those religious groups who request the agreed-on benefits.

In the same way, the associated religious organizations wishing to obtain legal and civil recognition, and which therefore decide to register, must present proof of their religious objectives; this proof may be obtained from the highest organizational authority in Spain of the respective churches and/or federations.

With respect to the contents of the 1992 Agreements, these are very similar texts, regulating such important aspects as: the statute of ministers and legal protection for places of worship; evangelical, Muslim or Jewish religious teaching in educational centers; the tax system to be applied to the assets and activities of these religions; religious services in public centers; and



the maintenance and promotion of Islamic or Jewish historical and artistic heritage, etc.

On the other hand, the Agreements are also intended to satisfy the specific requirements of each religion in harmony with their identities. For this reason, certain sensitive issues, such as legal and civil recognition of marriages held in religious ceremonies; the recognition of religious holidays; and even compliance with religious requirements in the preparation of certain foods have all been taken into account.

I would like to raise a final question: what sort of rating should be given to the Spanish system? Can it be considered an optimal model of reference or, on the other hand, does the system cause great difficulties?

Obviously, every system of Agreements requires negotiation between the parties and the most appropriate level of consensus is not always achieved. In the case of Spain, consensus among the parties *was* achieved and until now, this has brought about the development of specific legislation making the exercise of the right to religious freedom real and truly effective for the organizations which participate.

However, it would be appropriate to take a critical look at this system, pointing out weak aspects. From the point of view of the State, the system implies an institutionalized view. Once the Cooperation Agreement has been signed, it would be difficult to renounce it and take away from the churches or communities those rights granted, even though there might be good reasons for doing so.

On the other hand, the system could endanger the principle of equality among religious groups, since only federated groups benefit from the Agreements.

Nevertheless, the final analysis is positive. A quick look backwards enables us to understand that these Agreements close the book on the pages of intolerance recorded in Spanish history. Denominations that suffered persecution have now recovered the freedom and equality they had previously been denied.



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1 Unpublished letter by Dr. Jean Nussbaum which I recently found only a few months ago in the Archive of the Academy of History in Madrid.

2 Ibid.

3 *Dignitatis Humanae*, Declaration on Religious Freedom. Second Vatican Council, December 7, 1965.



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# RELIGIOUS AND CULTURAL TOLERANCE: THE CASE OF ZIMBABWE

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JOHN. L. NKOMO

*Speaker of the House of Assembly  
Parliament of Zimbabwe*

The history of the development of religious freedom is characterized by continuities and contradictions, and is, indeed, inextricably linked with the history of mankind itself. The concepts of religious freedom can thus be the history of mankind itself. The concept of religious freedom must be understood in the context of the specific historical, socio-economic and cultural conditions that led to its development. In fact, the power patterns prevailing in any given society invariably determine its dominant religion. What we believe in, or specifically what we are allowed to believe in, is largely related to an individual's relation to the power structures. While religious freedom can be appreciated as "an individual's or group of individuals' belief in and worship of a superhuman controlling power, especially a personal God or gods," there is, indeed, a clear correlation between economic power and the control of the political system and its stratification. Society as a self-reinforcing organism ensures that economic interests have an impact on political and religious cultural factors and vice-versa.

Mark Twain aptly said, "Man is the religious animal . . . He is the only animal that loves his neighbor as himself and cuts his throat, if his theology isn't straight." Today's world is littered with conflict, dissent and war. The root causes of some of these conflicts can be traced to religion, and yet all religions espouse love and peace among people as their basic tenets.

Religious bigotry, prejudice, discrimination and violence have been part of humankind since time immemorial. Proponents of feudalism, capitalism, slavery, apartheid, and colonialism all had appropriate verses from the Bible to justify and legitimate their nefarious activities. In the same vein, the oppressed could quote appropriate verses from the Bible to justify their struggle for freedom and independence. It follows, therefore, that the problem is not with religion *per se*, but it is rather its interpretation and mobilization for a particular social and political cause.

I have here in mind the conflict in Northern Ireland, which for decades manifested itself in the public domain as a Protestant versus Catholic wrangle, and yet is actually the unfinished business of English colonialism. In Zimbabwe, religion was used to quash dissent and indigenous resistance to subjugation and the exploitation and export of our resources. The defense of Western civilization and Christian values became a religion.

Churches filled as the illegal Smith regime of the 1960s prayed for more power and God's protection of their illegality. Some Zimbabweans in resisting these violations paid the supreme sacrifice with their lives.

The 1884 Berlin Conference for Colonization determined the pace and direction for colonization in Africa and much of the developing world. In Iraq, for instance, this has brought carnage and havoc among Muslims. This turmoil can only be understood in the context of the presence of foreign troops and their political and economic interests and objectives, their superiority complex, and greed and lust to control the resources and lives of other human beings.

There is no religion that is free from distortions informed by the ideological pursuits of the ruling class at any given time. It follows, therefore, that religious freedom and tolerance cannot be discussed as if they were independent variables or determinants. Causes of religious bigotry and intolerance are varied and complex. It should be acknowledged that while some conflicts can be traced to religious bigotry and intolerance, the opposite is equally true—that religion can play and has played a positive role in the resolution of many seemingly intractable conflicts. Religious leaders have played pivotal roles as both formal and informal intermediaries in conflict resolution and in post-conflict peace building and reconciliation. In many instances, processes of apology, forgiveness, and post-conflict trauma healing are best handled by religious leaders who largely enjoy the confidence of the former antagonists.

If we are to succeed in advancing religious liberty, we have to address and accept that there is one Creator to whom we owe everything. That Creator expects us to be of service to His creation and not to be of disservice. No one can be a better creation than others. No one has the right to allocate himself authority over other nations.

## THE ZIMBABWEAN EXPERIENCE

Contrary to colonial propaganda, vibrant traditional religions existed in pre-colonial Zimbabwe. In our African languages, we have words for God; “Umlimu” in Ndebele, “Mwari” in Shona, to name but two. Colonialism with

its Eurocentric approach to world history should be blamed for its relentless coercive efforts to denigrate and demean indigenous and traditional religions. The enactment of the Witchcraft Suppression Act of 1898 is one such example. African traditional religions were considered ungodly, primitive and incompatible with Christianity. Religious icons and symbols were proscribed and destroyed without due regard to the spiritual well-being of Africans. Inadvertently, Christianity became an accomplice in the subjugation of the African persona. Christianity was used for the justification of slavery and colonial conquest and domination. Inevitably there was resistance from the African people to these overt and covert methods of dominance.

African religions still exist and are flourishing in many forms. While Christianity was institutionally complicit in the subjugation of the indigenous population, there are men of the cloth of European descent who have excelled in challenging the status quo and championing the just causes of the African population. The history of the liberation struggle cannot be complete without acknowledging their heroic feats in the struggle for freedom and independence.

We meet here in Cape Town, in a democratic South Africa. Some South Africans had to pay the supreme sacrifice, as some of our people did. It is no coincidence that with the advent of independence, the constitution of an independent Zimbabwe ensured religious freedom and promoted religious tolerance. All the major faiths—Christianity, Islam, Judaism, Buddhism, Hinduism and traditional religions—are amply accommodated within our body politic. Zimbabwe has no state religion and does not favor any one faith or denomination to the exclusion of others. People are free to decide whom to fellowship with. Religious groups have the whole nation in which to operate without any restriction.

Religious institutions have made tremendous contributions to the country's developmental efforts, especially in education and health. It is hoped that these religious institutions will continue to play a pivotal role in conjunction with government and other civic actors in promoting the developmental aspirations of the country. One of the major challenges facing the majority of countries, Zimbabwe included, is the management of church-state relations. Religious freedom entails the separation of a nation's religious life from its political institutions, and, by extension, the separation of church and state. What is contentious is the management of the overlap between the mandate of the church and that of the state. Any excesses from either side can lead to undesirable results. Religious freedom, however, just like democracy, is a process, not a finished product. Liberty in all its forms is still in development.

We in Zimbabwe believe our future will profoundly be shaped by the interplay among different religious traditions. In this regard, it is pertinent to note that in November 2006, an inter-denominational group of church leaders presented President Mugabe a document entitled “The Zimbabwe We Want.” The sharing of ideas and perspectives forms a good basis for dealing with the challenges that we face as nations today.

Zimbabwe’s history has been largely shaped by the interplay among different religious traditions. As we face the new millennium, the management of this religious heritage may very well again be decisive in determining how we meet the challenges that confront our country. The way in which these various religions have interacted and continue to interact and cooperate with one another could have a profound bearing on the social space we create for the development of our world.

Let us all commit ourselves to the building of a better and stable world.



E N D



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# THE SEPARATION OF CHURCH AND HATE

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ROBERT SEIPLE

*President, Council for America's First Freedom*

*Former U.S. Ambassador-at-Large for International Religious Freedom*

The year running up to this World Congress, 2006, has been an extraordinary year for our issue of religious freedom. We've had a great deal of publicity. We have been in all of the media outlets. We have been on all the national magazines. We have had documentaries made of our work. If anyone wanted to know something about religious freedom, this has been the year to keep an ear open, an eye open. And one would have seen a great deal that was positive. Unfortunately, one would also have seen a great deal that was negative.

Let me mention just a few things that have happened in the past year, all of which you know. I will say them quickly. We started the year with the Danish cartoon controversy—a terrible misuse of freedom of the press, as far as I'm concerned. Yes, people are legally free to write what they want to write, but you can be legally right and morally wrong. And such was the case as 1.2 billion people were offended by an editor who did not know and a cartoonist who did not respect. There's a relationship between knowledge and respect. And our world was put in turmoil.

Then we had the situation in Afghanistan with Abdul Rahman, a man who 20 years ago converted from Islam to Christianity and now had gotten into a marital tiff with his wife. And the wife went to the local imam and told the imam about her husband's conversion 20 years ago. And the imam's response was, "His body needs to be torn to pieces." Very difficult divorce court...

All year, we watched the conflict unfold between Sunni and Shiite. They are both Muslim, tracing their beginning to 640 A.D. and the death of the Prophet, when the differences began to emerge on succession planning and now over the decades have grown to a place where death squads on both sides have exacted a brutal and terrible price. This terrible tit-for-tat still goes on in Iraq today.

We watched 34 days of war between Hezbollah and Israel—a senseless war fought among the people of Abraham, the people of the Lord.

We even watched a new pope get involved, preaching a sermon with an obscure text. We're not quite sure why he did what he did. Was he strictly tone deaf? Or was he intentional? Or was this supposed to be some profound wake-up call for all of Europe? There were no winners, only questions. Just after this, we watched the same pope go to Turkey and become an agent of reconciliation, a tremendous model for reconciliation between the faiths.

A few examples from my own state of Virginia: George Allen, a Senator from Virginia, a high, prominent position, was told in August by his mother, finally, that he has a Jewish identity. She hid that from him for more than 60 years because back in Tunisia, at the start of World War II, there was a knock on the door one night and her beloved father disappeared—he was taken away. And the fear was so powerful that she hid her children's religious identity for nearly 70 years.

It was an extraordinary year.

Let me mention one other thing that I first saw in Virginia—a bumper sticker: "I'm for the separation of church and hate." I did some research and found their website. It was not a religious website; if anything, it was antireligious. The sad part about this example is that the people of the world were looking towards religious figures in America and they saw a dark side, a hateful side, a spiteful side where faith was no longer an attraction to people. Indeed, it was awkward.

I think we can summarize these issues, or these takeaways, from the past year. In very general terms, we find that people still are out there who will die for their faith. Unfortunately, there are just as many people out there who are willing to kill for their religion, and we neglect this issue in the geopolitical calculus at our considerable peril. We've also learned that the world isn't safe for diversity. The things that make us legitimately different, like religion, can get us killed. Religion is a primary component of that diversity. It's how we see ourselves. It's our self-identifier. It's how we see the world. It's how we order the world. It's responsible for our hierarchy of values. It comes with great passion and some of that passion helps us to love; some of that passion allows us to hate. Respect—a word that I am grateful has been said already today and has been said throughout this conference. Respect for others has been diminished by a lack of knowledge. Again, there is a direct relationship between respect and knowledge.

A poll was conducted in the United States this past year that reported Americans don't know any more about Islam today than they did before September 11. And if I'm part of the 1.2 billion Muslims in the world, I

see that lack of knowledge directly translated into a lack of respect. If you don't care to know me, how can you ever be given respect? Let me suggest one final takeaway. The key battle in the world in which we live today is not going to be a clash of civilizations. I don't think this generation will see a clash of civilizations, but we will see and are seeing a clash of non-state actors—not national movements, but movements of private citizens who are not constrained by ideology or borders. Al Qaeda is a non-state actor. I would suggest to you that religion is the original non-state actor moving across these borders, working in asymmetrical exercises with people around the world.

On one hand, we have people who deeply believe in religious freedom. On the other hand, we have aberrant religions and aberrant people of faith. On one hand, we see love and respect and encouragement and all the things that Premier Rasool just talked about. On the other hand, we see people who will strap explosives to their body and walk into a crowded pizza parlor and find that their measure of success is how many innocent people they blow up and kill. These are the takeaways of an extraordinary year.

This is the background. Now we need to examine the role of hands and head and heart as we apply the truths of incarnation and respect and reconciliation. First, friends, we need to involve our hands. Freedom to believe is a nice term, but freedom to believe is not enough—especially if we're going to combat religious hatred. There has to be more than a cognitive exercise going on here. We need to have something more than our beliefs. We need you acting on those beliefs to make them whole. Frankly, this is the problem with the Chinese government today. In China today, everybody has the freedom to believe. They covet that. It's big news. But they don't allow people to act on their beliefs. It's a half a moon. You can believe, but you can't act. You can love someone, but you can't show that person. You cannot show that person how much you care. It doesn't make sense.

When I think of China, I think of Christ going into Jerusalem on Palm Sunday—what we call The Triumphal Entry—and there are people on the road that are putting down their clothes and waving palm branches and there's a lot of singing and the authorities come to Jesus and they say, "You can have your parade, just don't make any noise." Jesus said to them, "If these people were to stop crying out, the very stones would sing my praise." And perhaps we need to tell the Chinese authorities—if you continue to try to stifle the implementation of that belief, you're going to see an explosion of spirituality all over China.

Freedom to act on our beliefs makes us capable of an incarnational approach. An incarnational approach is nothing more and nothing less than



a ministry of presence. You have to be there. You have to give the wholehearted work of being there. A ministry of presence is a ministry of peace. Let me contrast it this way. If you want to win a war, all you need to do is throw your weapons from a larger, further distance than your enemy. If they have a gunman who shoots 1,000 yards and you have a gunman who shoots 1,200 yards, the advantage is yours. You can throw those bombs and use smart bombs and use Predator drones and use hand controls that give you stand-off distance and you can relatively easily win a war. But if you want to win a peace, you have to be close enough to touch. You have to be in the community. You have to understand the family. You need to be close enough to embrace people that maybe yesterday were your enemies. That's the hard work and that's the incarnational approach.

There are places today where someone cannot go into that country and present their own message, present the gospel that they view as important. Proselytizing evangelism is forbidden and in those countries you only have a couple things you can do. You can't speak the truth as you see it; you have to model the truth as you believe it. You have to establish the worth of the gospel until such a time as the truth of that gospel reveals itself. And most often in those places, the only thing you can do is have a lifestyle that bears merit to the people around you—where you essentially preach the gospel, your gospel, through that lifestyle in such a way that it provokes the questions for which your message, your God, and your gospel is the answer.

I've had a long history with Laos and the people of Laos. I've been going back to Laos since 1989 on a regular basis. But before that, in the late 1960s, I was part of the secret air war over Laos. More bombs were dropped on Laos in the Vietnam War than were dropped on Germany during four years of World War II. Well, a few years ago we wanted to have a Lao delegation come visit the States. They were reluctant to come; after all, we were the people who introduced Agent Orange to them. Why should they come? We eventually were able to persuade them to come and we spent 15 days together. We did everything together: we ate together, we got in cars together, and we got on trains together. We went to the Lao mosques together. We went into the Christian places of worship together. We saw people on Capitol Hill together—politicians, the government officials. We went to baseball games together. We did everything, and across those 15 days we built a friendship, a relationship that was built on trust. Trust is the major building block of any values-based civil society. It's also the major building block of any personal relationship with someone else.

After 15 days, this highest Lao delegation ever to visit the United States went back to Laos. There were 37 people in jail for their faith in Laos at that time. They opened the jails; 34 of the 37 were let out immediately. They then began to work on a prime minister's decree for religious freedom. It's not a great decree. It's not a great law, but it's a tremendous step forward. They then began to have conferences on religious freedom. There were two conferences back-to-back, in the last few years. I spoke at both of them. It was the first time religious freedom was talked about in a conference setting, in a Communist country, in the history of the world.

I was back in Laos about a month ago and they asked me to speak to the Lao Foreign Affairs Institute on the subject of religious freedom. Compared with dropping bombs from a distance, it is so much more effective to have a relationship based on trust. The hate disappears and love has a legitimate chance to capture the day. The greatest compliment I have ever gotten was when the former head of the Lao delegation, who is now the governor of the Vientiane Province, greeted me when I returned last year. He said to me, "You are family, welcome home."

This is the incarnational approach. First, we need to be close enough to hug people. In the Christian tradition we need to be close enough to be able to reach out and touch the hand of His brother. You can't do that from a distance. Second, we need a behavioral change, and the behavioral change starts in our minds. After all, one needs to be taught to hate. Hate is not a natural consequence. You have to be taught to hate, but you can be taught to love just as well. You can be taught to respect, and respect is—as you're going to hear throughout this conference—absolutely the key.

Let me get on my hobbyhorse for a minute. I personally do not like the word "toleration." Some of you know that. Toleration is a wimpy word. Toleration is forbearance. It's not a positive. I don't have to like you; I only have to tolerate you. Toleration is nothing more than a cheap form of grace applied to people that I don't especially care for. Respect, on the other hand, takes us to a different level. Respect works for the things we have in common, and the best thing we have in common is that each one of us in this room has been created in the image of God. I can respect you. Toleration begins as a cognitive thought, an intellectual quality, but if done right, it will lead to respect. Toleration is of the head, respect is of the heart.

My mantra in this religious freedom issue of the last decade has been: understand your own faith at its deepest and richest best, and know enough about your neighbors in order to show them respect. Understand your

own faith, understand why it works. Understand who the heroes of the faith are—where they had their struggles, where they had their difficult times. Understand the eternal verities of the faith; understand why it worked for you and why it still works today. Understand, in the words of Pascal, “why good men believe it to be true.” It’s important. Superficiality hurts us today in this world. Nominalism doesn’t work today in this world. Understand your own faith—and if you don’t have a faith, understand and earnestly hold on to why you don’t have a faith—but do it consciously, and then, just as importantly, know your neighbors in such a way that you can show them respect.

This is where Osama bin Laden got it all wrong. He didn’t understand his own faith. He began to pick and choose the things he liked about the Muslim faith. He settled on one thing—jihad against the West. But when he left everything else out, jihad against the West was not a religion, was not a political thought, was not an ideology—it was murder. When you have a misunderstood faith, an inappropriately applied faith, and you put that faith into the hands of a religious zealot, you have problems.

Let me give you another contrasting example of faith and religion. A few months ago, in an Amish community in Pennsylvania, in the United States, we had a terrible, terrible day. The Amish, many of you know, are classified as a minority. They dress differently. They educate themselves differently. They work differently. They want to be by themselves. They still ride horses, wagons, use no electricity, but have big, deep faith, and strong religious fervor. One day a man walked into this community and went into the one-room elementary schoolhouse. He had a lot of guns. He had a lot of ammunition. He let all the little boys go and he tied up ten little girls, the average age of whom was eight years old. He tied them up and then began to execute them one at a time. He killed five of the little girls before the police came. When the police came, the gunman turned the gun on himself and killed himself. As a parent, it doesn’t get any worse. It doesn’t get any more difficult. One wonders where God might have been.

By the end of the day, members of the Amish community went to the widow of the man who pulled the trigger and sat down with her and said, “We forgive what has happened. We forgive your husband. We know that you’re hurting, too, as we are hurting. We’re here to sit with you, to listen to you, to talk with you, to pray with you.” At the funeral for the perpetrator, there were 72 members of the Amish community who showed up to honor a human life. And then they went back and began a collection exercise for the children of the widow. As of this date, a sum of over three million dollars has been collected

by an Amish community who had had this terrible wrong come upon them. That's the best of our faith, and the best of our faith can overcome the worst day that the world can throw at us.

Let me finish by telling you my favorite story about my hero for religious liberty—a young woman in Lebanon by the name of Mary, who basically has taught me everything I know about religious freedom today. Mary was 18 years old during the terrible civil war that took place in Lebanon. It was basically a religious war. More than 140,000 people died. There came a day when the rival militia came into her village and began to shoot up the town. People began to get out of the way and many were killed as they tried to escape. Mary ran, but she tripped on a root and before she could get up, the young militiaman came over to her and put a pistol to her head. Knowing that she was a Christian, he told her to renounce the cross or die. She looked back at the young man and she said, “I was born a Christian, I am a Christian, I will die a Christian.” The revolver went off in her face. The bullet went in just to the left of her chin and came out at the base of her skull, but not before it went totally and completely through her spine. Instantly and irreparably, Mary was a quadriplegic. The young man then reached over and, with his bayonet, carved a cross on Mary's chest and left her for dead.

The next day, the militia had a problem. They wanted to occupy the town, but if they were going to occupy the town, they had to bury the people they had killed the day before. The dead were beginning to bloat and stink. They came upon this mound of human carnage—30 people, many of them Mary's extended family—and in the middle of this carnage they heard a soft groan. Miraculously, Mary was still alive. Just as miraculously, the militia took her to a nearby hospital.

When I met Mary and heard her story, I said, “Mary, this makes absolutely no sense. These are the people who had wanted to kill you. They wanted to kill you one day and they take you to the hospital the next.” She looked back at me with a very disarming, soft smile and she said, “Sometimes God uses bad people to do good things.” I said, “Well, Mary, how do you feel about your assailant? Here you're being held hostage by your own body, living out your life in an institution strapped to a wheelchair, an Arab woman in a land twice occupied.” At that time, the Israelis were in the south and the Syrians were every place else. “You have nothing. What do you think about the person who pulled the trigger?” She said, “I've forgiven him. I hope he's still alive because I want to forgive him face-to-face.” “Mary, why in the world would you want to do that?” “It's what my God did for me. I could do no less.”

When I was in the State Department, we had a project in Lebanon. There were three villages where we were trying to effect reconciliation, and I realized before we made the trip that one of the villages was the village that Mary came from. So, when I went back, I went to visit Mary again. She was three years older and a little smaller—you don't grow very much when you're in a wheelchair. But there had been one notable change in her circumstances: Mary had developed some feeling in her right hand, and with the help of a specially fitted brace she could paint pictures. She paints landscapes of her beloved Lebanon. If you go into my home, you'll see we have honored Mary by having one in our home. In my office, there's another painting that she has done. They're beautiful paintings.

I told you that Mary taught me everything I need to know about religious freedom. You could say that Mary doesn't have much going for her. You could say that Mary's life was taken away, but Mary has religious freedom and for Mary it is enough. With her hands incarnationally acting out her faith, she paints landscapes of a beloved land, and with her head she has determined not to be a victim—she has too much self-respect to encourage personal victimhood. And with her heart she's been able to reconcile herself with her world. A heart that is capable of reconciliation is incapable of hate.



E N D



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# COMBATING RELIGIOUS HATRED THE EUROPEAN WAY

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RIK TORFS

*Professor, Catholic University of Leuven, Belgium*

## INTRODUCTION

Religious hatred can be looked at in a moral way. In that case, huge tensions are found between the high aspirations of religious message and the practical results achieved by concrete groups. Yet, during the past years, the idea grew that combating religious hatred is not just a *moral* issue to be dealt with between religious groups, but is also an unavoidable *political* and *legal* topic. Security, cohesion in society, and peaceful co-existence to a large extent depend on how political leaders, judges, and philosophers tackle religious hatred.

In this contribution, I shall briefly analyze three different methods used in order to curtail religious hatred in today's Europe. By *today's Europe*, I clearly mean Europe in the *late* aftermath of September 11. Indeed, we clearly see that the first reactions to the 2001 events are now behind us. The shock is over, but the long lasting consequences of the brutal attacks emerge more prominently than ever before.

A first approach consists in *limiting* religious freedom more than it used to be in the past, of course without going beyond the parameters of article 9.2 of the European Convention on Human Rights (ECHR).

A second approach focuses more on *protecting* religion, by highlighting strongly the right to peacefully exercise one's freedom.

A third approach does not so much focus on the *limits* of religious freedom, but tries to better control its *influence* in society. Religion may very well have a vision of society, yet also the opposite is thinkable: society can search for a consensus not so much inspired by religion than by an overall code of conduct.

I shall describe these three trends, including some examples from the recent past, in order to make my point more clearly. Yet, I will try not to go back much further than 2003, in order to illustrate the novelty of some current trends.

## LIMITING RELIGIOUS FREEDOM.

A first attempt to deal with religious hatred lies in eliminating possible hatred in a *direct* way. That includes the following series of possible measures.

1. Introducing the idea of *abus de droit*, abuse the law, in the sphere of religious freedom. This is a very hazardous strategy. *Abus de droit* comes from private law, more concretely from property law. One can imagine how to abuse property, for instance by building on one's own land a large wall just to capture all the light, to the neighbour's detriment. No problem occurs concerning that type of abuse. Yet, what about human rights and abuse? Talking about *abuse* of religious freedom, apart from the limitation clauses as accepted by international conventions, presupposes a hidden definition of religion which, as such, is incompatible with religious freedom.

2. *Dissolution* of religious freedom into the various factors that are part of it is, as such, not very difficult. Religious freedom includes freedom of conscience, creed, organization, expression, manifestation... One could single out some "dangerous" components and tackle them separately. For instance, it is possible to limit freedom of expression in case it leads to religious hatred. Here, I clearly mean free expression of ideas *by* religious groups. The 2006 Religious Hatred Act in the UK can be looked at in that regard, although it also fits (and perhaps even better) in the second group of measures that I will describe *infra*. Indeed, the UK act focuses more on religious groups *being insulted* than on religious groups themselves insulting others.

3. So-called *neutral security measures* are issued more than before. An example: the prohibition of a burka worn on the street can be defined as security-oriented, but at the same time it entails clear consequences for religious freedom. In Europe, where no US 1990 Smith case was necessary to come to a similar interpretation of religious freedom, security measures *also*—or even *predominantly*—affecting religious groups pass without noteworthy difficulties.

4. A fourth approach includes more focus on *passive neutrality* without security clearly or directly being involved. Here, the French 2004 law on the *signes religieux ostensibles* at school offers an eloquent example. Headscarves worn by schoolgirls do not affect security, yet according to the supporters of this law, they endanger the neutrality or *laïcité* of the state, implicitly or explicitly considered to be of utmost importance for social cohesion. In other words, security is *created* out of precaution instead of just *guaranteed in difficult moments*. It is created by social cohesion, and the latter requires a high degree of *public irrelevance* and *invisibility* of religious groups.

A measure similar to the French approach was taken in Antwerp, Belgium,

at the end of 2006 with regard to civil servants working for the city. In the future, the wearing of headscarves will not be allowed any longer. Is this measure a security measure? Perhaps it is, in the long run. Rather, at this very stage, it is more a measure meant to foster social cohesion, although in a not very generous or appealing way.

## EXTRA PROTECTION GIVEN TO RELIGION.

The limitations as described in the first chapter were the “predictable” reactions in the aftermath of September 11, 2001. Yet, increasingly, another strategy emerges in Europe. The new method of the authorities is: let us be nice to religious groups, hoping that they will reward us for our friendly action. This approach may also be a sign of the increased power of religious groups. As often in society, the mighty are feared and thus they will be protected more than they will be curtailed. In a way, a lack of moral courage is even a characteristic of European politics after World War II. Anyway, here I just offer five examples to illustrate the new trend in Europe.

1. Highly relevant is, of course, the jurisprudence issued by the European Court on Human Rights (ECHR). With regard to freedom of expression, the ECHR always had a generous attitude. Already in *Handyside v. United Kingdom* of September 7, 1976, freedom of expression (art. 10 ECHR) was defined as one of the essential elements of the democratic state, as well as a primary condition to its progress and its flourishing. Hence, a broad range of ideas can and should be expressed. This does not only concern ideas *favorably received*, or considered to be *harmless* and *indifferent*. Also *hurting*, *shocking* and *disturbing* ideas are protected. But then again, freedom is not limitless. National legislators can impose restrictions in cases where three conditions are simultaneously fulfilled. The restrictions need to be (a) included in a law; (b) have a legitimate goal and (c) necessary for a democratic society.

Since the *Markt Intern Verlag GmbH and Klaus Burman v. Federal Republic of Germany* case of 1989, freedom of expression is explicitly extended to *commercial communication*. At the same time, however, we see, with regard to this commercial communication, a more restricted control by the European Court on possible limitations imposed by member states. In other words, the three conditions that need to be observed for imposing restrictions remain intact, yet the ECHR leaves a larger margin of appreciation to the state authorities. Why? While freedom of press is a topic of high general interest, free commercial communication sounds less noble. It is not, again unlike freedom of press, a cornerstone of modern democratic society.



To sum up, certain aspects of freedom of expression, including commercial communication, are not protected as solidly as the terminology used in *Handyside* may suggest.

At the same time, *freedom of religion* is more thoroughly protected than before. That becomes very clear in a domain where a possible conflict between freedom of expression and freedom of religion can no longer automatically be excluded. An enlightening case remains *Otto Preminger Institut v. Austria* of September 20, 1994. Here, the ECHR accepted the prohibition by the Tyrolian authorities of an openly anti-clerical film, with its motivation the right of the faithful to peacefully enjoy and practice their religion.

In any case, *Otto Preminger Institut* describes religion as one of the vital elements contributing to the elaboration of people's identity. This central idea leads to two, at first glance fully compatible, yet very different ideas. Firstly, people have the right to believe or not to believe, as well as the right to manifest their religion without interference by the state. This first aspect of religious freedom is a quite traditional one. It surprises nobody. Yet, secondly, religious freedom also includes the peaceful exercise of religion. That right must be guaranteed by the state. No problem exists as long as the state prohibits any violence, force and fear that can hinder religious people. Yet, what happens in case *insult* or *blasphemy* is also taken into consideration? Indeed, one could, yet not should, qualify them as necessary for a peaceful practice of religion. On this level, a clash between freedom of expression and freedom of religion becomes very plausible.

According to *Otto Preminger Institut*, given the variety of legal positions enjoyed by religion in Europe, the margin of appreciation granted to member states should, in a case like this one, be quite large.

Why do I mention the jurisprudence of the ECHR explicitly? Firstly, of course, because of its paramount importance for European law and case law in general. And yet, there is another reason. Freedom of expression seems to be slightly less protected than a few decades ago. And freedom of religion seems to be in a better position. This evolution has some consequences with regard to possible strategies for combating religious hatred in Europe. Limiting freedom of expression in order to protect the peaceful practice of religion, including the right not to be hurt deeply in one's religious feelings, is not entirely incompatible with the position of the European Court. What follows, illustrates this thesis.

**2.** In 2006, new religious hatred laws were approved in the United Kingdom. The new offense is designed to stop hatred being whipped up against people because of their religion—not just their race. It would ban people from intentionally using threatening words or behavior to stir up hatred against

somebody because of what they believe. Was a new law necessary? Sikhs and Jews already had full protection because the courts regard them as distinct races. But Christians, Muslims and others have not been given the same protection because they do not constitute a single ethnic bloc. Northern Ireland has its own laws to deal with sectarian discrimination between Protestants and Catholics.

What if someone hates a religion because he or she thinks it is a threat? Here, the British government argues that the test for what counts as incitement is high enough to ensure that free and robust debate about beliefs can continue as before.

The final version of the law clearly changed under the pressure of the House of Commons. It contains specific freedom of speech safeguards aimed at ensuring that people can only be found guilty if they intend to stir up hatred. Only *threatening* words and behavior would be banned, and not a merely *critical*, *abusive* or *insulting* approach.

That distinction, at least, is the purpose of article 29 J of the Religious Hatred Act 2006: “Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expression of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of their adherents, or proselytising or urging adherents of a different religion or belief systems to cease practising their religion or belief system.”

Is this section always compatible with the rest of the act? The future knows the answer. In any case, the Religious Hatred Act divided British society. A poll organised by the BBC between 8 and 10 July 2005 showed that the defenders of the new law and those in favour of free speech were almost equally strong.

3. Blasphemy became an issue again. In that regard, two cases probably were more spectacular than others.

British author Salman Rushdie’s novel *The Satanic Verses* was seen by many Muslims to contain blasphemes against Islam, and Iranian spiritual leader Ayatollah Khomeini issued a *fatwah* in 1989 calling for Rushdie’s death. Strictly speaking this was a response to Rushdie’s claimed apostasy, not the novel’s supposed blasphemy. Yet, the case opened the debate on the latter issue. Some British Muslims called for Rushdie to be tried under English law for blasphemy, but no charges were laid, as the English legal system recognises blasphemy only against the Christian faith.

The Rushdie case stimulated debate on this topic, with some arguing the same protection should be extended to all religions, while others claimed the UK’s ancient blasphemy laws were an anachronism and should be abolished. Finally, the law was not amended.

Yet, when in 2005 the controversy on the Danish cartoons representing the prophet Muhammad emerged, more voices than before were heard in favour of the limitation of freedom of expression for blasphemy reasons. The Flemish left wing writer Kristien Hemmerechts said during a debate on television: “If a small restriction on the freedom of expression is the price we have to pay, I will be happy to do so. We should not complain.” Others continue advocating freedom of expression, or make a distinction between legal freedom of expression and social politeness, the latter sometimes leading to voluntary self-restriction. In any case, whereas with regard to Salman Rushdie, Europe, generally speaking, seemed unwilling to punish blasphemy, the situation, in 2005 or 2006, became significantly less clear.

In the meantime, many European countries still have legislation on blasphemy, such as Austria (articles 188 and 189 of the criminal code), Finland (section 10 of chapter 17 of the penal code), Italy, the Netherlands (article 147 of the criminal code), Spain (article 525 of the criminal code) and, as already mentioned, the United Kingdom. For the time being, these norms are not always or even not often enforced. Yet, a swing of the pendulum is not unthinkable. After all, the norms still do exist.

4. Protection of religious symbols against freedom of expression in France: at first glance, this sentence sounds peculiar. And yet, even in the country of *laïcité* a trend towards more protection of religious feelings does exist. This evolution can be illustrated by a decision of the *Cour d'appel de Paris* of April 8, 2005. Although the *Cour de Cassation* annulled this decision on November 14, 2006, the case deserves to be discussed more at length.

A commercial company, the *société Marithé François Girbaud*, launched a publicity campaign for a new fashion collection for women. The campaign used as a starting point the famous *Last Supper* painted by Leonardo da Vinci. In stead of Jesus Christ and his apostles, the publicity poster showed women wearing clothes of the *Girbaud*-collection, yet sitting in the exactly same position as Jesus and his apostles. The poster appeared in the press, and was also present in the streets of Paris. The association *Croyances et Libertés* went to court, arguing that the publicity campaign harmed the religious feelings of Catholics in an intolerable way. The judge of first instance shared this viewpoint, and qualified it as an “aggressive intrusion” hurting directly involuntary spectators finding themselves in the public space.

The *Cour d'appel de Paris* confirmed this decision. Using one of the most significant symbols of Christianity for commercial and publicity aims caused

grave insult to the faithful, leading to a form of trouble that is clearly illicit, so ruled the Court.

Did this decision reveal a new trend towards punishing blasphemy in France? According to some observers, it did. On March 12, 2005, the newspaper *Libération* published an article under the title: “Le retour en grâce du blasphème.” Others, like the legal scholar Alan Gautron, remain more moderate. Yet, the title of an article written by Gautron shows exactly the dilemmas of the current debate: *L'exploitation publicitaire des symboles religieux et le juge: A la recherche d'un équilibre entre liberté d'expression et droit au respect des convictions intimes.*

Alan Gautron argues why, in this case, the *Cour d'appel* is allowed to give way to the protection of intimate convictions of the faithful. The creators of the publicity use a *fundamental* religious symbol for an *exclusively* commercial goal. In this concrete case, we meet with the four constitutive elements of an *insult*, namely (a) an expression characterized by insulting or despising terminology; (b) indicating a determined person; (c) guilty intention; (d) public character of the offense.

Already in 1985, professor Lindon, commenting on a first instance decision in Paris in 1984, de *Ave Maria* case, wrote that a decision against unlimited freedom of expression in a case like this “should not be seen as the victory of a religious doctrine, but as a contribution to the spirit of reciprocal respect which is one of the elements of public peace.”

This learned conclusion sounds nice and convincing, and yet, should *reciprocal respect* obtain a legal status, thus possibly limiting an extremely important right such as freedom of expression?

Fortunately, as I see it, the *Cour de Cassation* annulled the decision of the *Cour d'appel* on November 14, 2006. According to the French Supreme Court, the publicity did not intend to insult catholic faithful. There was no personal and direct attack against a group of persons based upon their religious adherence. Therefore, manifestly illicit trouble did not occur in this case.

Yet, the conclusion of this discussion is that, even in France, a trend emerges towards protecting religions against freedom of expression.

5. In 2006, the then Dutch Minister of Justice, Piet Hein Donner caused a lot of discussion with a controversial statement. He expressed the opinion that the Netherlands should welcome Islam as a new pillar in society. And he added: “This is also true in case the sharia were to be introduced. If two thirds of the Dutch choose in favour of sharia, then this possibility will be realized.” For Donner, this is true democracy: the majority rules. Later, the minister nuanced

his statement. And let us be honest, it is clear that ‘democracy’ is more than a majority that rules. It also includes the rule of law, and the strict application of fundamental rights including freedom of press. Yet Donner’s opinion clearly shows a paradigm shift. In the aftermath of September 11, restrictive measures towards religion tended to be seen as the best way to guarantee security. Today, a welcoming or—sometimes—a fearful attitude towards religious groups is becoming more common.

## MORAL ESPERANTO

*Moral Esperanto* is the English translation of a book published in 2007 by the Dutch author Paul Cliteur. The way of thinking pursued by Cliteur, who is a brilliant scholar, turns out to be typical for the more liberal (in the European sense) way of thought today.

The starting point of the reasoning is that we live in confusing times. Religiously founded moral judgements enter into conflict with non-religious moral judgements. How can we solve this tension? Paul Cliteur is sceptical vis-à-vis the traditional call for dialogue. This dialogue often means a less critical attitude towards the religious phenomenon. Together with this dialogue-attitude goes self-criticism concerning our own Western arrogance. Indeed, so continues the reasoning, terrorists feel often insulted and humiliated. By confessing our guilt, their anger may decrease.

Paul Cliteur rejects such an approach, as it strengthens religious fanatics in their opinion. When we apologize all the time, they will be more certain than ever about the fact that they are right. Instead of this approach, Cliteur fosters another attitude, namely the attempt to find a basic consent underpinning a multi-religious society. Consent is to be found in non-religiously founded, autonomous ethics. This *moral Esperanto* can and should be spoken by both believers and non-believers.

Paul Cliteur elaborates this idea in three parts. In a first part, he describes and rejects strong links between ethics and religion. The Good is the same as the will of God. The latter tells us what we should do. Clearly, this is not the road Cliteur wants to take.

In the second part of his book, the author offers an alternative way of thinking: *autonomous ethics*. Only a moral Esperanto makes a true dialogue possible. Cliteur illustrates his viewpoint with an example. People of different nationalities are together in one room. In that case, the custom is that we try to speak a language that everybody understands. It would be strange if someone vigorously claimed the right to speak his own language, continuing

to express himself in that language, although not being understood by any one else present in the room. The conclusion can be clear: *autonomous ethics*, even though not perfect, is the only solution.

In the third and last part of his book, Cliteur applies autonomous ethics on politics and society. He strongly advocates a strict separation between religion and state. The state should look at people as citizens, not as members of a religious group. Therefore, Cliteur's approach is not multi-cultural but universalistic. In his eyes, a multicultural society should be regulated by autonomous ethics in relationship with a neutral state.

The way of thinking as followed by Paul Cliteur is commonly met with in current European thinking. It looks and sounds very rational, yet it can be criticized on three different levels.

**Firstly**, Cliteur has a very rational idea about ethics. For instance, he criticizes the ethics of Jesus Christ because they are not really systematic, whereas the latter is probably their strength. Indeed, when ethics are a true system, a deductive approach is inevitable. The system is applied on reality. Needless to say that such an approach is highly debatable.

**Secondly**, Cliteur lacks a deeper insight in the religious phenomenon. This attitude is typical for an important part of current Western-European philosophers. Cliteur writes: "Everybody is free to believe in one or more Gods" Legally, this statement is entirely correct. But does it also work really like that in daily life? For instance, one could say: "Everybody is free to fall in love." But how do you explain that to young teenagers full of dreams, and full of desire? Falling in love is not always a 'choice', certainly not a rational choice. Neither is opting for religion and faith.

**Thirdly**, what about *Esperanto*? It is a language created by men. Yet, it was not created out of the blue. Other languages already existed. They were given shape organically. It is in these languages that human beings are more fluent than in others. Esperanto, of course, will always be an artificial language. And yet, human beings are most at home in languages that they did not create themselves.

## FINAL THOUGHTS

Combating religious hatred the European way: this was the title of this paper. In my contribution, I distinguished between three different approaches, none of them being entirely convincing.

The first approach was popular in the immediate aftermath of September 11. It tended to prefer security to religious freedom, ignoring the fact that in many

cases the paradox is just an illusion. Indeed, rather often religious freedom *helps* to achieve security.

The second approach is more recent. By focusing on the right to a peaceful use of one's religious freedom, law and jurisprudence tend to curtail religiously inspired insult and blasphemy. Although, obviously, respect for religion is more than positive, the second approach focuses too much on the clash between freedom of expression and freedom of religion. This is regrettable for two reasons.

Firstly, freedom of expression remains tremendously important. Without criticism and self-criticism, Europe would not be Europe anymore.

Secondly, the idea that freedom of expression and freedom of religion are rivals, should be avoided. They are both pivotal human rights.

The third approach, the moral Esperanto, is perhaps too rational and, even more so, too artificial to become the way of the future.

It is more a system to be brought in practice than an answer to question asked by people and society.

What is the approach that should be stimulated in Europe? My preference goes to a model friendly to religious freedom and religious groups. Yet, it should be a model also welcoming the importance of other human rights, in general, and of freedom of expression, in particular. Therefore, legal measures against religious insult or blasphemy are dangerous. But then, a distinction should be made between the *right* to express unpleasant ideas and the *concrete behavior* of people. Not all that *can* be expressed *should* be said. That is true with regard to opinions concerning religion. It is equally true for everyday contacts between people, including between partners in marriage.

When Europe is at its best, it goes for generous religious freedom, together with courageous freedom of expression, *and* with politeness and fair play in order to use these rights with due respect for the beliefs, the ideas, and the feelings of others.



E N D



RESOLUTIONS OF THE SIXTH  
WORLD CONGRESS  
*of the*  
INTERNATIONAL RELIGIOUS LIBERTY  
ASSOCIATION  
*on*  
“COMBATING RELIGIOUS HATRED  
THROUGH FREEDOM TO BELIEVE”

CAPE TOWN, SOUTH AFRICA, FEBRUARY 27 – MARCH 1, 2007

The International Religious Liberty Association (IRLA) in its Sixth World Congress held in Cape Town, Republic of South Africa, expresses thanks and appreciation for the hospitality shown by its people and commends the policy and practice of religious freedom in South Africa. This stands as an example to the world of the mutual respect and harmony that can exist between those of different faiths and beliefs.

The Congress further recognizes the liberation experience of the country in its recent past, and commends religious leaders for supporting fundamental human rights. It regrets that the previous divisions in society were frequently justified by appeal to religious beliefs. The concept of a Truth and Reconciliation Commission is an example of a methodology that can also be applied to religious intolerance and tension, and can be adapted to the combating of religious hatred.

Representatives of the international community meeting at the IRLA World Congress deplore the continued increase in religion-inspired violence and terrorism in many parts of the world, and the Congress theme “Combating Religious Hatred Through Freedom to Believe” reflects the urgent need to deal with such an appalling situation.

Only through genuine relationships between those of different religions or belief, through open dialogue, can there be a true advance in religious freedom and mutual respect. The Congress also affirms the conviction that religion should be a positive contribution to society, and must not be hijacked for any other objective, whether for political, national, or personal reasons.



At the same time the Congress, in harmony with the stated principles of the IRLA, believes that religious freedom is best advanced when religion and state remain separate in their own respective spheres, and that the state should be neutral to any specific religion, and not hostile to religion generally, recognizing the positive contributions religion can and does make in society. The IRLA appreciates the developing trend of cooperation for religious freedom between civil society, governments, and international organizations such as the United Nations, and believes that as the Millennium Development Goals are pursued then society as a whole is bettered and mutual respect between different faiths can be enhanced.

The World Congress is also concerned over the less obvious forms of discrimination and intolerance that are manifested in some countries under the justification of secularism. Issues such as the banning of religious symbols in the public sphere, the denial of the right to observe specific days of worship, and refusal of conscientious objector status, raise questions about commitment to freedom of religion or belief.

### **CONSEQUENTLY, THIS SIXTH IRLA WORLD CONGRESS RESOLVES:**

1. Religious hatred is to be combated by all faith communions. Dialogue in truth and mutual respect should characterize inter-faith relationships. The appeal to religious conviction to justify acts of violence or terrorism is completely unacceptable, and should be specifically condemned by all.
2. Regrettably, religious leaders and faith communities are frequently responsible for intolerance and violations of the religious freedom of others. The Congress calls on all faith communities and their leaders to both teach and practice religious freedom within their own communities and in their interactions with others, particularly where they hold majority or influential positions in society.
3. The need for safety and security should not overrule all other rights, particularly the rights to religious freedom, belief, and practice.
4. No person should knowingly misrepresent or ridicule the beliefs of others. All discussions on matters of belief should be done in an open

attitude of respect and honest critique. However freedom of speech is necessary for freedom of faith to exist and must be protected, even for those expressions that some find offensive.

5. Education at all levels should promote a culture of tolerance and mutual understanding. It should warn about the harm of prejudice, inculcate respect for others, and teach the dignity of all human beings as a means to secure a peaceful future.
6. Those involved in the dissemination of faith should be particularly encouraged to be sensitive to their context and situation. In areas of disagreement, a spirit of genuine dialogue and respectful debate should be cultivated. Freedom to openly discuss religious viewpoints is essential.
7. The media plays a major role in both determining and reflecting attitudes to various groups in society, whether religious or not. Journalists, editors, and producers should take care not to stereotype any section of society, particularly through the spread of unsubstantiated reports or defamatory accusations, considering the inflammatory results that are often impossible to contain.
8. Religious registration requirements imposed by some countries are deplored in that they single out religious organizations and can be used to restrict or prevent the free exercise of religious rights.
9. The international standards of religious freedom are re-emphasized, particularly those promulgated in Article 18 of the Universal Declaration of Human Rights. The right of an individual to hold or change his or her religion or belief in accordance with the dictates of conscience and personal conviction is re-affirmed. Those states which violate this right through the imposition of penalties, including in some cases imprisonment, torture or even death, must be brought to account.
10. The formation of more IRLA country and regional affiliate organizations is strongly urged as a means to protect, promote, and defend the principle and practice of religious freedom for all people everywhere.



STATEMENT OF CONCERN  
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Following the Resolutions adopted in Cape Town, the Sixth World Congress expresses its profound concern that in spite of some progress being made around the world in implementing freedom of religion or belief, there continue to be flagrant violations of this fundamental right. Specific areas of concern are highlighted in this statement.

Since the previous World Congress held in Manila, Philippines, in 2002, progress towards better religious freedom has been made, particularly in some parts of South America, Eastern Europe, and Asia. The present Congress is appreciative of such developments and commends all those involved in promoting these fundamental human rights. However many other areas have seen no such improvement, or have even become worse.

This Congress deplores the fact that there is no religious freedom in countries such as **Saudi Arabia, North Korea, Libya, and the Maldives**. That this should still be true in this new millennium is cause for great concern, and an outrage against fundamental human rights. Congress also raises major concerns over the religious freedom situation in **Sudan, Burma, Vietnam, China, Iran, Bangladesh, and Pakistan**; and Sunni-Shia violence in **Iraq**. Consequently this Congress urges governments, institutions of civil society, and individuals to address these grave situations that threaten peace, justice, and security.

The IRLA acknowledges tangible improvements in **Turkmenistan**. Congress is aware of the recent change of leadership in the country, and urges the new president to take immediate steps to continue the process of reform and thereby end completely any persecution, marginalization and discrimination against any person or entity based on their religious beliefs.

The passage of discriminatory religious laws in such countries as **Belarus** and **Serbia** that deny equal rights to different religious groups is an alarming development and is to be condemned. The idea of first and second class citizens based on their religious beliefs is unacceptable, and this Congress calls for the immediate repeal of such laws.

As expressed by the Manila Congress, this Congress remains troubled by the ongoing situation in **Indonesia**, with reports of continuing violence between the Christian and Muslim communities. The Congress deplors the death of many thousands of people and the creation of many hundreds of thousands of refugees by this religious conflict. It supports the actions of Indonesian authorities and non-governmental organizations to end the violence and to promote reconciliation to develop a culture of peace and harmony among the different religious communities.

The closure of churches by the authorities in **Eritrea** has not been rescinded, despite many appeals and protests. That houses of worship should be closed by governmental decree is an alarming abuse of power, and a clear violation of international standards of religious freedom. This Congress calls on the government to immediately rescind its closure order and allow churches to open and operate freely in the country.

The Congress expresses its satisfaction that the new situation in **Nepal** where people are exercising their right to choose their religious beliefs, but notes with concern that the interim Constitution of Nepal does not guarantee the right to change one's religion. The Congress urges the new Assembly that will be constituted to ensure that this fundamental right is enshrined in the new Constitution of Nepal.

The scheduling of elections and/or examinations on religious days of rest in many countries, including but not limited to **France, Nigeria, Ghana, Botswana, Uganda, Lesotho, and South Africa** is illustrative of secularism or religious prejudice that impacts believers of different faiths who do not observe the same day of worship as the majority in the country. This leads to the disenfranchising of significant numbers of voters and the denial of educational progress for many school and university students. This

Congress urges all governments to schedule elections and examinations on week workdays, avoiding days of rest and worship.

The participants in the Congress express their sympathy, compassion, and solidarity with the victims of religious discrimination, intolerance and persecution, such as those mentioned above. The Congress reaffirms the International Religious Liberty Association's commitment to cooperate with the foregoing governments in finding solutions to these lamentable problems.



END