

Hans-Georg Ziebertz · Gordan Črpić
Editors

Religion and Human Rights

An International Perspective

 Springer

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Preface

International Research on Religion and Human Rights

After the catastrophes of two world wars, three totalitarian systems, fascism, Nazism and communism, in the world, especially in Western civilization, the idea and awareness of the need for stronger and legally codified protection of human rights has developed to the fullness of realizability. The idea that every human being, by virtue of being a human being, besides any other attributes and categories, has inalienable human rights, and that these must be protected in the legal practice of contemporary societies, developed over a long period of time mainly in the Western cultural milieu. Finally, it came to full bloom on the graves of the glittering bloody twentieth century and slowly began to enter into practice. A strong development of human rights grew out of the ruins of World War II. People can be violent against others and states can be violent against other states, but the lesson of Nazism and Stalinism was that states can exercise violence against their citizens. People can be victims of the violence of their government. The modern face of human rights is that individuals have to be protected against the infringement of the state. Individuals may and can claim a number of freedoms even when this is directed against the superior power of the state.

The history of human rights is much older and dates back to antiquity. Many religions claim that the idea of human rights has been part of their doctrine from the beginning. Christianity refers to Paul's idea in the Letter to the Galatians 3:28: "There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus". In Islam, Mohammed's teaching brought a new perspective on human dignity whereby elements of human rights have been developed hand in hand with the blossoming of Islam. Certainly one cannot trace the modern concept of human rights to any particular religion; throughout history the relationship between religion and human rights has been an ambivalent one and in some cases continues to be so. This is what makes research on this subject so important and relevant.

What we are fundamentally interested in is the relationship between human rights and religiosity today. And this shall be discussed in our study, naturally taking into

account other processes that we believe are relevant to understanding the development of human rights and their connection with religiosity in contemporary Europe.

Somewhat in parallel with the development of the legal codification of human rights was the development of the idea of a united Europe carried by precisely this awareness that we need to protect against potential future descent into the absurdity of war that threatened to destroy entire nations and did destroy many cultural assets created by preceding generations. The promotion of human rights and the idea of European unification are two parallel processes that can be viewed independently, yet it is also important to bear in mind that the two processes significantly influence each other. Especially in the creative, productive stage of the promotion of human rights in the second half of the twentieth century which is of particular interest to us here. In the beginning of the strong development of human rights, in the mid-twentieth century, human rights were interpreted creatively with the power of promotion and the belief that their application would enable the final liberation of people and the protection of human dignity. However, it very quickly became clear that the implementation of this noble humanitarian idea is not as simple as it seemed initially. We very quickly found ourselves in a situation in which human rights can be perverted, can become, instead of the power of liberation of man, the power to maintain the status quo, where a privileged minority or group legitimizes its status, now no longer in the name of the people, the nation, the party—but in the name of human rights, so that the promotion of human rights becomes a tool for the maintenance of privilege and not the promotion of liberation of the potential of each individual human being. Further multiplication of human rights in the second and third generation runs the risk that this leads to their inflation, often times to collision as well, and the impossibility of legal codification and real application due to a lack of resources, both material, and even more so, social capital, because in the fierce struggle for the promotion of an ever increasing number of rights we lose the idea of the rights of the individual and reach a position of re-concentration of power through a new framework of legitimacy.

The question can be raised of whether human rights as a powerful liberational idea and movement of the twentieth century has lost its heuristic fertility and become another used up political outburst of the New Age, as are the ideas of nation, racism, colonialism, and communism. Or do human rights still have a liberating force that can help real endangered individuals and vulnerable groups of people and that does not represent the legitimatization of the privileged and ignorance of the disadvantaged?

At the first level of interpretation of the realization of human rights, arguments could be found for both theses: that they have the power of liberation of man and the protection of human dignity, and that they have lost this power and become a simple contemporary legitimizing basis of power relations in a society where human rights, in the name of human rights, are flagrantly violated and destroyed, now without the possibility of departure from the situation of vulnerability as vulnerability comes from the framework of legitimacy from which liberation should come. This duality of the realization of human rights in real life practices should be borne in mind in an attempt at scientific valuation of human rights in order for us to avoid seeing what

we want to see and not what is as it is, and what this reveals to us if we have the courage to face reality. This is the only way that the creative potential of these great ideas can be liberated to be able to liberate us.

In order to be able to do this, a series of human rights related research needs to be carried out, from the exploration of their roots, both secular as well as religious, to their concrete implementation, particularly taking into account the amount of power held by those who label and by those who are labelled as “vulnerable” or as “threatening”. We believe that this research will contribute to the rediscovery and liberation of the power of human rights in the early twenty-first century.

Our study comes out at the 100 year anniversary of the beginning of World War I, a vast slaughterhouse of nations and huge catastrophe in which, as in any war, there were violations of basic human rights. In this study we have linked two social phenomena: human rights and religiosity. The twentieth century could also be called a century of secularization, at least in Europe. Secularization theories were dominant in the mid-1960s and 1970s of the twentieth century, and it seemed that the future of humanity would be a future without religion, or a future reduced to religion as folklore but without any real impact on people’s lives. However, in the late 1970s and early 1980s a so-called religious revival began to be seen, particularly among young people and by the end of the century religion was being taken seriously as a relevant factor of social life. Since 9/11, religion has been back on the public agenda and the question raised of whether religion functions as a social force or a source of tensions.

What interests us here is what impact does religiosity have on human rights? Liberational or suppressive? And in which direction can we expect this relationship to develop? In order to be able to grasp this relationship we undertook two separate but synergetic studies: at the initial level, research by experts from individual countries which brings a description of the state of human rights and neuralgic points that on this basis are anticipated in individual societies. On the other hand, preparations have been undertaken for the execution of specific empirical research on the relationship of human rights and religiosity, and this on a population of high school students, in order to be able to observe the actual situation in society with respect to the questions posed. For the target group we chose youth. Why? Because this population is a sort of “litmus test” that does a good job of illustrating social trends for us, and on the basis of insight into their value systems and attitudes toward specific issues, in this case, human rights and religiosity, it is possible to gain an indication of the likely directions of development, and, which is also important, an indication of where one could intervene in order to reach the desired effect of liberation of the liberating power of human rights.

The articles in this book have their origin in a conference held in December 2012 in Würzburg, Germany. The authors met there to lay the foundation of the research project “Religion and Human Rights”.¹ The lectures given there covered topics such as: Which positions on human rights in general and in particular rights are represented by the churches/religions in their respective countries; how and which hu-

¹ See www.rhr.theologie.uni-wuerzburg.de.

man rights issues are discussed and which rights are under pressure; what are the relations or tensions between churches/religions and government/state regarding human rights and which rights are especially relevant for young people and which relate to issues of their life-world experiences respectively? The general structure of this book is based on these questions. Considering the diverse situations in the involved countries, the authors each have their own priorities.

The projected time frame for this research project is scheduled until 2017. The purpose of the empirical study is to determine any connections between religion and human rights regarding the attitudes of adolescents in their respective countries.

The general research question therefore is: What are the attitudes among the student population towards human rights and what is the impact of their religious convictions and practices on these attitudes? The aim is to discover theoretically and socially relevant relations between religious convictions and practices and attitudes towards human rights, to detect the direction in these relations in terms of the impact of religion on human rights attitudes, to formulate theoretically and empirically legitimate hypotheses about the impact of religion on human rights attitudes to be tested in future research and to elaborate conclusions for advancing human rights culture among European populations, especially human rights education.

Those authors who already have the empirical data required for the study (surveys among 15–18 year old students) have presented them in their articles. Comprehensive empirical studies will be presented over the next few years. This book presents the introductory “mapping of the scene”.

H.-G. Ziebertz
G. Crpic

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Christianity, Islam, and Human Rights in Bulgaria

Simeon Evstatiev, Plamen Makariev and Daniela Kalkandjieva

Abstract In Bulgaria, as in other post-communist countries of Eastern Europe, the restoration of civil and religious freedoms has often been accompanied by the rediscovery of religious roots. Southeastern Europe is involved in new types of networks of transnational relations, discourses and currents in which the influence of religion is expanding and becoming ever more visible. Within that process, the majority have preferred to return to traditional religious denominations after the fall of the iron curtain. Most Bulgarians are members of the Bulgarian Orthodox Church, but there is also a group of self-identifying ethnic Turks (about 10%).

Today, there are tensions between the Bulgarian Orthodox Church and the state especially concerning issues of education and family and also in dealing with the Muslim community of Bulgaria. The article mentions statistical findings about the relevant denominations in Bulgaria and explains the core problems of the relation between church and state.

Introduction

In Bulgaria, as in other post-communist countries of Eastern Europe, the restoration of civil and religious freedoms has often been accompanied by the rediscovery of religious roots—a process within which the role of the human rights paradigm needs further study. Within the on-going processes of globalization, the rapid transformations and re-negotiations of identities have brought about dynamic changes in the ‘social imaginaries’ (in the sense in which the term is used in Taylor 1993, p. 213) of the cultural understandings shared by the religious communities in many different regions of the world. Indeed, there are multiple identities within every society, each with variations and sometimes conflicting subdivisions by status, class, occupation, profession, generation and gender. However, “for many, religion is the only loyalty that transcends local and immediate bonds”. (Lewis 1998, pp. 5–7)

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Not only in the Middle East, but also in Europe, many Muslims in particular are increasingly turning Islam into a significant public and political force shaping and re-shaping social space. Accelerated to an unprecedented level by the new media and the internet, these developments have opened up new horizons for the formation of transnational public spheres in which religion plays an important social role, and migration and trans-locality become ever more consequential.

Southeastern Europe, like many other parts of the contemporary world, is involved in new types of networks of transnational relations, discourses and currents in which the influence of religion is expanding and becoming ever more visible. Religious revival and the increasingly visible presence of faith-based communities and groups in public and political life in many regions of the world, including secularist Europe, has been sharply described by Gilles Kepel as “God’s revenge” (Kepel 2003). On a global level, the most marked revivals are those of Islam and the powerful wave of Protestant-based Evangelical Christianity. Indeed, differing views on the presence of Muslims in the West have raised questions about Muslim marginalization and integration, their success and failure, their identity, culture, religion, and education, all of which have become issues within the last two decades” (Niyozov and Pluim 2009, p. 638). In this context, the tension between the human rights and religious values becomes increasingly significant in politics and society.

At the same time, traditional churches, such as the Catholic and the Orthodox, seem to face challenges unknown in their previous histories. In Southeastern Europe, particularly in Bulgaria and the former Yugoslavia, just as in other countries on this side of the former Iron Curtain, the mass influx after 1989 of religious emissaries and evangelizers from different denominations did not lead to the realization of expectations of the emergence of a ‘free market of religions’. The majority have instead preferred to return to traditional religious denominations (Hann 2006). This trend brings to the fore, among other things, the issue of how traditions are made and maintained, and how they interact with the human rights paradigm. In this regard, an important specificity of former atheist states like the Bulgarian one stems from the fact that the post-1989 religious resurrection meant not only a return of religion in the public sphere, but for the majority of their citizens there has also been a return in the private sphere. At the same time, the Bulgarian Orthodox Church (BOC) that represents the majority religion in the country does not have an official and coherently developed concept of human rights similar to the Basic Teachings of the Russian Orthodox Church on Human Dignity, Freedom and Rights, adopted in 2008 as a follow-up of its Social Concept. The Muslim community—the next considerable religious organization in Bulgaria also does not have a special concept, but relies on the inherent practices in Islam that promote religious solidarity such as *zakat* and various Islamic teachings for the life of Muslims in non-Muslim societies. Against the backdrop of the largely unstudied role of the Bulgarian Orthodox Church and the continuity and change among Muslims in Bulgaria, this makes the study of the processes at the intersection of religion and human rights increasingly necessary.

Empirical Findings

According to the results of the last census (2011)¹ the proportions within the representation of the religious denominations in Bulgaria are as follows (see Tables 1–4):

Table 1 Overall distribution of religious affiliations among the population of Bulgaria

East-orthodox christians	4,374,135	76.00%
Catholics	48,945	0.80%
Protestants	64,476	1.10%
Muslims	577,139	10.00%
Other religions	11,444	0.20%
No religion	272,264	4.70%
Not stated	409,898	7.10%

Table 2 Distribution of religious affiliations among self-identifying ethnic Bulgarians

East-orthodox christians	4,240,422	86.70%
Catholics	43,985	0.90%
Protestants	36,613	0.75%
Muslims	67,350	1.38%
No religion	222,387	4.55%
Not stated	273,891	5.60%

Table 3 Distribution of religious affiliations among self-identifying ethnic Turks

Sunni Muslims	420,816	87.60%
Shi'a Muslims	21,610	4.10%
"Muslims" (not specifying Sunni or Shi'a)	2008	0.42%
East-orthodox christians	5279	1.10%
Catholics	1182	0.25%
Protestants	2400	0.50%
No religion	14,698	3.06%
Not stated	39,529	7.23%

¹ In comparison with the previous censuses the one of 2011 used a new methodology which allowed people to choose whether to declare or not their religious affiliation and ethnic identity. As a result, 21.8% of the citizens did not answer to these questions. Therefore, the presented per cent of believers in Tables 1 and 2 reflects only the proportion of people who have declared one or another religious affiliation and ethnic identity with regard to the total number of people who have declared them. If estimated on the basis of the entire Bulgarian population, i.e. 7,364,570 citizens, then the group of Orthodox people will count 59.4%, Muslims—7.9%, Protestant—0.9% Catholics—0.7% and other religions—7.9%.

Table 4 Distribution of religious affiliations among self-identifying Roma

East-orthodox christians	84,867	36.60 %
Muslims	42,201	18.30 %
Protestants	23,289	10.10 %
No religion	30,491	13.22 %
Not stated	49,491	21.46 %

Historical Legacy

Unlike *convivencia*² in al-Andalus (Muslim Spain) on the level of “high” culture, the centuries-long religious co-existence in Bulgaria lands and the Balkans, appropriately defined by historians as a *mélange* (Georgieva 1991), has been based on a specific peaceful communication at the ‘low’ cultural level of everyday life communication embodied in the specific practices of the *komşuluk*, which turned into a general principle of co-existence and good-neighborly interactions between Christians and Muslims. Originally, the *komşuluk*s were “doors in fences, which were never closed and which made the yards of houses into something like linked vessels; through them neighbours provided each other with all kinds of assistance” (Hajjiyski 1966, p. 97). So, however overestimated the role of the two concepts might have been, we could say while *convivencia* may provide richer material for the field of intellectual history, *komşuluk* is more a matter of the history of everyday human relations.

Historically, on the level of ‘high’ culture the Bulgarian Christian population enjoyed certain religious autonomy within the so-called *millet* system of the Ottoman Empire. Christians (Greek Orthodox, Armenians, and later Protestants and Catholics of Latin and Greek Rites) and Jews, as “People of the Book”, were afforded the right of religious self-governance. However, the manner in which their religions could be practiced was subject to substantial restrictions. Besides, until the 1870s the Bulgarians, along with other Orthodox nationalities in the Ottoman Empire, were part of the larger Rûm *millet*, which was often called the “Greek *millet*.” As such they had few or no representatives among the high ranking clergy and were in a subordinated position in many respects, which negatively influenced the identification of many Bulgarians with their historical Church.

Although Bulgarian citizens of varying ethnic and religious backgrounds officially enjoyed equal rights after Eastern Orthodox Christianity was proclaimed to be the ‘dominant’ state religion, following the liberation from Ottoman rule in 1877–1878, during the consolidation of the modern Bulgarian state, some Bulgarian

² Although recently challenged by authors such as David Nirenberg (1996, p. 9), the term *convivencia* refers to the cooperative and conflict-avoiding coexistence of Jewish, Christian and Muslim communities in the medieval Iberian Peninsula.

administrations actively participated in acts of violence and deportation campaigns against Muslim citizens. Policies encouraging de-Ottomanisation continued to be implemented until the end of the twentieth century, with minority communities forced to change the names of their settlements or streets as a way of distancing themselves from their traditional Ottoman heritage. The rights of the Muslim minority were guaranteed by provisions in several international and national documents recognized by the Bulgarian authorities. Article 5 of the Berlin Treaty (1878) granted religious minorities the right to have their own religious organizations. Article 40 of the Turnovo Constitution (1879) declared the right of religious freedom, and Article 42 the right of minorities to religious autonomy insofar as the latter does not contradict general legislation. On this constitutional basis, “Provisional Regulations for Religious Governance of the Christians, the Muslims and the Jews” were adopted, and in 1895 “Provisional Statutes of Governance of the Religious Affairs of the Muslims”.

Substantial changes in the legal arrangement of religious life in Bulgaria took place after the communist takeover in 1944. Following a short transition period, a totalitarian, Soviet-type rule was established. It was ideologically guided by a Marxist Leninist doctrine, which was profoundly atheistic. The Denominations Act (1949), for example, abolished the right of religious communities to deal autonomously with the religious education of their children. Although in the early 1950s a Soviet-type “multiculturalist” policy was pursued in regard to the ethnic minorities (as a kind of compensation for the severe restrictions of their civic and political rights), the attitude of the authorities to religion was entirely negative and oppressive. Religion was proclaimed to be an element of “backwardness” of people’s mentality and an instrument of “class domination”. Later, however, the communist regime led by the desire to make Bulgaria a unified nation, embarked upon a series of attempts to assimilate Bulgarian-speaking Muslims (the so-called Pomaks) and ethnic Turks into mainstream Bulgarian (nominally Christian) society. The communist state policy of forced assimilation began in the late 1950s with the closing down of Muslim newspapers and schools, and continued via policies including the changing of Bulgarian Muslim names.

The Bulgarian Communist Party mistakenly hoped that this policy would encourage ethnic Turks in Bulgaria with a strong Turkish consciousness to strengthen their ties to the Bulgarian nation. The doctrine and practices of the ‘renaming’ reflected “a deep crisis of state socialism” (Yalamov 2006, p. 105) beginning in the late 1960s and becoming all-embracing by the beginning of the 1980s. In the spring and summer of 1989, ethnic Turks initiated mass protests in Northeastern and Southern Bulgaria, demanding to be allowed to revert to their original names. Protests erupted that were put down with the help of the police and army, and innocent victims were killed. The resistance of ethnic Turks led the communist regime to change its strategy and open the border with neighboring Turkey to allow them to leave the country. Between June and August 1989, about 300,000 ethnic Turkish Bulgarian citizens left Bulgaria to find refuge in Turkey. After the democratic changes in 1989 and the restoration of civil and individual rights, the role of religion in Bulgaria underwent significant changes.

The Current State of Affairs—on-going Debates and Issues

The current state of affairs is regulated by the Constitution of 1991 and the Law of the Denominations (2002). Article 13 of the Constitution says:

1. The practicing of any religion shall be unrestricted.
2. Religious institutions shall be separate from the State.
3. Eastern Orthodox Christianity shall be considered the traditional religion in the Republic of Bulgaria (Darzhaven vestnik 1991).
4. Religious institutions and communities, and religious beliefs shall not be used to political ends

On an individual level, the freedom of religion is guaranteed by Article 37. It reads:

1. The freedom of conscience, the freedom of thought and the choice of religion and of religious or atheistic views shall be inviolable. The State shall assist the maintenance of tolerance and respect among the believers from different denominations, and among believers and non-believers.
2. The freedom of conscience and religion shall not be practiced to the detriment of national security, public order, public health and morals, or of the right and freedoms of others (Darzhaven vestnik 1991).

In its turn, the Law of the Denominations guarantees the right of citizens to provide their children with instruction in their religion (Art. 6), and also the right of religious communities to open secondary religious schools (under the supervision of the Ministry of Education) and higher religious schools (with the permission of the National Assembly or the Council of Ministers (Art. 33) (Darzhaven vestnik 2002).

The freedom of religious denomination granted by the Constitution and the legislation is, however, only one aspect of the relationship between religion and human rights. A combination of global, regional and local factors makes the issue of this relationship increasingly complicated in spite of the democratic system in present-day Bulgaria:

Positions on Human Rights Represented by Religions in Bulgaria

The Bulgarian Orthodox Church

After the fall of communism, the Bulgarian Orthodox Church (BOC) developed a certain interest in human rights issues. In this sphere, Bulgarian society had greater expectations from the Church, as well as from religion(s) in general, because religious institutions and clergy or ministers were regarded as major victims of communism and its militant atheism. In the first decade after the fall of communism, however, the BOC experienced serious difficulties due to a schism which split its

leadership into two synods: the Synod of Patriarch Maxim and the so-called Alternative Synod. These hardships were partly overcome in 2002, when the new Denominations Act was adopted. It granted *ex lege* the status of juridical person to the Bulgarian Orthodox Church and created conditions for its more active role in the public sphere. In 2004, the Chief Prosecutor of the Republic of Bulgaria ordered the confiscation of the churches of the so-called Alternative Synod and their transfer to the Holy Synod of the late Patriarch Maxim (died in November 2012). On the one hand, this act undermined the authority of the former and brought about its gradual decline. On the other hand, it stimulated a consolidation of the Bulgarian Orthodox Church under Maxim's leadership and allowed his Synod to become more active in the public arena. As a result, it began to express its positions on various socially important issues. After 2007, when Maxim's Synod failed to convince the political authorities to introduce mandatory study of religion (generally in the form of Orthodox catechism, with the confessional study of Islam for the Muslim school children also envisaged) in Bulgarian public schools, it launched open criticism to the state policy of secular education (Declaration of the Round Table (Bulgarian Orthodox Church, Holy Synod 2010b) and Bulgarian Orthodox Church, Holy Synod 2012a, b, c). In the following years, it also directed its attacks against some liberal values adopted by the Bulgarian state and society in the process of Euro-integration, e.g. it rejected an understanding of freedom of religion as a right to express critical views about religion and religious functionaries (Bulgarian Orthodox Church, Holy Synod 2010b), called on the faithful not to attend a Madonna concert in Bulgaria (2009), and protested against gay-parades (2010a). The Synod also protested against new bills dealing with family, children's rights and reproduction (2008 and 2012d).

The BOC and Human Rights in the Sphere of Education

The BOC insists on the mandatory study of religion in public schools. In pursuit of this aim, however, the Church tends to neglect or limit the freedom of belief of Bulgarian citizens, especially of those who are irreligious or do not belong to the so-called traditional religious denominations for this country. On the other hand, the Orthodox Church reveals a considerable degree of tolerance toward Islam. In this case the Synod explicitly announced its position that Muslim students may study Islam in areas inhabited by compact communities of adherents of this religion. It also demonstrated some tolerance toward other traditional religious traditions in Bulgaria, such as Catholicism and Judaism. However, it seems that the majority of Bulgarian society does not support the BOC's demands for the mandatory study of religion in public schools and the number of the students who have opted for this discipline is about 2% of all students in Bulgarian public schools. Facing such strong resistance, the Holy Synod softened its initial demands and suggested an alternative for the students from non-religious families. According to its 2008 *Concept Paper on the Study of Religion in Public Schools*, these students could attend classes of ethics instead of Orthodox catechism in schools. It also began to avoid

the term *verouchenie* referring to Orthodox catechism, and began to speak about a subject called “Religion.”

In 2012, the BOC took another step back in its Strategy for Spiritual Enlightenment, Catechization and Culture. It no longer relied on the public schools and state financial resources to assure the theological training of Orthodox children, but on the Church’s own structures and parishes. Still, the BOC’s leadership continued to claim special rights in the sphere of education and to fight the spread of non-Orthodox practices in school, e.g. Yoga classes or *panevrhythmia* (a special set of respiratory exercises developed by the so-called Danovists—an original Bulgarian charismatic movement which appeared at the beginning of the twentieth century). The BOC is also very active in other areas of public life where non-Orthodox teachings appear referring to others as “totalitarian and destructive sects.” In such cases the BOC’s efforts are also supported by some nationalist parties, such as “Ataka” and VMRO.

BOC and Human Rights in the Sphere of Family

In this sphere, the BOC does not distinguish itself from other traditional Christian churches that oppose same-sex marriage. This attitude is also shared by the other traditional religious denominations in the country, e.g. Muslims, Catholics, etc. In order to prevent its legalization in Bulgaria, the Holy Synod protested against any draft laws foreseeing an equalization of married and unmarried couples in the new Bulgarian Family Codex. According to the Orthodox metropolitan bishops, the legalization of heterogeneous unmarried couples would open the door for same-sex marriage. In this case, the BOC was more successful and the law did not regulate some important aspects of the life of unmarried couples. In fact the majority of Bulgarians, regardless of their religious affiliation or non-religious worldviews, are against the legal recognition of same-sex marriages. At the same time, unmarried heterogeneous couples also did not receive legal status equal to that of married couples. As a result, the rights of children born to unmarried couples (today over 50% of babies born annually are born to unmarried mothers) are not as well protected as those of the children of “normal families” according to the annual report on youth in the Republic of Bulgaria 2007.

In 2012, the Synod also rejected the rights of women to have abortions or to use methods of assisted reproduction. This time, however, its position was rejected by the majority of society. Currently, the BOC has demonstrated a negative attitude toward the draft law on children that grants special rights to children in regard to their parents. According to the Synod, children must be entirely subordinate to their parents, e.g. under no circumstances do children have the right to contest the decisions of their parents. The BOC is in favor of exceptional parental rights over their children. It seems that the other traditional religious communities also tend to limit children’s rights in favor of their parents.

In general, the BOC is known for its moderate positions on controversial public issues, such as contraception, euthanasia and the like. This is related to a certain

extent to the doctrinal specificity of Orthodox Christianity. The Church's position in regard to gay and lesbian rights is more explicitly conservative. The Holy Synod has publically criticized the annual gay parades in Sofia. However, these have been incidental reactions and there is no systematic policy by the Church to exert pressure on state institutions or to influence public policies to limit the rights and freedoms of citizens in the name of observing Christian norms of behavior.

BOC and Human Rights in the Social Sphere

Most recently the BOC also opposed the freedom of association in the case of clergy; it rejected the right of Bulgarian Orthodox priests to set up a trade union in defense of their social and labor rights (Bulgarian Orthodox Church, Holy Synod 2010c). Meanwhile, the issue of social and health insurances as well as that of the pensions of retired priests remained unsolved by the BOC. In this case, the BOC's position is similar to that of the Romanian Orthodox Church, as became clear from the recent European Court of Human Rights (ECHR) case, *Sindicatul "Pastorul cel bun" v. Romania* (European Court of Human Rights 2013).

The Muslim Community

The Islamic religious leadership makes efforts to maintain good Islamic morals among the members of its own community, without taking active positions in regard to public issues. Within the Islamic community there is considerable freedom and tolerance, differing from region to region and from subgroup to a subgroup. For example, the use of alcohol and the consumption of pork are quite common among the Turkish population in the northeastern part of the country, but they are not tolerated among the Pomak population in the Rhodope Mountains. The Pomaks are increasingly gaining the image of "revived Muslims", which causes new problems unknown until now in Bulgarian society as the norms of Islamic law (shari'a) contradict the secular legislation of the country.

General Situation of Human Rights in Bulgaria: Rights Under Discussion or Under Pressure

Generally, universal human rights, especially those of the "first generation" (civil and political ones) are respected by the state institutions. There are occasionally incidents with police violence, as anywhere else. More problematic are minority rights, especially those which guarantee the preservation of the groups' cultural identities. The studying of the mother tongues, although legally guaranteed as a right (not as a duty) is not properly organized at public schools; the teaching of religion as an elective subject is actually in a poor state of realization; and the public

manifestation of minority identities is de facto (not legally) restricted, especially in the media and in the domain of artistic culture. If we take into account that ethnic minorities make up between 13 and 15% of the population and religious minorities more or less the same percentage, we will see that this is not an unproblematic situation.

The state of human rights in Bulgaria shares many common features with the other former totalitarian states where the local society needs to overcome the legacy of the pre-1989 experience in the course of its democratization. Although the principle of the rule of law has been officially adopted by the Bulgarian State, its implementation presents many challenges. As a result, the majority of cases filed against Bulgaria in the European Court of Human Rights are caused by a violation of the right of a just lawsuit, i.e. they relate to Article 6 of the European Convention of Human Rights. On a much smaller scale, there are many cases filed at the ECHR due to the infringement of the rights of ethnic and religious minorities. Most of them concern the freedom of religion, i.e. of Article 9 of the European Convention of Human Rights. Sometimes, they have been provoked by the violation of the civil rights of Bulgarian or foreign citizens who do not belong to any traditional religion, i.e. they are adherents of religious denominations that appeared in Bulgaria after 1989. Such were the cases of *Lotter and Lotter v. Bulgaria* (Application no. 39015/97), *Ivanova v. Bulgaria* (Application no. 52435/99), and others. Another important area is cases that have been filed in response to a refusal of the state administration to register new religious bodies as judicial entities, e.g. *Hasan and Chaush v. Bulgaria* (Application no. 30985/960), *Supreme Holy Council of the Muslim Community v. Bulgaria* (Application no. 39023/97) or the *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokenty) v. Bulgaria* (Applications nos. 412/03 and 35677/04).

Tension Between Religions and State with Regard to Human Rights

Tensions of this nature involving the Bulgarian Orthodox Church have been concentrated in the sphere of education and the family. In general, they are provoked by a discrepancy between the liberal character and secular orientation of the concept of human rights, which the contemporary democratic states observe, and the theologically motivated perception of human rights of the contemporary Orthodox churches. Here it is worth emphasizing the collective ethos which these churches share in regard to the issue of human rights. Their attitude stems from the theological understanding that a man is not simply a human being created by God, but “a living icon of the living God,” i.e. no human being can exist apart from God (Ware 2012, p. 37). In a similar way, mankind is regarded as a theanthropic unity (Florovsky 1972, p. 39). From such a perspective, the Orthodox teaching of personhood seems incompatible with the general approach of the concept of human rights where man is a self-contained entity having only external relations with God and other

individuals (Ware, p. 37). In fact the Orthodox Church in general and the Bulgarian Orthodox Church in particular emphasize the personal responsibility of man before God and his fellow co-believers and rejects the notion of the individual as an abstract human being. As a result, the Bulgarian Orthodox Church is inclined to tolerate other religions, but not to respect them as equal. It is afraid of a relativization of the Absolute Truth, the bearer and guardian of which is the Orthodox Church. It seems that the Bulgarian Orthodox Church as a whole is open to a certain degree of tolerance, but faces difficulties in its encounter with human rights, especially with the freedom of religion.

There are problems also with the rights of the Muslims. An emblematic controversial issue is the functioning of the only mosque in Sofia. The sounding of its loudspeakers and the presence of praying Muslims outside the mosque's territory (on sidewalks, i.e. in "public space"), which is due to a lack of sufficient space inside and around the mosque to hold the numerous worshippers, has aroused protests by militant nationalists and which culminated in a street fight on May 20, 2011. The reaction of the general public was not in support of the nationalists but rather in favor of religious tolerance. The State however did not intervene resolutely in defense of the religious rights of the Muslim minority and preferred to limit its reaction to a standard investigation of this street fight as merely a street fight, ignoring to a great extent the inter-religious dimension of the incident.

Another controversial issue is the initiative to build a second mosque in Sofia. The leadership of the Muslim community claims that the number of Muslims in the city has dramatically increased in recent years, due to the influx of construction workers from economically underdeveloped regions with considerable Muslim populations, and to the establishment of a relatively high number of Arab immigrants in the city. As a result, the only existing mosque does not provide sufficient physical space for worshippers and consequently their right to practice their religion in an appropriate way is infringed. However, the nationalist political forces have protested energetically against building a second mosque and the general public has silently backed them. Therefore, at present this initiative is "frozen."

A recent development which puts Muslim religious rights at risk is a court case against 13 Muslims (many of whom are imams) from the Pazardžic, Smolyan, and Blagoevgrad regions. They have been prosecuted for allegedly preaching "radical Islam"³ and in this way instigating interreligious hatred, which is punishable by law. The counterclaim of representatives of the Muslim denomination is that this is not true and the imams in question are innocent. In more general terms, the controversy is about the ways in which religious differences are to be understood and made sense of in Bulgarian society, so that nobody's religious rights are infringed due to misunderstandings or political manipulations.

The phenomenon of new religious movements (NRMs) is another source of tensions in Bulgarian society concerning human rights. There was no such problem under communism. The totalitarian regime was motivated to stifle any spread of

³ As a matter of fact, the phrase "radical Islam" is not used by the Prosecutor, but nevertheless this is how the case is known to the public through the mass media.

NRMs for several reasons. Firstly, the NRMs did not fit with its ideological goal to create a society free of religion. Secondly, they were regarded as a kind of the fifth column of the capitalist West directed against the camp of socialism. Finally, the later socialism developed a strong inclination toward nationalism, thus regarding the NRMs as dangerous to the Bulgarian national identity as well. On these grounds, the interests of the communist regime coincided with those of the Bulgarian Orthodox Church (BOC). Evidence for such cooperation can also be found in the recently declassified archives of the communist state security.

After 1989, the changed ideological and political situation allowed NRMs to spread. This has provoked serious concerns among the BOC's leaders that are also shared by some nationalist political formations (Ataka, VMRO). Their negative attitude toward NRMs stems from a view of Orthodoxy as an inherited feature of the Bulgarian people/nation since its baptism in the ninth century A.D. Fear appeared that the conversion of ethnic Bulgarians to religious denominations other than Orthodoxy would ruin the nation. In fact, the conversion of ethnic Bulgarians to such historical faith traditions as Islam or Catholicism also was not tolerated by the Orthodox majority and the state authorities. During the decades of totalitarian rule this negative attitude embraced the Protestant and evangelical churches as well. In this sense it is possible to state that the record of restrictions and persecution of non-traditional religious denominations goes back to the early stages of the modern Bulgarian State, i.e. since its restoration in 1878. It became more visible, however, in the years of the Balkan wars and afterwards.

As a result of this policy of state protectionism of the so called "traditional religions", and particularly of Orthodoxy, the Bulgarian Orthodox Church (but also the other historical religious denominations in the country) has not developed immunity to intra-religious deviations or to interreligious competition. Not only in pre-communist times did the Bulgarian Orthodox Church rely on state support in the endorsement of its monopoly in the religious field and in fighting the other Christian denominations and various non-traditional sects. Although the communist regime persecuted religion, it preserved and made use of the local Orthodox Church as an institution that has the symbolic meaning of Bulgarian nationhood thus keeping the sense of some historical exceptionalism of this religion and institution. The traditional role of Orthodoxy found a place in the first post-communist Constitution of Bulgaria as well as in its religion-related legislation.

In theological terms the Orthodox Church made use of the post-communist freedom of religion and some of its representatives launched open attacks against the non-Orthodox Christian bodies such as the Catholic and Protestant churches. According to official sites of the Bulgarian Orthodox Church, Orthodoxy is classified as a proper religion (together with Judaism, Islam, Buddhism and Hinduism), while Catholicism and Protestantism are defined as "Christian sects" or "heresies".⁴ Everything else that does not fit within the classical Christian churches is considered a "destructive and totalitarian cult." As a result, the BOC's post-1989 approach to

⁴ See the classification of religions and sects of the Center for Religious Studies and Consultations "St. Cyril and St. Methodius" at the Sofia parochial church "St. Cyril and St. Methodius".

NRMs tended to coincide with that of the communist regime and even to borrow the latter's terminology. In this regard it is important to notice that from the Liberation of Bulgaria in 1878 until 1989 the number of officially recognized religious denominations did not change. There were a dozen. This number began to increase after 1989, reaching 50 by 2002 when the 1949 Law on Religious Denominations was replaced by a new one. Under the new bill their number jumped once more and today there are about 130 (Staridolska 2013). Another controversial change in the life of religious communities in Bulgaria concerns the right of foreign clergy/religious leaders to work in Bulgaria. Such activities were forbidden during the totalitarian period, but an amendment to the 1949 communist Religious Denominations Act, adopted in 1992, and the new Denominations Act of 2002 allowed them. So today they are criticized by some Orthodox and nationalist zealots.

Another peculiarity of the BOC's attitude to NRMs is its striking unanimity with nationalist political circles in the country. After 1989 we have witnessed cases when Bulgarian metropolitans bless the protests of the nationalists against the activities of Jehovah's Witnesses or other non-traditional religious communities. The Church and the nationalists unite their efforts in exerting joint pressure over the state authorities to ban or close the prayer houses of such sects or to dismiss representatives of such sects from public offices, e.g. in November 2012 a teacher who was supposedly spreading the teaching of the Siberian sect of Anastasia was dismissed from a public school after a disciple died in an incident (Vasileva 2013).

Generally sects are regarded as something that will ruin the national identity, people's morality and state security. Their opponents, the BOC and nationalists, stress the differences between the European tradition in the sphere of religious tolerance and the American liberal understanding of religious freedoms. According to them, the European pattern is more restrictive as the national legislations here give priority to one or another religious tradition or church that has played a major role in the formation of the corresponding state or nation. They also claim that the European states have a duty to protect traditional religious values from the threats of globalization. One of these perceived threats is the NRMs that are penetrating European nations and are seen to be ruining the bodies and souls of the citizens. In this regard, the most frequently mentioned examples include the ban over scientology in Germany, the 1998 Austrian Law on the Status of Religious Communities that divides them into recognized and non-recognized, and the existence of state or established churches in several European states.

Generally, the Church and nationalists prefer to speak about "religious tolerance". They are particularly focused on the State's control over this sphere and insist on strict limits of tolerance. At the same time, they apply double standards to tolerance. When the BOC's rights are in question, the Orthodox hierarchy firmly rejects any state control, especially in the sphere of Church finances. When sects are in question, the Church and nationalists insist on full transparency over their economic situation and material resources. At the same time, they reject the idea of religious pluralism and protest against the principle of pluralism as dangerous for the Church itself as well as for the internal (and spiritual) integrity of the Bulgarian nation. It is perceived as something negative and similar to the communist policy of

militant atheism, i.e. as something that undermines the social basis of the Bulgarian Orthodox Church. In short, pluralism is perceived as another form of atheism.

Rights Relevant for Young People and Issues Related to the Life-Work Experiences of Adolescents

The articles 9, 12 and 14 of the European Convention of Human Rights are especially relevant for the young people in Bulgaria. The first of them concerns the freedom of thought, conscience and religion. In the particular case of the Bulgarian youth the most sensitive issue seems to be that of the right of conversion from a mainstream religion to a new religion, especially from the traditional Orthodox faith to another religious denomination. Such developments often intertwine religious and national identities, thus provoking acute debate in society that mixes up religion with politics and history. This issue also concerns the rights of children and parents in the family and many other issues connected with the freedom of choice and discrimination.

In the case of Article 12, dealing with marriage, the most problematic issue is that of same-sex marriage. It is rejected not only by the BOC, but also by the other traditional religious denominations such as Islam, Judaism, Catholicism and the local Protestant churches. At the same time, the European Court of Human Rights refrains from imposing judgments in this sphere. Article 14 deals with discrimination. During recent years there have been several annual national surveys of youth carried out in Bulgaria that reveal a relatively high degree of intolerance among young people, especially toward the Roma people.⁵ On the basis of these surveys it seems that discrimination among the younger generation is rarely based on religion, but is motivated mainly by economic, social and racial factors. As a country whose economy lags behind the Western economies and whose people are still restricted in their access to the labor market of some EU member-states, Bulgaria has not avoided human trafficking. As a rule, it is aimed at the exploitation of illegal Bulgarian immigrants or at sexual abuse. Another problem that has appeared in recent years, as a result of the global economic crisis, concerns the rate of unemployment among the younger generation and the level of its education. All this has a negative influence on the state of human rights in Bulgaria in general.

An especially relevant issue is the situation of the teaching of religion at Bulgarian public schools. The right in question here is the right to education on the matters of one's religion at public schools, i.e. financed by the State and with a quality of education guaranteed by the national educational institutions. It is generally felt that the main religious institutions in the country, the Bulgarian Orthodox Church and, to a certain extent, the Grand Mufti's administration⁶ possess neither the tradition,

⁵ A high degree of intolerance of the Roma people is registered by the National Annual Reports on Youth for 2006 and 2007.

⁶ Before the communist regime, the Muslim youth in Bulgaria studied mostly in private religious schools where they were taught Islam by imams, while the Orthodox youth had classes of religious instructions within the framework of the curricula taught in the state schools. These classes, however, were not taught by priests and embraced mainly the first three grades.

experience, or the financial capacity to organize the religious education of the children of religious parents in a private way, e.g. Sunday schools or classes at mosques. On the other hand, public education is secular by legislation. The present state of affairs is that religion can be taught as an elective subject at public schools, provided that there is sufficient interest at the schools, i.e. that there is a significant number of potential participants in such classes to make it worthwhile to employ a teacher in this subject. In 1997–1998 and 1999–2000, courses on Christianity and Islam (respectively) were introduced as elective subjects after an absence of about 50 years from public schools. However, due to financial constraints the educational administration is reluctant to employ new teachers and consequently does not encourage the interest of the students or of their parents in the study of religion. As a result many children do not have this opportunity. The number of students who participate in such classes is steadily declining, and in this way the religious rights of the children from religious families seem to be potentially vulnerable.

Another problem is that the teaching of religion at school is conservative, ethnocentric and dogmatic. The basic moral values of each religion are represented as exclusive, with little or no attention to interfaith relations, either in an ethical/theological or practical/social sense. Thus religious education is cut off from broader social and political development and does not contribute to the spread of a civic mentality among the religious communities in the country.

In general, however, the extent of religiosity among young people is relatively low (unfortunately no quantitative research has been conducted in this respect so far, and we cannot present relevant empirical data), especially among the East Orthodox Bulgarians, who are the vast majority of the population. Indirect evidence for this, *inter alia*, is the fact that the number of candidates for the two seminaries of the majority Orthodox Church, which train future priests, and for the Orthodox theological faculties established at several Bulgarian universities, has dropped dramatically in recent years.⁷

The situation is somewhat different with the Muslim minority. Young Muslims are in quite an ambivalent situation concerning human rights. On the one hand, they face the challenge of harmonizing in some way and to some extent the rather traditional Islamic worldview to which most of them subscribe with the secular liberal norms of public life which characterize contemporary Bulgarian society. On the other hand, Muslim youth are quite aware that Muslims need their rights to be protected, especially the ‘third-generation’ Muslims, who are embedded in the liberal normative framework. This complex situation makes the young members of the Muslim community vulnerable to the influence of more ‘radical’ interpretations of Islamic doctrine. However, the state of affairs in this respect varies for the three different subgroups: the ethnic Turks, the Pomaks, and the Roma. An empirical survey would be extremely helpful for the analytical clarification of this increasingly important subject.

⁷ There about 30 students enrolled in the regular (high school level course) and the two-year course for men over the age of 20 in the seminaries in Sofia and Plovdiv for school year 2013/14. “Only one new student was additionally enrolled in the Sofia seminary,” (Dveri na Pravoslaviето 2013).

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Religion and Human Rights in Croatia

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Abstract This work questions the common sense paradigm according to which it is “self-evident” that Catholics are the majority and not a minority in Croatia. The work aims to penetrate into the sphere of contemporary taboos.

Where the statistical majority is a sociological minority, and a sociological minority the statistical majority, the promotion of minority rights takes on entirely different connotations—increasing “minority” rights is actually maintaining the position of power and privilege of the minority, and denying the rights of the statistical majority to be in a position of power and to gain civil rights equal to those of the privileged minority.

Through an analysis of potential reasons for this situation in Croatia, the authors conclude that only once the elites in Croatian public space are reproduced by the law of greater numbers, and not by the power of privileged minority interest groups, can we expect the promotion of human rights to replace the legitimization of the power of these minority interest groups disguised as the promotion of human rights.

Introduction

Several strategies can be taken towards gaining an understanding of human rights and religion in Croatia.

Since all the census data and relevant studies clearly show that Catholics are the absolute majority in Croatia and that there are no indications that this will change anytime soon (Census 2001; Črpić and Zrinščak 2010), it is appropriate to question the justification of an analysis formulated in this way: are Catholics a minority in Croatia?

With its subject matter and postulate this paper definitely belongs to the category of “subversive” works. It questions the common sense paradigm according

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to which, on the basis of statistical indicators, there is no justification for putting forward such a theory. Or maybe there is, for the very reason that it is “self-evident” that Catholics are the majority and not a minority in Croatia. However, is this really the case? This is a legitimate sociological question. Moreover, it becomes a privileged sociological question when public opinion is created on the basis of a common sense cliché that something “is the way it is” and that it should not and must not be questioned. Then it becomes the task of the sociologist to raise the question: is something perhaps being suppressed in public discourse? Something obvious and inconvenient? Inconvenient, of course, for the elite, who postulate socially desirable opinions.

This work has no pretensions to provide definitive answers. The aim of the work is, through posing questions and reflecting on the topic of religion and human rights, to penetrate into the sphere of contemporary taboos. The question of contemporary Croatian taboos is in itself an issue worth raising, but in this paper it will not be systematically dealt with. The paper will only occasionally touch on topics that go beyond the so-called politically correct (“PC”) discourse, and which are essential for the life of society. Serious consideration of such topics tends to be avoided and to become the subject of criticism from vocal minorities. These include, for example, critical questioning of minorities, in-depth investigation of communist crimes, reliable analysis of the winners and losers of transition, homosexual lobbies, becoming wealthy after the Second World War and during the communist period, etc. These are certainly issues worth considering, but here we are interested in considering the possibility that Catholics are a minority in Croatia and the potential consequences of such a situation for Croatian society.

What is there to say about human rights issues in Croatia in general? What is the relationship between religion and the State with regard to human rights and which position(s) on human rights are represented by the religious groups in Croatia?

After the disaster of the Second World War, the great colonial powers discovered, not very easily or without resistance, that in their societies there were minorities with inalienable human rights that should be promoted and respected. Here we do not mean primarily the Fascist, Nazi or Communist countries, but rather the ‘flagship’ Western democracies, countries like France, Britain, the Netherlands, etc. They discovered that in their societies there were subjects who were not in a power position to draw attention to their presence, let alone to articulate their needs, values, beliefs, language and lifestyle. Following the United Nations Charter of Human Rights, this commendable idea has been developing very dynamically in the world, which, according to the author, has its main roots in the contributions of Christian culture to the development of Western civilization.

We have a situation in which the phrases “human rights” and “minority rights” are used almost like a religious mantra. Inflation and collision of ‘human rights’ has developed. In this complexity, somehow the basic question has been lost, which primarily assumed the importance of human rights in the second half of the bloody twentieth century. This is about finding a way for people not to be deprived of their basic human rights simply because they are part of a group that holds less power in society. Here we get to the crucial point of our discussion.

The amount of power held in society does not depend on the statistical mass of the population¹. In a democracy, social power should generally follow the statistics, but this is often not the case. The amount of power depends on many other factors, so that the theory can be put forward, as sociologists indicate, that statistical and sociological minorities and statistical and sociological majority can differ, so that the statistical majority may be a sociological minority, and a sociological minority may be the statistical majority. In this context Giddens claims: “Sociologists often use the term minority as a figurative way of speaking about the subordinate position of some groups within society, and not about their numerical representation. There are many cases where a minority is actually the majority” (Giddens 2007, p. 248). It is also worth mentioning here the Croatian authors Čačić-Kumpes and Kumpes who follow the same path, explaining the relationship between minority and majority in the following manner:

From a sociological point of view, therefore, a minority group determines the sense of deprivation of its members, and the possibility of creating this feeling comes from two dimensions of the group: its size and power. Deprivation in at least one of these two dimensions creates the conditions in which the members of a group may be considered vulnerable. But in the balance between size and power it is always the weight of power that prevails in creating a sense of deprivation and minority status in the sociological sense. A minority group in the full sense of the word is a group deprived in both dimensions. If we wished, like Michael Mann (1986), to avoid dimensions as geometrically distinctive discourse, we might say that minorities are those groups of people whose social status is or may be compromised due to the specific power relations in society. (Čačić-Kumpes and Kumpes 2005, p. 175).

This idea is the cornerstone of our work. Can we say that the statistical majority in Croatia, and these are undoubtedly Catholics, is in fact a sociological minority? Theoretically this is, as we have indicated, possible. But is this really the case in Croatia?

Before we dive into an analysis of this question, we need to point out one more issue which we believe is important for our discussion, and which is often ignored or overlooked. The majority-minority relationship is not the same in colonial and in colonized nations. While the major colonial powers discovered that there were minorities in their societies and that the members of these minorities had human and civil rights equal to those of the members of the majority, colonized people found themselves in exactly the opposite situation: they found that they have the same civil and human rights as members of the privileged minorities (for more information see also Črpić 2007). This is necessary to bear in mind as it significantly influences our analysis and understanding of the facts.

¹ Here it should be noted that many of the movements that are formally committed to promoting human rights or the recognition of certain groups, realistically do not actually fight for human rights, but for the legitimacy of the effective power that they already possess in a society. This is a new impulse that should be taken into account because in the future it will have a great significance and impact on social dynamics.

Specifically, when it comes to Croatia, the same facts about a minority can be viewed from two angles: rights or privileges? It is our stance that the basis of the war in Croatia, i.e. the Serbian aggression against Croatia, was not a struggle for the protection of a minority people, but for the preservation of the privileges of minority groups. Although the project of Great Serbia in the Homeland War (1991–1995) was defeated, and as such delayed for some time, it can be said that the goals of the aggression were partially achieved. Privileged minorities maintained their privileged position, and the underprivileged majority their underprivileged position. In Croatia there was no (re)placing Croats in influential positions in the public sphere, which prevented the modernization and development of Croatian society. In this context, where the statistical majority is a sociological minority, and a sociological minority is the statistical majority, the promotion of minority rights takes on entirely different connotations. Increasing “minority” rights is actually maintaining their position of power and privilege, and denying the rights of the majority to be in a position of power and to gain civil rights equal to those of the privileged minority.

At this level of analysis we again need to stop and question the merits of this point of view on the situation in Croatian society. What are the arguments in favor of the stated conclusions about Croatian society? It is legitimate and necessary to ask whether this point of view has a real basis and what it is. Therefore, processes and conditions that are systematically overlooked, kept quiet, ignored, and which we believe are, if not the key to understanding and the potential development of Croatian society, then they are certainly important and fundamentally undervalued. In this manner, we offer some facts about Croatian society and try to provide an explanation of them.

Trust in Institutions in Croatia

One of the important preconditions for the development of a society, according to theories of social capital, is certainly trust in institutions and others in general. It is a well-known fact that totalitarian systems damage confidence in institutions and general trust in other people. This includes totalitarian communist systems, as was clearly demonstrated by Sztompka in his analysis of the destruction of trust in social institutions in communist totalitarianism (Sztompka 1999).

More than 20 years have passed since the collapse of communist totalitarianism in Croatia. This is a sufficient amount of time for some real changes to occur in society, more than just a different flag, the constitution and ownership of real estate. Thus, besides changes at a symbolic, legislative and economic level, real changes are possible at a social level. Society is inert and changes relatively slowly. Dahrendorf warned of this with his metaphor of “clocks” running at different speeds, where the lawyers’, economists’ and society’s ‘clocks’ are not going at the same speed. It is relatively easy to change legal standards, write a new constitution, set up different laws, etc. It is far more demanding to change the economic model and it takes more time. To change mentality and conditions in society is a demanding and long-term

process, much longer than the previous two. However, 20 years is a long enough period of time for the ‘hands to move’ on society’s clock. And this move tells us something about the direction and pace of social change. Trust in institutions is one indicator, even if not the only one, but certainly an important indicator of the developmental potential of society.

In order to look at the state of trust in institutions in Croatia, we will use the results of the *European Values Study 1999/2008* in which, among other European countries, Croatia participated. In 1999/2000, 32 countries participated in the study of values in Europe (Halman 2001), and in 2008 there were 45 countries included. For this purpose we will use several graphic illustrations. At the first level there is a view of the dynamics of growth/decline of trust in institutions in Croatia observed over 9 years, and at the second level the dynamics and state of confidence in Croatian institutions is compared with the other 44 European countries for 2008.

Table 1 illustrates the erosion of trust in institutions in Croatia. The decline in trust in institutions is difficult to explain as the result of the general decline of trust in institutions in western countries due to the processes of globalization and the fact that nation states can no longer fully control social processes as they were able to before the advent of globalization processes. Given this significant decline in trust in institutions in Croatia in the past 9 years, it is worth asking what could be the cause. Before we launch into an attempted explanation of the results, we need to look at how things stand comparatively, taking into account the state of trust in institutions in Croatia and other European countries.

Table 1 Trust in institutions in Croatia in 1999 and 2008

Trust in institution (%)	1999	2008
Military	64	45
Education system	63	56
Church	63	52
Police	53	36
NATO	51	22
Health system	46	40
UN	42	25
EU	40	20
Judicial system	35	19
Public services	34	27
Social security	31	29
Large companies	28	20
Unions	27	17
Parliament	22	12
Press	18	14
Government and administration	–	14
Political parties	–	7

Table 2 Confidence in parliament, the Church, the military, and the education system for Croatia and four selected groups of countries in 2008

	Parliament	Church	Military	Education system
Croatia	12	52	45	56
Old members	43	42	62	66
New members	28	54	57	64
Candidate	40	68	59	65
Other	44	70	67	69

Table 3 Confidence in the EU, judicial system, political parties, public administration, and government in Croatia and four selected groups of countries in 2008

	EU	Judicial system	Political parties	Public admin. and government
Croatia	20	19	7	14
Old members	45	55	21	35
New members	53	39	17	29
Candidate	46	48	24	38
Other	47	47	28	48

Since we are dealing with about 44 countries and 18 institutions studied, on this occasion we will not provide an analysis of trust for all countries and all institutions. For the purposes of our work we will reduce the space to four groups of countries: old EU members, new EU members, candidate countries for EU membership, other countries involved in the research² and, of course, Croatia, analyzed as a separate country.

For the institutions studied we will take into account the level of confidence in: parliament, the Church, the military, the education system, the EU, the judiciary, political parties, government and administration. We include, therefore, institutions that are essential for the State and the functioning of society (Table 2 and 3).

From the table presentation of the comparative state of trust in institutions in European countries we can reject the impact of globalization on the erosion of trust in Croatia, so we must seek causes in other sources. We will outline some of these, taking into particular consideration the focus of our work, the relationship between the statistical majority and a sociological minority.

Aspects of the Legacy of Totalitarianism

As we have already noted, totalitarian systems are not conducive to the development of a civil society, and, therefore, to the development of a culture of trust in society. Trust is one of the essential bases of western culture and the development

² See the official EU website.

of civilization, as well as the economy, as demonstrated by Weber in his well-known work “The Protestant Ethic and the Spirit of Capitalism”. Without confidence in society, a system of collateral costs develops—including corrupt, irrational economic models. The economic system is actually far more straightforward than society as a whole, but without trust it cannot develop, so it collapses, as was the case with the Communist bloc in 1989. Certainly, here it can be argued that it happened more than 20 years ago and that such a model should not significantly affect the mood of the citizens in Croatia today. It is legitimate to ask to what extent communist totalitarianism has really influenced contemporary Croatian society.

Should not the reason for this collapse of confidence in institutions and social capital in Croatia be sought elsewhere, and not in the legacy of totalitarianism? Do we not, as a result, fall into a classic, and in Croatia very popular, ideological debate in which wars are still being fought between the partisans and the Ustasha³? An alternative question can be raised: is not the imposition of this debate about the ‘Ustasha’ and the ‘partisans’, at a symbolic level, actually an attempt to conceal something at the real level of social life? In other words, we must ask to what extent the totalitarian system in Croatia has been deconstructed, and to what extent, in various forms, it has been maintained.

The Croatian State and Society

What is the essence of the identified problem? The principal purpose of the State, since ancient times, has been to promote the common good of its citizens, to build a system in which the majority of citizens can fulfill their potential. In each version of a totalitarian system we have a situation where a minority usurps the State to the detriment of the majority. Of course, a minority always adopts an ideological background in the name of which it gives itself legitimacy; however, at a practical level the effect is the same: a privileged minority exploits the deprived majority.

If we look at the Croatian situation, we can at first conclude that before 1990 all of social life, especially life in State institutions, was controlled by the Communist Party or, more precisely, by the League of Communists of Croatia (Party)⁴. It is important to be aware that all of social life of the former Yugoslavia, and so then in Croatia, was under the supervision of the Party. In this model of management, public administration serves primarily to control citizens and to serve the Party. In order to become a civil servant, especially to be able to progress in the civil service, it was necessary to pass a test of “moral-political suitability”.

In this way the Party positioned obedient and politically acceptable personnel in public life and public services. In return, they received privileges, so the whole

³ The Partisans were organized by the Communist Party. The Ustasha were installed by the Nazis when they occupied Yugoslavia in 1941 because not one democratic party in Croatia wanted to cooperate with them.

⁴ In colloquial jargon in Croatia, when one says *the Party*, this means the Communist Party or the League of Communists, as the Party called itself during its transformations.

system in many ways was more like a feudal system than a civil society, as in the early 1990s Mardešić remarked in his instructive reflection entitled “October before the Bastille” (Jukić 1990). Since the 1990s the basic structure of institutions has not significantly changed. This is how Šakić was able to declare in the mid 1990s that the Party had won because it remained the majority in institutions and continues to control the system of institutions (Šakić 1996).

Here we want to point out that the general mechanism from the totalitarian system has remained intact. In fact, the entire Croatian political elite, and also the economic, media, and in part the management structure of the scientific and cultural elite, are derived from members of the former Croatian Communist Party. On the political scene, it means that we in Croatia still have, paradoxically, a one-party system.

Members of the former communist party are present in all parties, even the representatives of minorities in Parliament were senior officials of the former communist party. This information cannot be ignored, and we believe that it is the reason why Croats show deviation from their own institutions; they are not perceived as social, rather contra-social. This is the context in which it is possible that in a country where there are over 85% declared Catholics, Presidents of the Republic, Parliament and Government are atheists and agnostics.

If we now summarize the previous part of the paper, we could say that Croatian society is burdened by the legacy of a non-deconstructed totalitarian system in which the public administration and political elites are used in the service of the Party, rather than in the service of its citizens. This is the cause of the erosion of trust in institutions in Croatia and the development of parallel institutional systems within the social and economic life of Croats.

Generally speaking, in Croatia, the human rights of each individual are prescribed by the *Constitution of Republic of Croatia* (2014), international agreements to which the Croatia is a party and laws. Human rights are dealt with by a number of institutions and organizations, such as the Ombudsman, the Human Rights Office of the Government of the Republic of Croatia, Croatian Helsinki Committee for Human Rights, the Centre for Human Rights and others. At the same time there are ecclesiastical institutions dealing with this issue, such as the Justice and Peace Commission of the Croatian Bishops' Conference (“CBC”), the Center for the Promotion of the Social Teachings of the Church of the CBC, the Franciscan Institute for the Culture of Peace, Croatian Caritas.

As regards the relationship between the Church and the State in Croatia, it is important to note that it is regulated by law. First of all, the *Constitution of the Republic of Croatia* guarantees the right of every person to freedom of religion, and this right is confirmed in the *Constitutional Law on Human Rights and Freedoms*. After the fall of communism and the breakup of Yugoslavia, Croatia and the Catholic Church entered into bilateral regulation of mutual relations. In the period from 1996 to 1998, Croatia and signed four international agreements⁵ with the Holy See,

⁵ The Agreement on legal matters, the Agreement on Cooperation in the field of education and culture, the Treaty on the spiritual guidance of the Catholic believers in the armed forces and police of the Republic of Croatia and the Treaty on economic issues.

which confirmed a relationship between the Church and the State in certain areas of social life. The signing and ratification of these agreements created an institutional basis for the relationship between the Catholic Church and the State. However, with these contracts the Church regulated its relations with the State, and soon after that other religious communities did the same with the *Law on the legal status of religious communities in the Republic of Croatia (2002)*, which ensured a high degree of religious rights and freedoms in accordance with the fundamental principles of international and European conventions and recommendations on human rights.

However, independent of the defined legal relationship between the Church and the State, there are cases of conflict between the Church and the State in terms of the implementation of human rights. From the perspective of some civil society organizations, the Catholic Church in Croatia is over privileged, especially when it comes to economic issues, or the restitution of property seized by the Yugoslav communist regime. On the other hand, from the perspective of the Church, the State does not enforce laws because it adopts regulations opposing religious freedom. A current example of the conflict of the Church, as well as other religious communities in Croatia, and the State is the introduction of “health education” which includes liberal sex education in primary and secondary schools. Different religious communities in Croatia revolted against various topics related to sex education being covered because they do not comply with the values they uphold. On the other side, the view of the government is that the topics to be dealt with as part of health education to serve to transmit certain information with which to encourage healthy and sexual responsible lifestyles in children and youth.

Final Remarks

From the analysis of the situation it appears that Catholics were a sociological minority in Croatian society during the period of Yugoslav communist totalitarianism, and continue to be today in contemporary democratic Croatia, because the structure of power has not changed significantly. A model of social control is used, as in the past through the Communist regime, and today through the corporate controlled media and the repressive apparatus, “in the name of the people” but against the people. What should be done in this situation?

Many have advocated for lustration on the political and public scene, thereby removing from the public scene those who had participated in the repression during communist totalitarianism. This would be an elegant and certainly a moral model, but, we hold, unenforceable in Croatia. It would mean the removal from the public scene of almost the entire political, media and economic elite, and a portion of the scientific and cultural elite (see Črpić 2013). This would likely escalate into a process that would not likely be realizable without violence, as it is unlikely that the elite, who are consistently in a position of power, would easily give up their privileged positions.

We hold that it is preferable in the long run to make room for de-lustration. During communist totalitarianism, public space, and particularly political, scientific, cultural and economic space, was successfully lustrated of Croats and Catholics. Now would be the time to de-lustrate that space and allow Catholics to dominate public space. Only once elites in Croatian public space are reproduced by the law of large numbers, and not by the law of interest groups, will we be able to say that Catholics in Croatia are the statistical and the sociological majority. Only then is it reasonable to expect the recognition and respect of statistical and sociological minorities to be given serious consideration. Only then can we expect and require that minority rights be protected by the majority. Only then can we expect the promotion of human rights and not the legitimization of the power of powerful groups disguised as the promotion of human rights.

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Religions and Human Rights in France

Régis Dericquebourg

Abstract In this chapter some paradoxes of the human rights philosophy in France are examined: France has proclaimed itself “the cradle of human rights” since the revolution of 1789 which established the basic rights (freedom of thought, association and assembly) in response to the King’s absolutism of the “Ancient Regime”.

At first the Catholic Church condemned the secularised “Declaration of Human Rights” but since it was asserted that they have their roots in the Bible the second and third generation human rights are (for the most part) accepted. Even though, France is sometimes condemned by the European Court of Human Rights for harassing minority religious groups and for failing to grant them the same rights as the traditional churches. Muslims and Jews are also in conflict with the State about the wearing of visible religious symbols in public. Also religious liberties are not mentioned as such in the laws but only as “public liberties”. A “right of religions” does not exist, it is instead being built on decisions of French courts and the Council of State, the European Court of Human Rights or the European Court of justice.

Introduction

Examining the links between the Human Rights and the religions in France can show very interesting, insofar as France proclaims itself the “Birthplace of Human Rights”.

The first recognized rights are freedom rights (for instance: the freedom of expression, of thought, the right of meeting, of association...). They establish basic rights claimed by the Revolutionaries, in response to the King’s absolutism in the “*Ancien Régime*”. They can be individual or collective, and offer the individuals some autonomy as well as the possibility of acting freely.

Human rights are nevertheless no longer limited to those proclaimed by French Revolutionaries: a second generation of rights appeared. They contribute to the dignity of the individual, yet, unlike the freedom-rights, they have a cost, requiring the

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State's intervention for concrete implementation. For that reason, they were called 'claim rights'. It is a matter of social and economic rights, such as the rights to education, to health, to work, to a home, to social security, the right to form a trade union, the right to strike. They are described as fundamental rights. In France, they were inscribed in the preamble to the Constitution of the October 27, 1946. That assertion of new rights coincided with the creation of the Providence State, namely, a more socially and economically interventionist State, in order to provide social welfare.

The history of human rights does not stop here. From the 1970s on, a third generation was evoked, that would exceed the 'freedom rights' and 'claim rights'. They aim at establishing an international solidarity, for the human race (e.g. the right to a healthy environment, the rights of future generations, the right to humanitarian interference, to peace, to economic development). They also belong to the ethical order, for they focus upon rights such a right to peace or to a healthy environment, to a fair development of nations. To jurists, their aims can sometimes seem imprecise.

To the Declaration of Human Rights was added in 1959 a Declaration of Children's Rights, then an international convention on Children's Rights (1989), that was ratified by France.

The religions present in France took their stand upon the whole of human rights. We are going to show their relations.

The *Declaration of Human Rights* was proclaimed on August 26, 1789 during the first French Revolution. The Marquis de La Fayette, who inspired it together with Sieyès and Mirabeau, put it forward to the French National Assembly. It was then placed at the beginning of the Constitution of September 3, 1791, proclaiming the five following rights: freedom, equality, right to ownership, right to security, to resist oppression. French revolutionaries claim its fatherhood, though such ideas can be found in the declaration of Arbroath (1314), in the British revolution, in the seventeenth century (Hill 1977), or in the American Declaration of Independence of 1776.

The Declaration of Human Rights was not immediately implemented. Its main principles only materialized when judges referred to them in dispensing justice, as when lawmakers drew their inspiration from them to write republican laws. Some principles, like the political rights that allow taking part in power—the right to vote and be elected—were not obtained at once (Ferrand 2003, p. 50). The transformation of human rights into human law, from natural right into positive right was not immediate. Human rights are useful to mankind only when they are recorded in laws that shape their lives: the same is true with the *European Human Rights Convention*, which, to become effective, must be translated into the national legislations.

The 1789 Declaration of Human Rights was promoted by anticlerical revolutionaries and was ideologically prepared by philosophers from the Enlightenment (Aufklärung), like Voltaire, Rousseau, Diderot, who can be called 'secularist humanists' atheists and deists. The Declaration is wholly secularist, it does not refer either to God or to religious morals. The French Republican Revolution was antireligious, anti-Catholic principally, because of its desire to abolish that privileged link between the Roman Catholic Church and the monarchy. In 1790, revolutionaries suppress monastic vows; they pronounce the Civil Constitution of the Clergy (July

12, 1790) and more than fifty per cent of the clergymen, the constitutional clergy, gave their pledge to the constitution at the beginning of 1791. It is no wonder that the head of the Catholic Church condemned the Revolution and excommunicated the French Nation on the July 22, 1790.

In 1791, Pope Pius VI (1717–1799) condemned the *Declaration of Human Rights* in his encyclical letter ‘*Adeo nota*’. According to him, it is purely philosophical nature could not pretend to substitute itself for the “Natural Right” and the rights of the Church: “It is sufficient that we recall the seventeen articles on human rights, that are a mere faithful repetition of the declaration made by the National Assembly of France of those same rights, so contrary to religion and society” (Pius VI 1791). Pius IX (1792–1878) reinforced this affirmation in these terms: “One can clearly see why some men, not taking into account the most certain principles of sane reason, dare publish that the people’s will, manifested by what is said to be the public opinion or else, constitutes the supreme law, independent from all divine or human law” (Pius IX 1864; Docteur Angélique; Forum catholique 2012).

Forms of Human Rights During the “*Ancien Régime*” and Religions

Through the *Declaration of Human Rights* (1789) French revolutionaries wished to improve French people’s lives. It does not mean that these people had no rights during the ‘*Ancien Régime*’—as was named the monarchic period before 1789: the kings of France had granted guarantees that were equivalent to certain human rights.

Kings tried to impose equity and justice rules by abolishing local “bad customs”, such as excessive fiscal taxes imposed by the lords upon their subjects. Protection of private property had been granted the French. Humbert II (1312–1351) forbade judges to confiscate the properties of the sentenced, thus imposing a right to inalienable property. Kings took on the duty of eradicating servitude. Like the revolutionaries later, the kings endeavoured to reconcile individual liberties with public interest, “*La causa publica*” (Mathieu 2003, p. 28).

The *Ancien Régime* acknowledged the right to human dignity, inspired by Christian thinkers like Lothaire (1160–1216), author in 1195 of a treatise upon human destitution, who became pope, like Jean Pic de la Mirandole (1463–1494) or Pascal (1623–1662). The right to dignity was also expressed in law under the form of “guarantees”—the expression ‘human rights’ not yet being in use. Jurists based themselves on a natural liberty, in particular, a self-property excluding slavery, in order to acknowledge a right to freedom. They also acknowledged a right to ownership, though that had been more discussed.

Those rights were taken up and turned into fundamentals in 1789 by the revolutionaries, who took up rights advocated by Christians (Fierens 2003, p. 172). The *Ancien Régime* nevertheless did not know the liberty to marry, nor did it know equality, nor the right to security. It did not know freedom of conscience either, and the absence of religious freedom that belongs to it, was the source of conflicts.

Roman Catholicism Against Protestantism

A series of Edicts governed the relations between the Kingdom and Protestantism. The imprint of Catholic thinking can be found in their writing, provoking advances or postponements. For instance, the Edict of Tolerance, signed by Louis XVI on November 7, 1787, granted equality of persons in front of the civil status, therefore, it was no longer necessary to be a Catholic—the official religion in the kingdom of France—which meant converting to Catholicism to obtain birth, marriage or death certificates. It benefited Jews—except in the East of France where the Parliament of Metz refused the Edict—and Protestants. The Edict of Saint Germain, called the ‘Edict of Tolerance’ (1562) granted the freedom of conscience, the Edict of Beaulieu (1576) acknowledged Protestantism, but its impact was reduced by the Edict of Nemours (1585) which brought a recoil in the Protestants’ freedom of worship. The Edict of Nantes (1598), concerned with “Civil Tolerance”, accepted Protestants, but was revoked by the Edict of Fontainebleau (1685).

One can see that, depending on royal edicts, Protestant freedom of worship increased according to the King’s benevolence, or was reduced under the pressure of the Catholic hierarchy.

Another evidence of the persecution of the Protestants is that in 1681, Louis XIV closed the Academy of Sedan, where ministers were trained. In 1561–1662, Catholics formed leagues hostile to Protestants and attacked them. On August 24, 1572, fanatical Catholics slaughtered three thousand Protestants in Paris. The slaughter spread to the whole country, causing almost ten thousand more casualties (Cabanel and Cassan 1997, p. 17 f.).

Protestantism benefited from the institution of the freedom of thought and worship included in the *Declaration of Human Rights*. In the nineteenth century nonetheless, anti-Protestantism reappeared with the Empire. It is an indicator of the Catholic reconquest of France: Catholic conservatives sometimes took sides with nationalists in the struggle to denounce the “Anglo-Protestant” religion, which, according to them, led to anarchist ideas because it had no leader (Baubérot and Zuber 2000, p. 225). However, Catholics, like Anatole Leroy-Beaulieu (1842–1912), denounced the “hatred doctrines”, anti-Protestantism, anti-Semitism and anticlericalism (Leroy-Beaulieu 1902, p. 1 f.).

Judaism

The Middle Ages were marked by a Christian controversy against Judaism, which had an effect upon the Jews’ fundamental rights (Dahan 1991). Jews were well integrated, and until 1096 and the first Crusade, in spite of some sporadic incidents, lived in peace in the French Kingdom. Afterwards, Bishop Agobard, from Lyons, and his successors, made themselves known through their polemical writings against Jews, and in the twelfth and thirteenth centuries, Christians passed round accusa-

tions against Jews about ritual murders, that caused attacks and discriminations. In 1182, King Philippe Auguste expelled the Jews from France. When not expelled, they were isolated, ostracized: at the end of the thirteenth century, Jews were forced to gather into specific neighbourhoods (that were not yet called ghettos).

Monarchy obeyed the pressure of the Catholic Church: in 1306, King Philippe le Bel drove them again from France. Pope Clement VI nevertheless intervened to show how absurd it was to accuse them of spreading the plague, as was said. During the fourteenth and fifteenth centuries, small millenarian movements like flagellants set upon Jews they considered as Antichrist (Cohn 1983, p. 147). For their part, the Jews always protested against the restrictions brought to their liberties, and recalled their status of subjects equal to others. That is a claim for equality and freedom which are human rights. Christians agreed on the fact that Jews must not be christened against their will, nor have their properties or their lives violated, in accordance with Pope Grégoire Ie Grand's letter to the Bishop of Palermo (598), and later the Bull *Sicut Iudaeis* (1120), enacted by Pope Calixtus II—taken up by his successors to the fifteenth century. Councils though, repeated the interdiction made to Christians to see Jewish doctors, which did not seem to be strictly followed. All in all, Middle Ages Christians were ambivalent towards Jews: some were their vehement enemies, others invited their co-religionists to tolerance.

In 1940, most of the French Catholic clergy rallied to the collaborationist government of Maréchal Pétain, based in Vichy. The latter had the Catholic schools subsidized in 1941. Freedom of thought and freedom of forming an association were questioned: Masonic Lodges, not much appreciated by Catholics, were shut, anti-Jewish laws published. Within the Catholic clergy, only a few bishops, like Bishop Saliège (Toulouse 1942), publicly protested against the Vichy government policy. Catholics however secretly helped Jews, claiming the condemnation of Nazism as antichristian paganism, basing their action upon the encyclical letter *Mit brennender Sorge* (1937).

French Protestants and the Claim for Human Rights

Through its position as a persecuted group, French Protestantism was driven to claiming the right to freedom of worship and conscience, which later were part of the rights published by the *Universal Declaration of Human Rights*. An illustration can be found in the works of Sébastien Castellion (1515–1563), who denounced fanaticism in the name of the freedom of thought. He opened the way for the Protestant theologian Pierre Bayle (1647–1706) who dedicated a long note to him in his *Dictionnaire historique et critique*—“Historical and Critical Dictionary”. In one of his books, he criticized intolerance, advocating civil tolerance of all Christian denominations, of Judaism, of Islam as well as atheists. Castellion inspired Rabaud Saint-Etienne (1743–1793), the Protestant who introduced freedom of conscience into the *Declaration*. Some Protestants like the humanist Georges Cassander

(1513–1566) and the juriconsult François Bauduin (1520–1573) endeavoured to establish concord with the Catholics and the Monarchy, in order to come back to the unity of Christianity (Cabanel and Cassan 1997, p. 16). During the Second World War, Pastor Marc Boegner (1881–1970) denounced the anti-Semitic measures of the Vichy government and launched assistance for the Jews.

Religion and Human Rights After the Second World War

The Roman Catholic Church, who had been hostile to the *Declaration of Human Rights* because of its purely secularist nature, was won over in the second half of the twentieth century to the human rights principles, while claiming its theological specificity. In his first encyclical letter, “*Redemptor Hominis*” (March 4 1979), Pope John Paul II recalled that human rights are founded upon the human person’s dignity, created in the image and likeness of God and redeemed by Christ’s blood. No state, no institution can decree human rights, because these rights are inscribed in the order God himself created. Politicians merely can ratify them. To think that the human rights depend upon the collective will is wrong, because, if they depend upon the expressed will, at a given time, by a State or an international institution, they can be repudiated, twisted or questioned at any other moment. If one admits that God wanted them, that they are inscribed in the natural order of things as God dictated them in the Decalogue, they are unquestionable (Evêques de France 1991).

French Christian philosopher Etienne Gilson (1884–1978) had previously claimed the importance for the Christians of human rights founded upon God’s rights. French Roman Catholics, under the theological authority of the Vatican, have to follow the Pope’s thesis. It can be said that a conception of human rights based upon God’s will more than upon man’s, can also suit the Catholic traditionalist dissent, asserting itself from Pius X, that was launched in France by Bishop Lefebvre.

In France this critical reflexion upon the Declaration, was undertaken from 1940 by Catholic thinkers, such as Emmanuel Mounier and Jacques Maritain: Christian movements were won over to a conception of human rights, based on the Biblical legacy (Perisic 2012, p. 36; Kalouyrou 2012, p. 147).

Christians—Catholics and Protestants—took part in the second generation’s human rights through Christian trade unionism, which did not want to leave all the room to the atheist socialist trade unionism. In 1926, the CFP, ‘Confédération Française des Professions’ (French Professions Confederation) gathered Christian employers trade unions; in 1948, it was replaced by the CFPC—Centre Français du Patronat Chrétien (French Centre of Christian Employers), associated to the CNPF in a consultative capacity, without vote, losing its professional and trade unionist character. In 2000, the CFPC became EDC—Entrepreneurs et Dirigeants Chrétiens—(Christian Businessmen and Leaders).

The basis of their thinking is the Church social doctrine, held in the encyclical letter *Rerum Novarum*, by Pope Leon XIII in 1891, as well as *Quadragesimo Anno*, in 1931. It was reassessed in 2004, under the form of a ‘*Compendium of the*

Church's Social Doctrine', written by Cardinal Martino. The reference values are the dignity of the human person, the sense of the community good, private property, charity or solidarity.

On the side of employees, the CFTC—Confederation Française des Travailleurs Chrétiens (French Christian workers confederation)—was a non-socialist trade union founded 1919 that claimed to adhere also to *Rerum Novarum*. It was disbanded in 1940, by the Vichy government. Due to its members' actions in the Resistance—it was an active member of the Conseil National de la Résistance—it was acknowledged after the Liberation as a representative trade union organization. A part of its numbers afterwards launched the CFDT—Confédération Française Démocratique du Travail (Democratic French confederation of work)—abandoning its Christian references.

Second generation rights are also defended by a multitude of humanitarian associations, Protestant: CIMADE, the Salvation Army; Catholic (le Secours catholique...); the Pentecostal movements; and more recently Muslim charity organizations (Société de Secours Islamique de France).

Religions and the Third Generation Rights

Churches have expressed their opinion about human rights of the so-called third generation: for instance, for the Catholics, the question of environment belongs to the Church's social doctrine, as it was initiated by Pope Paul VI in 1971 (Paul VI 1971; Goyon 2003, p. 27 and 49). He called for a responsible managing of the planet, in the name of the preservation of a natural order created by God. French Bishops repeated it (Evêques de France 1991, p. 295; see also Cabanel and Cassan 1997, p. 16 ff.). Naturally, spiritual movements like the New Age, whose reference is the community of Findhorn (Scotland), took a stand and acted for the environment.

French minority religious groups being kept under watch by the interior police—as allegedly dangerous—minority believers questioned the making of files about one's religion. They thus took part in another third generation right: the protection of personal data (Chevallier-Govers 2003). A French member of Scientology obtained a decision by the Conseil d'Etat, allowing him to consult the file the agents of the Renseignements Généraux (the security branch of the French police) had made up on him: it set a precedent for all citizens. French Scientologists launched a French branch of the *International Association for Human Rights*, with the American psychiatrist Thomas Szasz, to fight the improper use of psychiatry within an association: it belongs to the defence of a third generation right, that could become a fundamental right in totalitarian countries that use psychiatry to repress ideologies, i.e. hindering the fundamental right to freedom of thought, conscience and worship.

European Christian Churches have therefore repeated their commitment to “social Rights” of the third generation, like those to benefit the immigrants (Murray 2012; Moritz 2012, p. 135).

Minority Religious Groups and Human Rights

In France, minority religious groups, classified under the generic and derogatory term of ‘sects’, encounter, together with Muslims, the same type of difficulties vis-à-vis human rights.

On the plane of religious freedom—which belongs to the freedom of conscience and thought—minority religious groups played their role. Jean Nussbaum (1888–1967) is a good example: this Adventist physician founded the AIDLR—Association Internationale pour la Défense de la Liberté Religieuse (International Association for the Defence of Religious Freedom) in 1946. At that time, he broadcasted a program on Radio Monte Carlo, called ‘Conscience and Liberty’, that became a magazine in French language in 1948, published in Geneva.

Yet, if we consider the situation of minority religious groups in France, we will see they suffer from discrimination or persecution: France does not easily agree with religious diversity, and multiplies hindrance to the religious practice of its minority religious groups, called “sects,” without distinction. This phenomenon was described in several books, whose authors were surprised by the ample rejection those groups underwent (Palmer 2011; Introvigne and Melton 1996; Kounkou 2004; Dericquebourg 2013). In 1998, the French government launched the MILS—Mission Interministérielle de Lutte contre les Sectes (Inter-ministerial Mission against Sects), that will become in 2002, Miviludes—Mission de Vigilance et de Lutte contre les Dérives Sectaires (Vigilance and Fight against Sectary Abuse Mission), which aims at countering the development of the minority religious groups.

The members of Parliament, together with those government organizations, published reports—always unfavourable to the minority groups—upon “sects”, not founded upon sociological studies. One of them listed 172 of these supposedly dangerous sects, among which Jehovah Witnesses or Evangelical Assemblies could be found. Questioning this list before Justice was impossible, because, as it had been written by deputies protected by parliamentary immunity, but the accusations are often unfounded.

Globally, France does not really respect the freedom of belief of minority religious groups. In fact, France is probably the European country the most involved into the anti-sect fight: some professional interdictions were pronounced for religious motives, like the child care provider from the Euro region, whose agreement the General Council refused, on behalf of her being a Jehovah Witness—and in whose favour the Court decided (Paturel 2013, p. 51). The European Parliament criticized the French anti-sect fight, and considered, in a report from 1997, that the judicial arsenal of each State was enough, that a common European politic on the question was not useful.

In a report on religious freedom in France, the United-States criticized that list, because of the absence of contradictory procedures. Consequently, the Prime Minister of the time, J-P Raffarin, (JORF 2005) asked in a decree that it should not be used any longer. Yet, as its use is not controlled or fined, it is still in use, to tarnish the reputation of some religious movements, as Jehovah Witnesses.

For the last thirty years, successive Governments harassed minority religious groups by diverse means. One of them is fiscal harassment: for instance, the attempt to ruin the French branch of Jehovah Witnesses through a huge fiscal sanction. The French administration had taxed the donations made by the Witnesses to their organization, when donations made by the Catholics, the Protestants or the Jews to their Churches cannot be taxed, in accordance with a 1907 prerogative. It was a heavy sanction, for it retroactively applied with damages. Jehovah Witnesses contested the matter in French Court. Having been nonsuited, they appealed to the European Court of Justice, which stated that they were discriminated against in relation to established Churches.

Jehovah Witnesses had France pay a heavy fine for having refused tax equality with established religions, on behalf of their number: 133,000 baptized. Finally, the Jehovah's obtained the same tax exemption on places of worship than established Churches had, as the right to know the information collected upon them by the *Miviludes* (Conseil d'État 2013). Jehovah Witnesses also obtained the right not to be discriminated against for the custody of children, in the case of divorce, when the two parents are not of the same creed, (ECHR 2003)—as French judges tended not to give the Jehovah Witness the custody, owing to the negative perception they had of them. In a tax case, in relation with the faithful donations, France was condemned to a heavy fine by the European Court (Goni 2013; Goni and Trizac 2013).

Jehovah Witnesses won in Court the right to meet prisoners, as prison chaplains, in the same way as priests, pastors or rabbis. In spite of that Court order, prisons directors still prevented them from entering the visiting rooms. The Association of the Jehovah Witnesses made a complaint to the Tribunal Administratif de Paris, which, in its decision of May 17, 2013, ordered the Ministry of Justice to “deliver the religious Association Les Témoins de Jéhovah de France, agreements of volunteer chaplains in penal establishments, within one month delay from today, under a 500 € penalty per day.” In another decision made the same day, the tribunal Administratif de Paris made the same injunction to the interregional director of the penitentiary services of Paris, in favour of a Jehovah Witnesses minister, following a prisoner's request. Jehovah Witnesses also had much difficulty in finding a piece of land to build their new headquarters. Every time they found a suitable place, the planning permission was refused and pressures hindered the project. The same thing takes place when they want to build a Kingdom Hall.

In Castellane, the movement of the Mandarom, known as Aumism, underwent continuous harassment for many years. It was sentenced to tear one of its giant statues down, though it was situated on private land, due to the action of a green activist named M. Ferrato. The Church of Scientology launched a primary school in Paris, ‘l'Ecole de l'Eveil’ (the School of Awakening), which closed following permanent administrative harassment, though its results—based on Freinet pedagogy—were quite satisfactory. Presently, Mormons do not succeed in building temples, because municipalities refuse to welcome them.

Among the significant facts of the struggle against spiritual minorities, one can also quote a raid, made by seventy ‘gendarmes’ against an association, ‘Terre du Ciel’ (Land of Heaven) organizing New Age training courses, meditation, relaxation

and yoga. The pretext given was “illegal” work, by which the police qualified the help given by the friends of the association. Eventually, after years of investigations, ‘Terre du Ciel’ was sentenced to a 1500 € fine for diverse administrative mistakes, the accusation of illegal work having been rejected.

Because of its anti-sect policy, France was criticized in 1996 by the special rapporteur of the United Nations for religious freedom, Abdelfattah Amor, about the list of 172 ‘dangerous sects’ drawn up by a parliamentary inquiry commission: he condemned the use of the derogatory term of ‘sect’ applied to minority religions. In 2005, Asma Jahangir, who held the same position as M. Amor, concluded: “the policy and measures that have been adopted by the French authorities have provoked situations where the Rights to freedom of religion and belief of members of these groups have been unduly limited. Moreover, after the public condemnation of some of these groups, as well as stigmatization of their members, in 2012, the Parliament passed a law restraining the practice of psychotherapy to certain professions, to prevent “sectarian therapeutic abuses”, an expression forged by French anti-sect groups, aiming at the Dianetics in the Church of Scientology.

In March 2012, in spite of the decision of the international organization defending human rights, the French government through the Ministry of Education released a circular to schools entitled “Prevention and Fight against Sectarian Risks”. For Human Rights Without Frontiers int. (June 24, 2013): “The French policy and initiative at European level constitute an outright violation of international Rights norms and have no place in a Human Right institution such as the Council of Europe”. Faced with the harassment they undergo, minority religious groups claim that their rights of speech is not respected, and they ask that every chart, national, European and international declaration that guarantee human rights which France signed be applied to them. On the other hand, established Churches, Catholic, Jew or Muslim, were active in opposing to the officialization of gay marriage, which is a third generation right.

In 2002, the US State Department for religious freedom worried about the fact that this position could be a model for other countries: “What happens in France is followed with much attention, sometimes imitated by many countries, such as Lithuania, Russia, Cambodia, China, Haiti or Chile. French authorities, the MILS officials especially, went to some of those countries to promote their initiatives against sectarian movements. Nevertheless, those countries, that already have a heavy past in religious repression, do not have mechanisms for the protection of human rights, such as those existing in France.” As a president of MILS, Free Mason deputy Alain Vivien travelled to China in order to advise the Chinese government in its anti-sect fight. In 2002, the European Parliament asked the French government to revise its law in regard to the abuse of the weak—the About-Picard law—as contrary to the *European Convention of Human Rights*.

Confronted with discrimination, religious groups seek recourse from the French Court, even from the European Court of Justice, or the European Commission of Human Rights, to obtain the equality in rights with large denominations: they thus obtained the same rights as established Churches. Their legal fights therefore consolidate the right to the freedom of opinion and worship, contained in the

Declaration of Human Rights. In French lawsuits, they put forward the articles of the Constitution that impose the respect of human rights. Nonetheless, minority religious groups carry their cases before the European Court of Justice or before the European Commission (CEDH), demanding to benefit from the dispositions of the Universal Declaration of Human Rights, as the European Convention of Human Rights.

To prevent minority religious groups from proselytizing, hostile Left and Right wing deputies proposed establishing the offence of mental manipulation—a version of brainwashing—seen as unscientific by the American Association of Psychologists (Anthony and Introvigne 2006), Catholics as Protestants opposed to it (Associated Press 2000), (Agence France Presse 2000). Nevertheless, deputies About and Picard succeeded in having a law voted in the Parliament, instituting an offence of abuse of weakness—or subjection state, taking up again the Mussolini law of Plagio—which is a substitute for the notion of mental manipulation (French law n°2001–504, June 12 2001, ‘About-Picard’), two times enforced by judges: Arnaud Mussy, confirmed by the Appeal Court of Rennes, Tuesday July 12 2005.

All parties globally accept the principle of secularism, but there are two opposite interpretations of the 1905 law, which is its constitutional statement. As for the partisans of a restrictive (close) interpretation of the law (“closed secularism” or “laïcisme”), secularism must reduce the visibility of religion within the public space. Reversely, for the partisans of an open secularism, “laïcité ouverte”, the 1905 law must guarantee the exercise of all forms of beliefs, and their expressions within the public space, provided they do not trouble the public order. The closed secularism tendency has imposed itself under the influence of the rationalist associations.

French Muslims and Human Rights

In the case of the Muslims, a restrictive enforcement of the principle of secularism was made against the Muslim headscarf and the participation in sports lessons by Muslim schoolgirls in high schools. The question of the wearing of visible religious symbols in high school prompted great debates—pupils who wore headscarves were sometimes excluded from school, then reintegrated following a court decision (Appeal of the Northern Islamic League, N°170216, Nov. 27 1996), resulting in the 2004 Law upon wearing visible symbols in the State primary and secondary schools (2004–228 Law, framing the enforcement of the principle of secularism, the wearing of visible religious symbols or dress manifesting a religious belonging, within State schools, high schools and lycees.) This is concerned with the Islamic headscarf, all the more the burqa, but also big pectoral crosses and the kippa. Conversely, confessional or non-confessional private schools can make their own rules, which led to creating confessional Muslim or Jewish schools, or to the schooling of Muslims or Jews in Catholic private schools that accept religious symbols.

The question was recently raised concerning private bodies, when a child caregiver who wore a headscarf in the day-care centre she worked in, “Babyloup”, got

fired. In Court, the dismissal was considered a religious discrimination. Faced with that fact, members of Parliament have sought to extend the 2004 Law to public and private companies, but that law could be declared unconstitutional by the Constitutional Council, under the motive that it is an intrusion into the life of associations or private companies, which manage their own dress codes, in respect to employment law and joint negotiations between the management and trade union representatives.

In 2010, France banned wearing the burqa in public, for several reasons, like that of maintaining public order, because the police could not identify persons under a full Islamic veil. Also, feminists think that women's rights are scorned, because, according to them, veiled women were not free to choose wearing it, while the latter claim to the media, to be let free to wear the burqa, in the name of the freedom of thought. Here we see a typical conflict between two representations of the rights of persons. Incidents recently broke when women in burqa were fined in the street: between October 2010 and April 2013, p. 661 women got fined, one of them being arrested twenty-nine times. Muslims as well as some observers consider French leaders as Islamophobic. Interdictions and fines are still rejected by the European Court of justice, which seems to have adopted a pragmatic point of view: in several of its recent decisions, wearing visible religious symbols, or the expression of belief at work, are allowed if they do not harm other people.

Those who want to wear visible religious symbols maintain that this ban constitutes an offence to human rights, insofar as it reaches the freedom of worship in its consequences in everyday life. On the opposite, requests for halal or kosher food in the schools, universities or companies never really raise problems—except for the far right—because of the Catholic long-time custom of fish and eggs on Fridays.

France was criticized by the American State Department regarding religious liberties, on July 20 2012 for the year 2011, because of its forbidding of burqa, as well as for its law upon the ban of visible religious signs (2004), banning the kippa, the cross and chador at school, which was voted within the frame of an interpretation of the law of 1905, upon the separation of Church and State, an unenforceable law, because it is liable of winning an appeal in the European Court of Justice.

Conclusion

Actually, rights in France were defended in the field of the expression of opinions as well as filing information of the population. France does grant the right of asylum to persons who undergo political persecution—or even religious persecution, as in the case of Christians in the oriental countries.

But France, which proclaims to be “the Birthplace of Human Rights”, finds it difficult to accept religious diversity and to grant minority religions rights. Religions themselves agreed with first and second generation human rights, each with its specificity. In fact, the link between the human rights defined by the 1789 Universal Declaration of Human Rights and the religion, refers, partly to diverging

conceptions on secularism, partly to religious freedom in France. D. Koukou, a lawyer and sociologist, underlines that religious liberties are not developed in French Law (2013, p. 137). They are not mentioned as such, but only as “public liberties”. A “right of religions” does not exist, which would lean upon the Declaration of Human Rights, as a right to private property or opinion and expression exists. The right of religions is built from judicial precedents based upon decisions of the tribunals, of the Council of State—and the European Court of Human Rights or the European Court of justice.

It is globally interesting to wonder whether Europeans, in particular young Europeans, see religion as a vehicle of human rights. Of interest also, is to know whether European people wish religious freedom to appear uppermost in human rights. However, the hypothesis can be made, that young believers are more attracted by the third generation rights because their consciousness is greater regarding environmental dangers and worldwide balance for the future. They also could be more enthusiastic about championing third generation rights for which their opinion is sought, within the frame of ethical commissions installed to examine society issues.

A theological limitation yet exists to accepting third generation human rights: established Churches—with the exception of Reformed Protestantism—were opposed to the right of gays and lesbians to get married, and are all the more opposed to artificial reproduction or adoption by homosexual couples.

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Georgian Orthodox Church and Human Rights: Challenges to Georgian Society

Sophie Zviadadze

Abstract The collapse of the Soviet Union and radical socio-political changes in Georgia affected the role and function of religion in the society considerably. Religious factors encounter in many political issues, cultural identity, values, and social activities. The purpose of this paper is to identify the characteristic trend of the interrelationship between religious resurgence and human rights in Georgia. The paper explores ongoing tendencies in the field of human rights in post-communist Georgia from the perspective of religious and political transformation. The extremely high levels of public trust toward religion and the Georgian Orthodox Church (GOC) influence the formulation of public discourse. Assessment of different events, processes, and the attitude of the Church towards human rights indicate the risks in relation to human rights. Ambivalence towards religious pluralism, challenges of acceptance of freedom of religion, the rise of religious fundamentalism, controversies on the separation of religious and political spheres can create tensions in society. The nationalization of religion, anti-modernism and radical tendencies make it hard for the Church to find its place and rethink its role in a modern society. Post-communist political and religious transformation is a serious challenge to GOC. First and foremost, it is about freedom of religion.

Introduction

The rise of religiousness is an important characteristic of Georgian society in the post-communist period¹. Following the fall of the communist regime, this “rise of religiousness” could be observed in all East European countries (Pollack 1998).

¹ According to a 2002 census, 83.9% of the Georgian population identified themselves as Georgian Orthodox, 9.9% Muslim, 3.9% Armenian Apostolic Church, and 0.8% Roman Catholicism, 0.1% Judaists, Other Denominations 0.8%, Not believing any religion 0.5% Georgian territories under the central government’s control totaled 4,375,535 citizens. The three biggest ethnic

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Though the religious boom in a number of these countries has since diminished, a “religious renaissance” is still apparent in Georgia. The purpose of this paper is to identify the characteristic trend of the interrelationship between religious resurgence and human rights in Georgia. The paper explores ongoing tendencies in the field of human rights in post-communist Georgia from the perspective of religious and political transformation. In the secular and “de secularized” world too, it is important to identify the ideological foundation of a modern state. A modern state is non-confessional but the principle of neutrality does not imply that it should be value-neutral (see Bielefeldt (2013)). The main value and achievement of liberal democracy is the notion of human rights.²

The extremely high levels of public trust toward religion and the Georgian Orthodox Church have an influence on the formulation of public discourse. The paper focuses on the role of religion as an institution, since one of the specific aspects of religious resurgence in today’s Georgia is the growing popularity and influence of the Church (and religious leaders). In contrast, Karl Gabriel (1996) draws attention to the opposite tendency—the deinstitutionalization of the church. Assessment of different events, processes and positions could indicate the risks and prospects of the Georgian Orthodox Church in relation to human rights. Any theological base analysis will not be attempted as that is a subject meriting separate research. It is therefore sufficient to simply mention that the Orthodox Church has rather pluralistic views, largely due to the diversity of the theological discourse, the unique history of Orthodox Christianity (which was untouched by the reformation movement), its autocephalous (autonomous) status (which led to a cultural difference), and a different institutional structure (the absence of a supreme leader, for instance a Pope) (Delikostantis 2008).³

The paper also examines attitudes of the youth towards human rights. The values, social activities and ambitions of young people can be viewed as important indicators of the ongoing tendencies in a society.

groups in Georgia are at present: Georgians (83.8% of population), Azeris (6.5%) and Armenians (5.7%). The remaining 4% includes smaller groups (Abkhazians, Ossetians, Russians, Ukrainians, Kurds/Yesids, Greeks and other). http://www.geostat.ge/cms/site_images/_files/georgian/census/2002/1%20tomi%20-about%20religious%20pluralism%20Georgia see: Fleischmann-Bisten, W. (2005), *Religiöser Pluralismus in Georgien*. In: Schröder, B. (ed.): *Georgien – Gesellschaft und Religion an der Schwelle Europas*. St. Ingbert: Röhrig, pp. 71–88.

² Although the notions of human dignity and freedom of expression can be traced back to antique writers and philosophers, the modern understanding and meaning of human rights is a product of modernisation. All contemporary international conventions on human rights are based on the 1776 Bill of Rights and rights and liberties produced by the 1789 French Revolution.

³ There is pluralistic theological discourse, also in relation to human rights. As in other Orthodox countries, there are some modernist theologians whose discourse is quite consistent with human rights. On the other hand, there are also theologians and priests who are skeptical and even suspicious of the benefits of Enlightenment.

Georgian Society in Transition

Political Transformation in Post-communist Period

The history of the current statehood of Georgia starts with the fall of the 70-year-old Soviet regime and the country gaining independence in 1990.⁴ The democratization process in Georgia is a complex transformation process affecting political and social spheres, and causing radical changes, including the formation of a new economic model, and cultural and personal identity (see Kopaleishvili 2013). In the early 1990s Georgia faced civil war (1992) and two ethnic conflicts (in Abkhazia and South Ossetia/Samachablo).⁵ Since 1995 the country has started to develop in a relatively stable environment: internal political tension was reduced and international support rose, having a positive effect on the country's development. Though this period is referred to as "from stability to stagnation", it is the period of the formation of democratic institutions, political parties, independent media and non-governmental organizations. In 1995 the Constitution of Georgia was adopted, guaranteeing protection of human rights and liberties, including political and social rights. Georgia also joined major international conventions on human rights.⁶ In 1998 Georgia became a member of the Council of Europe, illustrating the harmonization of the Georgian legal system with the European. This membership had legal as well as cultural importance. The political elite as well as the wider population believed that Georgia is a part of Europe and is committed to European values. The period from 1990–2002 was a one of establishing a new country that had the characteristics of a defected democracy: election fraud and a high level of corruption. Public trust toward state institutions started to rise after the 2003 Rose Revolution. The Rose Revolution itself was a reaction to electoral fraud and can be considered a victory of democratic values and a protection of political rights. The period between 2003 and 2012 can be termed a "force majeure modernization" process. The major political message communicated by the government was to build a "western democratic state". Public trust toward a number of state institutions (including the police and army) rose as a result of successful public sector reforms, the fight against organized crime, corruption and radical extremism; though harsh social conditions remained unresolved. As of 2007 the political elite that had managed to push through some successful reforms and policies before, now faced a crisis. The number of cases of human rights violations increased (including punishment of political opponents and imposing restrictions on media freedom).

⁴ The protection of human rights was a major demand of the national independence movement of the 1980s, alongside the demand for Georgia's independence. They called for: the release of political prisoners, the protection of religious rights, the freedom of speech and expression.

⁵ Following the 2008 August War, territorial integrity of Georgia remains an open and unresolved issue.

⁶ Georgia is a signatory of a number of international treaties and conventions that guarantee religious freedom. In particular, in 1994 Georgia ratified the International Covenant on Civil and Political Rights of 1966. In 1999 Georgia joined the European Convention on Human Rights of 1950.

In 2012 the political balance changed and a new political power won the parliamentary elections.⁷ Since Georgia gained its independence, the political elite in government has changed three times by way of revolutions, and it was the very first time that the opposition came to power through elections.

Legal Framework of Church and State Relations

From the viewpoint of legal regulation, Georgia represents an intermediate form of the separation of Church and State (see Robbers 1995).⁸ The Constitution of Georgia recognizes secular governance, and is also the most important legal document that guarantees freedom of religion. Article 9 of the Constitution states:

1. "The State shall declare complete freedom of belief and religion, as well as recognizing the special role of the Apostle Autocephalous Orthodox Church of Georgia in the history of Georgia and its independence from the State".

Equality of people regardless of their religious beliefs is guaranteed by Article 14 of the Constitution of Georgia:

Everyone is free by birth and is equal before law regardless of race, color, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence.

In 2002 a *constitutional agreement* was signed between the State and the Georgian Orthodox Church. According to this agreement, the Georgian Orthodox Church is a *legal entity under public law* and enjoys a number of benefits.⁹

The 2002 constitutional agreement between the State and the Georgian Orthodox Church is the second most important legal document after the Constitution of Georgia, and has priority over other national and international legal documents; but it is important to mention that point 2 of Article 9 *declares superiority of international law in the field of human rights over the constitutional agreement*.

⁷ The United National Movement that had been in power since 2004 was replaced by a coalition of six political parties: Georgian Dream.

⁸ Gerhard Robbers has proposed three degrees of the separation of the church and the state: *full separation* (France), partial or *intermediate separation* (Germany), and an *established church* (England).

⁹ The Patriarch has immunity, the Church has tax privileges, all churches and their land, as well as the church ruins are declared the property of the Church, the government undertook responsibility to reimburse all damages incurred by the Church during the soviet regime. There are disagreements among experts on several articles of the agreement as they consider them discriminatory. For instance, they argue that restitution should be offered not only to the Orthodox Church, but to others as well. Also there are disputes over items belonging to cultural heritage, icons, relics that are currently placed in museums. The constitutional agreement recognizes mutual ownership of the state and the Church over these items, but their placement as well as the issues related to their management is a subject of disagreement.

The General Education law of 2005 guaranteed the establishment of a neutral and non-discriminative environment in Georgian schools (Article 13)¹⁰ and the protection of religious rights of pupils, teachers and parents (Article 18).¹¹

The need to legally regulate activities of religious organizations by adopting a respective law was one of the many challenges Georgia faced in the post-independence period. However such legal regulation proved a very difficult task, as the subject of religion was too sensitive and because the activities of religious organizations were viewed with much skepticism in the 1990s.

After 2005 religious organizations were registered in Georgia as legal entities under private law. Far from being content with such a status, however, such organizations preferred to register as a foundation or a non-profit organization (Abashidze 2007). That is why the national legislation was amended in 2011 to change the status of religious organizations in Georgia. On July 5, 2011, the Parliament of Georgia adopted an amendment to Article 1509 of the Civil Code of Georgia, thus enabling those religious organizations that had historical links to Georgia or were registered in any member state of the Council of Europe to register as legal entities under public law.¹²

Religious Transformation

Contemporary secular theories try to explain the *comeback of religion* (Riesebrodt 2000) in modern society with the transformation of religion (Luckmann 1993) and deinstitutionalization of religion (Gabriel 1996). Religions have acquired new forms and have become increasingly influential actors in society in recent times. The concept of the privatization of religion, as a sine qua non for successful modernization, gained a new meaning and importance in the 1960s. New forms of religion and religiousness that emerged in modern (secular) societies led Luckmann (1963) and Berger (1973) to reflect on the changing role and function of religion in a modern society. The “trace” of religion can be found in political processes and cultural identity and values. More importantly, religion has become a major actor of public life (Habermas 2001; Casanova 1994; Taylor 2007). The return of religion to the public space is a phenomenon which has clashed with the paradigm of secularism. Along with the classical theory of secularism, “Disenchantment of the World”

¹⁰ Article 13, 6:6 Schools are responsible for protecting and supporting tolerance and mutual respect among pupils, parents and teachers; regardless of their social, ethnic, religious, linguistic and ideological affiliation.

¹¹ Pupils, parents and teachers enjoy the freedom of faith, belief and conscience, and have the right to choose and change their faith.

¹² As a result of 2005 amendments to the Civil Code of Georgia, religious organizations can be registered as non-profit organizations with the status of legal entities under private law. Besides this amendment, religious organizations expressed dissatisfaction with registering religious organizations as NGOs. The 2011 amendment is a step forward, but quite superficial as it only changes the name of the status and does not provide religious organizations with all benefits that can be offered with the status of legal entities under public law.

in the sense of Max Weber, there is now an actual new paradigm “De-secularization of the World” (Berger 1999).

Religion largely determines and reinforces the identity of a modern Georgian and therefore, religious opinions and related issues have played a significant role in the national discourse. Apart from the growth of individual religiousness, the increasingly active involvement of the Church in social and political processes is another sign of religious resurgence. The extremely high level of trust in religion and the Georgian Orthodox Church does not indicate ‘deinstitutionalization’ as in western society. We assume there are other processes of transformation of Religiosity, Differentiation and Secularization occurring in Georgia where the process of rising religiousness and the increasing role of the Church was supported by the “breakout” from secular soviet ideology, the *ideological vacuum* in the post-communist period and the distrust toward the new political system. In Soviet times religions were stigmatized. The fall of Communism gave them independence and opened up opportunities for recovery and revival (Pollack et al. 1998).¹³ In addition, religion was considered an important part of *national identity* in Georgia. In the post-independence period the Church has played an increasingly important role in the national discourse. The fact that religion and ethnic identity are closely intertwined has bolstered loyalty towards the Church, which has accumulated a substantial symbolic capital: the Georgian Patriarch, the Orthodox clergy, religious and national traditions are highly respected by a considerable number of Georgian citizens nowadays.

Alongside other factors the above can explain the dominance of religion in self-identification both during and following periods of crisis.¹⁴

Religion is visible, as seen in the increased number of people participating in religious services, the majority of which are young people, religious education becoming an area of intense academic and public interest (especially during the 1990s), the increased authority of religious leaders, the closer alignment of the Church and the State, the use of religion as an instrument in political affairs and the increased influence of religion (the Church) on different spheres of public life.¹⁵

One of the specific features of this religious resurgence is the upsurge of religiousness at both the individual and institutional level. All recent surveys indicate that the Church is the most trusted public institution (86% approval rate), while the Patriarch is the most respected leader (90%) in Georgia.¹⁶

¹³ The theory of modernization predicted that Eastern European countries would adopt the western model of modernization. In post-communist countries, however, this process led to the resurgence of religion and the rise of nationalism.

¹⁴ The merging of religious and national identities arose in the post-communist period and the formula of national identity became: “Homeland, Language, Religion”

¹⁵ All recent surveys show that the Church is the most trusted public institution (86%) and the Patriarch is the most trusted person (90%) in Georgia. National Democratic Institute (NDI), Public attitudes towards elections in Georgia: Results of an April 2010. http://www.ndi.org/files/Georgia_Public_Opinion_0410.pdf

¹⁶ ib.

Today the Church is the most “visible” actor in Georgia’s public life. Its role is the topic of frequent discussions in media and social networks. The rising role of religion is gradually taking on the characteristics of a *public religion* (Casanova 1994). But this process has brought both risks and opportunities. The Patriarch’s willingness to act as a mediator to calm political tensions in the country is one example of the Church’s positive role in society. However this is controversial as the Church and the State have become more closely aligned in Georgia in recent times, the Church has managed to gain dominance in certain spheres (in Georgia),¹⁷ such as the protection of cultural heritage and the issue of religious associations.

Protection of Human Rights—the Path Towards Democratisation

Successful democratization and the protection of human rights are interdependent themes—one is the prerequisite of the other. In the early post-independent years Georgia was engulfed in social and political turmoil, which plunged the country into deep crisis. Public awareness of human rights and democracy, as well as public confidence in democratic institutions, was very low at that time. This period saw the greatest number of human rights violations in Georgia. Since the country embarked on a path towards stability and democratization, however, human rights have been given increasingly greater attention.¹⁸ As mentioned above, dramatic political change, including in the field of human rights (especially with regard to freedom of religion), took place in Georgia after the Rose Revolution. From a legislative viewpoint, the law on gender equality, approved by parliament in March 2010, was a significant positive development (Law on Gender Equality of Georgia 2010).

Two dimensions of human rights are especially important, namely whether the level of public awareness is sufficiently high, and whether the country’s legislation includes laws to protect the civil rights and liberties of its citizens. In the past 2 years Georgia has made noticeable progress in this respect. Recent sociological surveys have shown that public awareness of human rights has clearly risen in the country, as has public confidence in the ombudsman’s office, which is now more trusted than the government, parliament and political parties. But the Georgian Orthodox Church remains the most trusted institution (Sumbadze 2012, 40). The general public, especially young people attach greater significance to human rights today than they did in the past (South Caucasus Bureau of Konrad Adenauer Foundation 2008). The latest events are a good illustration of this change in attitude. The leaked video

¹⁷ While in Russia the state has a certain amount of influence on the Church, particularly on the Synod’s decision-making, the Georgian state seeks to be loyal to the Church, aware of its popularity in society and ability to influence public opinion.

¹⁸ Georgia’s admission to the Council of Europe in 1999 was the first positive achievement. It became possible due to successful preceding efforts to harmonize the national legislation and improve the human rights record.

evidence of prison torture, broadcast by leading Georgian TV channels, triggered mass protests across the country. The large-scale protest campaign “No Torture”, spearheaded by university students, lasted several days.

Despite some positive developments, however, there is still a long way to go before human rights are adequately protected in Georgia. Human rights watchdogs have repeatedly reported the following human rights violations in the country: ill-treatment of prisoners in penitentiary institutions, the government’s brutal crackdown on peaceful demonstrators in 2007 and 2009, and restrictions on media freedom, right to freedom of assembly and expression, The failing of protection of activists on International Day against Homophobia and Transphobia (17 May 2013) (Amnesty International 2013) (Georgian ombudsman’s annual report 2011; Human Rights Watch 2013). However, the position of religious leaders and the Church towards the protection of human rights is mostly ambivalent. Quite often, radical statements made by Church representatives become the source of social tension. The general public called for the Church to be more critical and active in protecting human rights and condemning homophobia and religious radicalism even in clerics.

Freedom of Religion—A Challenge both to Church and State

Freedom of religion is the central theme of the ongoing public debate about human rights in Georgia. It is actively discussed in the mass media, social networks and the blogging community, especially by young people.

Religious pluralism is the biggest challenge to the Georgian Orthodox Church in the modern world. After Georgia gained independence, new religious groups, including protestant groups of Evangelists and Baptists, started to emerge parallel to the process of revitalization of the Georgian Orthodox Church. Church representatives have often expressed resistance toward the proselytism carried out by protestant groups, as they believe that “religions financed by the west” constitute a “threat to the national identity”. Religious fundamentalist groups are also formed as a reaction to pluralism and modernization. A radical extremist wave consolidated under the message “orthodoxy and national identity” hit Georgia in the 1990s. Up until 2003, freedom of religion was one of the top issues in the sphere of human rights.¹⁹ For years national and international human rights activists were critical of the situation in terms of freedom of religion in Georgia (Bureau of Democracy, Human Rights and Labor, U.S. Dept. of State, 2006; International Religious Freedom Report 2008, 2011, Report of Human Rights Centre n.d.). Though the Church tried to separate itself from radical extremist groups,²⁰ its attitude toward religious pluralism and religious freedom remained skeptical and ambivalent. This attitude

¹⁹ Extremist groups were mostly attacking Jehovah Witnesses, Baptists and human rights activists fighting against violation of the rights of religious minorities.

²⁰ In 1997 the Holy Synod expelled a leader of a radical extremist group—Basil Mkalavishvili from the Church.

only served to further encourage growing fundamentalist tendencies in Georgian society.

In society as a whole, there were a range of different attitudes toward religious minorities, as there were within the Church. Indeed the Church was quite open for dialogue with religious groups historically represented in the country, while considering ‘non-traditional religions’²¹ and their missionary activities as a threat (Vashakmadze 2011).²² Until 2003 the State was quite reluctant to fight against extremism. By ‘closing its eyes’ to cases involving violations of religious freedom, the Church was reflecting the mainstream public attitude of that time. Failure to sign the concordat between the Vatican and Georgia in September 2003²³ is a vivid illustration of the dominant public attitude toward ‘other religions’ (Tarkh-nishvili 2006, p. 22).²⁴ Due to the position of the Orthodox Church and (student) protests, President Shevardnadze was reluctant to sign the prepared document. (cif. Fleischmann-Bisten 2005, p. 79)

The relationship between Church and State was transformed following the Rose Revolution of 2003. The national discourse began to refer not to a “national state”, but rather to a “modern state”, placing emphasis on the promotion of liberal values and civic awareness. Tension between the State and the Church mainly developed around the following issues: freedom of religion, the status of religious organizations and the protection of cultural heritage. All these issues are linked to the legal and symbolic public role of the Georgian Orthodox Church.

The protection of religious freedom and the integration of religious and ethnic minorities became one of the main concerns in the sphere of human rights for the new political elite, as well as a personal one for President Saakashvili. A leader of a radical extremist group was arrested and expression of religious extremism restrained.

The Holy Synod’s resolution (14.12.2004) demonstrates how sensitive the theme of freedom of religion, expression and speech is for the Church. On the one hand, it condemns radicalism and intolerance, actually acknowledging the importance of human rights, while on the other hand, it is skeptical about the activities of human rights organizations, emphasizing that human rights, democracy and freedom

²¹ Non-traditional religions are considered to be denominations that entered Georgia in the twentieth century, especially after the collapse of the Soviet Union, for example, Protestant denominations and Jehovah’s Witness. “Traditional religions” are: Catholicism, Judaism, Islam, and Armenian Gregorian Church. In other words, traditional religions are considered to be those religions that have been present in Georgia for several centuries.

²² The 1995 Synod Decree requested the state to impose restrictions on the activities of different religious groups as they were “financially supported from abroad”, and constituted a threat to the dominant religion in Georgia. The same decree emphasized the peaceful cohabitation among major traditional religions.

²³ Dominance of ambivalent attitudes in the Church illustrates a discrepancy between internal conservative and modern groups that resulted in failure to arrange a meeting between the Patriarch and Pope John Paul II in 2002.

²⁴ Results of surveys illustrate public trust toward traditional religions. The highest index of distrust is expressed toward Jehovah Witnesses. In general, more than half of respondents support the idea of imposing restrictions on activities of other religions.

of speech are no excuse for defying the Church's rules, traditions and hierarchy (Vashakmadze 2011, p. 127).²⁵ The Church supports the democratization process in Georgia, as exemplified by the Patriarch's hailing of Georgia's acceptance to the Council of Europe in 1998. However, various aspects of the democratization and modernization process remain a challenge for the Church.

One of the most recent public disputes was sparked by a proposal to rebuild a mosque in Batumi. The issues related to reconstruction of Aziziye mosque in Batumi brought the stereotypes and problems of integration related to Islam to the surface. Two opposing views were expressed regarding the reconstruction of an old mosque that was destroyed during the Soviet regime.²⁶ One was voiced by the Church and its supporters, who strongly objected to the proposal,²⁷ arguing that the emergence of a new mosque could provoke a conflict between the Orthodox and Muslim communities of Georgia. Some of them went even further by stating that the mosque would become a symbol of "Ottoman dominance", (Tsuladze n.d., Georgian Patriarchat n.d.) The other view, shared by cultural workers, human rights organizations and the government, was that Georgia should respect freedom of religion, arguing that along with Orthodox churches, mosques were also part of the Georgian cultural heritage.²⁸ This protest from certain groups of the Church and public is seemingly strange, considering the fact, that in Georgia, were Muslims reside, mosques are functioning and are also built. In this case, the wave of protests stemmed out from the efforts of the Georgian Orthodox Church to be included in the decision making process related to such issues on the one hand, and echoed the religious-nationalist-radical tendencies gaining momentum in the broader Georgian public, on the other.

Freedom of religion came to the fore again in July 2011, when Article 1509 of the Civil Code was amended to allow religious organizations to register as legal entities under public law. Public debates over the adoption of laws concerning religion, as well as granting the status of a legal entity under public law to religious minorities are vivid illustrations of the ambivalent position of the Church. The Georgian Orthodox Church requested a postponement of the adoption of the law on religion that in practice meant its cancellation. The Church Representatives felt that the law might threaten and diminish the dominant role of the Georgian Orthodox Church ("no other religion should be equal to the religion of majority"—Orthodox

²⁵ Sinod's resolution was in fact the Church's response to those priests and anti-clerical campaigners who criticized the Church's anti-modernist policies.

²⁶ The construction of a new mosque is the subject of negotiations between Georgia and Turkey over the parity agreement. According to the agreement, Georgia was given the opportunity to restore four early Christian Georgian churches on the territory of Turkey, while Turkey was given the right to restore three mosques and build one new mosque in south western Georgia where the majority of Georgian Muslims are concentrated.

²⁷ Cf. debate on whether to build a cultural center and mosque near Ground Zero in New York (Tarkhnishvili 2006).

²⁸ "Those who argue that a mosque should not be built in Batumi argue that 10% of Georgian population should not be living here"; President Saakashvili stated in a Georgian TV-Project (GPB) on Jan. 26, 2011.

Christianity).²⁹ The public debates revealed fundamentalist ideas that were enrooted in society in July 2011. Radical groups organized protests against the adoption of the law.

In an effort to ease the tensions representatives of the Patriarchate met with a group of Georgian MPs to discuss potential solutions to the problem. As a result of the talks, the Synod issued a compromise resolution on July 11, 2011, which said that

“Whilst the Georgian Orthodox Church accepts and respects universal norms and values enshrined in international conventions and the Constitution of Georgia, it declares that all Georgian citizens regardless of their religion, as well as every religious organization, are equal before the law. Religious freedom shall not depend on the membership of a congregation. According to the Constitution of Georgia and the Concordat, which represents the will of the Georgian people, the exclusive legal status of the Georgian Autocephalous Orthodox Church by no means restricts or denies freedom of worship and equality before the law of other religious associations.” (Statement of Holy Synode 2011)

This clarification could be seen as the recognition of freedom of religion and equal rights of all religious organizations. This statement was a step forward. But its implementation remains a serious challenge to the Church itself, and is causing additional tension in Georgia’s social-political life. In a modern pluralistic society it will be put to the test every day.

Though nowadays radicalism is less articulated than in the 1990s dissent by radical young people and fundamentalist religious leaders are increasing parallel to increased secular tendencies. Such dissent is directed against homosexuals, human rights activists and religious minorities (Sumbadze 2012, p. 42).

Youth and Religion

The period after the Rose Revolution may be termed a time of ‘culture struggle’ between traditional and modern ideologies, as well as between religious and secular values.³⁰ Current affairs look quite eclectic when observing the social and political development of the country together with the system of values held by the majority of the population. There is a mixture of traditional, secular and post-secular tendencies and characteristics (Zedania 2006; 2007). Religiosity among the Georgian youth is quite strong. As illustrated by the latest surveys, religion occupies a significant place in social life and is important for their identities (Sumbadze 2012). Religion

²⁹ Church leaders claimed that this process could harm the Church’s interests. “... just the state is to be held responsible for negative consequences the law will bring very soon”, “About Changes in Civil Code” <http://www.ambioni.ge/sakanonmdeblo-cvilebebis-sesaxeb>, last access: 10.02.2013

³⁰ Lately the Church has been less loyal toward the state due to its secular policy. But religion remains a source of legitimacy for Georgian politicians and the state tries to maintain “good relations” with the Church. The inauguration of the president in the cathedral by the Patriarch is one of the symbolic representations of this tendency.

is very important for young people, a significant majority of the respondents believe in God (96.7%) and in sin (83.0%). Most of the Georgian churchgoers are young people. Their lifestyle is greatly influenced by religion. They strictly adhere to religious practices and traditions (regularly attend religious services, make confession, and observe religious fasts and holidays). They tend to think that religion is not only a private matter, for them it is an essential element of their social status. It is a source of their self-identification. The majority of respondents (65.9%) believe that being Christian is more important for their self-identification than being a citizen of Georgia (34.1 %) (Sumbadze 2012, 55).

Georgia is an obvious case of the “*de-privatization of religion*” (Casanova 1994). In 2010 a group of students requested the creation of a space for prayer at Ilia State University. The rector denied the request on the grounds of the university being a neutral, secular public institution. The denial was followed by protests organized by the students.

Religion is a sphere of social activism and engagement for young people. It should be noted that all active public groups whether promoting human rights or a particular religion are mainly composed of young people. The active role taken by young people in the protest demonstrations of September 2012, sparked by the prison abuse scandal, is a good case in point. It is important to mention that the different groups expressing secular and religious fundamentalist ideas are mainly composed of young people.

Young people were also actively involved in the 2012 and 2013 International Day against Homophobia campaign in Tbilisi, denouncing violence, harassment and discriminatory treatment of the LGBT community. The event in the 2013 was cut short by a throng of angry counter-protesters. The attackers of the May 17th event were accompanied and encouraged by the religious authorities from the Georgian Orthodox Church. In recent years young people have actively participated in the country’s social and political life. Research indicates that young people tend to be more radical and intolerant towards the LGBT community and religious minorities than older generations (Sumbadze 2012, p. 42). At the same time, it should also be mentioned that youth participation in demonstrations and campaigns against human rights violations has risen strongly in recent times. They actively socialize online and comment on ongoing political processes using various social networks. Religion plays a pivotal role in youth mobilization, both for radical young people and advocates of freedom of religion.

Recent studies have shown that gender equality and tolerance toward minorities is higher among young people, however acceptance of religious minorities proves to be the exception. Here young people are less tolerant (ibid.). Whether the rising religiousness of young people is a kind of defense mechanism against modernization, or an attempt by religion to adapt to the realities of the (post)modern era requires a more in depth-analysis.

Conclusion

After regaining independence Georgia began a systemic transformation, a process that was at times turbulent and painful. Democratization required that the old Communist system be dismantled and replaced with a completely new political and economic structure, and a new, different set of values.³¹ As in the post-communist countries of Eastern Europe, the process was accompanied by the revival of nationalism and old traditions. The clash between the old and the new, traditionalism and modernism is still reflected in Georgian society today. The results of surveys indicate a strengthening of democratic values. Young people are keener on anticlerical and secular ideas. We are witnessing the process of the transformation of values, but religiousness re-mains a dominant feature of Georgian youth. It is expressed in diminishing collective orientation and strengthening individualistic values (Sumbadze 2012, p. 61).

As mentioned at the beginning of this paper, the country's unique historical and cultural background, specific relations between the Church and the State have had a strong impact on the ongoing process of modernization and secularization in Georgia (cf. Beck 2008, p. 58; Eisenstadt 2002). Religion has gained dominance in the national narrative and filled the ideological vacuum caused by the fall of communism. The nationalization of religion, so tempting for Orthodox churches (Kallis 2008, p. 162),³² and anti-modernism tendencies make it hard for the Church to find its place and rethink its role in a modern society. Post-communist political and religious transformation is a serious challenge to religions. First and foremost, it is about freedom of religion. Every religion claims to be the only truth and the only universal value. But this makes it difficult to adopt the principle of pluralism. The Orthodox Christian Church's attitude towards human rights is eclectic and it requires in-depth analysis. In a pluralistic and secular society, religion is only one of the actors, not a monopolist, though it may be offered the roles of peacemaker and advocate of social, ethnic and human rights.

The development of Georgian society has been a heterogeneous process. The latest processes in the country demonstrated that there are both radical and moderate (pro-human rights) groups of religious young people in the country. The Georgian Orthodox Church has accumulated significant symbolic capital, and has a strong influence on the public discourse, and especially on the mentality and behavior of young people. It is noteworthy that although young people define their ethnic identity on the basis of *religion, language and history*, their awareness of human rights and democracy has substantially increased in recent times (South Caucasus Bureau of Konrad Adenauer Foundation 2008).

³¹ This period can be described as the "second wave" of modernization (the first wave refers to Soviet-time transformation: industrialization and urbanization), aimed at building new political institutions and a functional civil society.

³² The nationalization of religion and phyletism are incompatible with the Orthodox theological tradition.

From this viewpoint it becomes more relevant whether and how religion promotes and encourages respect for human rights (Clement 1997).³³ The mentioned ambivalence can be traced to the social transformation, the ambivalent nature of modernism itself (ibid.; Baumann 1991) and the Church's mixed attitude towards the new realities. According to Patriarch Leonid (1918–1921), personal freedom is the chief Christian value (Georgian Patriarchs 2010). The views and values of the Georgian church leaders of the early twentieth century should come to the fore again today, especially regarding their stance on the relationship between the Church and the State, according to which religion has its own foundation and, therefore, the Church and the State should be regarded as two different institutions, independent of each other, with each of them having its own sphere of action (ibid.). It remains to be seen whether the views of the Georgian Patriarchs will prevail over radical tendencies.

It can be concluded that today's Georgia is a vivid illustration of the ongoing clash of the values of pre-modern (traditional) and modern (individualized, secularized) and at the same time post-modern (pluralist, religious revivalist) society. This challenge concerns both the Church and the State, religious and non-religious citizens.

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³³ The French Orthodox theologian Olivier Clement attached great importance to Patriarch Bartholomew's view that respect for "others" and freedom of the soul and all other positive values of a pluralistic democracy are rooted in a biblical understanding of the human person. (quoted on the basis of a Georgian translation of the original text).

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Human Rights and Religion in Germany

Alexander Unser and Hans-Georg Ziebertz

Abstract This article reflects on the relation of religion and human rights in Germany. How is religion covered in debates about human rights and how are religious communities involved in public debates? Does the religiosity of German youths have an impact on their attitudes towards human rights? To answer those questions a short review on important public debates about human rights in Germany is outlined, concentrating especially on those that relate to religions or religious communities. Then some data concerning the religious sphere in Germany are presented to illustrate which religious communities are part of the majority and which are minorities in society; followed by an overview on the statements of religious communities on human rights, discussing empirical studies demonstrating that especially Muslims are discriminated because of their religion or ethnical background. Finally data showing how German youths reflect on human rights are presented. The main findings indicate that there are a couple of significant differences between Christians' and Muslims' attitudes toward human rights. However, those differences decrease if only highly religious youths are considered. The residual differences could be explained by the different social situations of Christian and Muslim youths in Germany.

On April 25, 2013 a delegation of the Federal Republic of Germany came up for a hearing to the Human Rights Council of the United Nations in Geneva. This hearing was part of a periodic review and therefore obligatory for all UN member states. The evaluation committee confronted the German delegation with the following problems: racism in German society and public institutions, violated rights of asylum seekers and migrants, violated rights of women, especially in cases of equal job opportunities and discrimination because of religion, sexual orientation, age and disability. Public comments found it remarkable that representatives from China and North-Korea were pushing these questions, but regardless of the composition of the committee one can seriously consider how rights in this field are protected. In the following we will briefly review the public debate on human rights in Germany. Further on we will present some data concerning the religious sphere and

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pay attention to the question of whether discrimination takes place because of religious affiliation and ethnic background. Finally we present selected data how youth reflect on human rights and finish with a short outlook.

Human Rights Questioned in Germany

In its first nineteen articles the German constitution [Grundgesetz, GG] ensures every person inalienable human rights. These rights are valid, independent from, for example, the status of citizenship, race, sex and age; they legally bind the further legislation, the executive authority and the judiciary. These rights are enforceable in court (Art. 1 (3) GG) and it is illegal to modify or delete any of them (Art 79 (3) GG). The German constitution guarantees every person amongst others the right to life (Art. 2 (2) GG), freedom of speech (Art. 5 GG), freedom of religion (Art. 4 GG), the right to a fair trial (Art. 3 GG), the right of asylum in special cases (Art. 16a GG), and it interdicts discrimination because of sex, race, religion, disability, etc. (Art. 3 (3) GG).

The elevated position of these rights at the beginning of the German constitution clarifies that these rights are the fundament of governmental and public action of the Federal Republic of Germany (Kröger 1993, p. 33). The constitution and its architecture were developed to counterpoint the experience of injustice and contempt of humanity during the Nazi-era (Kröger 1993, p. 24). The fundamental rights are specified by further laws, e.g. the General Equal Treatment Act [Allgemeines Gleich-behandlungsgesetz] from 2006. It interdicts discrimination because of ethnicity, sex, religion, disability, age and sexual orientation in cases of access to a job, to social welfare and to education. In general, Germany belongs to those countries where human rights are protected and individuals can trust in courts when claiming a right. Nevertheless there are cases in which the status of human rights is under discussion or completely out of sight. We will refer to a few examples.

Right of Asylum

53,347 people requested asylum in Germany in 2011. But only 652 of those (2.0%) were granted asylum with regard to Art. 16a GG and 9023 people (27.0%) were granted security for refugees according to the Geneva Convention on Refugees and the German Residence Act [Aufenthaltsgesetz] (Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration 2012, p. 273). 130,297 persons granted asylum lived in Germany in 2010 (Statistisches Bundesamt 2013, p. 9) and the government estimates the number of illegal migrants in 2011 up to 600,000 (Statistisches Bundesamt 2013, p. 79).

One of the major problems of the German asylum policy is that regularly many asylum seekers are deported to their home countries, even when they face threats,

torture or prosecution in their home countries. This practice is continuously criticized by human rights organizations such as Amnesty International (2013, p. 113). Rejected asylum seekers can be put in detention centers pending deportation. In 2011 around 7000 people were held in custody which can last up to 18 months (Amnesty International 2012, p. 6). Several human rights' organizations designate this practice as a violation of the human right to asylum (Deutsches Institut für Menschenrechte 2012, p. 8). It is obvious that this policy increases the number of those who take refuge in illegality, even though they cannot receive medical care and their children cannot attend school or kindergarten because institutions (like hospitals and schools) are obligated since 2009 to report any cases of illegality to the authorities (Deutsches Institut für Menschenrechte 2013, p. 9).

But even the rights of those who received legal asylum status are restricted. They are not allowed to leave the county [Landkreis] nor to take up employment in the first year. They have to stay in asylum-hostels where they have to share a room with up to eight or more others. For a certain period they only get non-cash benefits (food, soap, shampoo, clothes etc.). In 2012 this practice caused (for the first time) a national protest-march of asylum seekers from different areas of Germany to Berlin. And in July of the same year the Federal Constitution Court [Bundesverfassungsgericht] decided that social benefits for asylum-seekers were against the law, or, to be more precise, that they violate their human dignity whose protection is guaranteed for every person in Art. 1 GG. The legislature now has to revise the "German social welfare law for asylum seekers" [Asylbewerberleistungsgesetz] from 1993 (Amnesty International 2012, p. 6).

Racism and Discrimination

Discrimination against foreigners or people with a migrant background is a problem in many multicultural countries. It becomes especially difficult when the police and other public authorities are involved. A small right-wing terrorist group (the so-called NSU: National Socialist Underground [Nationalsozialistischer Untergrund]) is on trial at present (2013) because they are responsible for the murder of ten people, mainly with a Turkish migration background, between 2000 and 2007. For a long time the police assumed that these murders were caused by an inner-ethnic conflict and racist motives were not taken into account. Only when two members of the NSU had committed suicide on November 4th 2011 the police realized that right-wing connections did in fact exist. The scandal increased when it became known that several intelligence services in Germany collected relevant information about the NSU, but did not communicate it. Migrant organizations in Germany have complained that people with a migration background apparently cannot trust public authorities to protect their rights in the same way as native Germans. During a hearing of the Human Rights' Council in Geneva the representative of Great Britain expressed his concern that institutional racism was one reason for the inadequate investigation (The United Nations Human Rights Council 2013, p. 9). This, however,

was not the only time that the German police were confronted with accusations of institutional racism. In 2012 it became known that “ethnic profiling” (a way of singling out people for identity or security checks because of their ethnicity and not because of a reasonable suspicion) was practiced—a practice that is not accepted by the European Human Rights’ Court and the UN Human Rights’ Council but was approved by a German Court (Deutsches Institut für Menschenrechte 2013, p. 4). Institutional racism occurs in the education system when teachers judge pupils according to their ethnicity and minority groups face discrimination (Gomolla and Radtke 2009). Non-institutional racism happens in acts of violence motivated by a xenophobic attitude. In 2004 German authorities reported 368 xenophobic acts of violence, however, the real number is probably much higher than that. (Geißler 2011, p. 247). Between one fourth and one third of the members of ethnic minorities stated in 2011 that they had been insulted, harassed or attacked out of xenophobic reasons (ibid.). Even though this number has to be quoted with caution, there is no doubt that a certain level of xenophobic attitudes exists in the German society (see Gross and Ziebertz 2009).

Religious Freedom

The German constitution guarantees freedom of religion to individuals and religious institutions, or to be precise: the constitution assumes that individual religious practices are embedded in the tradition of a specific religious institution. What that religious practice exactly is (and what is therefore protected by the freedom of religion) and is not, should be defined by the relevant religious institution (Lepsius 2006, pp. 326–327). This understanding of the freedom of religion has a historical basis.

Even during the Wilhelminian Empire (1871–1918) the bourgeoisie insisted that an autonomous self-organized public sphere should exist. The two major Christian churches, as the dominant religious institutions, oversaw the religious field. When the Federal Republic of Germany was established in 1949 the members of the Parliamentary Council who were appointed to elaborate a new constitution, referred to the idea of a self-organized public sphere (Lepsius 2006, p. 330). The lesson was learned that the state should never again define any kind of national ideology whatsoever. The Christian churches received the status of “public bodies”; they are mentioned *expressis verbis* in the constitution relating religious freedom. This, of course, cannot be compared to the understanding of the freedom of religion in the US that focusses on the individual (Lepsius 2006, p. 330). As the awareness of religious pluralism increases, it has to be determined which religious group can be considered to be a religious community in a legal sense and which practice may be called “religious”. Nowadays about 30 religious communities are acknowledged. Several others claim acknowledgement, but this is being denied, a prominent example is the organization of Scientology.

In Germany the distinction between freedom from and freedom for religion is very common and we present a few examples below to explain what kind of discussions are taking place when conflicts arise.¹

Freedom from Religion

Topics which have caused tensions in Germany are quite similar to those in other European countries. We will just refer to one controversial debate in the 1990s. The problem whether crucifixes in Bavarian classrooms offend the negative freedom of religion of pupils received public attention. The education act of Bavaria from 1983 made it compulsory to put a crucifix in every classroom in Bavaria. In 1991 a couple of parents appealed against that because they feared that the children's negative right granting protection from confrontation with religious symbols was thereby restricted (Wiedemann 2012, p. 142). In May 1995 the Federal Constitution Court decided that a crucifix in the classroom certainly would offend the negative freedom of religion of those pupils who do not share the Christian belief, since a crucifix is not only a cultural symbol, but a symbol of a religious tradition as well, as the court stated (Wiedemann 2012, p. 146). The government of Bavaria then changed the Bavarian education act: Crucifixes in classrooms should now be considered as "normal", however, if a pupil (or, respectively, his/her parents) could reasonably express that their freedom from religion is thus offended, the crucifix has to be removed (Wiedemann 2012, pp. 151–152).

Freedom of Religion

Conflicts about the freedom of religion often concern Islamic religious practices, for instance if a Muslim teacher wearing a head-scarf wants to teach in public schools. The federal state Baden-Wuerttemberg refused to employ a teacher who insisted on wearing the scarf in 1999. The main argument was that this would violate the religious neutrality of school and state. The public discussion heated up though when it was further discussed whether the scarf can be regarded as religious or as a political symbol, which would imply the repression of women in Islam (Lepsius 2006, p. 331). The Muslim teacher sued the state, and the Federal Constitution Court ruled that a special law was required to ban head-scarves for teachers. In 2004 the education act of Baden-Wuerttemberg was modified with the addition: „Teachers in public schools [...] are not allowed to give a political, religious, ideological or similar opinion in school [...]. Especially is it out of order to act in a way so that pupils or parents become convinced that a teacher acts against human dignity or equality of all people (GG Art. 3) [...]”² (SchG BW § 38 (2)). Eight of the sixteen federal states introduced a law banning teachers from wearing a head-scarf in public schools into the parliament (European Commission against Racism and Intolerance 2009, p. 36).

¹ More examples are presented in Ziebertz (2014).

² Translated by the authors.

There are many other cases in which the right of freedom of religion, the positive as well as the negative, has a high potential for conflict: Should prayer in school be allowed? Are Muslim parents allowed to excuse their daughters from gym or swimming lessons? Should it be allowed to build mosques, and if yes, with or without a minaret? Should it be allowed to practice circumcision?³ What about the halal slaughter of animals?

Due to the increasing religious heterogeneity in Germany, it is no longer self-evident what freedom of religions in practice exactly means. Can religious majorities and minorities both claim this right? Is the equality of both granted before the law? Especially regarding Muslims we have to state that in addition to the low acceptance of some of their religious practices by society (Rottleuthner and Mahlmann 2011, p. 141; Leibold and Kühnel 2006, pp. 141–145) there is a legal disadvantage because Islam is not organized like the Christian Churches and many of the Muslim communities do not meet the required criteria to receive the status of a public body (Kloepfer 2006, p. 52).

Religion in Germany

About 80.5 million people live in Germany (2013). 50.5 million of them belong to one of the Christian Churches and nearly 4 million are Muslims. The other religious communities have significantly less members; the biggest of them are Buddhism (ca. 270,000), Judaism (ca. 198,000), Jehovah's Witnesses (ca. 167,000), and Hinduism (ca. 120,000). About 25.2 million people do not belong to any religious community.⁴

When we look at Table 1, we can see that the majority (nearly two thirds) are Christians. All other religious communities are minorities in Germany, the biggest of them are the Muslims (nearly 5%) and Islam is often in the focus of public debates⁵ since most autochthonous Germans equate Islam and the Muslims with the foreign and the strange (Asbrock et al. 2006, p. 164).

People without any religious affiliation have to be taken into account, as well, because with nearly one-third of all inhabitants they are the second biggest group

Table 1 Religious affiliation in Germany (%). (Source: REMID 2013)

Christianity	62.73
Islam	4.97
Others	0.99
No religion	31.31

³ With regard to the debate about circumcision see Heil and Kramer (2012)

⁴ It is difficult to present exact numbers of the religious affiliation in Germany as there are no standardized proceedings to register somebody as a member of a religious community. Only the big Christian Churches and the Jewish communities register their members and publish the data. That is why we refer in this article to the estimations of REMID (2013).

⁵ The Jews are the second public significant religious minority even though they are only about 0.25%. But it is a broad political consensus that Germany has a special duty and responsibility to them because of the Nazi era.

Table 2 Church membership within the Christians in Germany (%). (Source: REMID 2013)

Roman Catholic	48.46
Protestant-Lutheran Churches	46.77
Other Christian Churches	4.77

Table 3 Dominant Islamic traditions within the Muslims in Germany (%). (Source: REMID 2013)

Sunnites	66.00
Alevis	12.50
Shiites	5.64
Other traditions	15.86

in Germany. There are, however, significant differences between the federal states. In Eastern German states (the former German Democratic Republic) there is a high percentage of people without any religious affiliation. The *Religionsmonitor 2008* estimates that in Eastern Germany about 68% do not belong to any religious community, contrary to the situation in Western Germany where only 15% have no religious affiliation (Gabriel 2009, p. 103). The small number of those with a religious affiliation in Eastern Germany⁶ is mainly due to the atheist ideology of Marxism-Leninism in the former GDR (Petzoldt 2009, p. 130).

About 95% of the Christians either belong to the Roman Catholic church (about 24.5 million) or to one of the Protestant Lutheran churches (about 23.6 million). Table 2 shows that less than 5% of the Christians belong to another Christian church or community. The largest among them are the Greek Orthodox Church (about 450,000), the New Apostolic Church (about 350,000), the Romanian Orthodox Church (about 300,000) and the Baptist Churches (about 290,000).

The Roman Catholic and the Protestant Lutheran churches have therefore considerable influence on the image of Christianity in Germany. Altogether about 60% of the inhabitants of Germany are members of either the Roman Catholic or one of the Protestant Lutheran churches. But within these churches there is a wide range of plurality: the observing of rules concerning religious services, ideologies and moral values varies a lot (Gabriel 2009, p. 102).

Nearly 5% of the people living in Germany (about 4 million) are Muslims. Table 3 shows which Islamic traditions currently exist in Germany. Most of the Muslims are Sunnites (about 2.6 million), followed by Alevis (about 500,000) and Shiites (about 225,500).

Islam is in Germany often regarded as a foreign religion. Most of the Muslims living in Germany have a migration background causing discrimination and disadvantages. With regard to their social position we first have to distinguish between those Muslims who are German citizens and those who are not. Their citizenship determines their legal status and their access to several socio-political rights (i.e. the right to vote, a better legal status).

⁶ In the Eastern federal states only 23% belong to the Protestant-Lutheran Church and only 7% to the Roman-Catholic Church (see Petzoldt 2009, p. 126).

Table 4 Migration background of Muslims with German citizenship (%). (Source: Bundesamt für Migration und Flüchtlinge 2009, p. 76)

Turkish	60.62
Yugoslavian	10.91
Moroccan	7.53
Lebanese	5.32
Afghan	3.12
Iraqi	3.09
Others	9.41

About 46% of the Muslims are German citizens and, except for a few converts,⁷ most of them have a migration background (see Table 4). The huge majority comes from Turkey (1.05 millions), former Yugoslavia (190,000), Morocco (130,000), the Lebanon (92,000), Afghanistan (54,000), and Iraq (54,000). In general, Muslims who hold the German citizenship have a higher level of education and therefore better jobs and a higher income than those without the German citizenship (Geißler 2011, p. 238).

54% of the Muslims living in Germany do not have the German citizenship (see Table 5). Their nationality is to a large extent distributed over the following countries: Turkey (about 1.5 millions), former Yugoslavia (about 347,000), Iraq (about 44,000), the Lebanon (about 35,000), Afghanistan (about 35,000), Iran (about 33,000), and Morocco (about 33,000). The Muslims are usually considered to be Turkish Sunnites in the public image (Asbrock et al. 2006, p. 164; Leibold and Kühnel 2006, p. 141 and 144) because about 64% of the Muslims in Germany are Sunnites or Alevites from Turkey.

The second important distinction between the different groups of Muslims in Germany regarding their social position concerns the reason of their migration. We can distinguish the labor migrants who came to Germany between the 1950s and 1970s—mainly from Turkey and Yugoslavia. Many of them are still living in Germany with their families; most of their children and grandchildren were born here. In the 1950s, Germany was not interested in well-educated immigrants but

Table 5 Migration background of Muslims without German citizenship (%). (Source: Bundesamt für Migration und Flüchtlinge 2009, p. 68)

Turkish	71.43
Yugoslavian	16.45
Iraqi	2.10
Lebanese	1.67
Afghan	1.65
Iranian	1.56
Moroccan	0.55
Others	0.58

⁷ The number of autochthon Germans who converted to Islam is not reliable. Estimates are talking about 13,000 to 100,000 (see Bundesamt für Migration und Flüchtlinge 2009, p. 58). In the following we focus on Muslims with migration backgrounds.

was seeking unskilled laborers for the industry and the coal mines, so those migrants are mainly members of the lower working-class with a low level of education (Bundesamt für Migration und Flüchtlinge 2009, p. 229).

The situation of those Muslims who came as refugees for political (e.g. the Iranians) and economic reasons (e.g. the Moroccans) or because of a war in their home states (e.g. in the Balkans or in Iraq) to Germany is quite different (Geißler 2011, pp. 57–58) especially concerning their level of education and social background (Bundesamt für Migration und Flüchtlinge 2009, p. 212 and 220).

Religious Communities and Human Rights in Germany

Religions are actors when human rights are concerned; even though they provide religious knowledge about the legitimacy of human rights, they are also confronted with human rights' claims in the public sphere.

The Legal Status of Religions in the German Constitution

The recognition of a religious community by the state as a public body [Körperschaft des öffentlichen Rechts] is important for its legal status.⁸ The major Christian churches in Germany which are acknowledged as public bodies therefore have a number of privileges: e.g. they share the responsibility of the religious education in public schools⁹ and departments of theology at public universities in cooperation with the state. They are also acknowledged actors in the social field, including health care, and they provide chaplains to the Armed Forces for pastoral care. In turn, the churches receive financial support from the state. This so called “subsidiarity principle” illustrates that church and state in Germany are not strictly separated but cooperate, especially in the areas of education, and social and health care. Charitable organizations of the Christian Churches (“Caritas” and “Diakonie”) are the main employers within the realms of social services, with nurseries, nursing homes, hospitals, hospices, counseling services etc. In their capacity as public bodies churches raise taxes from their members (collected by the state); but they are exempt from a number of taxes themselves and they have sovereign rights within their organization, especially concerning the employee-employer relationships in

⁸ In Germany the Roman-Catholic Church and the Protestant-Lutheran Churches have the status of a public body. A few smaller religious communities have this status, as well, especially Jewish, Christian-Orthodox and Pentecostal communities (Kloepfer 2006, p. 47)

⁹ This implies shared responsibilities between the churches and the government to ensure, on the one hand, proper organization of all aspects of the public educational system (e.g. well-educated teachers, objective evaluations of the pupils' achievements, regular curricula, accommodation etc.) and on the other hand the accordance of the curriculum with the teachings of the respective religious community.

their institutions (Kloepfer 2006, p. 47) i.e., employees can be dismissed when their way of life is not conform to the moral standards of the church (esp. regarding their sexual orientation and/or re-marriage after a divorce) (Richardi 2009, p. 92). Although this is legal, those practices are questioned not only by laicist and humanist organizations but even by the church members themselves.

Islamic communities hold fewer privileges due to their organizational structure on the federal or national level, which does not comply with the German state-church law (Kloepfer 2006, p. 53). This law requires that a religious community officially represents countable members in a defined area (Kloepfer 2006, pp. 47–48). However, the institutional self-understanding of Islam does not meet these criteria. It is not always clear how Islamic communities¹⁰ in Germany define their aims: as political, social or cultural unity or as religious denomination. That does not imply that Islamic communities are excluded from the public domain, but rather that pragmatic solutions are often made. Some Islamic communities gained the status of a religious community in a legal sense and Islamic religious education in public schools has been established in several federal states. In 2013 Ahmadiyya gained the status of a public body as the very first Islamic community at all in the federal state of Hessen (Jonker 2013). However, the relationship between the state and Islamic groups is significantly more distant than that with the Christian churches.¹¹

Religions and Human Rights

The Roman Catholic Church and the Protestant Lutheran Churches have gone through a long process concerning their acceptance of human rights.¹² Especially the popes of the nineteenth century condemned the idea of human rights as an individualistic heresy (Hilpert 1991, p. 154). The idea that the individual is the subject of his own decisions—even in cases of moral values and religious beliefs—which influenced political decisions during the French Revolution was a threat for the hierarchy of the Roman Catholic Church, its political authority and religious ideology (Hilpert 1991, p. 148). Human rights were considered as an expression of an anticlerical policy and were therefore accepted as such not until the middle of the twentieth century. The first document which revealed this paradigm shift was the encyclical “Pacem in Terris” by Pope John XXIII in 1963. This was the very first

¹⁰ The biggest ones are DITIB (Turkish-Islamic Union of the institution for religion), IR (Islamic Council for the Federal Republic of Germany), Milli Görüş, IGBD (Islamic Community of the Bosnians in Germany), VIKZ (Association of the Islamic Cultural Centers), ZMD (Central Council of Muslims in Germany), and AABF (Alevism Community in Germany).

¹¹ An exception in a specific way is the relationship between the DITIB and the Turkish state. DITIB is an organization founded in 1984 by the Turkish state to take spiritual care of the Turkish Islamic labor migrants in Germany. Until now the organization is run and controlled by the Turkish Presidium for Religious Affairs, a part of the Turkish government. Today DITIB is responsible for 896 Islamic communities in Germany (Thränhardt 2011, p. 63).

¹² For a detailed overview on these learning processes see for the Roman-Catholic Church: Hilpert (1991) and for the Protestant-Lutheran Churches: Vögele (2000).

time that a church document recognized the human rights as a fundamental condition to enable all human beings to live together in peace (Hilpert 1991, p. 146). Another important step was made during the Vatican Council II (1962–1965) when the council followed the argumentation in “*Pacem in Terris*” in several documents. Especially remarkable is the declaration “*Dignitatis Humanae*” (1965) in which the Roman Catholic Church recognizes the right to freedom of religion, one of the most controversial issues during the council (Hilpert 1991, p. 14). Since “*Pacem in Terris*”, recognition and support of human rights is an important part of the Catholic social teaching.

The Protestant Lutheran Churches had reservations against the human rights, as well. Similar to the Roman Catholic Church they condemned the human rights idea as an individualistic misunderstanding of man. In the nineteenth century many Protestant theologians were skeptical about the idea of human rights because it did not regard humans as sinners (Huber 1992, p. 591). In particular, the concept that an individual has several rights just because of being a human person was not accepted until the middle of the twentieth century. In the 1950s an official document of the Protestant Lutheran Churches in Germany considered it very “catholic” that human rights refer to a concept similar to natural law; they, in contrast, emphasized that man does not have any rights of one’s own accord, but receives his dignity by the justification of God (Vögele 2000, pp. 251–252).

Today, both churches officially accept and refer to the idea of human rights. However, there are still various disagreements between the public law and church convictions. For instance: Are there any circumstances justifying an exception from the human right that life has to be protected by all means, e.g. in case of abortion and euthanasia? How far can the freedom of lifestyle be interpreted, e.g. in cases of same-sex relations? Are all the human rights binding for the church as well, e.g. freedom of expression, employees’ rights and freedom of thought—also regarding religious convictions?

A prominent example to illustrate these tensions is the case of an organist who was dismissed by the Catholic Church in 1998 because he had a child out of wedlock (Grabenwarter 2013, p. 11). This case was heard at the European Court of Human Rights (ECHR) in 2008. In Germany employees of the Christian churches must be loyal to their employer which includes a way of life that corresponds to the moral standards of the church (Richardt 2009, p. 87). In this case the ECHR regarded it as a violation of the organist’s right to respect for the private and family life (Art. 8, European Convention on Human Rights; cf. Grabenwarter 2013, p. 11).

This is only one example representing a series of conflicts between church convictions and public law. At the same time several Catholic and Protestant organizations, such as “*Justitia et Pax*”, “*Misereor*”, and “*Brot für die Welt*”, are immensely engaged in defending human rights in many parts of the world. Thus, the overall picture is rather ambivalent.

It is much more difficult to speak about the German Islamic communities’ attitudes towards human rights. First, Islam is not a uniform religion but a plural amalgamation of different traditions (like the different Christian denominations) with different schools of jurisprudence. Second, various Islamic communities in

Germany have very diverse self-conceptions, e.g. as political, social, cultural or religious groups. Third, these different groups are not organized in a hierarchical structure of authority. Therefore, it is difficult to identify “the” Islamic position regarding human rights.

Two documents are often mentioned in the international discussion about human rights and Islam: the “Universal Declaration of Human Rights in Islam” (UDHRI) (1981) and the “Cairo Declaration of Human Rights in Islam” (CDHRI) (1990). The UDHRI was passed by the Islamic Council for Europe, a private organization, and it summarizes those rights that can be deduced from the Quran (Abid 2010a, p. 128) The CDHRI was passed by the Organization of Islamic Cooperation, an international organization of 56 states with a huge Islamic majority. This declaration relativizes the validity of human rights conventions in article 24 when it states that all human rights have to be in conformity with the Sharia law (Abid 2010a, p. 129). Both documents have raised the question if Islam in general is able to accept the idea of human rights as being universally valid without any religious limitation. However, both documents are not legally binding for all Muslims.

An issue which clearly illustrates the conflict between a certain understanding of Islamic family law and the equality approach of human rights is the inequality of men and women. Issues that exemplify this problem in the public debate are the head-scarf, forced marriages and honor killings. However, a few aspects have to be stated in these debates: First, a head-scarf may or may not be a symbol of repression, there are several reasons for Muslim women to wear a scarf or not (Bundesamt für Migration und Flüchtlinge 2009, pp. 193–206). Second, most of the Islamic communities in Europe reject forced marriages with regard to relevant Hadiths (Abid 2010b, pp. 20–21) and third, honor killings have been condemned by several (Sunni and Shiite) fatwas (Abid 2010b, p. 25). It is part of a process of clarification to what extent patriarchal structures are typically Islamic or typical for other (socio-cultural) reasons (Abid 2010b, p. 12).

In addition to specific human rights issues there is a general debate if Islam is compatible with modern western societies which have developed human rights as an overarching legal system. Can Islam accept human rights as the fundament of a modern liberal state? It is obvious that there are Muslims who refer to their religion when they fight against the western society; but from a scholarly perspective one has to ask which factors influence a violent position against human rights and western society (see e.g. Riesebrodt 2000; Rittberger and Hasenclever 2005). Religion can be a factor, but in a combination with other socio-cultural, political and ethnic motives. In this perspective the overall picture on the relation between Islam and human rights is ambivalent as well.

Discrimination because of Ethnicity and Religion

Discrimination is defined as the social classification of individuals as members of a specific group (e.g. women, Muslims, foreigners) that distinguishes them. That means that those individuals are put into a specific category and treated accordingly, regardless of their own characteristic features (Scherr 2012, pp. 44–45; Mum-mendey et al. 2009, pp. 48–49). These classifications do not happen accidentally but are the result of historical relevant interpretations of the disadvantageous social positions of minority groups under the perspective of the prevailing power structure in a society (Scherr, 2006, p. 80; Degner et al. 2009, p. 77). Considering discrimination because of a specific ethnic background and religious affiliation in Germany, Muslims as a religious minority are predominantly affected.

Rottleuthner and Mahlmann could show in a German survey that 80% of those respondents, who indicated that they had been discriminated against for religious reasons, declared that it was because they were Muslims. Only 3% put their discrimination down to being Christians (Rottleuthner and Mahlmann 2011, p. 168). In the same survey 65.5% of the Muslim respondents stated that they were discriminated against during the last year (Rottleuthner and Mahlmann 2011, pp. 138–139). In comparison with other migrant groups Muslims are significantly more often discriminated against (Rottleuthner and Mahlmann 2011, p. 139). 45% of the Muslim respondents think that they are disapproved of in Germany, and 55% experience a collective social exclusion (Rottleuthner and Mahlmann 2011, p. 141). Even though these studies should be taken into serious consideration, the results should be treated with caution. This survey method is rather problematic because there is no way to figure out to which degree those stereotypes are reproduced by the respondents. Direct conclusions about the actual practice are difficult.

Another survey, the GMF-Survey¹³ (2002–2012), has shown that German autochthonous respondents distinguish only slightly between the categories “Muslim” and “foreigner” (Asbrock et al. 2006, p. 164). There is also a connection between those two and “Turk”. These categories imply negative stereotypes and prejudices for many autochthonous Germans. In contrast “Christianity” is connected with the autochthonous majority and therefore only very seldom the object of negative projections.

Nonetheless, the findings of the GMF-Survey allow an insight into the stereotypes and prejudices connected with the category “Muslim”: 73.7% of the autochthonous respondents supposed in 2006 that the Muslims segregate themselves and 62.3% assumed they sympathize with terrorism (Leibold and Kühnel 2006, pp. 141–144). Two years later—in 2008—54.5% of the autochthonous respondents assumed that Muslims in Germany want to import Sharia law (Leibold and Kühnel 2008, p. 110). These prejudices can lead to discriminatory behavior: 60.1% of the autochthonous respondents would not accept a Muslim teacher with a head-scarf for their children, 46.8% don’t want to live in a residential area with a high Muslim

¹³ GMF is an acronym and stands for “group-oriented misanthropicity” [Gruppenbezogene Menschenfeindlichkeit]

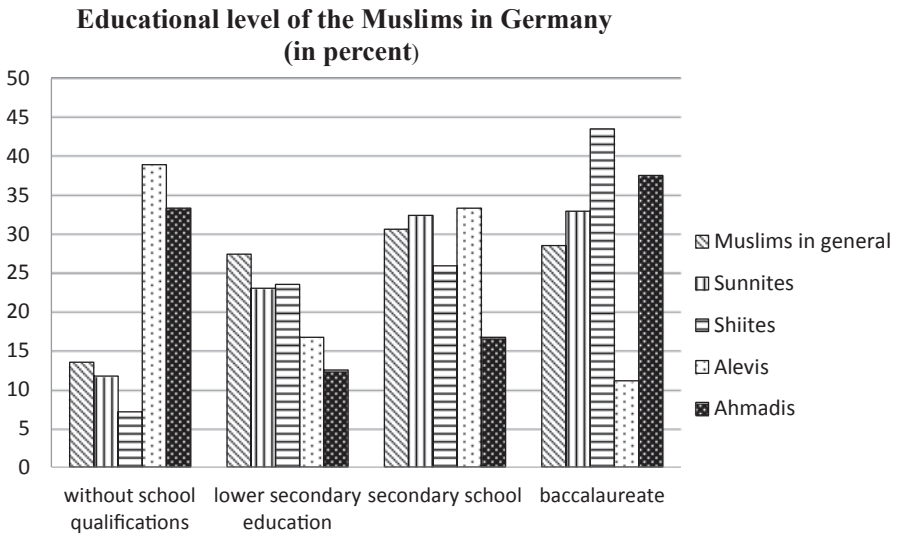


Fig. 1 Educational level of the Muslims in Germany (in percent). (Source: Bundesamt für Migration und Flüchtlinge 2009, p. 212)

population¹⁴ and 21.3% stated that they vote for a party that interdicts Muslim immigration to Germany (Leibold and Kühnel 2006, p. 145).

A report of the Federal Anti-Discrimination Agency [Antidiskriminierungsstelle des Bundes] identifies two main areas of discrimination: the education system and the labor market (Beauftragte der Bundesregierung für Migration 2012, pp. 208–211).

Several studies show that pupils with a migration background are at a disadvantage in German schools (European Commission 2009, p. 23). There are a few reasons for that, e.g. lack of language skills and a low level of education within the families. However, the fact that they do not succeed in school is not caused by their ethnic or religious background. The problematic correlation between the experience of migration, religious affiliation and the social status within the host country are not sufficiently considered in the public debate about the failure of Muslim pupils in the German school system. This leads to the fact that even professional teachers put Muslim pupils at a disadvantage because stereotypes and prejudices about their lack of determination still exist (Gomolla and Radtke 2009).

An overview on the Muslims' level of education already shows significant dissimilarities within the different Muslim groups (see Fig. 1). At the bottom of the education level we have Alevis (38.9%) and Ahmadis (33.3%). Most of the Alevis have a Turkish migration background, i.e. their fathers, or respectively, grandfathers came as labor migrants to Germany decades ago. Most of them were members of the lower working class and education was not an important issue. Compared to them, the level of education among the Shiites is much higher. Most of them have Iranian roots, are well educated and came to Germany as political refugees.

¹⁴ Compare these results with the findings to the supposed self-segregation of the Muslims.

Because of that, they are more successful in providing better education for their children than other Muslim groups (Bundesamt für Migration 2009, p. 212). These few data already show that the educational level of Muslims in Germany can be better explained with their social background than by their religion (Bundesamt für Migration 2009, p. 220). Nevertheless, the concept of a connection between religion (Islam) and a low level of education still exists.

With regard to the labor market, an OECD-report states that 68% of all immigrants with a university degree gained a job after leaving university, compared to 84% of autochthonous Germans with an equal degree (European Commission 2009, p. 26). This disadvantage affects mainly those with a Turkish migration background; they have more difficulties in getting a job appropriate to their education (Bundesamt für Migration 2009, 232). Several studies show that this is not a question of qualification, but that there are implicit criteria (like assumptions about the application and the trustworthiness of migrants and Muslims) resulting in employment discrimination (for further details see Imdorf 2010).

Impact of Religiosity on Attitudes towards Human Rights among Youth

The general result of the study “Religion and Human Rights” carried out in 2007 shows that young people in Germany agree with most of the human rights (for further information see Ziebertz and Benzing 2013).

Within the scope of the project a two-stage selection of the sample was used. The main sampling criterion in selecting the participating schools was that at least 20% of their students should be Muslims. All in all 13 schools from Bavaria and North Rhine-Westphalia participated in the study. Our second criterion was the focus on students in 10th and 11th grades who were asked to answer a standardized questionnaire concentrating on several dimensions of religious convictions, value orientations and world views as well as their attitude toward human rights.

Instructions for the teachers were sent out with the questionnaires enabling them to carry out the survey in their particular classes on their own. Only students who could produce a signed parental consent were allowed to participate in the study. The sample included $N = 1785$ respondents. 1036 of them indicated that they belong to a Christian or Islamic tradition. From this group 701 were Christians (48.1% male, 51.9% female) and 335 Muslims (48.1% male, 51.9% female). The average age of the Christians was $m = 16.5$ and of the Muslims $m = 16.8$. In the following we focus on those two religious groups.

Table 6 shows how the students responded to 22 different human rights. Above all, the socioeconomic rights were highly accepted: the rights of children, women and the right to social security, followed by rights which affect young people’s aspects of life to a great extent (freedom of lifestyle and the right to work). We cannot tell if other rights (right of asylum or protection against torture) only received a low approval rating because the students reject them. Maybe the problems relating to

Table 6 Attitudes about human rights

Concept	Rights	M	SD
SE	Children's rights	4.14	0.95
SE	Social security	4.13	0.78
SE	Women rights	4.02	0.89
ER	Environmental rights	3.97	0.91
CR	Freedom of life style	3.86	0.89
SE	Right to employment	3.75	0.85
CR	Freedom of moral speech	3.62	0.88
RL	Abortion (medical Indication)	3.62	1.08
CR	Right to privacy	3.46	1.02
CR	Separation of Church and State	3.44	0.98
PR	Political rights	3.32	0.90
ER	Environmental rights	3.19	1.01
RL	Euthanasia permitted	3.17	1.12
CR	Right of assembly	3.06	0.91
CR	Right of the press	3.06	1.03
CR	Protection from torture	3.01	1.09
PR	Rights of refugees	2.99	1.02
PR	Judicial rights	2.94	1.18
RL	Abortion (social indication)	2.92	1.19
CR	Freedom of religion	2.75	0.97
CR	Freedom of religious speech	2.47	1.11

Mean (1=negative; 5=positive), *SD* Standard Deviation, *CR* civil rights, *RL* rights to life, *PR* political-judicial rights, *SE* socio-economic rights, *ER* environmental rights

these rights were so far away from the young Germans' aspects of life that they did not recognize their importance (Ziebertz and Benzing 2013, p. 94). The same applies to the situation of asylum seekers in Germany: the importance of these rights could be outside of their field of vision. Two rights connected with religion were evaluated negatively. At the very bottom we find freedom of religion and freedom of religious speech. Freedom of religion was operationalized by items as 'politicians should make their decisions independent from the opinion of religious leaders' and freedom of religious speech was measured by items stating that it is allowed to make jokes about religious people. The respondents rejected both of them, indicating that politicians and religious leaders can cooperate, and making stupid jokes about others is bad behavior in general.

Table 7 Significant differences between Christians and Muslims towards human rights (*T*-Test)*a) Christians score more positive than Muslims*

		Christians <i>N</i> =848	Muslims <i>N</i> =416	Diff	Sign
RL	Euthanasia permitted	3.26	2.83	0.43	0.000
RL	Abortion permitted (social)	2.94	2.66	0.28	0.000
LR	Abortion permitted (medical)	3.62	3.38	0.24	0.000
CR	Freedom of religious speech	2.48	2.25	0.23	0.001
CR	Separation of Church and State	3.41	3.27	0.14	0.020

b) Muslims score more positive than Christians

		Christians <i>N</i> =848	Muslims <i>N</i> =416	Diff	Sign
RL	Protection from torture	2.88	3.37	0.49	0.000
PR	Rights of refugees	2.88	3.28	0.42	0.000
SE	Right to employment	3.66	4.01	0.35	0.000
PR	Judicial rights	2.82	3.12	0.30	0.000
CR	Right to privacy	3.36	3.64	0.28	0.000
CR	Right to assembly	2.98	3.20	0.22	0.000
SE	Right to social security	4.08	4.26	0.18	0.000
SE	Children's rights	4.07	4.22	0.15	0.009
PR	Right to protest	3.23	3.38	0.15	0.008
ER	Environmental rights	3.92	4.06	0.14	0.007
SE	Women rights	3.97	4.11	0.14	0.011
CR	Freedom of moral speech	3.55	3.67	0.12	0.029

mean values: 1 = negative; 5 = positive; *Diff.* difference between means, *Sign.* significance (*p*)

Does religion make a difference when we compare Christian and Muslim youth? And, if there are any differences, do they increase or decrease when we compare those with a high religious commitment in Islam or Christianity? Table 7 illustrates the answer: The comparison of all Christians and Muslims shows 17 significant different attitudes towards human rights.

First we address those rights which Christians consider positively (or less negative) than Muslims (Table 7a). The biggest difference concerns the right to life which ought to be protected, however, considering euthanasia there are reasons for exceptions. Should they be allowed? Christians respond slightly positively ($M=3.26$) and Muslims slightly negative ($M=2.83$). Abortions represent another example of exceptions to the protection of the right to life at all costs. Christians are slightly negative and reject at least social reasons for abortion ($M=2.94$). Muslims clearly reject any social reasons for the permission of abortions ($M=2.66$). All the other

distinctions have in common that they are in the positive or the negative half of the scale for Muslims as well as for Christians. Both religious groups support the separation of state and church/religion (Christians $M=3.41$ and Muslims $M=3.27$), both accept the permission of abortion because of medical reasons (Christians $M=3.62$ and Muslims $M=3.38$) and both groups are critical about the right of freedom of (religious) speech (Christians $M=2.48$ and Muslims $M=2.25$).

There are 12 rights that are evaluated more positively (or less negatively) by Muslims compared to Christians (Table 7b). Especially with four rights there is a clear antagonism between both religious groups. Antagonism means that one group score is in the positive half of the scale and the other in the negative one—and vice versa. The biggest difference is about the right against torture. Muslims support this right with a mean of $M=3.37$ whereas Christians show a negative attitude ($M=2.88$). A similar result is visible regarding the right of refugees. Muslim respondents support this right ($M=3.28$) and Christians show a slight rejection ($M=2.88$). The attitude of Muslims on judicial rights is only slightly positive ($M=3.12$), but Christians show, again, a negative evaluation ($M=2.82$). Muslims also support the right of assembly ($M=3.20$) while Christians are ambivalent ($M=2.98$). Considering all the other rights the answers from Christians and Muslims are positioned in the same (positive) part of the scale. Remarkable is the right of employment: Both Christians and Muslims support it, but the difference between the religious groups is .35. As mentioned earlier regarding discrimination on the labor market, the practical validity of this right is obviously more vivid for Muslims than for Christians.

Therefore we can ask: will the differences increase or decline when we compare youth with a high religious commitment? Does religion really matter (see Table 8)?

Table 8 Religiously high committed Christians and Muslims towards human rights

a) Christians score more positive than Muslims

		Christians <i>N</i> =258	Muslims <i>N</i> =326	Diff	Sign
RL	Euthanasia (permitted)	3.12	2.72	0.40	0.000
RL	Abortion permitted (social)	2.77	2.55	0.22	0.027
CR	Freedom of religious speech	2.45	2.23	0.22	0.019
ER	Environmental rights	3.41	3.14	0.27	0.001

b) Muslims score more positive than Christians

		Christians <i>N</i> =258	Muslims <i>N</i> =326	Diff	Sign
LR	Protection from torture	2.97	3.40	-0.43	0.000
PR	Judicial rights	2.88	3.12	-0.24	0.015
CR	Right to privacy	3.39	3.64	-0.25	0.004
SE	Right to employment	3.78	4.02	-0.24	0.001
CR	Right to assembly	3.05	3.22	-0.17	0.024

Legend: mean values: 1 = negative; 5 = positive; *Diff.* difference between means, *Sign.* significance (*p*)

The results show that there are nine significant differences between high religious Muslims and Christians. To be precise: the main result is that the number of significant differences has in fact declined. High religious Christians and Muslims have more in common than Christians and Muslims on the whole. The second qualitatively significant result is that there are only two greater differences: First, regarding euthanasia: highly religious Christians show an ambivalent acceptance ($M=3.12$) whereas Muslims reject these statements ($M=2.72$). The second difference concerns the right against torture. Highly religious Muslims are clearly positive ($M=3.40$) and highly religious Christians ambivalent ($M=2.97$). Regarding both human rights areas the differences are .40 and .43. All other differences are statistically significant but because of their dimension not as relevant.

These empirical data are not comprehensive or exhaustive and the presented data concerns just a few questions.¹⁵ We found it remarkable, though, that this research has proved that the differences of the attitudes towards human rights decrease the more religious the students are, regardless whether they are Muslims or Christians. It seems as if a specific religion does not matter that much. This leaves us with the question: what are the reasons of the differences? We can assume that the higher acceptance of rights with regard to torture, refugees, employment and judicial issues by Muslim students is due to the socio-political situation of Muslims in Germany: being a minority and being affected by disadvantages, discrimination and xenophobia. However, to answer this problem comprehensively further research is required.

Outlook

When Germany was reviewed 2013 by the UN Council for Human Rights in Geneva the Minister of State at the Foreign Office admitted “difficulties in Germany”. In this article we have stated several of those difficulties and, of course, this list is not comprehensive. At the same time the level of legal certainty is high. If rights are challenged, they can be enforced, and the trust in courts among Germans is very high.

Another area is the opinion of how rights should be understood, practiced and defended. Several areas have been mentioned in this article in which social exclusion and discrimination takes place. In the long run, human rights and their implications for social and societal life need the support of everyone. This is a problem of public opinion building and also for education. The education about human rights needs to be improved, both in quantitative terms of the number of lessons and in a qualitative way that also includes the providing of knowledge, insight and the motivation to act accordingly.

¹⁵ Therefore we have to refer to other publications: van der Ven and Ziebertz 2013; Ziebertz and Reindl 2013; Ziebertz and Benzing 2013; Ziebertz and Reindl 2012a; van der Ven and Ziebertz 2012; Ziebertz and Reindl 2012b; Webb et al. 2012; Ziebertz and Reindl 2011. Another important study is published by Sommer and Stellmacher 2009; Sommer et al. 2005.

We have also raised the point that religions are in many ways important public voices regarding controversies about human rights. Christian theology is challenged when human dignity is questioned—which is a basic value of the concept of human rights. In cases where torture is involved, or the rights of refugees, the protection of life, the rights of the child, the freedom of religion, etc., religious groups appear as defenders of human rights, and the Lutheran and Catholic Churches often speak with one voice in such cases. What still has to be done is to step beyond bilateral ecumenism and thus to cooperate more strongly with Islamic and Jewish communities. In some cases, e.g. when the permission of circumcision was controversially discussed during the summer of 2012, the Christian Churches supported the right to perform this ritual. However, this debate took place within the sphere of freedom of religion—and thus a crucial right for all religions. The positive part of religions in creating solidarity regarding human rights may not conceal that they are still criticized because they do not always apply these rights themselves their entity. The cooperation of different public voices is therefore essential to evoke a discourse about human rights and to function as a mode of correction.

The rule of law is highly estimated and respected in Germany. But human rights are more than a question of law and order. Legitimization of rights by the people is requested besides the legal point of view. Making human rights work requires the formation of attitudes, sensitivity and awareness when those rights are injured or threatened.

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Current Debates About Religion and Human Rights in Greece

Nikos Maghioros and Christos N. Tsironis

Abstract This paper addresses the topics of Religion and Human Rights in the Greek context. More specifically, it explores key Human Rights issues from the perspective of Religious Freedom, namely the legal personality of local religious communities, provisions on proselytism and places of worship, civil rights and youth engagement in the relevant debates. Furthermore, it highlights the dynamics developed between the State regulations, the religious communities and the Human Rights debates in Greece. In this perspective, it enhances as important the fact that Greece as an EU member State cultivated during the last decades a legal and political culture that belongs to the modern liberal democracies tradition. Despite this progress, a variety of challenges is to be faced by Greek society: the rapid changes in global geopolitics, the new migration waves, and the cultural and religious pluralism along with the social and political instability caused by the debt crisis bring to the forth discontent. In this sense, the overall challenge for the Greek society is to approach an understanding of human rights that may function as a framework that guarantees justice and equality for all.

Introduction

Greece is a country of about 10.5 million inhabitants. The vast majority of Greek citizens are recorded as Orthodox Christians, while a series of religious communities and an unknown percentage of people with a non theistic stance complement the “human map”. Besides the Orthodox Christians, other religious communities that can be found in Greece are: Roman Catholics, Protestants, Old Calendarist Orthodox, Muslims, Jews, Hindus, Jehovah’s Witnesses. There would be value in a thorough study of the religions of people living in Greece as non recorded immigrants (sans papier).

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The stance of the Greek State and Greek society at large is framed from the fundamental political texts and agreements that Greece has signed and ratified, e.g.: Art. 18 of the Universal Declaration of Human Rights, Art. 18 of the International Convention on Individual and Political Rights, Art. 9 of the European Convention on Human Rights, etc.

Greek society used to be a traditional society with quite a solid religiosity sourced from the Orthodox Tradition. Nowadays the Greek society is a society in transition suffering under severe economic and political problems and facing the most complex problems of modern multiculturalism without having the luxury of an adjustment period (Tsironis 2013). Problems that have been under debate (and to a great extent still remain unsolved) in other European societies come to the foreground at some urgency.

It is quite indicative the fact that in recent public opinion analysis the Greeks have their highest percentage by item on the topic “Solidarity with Member States in financial difficulty” (50, 45% on *their* rights as European Citizens) while only a 12% on the topic “Immigration, freedom of movement and asylum right” (Eurobarometer 2012a, b). The latter topic is quite low in pan-European level (EU27 18%), considering however the priority that this issue has in political life during the last decade in Greece it is easy to assume the ambivalence of the situation as it is conceived in public opinion. In the same Report one can see that the protection of Human Rights is still valued by the Greeks as a matter of priority for the European Parliament. Still, it is self-evident that interest in the protection of European citizens in Greece and elsewhere in European Union isn’t identical with the overall interest in Human Rights implementation. The appeal of Human Rights protection in conditions of economic crisis will be one of the greatest challenges for all European societies.

Prevailing Religion, Religious Freedom, and Human Rights

Prevailing religion and *Religious freedom* are the two main poles of the formulation of State and Church relations in Greece according to the Constitution, as in practice they constitute a permanent threat of conflict.¹ The interpretation of these two terms is critical in order not only to describe the actual system of State and Church relations but also to evaluate the real protection of human rights.

It is true that the Constitution of 1975 introduced a more liberal view on Church and State matters than the Constitution of 1952. It is important to note that during the preliminary phase of discussions and proposals between the parties, many were in favor of an eventual separation between the Church and the State. Arguments, such as the need to conserve the social unity and the religious homogeneity of people after the dictatorship, inhibited a radical reformation (Konidaris 2000, p. 95).

¹ The following eight paragraphs are part of previous research and have been published in: Nikos Maghioros, *State and Church in Greece: “To reform or not to reform?”*, Droit et Religions – Annuaire, vol. 2 t. 1 (2006–2007), pp. 496–534.

The first part of the Constitution (2001) includes the *basic provisions* of the *form of Government* (Art. 1 and 2) and the *relations of Church and State* (Art. 3). The provisions of Art. 3 are not all new, as they already existed in various forms in all previous Constitutions. Article 3, par.1, establishes the Orthodox Church as the prevailing religion and affirms that the Orthodox Church (a) is inseparably united in doctrine with the Ecumenical Patriarchate of Constantinople and with every other Orthodox Church, (b) is obliged to apply the Orthodox Canon Law and follow the Tradition and (c) is autocephalous and self-governing within the legal framework of its Statutory Charter (L. 590/1977), in compliance with the Patriarchal Tome of June 29, 1850 and the Synodal Act of September 4, 1928.

In the second part of the Greek Constitution, entitled *Individual and Social Rights*, Art. 13 guarantees religious freedom. The important thing is that the right to manifest one's religion and perform rites of worship established in paragraph 1, is not subject to any constitutional revision. This includes the right to found religious associations and establishments, which acquire legal status, but only after complying with the State laws on such acquisition. Theoretically the right to found religious associations includes the right to choose the method of organization. In addition, there is the right to free administration according to the particular institutions and rules of the religious community. On the other hand, religious freedom has some limitations as well. These limitations are prescribed by law and are necessary in a democratic society, in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others (Papastathis 2003; Konidaris 2000; Naskou-Perraki 2000).

There is *freedom to practice* any *known* religion; individuals will be free to perform their rites of worship without hindrance and under the protection of the law. The performance of rites of worship must not offend public order or public morals. No one may be exempt from their obligations to the State or may refuse to comply with the law by reason of their religious convictions. The *freedom of worship*, in light also of Art. 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms, grants individuals the right, either alone or in community, in public or private, to manifest their religion or belief, in worship, teaching, practice and observance. Finally, individuals have the right to construct churches and other religious buildings.

The interpretation of Art. 3 in light of Art. 13 gives a more liberal view on the relations between the Church and the State as it supports the independence of the Orthodox Church and other denominations as well as the recognition of their internal structure and organization. Another interpretation of Art. 3 in combination with Art. 72 par. 1 supports the "State-law rule" system by accepting that the statutory Charter of the Church of Greece should in any case be adopted by the plenary session of the Greek parliament (Papastathis 2005, pp. 117–118).

Some scholars explain that Art. 72 par. 1 with the term "subjects of Art. 3" incorporates all the paragraphs of Art. 3 and not only the first. The Statutory Charter of the Church (Art. 3 par. 2) could be either a law of the State or an internal law adopted only by the Church. In this case the internal law of the Orthodox Church and other denominations and religions is protected directly by Art. 13, as it is a main

prerequisite for religious freedom. This way all Canons of Art. 3 par. 1 or the Code of Canon Law of the Catholic Church are recognized, unless they offend public order or the moral conceptions (Art. 13 par. 1), the Constitution and the laws of the State. We agree with the opinion that the relationship between the Church and the State can be characterized as *sui generis*, since there is no complete separation nor is there an established Church (Konidaris).

Close to Articles 13 and 3 is the question of the legal status of denominations and religions in Greece. The Orthodox Church, the Israelites (Papagrigoriou 1997) and Muslims are the only groups considered to be “legal entities of public law” (Naskou-Perraki 2000). Other religions are considered “legal entities of private law” and are subject to the provisions of the Civil Code regarding corporations.

An insightful portrayal of the positions on Human Rights of all religious communities in Greece goes beyond the limits of a short presentation. One thing to be said is that no official declaration against human rights has been recorded from the religious communities. One can assume that those people who belong to zealot groups as well as those who are devotees in communities that have expressed a strong opposition to human rights (either within Greece or outside the country) could adopt an -at least- relativistic approach towards the universality of human rights. On the other hand, the appeal to human rights seems all too often to be superficial. The religious communities regularly use the concept of human rights in defense of their own position in the public sphere; whether they respect the core of human rights as universal and inalienable entitlements and basic principles in social life as well as a point of reference within their own “community-reality” is a matter that still remains under debate.

At this point it is more convenient to present a first approach on the position of the Greek Orthodox Church due to the fact that the Orthodox Church has a stable and lengthy institutional relation with the Greek State. Some scholars indicate a difficulty for the Orthodox Church to totally accept the ideas of human rights as principles above other principles of social life, especially those which belong to the traditional structure of Greek society. There are theologians who severely criticize some of the concepts and legal facets connected with human rights, while others support the idea that there are no substantial problems in the acceptance of human rights. Some of them even call on orthodox theology to turn to active support of human rights in Greece and elsewhere. The official papers coming from the Church and from academic theology in principle display a positive position towards human rights and often an attempt to balance traditional ideals and modern challenges so as to ensure the avoidance of internal unrest.

Religions, State, and Human Rights

Although notable improvements have been recorded during the last few decades, there are still issues of debate, dialogue or tension between the State and the religious communities in Greece. Some of the main topics of debate are presented here below:

Legal Personality

The Roman Catholic Church in Greece has an unidentified legal status which creates confusion concerning the recognition of its Canon Law, the creation of new dioceses, the construction of new churches as well as regarding taxation matters (Maghioros 2003).

Proselytism

This prohibition covers any known religion, including the Orthodox religion, and is punishable under the Mandatory Law 1363/1938 as it was amended by Mandatory Law 1672/1939: “any direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support of material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect or naiveté”. The crime of proselytism is committed only if illegitimate means have been used. Therefore, the diffusion of opinions by means of the distribution of brochures does not in itself constitute the crime of proselytism. The proposal of the Greek National Commission for Human Rights² is to repeal the applicable provisions in force on proselytism. Criminal sanctions for proselytism have not been repealed.

² “NCHR is a statutory National Human Rights Institution having a consultative status with the Greek State on issues pertaining to human rights protection and promotion. The creation of NCHR emanated from the need to monitor developments regarding human rights protection at the domestic and international levels, to inform Greek public opinion on human rights-related issues and, above all, to provide guidelines to the Greek State aimed at the establishment of a modern, principled policy of human rights protection. A source of inspiration for the creation of NCHR was the Paris Principles, adopted by the United Nations and the Council of Europe. According to Law 2667/1998, by which it was established, NCHR has the following substantive competences:

1. The study of human rights issues raised by the government, by the Convention of the Presidents of the Greek Parliament, by NCHR members or by non-governmental organisations;
2. The submission of recommendations and proposals, elaboration of studies, submission of reports and opinions for legislative, administrative or other measures which may lead to the amelioration of human rights protection in Greece;
3. The development of initiatives for the sensitisation of the public opinion and the mass media on issues related to human rights;
4. The cultivation of respect for human rights in the context of the national educational system;
5. The maintenance of permanent contacts and co-operation with international organisations, similar organs of other States, as well as with national or international non-governmental organisations;
6. The submission of consultative opinions regarding human rights-related reports which is to submit to international organisations;
7. The publicising of NCHR positions in any appropriate manner;
8. The drafting of an annual report on human rights protection in Greece;
9. The organisation of a Human Rights Documentation Centre;

Places of Worship

According to Art. 27 L 3467/2006 § 1, the approval or opinion of the local ecclesiastical authorities of the Greek Orthodox Church is not required for the establishment, construction or operation of a temple or church of any religion or doctrine, with the exception of the Greek Orthodox Church. Any provision stating otherwise shall be repealed. § 2, an application to obtain approval for the establishment, construction or operation of a temple or church of any religion or doctrine shall be directly submitted to the Ministry of National Education and Religious Affairs and not to the local ecclesiastical authorities. Any provision stating otherwise shall be repealed.

According to a report of the US Department of State from 2001: “Muslim leaders in Athens criticized the absence of a government funded mosque and recognized Muslim clergy in the city. Muslims in Athens worshipped in approximately 120 informal (unregistered) mosques operating in legal cultural halls, and they travelled to Thrace for official Islamic marriages and funerals.”

Civil Funeral—Incineration

Art. 35 of the Law 3448/15.03.2006 stipulates the following: 1. Cremation of the deceased, for natives or foreigners, is allowed for those whose religious beliefs allow for cremation after death. 2. A precondition for such cremation is an explicit declaration of the deceased, not based on oath or condition, for their desire to engage in such action, or a similar declaration from their relatives, related by blood or by marriage, up to the fourth degree, based on the same class line. In case of disagreement between the relatives of the same class, the Public Prosecutor of the area where the deceased is kept shall decide upon this matter. Regarding minors, such declaration is made by both parents or by the caretaker/provider of the minor according to Articles 1510 et seq. of the Civil Code. 3. A cremation license is granted by the Municipality or the Community where the Center of Cremation is located—the place where cremation is conducted). 4. A presidential decree issued upon request by the Ministers of Internal Affairs, Public Administration and Decentralization, the Minister for the Environment, Urban Planning and Public Works and the Minister of Health and Social Solidarity, will determine the places where centers for the cremation of the deceased will be established, the terms and regulations of the services, as well as any other specific preconditions that exist for cremation. In determining the places where cremation of the deceased will be established, a decision from the Municipality or Community is required. A common decision of the above-mentioned Ministers specifically regulates relative issues, as well as other

10. The examination of the ways in which Greek legislation may be harmonised with the international law standards on human rights protection, and the subsequent submission of relevant opinions to competent State organs.” <http://www.nchr.gr/index.php/2013-04-03-10-13-40/2013-04-03-10-14-20>. Accessed Oct 28 2014.

pere, the European Refugee Fund (ERF), the Green Paper on an EU approach to managing economic migration (COM (2004) 811), the “Common Agenda for Integration—Framework for the Integration of Third-Country Nationals in the European Union” (COM (2005) 389), the Communication on policy priorities in the fight against illegal immigration of third-country nationals (COM (2006) 402) and others, remained “shadow policies” (Petrou 2008).

In this sense, the greatest challenge for Greek youth, as well as for young Europeans within a larger scope, is to approach an understanding of human rights that is extroversive and supportive, in solidarity with every human being. A basic prerequisite for social prosperity based on common European values is mutual understanding and cooperation for the creation of opportunities, rules and social activity principles that are based on respect for individual dignity and integrity as well as cultural, religious and other differences. In this way, human rights will be understood not only through the personal scope of needs and interests but also as a framework that guarantees justice and equality for all.

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Catholic Church, Young People, and Human Rights in Italy

Francesco Zaccaria

Abstract The Catholic Church is said to still have a strong and influential role regarding social and political issues of today's Italy. It is therefore relevant to present their official position on some human rights issues to understand the Italian debate about human rights and, through a focus on young Italians' opinions, also its possible future.

This contribution addresses more specifically two questions: (1) what is the official position of the Catholic Church in Italy on labor rights, immigrants' rights, reproductive rights and LGBT rights? and (2) what are young Italian people's views on these same rights?

Firstly, this article suggests that the church champions labor rights and immigrants' rights whilst opposing various reproductive rights and the recognition of same-sex couples. The second question is answered with reference to a number of surveys regarding young Italians' views on human rights' issues. The data reveal that young respondents believe that the right to work is a key human right but is not satisfactorily upheld in today's Italy, and that they do not consider immigrants' rights as the most important human rights. However, Italian young people support assisted reproductive technologies and are the only population segment to endorse legal recognition for same-sex couples.

Catholic Church, Young People, and Human Rights in Italy

In Italy, Roman Catholicism is the religious denomination of the overwhelming majority. More than 95% of the Italian population was baptized in the Catholic Church, more than 85% feel that they belong to the Catholic Church, whilst around 25% claim to attend church once a week, although this figure drops to 17% among young people aged 16–24 (Cesareo 1995, p. 95; Garelli 2011, p. 59; Introvigne and Zoccatelli 2006). In view of Catholicism's virtual religious monopoly, this article

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will focus primarily on the role of the Catholic Church in the public debate surrounding human rights and religion in Italy. The article will also examine young people's opinions on this debate, because young people are a key indicator of how human rights culture will evolve in Italy.

The Catholic Church in Italy, which here refers to the official position of the Catholic hierarchy, is said to have a very strong and influential role on government and politicians rather than the general public. These claims are made particularly expressed by liberal circles who lament the lack of a clear separation of church and State in Italy (Ercolessi 2008). It is therefore relevant to present the official position of the Catholic hierarchy on some human rights issues in order to understand the Italian debate about human rights. In the public debate, the Church hierarchy's priorities for social issues are often expressed in the speech made by the President of the Italian Bishops' Conference at the opening of its Permanent Council. The address is given twice a year and always reported in the national media, with a particular focus on points of political relevance. The address given by Cardinal Bagnasco to the Permanent Council on September 24th 2012 will be taken as indicative of the church hierarchy's thinking on human rights issues in the current Italian public debate (Bagnasco 2012). In short, the position of the Catholic Church on human rights in Italy is ambiguous: some rights are officially and strongly endorsed and others are repeatedly opposed in the public arena. Those rights which are supported by the church can be loosely grouped under the heading of social and economic rights, both for citizens and non-citizens. In contrast, the church publicly opposes so-called sexual and reproductive rights. We will provide examples of the first group, namely labor and immigration rights, and of the second group—reproductive rights and LGBT rights. This contribution addresses two questions: (1) what is the official position of the Catholic Church in Italy on labor rights, immigrants' rights, reproductive rights and LGBT rights? and (2) what are young Italian people's views on labor rights, immigrants' rights, reproductive rights and LGBT rights?

Labor Rights and Immigrants' Rights

Social and economic rights are referred to in literature as second-generation human rights. These rights developed in the nineteenth century and were formally defined in the Universal Declaration of Human Rights in 1948. They include the right to work (Article 23), to rest and leisure (Article 24), to an adequate standard of living and to security in the event of unemployment (Article 25), and the right to education (Article 26) (van der Ven et al. 2004, p. 101). Labor rights, the first group of rights considered here, fall into this set of social and economic rights. Article 1 of the 1948 Italian Constitution begins with the following statement: "Italy is a democratic Republic founded on labor"; furthermore Article 4 says that "the Republic recognizes the right of all citizens to work and promotes those conditions which render this right effective."

In the issue of labor rights, civil law affirmations coincide with the teachings of the church. The Vatican II Constitution *Gaudium et Spes* (GS) acknowledges that the right to work is a fundamental right for all human beings (GS 26; John Paul II 1981, no. 18). According to the moral theologian Piana, after the 1950s, Catholic theology and teachings clearly affirmed the priority of the subjective side of labor over objective considerations: workers are more important as human beings than the output and profit generated by their work. From the Catholic perspective, this emphasis on the dignity of the human being is the cornerstone for all labor rights: the right of workers to keep a job, the right of young people to work, the right to equal access to the labor market for the weak and marginalized in society (immigrants, disabled, women, etc.) (Goffi and Piana 1991, pp. 462-466; Pizzuti 1981).

Labor rights can be classified in the group of rights which are publicly supported today by the Catholic Church in Italy. In his speech, Cardinal Bagnasco touches on some burning social issues that need to be tackled by the government and by politics in general: rising poverty, the economic crisis, unemployment, temporary employment, and the lack of a stable income, all of which prevent the younger generations planning their future (Bagnasco 2012). The Church's concerns mirror the current crisis over the right to work in Italy. Statistics indicate that in September 2013, 3.2 million people were unemployed, which is the highest number in the last 35 years. The unemployment rate is 12.5% for the general population and 40.4% among young people. In some southern areas, this latter figure exceeds 50%. Therefore it is not surprising that a national survey on youth and human rights shows that Italian young people think that the right to work is the least respected human right in Italy. Those surveyed felt that the right to work was the only right not to be sufficiently respected in Italy, as Table 1 shows (Conferenza dei Presidenti 2012).

Do human rights apply only to citizens or also to non-citizens? The debate surrounding this question is complex and beyond the scope of this brief article (van der Ven et al. 2004, pp. 105–106). What is relevant here is that the Church advocates a wide range of socio-economic rights for both citizens and non-citizens: in the Italian public debate, the Catholic Church is a vocal advocate for immigrants' rights, both for legal and irregular immigrants, who tend to move to Italy in order to improve their economic and social situation (Tanzarella 2003). Supporters of these rights base their argument on the freedom of movement defined in the Universal Declaration of Human Rights (Article 13) and in the 1966 International Covenant on Civil and Political Rights (Article 12). Immigrants' rights are set out more comprehensively in the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, where fundamental rights are affirmed for both regular and irregular immigrants. It is important to stress that Italy, like all other migrant destination States in Europe and North America, did not ratify the Covenant. Immigrants' rights are an important human rights issue in the current Italian political debate: around 60% of the 92 recommendations sent by the United Nations Human Rights Council to the Italian government in 2010 referred to immigrants, refugees and asylum-seekers (Human Rights Council 2010).

The teachings of the Catholic Church affirm immigrants' rights more forcefully than international legislation. The Constitution *Gaudium et Spes* speaks of the

“personal right of migration.” (GS 65). According to Tanzarella (2004), the clear affirmation of the “right to emigrate” goes back to John XXIII and his Encyclical *Pacem in Terris* in 1963, in which he states that “every human being has the right to freedom of movement and of residence within the confines of his own State. When there are just reasons in favor of it, he must be permitted to emigrate to other countries and take up residence there. The fact that he is a citizen of a particular State does not deprive him of membership in the human family, nor of citizenship in that universal society, the common, world-wide fellowship of men.” (John XXIII 1963, no. 25). This line of social teachings on immigration continued through Paul VI and John Paul II, who in his Exhortation of 2003 *Ecclesia in Europa* writes that “The phenomenon of migration challenges Europe’s ability to provide for forms of intelligent acceptance and hospitality (...) Everyone must work for the growth of a mature culture of acceptance which, in taking into account the equal dignity of each person and need for solidarity with the less fortunate, calls for the recognition of the fundamental rights of each immigrant” (John Paul II 2003, no. 101). More recently, Benedict XVI called for an orderly migration policy which would prosecute and condemn human trafficking but should “not end up in a hermetic sealing of borders, more severe sanctions against irregular migrants and the adoption of measures meant to discourage new entries” (Benedict XVI, 2013).

In Italy, many immigrants and asylum-seekers arrive after travelling, risking their lives, for hundreds of kilometers across the north African desert and the Mediterranean. Applying the social teachings of the church to the Italian context, Bagnasco (2012) says in his speech that the church is vigilant and engaged in safeguarding the human dignity of the immigrants, not only through its charitable agencies but also by pointing out the responsibilities and obligations of civil authorities and legislators in this matter.¹ The Pastoral Guidelines on Immigration issued by the Italian Catholic Bishops’ Conference in 1993 clearly promote a culture of acceptance toward all immigrants, both regular and irregular, and warn against the growing threat within Italian society of intolerance, xenophobia and discrimination against immigrants and asylum seekers, and the religious and cultural minorities they belong to (Commissione Ecclesiale per le Migrazioni 1993, nos. 7, 8, 34).

What do young Italian people think about the respect of immigrants’ and minority rights in Italy? Looking again at Table 1, we can conclude that young Italians think that the right of political asylum is one of the most respected in Italy (mean = 7.3); whilst respect for minorities is considered one of the least enforced rights (mean = 6.3). It seems that young Italians do not believe that immigrants’ and minority rights are among the most important human rights. The survey reveals that the right to political asylum, the right to citizenship and respect for minorities are considered to rank amongst the least important rights proclaimed by the Universal Declaration of Human Rights (see Table 2).

¹ Here the cardinal remarkably calls for respect of the migrants’ human dignity together with respect of the dignity of human embryos.

Table 1 Perceived level of human rights' respect in Italy among young people

N=1,846	Mean	St. dev.
Prohibition of torture	7.8	2.4
Prohibition of slavery	7.6	2.4
Religious freedom	7.4	2.5
Right to property	7.3	2.3
Right to political asylum	7.3	2.3
Freedom of association	7.3	2.3
Right to education	7.2	2.3
Right to citizenship	7.1	2.4
Right to health and well-being	6.8	2.3
Equality between men and women	6.6	2.3
Freedom of speech	6.5	2.6
Respect for minorities	6.3	2.4
Right to work	5.7	2.6

The research was conducted in 2008 on a national representative sample of 2000 respondents from 18 to 34 years old. Respondents could evaluate the level of respect in Italy of each listed human right on a scale from 1 ("not respected at all") to 10 ("very much respected"): (Conferenza dei Presidenti 2012, p. 61)

Table 2 The importance of the human rights listed in the UDHR according to young Italians

	Mean
Prohibition of slavery	9.5
Right to health and well-being	9.4
Freedom of speech	9.3
Right to education	9.2
Prohibition of torture	9.1
Right to work	9.0
Equality between men and women	8.9
Religious freedom	8.7
Freedom of association	8.6
Right to property	8.3
Respect for minorities	8.1
Right to citizenship	7.5
Right to political asylum	7.3

Respondents could evaluate each listed human right on an increasing scale of importance from 1 to 10. (Conferenza dei Presidenti 2012, p. 27)

Reproductive Rights and LGBT Rights

The human rights debate in Italy has recently expanded to address new issues, mirroring changes within society and situations that could not have been anticipated in 1948 when the UDHR and the Italian Constitution were written. One particular new area of debate and interest are “Sexual and Reproductive Rights”. These rights are enshrined in the Program of Action of the 1994 Cairo Conference on Population and Development (ICPD) and in the Platform for Action of the 1995 Beijing Conference on Women. Based on these documents, for example, the Swedish Government defines “sexual rights as meaning that all people, irrespective of sex, age, ethnicity, disability, gender identity or sexual orientation, have a right to their own body and sexuality. In addition to the definition of sexual rights presented above, there is the general human rights principle of non-discrimination on sexual or other grounds, such as sexual orientation or gender identity.” (Ministry for Foreign Affairs 2006). The ICPD Program of Action stipulates that reproductive rights “rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents” (Article 7.3). Consequently, access to assisted reproductive technologies can be classified in this set of rights. Two examples of the Sexual and Reproductive Rights’ group will be covered here in order to demonstrate the Catholic Church’s public opposition on some human rights issues: reproductive rights and LGBT rights.

In the case of reproductive rights, the Catholic Church opposes most assisted reproductive technologies, for example in vitro fertilization (IVF). The church argues that women’s rights are in conflict with another important right, namely the right to life (Marsico 1999). Church teachings claim that embryos should be protected as “human persons”, meaning that they have the right to live and should not be destroyed, as is the case in IVF procedures (Catechism of the Catholic Church, 1992, n. 2274; Congregation for the Doctrine of Faith 2008, no. 14). There are many views in the public debate as to when an individual human person can be considered as such, i.e. as having human rights. The Catholic Church takes the view that an individual and unique human life begins with the fertilization of the egg cell, i.e. at the very beginning of the development of human zygote (Centro di Bioetica 2008). According to the moral theologian Salvino (1993), this position can be justified by philosophical, anthropological, biological and theological reasoning. Nevertheless the debate is still open and the Catholic Church, according to Ford, has adopted the safest position in advocating respect for human life from its very inception and considering the human zygote as having the right to life (Ford 2002).

Some scholars argue that a strong emphasis on “natural law” has re-emerged in the teachings of the Catholic Church over the last 30 years (van der Ven 2010, pp. 201–203; Menozzi 2012). This emphasis prompted a wave of public statements

by Benedict XVI against reproductive rights which are in conflict with the right to life. In Italy, the views of the pope, as the bishop of the capital city, have a massive influence on the media and public debate on these issues. According to some observers, the political influence of the Catholic hierarchy has resulted in “a very restrictive law” on assisted reproductive technologies (Law 40/2004). Efforts to amend the law through a general referendum in 2005 also failed, not least because of the “most determined, forceful and direct” intervention by the Catholic hierarchy in Italian politics in decades (Ercolessi 2008, pp. 146–147). In August 2012, the European Court of Human Rights decided that Law 40/2004 violated the right of one Italian couple to respect for private and family life, because this couple was a carrier of cystic fibrosis but the law prohibited them from performing a pre-implantation diagnosis of the embryo in the IVF process (Human Rights Europe 2012). As this case shows, the debate surrounding Law 40/2004 is not yet finished in Italy. Catholic bishops have attached great importance to the issue in their public discourse: Bagnasco’s (2012, no. 9) recent speech included the statement that “embryos’ dignity” should always be protected and that the recent call for the affirmation of “new rights” should not be immediately welcomed but subject to careful and critical scrutiny. It is indeed true that these “new rights”, as demonstrated by the example of reproductive rights, are not yet universally recognized in international declarations, in national law and in public opinion. The Catholic Church strongly opposes some of these new rights and has taken a firm stance in the debate surrounding them, claiming to be concerned to affirm more important and “non-negotiable” human rights, like the right to life (Congregation for the Doctrine of the Faith 2008, no. 12).

What do young Italians think about assisted reproductive technologies? A survey among a representative sample of Italians aged 15–34, divided in two categories (religious and non-religious), revealed that 66.7% of the young Catholics and 84% of the non-religious young people believe that assisted reproductive technologies are acceptable (Deiana 2007). These results appear to indicate that whilst Catholic statements may have an impact on young Catholics, the majority still disagree with the church’s teachings on this issue.

The second group of human rights firmly opposed in public by the church hierarchy in Italy is LGBT rights, in particular recognition of rights for gay couples. Austria and Ireland have recognized civil partnerships between same-sex couples in 2010 and 2011 respectively, making Italy the last Western European country where gay couples have no legal status.²

The Church teaches that “marriage exists solely between a man and a woman”, and that this is a “natural” and universal truth about marriage (Congregation for the Doctrine of the Faith 2003). Furthermore, the church claims that demands for gay couples to have rights are not a human rights’ issue, nor a matter of respecting principles such as non-discrimination and equality, because “the denial of the social and legal status of marriage to forms of cohabitation that are not and cannot be marital is not opposed to justice; on the contrary, justice requires it” (ibid., no. 8).

² In Italy there is no recognition of civil partnerships, this means that not only homosexual but also heterosexual non-married couples have no legal recognition of their status.

According to the theologian Lorenzetti, who presents and defends the position of the Church on this matter, opposition to gay marriage is not motivated by religious arguments but rather is based on the natural human condition, which “by principle” tends to find fulfilment in the reciprocity and differences between men and women. Therefore, he concludes, no “true” marriage can occur between two persons of the same sex (Lorenzetti 1994).

The cardinal’s speech again echoes these concerns of the church and its focus on “natural law”. He points out that the politicians discussing the introduction of civil partnerships in Italy are failing to address the country’s real problems in this time of economic crisis and argues that recognizing civil unions would “automatically weaken the family”. The cardinal also adds that if the law were to redefine the family in a way which is not rooted in the human nature (one man and one woman), this would lead society to “collapse”, suggesting that this is already happening in the countries where the notion of family has already been redefined (Bagnasco 2012).

A 2012 survey indicates that the majority of the Italians are not in favor of recognizing same-sex partnerships, but opinion has been shifting in the last few years. Those in favor increased from 32% in 2005 to 40% in 2012, whilst the proportion of Italians against recognizing gay partnerships dropped from 66% in 2005 to 59%. The results show that characteristics such as religious practice or political affiliation do not appear to be relevant in shaping this opinion, whilst the age of the respondents is a determining factor. Younger people are more supportive of same-sex partnerships than their older counterparts: according to the survey, 51% of Italians aged 18–24 think that civil unions for same-sex couples should be recognized in Italy (Mannheimer 2012). Therefore it is possible that public opinion in Italy will be more in favor of recognizing certain rights for same-sex couples in the coming years, moving away from the official teachings of the Catholic Church.

Conclusions

In order to understand the role of the Catholic Church and of young people in the current Italian debate about human rights, this article has sought to provide succinct answers to the following questions: (1) what is the official position of the Catholic Church in Italy on labor rights, immigrants’ rights, reproductive rights and LGBT rights? and (2) what are young Italian people’s views on labor rights, immigrants’ rights, reproductive rights and LGBT rights?

Based on some official teachings and statements of the Catholic Church, both on universal and national level, this article established that the church champions labor rights and immigrants’ rights in the public debate whilst opposing various reproductive rights (particularly assisted reproductive technologies) and the recognition of same-sex couples.

The second question was answered with reference to a number of surveys regarding young Italians’ views on human rights’ issues. The data reveal that young respondents believe that the right to work is a key human right but is not satisfactorily

upheld in today's Italy, and that they do not consider immigrants' rights (the right to political asylum, to citizenship and respect for minorities) as the most important human rights. However, Italian young people support assisted reproductive technologies and are the only population segment to endorse legal recognition for same-sex couples.

To sum up, in terms of socio-economic rights for citizens and non-citizens and certain sexual and reproductive rights, it seems that the only point of agreement between the Church and young people in Italy is the need to defend labor rights. Immigrants' rights are advocated by the church and neglected by young people, whilst young people are in favor of reproductive rights and LGBT rights, which are opposed by the Church. This thumbnail sketch may indicate that the political impact of church statements is set to decline in the future debate on human rights in Italy.

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Perspectives on Human Rights and Religion in Moldova

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Abstract This paper examines the overall situation of the evolution of human rights and freedom of religion in Moldova since becoming an independent state. It emphasizes the fact that freedom of religion is still an urgent issue in Moldova, taking into account that the Moldovan state itself protects and enforces the rights and freedoms of Moldovan citizens in a rather arbitrary and selective way.

Religious tolerance and acceptance of religious diversity is another issue Moldovan society faces. The new religious movements are frequently restricted in their rights by the tacit alliance between the State and the Orthodox Church. Although different religions are free to organize their own education, the Orthodox Church monopolizes religious education in secondary schools. The religious lobby also opposed the initiative to introduce Life Skills-Based Education (LSBE), since it would destroy the traditional family by promoting “abnormal concepts” such as gender and sexual orientation, drugs, etc.

Introduction

The Republic of Moldova is a small Eastern European country that gained independence after the dissolution of the USSR in August 1991. After a period of geopolitical uncertainty, the current Moldovan authorities have declared their willingness to join the EU, although the country still faces many problems, such as: economic backwardness, an unsafe investment environment, endemic corruption, huge social division, and continuous flows of immigration of Moldovan citizens to other states. Moreover, as of 1992 the Moldovan authorities have no control whatsoever over the

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separatist region of Transnistria, situated on the left bank of the river Dniester.¹ After 20 years of independence, human rights issues are thus on the country's agenda, as well as on the agenda of the international organizations that monitor the human rights situation in Moldova, although in most cases their reports analyze the situation only for a part of Moldova.

According to the 2011 UNHCR country report for human rights practices, "the most significant human rights problem in the country during the year was government corruption, which undermined the credibility and effectiveness of police and the judiciary as well as respect for the rule of law in general. Police torture and mistreatment of persons in detention was a second major area of concern. The government also failed to make progress in holding officials accountable for killings and other abuses committed by government security forces during the 2009 crackdown on postelection demonstrations."² Other significant problems included harsh and overcrowded conditions in prisons and detention centers, arbitrary detention by police, violence against women, human trafficking, discrimination against Roma, harassment of LGBT individuals, limited enforcement of workers' rights and child labor.

The main human right violations are reported in Transnistria. Transnistrian authorities continuously restrict the right of Moldovan citizens to vote in Parliamentary elections, freedom of association, free movement and education in Romanian mother-tongue. Torture, arbitrary arrests, and unlawful detentions are still regularly reported, independent media and opposition are harassed. The rights to freedom of speech and freedom of the press are not always respected in practice, specifically in Transnistria. When in 2009 the Alliance for European Integration replaced the Communist majority that ruled for two consecutive mandates, the freedom of the press in the country improved significantly. In Transnistria it is difficult to register, maintain, and finance independent newspapers, radio stations or television stations, although several continue to exist. Most newspapers from the rest of Moldova do not circulate widely in Transnistria, although they are available in Tiraspol in a restricted number.³

The discrimination against the Romanian-speaking population that comprises around 32% of the total takes different forms in Transnistria. As part of the 1992 ceasefire agreement ending Moldovan-Transnistrian military confrontation, Transnistrian authorities allowed eight Latin-script Romanian-language schools (five high schools and three elementary schools, attended by 7700 children) to operate in the region under the Moldovan Ministry of Education. At the same time, the use of the Latin alphabet is forbidden by the Transnistrian "constitution" of 1992 and

¹ Moldova has a population of 4 million; 522,500 live in the secessionist-controlled region of Transnistria.

² The rapporteur refers here to the police mistreatment of young people during the April 6–7 2009 youth demonstrations held in Chisinau, the capital of Moldova, that protested against the electoral fraud committed by the Communist Party that ruled for two consecutive mandates, from 2001 to 2009 (see the UNHCR Country Reports on Human Rights Practices 2011).

³ According to the Freedom House (2012) report the press in Moldova is partially free. The freedom score was 54.

reading/writing in the Latin script is punishable by a fine of approximately 480 lei (\$ 40.50).

The lack of access to information from Transnistria prevents Moldovan law enforcement officials and NGOs, as well as international organizations and experts, from tracking developments on the degree of respect of human rights in the region.

The antidiscrimination law that was passed in 2012 became a controversial issue in Moldovan society. The law was opposed mainly by the Association of Orthodox Organizations, other religious groups (especially the Moldovan Evangelical community), certain NGOs and some political parties. They rallied throughout the last 2 years in Chisinau and other cities in Moldova to protest against the passing of this bill. They were especially opposed to the provision to include LGBT persons as a protected social group. As a result, the Law was withdrawn in March 2012 by the Ministry of Justice for further review and consultations. The tension also escalated in the media: numerous talk-show and debates were broadcast, in which there were contradictory discussions pro and con the legal recognition of LGBT rights. The church representatives rejected the Law on religious grounds and were even harshly opposed to the necessity to publicly discuss the issue. State officials declared that the Law was a necessary step in the European integration process. In the end the law was adopted with a different text and under a different title than initially proposed: the Law on ensuring equality (Republica Moldova 2012).

The end of the story with the Law on ensuring equality is yet to be written. In the wake of the LGBT public events in May 2013,⁴ certain parliamentary parties—the Socialist Party and the Communists Party—have asked the Parliament to abolish the Law (Socialiștii 2013). A similar request came from Vladimir, the Metropolitan of Moldova. The spiritual leader of Moldovan Orthodox Christians called on the President and the leading government and parliament figures for a modification of the Law in order to eliminate the provision on discrimination based on sexual orientation. The Parliament refused to comply (Vladimir 2013).

Freedom of Religion in Moldova

The predominant religion in the country is Orthodox Christianity. About 96% of the population claims membership of either of two Orthodox denominations, the Moldovan Orthodox Church (MOC), which is subordinated to the Russian Orthodox Church, (88%) or the Bessarabian Orthodox Church (BOC), subordinated to the Romanian Orthodox Church (8%). The MOC has 1,281 parishes, monasteries, seminaries, and other entities, and the BOC has 312 such entities.

Adherents of other religious groups, constituting less than 10% of the population, include Roman Catholics, Baptists, Pentecostals, Seventh-day Adventists, Muslims,

⁴ The LGBT Pride march on May 19 2013 was attended, among others, by the US and the Swedish Ambassadors to Moldova, and the European Commissioner for Enlargement and European Neighborhood Policy, Stefan Fule. No Moldovan politician or official was present.

Jehovah's Witnesses, Baha'is, Jews, members of the Unification Church, Molokans (a Russian group), Messianic Jews, Lutherans, Presbyterians, and charismatic and evangelical Christian groups. Based on the 2010 official statistics, the Old Rite Russian Orthodox Church (Old Believers) has 16 parishes; Jehovah's Witnesses 239 congregations, including 31 in the separatist region of Transnistria; the Union of Evangelical Christian Baptists of Moldova 315 churches and 20,391 members.⁵

There are some property disputes between MOC and BOC, in which the government constantly takes the side of the MOC. It refused to give the BOC access to the archives that were confiscated during the Soviet years (1945–1991), the BOC being until now unable to give an exact account of churches and land properties it could claim as former BOC properties. The BOC has sued for the return of several sites, but it has not won any enforced judgments in its favor. The Lutheran Church, as well as the Jehovah's Witnesses also claimed former properties, destroyed during the Second World War and the Soviet regime, but no positive results of these claims were registered.

The 1994 Constitution, the Law on the freedom of conscience, thought and religion (Nr. 125 of 11.05.2007), and other laws formally protect religious freedom, but in some cases the governmental authorities selectively interfere in the enforcement of legal provisions. There is no state religion in Moldova, however the Law on the freedom of conscience, thought and religion emphasizes that “the State recognizes the importance and the primary role of the Christian Orthodox religion, namely, the Moldovan Orthodox Church in the life, history and culture of Moldova” (art. 15, p. 5) (Republica Moldova 2012). Thus, the MOC, affiliated with the Russian Orthodox Church, has received favored treatment from the former communist government (2001–2009) and is well-seen by the Alliance of European Integration—the political alliance in power in 2009–2014. The highest-ranking clerics in the MOC hold diplomatic passports and are present at many official events, such as national celebrations.

The registration process is similar for all religious groups. At the request of the Ministry of Justice, a court can suspend the registered status of a religious organization for 12 months if it is engaged in “activities which affect state security, public order, life and human security” (art. 24, p. 2b). All religions, whether registered or not, officially enjoy the freedom to worship, as do foreign citizens. The process of registration remains, without a doubt, one of the most powerful tools in the hands of the State to regulate access to the Moldovan religious market. Successive governments have used it in order to prevent certain religious communities from official recognition.

In a number of cases the Moldovan authorities have interpreted the respect of religious rights in a biased way. The case of the Metropolitan Church of Bessarabia (created in September 1992 and subordinated canonically to the Romanian

⁵ In Transnistria the largest religious organization is the MOC. The Tiraspol-Dubasari diocese is part of the MOC and the Russian Orthodox Church, and an estimated 80% of the Transnistrian population belongs to that church. Other groups include Roman Catholics, followers of Old Rite Orthodoxy, Baptists, Seventh-day Adventists, evangelical and charismatic Protestants, Jews, and Lutherans (U.S. Department of State 2011).

Orthodox Church⁶) that went to ECHR is the most significant example in this sense (ECHR 2001). The Moldovan government rejected the registration of BOC several times, due, it was claimed, to an internal conflict within MOC, which is canonically subordinated to the Moscow Patriarchy. It was also claimed that any other recognition of an Orthodox church in Moldova could provoke violent conflict among believers. The Communists Party that was in power from 2001–2009 has especially strongly opposed to the legalization of the Metropolitan Church of Bessarabia. The main reason for the refusal was the connection of the Metropolitan Church of Bessarabia to the Romanian Patriarchate and its emphasis on the traditional connection of Moldovan Orthodoxy to the Romanian Orthodoxy. This was seen by the Communists Party as a threat to their project of national identity, one that postulated a distinctive Moldovan national identity, radically different from and opposed to Romanian identity.

As the human rights analyst Vitali Catana stressed out, “neutrality dictates the State to register all religious organizations fulfilling the legal conditions and not to fix the number of religious organizations it thinks should exist” (Catana 2004, p. 118). The Moldovan government was not able to justify its double standards, thus, the ECHR condemned its decisions and obliged the government to register the BOC. The State authorities encourage organizations and people to avoid churches belonging to BOC by only visiting MOC churches during religious celebrations.

Over the last decades the Moldovan government has continued to deny registration to some religious groups, such as Pentecostals and Muslims. The Orthodox bias against the Muslims of Moldova was explicitly stated by Gh. Armasu, the head of the State Service on Religious Issues in the 2000s, who justified the refusal to register Muslim organizations on the ground that “97% of the population of Moldova is Christian” (IHRC 2003).

Another religious group that has traditionally had a tense relationship with the State is the community of Jehovah’s Witnesses. Their conscientious objection to military service⁷ conflicted with the policies of the Soviet State and led to the deportation of Moldovan Jehovah’s Witnesses to Siberia during the so-called “Operation North” in April 1951 (Baran 2014). Today, the Moldovan State does not persecute Jehovah’s Witnesses, but authorities in the separatist Transnistria region continue to harass the community for the same reasons. Transnistria has no law providing alternative civilian service. Consequently, between 1995 and December 2010, more than 30 Jehovah’s Witnesses have been prosecuted because of their refusal to do military service. Some have even been sentenced to a one-year prison term to be served on probation and others have been fined 4590 Transnistrian rubles (\$ 450) (U.S. Department of State 2011).

⁶ BOC existed during 1918–1944, when Bessarabia was part of the Romanian State. It was liquidated when, after the occupation of Bessarabia, the USSR created the Moldovan SSR. All BOC properties were automatically granted to the newly created MOC under the subordination of Russian Orthodox Church.

⁷ There is an inherited ignorant attitude toward religious groups in Moldovan society from the Soviet times or possibly earlier. During the Soviet regime, all religious groups were persecuted, including the religious minority groups that opposed to serving in the army. In 1951 a group of about 700 persons, the great majority of whom were Jehova’s Witnesses, were deported to Siberia.

Religious tolerance and acceptance of religious diversity is another issue the Moldovan society faces. In November 2009 about 100 Orthodox Christians led by a priest, Anatol Cibric, destroyed the menorah installed by the Jewish community during the Hanukka celebration in Stefan cel Mare si Sfânt Park. Parishioners chanted anti-Semitic slogans, then pulled down the menorah, and replaced it with a wooden cross. In the opinion of the protest leaders placing a symbol of Judaism near the statue of Ștefan cel Mare, the former Moldovan prince canonized as a saint, was an offense. Anatol Cibric said that “the only goal of the action was to put an end to the presence of anti-Christian symbols in the center of Chisinau rather than their destruction or desecration”. The entire situation was framed in terms of “defending Orthodoxy” from foreign invaders. After a series of discussions mediated by the mayor of Chisinau, the menorah was moved to the courtyard of the Jewish Cultural Center in Chisinau and Anatol Cibric was only administratively fined with 600 lei (around \$ 50) for “the violation of religious sentiments and the profanation of an object of religious reverence”. Vladimir, the Metropolitan of Moldova, formally condemned Cibric’s actions but he also expressed his sorrow that Moldovan Jews had themselves contributed to the spread of religious conflict by deciding to install their religious symbol in a place so dear to Christians. On September 11 2010 in another anti-Jewish incident, vandals defaced the Chabad Lubavitch Synagogue in Chisinau, painting swastikas on the front of the building.

The situation for the new religious movements is by no means different. They are frequently restricted in their rights by the tacit alliance between the State and the Orthodox Church. For example: on August 15, 2008, the Adventist Church of Moldova had scheduled a public reading of the bible in the Central Square of Chisinau. Adventists had requested permission from the Chisinau City Hall as the Law on Meetings prescribed, but were denied permission by the authorities on the grounds that the Orthodox Church had also sent a letter to the City Hall in which the Church complained that such an event would hurt the feelings of Orthodox Christians since it would take place in the immediate vicinity of some of the most sacred Orthodox Christian and Moldovan national sites: the Metropolitan Cathedral and the monument of Stefan cel Mare.

In September 2011 the UN Special rapporteur on freedom of religion or belief, Heiner Bielefeldt, visited Moldova. In a press statement he emphasized that the Eastern European nation has made “noteworthy progress” on religious freedom since the era of the Soviet Union, but it could still take further steps to foster diversity. According to him, in Moldova the obstacles derived “mainly from the overly predominant position of the Orthodox Church, which enjoys a privileged status at variance with the constitutional guarantee of a secular State” (UN News Centre 2011). Bielefeldt also drew attention to the fact that important sectors of Moldovan society see Orthodox Christianity, in particular the Orthodox Church of Moldova, as constituting the backbone of national identity. Thus, the representatives of other religious groups are marginalized. It is obvious that the extremist groups are not numerous, but these act in an aggressive way. The need for a ‘public culture of appreciating diversity’ is evident in Moldova.

Religious Education

The Moldovan Law on education (1995) provides that “moral and spiritual instruction” is mandatory for primary-school students and optional for secondary-school and university students (Republica Moldova 1995). By “moral and spiritual education” are understood moral, spiritual, artistic, aesthetical, and ethical standards, as well as a broad understanding of the components that make up broader human values. According to the national educational curriculum, the goal of moral-spiritual education is to form a moral-spiritual conscience. Within this course, children would learn about the virtues of truth, goodness, peace, patriotism, faith, wisdom, tolerance, justice, team spirit, and trust. The aim of the moral-spiritual education is to educate people within a functional religious culture, to be open to other horizons, but aware of their own identity and to be willing to perpetuate the Christian character of Moldovan society in a global culture.

In the domain of education, different religions are free to organize religious education and have their own teaching personnel. At the same time, starting from the 2010/2011 school year, in state schools a subject called “Religion” was introduced. According to the curriculum, it is voluntary and parents are free to decide whether their child will study religion in school or not. The subject curriculum and the textbooks (there are several) were developed by the MOC and approved by a council formed of representatives of the Ministry of Education, the MOC and the BOC. Still, not all schools opted for the course; the requirements were higher in village schools than in city schools. According to the statistics of the Ministry of Education, about 69,000 pupils out of 360,000 opted to study religion in school (Barbăroșie 2012).

There were attempts to develop a public discussion on the necessity to teach religion in Moldovan schools and on the teaching methodology of this specific subject. The media scene was dominated by MOC representatives and by some NGO representatives, who presented contradictory views on the content and the form of the subject, who should be in charge of teaching it and what aims should be fulfilled. The debates were sporadic and did not have a major social impact, as little was said about taking into account the social configuration that determines the necessity to teach such a subject, the necessity to understand how modern religious education is related to the religious and moral belief in the family and within the society, and the importance of shaping the course based on modern challenges toward morality and belief.

Recently, several Evangelical organizations that had the support of the Orthodox Church have requested from the Ministry of Education the introduction of creationism in schools as a “legitimate scientific discourse on the origins and evolution of life on Earth” (Scrisoarea Bisericii 2013). They have also complained that the existing curriculum that privileges evolutionism is reminiscent of the atheist policies of the Soviet Union. Furthermore, the Evangelicals argued that by teaching solely Darwinist evolution in schools the state infringes upon the rights of parents to educate their children in the philosophical and/or religious tradition they consider appropriate.

Although the request was ultimately denied, it is important to mention that it introduced a new element in the educational debates in Moldova: for the first time, the debate was framed not in terms of true versus false conceptions of the world but rather in the legal language of the right to be taught the “morally acceptable” worldview.

The “frontal attack” on the educational system failed, but other indirect attempts to influence it have succeeded. For example, in 2005–2006 a huge religious lobby headed by the Orthodox Church that also included certain pro-Orthodox NGOs successfully blocked the attempts of the Ministry of Education to introduce a program of Life Skills-Based Education (LSBE). The program aimed to educate Moldovan children on subjects such as HIV/AIDS prevention, health education, human rights and social issues, prevention of violence and peace building. The religious lobby was opposed to the new educational program on the grounds that it destroys the traditional family by promoting “abnormal concepts” such as gender and sexual orientation and that it gives the children information about drugs, sexuality and inter-personal relations too early (Metaxa 2005). In the end, the Ministry of Education withdrew the proposed program.

Conclusions

The recommendations of the Parliamentary Assembly of the Council of Europe underline that education should serve the purpose of promoting intercultural dialogue, pluralism and tolerance, respect of equality and human dignity (Council of Europe 2008). For conservative Moldovan society it is not easy to accept that a person different from others or from a different religion deserves equal treatment and respect. Not many citizens understand that the State is responsible for preparing its citizens to live together, regardless of religious affiliations or moral beliefs.

At the same time, the State itself protects and enforces the rights and freedoms of Moldovan citizens in a rather arbitrary and selective way. It is hard to forget, for example, the attitude of the Moldovan authorities on the occasion of the LGBT Pride on May 11 2008, when the police passively stood by not intervening in any way, as large aggressive groups (including neo-fascists) severely beat and intimidated LGBT activists (see ILGA Europe 2008). It is also hard to deny or ignore the Orthodox bias of Moldovan politicians. At his inauguration in March 2012, the current president of Moldova, Nicolae Timofti, greeted only one Metropolitan, Vladimir, the head of the Metropolis of Moldova, although the Metropolitan of Bessarabia, Petru, was also present at the ceremony. On various occasions, the Communists Party members have expressed their concerns about the danger of “islamization” of the country after the registration of the Muslim community.

Today young people have access to different sources of information, communicate with their peers around the world and are much more open to discussing controversial or even taboo topics than previous generations. They are interested in the

advantages and disadvantages of being a child, a young person or an adult, what being vulnerable means at different ages. They want to participate in decision-making at different levels and are willing to learn how they can do it, how they can make their voices heard. They value the access to different sources of information, recognize diversity in its various forms and are much more open to new options, trying out new interests and activities. School remains, nevertheless, the place where the future generation of Moldovans is molded. The awareness of human rights issues should be one of the fundamental priorities of State authorities and civil society in relation to the school and in general toward the youngsters.

We have personally observed the transformative attitudes and reactions of youngsters and students as a result of taking part in youth programs aimed at informing and educating young people on human rights issues based on an extracurricular non-formal methodology, as well as during short interactions or longer educational experiences with young people abroad (Scourfield McLauchlan, Suveica 2012). These personal observations lead us to the conclusion that there is room for more initiatives, projects and activities in Moldova with the aim of promoting tolerance, acknowledging diversity and respecting others who are different from us in terms of moral values, religious belief or sexual orientation. Finding out what is relevant to young people in terms of rights and duties would be a good starting point.

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Reflections on Human Rights and Religion in Norway

Pål Ketil Botvar

Abstract This paper deals with the relationship between religion and human rights in Norway. The basic socio-economic needs of the population are taken care of by the welfare state. There are however some problems regarding the way religious rights are taken care of. Due to globalization religion is becoming more visible in the public sphere. This might cause more conflict and controversy since the Norwegian population is quite secularized. In the so-called caricature-controversy Muslims were protesting the publication of drawings of the Prophet Mohammad in newspapers. The way religion is being taught in public schools is another rather controversial question. The leaders of the majority church have a high stance on human rights issues. In this paper I will look into views on human rights in different church groups. According to the ISSP 2008 survey core members of the church have a higher score on topics such as “respect for all religions” and the rights of “religious extremists” than passive ones. The views of church leaders seem to affect those who take part in church activities. Still, also passive members have a positive view on religious rights. This indicates that the Norwegian society is characterized by a general human rights culture.

Introduction

Norway, like the other Nordic countries, is a welfare state in which wealth is quite evenly distributed among its citizens. Social security benefits are generous and employment rates high compared to other European countries. This is the case for both men and women. While the economic crisis hit many European countries hard from 2008 onwards, Norway has maintained its low unemployment rate (3–5%) and solid economy, due in part to the booming oil industry. Socio-economic rights, such as the right to housing, work and social security are not fully enacted in national legislation as individual rights. However, due to the relatively generous welfare state, such questions have not been at the top of the political agenda.

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For a long time Norway and the other Nordic countries have had among the highest scores in the world when it comes to human rights. This does not mean that this field is free of problems or that there are no public debates on such issues. In this article I will look specifically at topics where churches and other religious groups are involved in human-rights issues.

In recent years there have been quite a few confrontations between religion and human-rights issues. One obvious example is the so-called cartoon controversy in 2005–2006 when Muslims protested against the publication of drawings of the Prophet Mohammad in Danish and Norwegian newspapers, later also in other countries. In this case, freedom of religion clashed with the principle of freedom of speech and freedom of the press. There has also been a debate on the wearing of headscarves (the *hijab* and *niqab*) in public places, such as public schools, and debates on issues within Christian religion, for example, on the right of bishops to respond to political questions in the media and on the rights of gays and lesbians to be employed in the church (Botvar 2013).

During the 1970s and 1980s, in Norway, as in many other European countries, religious privatization was the trend. Then in the 1990s, religion figured more and more as a topic in public debates. This change is due in large part to the increased globalization of Norwegian society. Scholars such as Jose Casanova began to question the privatization thesis and have posited an alternative thesis on “deprivatization” and religion becoming public (Casanova 1994). A keener focus on religious themes in the media in recent years supports the argument that religion is back in the public eye.

What is the relevance of “public religion” to the discussion on human rights? Since religion now has a more prominent place in public debate, we might expect it to be a source of more conflict and controversy among the general public. The right to practice one’s religion is one of the fundamental human rights. In some situations, however, religious rights and other human rights are placed in opposition to each other, and this might influence the way both religious and non-religious people look at human rights. Later in this article I will try to ascertain, with the help of survey data, if active members of the church differ from passive members in their views on human rights.

The resurgence of religion in the public sphere has taken place in spite of the widespread secularization of Norwegian society over the last few decades. According to opinion polls, Norwegians are among the least religious people in Europe, only surpassed by such countries as Estonia, the Czech Republic, Denmark and Sweden (Norris and Inglehart 2004). Around one fifth of Norwegians say that religion occupies an important place in their life, making Norway one of the most secular countries in the world. Only about 8% of the population attends church services or other religious meetings at least once a month. However, many Norwegians remain in the national church so they can partake in and use such services as baptisms, confirmations, marriages and burials, rites which have a strong cultural standing in Norway. According to opinion polls, only about 36% of the population consider themselves religious, 9% consider themselves atheist and 46% consider themselves “neither religious nor atheist” (see: Lønnå and Rødland 2005, Gallup international).

These figures notwithstanding, around 75% of the Norwegian population are members of the National Lutheran Church. However, a growing number of people belong to other religious organizations or no religious organization at all. In recent years Muslims have become the largest religious group outside the national church and account for about 6% of the whole population and about 20% in the capital of Oslo. The situation in the big cities in the south-eastern part of Norway differs from that of the rural parts of the country when it comes to multicultural trends. Some of the questions relating to human rights and religious diversity are more relevant in the multi-ethnic and multi-religious cities than in rural areas.

Human Rights and Church-State Relations

The relationship between the Church and the State in Norway could until recently be described as a state church system. In the last few decades this system has come under increasing pressure because of the growing religious diversity. The close relations between the Church and the State were questioned not least because they were seen as problematic vis-à-vis the principle of religious freedom (Plesner 2001). The national Lutheran church agreed on the need to abolish the state church system because of the development of a multicultural society and hopes for positive effects in terms of more freedom from the State.

It was not until 2012 that the state church system was formally abandoned. In May 2012, the Norwegian Parliament voted to amend the 1814 Constitution, and that represented a break with a 500-year-old tradition. The so-called ethics paragraph in the Constitution formerly stated that “the Evangelical-Lutheran Religion remains the official religion of the State”, while the same paragraph also guaranteed religious freedom. After the constitutional amendment the new paragraph states that “The foundational values remain our Christian and humanist inheritance. This Constitution shall ensure democracy, the rule of law and human rights.” (Lovdata 2012) This is the first time that human rights are mentioned explicitly in the Constitution along with religion.

The corpus of the Constitution recognizes a number of fundamental human rights which are seen to be of particular importance. Among the rights guaranteed presently by the Constitution are the basic principle of the rule of law, that no one may be convicted of a crime outside of the law or punished by any other instrument than a court judgment, the freedoms of speech and of religion, the right to vote, the protection of the value of your property and protection against retroactive legislation. Norwegian law incorporates a number of important treaties on human rights into the domestic legal system on a general basis, including the European Convention on Human Rights and the International Covenants on Civil/Political and Economic/Social/Cultural Rights.

Another new paragraph in the Constitution (§ 16) states that “the Evangelical-Lutheran Church remains the People’s Church of Norway and is supported as such by the State. All religions and religious groups are supported equally” (ibid.). This active politics of religion is based on the principle of freedom to practice religion,

which is characteristic of the politics of the Nordic countries where religion is often seen as an integrated part of the welfare state.

From 2012 onwards bishops will be appointed by the national Lutheran church, and not by the government. The majority of ministers no longer need to be members of the Norwegian church, including the minister responsible for church affairs. The King must, however, still profess the Evangelical-Lutheran faith and the Church of Norway will continue to be financed by the State. The changes being implemented are supported by the church itself, being the product of an agreement initiated by all political parties in the Norwegian Parliament back in 2008. Religious minorities also welcome the split between Church and State.

The formal split between Church and State will give more freedom to the majority Church vis-à-vis the State. It is, however, an open question whether the legal amendments will lead to other substantial changes. For the State, the most important argument for changing the Constitution was the development of a multicultural society and the principle of equal treatment of all religious groups. The State will continue to finance most church activities. This will ensure that the activities of the church remain on the same level as before the split. The critical point is whether or not the State will use economic means as a substitute for governmental decisions as a way of having influence on the church.

In spite of the relatively low level of religious practice in Norwegian society, the local clergy often play an important social role outside their spiritual and liturgical responsibilities. While an increasing number of women have entered the priesthood and several have become bishops, there is still a small but highly vocal opposition to women clergy within the church. The standpoints of certain conservative-leaning bishops on whether practicing homosexuals should be permitted to serve as priests is under continuous debate, and is still considered very controversial within the national church. In 2007, a majority in the General Synod of the church voted in favor of accepting people living in same-sex relationships into the priesthood, while at the same time rejecting same-sex marriages. In 2008, the Norwegian Parliament voted to establish same-sex civil marriages. This has been a very controversial issue within the Church of Norway and it appears to have triggered conversions to independent congregations and other churches.

The church's role in burials is also under constant debate. The religious minorities are critical of the dominant role the Lutheran church still has in these matters. Some local authorities have, with economic support from the State, established local ceremony rooms or buildings for all religions and world views within their jurisdiction.

The Church's and the Church Member's Positions on Human Rights

The national Lutheran Church seeks to be a critical voice in society and speak out on governmental decisions it disagrees with. Church documents specify these as issues related to the present use of abortion, a selective society where people can be

rejected because of disabilities, active euthanasia and debates on the major ethical issues raised by biotechnology (Church of Norway 2007). Ecology is also mentioned as a social issue that the church is engaged in. In terms of ecology, the church wants both to be a critical voice in society and self-critical of how the church itself deals with ecological matters in local parishes.

Since a new wave of refugees and asylum seekers began to arrive in the late 1980s, the national Lutheran church has also been engaged in the rights of refugees (Vetvik 1997). In some instances church buildings have been used as hiding places for asylum seekers. The national church has criticized governmental policy in this area, accusing it of being inhuman and too strict.

What then about the members of the national Lutheran church, are they as supportive of basic human rights as the church leaders are? To investigate this question we use data from the ISSP 2008 survey on religion. This is an international survey carried out in many European countries each year. Religion was the main topic in the 2008 module.¹

The table below shows how different groups in the national Lutheran church look at questions related to human rights that involve religion. Those members of the national church who go to church at least several times a year are in general somewhat more positive towards religious human rights than those who seldom or never attend church. However, only three of the correlations are statistically significant. Churchgoers as a group have a higher score on topics such as “respect for all religions” and the rights of “religious extremists” (Table. 1).

The table provides two important findings. The positive view that the church has taken towards basic human rights seems to have had an impact on regular churchgoers. The other finding is that those church members who never attend church also have a quite positive view on religious rights. This can be seen as an indicator of a general human-rights culture characterizing Norwegian society regardless of what one’s standpoint is on views of life (Botvar and Sjöborg 2012). It must be borne in mind that this survey was conducted a short time after heated public debates on the Mohammad caricatures and the wearing of headscarves in public places.

Human Rights Issues that are Under Discussion

As mentioned above, issues involving both religion and human rights have been on the public agenda in Norway. During the last few years Norway and other Nordic countries have experienced public disputes on the use of religious symbols in the public sphere, as for example the debates on the Mohammad caricatures, the law on blasphemy, prayer in public schools, the building of mosques and public servants using religious symbols.

¹ The International Social Survey Programme (ISSP) is an on-going annual programme of cross-national collaboration on surveys covering topics important to social-science research.

Table 1 Views on questions related to human rights in ISSP 2008 on Religion: Three groups of members in the national Lutheran church in percent (Total $N=824$)

Support statements (strongly/moderately)	Go to church at least several times a year	Go to church once a year or seldom	Never go to church	Sign
All religious groups in Norway should have equal rights	38 %	41 %	43 %	n.s.
We must respect all religions	84 %	75 %	71 %	0.008
I accept a person from a different religion marrying a relative of mine	80 %	85 %	83 %	n.s.
I accept a person from a different religion being a candidate of the political party I prefer	75 %	81 %	81 %	n.s.
Religious extremists should be allowed to hold public meetings	51 %	43 %	39 %	0.003
Religious extremists should be allowed to publish books to express their views	71 %	63 %	62 %	0.05
<i>N</i>	120	399	305	

In these debates religious minorities are often accused of having fundamentalist and anti-democratic attitudes. The Muslim minority has been under constant attack in these debates, especially with respect to the controversy over the Mohammad caricatures in 2006. Two human rights were placed in opposition to each other—the freedom of religion and the freedom of expression. For the majority of the population these debates have probably made them more aware of and concerned with the human-rights aspects of religion in the public sphere. Some people have probably developed a more negative attitude to all forms of public expressions of religion.

On July 22, 2011, the right-wing extremist Anders Behring Breivik detonated a large improvised explosive device next to government buildings that housed many ministries and the prime minister's office, killing eight people and injuring about thirty others. After detonating the bomb, Breivik drove to a Labour Party youth camp on the island of Utøya outside of Oslo and shot and killed 69 persons (mostly young people) and injured many others. Shortly before the attack, Breivik posted a manifesto on the internet in which he accused the Labour Party of treason for, among other things, encouraging Muslim immigration.

The Center Against Racism reported that in the hours after the attack and before the perpetrator's identity was established some Muslims in Oslo reported being harassed, spat upon, yelled at or chased (Haarr et al. 2012). The government

responded to the July 22 attacks by calling for “more democracy, more openness, and more humanity.” Commentators noted that, in the months following the attack, there was a greater feeling of inclusiveness towards all members of society (Aagedal et al. 2013).

The constitution provides the right to practice religion in general, but there have been examples of existing laws conflicting with the practical lifestyles of certain religious groups. For example, according to Norwegian law, before slaughter, an animal must be stunned or administered an anesthetic, which conflicts with the methods of kosher slaughter and some interpretations of halal meat preparation. The law therefore effectively bans the production of kosher meat in the country, thus forcing the Jewish community to import kosher meat.

The Norwegian penal code covers violations of the right to religious freedom. It specifies penalties for expressions of disrespect for religious standpoints or followers and for public discrimination on the basis of religion. However, there is a government ban from 2010 on wearing religious symbols, including headgear, with police uniforms.

Human Rights Especially Relevant for Young People

Young people are more affected by the globalization process than the older generations. Younger generations have grown up with computers and the internet. They are used to contacting people across borders and religious groups. The increase in the immigration of young people has changed the youth cultures in the big cities. Young people are more in contact with people from different religions and world views than are older people. Because they are often part of ethnic and religiously complex environments, questions relating to both religion and human rights are especially relevant to them.

Human rights issues related to schools and education are of course also of special relevance for young people. The teaching of religion in public schools from ages six to 16 has been the subject of public dispute for several years. The course, called Christian Knowledge and Religious and Ethical Information (CKREE), reviews world religions and philosophy while promoting tolerance and respect for all religious beliefs. Citing the country’s Christian history (and the stated importance of Christianity to society), the CKREE course devotes an extensive amount of time to studying Christianity, but the course includes a discussion of other religions. This course is mandatory; there are no exceptions for pupils belonging to other religious groups.

A basic question is whether this religious education course in public schools in a pluralistic society should be compulsory or optional. Another question is whether the school should develop a religious education subject that might include pupils of all faiths and beliefs or if the classes should be (partly or fully) divided according to faiths/beliefs when this course is being taught.

The present Norwegian model for religious education, introduced in 1997, differs from this general picture as it is both compulsory and does not have a confessional basis. On the other hand, it can be seen as a part of the tendency in several countries to provide multi-religious education for all pupils—one of the main aims of the subject being to promote tolerance and understanding between religions by providing knowledge about different traditions and a dialogue on common values in multi-religious societies. The presence of this aim is also the reason why the subject is compulsory for pupils of all faiths, with only a limited right to exemption from certain parts of it (for instance activities that might be seen as parts of religious rituals, such as church services or prayer). Even though the subject shall provide knowledge about other religions as well as secular worldviews, the main emphasis is on knowledge about Christianity and the Christian cultural heritage of Norway. The combination of a main focus on Christian knowledge and a limited right to exemption has made the subject controversial for parents in various minority groups. Moreover, the Public School Act establishes that Christian morals are a basic and general foundation for school education, in addition to tolerance and freedom of thought. This has contributed to different groups of parents fearing the possible effects of the role of Christianity and Christian values in the new subject.

The criticism received from different minority groups when the subject was first introduced led to some changes in the curriculum. Different religious traditions shall now also be presented at the lower grades, and it has been underlined by the school authorities that knowledge about Christianity and other religions or beliefs shall be taught according to the same pedagogical principles, without presenting any of them as better than others. However, several minority groups feel that this is not possible when taking the present content of the subject into consideration. They claim that the subject leads to discrimination, referring for instance to the fact that more than half of the time is to be spent on teaching about Christianity. There have been two trials where groups of Muslim and humanist parents—represented by the Norwegian Humanist Association and the Islamic Council Norway—have demanded the right to take their children out of the subject. The humanists and the Muslims fear that the dominance and role of Christianity in the subject can lead to influencing—or even indoctrinating—their children to see the Christian faith as better than other beliefs.

On the other hand, the majority of parents—belonging mostly to the Evangelical Lutheran Church of Norway—are for the most part satisfied with the new subject (Skeie 2009). The school authorities are reluctant to make the subject optional as they see it as an important arena for providing necessary knowledge and dialogue in an increasingly multi-religious society. The authorities argue that the dominant role of Christianity in the subject can be legitimized because of the role Christianity has played throughout Norwegian history and the fact that 75% of the Norwegian population belongs to the Evangelical Lutheran Church.

In 2012 there was also a debate on prayer rooms in high schools in Oslo. The decision by one high school in Oslo to establish a prayer room for Muslims to be used for Friday prayers was heavily criticized by the former head of the right-wing populist Progress Party, currently a representative of the city council. The principal

of the school ultimately bowed to the pressure and cancelled the plans. Muslim leaders and politicians immediately expressed their disappointment and displeasure at the education authority's decision to not allow prayer rooms in the Norwegian capital's schools. Interestingly, the Muslim leaders were joined by the Lutheran bishop in Oslo on this issue.

Conclusion

Religion has become more visible in recent years and seems to be returning to the public sphere. This development is related to immigration and globalization processes. New questions arise: Will religion become a more controversial issue in the public debate? Will religious rights be placed in opposition to other human rights in the public debate?

The Norwegian constitutional reform in 2012 did not only change the state church system but also embedded human rights in the basic values of the nation along with Christian and humanistic traditions. Does this mean that in the future human rights will constitute a common value platform for the population and for public debates on religious issues?

Even if, according to attitude surveys, the Norwegian population has become highly secularized, people still accept that religion plays a role in the public arena. The recent intense disputes over the wearing of headscarves, prayer-rooms in schools, blasphemy, the Mohammad cartoons, and so on, have not yet led to a decrease in the acceptance of certain religious symbols in the public sphere. New data show that people tend to accept religious views and symbols in the public sphere, especially when they are related to human rights. Both those who go to church often and those who never go to church seem to agree on the basic principles of religious freedom.

A strict attitude towards all public forms of religion is problematic vis-à-vis principles of human rights, such as religious freedom. An increase in the acceptance of certain forms of public religion can be seen as a possible outcome of all the intense disputes that have raged in the mass media in recent years against the use of religious symbols in the public sphere. For the majority of the population these debates have probably made people more aware of and concerned about human-rights in relation to public forms of religion.

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Human Rights and Religion in Palestine

Raymond J. Webb

Abstract This paper on Palestine (the Palestinian Territories, which are defined as East Jerusalem, the West Bank, and the Gaza Strip) is based on generally available information, on data gathered in the Religion and Human Rights 1.0 project research (conducted in the greater Bethlehem area in 2008), and on material from the personal investigations of the author. The research question in this paper is the human rights situation in Palestine, with particular reference to religion and young people. My conclusions are several. The Christian and Muslim young people mostly identify themselves as religious and generally support human rights. But the Occupation (military control) of many aspects of Palestinian life by Israel does affect the exercise of human rights. The Palestinian Authority and Israel are both accused of certain violations of human rights. Short of a durable peace treaty, the Occupation will affect the human rights of all Palestinians as well as any discussion of other human rights issues.

This article is based on generally available information as well as research done for the articles listed at the end of this paper, and additional investigations. The area of interest is Palestine (the Palestinian Territories), which is defined as East Jerusalem, the West Bank, and the Gaza Strip. It is in these areas that the Palestinian Authority (PA) hopes to establish a universally recognized state in the future. Currently, these areas are “occupied” (controlled) in various ways by Israel. This situation of occupation affects most aspects of life in the Palestinian Territories. The concern of this paper is the relationship between religion and human rights. The concern is about first generation human rights: civil, political and judicial, as well as second generation socioeconomic rights: economic, social security and cultural rights, certainly including the human dignity of all persons, especially women and children.

Both Israel and Palestine have the machinery of human rights, but in the situation of occupation it is difficult to name human rights violations without one side or the other claiming “security” interests. As will be seen, critique of the Occupation in general and the behavior of the occupying power will be unavoidable. The

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occupying power is responsible for the human rights of the inhabitants of territory under its control.¹

One is aware that whoever controls a narrative or repeats a particular narrative with great frequency influences a widespread view of the reality. The use of terms, e.g. “Security Barrier” or “Separation Barrier” or “Wall,” or “Palestinian Authority” or “Palestinian National Authority,” is always contentious. The question of “parity” between apparent Israeli and Palestinian violations of human rights is also disputed. In addition, Palestinian academics are concerned about participating in any international projects which would seem to imply that the situation in the Palestinian Territories is “normal.”

The Palestinian religious party narrative would be different from the Palestinian nationalist (Palestine Liberation Organization or perhaps Fatah party) narrative. The Israeli left of center narrative would differ from the Israeli rightist account. It is reasonable to believe that the present narrative would, in general, be accepted by the Israeli center-left (perhaps exemplified in the Israeli newspaper *Haaretz*) and by the Palestinian nationalist perspective.

The current stated Israeli position is that there should be a two-state solution to the Israel-Palestine conflict, that a one-state solution would be the destruction of Israel as a Jewish-majority state. The Palestinian position is varied. The Palestine Liberation Organization (principal party Fatah) seems to accept a two-state solution (East Jerusalem, the West Bank, and Gaza as Palestine). A nine-month round of peace negotiations between Israeli and Palestinian negotiators began in August, 2013 and ended unsuccessfully; the Palestinians see continued Israeli settlement building in the occupied territories as an obstacle to peace. Some Palestinians wonder if a viable two-state solution with contiguous territory is still possible. Hamas has called for a state of Palestine in all of the territory from the Jordan River to the Mediterranean Sea, although more recently a Hamas political leader, Khalid Maschal, accepted the idea of a two-state solution with several conditions, including the right of refugees from Israel to return to their homes in Israel (Bronner 2011).

Palestine and Occupation

In the June, 1967 War, Israel captured and has since occupied the West Bank, East Jerusalem, and the Gaza Strip. Israel annexed East Jerusalem with extended boundaries, but this annexation is not recognized by the United Nations, the European Union, the United States, and most nations of the world. Formerly, East Jerusalem and the West Bank (of the Jordan River) were part of the Kingdom of Jordan. The Gaza Strip was administered by Egypt. These areas are the Palestinian Territories. On November 29, 2011, the United Nations General Assembly recognized the State of Palestine as a non-member observer state, a status identical to that of the Vatican City State (138 for, nine against [including the U.S. and Israel], 41 abstain).

¹ Fourth Geneva Convention

Palestine does not vote in the General Assembly but can participate in the various United Nations bodies, such as UNESCO. The United States and Israel assert that the statehood of Palestine and the demarcation of its borders can only come through direct negotiation between Israel and the Palestine Liberation Organization (which is recognized as the representative of the Palestinian people).

One, but not the only, Israeli argument is that there never was a state of Palestine. So, the territories occupied in the 1967 are “disputed” territories. It is claimed that laws against moving populations in occupied areas or annexing or using occupied territory do not apply in this situation. Certain settlements began as security areas, occupied by Israeli armed forces, and were later turned over to civilians. Israel has ownership of some land on which settlements were built. Other land is regarded as “state land” to which Israel lays claim in the “disputed” areas. Palestinians have ownership papers for still other land. The United Nations and most countries do not recognize the legality of the settlements. As noted, it is difficult to address human rights in the context of military and civil occupation of East Jerusalem, the West Bank, and the Gaza Strip by Israel. Israel justifies many actions as necessary for security reasons. Palestinians are tried in Israeli military courts, sometimes with secret evidence, for most offenses involving Israel and Israelis. Land issues are adjudicated in Israeli civil courts.

Israel

Israel has 8 million inhabitants, of whom 6.1 million are Jewish. Its 1.65 million Muslims are also citizens. Officially, Muslim citizens of Israel enjoy all the rights of Israeli Jews. (But there has never been an Arab minister in a government of Israel.) Arab citizens of Israel have the right to vote. Religion is noted on one’s identity card. 1.65% of the citizens of Israel are Christian: Greek Orthodox, Latin Catholic, Greek Catholic (Melkite), Anglican, Armenian Orthodox, Syrian Orthodox, Lutheran, Evangelical, and some others.

Israelis and Jewish settlers are not part of this study. There are about 300,000 Israeli settlers in the West Bank, as well as 200,000 Israelis living in East Jerusalem in annexed areas, all with full Israeli citizenship. Jurisdiction over the settlements and settlers is exclusively in the hands of the government of Israel. (Since Israel regards an expanded East Jerusalem as part of Israel, it does not regard the Israeli residents of East Jerusalem as settlers.)

East Jerusalem and the West Bank

300,000 Palestinian Arabs live in East Jerusalem. Palestinians living in East Jerusalem have Jordanian passports, as well as Israeli Jerusalem identity cards (which allow them access to all of Israel). Israel has offered citizenship to some Arab

inhabitants of East Jerusalem; about 2500 have accepted. There are issues of recognizing Israeli sovereignty in East Jerusalem by accepting citizenship.

2.4 million Palestinian Arabs live in the West Bank. Palestinians in the West Bank and Gaza travel on Palestinian passports (and identity cards issued by Israel). 1.37% of the Arab inhabitants of the West Bank and East Jerusalem are Christian, 50,000 in all, largely in Jerusalem and the greater Bethlehem area.

Gaza Strip

About 1.7 million Palestinian Arabs live in the Gaza Strip, all Muslim except for an estimated 2000 Christians. Israel withdrew in 2005. Since the coup of 2007, Gaza is controlled by the Hamas party. Gaza is surrounded by Israeli forces, which limit access and egress of goods and persons. The border with Egypt is controlled by Egypt. The extent to which fishermen can go out into the Mediterranean Sea is controlled by Israel. Farmers are not allowed to go within three hundred meters of the fence surrounding the Gaza Strip. They risk being killed if they do. Hence, they do not have access to much of their land in a strip which is 40 km long and 5–8 km wide. The kind and amount of goods entering the Gaza Strip overland are monitored by Israel. Exports are very limited. Some material had entered Gaza through as many as 200 tunnels from Egypt, a situation Egypt was severely restricting in late 2013. At times the tunnels are bombed by Israel or closed by Egypt. The tunnels have admitted arms (which Israel is trying to prevent), fuel, concrete, steel, food, automobiles, farm animals, etc.

Rockets or mortar shells fired at Israel from Gaza have been a regular feature of the situation. Israel flies reconnaissance over the Gaza Strip, bombs specific targets and persons (considered military) on occasion, and has had two brief wars with the Hamas government of the Gaza Strip (2008–2009 and 2012), the earlier one including an invasion. More than 1100 Palestinians (many of them civilians) and 13 Israelis died in the first war and 160 Palestinians (many civilians) and six Israelis, in the second.² The second war was started by Israel in response to a heavy barrage of rockets. The rockets came in response to the assassination of a Hamas military leader. Both sides object to any intimation of “parity” in the aggression of the other side. [The 2014 Gaza war happened after this chapter was written.]

Oslo Accords (1993)

Recognizing Israel’s right to exist and renouncing violence, the Palestine Liberation Organization signed with Israel the so-called Oslo Accords in 1993. They were supposed to be a first step toward a comprehensive peace.

² <http://www.ynetnews.com/articles/0,7340,L-4355118,00.html>

The West Bank is (temporarily) divided by the Oslo Accords into three areas: Area A, Area B, and Area C. Ultimately, however, Israel has military control over the whole West Bank. For “security reasons,” Israeli forces enter all areas to arrest Palestinians. The human rights of the people in the Palestinian Territories are affected by both Israeli and Palestinian authorities.

Area A is under Palestinian control. It comprises the major cities of the West Bank. Palestinian police forces control security in Area A. Civil matters in Area A are handled in Palestinian courts.

Area B includes Palestinian villages and is under Palestinian civil control and mixed military control. However, recently only Israel has had actual military control.

Area C is under Israeli civil and military control and includes 62% of the area of the West Bank. There are issues of water, the difficulties of Palestinians in obtaining building permits, settlement development, etc. (United Nations 2010).

Palestinian Authority

The Palestinian Authority (PA) was set up as the governmental arm of the Palestine Liberation Organization and to administer areas of the West Bank and Gaza from which Israel withdrew. Its police and civil structure control several West Bank cities and their immediate environs: Ramallah, Jenin, Tulkarm, and Nablus, most of Hebron, Bethlehem, and Kalkyia. The PA controlled Gaza after Israeli withdrawal (2005) until a Hamas coup overthrew it in 2007. PA employees living in the Gaza Strip continue to receive PA salaries, although they do not work. A few PA officials have responsibilities at the crossings from Israel into Gaza (Keren Shalom and Erez), since Israel refuses to deal with Hamas, which it considers a terrorist organization.

Fatah

Fatah is the major nationalist party, associated with Yasser Arafat and now Mahmoud Abbas, which is in power in the West Bank. It lost the Palestinian parliamentary election in January, 2006 to Hamas. Fatah is the main political party in the Palestinian Liberation Organization, which negotiated the Oslo Accords with Israel. (The PLO was previously considered a terrorist organization by the United States and Israel, but this label was removed when the PLO agreed to negotiate with Israel and renounce violence.)

Hamas

Hamas (an Arabic acronym for Islamic Resistance Movement) was started in 1988 by Sheikh Ahmad Yassin and others as a religious party, loosely related to the Muslim Brotherhood movement in Egypt and Jordan. The European Union blacklisted Hamas on its list of terrorist organizations in 2003. Though Hamas won the parliamentary election in 2006, the United States and the European Union would not give it financial support, and it was never allowed to govern in the West Bank. Hamas currently governs the Gaza Strip after the coup of 2007, but is cautious and quiet in the West Bank, members fearing arrest by the Palestinian Authority or Israel.

Israeli Settlers and the Law

Settlers are protected by Israeli soldiers and police and are not in any way under Palestinian police or law. Settler violence against Palestinians is investigated by Israeli police. Such incidents on occasion have been punished by judgments against Israelis. Palestinian actions against Israelis are adjudicated in Israeli courts. Palestinians consider punishments of Palestinians in Israeli military courts to be much more severe than punishment meted out to settlers.

Human Rights and Human Rights Attitudes

There is no Palestinian constitution. The Amended Palestinian Basic Law (2003) states that: “Islam is the official religion of Palestine. Respect for the sanctity of all other divine religions shall be maintained. The principles of Islamic *Shari’a* shall be a principal source of legislation” (Palestine Basic Law 2003)³. Human rights and liberties are to be protected, including personal freedom, the requirement of judicial orders, the inviolability of homes, freedom of worship, opinion, expression of opinion, and worship (Palestine Basic Law 2009)⁴.

Israeli treatment of Palestinians is variously based on British Mandate law, Jordanian law, and emergency Israeli military and civil regulations.

Groups monitoring Palestinian human rights include the Palestinian organizations Palestine Human Rights Monitoring Group, The Palestinian Human Rights Organizations Council (PHROC), Al-Haq, PASSIA, and Al-Menaz Center for Human Rights (Gaza), as well as the Israeli groups B’Tselem, Rabbis for Human Rights, Machsom Watch, and Gisha.

³ Palestine Basic Law, Title One, Article 4, 1–2. <http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>

⁴ Palestine Basic Law, Title Two, articles, 10, 11, 17, 18, 19, 20. <http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>

Violations of Human Rights

Palestinian complaints about civil rights violations against the Palestinian Authority include: detention without trial; issues of treatment while in custody; disbanding demonstrations; restrictions on civil liberty; and corruption. Palestinian concerns about human rights in Gaza are similar. Hamas and other organizations firing rockets and mortars into Israel and Israeli attacks on Gaza, both causing civilian casualties, also are or raise human rights issues (U.S. Department of State 2011). One example which arouses concern about human rights is the recent killing in Gaza of six persons accused of collaboration with Israel. Whether these were executions after court proceedings or lynchings is in dispute (Associated Press 2012).

The occupation as a whole is the major complaint of Palestinians against Israel. Other specific complaints about Israeli behavior against human rights include: arrest and detention without trial; military force resulting in death to civilians; treatment during detention; trials with secret evidence; the near impossibility of obtaining building permits in East Jerusalem and in Area C; the subsequent destruction of “illegally” built homes or additions; confiscation of land for settlement building; and the building of the “Separation Barrier” or “Security Barrier” or “Wall.” A recent case of a civil rights issue would be that of Arafat Jaradat, who was detained in February, 2013 by Israeli authorities for alleged November, 2012 stone throwing, interrogated for six days, and died. At first, it was said by the Israeli security services that he suffered a heart attack, then that his ribs were broken in an attempt to save his life, but then an autopsy showed no sign of a heart attack. Palestinian officials say he died as the result of torture under interrogation; Israel disputes this (Robbins 2013).

Checkpoints and restrictions on travel are also a complaint, although this has diminished some in recent years (U.S. Department of State 2011). Travel between the West Bank and Gaza is not possible for most Palestinians. Gaza students do not receive permission from Israeli authorities to study in West Bank universities. Demonstrations against construction of the Wall are broken up by Israeli troops, usually with tear gas, sometimes with rubber bullets, and occasionally with live fire, which can be lethal. Israel has come to consider stone throwing to be a life-threatening activity. Demonstrations against Palestinian Authority policies and actions, and sometimes against Israeli policies and actions, are dismantled by Palestinian paramilitary police, sometimes with physical force.

Survey Data of Youth Attitudes on Human Rights

Some notion of the attitudes of young men and women (average age=17.5) regarding religion and human rights and some hints about a possible future can be gained from data from the Religion and Human Rights 1.0 project research, which was conducted in the greater Bethlehem area in 2008 (Webb et al. 2011). It has

been argued that the greater Bethlehem area can be called a “religious society” with prominent religious symbols, identification and practice (Webb et al. 2012). In the 1.0 survey, only 14 of the 561 respondents identified themselves as “non-religious.” Religious denomination (Christian or Muslim) is also a cultural factor, a characteristic of extended families.

There was general support of human rights by both Christian and Muslim young people. The strongest support among both groups was for the rights to: live by personal moral standards; be free from unauthorized police searches; be free to debate moral issues; and non-interference with religious communities. Freedom of life-style, assembly, the press, privacy, and moral speech were also supported. Although there was a difference in degree, both Christians and Muslims did not support: the prohibition of prayer in public schools and the notion of freedom of speech that would allow ridicule of atheists and religious persons (Webb et al. 2011).

There was a significant difference in three areas of secular civil rights. Christians more strongly supported adult sexual freedom and freedom of expression. Muslims more strongly supported protecting personal moral standards. In regard to religious civil rights, Christians were more supportive than Muslims in three areas of religious civil rights (non-interference with religious communities, forbidding public school prayer, and freedom of speech regarding religious people). All of these differences were in regard to intensity not direction.

In any future research regarding human rights, data gathering will present a challenge. The political aspects are considerable, including government controls and the fears of potential respondents. In addition, religion is a sensitive issue, very much related to personal, family, and group identity.

Position(s) on Human Rights Represented by the Religious Institutions in Palestine

Now retired Latin Catholic Patriarch Michel Sabbah has been an outspoken advocate for Palestinian human rights and an end to the Occupation:

Brothers and Sisters here in Palestine, Israel, Jordan, and Cyprus, I wish each and every one of you joy, serenity, tranquility and peace. This year again, Christmas is coming to Bethlehem amid the same circumstances of death and frustration, with the Wall and the checkpoints on the ground and in the hearts. The occupation and deprivation of freedom on one side, and fear and insecurity on the other, continue as before. Gaza remains a big prison, a place of death and of internal Palestinian dissension. Even children have been killed. And everyone, including the international community, remains powerless to find the right road to peace and justice. Fear of the future has engulfed the entire region: Iraq, Lebanon, Syria, Egypt and Jordan. For everyone, the future is at stake. In this context, world terrorism is feeding on all of the open wounds (Sabbah 2006).

The Latin Patriarchate speaks out on issues resulting from the occupation, e.g. confiscation of Cremisan monastery land (Latin Patriarchate 2013). Sabbah has enjoyed widespread support in this position from priests of the patriarchate. Anglican,

Greek Catholic (Melkite), and Lutheran leaders are also outspoken in regard to Palestinian rights.

Christians worship freely in Palestine. In the Gaza area, as a minority of less than .5%, some Christians currently feel pressures, which can lower confidence in broader participation in society. In Palestine, religion and inheritance claims follow religious law and take place according to the respective religious traditions. There is no civil marriage in Palestine. Inter-marriage (Christians with Muslims) is rare and usually involves leaving the country. According to Islamic law, a Muslim man may marry a Christian woman while she retains her religion, with the children being raised Muslim. A Muslim woman may not marry a Christian man. In practice, the Catholic Church does not grant the dispensation to a Catholic to marry a person who is not Christian, due to all of the social consequences. Conversion from Islam to Christianity is not allowed. Islam permits Christians to become Muslims. There are at times controversies when Christians become Muslim, societal coercion being alleged. Such conversion is often in regard to desired marriages. Clearly, in regard to conversation, there are religious freedom human rights issues.

The majority of Palestinian children attend UNRWA (The United Nations Relief and Works Agency for Palestine Refugees in the Near East) or Palestinian (or Jordanian, in East Jerusalem) government schools. Islam is taught as part of the curriculum and is a subject in the national matriculation exam. Christians are not required to study Islam in school or as a matriculation exam subject. There are both Muslim and Christian private schools operating in the West Bank, East Jerusalem, and the Gaza Strip. In most Christian schools, the majority of students are Muslim. They take Islam as a subject. Christians study Christianity.

Rights in Discussion and Under Pressure

The military and (partial) civil occupation of Palestine by Israel presents the greatest challenges to the exercise of human rights.

On occasion but not usually, Palestinians find decisions from the Israeli High Court in their favor in regard to land confiscation (for settlements, or to build the Security Barrier/Wall). The security barrier/wall is always built on Palestinian land (the Palestinian side of the 1949 Armistice Line). Access to land by landowners and farmers is often impeded by the separation barrier. Gates are present but they are locked at times. Selling of Palestinian land to Israelis is theoretically punishable by death (Jordan law). Papers regarding land ownership are complex. Areas where persons have farmed or grazed sheep are sometimes declared “state land” by Israel, even in the occupied territories. This results in Israeli land appropriation, which seems to contravene international law (e.g. the Israeli claim of 1000 acres near the settlement of Efrat (Hass 2013).

The Hamas military take-over of Gaza in 2007 is considered illegal. However, Hamas was not allowed to exercise in the West Bank the power it won in the 2005 Palestinian elections, due mostly to Hamas being declared a terrorist organization

by Israel, the European Union, and the United States. Persons in the Fatah movement and other neutral persons enjoy freedom of expression in the West Bank. Palestinian political activity and Palestinian nationalist organizations in East Jerusalem are proscribed by Israel. Hamas permitted a Gaza Fatah rally recently, which drew 100,000's of participants. There would be fear of a Hamas rally in the West Bank.

Several other matters can be briefly noted. Palestinian residents of East Jerusalem participate in the Israeli national pension and health care schemes. Government health insurance is available in the West Bank. Provident funds provide for retirement, where they are set up. In regard to cultural freedom, the *dubke*, the Palestinian national dance, forbidden when Israeli troops were present in Area A, is now common. It is not clear what due process looks like in cases of alleged collaboration with Israel by Palestinians. Although there have been incidents when patients in ambulances were not permitted to cross checkpoints from Palestinian Territories to hospitals in Israel, such crossings are usually coordinated and allowed. Certain patients from Gaza receive Israeli permission to be treated in Israeli hospitals.

Relationship Between Religions and Government with Regard to Human Rights

More formal inter-religious dialogue is not well developed in Palestine, often consisting of ceremonial meetings of religious leaders at the time of feasts or joint statements in regard to the Israeli occupation. Arab Christian leaders speak out on issues of civil rights and the occupation (cf. Michel Sabbah and others). Muslim leaders of mosques on occasion preach against the occupation in the Friday (*hutba*) sermon. The Muslim-Christian dialogue focused semi-annual periodical *Al-Liqa' Journal* recently celebrated 25 year of existence. Articles against the occupation are regular, as well as explanations of the relationship between Christianity and Islam, particulars of each religion, the Land, and the concern about emigration. Theological analyses of specific situations and articles by religious leaders and scholars make up much of the content. Israel grants permits to West Bank Christians to enter Jerusalem for Christmas and Easter. Some Muslims are allowed into Jerusalem for Muslim feasts. When there was a Christian claim in 2012 of Muslim kidnapping and forced conversion of members of two Christian families in Gaza, the *de facto* (Hamas) government, as well as Christian and Muslim officials, was involved in coming to a resolution of the matter, which ultimately involved love and marriage issues.⁵

The Palestine government, in its various forms, does not seem to act against the religions, however, *shari'a* is in the background. Specific seats in the Palestine Legislative Council are designated for Christians (from East Jerusalem, Bethlehem, and Gaza).

⁵ <http://www.maannews.net/eng/ViewDetails.aspx?ID=505148>

Christian clerics who are not citizens of Israel or formal residents of Jerusalem require permission to cross into Jerusalem or Israel. Such permission is usually given, but can be delayed.

Rights Especially Relevant for Young People

Assembly and Demonstration

How do young people protest against the occupation or land confiscation? Sometimes by assembly, sometimes with rock throwing, and occasionally tire burning or firebomb throwing against Israeli troops or settler cars. Sometimes such actions are prevented by Palestinian police (where they are allowed to operate). The Israeli response is tear gas, rubber bullets, on occasion live fire. Israel claims that stone throwing and fire bomb throwing are life threatening and thereby justify use of lethal force as a deterrent.

Association

In the West Bank freedom of assembly is generally allowed to groups sympathetic to the Fatah party agenda. Prisoner solidarity groups are allowed to organize and demonstrate. Membership in the political groups Hamas, Islamic Jihad, and PFLP is against Israeli law. These groups are labeled “terrorist organizations” by Israel, due to past aggressive acts against Israeli soldiers or terrorism against civilians. Bus bombings in 1996 and the bombing of a party in 2002 are notable examples of terrorism. To be rid of the “terrorist” label, an organization would have to agree to recognize Israel, pledge to renounce violence, and agree to negotiate with Israel toward a lasting solution. (The Palestine Liberation Organization is a notable example of an organization which was formerly labeled terrorist and now is not.)

Raids and Due Process

Some security arrests are done by Palestinian police. Israeli troops enter Palestinian Territory Area A to arrest wanted person when they so desire. This is at times coordinated with Palestinian police (e.g. “Do not have armed police at certain Palestinian checkpoints tonight.”)

Administrative detention can be renewed by an Israeli military judge as often as Israel security officials deem it necessary. This is at times in six-month increments. Lawyers for Palestinians on trial for “security” offenses (e.g. stone throwing, Molotov cocktail throwing, membership in a “terrorist” organization, planning,

etc.) often may not see evidence in many trials, for “security” reasons. Palestinian officials also hold people under administrative detention.

Checkpoints

Hindrance of travel has been a major complaint in the past. Generally, in the spring of 2013, Palestinians with proper Israeli-issued papers usually can pass through checkpoints, only inconvenienced by the delays.

Conclusions and Conjectures

It is difficult to separate human rights issues from occupation issues. Even when one speaks of “the government” the reference could be to the occupying power—Israel, to the Palestinian Authority, or to the de facto government of the Gaza Strip, Hamas. Security “trumps” everything. All rights are held in abeyance, according to the will of Israeli and sometimes Palestinian authorities in the name of “security.”

It is also difficult to separate events from the perspective of the observer or commentator. Is it a demonstration or a riot, a wall or a security barrier? Control of the narrative is one factor in shaping public opinion, locally and in the world.

It can be said that there are trends in the Palestinian understanding of rights and religion. Muslims dominate the Fatah and Hamas parties. Islam will have a significant influence on Palestinian law. Hamas would put in place a stricter, more conservative vision of Islam; what comes from Fatah is more secularist but Muslim-influenced nonetheless. Alcohol is sold in Bethlehem and in East Jerusalem. In overwhelmingly Muslim areas, it will not be sold (e.g. Hebron, Gaza). Most but not all Muslim women choose to but are not required to wear *hijab* (head scarf), both in the West Bank and Gaza. Families sometimes have expectations about this. Christians have freedom of worship and the freedom to operate Christian schools. Christians participate in political, governmental, civic, humanitarian social and economic life in significant ways. In any event, the Arab culture is conservative.

In a situation of peace and secure borders, one can suppose that all parties which do not oppose the state will be allowed to operate. (The prohibition against most Palestinian parties is not the doing of the Palestinian Authority.) Rights to property will be supported. Legal counsel will be allowed to persons involved in criminal trials. An impartial judiciary will operate in civil matters. Some arbitration of claims will take place according to traditions, such as payments arbitrated by “notables” in the case of wrongful deaths. One could expect freedom of the press, newspapers probably being related to particular political parties, depending on their ownership. Free speech will not go so far as to allow speech against religion or God or the Prophet Muhammed. The cultural expectation of politeness will be a corrective to “free” speech. Interestingly, previous research among young people asserted the opinion that religious leaders should not dictate political or civil positions.

Women's rights will continue to grow. Gradually women assume their place in the work force in many occupations. While children often work with their families, there will be some tightening of children working outside of the family or instead of attending school. Public education is available to all children through secondary school. Early marriage occurs less frequently now and is the object of public campaigns against it. Divorce is allowed. Parental rights are determined by religious law. Generally, women do not live away from their families until they are married, but exceptions occur, especially when women live together while attending university, sometimes under the guidance of the owners of their lodgings, sometimes more independently.

Until there is a peace settlement and clear sovereignty and clear boundaries, the Occupation will continue to skew the discussion.

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The Roman Catholic Church and Human Rights in Poland

Katarzyna Zielińska

Abstract For a long time, the Roman Catholic Church had a problem with coming to terms with both democracy as a political system and the norm and concept of human rights. Generally speaking, the difficulties were an outcome of the incompatibilities between understanding of the concept of rights in the classical natural law tradition of the Catholic Church and in the theories of natural rights of Thomas Hobbes, John Locke and Jean-Jacques Rousseau. The ambivalent attitude of the Roman Catholic Church towards democracy and human rights started to change gradually only in the twentieth century, and particularly so with the Second Vatican Council. Nonetheless, various tensions still persist in several areas.

Poland, with its profound transformations resulting from post-socialist democratization and its strong religious identity as well as the public presence of the Roman Catholic Church, offers an interesting case study for discussing these tensions. The article focuses on two areas that are particularly problematic from the Church's point of view: freedom of religion and women's rights. These case studies are preceded by a general introduction to the issues of human rights and religion in Poland.

Introduction

The idea of human rights can be traced back to various traditions—from Roman law and Christian religious thought to natural law and the philosophy of the Enlightenment. They all share the common assumption that individuals need to live in 'a law-respectful society' and that 'states and nations need to live in a world society based on international law' (Lerner 2006, p. 175). Initially, human rights were considered as a domestic concern and the State was deemed responsible for protecting its citizens. However, the ferocious European conflicts of the first half of the twentieth century, and the Holocaust in particular, contributed to a change in the perception of human rights. The shift meant that human rights 'became considered a 'universal concern'; they were to be a concern for every person on Earth'

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(Nathan 2013, p. 33). These ideas were codified in the form of ‘international (and constitutional) law which expressed itself, [...] since 1948, in a series of conventions, declarations, judicial decisions and resolutions of international global and regional organizations proclaiming, guaranteeing and trying to protect the basic, fundamental, individual and collective human rights’ (Lerner 2006, p. 175). This new law has offered ‘the individual human being a recognized place beside the State, with rights and duties that the international community of states undertakes to protect and develop’ (Rosenne 2002, p. 225).

The Universal Declaration of Human Rights (UDHR), signed in 1948, was the first document reflecting this shift and stressing the universality of human rights. It received strong support in the vote in the Plenary Session of the Third General Assembly of United Nations, with 48 countries voting for, none against, and eight countries abstaining. Saudi Arabia claimed that the Declaration was incompatible with Muslim tradition. The Republic of South Africa’s abstention from signing the document was in keeping with the establishment of apartheid at the time (Schifter 1993, p. 362). For the communist countries of the Soviet bloc (the Union of Soviet Socialist Republics, Yugoslavia and Poland) this was based on the particular perception of the link between the State and individual: ‘To the West, human rights are inherent in the individual person; it is the duty of the State to sustain them, and only to impose such limitations as are necessary in order to safeguard the equal rights of others. To the communist East, that is fundamentally wrong, since it makes the individual supreme in significance, and the State secondary’ (Jones 1984, p. 190, quoted in Nathan 2013, p. 37)

The UDHR became the basis for establishing the international law on human rights, binding for countries ratifying them. In 1976 it was further complemented by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Along with the UDHR, these two documents comprise the International Bill of Human Rights (IBHR).¹

Human Rights in Poland—A Brief Introduction

The People’s Republic of Poland ratified the IBHR in 1977. However, the formal ratification was not accompanied by a practical implementation, and in practice the socialist regime did not respect the rights guaranteed by the Bill. Nonetheless, it established an important point of reference for the anti-regime opposition and for the first civil society organizations in their attempt to hold the authorities accountable to the provisions of the IBHR. In particular the Workers’ Defense Committee and Movement for Defense of Human and Civic Rights—and later Solidarity—used the human rights discourse in their demands and activities against the regime (Prażmowska 2010, pp. 201–202).

The collapse of the socialist regime in 1989 and the democratic transformation that followed initiated profound changes in all dimensions of Poland’s social and

¹ For more information see the Foundation of International Human Rights Law at http://www.un.org/en/documents/udhr/hr_law.shtml

political life. Human rights became the standard in creating the foundations for the new democratic State. This found an expression in the new Polish Constitution of 1997. The principles embedded in the IBHR also became entrenched in various state institutions made liable for securing and monitoring human rights in Poland e.g. the Sejm (Polish Parliament) and its Committee on Justice and Human Rights, as well as the Polish Constitutional Tribunal and the Ombudsman. Furthermore, in 1991 human rights protection was further strengthened when Poland became a member of the Council of Europe and accepted the European Convention on Human Rights and jurisdiction of the European Court of Human Rights (Polska n.d.).

Along with the institutionalization of human rights at the state level and in the legal system, various human rights non-governmental organizations, both international and national, emerged within civil society after the fall of the regime. The oldest one, the Helsinki Committee, was established as early as 1982 during martial law, later contributing to the establishment of the Helsinki Foundation for Human Rights in 1989.² Currently, there are numerous human rights organizations functioning in Poland.³ They monitor and report on how human rights are respected and protected by state institutions, as well as promote and educate on human rights.

Finally, human rights became an extensively accepted norm in Polish society. A public poll conducted in the late 1990s presented strong support among society for universal human rights. A total of 94% of respondents declared that every person in Poland is entitled to human rights. About 56% claimed that human rights were respected in Poland at the time, but only 9% were sure about this. Asked about the most important rights, respondents pointed to the right to private life as the most important (54%), followed by the right to freedom of religion and conscience (47%) (OBOD 1998). More recent polls from 2010 confirm the overall positive perception of human rights in Poland. They are very frequently identified as the most important value (52%) by Poles, exceeding the importance of such values as respect for human life (38%), peace (44%) or democracy (19%). In addition, human rights seem to be strongly associated with the European Union. Some 36% of respondents see human rights as best representing the European Union (only democracy was chosen more frequently—37%) (European Commission 2010) (Table 1).

Table 1 Which are the three most important values for you personally? Human rights. (Source: European Commission 2010)

Age	15–24 years	25–34 years	35–44 years	45–54 years	55–64 years	65 years and older
Not mentioned	51.4	42.8	51.9	40.0	50.4	52.8
Mentioned	48.6	57.2	48.1	60.0	49.6	47.2
Total	100.0	100.0	100.0	100.0	100.0	100.0
<i>N</i>	144	159	106	155	224	212

² See Helsinki Foundation of Human Rights at <http://www.hfhr.pl/en/komitet/>.

³ This includes various organizations representing and protecting the rights of various vulnerable groups like women, LGBT, religious, and ethnic or national minorities.

Despite the support for and high valuation of human rights the research also shows that there are some areas that are particularly problematic for Polish society. Limitations of human rights and tensions occur in particular in the context of the rights of sexual minorities. Recent polls show relatively low support for granting gay couples some civil rights. Some 60% of respondents are against the law giving gay couples the right to enter into a civil union (33% support it). Even stronger rejection is observed in the context of gay marriages or adoption of children—68 and 87% of Poles respectively are against (26 and 8% respectively support the idea). Furthermore, 63% are against the right for gay people to publicly show their lifestyle (30% support such a right) (Feliksiak 2010).

The Religious Scene in Poland

The dominant religion of the country is Catholicism; approximately 95% of the population belongs to the Roman Catholic Church. The second biggest religious denomination is the Orthodox Church, with 550,000 adherents, and the various churches of Protestant traditions constitute the third biggest group (approximately 148,000 adherents) as the Central Statistical Office (2010, pp. 130–131) states. In all, there are 172 churches and religious organizations of diverse religious traditions currently operating officially and registered in Poland.⁴ Nonetheless, some scholars claim that this number may be higher, as in practice there are numerous small, newly established religious organizations present in society, either registered as different kinds of association or without any legal recognition (Libiszowska-Żółtkowska 2002, p. 13).

Poland is also conventionally perceived as one of the most religious countries in contemporary Europe. This is confirmed by various research showing a high level of religious beliefs and religious practices. As of 2009, 95% of the population identify themselves as believers or strong believers, 54% of the population participate in religious practices once or a few times per week, and 69% state that they pray every day or at least once a week (Boguszewski 2009a, pp. 7–9). Simultaneously, processes of the individualization and privatization of religion can also be noticed. For example, findings on the religiosity and morality of Polish Roman-Catholics show a selective acceptance of religious dogmas and dictates, especially in the younger generation. Among young people aged 18–24 years who declare participation in religious practices at least once a week, about 75% accept premarital sex, more than 50% do not perceive divorce as something that is wrong, and 20% accept abortion (Boguszewski 2006, pp. 7–9).

The Roman Catholic Church is not only the largest, but also the most influential of the religious groups in Poland. This distinct status stems from the history of the Polish State. The Roman Catholic Church played a principal role in building

⁴ A full list of all registered churches and religious organizations is available on the website of the Ministry of Administration and Digitization of Poland: (<https://mac.gov.pl/files/wp-content/uploads/2013/11/E-Rejestr-29.10.2013.pdf>)

and sustaining Polish national identity in the absence of state structures during the period of partitions in the nineteenth century (Casanova 1994; Zubrzycki 2006). This position was further strengthened during the communist era when, providing a space for the dissidents and actively supporting the fight for human rights, liberty and civil society, the Church represented the nation against the communist regime (Borowik 2002, p. 241). As a result, after the fall of the regime, the Church had a very strong and respected position, which was used, particularly in the early 1990s, to attempt to impose Christian values and norms on the entire society as well as for intervening in the political and public affairs of the newly constructed democratic state (Eberts 1998). Some scholars, pointing to the growing presence of the Church in the mass media, the episcopate's guidance for voters in the EU accession referendum, strong support for the inclusion of a reference to God in the EU constitutional preamble, or recent fierce opposition to in-vitro fertilization as illustrations of renewed religio-political activity in Poland, speak of the 're-publicization' of religion in Poland. Ironically, this growing presence of religion is accompanied with declining support, as reflected in polls, for the Church's political involvement in society (Herbert and Fras 2009, p. 85).

The distinctive position of the Roman Catholic Church in Polish society and politics also finds reflection in church-state relations. The Polish Constitution declares that state-church relations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of cooperation for the individual and the common good (Article 25.2). The State guarantees freedom of expression and of religious and philosophical beliefs in public life and is impartial to religious and philosophical beliefs (Article 15). The Law on Guaranteeing Freedom of Conscience and Belief serves as the main executive act and regulates the legal status and rights, privileges and duties of the most religious organizations legally recognized by the Polish State. The Roman Catholic Church is exceptional in this respect as its rights, privileges and duties are stipulated in the Concordat signed with the Holy See in 1993 and ratified in 1998. The international character of this agreement and its regulations, in the opinion of various commentators, privilege the Roman Catholic Church over other religious groups and impose on the State the duty of supporting the Roman Catholic Church in its functioning in the Polish context. So, in practice, church-state relations in Poland conform to the model of 'positive accommodation' or 'positive neutrality'. This means that the State actively supports (traditional/dominant) religion and offers a space for (traditional/dominant) religion to flourish in the polity (Robbers 2012, p. 180).

The Roman Catholic Church and Human Rights

For a long time, the Roman Catholic Church had a problem with coming to terms with both democracy as a political system and with the norm/concept of human rights. Generally speaking, the difficulties were an outcome of the incompatibilities between understanding of the concept of rights in the classical natural law tradition

of the Catholic Church and in the theories of natural rights of Thomas Hobbes, John Locke and Jean-Jacques Rousseau. The authors ‘conceived of rights as emerging primarily from the instinct for physical self-preservation and need for security. At its core, this view diverged dramatically from the pre-existing Catholic conception of rights as expressions of the human unity and dignity that flow from being created in the likeness of God.’ (Carozza and Philpott 2012, p. 18)

The Church criticized in particular the view presenting man as fundamentally autonomous and free in an absolute sense, as this assumed independence from God and the human’s intrinsically social nature (Carozza and Philpott 2012, p. 19).

The ambivalent attitude of the Roman Catholic Church towards democracy and human rights started to change gradually only in the twentieth century, and particularly so with the Second Vatican Council. The convergence of the Roman Catholic Church with human rights ideas was taken further by Pope John II. Nonetheless, tensions have persisted between ‘Catholic and secular articulations of human rights and democracy, either in theory or in practice’ resulting from

the Church’s commitment to upholding the transcendent dignity of the human person and affirming that the legitimacy of any political authority lies in its accountability to the common good, understood as a moral order grounded in this human dignity, rather than in state sovereignty or even democracy as such. (Carozza and Philpott 2012, p. 38)

As stressed above, this growing acceptance of human rights and the Declaration by the Roman Catholic Church had a significant meaning for the Church in Poland. The human rights discourse became an important element of the Church’s support for the opposition.

What is the view of the Roman Catholic Church on human rights in contemporary Poland? In the official documents of the Church—letters, communiqués and official statements of the Conference of Catholic Bishops of Poland addressed to priests and believers in all parishes across the country—references to human rights can frequently be found. The bishops stress the universality of human rights and their significance for creating or sustaining peaceful life and cooperation between nations and countries (Apel 2002).

Analysis of the official documents also allows us to unpack the Church’s understanding of the concept of human rights. It is closely related to the concept of human dignity understood as the special value of human beings stemming from the fact that they are a subject and a person, that they are a ‘self-conscious being, free, able to learn the truth, predominate over the surrounding world and called for love’ (Polish Bishops’ Conference 2012b). Naturally, human dignity is given and legitimized by God and confirmed by belonging to the Church. No human being can be treated as a subject or a tool for achieving aims (Polish Bishops’ Conference 2012b). Consequently, human rights are treated as a test for respect for human dignity and are given by God. Therefore, the worldly authority is obliged to respect and protect human rights. Clearly, on the one hand there is strong support for human rights from the hierarchy of the Roman Catholic Church in Poland. On the other hand, the understanding and justification for those rights are embedded in the Catholic theology, and may cause clashes between their religious and secular interpretations.

Which dimensions of human rights seem to be most controversial from the point of view of the Roman Catholic Church in Poland? What sort of tensions emerge between the Church and the State, or the Church and civil society in the Polish context? It seems that in practice two main areas of human rights have become problematic for the Church in post-1989 Poland. Firstly, there is an understanding of freedom of religion and acceptance of new religions on the Polish religious scene. This became particularly problematic in the 1990s when, due to new regulations, a rapid number of new religions emerging in the Polish context was observed. Secondly, the acceptance of women's rights seems to cause another problem for the Church, as they challenge the traditional vision of gender relations and sexuality and oppose the Church's teaching on morality. In the following sections I will try to briefly present the main issues and points of contestation.

Freedom of Religion

References to the right to religious freedom are frequently expressed in the official writings of the bishops. They are mentioned often in the context of violations of the rights of Christians around the globe, or as a need to respect religious diversity in various societies. The right to religious freedom is also mentioned in the domestic context. The bishops express concern over the limitations of the freedom of religion in the public sphere resulting from anticlericalism and imposed by the Polish State. As an illustration, they provide examples of questioning the right to organize religious education in public schools, voices demanding the removal of crosses from the public sphere and a postulate that public individuals should not express their religious views. All these, in the bishops' views, clearly show the limits to the use of arguments based on religious values and therefore limits to religious freedom (Oświadczenie 2012; Polish Bishops' Conference 2011). Also, in the bishops' view the State's attempts to change some regulations regarding religious education in public schools⁵ or failure to agree on the final high school exam to be taken in religion exemplify the limits imposed by the State on the religious freedom of Roman Catholics.

Despite various declarations of support for the freedom of religion, the Roman Catholic Church in Poland seems to have difficulty with coming to terms with competition on the religious scene of the newly established democratic state. Tensions have been visible in particular in relation to new religious organizations. The occurrence rate of new religious movements began to grow suddenly after 1989, when a new liberal law enabled their easier registration.⁶ In the 1990s, about 100 new reli-

⁵ This right is given to all officially registered and legally recognized religious organizations. However, in practice the Roman Catholic Church is the biggest beneficiary of this arrangement (Zielińska and Zwierzdzyński 2012, p. 277).

⁶ Some religious groups operated in Poland in the 1970s, yet due to administrative restrictions (e.g. no possible way to legalize their activity) they could not operate officially.

gious organizations were registered. The growing presence of various new religions, even if insignificant in numbers in comparison to the Roman Catholic Church, was perceived as highly problematic by the Church, especially in the 1990s (Doktór 2002). New religions were usually labeled with the term 'sect', bearing negative connotations. Frequently, the Church or the Catholic anti-cult organizations used 'psychopathological' and 'criminal' arguments against those groups and presented them as a threat to society (Doktór 1997). These negative and generalized arguments circulated via various Catholic publications and were further strengthened by the mass media. New religious groups tended to be presented as a threat to the individual freedom and psychological balance and the members of the group were depicted as brainwashed, hypnotized and manipulated by totalitarian groups. Such representation built a negative and stereotyped view of all new religious groups in Polish society (Grzymała-Moszczyńska 2002).

The prejudiced perception of new or different religious groups, often sustained and perpetuated by the Church's personnel and anti-cult organizations operating under its auspices, is also expressed in practice. The groups face problems attempting to arrange any public events and rent suitable places for their activity. For example, the organization of public events requires that they obtain the permission from administrative bodies; however, such permits are often refused. Furthermore, renting a suitable place regularly causes many problems, and rejections repeatedly happen after consultation with the Roman Catholic Church's local authorities (Mikulska 2002). Furthermore, the religious education organized in public schools, which are mostly Catholic, is far from objective and tolerant. As reports show, members of anti-cult centers sometimes provide information on New Religious Movements during religion lessons. The term 'sect' is used as a label for different kinds of religious organizations. Consequently, instead of promoting religious tolerance, it often spreads an intolerant attitude towards children who belong to these organizations (*ibid.*).

The issues with accepting religious pluralism and the Roman Catholic Church's negative attitude towards religious 'newcomers' in Poland needs to be seen in the broader context of Central and Eastern Europe. Eileen Barker (1997, p. 36) stresses that in many countries in the region, particularly in the period of transformation, hostility towards new religious groups stems from the fact that 'the movements are perceived as foreign, as a threat to the security of the country and in direct competition with the traditional, national religions'.

Women's Rights

Another area of human rights problematic from the point of view of the Roman Catholic Church is women's rights (and by implication the rights of sexual minorities), and in particular reproductive rights and abortion. The current ambiguous attitude of the Church towards women and sexuality is well grounded in the tradition and teaching of the founders of Western Christianity. Both Augustine and Thomas Aquinas perceived women as inferior and incomplete in comparison to men.

Furthermore, the sexual act was seen as ‘objectively sinful’, although ‘forgiven or allowed within marriage for the sake of producing children’, making any form of birth control sinful (Ruether 2008, p. 185).

By demanding equality for women and men and the right to have access to birth control methods, the women’s movement and feminism challenged the standpoint of the Roman Catholic Church. Coming to terms with the new social and political situation slightly altered its earlier position. The position of women was equalized with that of men. They were seen as fundamentally different, but complementary in their roles. Furthermore, women were seen as superior in comparison to men in their morality, spirituality, and ability to love. However, their feminine nature could only be preserved by continuing their traditional role at home (*ibid.*). Despite a certain liberalization and attempt to include women on equal terms in social and public life under the papacy of John XXIII and during the Second Vatican Council, the papacy of John Paul II was marked with a retreat to the vision of gender complementarity. The differences and various callings for men and women were restated, and the Church’s unequivocal rejection of any form of artificial birth control and abortion were upheld (Küng and Bowden 2005, pp. 88–89).

The role of women in society and in the family is often addressed in the official writings as well as speeches of the Polish bishops. A review of them clearly shows the compliance with the official teachings of the Church—gender differences are seen as natural and therefore unchangeable, and women are mostly seen as wives and mothers. This interpretation also implies a role of servitude in relation to the community (i.e. family, nation). The Church is therefore very critical of any attempts at redefining traditional gender roles, and perceives them as a challenge to the traditional family and promotion of homosexuality. In particular, feminism or gender studies, demanding rights for women as individuals, or gender studies, questioning the naturalness of differences between men and women, are seen as a challenge to the family and to the nation (ŁG 2013; Wesolowski 2013). On various occasions, the Roman Catholic Church has expressed disapproval of several of the government’s decisions and policies or the activities of civil society organizations which aim to promote women’s rights. Such actions are seen as undermining the biological differences between men and women, and by implication posing a threat to the traditional family and promotion of homosexuality.⁷

Reproductive rights—and especially abortion—is an area of women’s rights which seems to be particularly challenging to the Roman Catholic Church. The official teaching of the Church stresses that a human life starts from the moment

⁷ The strong negative reaction of the Presidium of the Bishops’ Conference against signing the Council of Europe Convention on preventing and combating violence against women and domestic violence by the Polish government illustrates this standpoint well. The bishops openly criticized the convention and called upon the government not to ratify it. The bishops’ concerns included the Convention’s definition of differences between men and women in social and cultural terms (i.e. in terms of gender) and denying ‘natural biological differences between woman and man’. Furthermore, the bishops were opposed to the obligation which the convention imposes on a ratifying state to organize education on non-stereotyped gender roles. It was understood as ‘promotion of [...] homosexuality and transsexuality’ (Polish Bishops’ Conference 2012a).

of conception. This implies a specific interpretation of Article 3 of the UDHR. The right to live means the right to live from conception till natural death. In practice, such an interpretation may spark a conflict between the rights of the fetus (or unborn child in the Catholic discourse) over the rights of a woman. Indeed, the official document from the Plenary Synod (2001) in Poland states clearly and forcibly that granting a woman the right to decide about terminating her pregnancy is in fact a distortion of human rights, a vision in which the dignity of another human (child) is not respected. In other words, abortion means limiting the right of a child to live and absolutizing the rights of women. This kind of view finds reflection in the actions of various Catholic pro-life movements and in the discourse in the Catholic mass media. Moreover, the Catholic discourse has significantly shaped the Polish law on abortion.

The anti-abortion law was introduced in Poland in the early 1990s under the strong influence of the Roman Catholic Church despite fervent protest and demand from society for a nationwide referendum. It significantly limited access to abortion, allowing it only under very specific conditions: when the fetus is damaged or seriously ill, if the pregnancy is a result of a criminal act, or if the life of the mother is endangered. The law is still in force, making Poland a country with one of the most restrictive anti-abortion laws in Europe (together with Ireland and Malta). Despite that, in recent years the supporters of the pro-life movement, backed by right-wing politicians and the Roman Catholic Church, attempted to push to make the law even more restrictive and ban abortion altogether. Each time such attempts have been taken, the Roman Catholic bishops have expressed their unequivocal support for the initiative (Ochrona 2011).

Various research shows that despite the ban the estimated actual numbers of abortions range from 40,000 to 200,000 cases annually, which are performed illegally. The current restrictive reproductive laws in particular affect the most vulnerable: poor, rural, refugee and young women, who have difficulties in accessing the services they need. In the opinion of human rights and women's organizations an outright ban on abortion, as occasionally proposed by politicians and the pro-life movement and as promoted by the official view of the Catholic hierarchy, would threaten 'women's rights to life, health, equality, privacy, physical integrity, and freedom of religion and conscience'. Moreover, due to the practice of medical practitioners (conscientious objections) and lengthy procedures even access to legal abortion is hampered (Human Rights Watch 2011). This was confirmed by the ruling of the European Court of Human Rights in a few recent cases (Tysi c v. Poland, P&S v. Poland, Z. v. Poland). All those cases concerned access to legal abortion, which the Polish State failed to provide. The two first cases are particularly interesting in the context of discussion on the Roman Catholic Church's attitude towards women's rights. In the case of Alicja Tysi c, the woman was given the right to have an abortion because her pregnancy was seriously threatening her health and could potentially cause the loss of her sight. Nonetheless, she was refused a legal abortion in a few hospitals, and in the end it was too late to terminate her pregnancy. When she took her case to Strasbourg, the Catholic media and priests condemned her for

her attempts to ‘kill her baby’. They accused her of demanding compensation from the State for not allowing her to kill her own child (Gancarczyk 2007). Similarly controversial was the case of Agata (P&S v. Poland). A minor girl, pregnant as a result of a criminal offence, was refused a legal abortion in several hospitals. Members of the pro-life movement learned about the hospital where she was staying and organized pickets to persuade her to change her mind. She was separated from her mother, who was accused of forcing her daughter to have an abortion. The case has been widely discussed in the Catholic media, which strongly criticized the right to legal abortion, calling it ‘killing the baby’ in the majesty of the law (Kucharczyk 2008).

The discourse used by the Catholic mass media strongly stigmatizes the right to abortion and those who have it performed. Abortion is called ‘a killing of the unborn’ or ‘holocaust of innocents’ (ASTRA 2012). As the cases brought to the European Court of Human Rights show, the rights of the fetus, under the strong influence of the Catholic discourse, may be given priority over the right to live or the health of a woman. Therefore, human rights and women’s organizations call for liberalization of the abortion law in the name of improving women’s rights and the right to privacy and conscience.

Final Remarks

In the official discourse of the Roman Catholic Church, human rights are respected and promoted. However, a closer look reveals that their understanding is deeply embedded in the Catholic theology and teaching. In practice this may mean that the Church’s standpoint is in fact divergent from the premises on which human rights are based. Discrepancies between secular and religious interpretations of human rights do not have to cause clashes or problems in a democratic society based on the pluralism of worldviews and discussion. However, the dominant position of the Roman Catholic Church in the Polish State and society means in practice that the Catholic discourse may predominate and influence the law and interpretations of the law. As practice shows, politicians of various political persuasions, afraid of clashing with the Church and exposing themselves to criticism from the Church, often comply with the Catholic interpretations. Civil society organizations demand a more secular interpretation of human rights and the proper introduction of women’s rights. So it seems that the major clashes and conflicts over the interpretation of human rights occur in this line rather than between the Church and the State.

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History and Current Debates on Human Rights and Religion in Serbia

Milan Podunavac

Abstract This chapter reflects on the history of Serbia and current debates on human rights and religion in Serbia. It begins with a discussion of how religion is the cause of differences among people, which is especially evident throughout South-Eastern Europe (SEE) and in Serbia in particular. Through the term “balkanization” the author explains the position of small eastern European countries including Serbia which are characterized as societies overburdened by the “fear of communities”. Remarks are made in regard to constitutional legacy and the process of nation/state building, in which religion has played an important role. Further clarifications with respect to Serbian Christianity are presented and followed by insights into Serbian modern theology and theological figures, as well as an articulation of the theological basis of human rights in Eastern Orthodoxy and the relation between Serbian Orthodoxy and human rights. The chapter concludes with reflections on students’ perceptions of religion in Serbia.

Few concepts are as frequently invoked in contemporary political discourse as human rights. There is something deeply attractive in the idea that every person anywhere in the world, irrespective of citizenship and territorial legislation, has some basic rights which others should respect. At the same time the central idea of human rights as something that people have, and have even without any specific legislation, is seen by many as fundamentally dubious and lacking in cogency. Many philosophers and legal theorists see the rhetoric of human rights as just loose talk (Sen 2009).

Although that contrast between the widespread use of the idea of human rights and the normative skepticism about the conceptual ground of human rights is not new, that suspicion still remains very alive today offering often comprehensive arguments against any belief in the existence of rights that people have unconditionally or arguing against its contextual background in the sense of a legal, political or religious legacy. To sum up briefly: does constitutionalism and human rights presuppose particular conditions and are they unbecoming for some regions and cultures? As Samuel Huntington put it famously: “Western ideas of constitutional democracy,

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constitutionalism, human rights, equality, liberty, the rule of law, democracy, free market, and separation of church and state have little reasonance in Islamic, Confucian, Japanese, Hindu, and Orthodox tradition.“ Both of these suspicions remain persistent in the region of South-Eastern Europe (SEE) and in Serbia in particular. Sometimes the claim of uniqueness has come from some Western theorists. A good example is Samuel Huntington’s insistence that the “West was West long before it was modern”, and his claim that “a sense of individualism and tradition of human rights and liberties” are “unique among civilized societies” (Huntington 1996, p. 137). As regards the Balkan region in *The Clash of Civilization*, Huntington is not surprised by the violence that overtook Yugoslavia. It is liberal, secular “myopia” to think that ethnic difference is minor. Ethnicity is built upon religious or confessional differences, Catholic versus Orthodox. Millennia of human history have shown that religion is not “small differences” but possibly the greatest difference that exists between people. The frequency, intensity, and violence of fault line wars are generally enhanced by belief in different gods”. Huntington’s normative position is well known and the subject of severe contestation in contemporary public discourse. More importantly that kind of argument is very influential in SEE public discourse. On the one side, the mainstream of religious cultures traditionally is deeply rooted in the belief that the visible religious differences are not been simply rooted in creed, culture and nationality but also fundamental distinction between actual words of life. Furthermore, one has to mention that every religion in area of SEE has been convinced that it is a “religion on the frontier”. Hence, Croatia and Catholicism in Croatia were defined for centuries as *antemurale christianitatis* (a term had been coined by Pope Leo X in 1519) and therefore conceived as under permanent threat and some kind of siege. Former Croatian President Tudjman maintains that “Croats belongs to a different culture, different civilization from Serbs. Croats are part of Western Europe. Serbs belongs to East. They use the Cyrillic alphabet, which is Eastern. They are Eastern people like Turks and Albanians. They belong to Byzantine culture”. In a similar spirit but stressing particularly the role of religion goes the note from Archbishop Stepinac’s diary stating that “all in all Croats and Serbs are two worlds, Northern and Southern poles which never come closer except by Gods miracle. Schism is the main curse of Europe, almost more important than Protestantism”. A similar view is expressed also by the other side. Serbian Orthodoxy perceived itself as guardian of western and southern frontiers of the entire area in peril due to Catholic Church efforts aimed at uniatization as well as the penetration of Islam into traditional Orthodox country. In that spirit Patriarch Bartholomew has recently declared that the Serbian nation has been chosen by God to defend the Western frontiers of Orthodoxy. The same may be repeated for Bosnian Islam. Ismet Spahic wrote “here in Europe we have been exposed to strong wind blowing from all directions” (Radic 2000).

Michael Ignatieff argues that theorists like Samuel Huntington would lead to believe that there is a fault line running through the back gardens of Mirkovci (the village in eastern part of Croatia that was cut in two by Serb-Croat war between September 1991 and January 1992) with Croats in bunkers representing the civilization of the Roman Catholic West and the Serbs nearby representing Byzantium,

Orthodoxy, and the Cyrillic East. I grew up almost in same circle in the western part of Croatia.

The normative stance I raised is in many senses one-sided. Contrary to cultural stereotypes, the histories of different countries in the region of SEE have shown considerable variation over time as well as between different traditions and legacies within the same country. The legacy of open public discussion, toleration and encouragement of different points of view has a long history in the region. As the Millet system, which is an important part of the Balkan legacy, demonstrated, religion was the normative order ingrained in the daily lives of the people which connected them with the realm of political rule. It provided a critical argument against corrupt and despotic government and imposed moderation and restriction upon political rule and thus contributed to the legitimacy of the political order. That legacy of religious tolerance had influenced Balkan perception of secularization within Muslim communities linked it more than in other parts of the Eastern countries regarding the progress of liberty, religious pluralism and the limitation of the coercive power of state. For that reason the public role of religion in Balkan societies was pluralized and contested. It was not reduced to the realm of the purely private. Thus, the concept of constitutionalism and human rights must be modified in view of the fact that ethnic, cultural and religious diversity has become a trait of most contemporary states. There is much truth in the observation that while difference blind institutions purport to be neutral amongst different ethno-cultural groups, they are in fact implicitly titled to the needs, interests, and identities of the majority groups and this creates a range of burdens, barriers, stigmatization and identities. Following the concept of “multiple modernity” (S. Eisenstadt) we may say that we live in the age of “multiple constitutionalism”—less individualistic, more communitarian, and arguably more religious (see more, Preuss 2011; Casanova 1994; van der Ven and Ziebertz 2012; Podunavac 2012). In that sense “Quest for Consensus” in complex and multicultural societies and understanding human rights in cross cultural perspective is an urgent question. That is my normative stance.

The introductory frames I sketch raise the complexity of the problem and the urgent need for some theory of human rights and also for some defense of the proposed theory in its very specific context. Although there is some risk of oversimplification involved in any summary formulation the object of my article is to do just that, and to consider, in the context of Serbian Orthodoxy, the justification and status of human rights.

Balkanization

On the European map Serbia is defined as a *Balkan country* in a double sense. The first one is geography. It is relating to the centrality of Serbia in the Balkan Peninsula. Another one is much more important and is related to Serbian collective and political identity. Since the beginning of the twentieth century Europe added to its bundle of *Schimpfwörter*, *ugly words*, the term “balkanization” which sur-

vived almost a 100 years referring to the process of fragmentation of political units, disintegration, border disputes and violence. The English language took the world “Balkan” to form the verb “balkanize” which according to the *Concise Oxford Dictionary*, means “to divide a region up into small, antagonistic states”. Serbia belongs to such a type of society, divided along ethnic and religious line and overburdened with specific forms of “existential fear” of communities (Balic–Hayden and Hayden 1992, p. 4). Istvan Bibo in probably the best book written about the political culture of Eastern and Central European countries defines that fear as “fear of communities”. Small Eastern European countries speak of “a nation’s death or annihilation.” They can imagine genocide oppression or slow assimilation, the threat of overnight political elimination as concrete reality. A fear of the existence of community was a crucial factor which in these countries made the *position of democracy, human rights and democratic progress uncertain* (I Bibo).

Although I touched the general frame of political dynamics in the region, and Serbia particularly, let me pass very briefly to *constitutional legacy* and a very specific form of *state and nation building*.

Constitutional Legacy and State and Nation Building

As regards the pattern of state and nation building, Serbia got a slower start which produced specific imbalance in the political and constitutional development and set up nationalism as the strongest and most expansive force in the region. The specific kind of division of labor between nationalism and liberalism, in which nationalism is the basic means of shaping collective identity and liberalism is the means of shaping individual autonomies and constitutional limitations of political power, never came into being in the region of SEE. In the SEE region enlightenment, universalism and liberalism have never gained the role they have in the old European states. The reception of liberalism in the region was essentially imitative and limited. The nation becoming a state—that congruence between different forms of citizenship (civic, democratic, social) and different types of state (liberal, democratic, social) did not occur with the gradualness and spontaneity which characterized Western Europe. As regards Serbia, according to the Serbian constitution until the early twentieth century, a citizen is a man and a Christian. The Serbian king is a Serb, a man and Christian Orthodox. In deeper sense the pre-political nature of collective identity (nation) is the basic structural factor which limits the foundation of constitutional democracy.

The role of the founding myth (the Kosovo myth in Serbia with strong religious background and systematically cultivated within the Serbian Orthodox Church) (Duijzings 2000; Vukomanovic 1988). That process, let me recall Michael Rosenfeld, produces a very specific gulf between constitutional identity articulated in the concept of the political ideal of nation and the extra constitutional identity backed on religious, ethnic, and cultural attitudes of people. That frame suggests two notions; first, that a working constitution and how it works depend on the religious,

national, and other cultural identity of those whose constitution is, and second, that for a constitution to function within a polity there is need for a sufficiently defined commonly shared constitutional identity. These two identities the constitutional and extra constitutional, are not same, but they are related and the precise relation is likely to vary from one setting to another (Rosenfeld 2010).

According to the dominant SEE interpretation the extra constitutional entity that brings constitutional order into existence is understood as an ethnically homogenous people, unbound by any normative or legal standard and characterized chiefly by its capacity to realize its otherness in relation both to other people and the liberal universalistic principles. The dominant form of substantive consensus and specific gulf between constitutional and extra constitutional identity explain both the deficit of legitimacy and the low status of the rule of law and human rights in the whole region including Serbia.

In such a climate the role of religion is extremely important and mostly negative. The Serbian nation, just like most of other Balkan nations, did not take shape according to the civic principle, but rather according to the religious one, as a religious community within the Ottoman Empire which used the *millet* system to equate nationality with religion and grant the religious leaders secular power over followers of their Church. Therefore the Serbian nation was built not through the identification with state framework it lived in (like in the West) but rather through identification with the church it belonged to, not as a civic community but as an ethno-religious one. The role of Serbian Orthodoxy is paradigmatic and I will concentrate mostly on that relationship.

Serbian Christianity

More than eleven millions Serbs, Montenegrins and Macedonians are Eastern Orthodox by family background. About a quarter of all Serbs live outside of Serbia. Eastern Orthodox heritage is the distinguishing feature of Serbian national identity. Reflecting Serbian religious heritage, it uses a modified version of the Cyrillic alphabet, a script originally developed by the Byzantine missionary brothers Saints Cyril and Methodius, “Apostles of the Slavs”. According to the official classification of Orthodox Patriarchates of the ecumenical Patriarchate, the Serbian Orthodox Church is ranked sixth, following the Russian and preceding the Romanian. After the schism between the Greek and Latin Churches in 1054, in the Balkan region, Christianity became integrated into the indigenous cultures of the Slavic nations, and the universal Orthodox Church evolved as a fellowship of national churches rather than as a centralized body.

By the end of the twelfth century Stefan Nemanjic (1169–1196), who is considered to be the founding father of the Serbian state, united most Serbian land into a single state. He was much closed to Byzantium which exerted a strong spiritual and cultural influence on his court and his state administration. He built many churches and monasteries, among them Studenica, named “mother of all Serbian Churches”.

Another important figure is his son Rastko (“Saint Sava”) who was consecrated bishop by patriarch German in Nicaea. As regards religious legacy and pluralism, an important moment was when his brother Stephen, the “first Crowned”, had been crowned by the papal legates in 1217. Sava countered his brother’s affinity to the Roman Catholic Church by traveling in 1219 to Nicaea, the refuge of the exiled Patriarch of Constantinople, where he received the title of autocephalous archbishop of Serbia. Upon his return to Serbia he crowned his brother again.

Another important moment is the invasion of Ottoman forces. After the Battle of the Field of Kosovo (1389), Serbia was made a Turkish *pasalik*. Churches were managed by Greek origin bishops (Phanariots). Lower clergy, mainly of Serbian origin, were very poor and almost lacked basic literacy. Although the Ottoman authorities wanted to grant many concessions to the Orthodox community as regard religious life and organization (so called *millet system*) many Orthodox converted to Islam, some of them under the oppression and some in order to maintain privileges or to attain new ones. Mass migrations occurred and many Serbs shifted across the rivers Danube and Sava into the regions of Vojvodina, Croatia and Hungary (Cirkovic 2005; Petrovic 2002).

Modern Theology and Theological Figures

From the middle of the eighteen century, the Serbian Orthodox Church used Russian Church literature and the Russian language as models. Most of the Serbian theologians in the nineteenth century studied at theological faculties in Russia, and religious books from these schools were used in Serbia, but in the Serbia of that time, there was no strong theological thinker capable of adapting Russian ideas to the Serbian milieu. Serbian theological writing at the beginning of twentieth century was mostly composed by apologetic and polemical works. This theology offered some knowledge and information about Christ, the Gospel, the Church and Christianity, but in essence it consisted of sterile definitions, which transformed Christian faith and life into religious and ethical systems.

Bishop Nikolaj Velimirovic (1880–1956) is considering the strongest modern theological figure in Serbian Orthodoxy. Most authors who wrote about him pointed out that with him a new area in Serbian Orthodox theology began. In his early work Velimirovic was prepared to introduce some reforms in Orthodoxy as a result of his studying in the West. Later, Velimirovic would start to show signs of his struggle with European history and culture. After that came his radical derogation of European humanism, civilization, and individualism. He basically opposed the basic values and principles (human rights, individual autonomy, rule of law, democratic legitimacy) which are in build up the modern European state (order). Velimirovic (and his close disciple Justin Popovic) are celebrated as famous teachers of Orthodoxy. In ruthless criticism of Western culture, Bishop Nikolaj described recent Serbian history as a Western plot to turn Serbian folk recently liberated from Ottoman rule into the serfs of the decadent West. Popovic wrote that because European

culture takes humanity as its foundation, making humanism its main architect, European man believes he can proclaim himself God. For that reason, he thought nihilism and anarchism would be the logical outcome of Western hubris.

To sum up briefly, modern universal and secular principles have not taken root in Serbia, because Serbia remained on the periphery of the European modernizing process which represents the cornerstone of the modern European state and unlike Western Churches, the Serbian Orthodox Church does not accept any sort of “secularization”. Along with rejection of secular principles, ecclesiastical circles are quite inclined toward delegitimation of religious freedom and of the principle of religious equality. Through their publications and statements, SOC has placed numerous churches and religious communities in the category of sects. The most frequent targets are Protestant churches (so called “subotari”) which are being confronted with strong intolerance and even aggression.

Human rights activists have been put in the same demonized category as sects and atheists. Even Patriarch Pavle called human rights activists “sinful minds” thus sharing the view of Bishop Nicola Velimirovic that represents individualism as a “shallow declaration of human rights”.

The whole line of younger Orthodox theologians from that time held similar opinions. Leading Serbian theologians tried to revitalize the heritage of Saint Sava, representing him as a saint and leader of the Serbian people. At the same time, polemic postures towards Islam, Catholicism and western culture generally, which dated from times other than that of St. Sava himself, were integrated into the theological concepts of *svetosavlje* (teaching of Saint Sava). This theology of nationalism (*svetosavlje*) was used first as an ideological axis for all Serbs, and after that, it was used to bridge the gap which grew between Serbian intellectuals who were alienated from the Church as result of the influence of western philosophy and political thinking. At the same time, using Kosovo as an unresolved problem within Serbia, the Serbian Orthodox Church offered itself as the traditional guardian of national identity.

Human Rights Values

In the preceding part of this article I pictured both constitutional legacy and the general frame of Serbian Orthodoxy as important elements for fuller understanding of the normative status of modern and universal values and formative principles which determined the foundation of the modern constitutional state in Serbia. In this part of the article I would concentrate on the relation of Serbian Orthodoxy and religion. That relation is of utmost important for understanding that complex question. The picture is not particularly optimistic.

I would start with a few remarks which can give you a deeper insight into the perception of religion in Serbia. Religion is an important aspect of everyday life of the people. People see religion as an important aspect of their culture, mentality, tradition and customs. According to recent research the Serbian Orthodox

Church receives the highest level of support within the population. Such a view is expressed in different ways. In research conducted among students of Belgrade Open School, some of the students felt a special connection with their country when they entering monasteries, some of them wanted to baptized their children, some of them mentioning tradition interwoven with religion. At the same time they also mentioned that religion is something that got too much attention in recent times. For them it was no longer something natural, but more and more a kind of fashion, and they took some distance from religion. By and large I would say that Serbia is passing through a specific process of “recovery of religion” including the rise of conservative groups within the Orthodox Church. That process was followed by a redefinition of relations between state and church with the introduction of religious education in school, entering churches into structure of Serbian Army, reintegration of the Theological Faculty into Belgrade University, and opening the legal process of restitution of Church property.

The human rights agenda has never been high within the Orthodox Church. There is no any systematic work about human rights within Serbian theology. There is no research institution devoted to the corpus of human rights. The basic document, including *Declaration on the Elimination of All Forms of Intolerance and the Discrimination based on Religion or Belief (1981)* was translated after 28 years. The same is true regarding the document of the Russian Church and *Social Thought of the Catholic Church* (Bigovic 2009).

Theological Basis of Human Rights in Eastern Orthodoxy

I would particularly stress three more general factors (obstacles) which give us deeper insight into relations between Serbian Orthodoxy and human rights—all of them are strongly related to the deeper nature of Serbian Orthodox theology. The first is *organicism*; another one is *anti-individualism*, and the third is strongly related to the problem of *collective and national identity*.

The Eastern Orthodox tradition, in understanding itself as standing in unbroken continuity with the early church, bypasses the secular basis of human rights. As such, it locates human rights in God alone as the source of moral good, recognising the true nature and dignity of humankind to be revealed in the Trinity. In communion with the triune God, each person attains an understanding of his or her humanity. In relation with others we, in turn, recognise the dignity of humanity that is created in the image of the Godhead. For Orthodoxy this God is pre-eminently a triune God. The Father, Son, and Holy Spirit find their being in the fundamental relationship that exists between them. Being created in the image of this (triune) God, relationships are seen to constitute the basis of a spiritual; imperative for human beings to live in mutual respect and community with one another. It is this theological basis, rather than the secular humanism of western liberalism or the anti-theistic tradition of the French human rights tradition, that inspires Orthodox commitment to the Universal Declaration of Human Rights and other documents.

In Serbian Orthodoxy that general theological justification is upgrade with organic conception of order which presupposes In brief, it is concept of the society where the individual merges into organic whole and hence reject individualism and pluralism, and adopt the principle of collectivism and solidarism or, in the Serbian variant of this teaching, the “convocational “and the “master of the house” Orthodox ethics. According to organic theory, the society represents organism and individuals are merely “cells” serving the function of such an organism. The optimum is “organic Orthodox monarchy “based on unbroken Trinity” “God-king-master of house”. The man who probably contributed most to development of such organic ideal of community was Juraj Krizanic, one of most influential writers in the seventeenth century. He wrote that “no one can live for himself, i.e. no one is borne exclusively for himself and to care only for his own pleasure. Every person must have an occupation that is useful also for all other people, and earn his own bread by it. And such labor in common includes that the peasants, the artisans and the merchants produce everything needful to support and feed all the ruler’s subjects... The rulers, the boyars and the warriors sit in judgment, wage wars, protect the public peace ... The ecclesiastics, bishops and priests supply everyday spiritual comfort, with light and learning. The monks and nuns pray to God for everybody’s sins” (Szamuely 1974, p. 84). It is therefore a model that reject the very basis of the modern state and society, including very basis of human rights. That “symphony” model between the State and Church is strongly supported by Serbian Patriarch Pavle who wrote “we believe that the best relationships between the state and the church is the one which already exists, namely symphony”. The organic ideal of order is the very basis of Serbian legacy, strongly affirmed by the most influential Serbian writer Dobrica Cosic, who argues that organic unity, Serbian land and ordinary people (peasants, soldiers) are the core of Serbian collective identity.

Students Perception

If you look at attitudes of young people to religion (I have in mind a limited group of students at Belgrade Open school) you can discover that religion is an important part of their identity. Although, almost all students saw the Serbian Orthodox Church as a central part of their national identity, a lot of different views exist about how people should deal with religion. One can seen ambiguity and disagreement about religion among students. A lot of students keep their distance from religion, others become even more religious and yet another group fulfills their nationalistic attitude toward religion. Religion still has an important role in creating symbolic borders both within Serbia and in the region of the whole including Europe. In that sense among students Islam is generally less appreciated and less valued than other religions in Serbia. It is interesting that students would refer to Byzantium or schism of the church, but no single word is said about the Turkish religious influence, which is one of the most obvious influences in Serbia and in the Balkans as a whole. Religion was used as the more visible divider between countries and today

it seems that people are still tending to do this. Religion has a major role in the national identity of Serbian people as well and most students agree that it is one of the main features of their country in Europe. But, it is interesting that, while saying this, no unity exists among students concerning the perception of religion in their daily life, and on the individual level. This is where religion is differently experienced and perceptions about it are divergent. On the other hand, while talking about integration in the European Union, the cooperation and religious tolerance between people of different religions seems to be major goal. Apart from this, one tends to forget that more than one religion is present in the country and that many people are agnostic or atheist (see more: Vukomanovic and Vucinic 2000).

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Less Religion and More Human Rights in Spain?

Lluís Oviedo

Abstract Spanish Catholicism—the main denomination in this country—has developed in the last decades towards a more open-minded and tolerant attitude, embracing the program of human rights as part of its own identity and mission. However its social and cultural influence has greatly declined as a result of steady process of secularization. In this new context, many youth sectors feel disengaged and even in contrast with Catholic establishment. That situation has nourished a sort of ‘cultural divorce’ that could be reflected in the perception of human rights. The main issue concerns not so much the traditional chart of ‘human rights’, but what can be considered ‘new’ or ‘special’ rights, which have been subjected to strong criticism and opposition from most Catholic sectors. Empirical data from several surveys confirm that divorce between what could be assumed as the extremes of a ‘dual culture of human rights’: one more liberal and individual; the other more Christian and communitarian, in its roots. This point is still more evident when samples of Spanish youths are analyzed.

Spanish society has undergone a deep and rapid transformation during the last 40 years. The pace of change has probably been accelerated in the last two decades as a result of generational, political and educational factors. Among the other aspects of this change, the religious dimension has been deeply affected. If institutional aspects are considered, it is not exaggerating to say that the Catholic Church is no longer in a position of social, political and cultural dominance. At best, it has become a ‘qualified minority’ with some weight, but marginal in many aspects when its former privileged status is remembered. In any case, the ‘religious sphere’ has moved backwards in the social imagination to the point of losing much of its relevance both at the personal and at the social level.

This is not the place to describe and study the causes and factors involved in the particular case of Spanish secularization¹; however the specific dynamics that have

¹ Some general explanation can be found in Martin (2005); empirical figures can be found at: Oviedo and Canteras (2010).

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driven this process surely explain a good deal of the complex relationships between religion, human rights and youth subcultures.

The present short presentation will deal with the issues of religion and human rights in Spain from two approaches: one trying to describe the context in which both cultural aspects interact; and the second through an analysis of some sets of data to ascertain the current tendencies especially regarding youth samples in the area of both religion and human rights.

Context and Church Positions

Any attempt to deal with the Catholic Church in Spain—still the dominant Christian denomination—has to account for the acute changes this institution has undergone in the last few decades. Historical work has been done showing the different stages of that process, the main influences, and the consequences that have impacted the present state of things (Callahan 2000; de Cardedal 2010). Some theses deserve special attention. The first one concerns the view of a ‘deep divorce between church and society’. This thesis has been exposed and analyzed by the eminent theologian Olegario González de Cardedal, an exceptional witness of the period under examination. Some unease arises from the findings of his fine and accurate analysis: “The Church has been a decisive factor in the national life in these [past] decades, however it was unable to explain sufficiently its performance nor has it interpreted its development” (de Cardedal 2010, p. 16). Among these failures, the author explicitly includes the misunderstanding of the modern processes of social differentiation, and the excess of identification between civil society and the Church. From these features, a related criticism emerges: “desertion regarding the cultural milieu” (ibid, pp. 103, 175). Summing up the diagnosis, the denounced ‘divorce’ gives place to divergences in the way Church and civil society value and judge issues concerning human and social rights, and their application to several spheres of public and private life.

A second thesis to consider follows an historical development from the nineteenth century on, tracing scenarios of constant confrontation or ‘culture wars’ between more liberal and leftist political positions, on the one hand, and Catholic and traditionalist positions, on the other hand. From these tensions there emerges a thesis similar to the former one: the Spanish Catholic Church has been unable to adapt in a satisfactory way to the process of modernization. The analysis provided by Callahan (2000, pp. 117, 148, 273, 411, 440) reveals a sort of continued *failure*: the attempts to adapt to the new context appear as characterized by a lack of realism; there is a considerable ideological delay; confrontation has often been the default and imperfect strategy; and the abundance of organizational and practical limits have jeopardized the ecclesial institution. The monopolistic status enjoyed by the Spanish Church for most of its existence has not contributed to a more efficient performance and provision of its services in a new context, marked by pluralism and pragmatism.

A negative image of the institutional Church arises from the described diagnoses, and provides one of the many explanations concerning the process of secularization. Trying to apply a more ‘charitable hermeneutic’, the religious crisis in Spain—as in most European countries—follows structural and cultural patterns beyond the particular institutional traits and behaviors of the respective national Churches. This phenomenon happens everywhere, but at a different pace and with different levels of intensity, depending more on external factors than on internal ones, since the religious structure in Western Europe is similar in different countries, even if historical events configure specific paths of religious decline. Probably it may be stated that the Spanish Church has been unable—as in many other countries—to deal in a more realistic and pragmatic way with the ongoing crisis, and has felt displaced and overtaken by the course of the events, in the political, cultural, and social fields. In some sense it can be said that this institution was not trained or ready to cope with this kind of situation, in which entire sectors of the population, particularly the young, were feeling alienated from Christian faith and tradition, and still more from the Catholic Church. Indeed this institution has been frequently seen as a stronghold of dated ideas, obsolete moral rules, and out of touch with modernity.

There are reasons to think that in the Spanish context the Catholic culture and the culture of human rights have grown completely separated and in tacit contrast. From an historical point of view, one of the central modern rights—religious liberty—has been strongly resisted for most of the nineteenth and twentieth century, justifying those who hold that religious freedom is closely linked to democratic freedoms and a liberal state (Grim 2014; De la Cueva 2009). Democracy in Spain was fully achieved in 1978, with the new Constitution, after the end of a long-lasting dictatorial regime. As many analysts point out, a big sector of the Catholic Church was strongly supportive of that transition, even to the point of becoming one of the forces decidedly engaged in the process of democratization. For some analysts this was a golden time for the Church, feeling completely identified with the historical forces pressing for a change in Spanish political structure and for an upgrading of its cultural framework. As a result, the culture of human rights—of that time—was fully integrated into the ecclesial identity. For the Spanish Bishops in 1977, “the evangelical message is consubstantial with a defense of human rights” (Comin 1977). However this ‘honeymoon’ did not last very long, and ended in divorce as soon as Church officials became aware of their loss of political and social influence. Secularization trends took a stronger hand; and new ‘rights’ arose in contrast with traditional moral views regarding issues of family and life, thus nourishing a long standing conflict.

At the present moment the relationship between Church positions and human rights in Spain is complex and requires a more nuanced analysis. Following a pattern already observed in other contexts—in Vatican policy since the times of John Paul II—all the ‘traditional’ human rights become patrimony of the Catholic message and the so called “Catholic social teaching”, but at the same time the Church’s opposition has grown to what can be called ‘new’ or ‘special’ individual rights. This means a set that could include ‘rights’ as diverse as: euthanasia, abortion, assisted fertilization, same-sex marriage and family life based on it, divorce, and some educational trends. At this moment the Catholic Church can be considered as one of the

most committed institutions in the defense of human rights; and at the same time the Church has become one of the fiercest opponents to the broadening of this fixed catalogue of rights to include more discussed civil liberties.

Catholic authorities claim that their position is not against human rights, but comes out of a substantive understanding of them and their subjects. This view reflects the official Catholic standard—not just some Spanish partisan position—which could lead to a ‘double model’ or a state of ‘two cultures on civil rights’: the first one would follow in the footsteps of a more liberal tradition, whose focus is on individual rights; while the other would be linked to a more Christian tradition, which looks for an alternative understanding of rights that are better formulated in communitarian terms and in terms of the right to life. The topic of ‘human rights’ clearly belongs to the liberal and Enlightenment tradition, and reflects a rather individual orientation. The second model can be seen as a correction, even as it claims that the essential roots of human rights are found in the Judeo-Christian tradition, and that therefore, it would be wrong to cut ties with their original foundation. In these conditions it is more appropriate to talk about a contrast between two models of human rights, rather than positions ‘for and against’ them. The suggested analysis converges with that of Charles Taylor (2007) regarding the process of secularization: Beyond any theory that claims secular thought is a fulfillment of human ideals, arrived at after suppressing religious and traditional hindrances, in actuality secular models appear as just alternative and competing views on human and social fulfillment.

In any case, a realistic view of the present situation reminds one of the steady loss of cultural influence that Catholic authorities suffer in the realm of public opinion, and even more so on the younger generations. This observation will become more apparent when the empirical data are analyzed. Such a state of things suggests that the Catholic culture concerning ‘alternative rights’ represents a specific niche in the Spanish population. As such it appears as well organized, even able to mobilize its affinity with public expressions of protest and vindication, but with limited reach in the practical field of legislation and in relation to the major media opinion makers. One issue that deserves further study is how related are the process of secularization and the growing demand for new rights, understood as an intensification of demands for personal freedom and emancipation from every sort of tutelage. If a correlation could be found, it is likely that it will show the persistence of the characteristic “Enlightenment pattern”.

Dealing with Religious Pluralism

Regarding the rights of religious minorities, the official position of the Catholic Church is one of respect and religious freedom. This is evident for the Spanish Catholic Church as well, which follows the official standard. However, Catholic opinion sometimes resents the lack of reciprocity that this tolerance entails, especially regarding Islamic expressions; and the respective perception of ‘weakness’

that this policy could trigger in some other religious groups, unable to understand the strength of tolerance.

An interesting issue that helps to illustrate the levels of religious tolerance in Spain is that—in contrast with other European countries—Spanish culture and media have refrained from endorsing campaigns against the use of ‘chador’; limitations on the building of mosques or minarets or restrictions on ethnic or idiosyncratic religious expressions. As far as the journalistic record shows, such ‘culture wars’ have not been fought in Spanish society. Spanish Catholic authorities usually avoid expressing opinions or concerns regarding other religions or Christian confessions. In an exceptional way, sometimes representatives of the Catholic Church have shown concerns about demographic unbalances and the very affirmative attitude that Islamic populations entertain.

The attempt to look for data, public opinions, or indicators of internal culture regarding how religious minorities in Spain assume or tolerate religious pluralism has been unfruitful. The data given by European Surveys (ESV, ESS)—that will be shown below—provide only a very scarce number of cases, too small to render any analysis significant². Only in a conjectural way can anything be stated and then only in a very general way. The first is the apparent lack of incidents of intolerance arising from these instances. In other words, religious minorities in Spain broadly accept and assume a situation of religious pluralism, which can only benefit them being in a condition of minority. The second perception concerns the presence of radical elements, especially in an Islamic milieu, which move in a different direction. This has been the rare case, frequently isolated and overruled by the standard representatives of these religious organizations.

Looking at the data in the 2008 wave of the European Values Study, some figures might become relevant. The item of religious affiliation can be crossed with the one about religious exclusivism. This last item measures in a Likert-like scale of four levels from more exclusivism to refusal of religious truth (“only one true religion”; “only one true religion but others contain some truths too”; “no true religion, all contain some basic truths”; “none of the religions offer any truths”, 1–4). The outcomes show that while Catholics and other Christians give an average of 2.2 points, Muslims lean more towards exclusivism, with 1.6 points.

Empirical Data on Religion and Rights

Some sets of published data might help to better clarify the development of ideas and attitudes concerning religious faith and practice, and values related to rights, in an extensive sense. Our analysis resorts fundamentally to three sources: the studies periodically done by the *Fundación Santa María* (SM) on a broad sample of youths, published as extensive reports for the past three decades. This is a private Spanish Catholic foundation, not linked to the Church’s official agencies, i.e. those under

² In the EVS, 2008, Muslim population was just 1.5% of a sample of 1500 cases (21 cases).

Table 1 Evolution of tolerance regarding following issues (*SM Surveys*)

	1984	1989	1994	1999	2005	2010
Abortion ^a	4.54	4.48	4.61	4.91	5.29	4.97
Divorce ^a	6.36	6.09	6.18	6.44	7.05	6.54
Euthanasia ^a	4.12	4.80	5.05	5.57	6.06	5.51
Light drugs consumption ^a	2.52	2.62	2.37	2.89	3.27	3.09
Weekly mass attendance			17%	12.1%	5%	9.1%

^a Levels of tolerance are measured in a scale from 1 to 10, on the question: *Do you justify?*

the Bishops' Conference³. The second set of data is provided by *Injuve* surveys, a public agency depending on the Spanish Ministry of Work and Social Affairs. It published reports in 2001 and 2008 with questions regarding values and distinct sorts of rights. The third set is offered by two standard European Surveys: the *European Social Survey* (ESS) and the *European Values Study* (EVS). Both publish periodical reports online with free access to their databases concerning Spain and most European countries; these data include religious indicators and social values.

a) In their successive waves, the SM funded surveys provide important data concerning religious indicators and opinions of tolerance regarding several rights, perceived as an extension of the taken for granted set of classical human rights. The samples are big enough and representative; the 1999 wave—for instance—yielded 3853 cases of respondents between 15–24 years old (Elzo et al. 2005, p. 103; González-Anleo 2010). The former table provides a longitudinal vision on the development of opinions about justification of some practices than many see or vindicate as 'rights', and religious practice (Table 1).

A first analysis of these data offers a disconcerting panorama: until 2005, the pattern is clearly of a growing tolerance regarding 'new rights', as those four here described, and declining religious attendance. However in the 2010 wave the tendency seems to become inverted: a significant loss of support for these rights and an increase of religious attendance. These figures give rise to several possible interpretations. One could be related to a new social and cultural background marked by financial crisis and loss of confidence in more secular-progressive ideas. An alternative could see these results as just a provisional or conjuncture-linked phase in a long-term process of cultural adjustment regarding moral values. In any case, the basic pattern persists: the 'alternative rights' and indicators of religiosity appear as inversely correlated.

Data about institutional confidence in the Catholic Church in the 2005 sample of young people are quite revealing. Spanish youths are very disaffected about that Church, which becomes the less trusted institution among a sample of 14. It is strik-

³ Indeed the publication of those reports have given rise to tensions between Church officials and the team of sociologists doing the research and providing their analysis of the data.

Table 2 Differences between 2001 and 2008 census

Opinions	2001	2008
Acceptance of homosexual tendency	81.5%	81.3%
Drug consumption should be penalized	36.7	50.3
Only hard drugs should be penalized	30.5	32.7
Drugs should be never penalized	30.2	13.8
Only the woman concerned should decide about abortion	61.2	55.2
Society should establish certain restrictions on abortion	21.1	23.3
Against abortion whatever the circumstances	14.5	16.3

ing that 30.7% of the 1999 sample have no trust at all in the Church; the second least trusted institution is the army, with 21.9% not trusting it at all.

b) The two *Injuve* reports give some further useful indications⁴. Their surveys reflect the opinions of young people (15–29 years; 2008 $N=1442$). In the 2001 wave, item 14b asks about values worthy of personal sacrifices; on a scale of 0–10, ‘Human Rights’ gets 9.14 points; this is the second most appreciated value in the ranking, after ‘Peace’ which receives the highest support (9.48) among a list of 12 items. ‘Freedom of expression’ is high in the ranking too, with 9.04 (fourth position). This data confirm the idea that human rights belong to the dominant culture, both of adults and young people in nowadays Spain, as happens in most Western countries.

A table can be composed comparing identical items between the surveys of 2001 and 2008, and hence able to provide some longitudinal perspective (Table 2):

Here emerges a pattern of light decline regarding some of what may be called ‘new rights’. This trend does not affect homosexual tolerance, which keeps the same high levels through this time. However it clearly applies to drugs consumption and abortion rights. Furthermore the 2008 wave offers interesting data concerning religion, which is “very” or “quite” important for 26.5% of the sample. Not being an item in the 2001 wave, it’s impossible to compare. However taking into account the figures in a SM survey in 2000, where the same question gets a result of 33% (González-Anleo et al. 2004, p. 28), this 2008 *Injuve* figure unveils a trend of sharp religious decline.

The following table is quite indicative about trends in the *Injuve* 2008 sample regarding ‘new rights’ (Table 3):

The figures in this table are revealing of different levels of agreement with different rights in this set. Homosexual marriage comes first in support; it is followed closely by euthanasia as a right of the incurably ill person concerned. The rejection of the death penalty reveals a significant sensitivity to respect for human life. The overall impression is that youths in Spain over the last few years have become more supportive of these new rights, and that an overwhelming majority—about three-fourths—approve an extension of rights beyond the traditional lists.

⁴ Open access at <http://www.injuve.es/observatorio/demografia-e-informacion-general/informe-juventud-en-espana-2008>; accessed 20.05.2013.

Table 3 Value orientation (N= 1442)

Are you in favour or against?	In favour (%)	Against (%)	Not know (%)	No answer (%)
Marriage between persons of the same sex	76.4	15.7	6.7	1.3
Squatting	37.2	55.2	5.9	1.7
The genetic selection of embryos for therapeutic purposes	55.8	18.0	23.4	2.8
Assisting a person with an incurable disease to die when he/she asks for such help	74.5	14.1	10.6	0.8
Applying the death penalty to persons who have committed very serious crimes	34.5	57.8	7.1	0.6
Religious education in schools	50.9	33.4	12.6	3.1

c) The European surveys provide standardized data from more than 20 countries in different waves. In this case the data reflect opinions of populations of all the ages: To isolate the youngest cohort would not give a very accurate outcome, since the size of the entire sample is not big enough (always about 1500 cases). The following table gives figures regarding three characteristic indicators of religiosity in Spain, from two sets of data: the *European Values Study* (EVS) and the *European Social Survey* (ESS). The pattern of decline is quite apparent, at least concerning attendance at religious services and self-assessment as a ‘religious person’. This pattern is less clear when levels of personal prayer are taken into account (Table 4).

The next table gathers data on four successive waves of the *European Values Study* showing levels of tolerance of homosexuality, abortion, divorce, euthanasia, and consumption of soft drugs. The pattern arising in this case goes in the opposite direction to the one observed in the former table: from 1981 to 2008, levels of tolerance always increase and even double the initial estimates. The case of tolerance of soft drugs is more complex and reveals a low level of tolerance in contrast with other ‘rights’ (Table 5).

The most simple and parsimonious interpretation of the former data, taking the last two tables together, is that the decline of religious indicators corresponds with an increase of levels of tolerance for ‘new individual rights’.

Some other figures may be helpful, as for instance the opinions about immigrants. The 2008 wave offers a couple of items: “Immigrants undermine the country’s cultural life” (Q78B); and “Immigrants will become a threat to society” (Q78E), which get respectively 6.08 and 5.36 points in a scale of 1–10; these data reflect an uneasy atmosphere with foreigners from poorer areas looking for opportunities in Spain during the economic boom.

Table 4 Averages of attendance at religious services at least weekly; daily prayer; and average of “how important is God/how religious are you?” (1–10) for Spanish waves of EVS and ESS.

Year	Worship (%)	Prayer (%)	Religiosity (1–10)
1981 EVS	40.1		6.32
1990 EVS	30.2	25.5	6.12
1995–7 EVS	25.4		
1999–2000 EVS	25.5	22.1	5.97
2002 ESS	21.2	21.7	4.46
2004 ESS	19.0	18.9	4.43
2006 ESS	18.3	24.5	4.58
2008 ESS	16.2	19.6	4.51
2008 EVS	18.5	25.6	5.8
2010 ESS	14.4	20.9	4.43

Table 5 Attitudes about controversial issues in Spain in 4 EVS waves (from 1 to 10)\

Year	Homosex	Abortion	Divorce	Euthanasia	Soft drugs
1981	2.9	2.9	4.8	3.2	2.2
1990	3.6	4.3	5.5	4.0	1.7
1999–2000	5.51	4.34	6.10	4.73	2.16
2008	6.01	4.80	6.88	6.49	2.51

Table 6 Correlations between “Weekly church attendance and values” (EVS 2008 $p \leq 0.0001$)

Item	R
Abortion	0.401
Homosexuality	0.329
Divorce	0.336
Euthanasia	0.399
Soft drugs	0.313
Cheating on taxes	0.127
Taking bribes	0.066

The data set provided by EVS allows for further analysis that can throw some more light on this apparently simple pattern. Looking at the last table of correlations (for the 2008 wave) a similar tendency becomes perceptible, since the main indicator of institutional religiosity—level of weekly attendance at religious services—correlates negatively with a list of ‘new rights’ taken into account. Two further items have been included as controls, to show the contrasts between religiously inspired treatment of the ‘new rights’, and some issues regarding public ethics (Table 6).

However, in the case of the two aforementioned items concerning attitudes toward immigrants, the correlation coefficients with levels of religious attendance are

very low ($R=0.069$; $R=0.073$). These data can be further completed. The 1999–2000 EVS wave included an item on “How much respect is there for individual human rights nowadays (in our country)?” In a scale of 4 levels, it got 2.24 points—on the average. The interesting thing, again, is that this figure does not correlate with the indicator of religious practice ($R=0.082$). Summing up these outcomes, it can be stated that levels of religiosity are not related—positively or negatively—to general perception of human rights, and neither are they related to perceptions on the levels of acceptance of immigrants. As a first conclusion—and in a more nuanced way—it can be stated that religiosity does not have any weight in regard to general human rights, while it does have a definite impact regarding a set of new individual rights that could be perceived as being in harsh contrast with one’s own religious and moral values.

Conclusion

The data offered here allow for some further conclusions concerning life-styles and discrimination topics. A first statement concerns the broad culture of human rights in Spain: it is something widely accepted and there are no symptoms about any reversal of this universal trend. Catholics peacefully assume this same state of things without hesitation.

However, since the prevalent religious denomination in Spain is Catholicism, the former data reveal that this denomination encourages a nuanced or differentiated understanding of personal rights, in tune with the theoretical framework stated above: In Spain there coexist two or more models of rights, following distinctive traditions. In our case these models correspond to the secular and individual one; and to the Catholic, communitarian and life-focused one, respectively. Obviously more sub-cultures of human rights would emerge if other ethnic-religious groups were considered, such as Muslims, Hindus, or other minorities. This principle would apply to other sub-cultures inhabiting the youth universe, as is the case for groups more engaged in soft-drug liberalization. In this sense, the data thus far provided allows us to distinguish between a limited set of new rights that are becoming part of the collective catalogue of rights, and other minority rights that have not attained a similar wide acceptance, such as the consumption of soft drugs. This point indicates that catalogues of rights are—even in most advanced societies—subjected to some boundaries and cannot become paramount as covering every imaginable behavior.

Issues of discrimination are unavoidable in every society, even those more developed and tolerant. Cases of perceived or real discrimination for race, gender, sexual orientation, and age can be found in research engines and scientific papers describing the Spanish society. The growth of immigration from poorer countries and the perception of an increase of certain crimes—robbery, smuggling, and burglary—trigger attitudes of distrust and suspicion towards newcomers. However, a scientific study shows rather low levels of self-perceived discrimination due to race, education or gender (Gil-González et al. 2013). Furthermore, Spanish society still

does not know the presence or visibility of parties or organizations whose aim is to limit the arrival or influence of incoming minorities, as are found in many other European countries. These data do not exactly point to a mature culture of tolerance and respect for minorities; they are just an indicator pointing in that sense.

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Negative and Positive Freedom of Religion: The Ambiguous Relation of Religion and Human Rights in Sweden

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Abstract Sweden can be characterized as one of the most secularized countries in the world. This chapter aims to explore the relationship between religion and human rights in Sweden, with a focus on the contemporary situation. The research question is how to understand the relation between religion and human rights in the light of the role of religion in the country. The contentious argumentation around the freedom of religion illustrates the ambiguous role that religion plays in contemporary Swedish social life. Starting out from cases where freedom of speech and freedom of religion have been contested, this chapter explicates that Swedish society often constructs religion as a private matter and uses human rights discourses as a common denominator. Also empirical data on young people's attitudes toward freedom of religion and religious diversity are used, underlining this ambiguous picture. Public discussions on human rights in Sweden follow three tracks: consensus on human rights discourse in general, an awareness of the need for constant refinement regarding the application of human rights, and thirdly a rising awareness of the stigmatization of Muslims which can be seen as a sign of a lack of religious literacy.

Sweden can be characterized as one of the most secularized countries in the world (Pettersson and Esmer 2005; Esmer and Pettersson 2007). Comparative value studies such as the World Values Survey have demonstrated that contemporary Swedish culture scores exceptionally high on values such as trust in democracy, individual integrity, social equality, tolerance and gender equality. At the same time the situation is the opposite for what in these studies is called traditional values: Swedish people score exceptionally low when asked if they find it important to obey authorities, if it is important to obey one's parents or if they adhere to traditional family values. They furthermore demonstrate low traditional religious participation and beliefs. Pettersson (2006) has even suggested that in Swedish culture, values such as individual integrity and self-realization can be seen as the new sacred values. Some authors would further claim that human rights have taken the position of the sacred in Swedish society (Porsdam 2012; Botvar and Sjöborg 2012). This chapter aims to explore the relationship between religion and human rights in Sweden, with

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a focus on the contemporary situation. The research question is how to understand the relation between religion and human rights in the light of the role of religion in the country. This connects to the title of this chapter, as the contentious argumentation around the freedom of religion illustrates the ambiguous role that religion plays in contemporary Swedish social life.

Social and Religious Change

Sweden has a history of being a homogeneous Protestant country ever since the Reformation. Dominated by a Lutheran state church for several centuries, the modernization process of the nineteenth and twentieth centuries gradually brought increased pluralism: the labour movement, the free churches movement (i.e. Baptists, pietistic Protestants, and Pentecostals) and the temperance movement went hand in hand with increased industrialization and urbanization. Improved education and extended suffrage contributed to further social reforms. During the twentieth century, the state church system was retained but it was gradually opened up. In 1951 it became allowed to leave the Church of Sweden without stating a reason or providing an alternative denomination. In 1958 the duty of the bishops of the Church of Sweden to inspect the secondary schools were taken away, and morning prayers in schools were abolished. The 1960's saw the introduction of a new non-confessional school subject of Religious Education, which replaced Christianity as a school subject (Gustafsson 2000). The Swedish development in terms of differentiation of the school system came several decades before some neighbouring countries such as Finland and Norway. In the year 2000 the state church system was officially replaced in favour of a system which grants the Church of Sweden the status of a folk church (meaning a people's church). Even if 69% of the population remain members, regular service attendance is much lower: 2% attend weekly, 10% monthly. 60% of the new-born children are baptized in the Church of Sweden, 35% of youth are confirmed, and almost 50% of the marriages are carried out in the church order. 85% of the funerals take place in the Church of Sweden (Bäckström et al. 2004; Svenska kyrkan 2013).

Regarding other religious organizations it can be mentioned that apart from minor historic representations of Catholics and Jews, the only alternatives to Church of Sweden for long time were the so-called Free Church movements. It was not until 1950's and onwards that Sweden accepted work force immigration and later also refugee immigration. Of Sweden's population of 9,6 million people 20% have what in statistical terms is called a "foreign background" (Statistics Sweden 2013). This somewhat dubious term implies that the individual—or both parents—are born outside Sweden. Today, Islam represents the second largest religion in Sweden, with 100,000 practicing Muslims, and altogether 400,000 cultural Muslims. Jewish communities count some 10,000 members (altogether 20,000 cultural Jews). Among Christians, Catholics constitute some 90,000, and Eastern and Orthodox Christians, of which the Syrian Orthodox are the largest group, count some 120,000 members. Different free churches count some 300,000 members (SST 2013).

Religion as a Private Matter—Human Rights as a Common Denominator

With the formation of the Social-Democratic welfare state and increasing pluralism in society during the twentieth century, Swedish society has been characterized by an increased emphasis on human rights in terms of trying to establish a common value base for social life. Central in such an emphasis is the liberal notion of religion as a private matter. The idea in this line of thought is that in order to grant the individual their freedom of religion or belief, the state should favour no particular religion.

The human rights discourse form the base for discussions on common life, and provides arguments in several fields, such as children's living conditions, gender equality and civil rights. From the domains of education, and foreign policy, to health care and welfare policy, human rights can be said to form a base for Swedish society, as well as for many societies. This is, for instance, evident both in legal documents such as the Swedish constitution and the steering documents for the school system (Andersson and Modée 2011).

A greater religious and cultural diversity has come about in recent years, partly due to global migration. Some researchers speak of this development as an increased visibility of religion (Bäckström et al. 2011). They claim that in several Western societies this increased visibility creates concern and unease, since religion for a significant period of time was considered to belong to the private sphere. The historic homogeneity of the Swedish society, the dominance of Lutheran Protestantism along with a rapid modernization, paved the way for a secularization of exceptional character. Referring to Eisenstadt's concept of multiple modernities, Bäckström et al. have underlined that there are specific modes of modernity (Bäckström et al. 2011; Eisenstadt 2002). The combination of a general welfare system, and a high level of female participation in the work force, along with the highly privatized role of religion in Sweden paints the picture of a modern society that is on one hand democratic and gender equal, tolerant towards social minorities such as homosexuals and immigrants, but on the other hand increasingly ambivalent or even anxious when it comes to the rather new situation of cultural and religious diversity. There are both cases of discrimination on the grounds of religion or belief, and evidence of Anti-Semitic and Islamophobic attitudes among the population (Mella and Irving Palm 2012; Anders 2011). This can also be seen in other European countries and has received increased academic attention (Werts et al. 2013).

In relation to the problem of discrimination and conflicts regarding religion in Western secularized countries, the concept of religious literacy has been introduced. The concept contributes a tool for analysis on micro as well as meso and macro levels. Dinham (2012) argues there is a lack of literacy in relation to issues of religion (Sjöborg 2013b; Lövheim 2012a). Dinham has claimed that in Britain as a secularized Western society, both social institutions such as municipalities and city councils, and individuals serving as politicians or public officials often lack the competence they would need in order to recognize the value of religion. Examples given by Dinham are related to when public authorities

cooperate with organizations in the civil society and often neglect the added value which lies in social welfare being provided by religious organizations. This is also relevant in the Swedish context where religion for a long time has been regarded as a private matter. In such a secularized society it will be more likely that individuals may lack language and categories to talk about issues related to religion. The notion of religious literacy contributes with an understanding of this. Further, it is often the case in the public debate in Sweden that the secular and the secularist positions are confused. Commonly these discussions about religion in society pinpoint conflicting rights within human rights, or different interpretations regarding whose rights should be given priority by an authority or in relation to an individual or a group. In the following this will be illustrated with a few examples from recent debates in Sweden.

As human rights in general hold a central position in Swedish culture and society, the official stance of all major religious organizations in Sweden can be said to be positive or even actively positive in relation to human rights. Sometimes this is inspired by experiences from foreign aid and missionary work that these churches have been actively involved in. Drawing on the experiences from work abroad, these organizations transfer their attention to human rights also in Sweden, primarily regarding social and economic rights, such as the welcoming of refugees in Sweden where church leaders from time to time are active in the public debate. Another explanation may be that leaders of religious minority groups need to address prejudices against them and wish to indicate that their traditions contribute to shared values in the majority society.

But the first generation of human rights also has been emphasized by church leaders. The examples here concern the freedom of speech and the freedom of religion/freedom of religious speech. A Pentecostal pastor (Åke Green) was convicted for hate speech when giving a sermon which sharply criticized homosexuality. He was sentenced, but the decision was appealed. The Swedish Supreme Court finally decided to drop the charges, running the risk of losing in the European Court (Österdahl 2006). Of course this court case was highly debated, since there is a generally open attitude in the public debate around same-sex relationships. At the same time, this was an interesting case of principles since it also involved the freedom of the pulpit, a part of the freedom of religion (Lindkvist 2011).

The second example concerns the gender and Islam issue, here exemplified by the so called Halal-television case (Lövheim and Axner 2011). This example also points to the right to religion (freedom of religion), but furthermore illustrates that arguments drawing on protection of women can be used for several different positions in the debate. At stake was whether three hosts of a television-programme on public service television could wear a hijab (headscarf). Both sides in the debate drew on human rights arguments for protecting the women's rights to dress as they wish—including a headscarf—or stressing the impartiality of public service television, not taking sides for a particular religious or ethnic group. As was stressed in Lövheim and Axner's analysis of the

debate, the discussions also illustrate how Swedish society in order to understand itself as secular, constructs the “other” as religious. In other words, this example highlights how Swedish secularism is often taken for granted and how such a silent assumption may have severe consequences in relation to the issue of freedom of religion.

The third example concerns the so-called Vilks affair, or Sweden’s own version of the Mohammad caricatures crisis. The Mohammad caricature issue occurred in Denmark (and Norway but also Sweden). A Swedish modern artist, Lars Vilks, decided to follow up that event by depicting the prophet of Islam as a round-about-dog. Vilks is renowned for a provocative style as an artist. This led to an intense debate, in a way similar to the Danish case, including murder threats, arson and a suicide bombing in central Stockholm December 2010. Lately the artist has also been sharply criticized for participating in the conference of the openly Anti-Semitic organisation Stop Islamization Of Nations (SION) in New York 2012 (Svenska Dagbladet 2013). Issues under debate here were the freedom of speech and the protection of minorities or religious values (blasphemy). Blasphemy is not an offense in Sweden, but hate speech is.¹

Of the three examples here, two concern Islam. This is worth noting, and probably reflects the stigmatized situation for Muslims all over the Western world post 9–11 2001. But it perhaps also reflects the lack of understanding of minorities in general and of religious values specifically in the Swedish society. A strong norm of individualism combined with lack of religious literacy seems to stir the feelings of the Swedes, as well as agitate the debate on what the freedom of religion may mean in a diverse society.

Lastly, a fourth example which also concerns Islam is that for a long time Sweden had no parliamentary representation of a radical right-wing populist party. In the election of 2010, this was changed when the Sverigedemokraterna (The Sweden Democrats) received 5.9% of the votes and the party became the balance of power in the parliament. Trying to wash off its openly racist history, the party has made attempts to appear like a normal political party. It has ties with the English Defence League, wants to stop immigration to Sweden, and is openly critical of Islam and Muslims. With regard to the threats against rights of minorities, churches and other religious organizations have actively entered into the political debate. Some of the participants in these discussions draw on freedom of religion. Church leaders have taken up the argument against the Sweden Democrats ever since their increased support in the 2010 election campaign. The party itself, on the other hand, also uses freedom of speech-arguments, and claims that there is a consensus culture of “politically correctness” on the behalf of established parties and mass media hindering ideas which are critical of present immigration policy from being heard in the debate. In other words, they employ freedom of speech in their argumentation (Lindberg 2011).

¹ The prohibition of blasphemy was taken out of the penal code in 1949, and replaced by a statute on Peace of faith, which was subsequently abolished of the penal code in 1970.

Empirical Data Among Young People: An Ambiguous Relation

Empirical studies of young people's values and attitudes with regard to religious and existential issues indicate that the conditions for religious socialization have changed not only in Northern Europe but also in Sweden. From a recent survey among a representative sample (ages 16–24) 13% were brought up in a religious home and 7% attend activities in religious organization at least once a month (Lövheim 2012b). There are salient differences between youth who are 'organized religious', 'individually religious' and 'non-religious'. The first category primarily encounters religious issues in church or another religious place, at home or with friends. The second category rather comes in contact with religion via school, television or friends. The largest and third category comes in contact with religion via television, newspapers or school (Sjöborg 2012a).

The situation addressed in this chapter can be illustrated by empirical data from two different surveys among young people in upper secondary school (ages 16–19). In a representative sample of 1850 upper secondary students, the attitudes towards freedom of religion regarding religious and cultural diversity in society were investigated: 68% of all pupils agreed with a statement on general freedom to speak about one's religion at school or work (Sjöborg 2013a). But only 34% stated that clothes and symbols related to religion (exemplified as veil, turban, cross etc.) should be allowed in Swedish workplaces. In other words, regarding the statement concerning speaking about religion a little more than two-thirds agreed, while for the statement regarding visual representations of religion only a third agreed. This is worth noting since it represents a distinct difference in terms of tolerance of religion. An attitude of tolerance may thus shift depending on whether the matter concerns one's freedom to speak or one's freedom to wear visual representations. This may be understood as suggesting that the visual presence of religions is perceived as being more provocative than verbal presence. Another finding of relevance here stems from Swedish data on upper secondary students, where differences between Christian, Muslim and nonreligious students were investigated (Sjöborg 2012b). Thirty-two percent of the respondents agreed that making fun of religious people in a cabaret is a legally protected right. Thirty-four percent of the students agreed that TV journalists with radical convictions have a civil right to employment. For both of these statements, the religious self-identification did not bring out any significant differences. However, regarding a statement on freedom of religion, namely whether politicians are allowed to interfere with religious communities, Christians (44%) and Muslims (46%) agreed to a larger extent than did the nonreligious students (26%)².

² The first data mentioned come from a school survey, using a two-step representative sample of upper secondary pupils, ages 18–19, who responded in school to a questionnaire on religion and Religious Education (Sjöborg 2013b). The second data mentioned comes from a strategic sample in Greater Stockholm schools of upper secondary pupils, ages 16–19 (Sjöborg 2012b).

Conclusion

The political treatment of human rights issues can be said to follow three tracks. First, it can be said there is a wide consensus around the central status for the human rights discourse and catalogue of rights and their application (Andersson & Modée 2011; Singer 2012) and a vivid reflection in the public sphere that there is always a need for constant refinement and improvement (Regeringen 2013). Second, there are also diverging positions especially when it comes to the first generation of human rights. These positions concern interpretations about the role of religion in society, where a liberal, secularist position is discernible, as well as a more post-secular or pro-religious position. For instance both these positions are noticeable within the present coalition government. Note 3: This refers to the four-party coalition as of September 2014. In addition to the already mentioned cases, tensions may concern end of year school ceremonies taking place in a church (freedom of religion, separation of church and state), confessional schools (rights of parents, freedom of religion [of the child], same-sex marriages (freedom of lifestyle, right to build a family), or the role of religious organizations for integration. Third, there is the concern around the public stigmatization of Muslims mainly associated with the entrance into Swedish parliament by the Sweden Democrats. On all these three tracks, religious leaders take some part in the public debate, often making use of human rights arguments (Axner 2013).

There is a risk that new generations with little or no literacy about religion are restricted to superficial or stereotypical images of religion in mediatized forms. Current school curricula underscore the normative, fostering role of the school system, stressing values like tolerance and specifically human rights. It remains to be seen whether such enterprises are completely successful. In times of financial hardship and unsecure markets of education and labour especially among young people there are many threats against an open and tolerant society. Religious and political organizations are able to gather some youth involvement. However interest in religious or political issues is not at all as closely linked to participation in organized political and religious organizations as in previous decades.

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Human Rights from a Tanzanian Perspective

Clement Fumbo

Abstract This paper deals with the relations and tensions between religion(s) on one hand and state/government on the other regarding human rights in Tanzania?—And what has to be done to improve those relations? In order to find a solution to this problem the context and composition of religion(s) and state/government in Tanzania are investigated through the times considering their relation to human rights.

So far it can be stated that Tanzania is well aware of the basic human rights just like most countries and agrees in principle on an advancing human rights culture. However, Tanzanian society on the whole rather falls short of meeting the standards of human rights. Several reasons are responsible for that: static and unchanging beliefs, diverse traditions and cultures of about 120 ethnic groups, jurisdictions, politics, etc.

The local language ‘Swahili’ and a community based tradition have, however, been proven to be a unifying factor in the country, and they could, if well utilised, be vital for communicating and advancing a human rights culture in the right direction through dialogue.

Introduction

Tanzania is among the poorest nations of Africa and the third poorest in the world in economic terms, but it has no match in Africa in terms of peace and unity (Kobia 2003, p. 35). This is a result of a consistent, comprehensive dialogue policy of the state with African culture and religions. The dialogue has resulted in peace, unity, and tranquillity as well as the elimination of ethnic and religious conflicts and the use of one language—*Swahili*—for the country in the last forty years (Legal and Human Rights Centre 2013, p. 3). Hence, the priority of the state policy in Tanzania has been to maintain social cohesion, stability and peace, which are the essential elements of meaningful political freedom, social and economic change.

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Tanzania, regardless of ethnic groups, is mostly composed of community-based families (Mbiti 1970, p. 3; Fumbo 2011, p. 8). Their beliefs, traditions, cultures and understanding of worldview are likely or necessarily influenced by what their particular immediate communities seek. Through that understanding, the position(s) on human rights in general or non-specific rights of the individual Churches or religions in Tanzania are predominantly positioned under the same community-based umbrella. However, that does not shield them from the prevailing global understanding of the same, simply because of the information and communication technology around them. Despite this, some specific human rights issues are seemingly peculiar to Tanzania due to the nature of the ethnic traditions that still persist.

This paper tries to investigate some relations and tensions involving the religions and the government with regard to human rights. It begins with the historical background and the context of religion and human rights in Tanzania. Lastly, before concluding the paper presents the human rights that seem relevant for not only young people and their adolescence life-world experiences but also for women, their prime guardians.

Historical Background

Tanzania is a constitutional secular, United Republic and multi-party democratic system country. Two countries, Tanganyika and Zanzibar, joined and united to form Tanzania in 1964. Before that union, the Tanzania mainland (then Tanganyika) was a German colony (1880s—1918). After World War I, following the defeat of Germany until gaining its independence, Tanganyika became a Trusteeship Territory under Britain (1919–1961).

In terms of religious affiliation, during colonialism and before the union of Tanganyika and Zanzibar in April 1964, Tanganyika Christians were 30%, Muslims 35% and Indigenous believers 35%, while in Zanzibar more than 99% were Muslims (CIA 2005). However, three years after the union, the 1967 National Census reported 34% Christians, 31% Muslims and 35% others. The current statistics of religion affiliation for 2009 shows a considerable change: 60% Christians, 36% Muslims and 4% others for the Tanzanian mainland (PEW 2010). The situation in Zanzibar is almost unchanged since 1964.

The Christian population is mostly composed of Roman Catholics and Protestants. Among Protestants the greatest number are Lutherans and Moravians, pointing to the German past of the country, while the number of Anglicans can be attributed to the British history of Tanganyika. All of them have had some influence in varying degrees from the Walokole movement (East African Revival) which has also been fertile ground for the spread of charismatic and Pentecostal groups. On the mainland, Muslim communities are concentrated in coastal areas, with some large Muslim majorities scattered inland particularly in urban areas and along the former slavery caravan routes. A large majority of the Muslim population is Sunni. The Islamic population of Dar es Salaam, the largest and richest city in Tanzania, is composed of mainly Sunni Muslims with a few Shiites.

Since 1967 the Statistics Bureau of Tanzania has not asked for religious affiliation. The reason for this is the recent government policy, which declared religious balance as a sensitive topic (see below). Thus, due to the ‘sensitivity’ of religious balance the official position of the country remains that Tanzania is a secular country or rather not a religiously affiliated country. That means all figures on religious statistics for Tanzania are, at best, educated guesswork and differ widely on the question whether there are more Christians or Muslims. Most assume that while the number of traditionalists and other minority religions has dwindled dramatically, their level of activity has not. Yet, the constitution guarantees the freedom of religion that necessarily helps to limit religious conflicts (Møller 2006). Every individual has the right to worship anything and affiliate in any religious group as long as one does not infringe the freedom of others on basis of religion.

Context and Composition of Religion(s) and Human Rights in Tanzania

International human rights have three generations of classification. The first generation of rights consists of civil and political rights, the second generation of rights is about economic, social and cultural rights and the third generations of rights are termed collective rights (van der Ven et al. 2004). In the African context the collective rights category is dynamic and flexible and, as such, is lacking one universal and unanimously acceptable definition. A simple definition of collective rights category are those rights which protect a group of people, while individual rights protect the individual (LHRC Report 2012, p. 163). Religion(s) fall under almost all three generation of rights as stipulated above.

In Tanzania as in many other African countries, religion is part of the culture of people and religious pluralism has existed for many years. For instance, the first kingdoms in Tanzania recognized and experienced religious pluralism. As such, African religions were common in every kingdom, the king or chief as the supreme authority of the kingdom or chiefdom guaranteed the freedom of every religion even to the newly conquered ethnic groups, provided they would promote the common good of the kingdom (see Pirouet 1991, p. 141). This was the basis for future religions to enter into Tanzanian societies without any objection by the people, the kings or the chiefs (Gunnar Norlén 2001, p. 263).

Since the events of independence and union of the two countries to form Tanzania were after 1948 Universal Declaration for Human Rights, it is obvious to see that the country’s constitution has accommodated and tried to improve the international agreements as the standard measure. Initially, Tanzania under its constitution had affirmed that it would protect and promote civil rights and liberties as stipulated by several instruments. The instruments are the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; the African Charter on Human and People’s Rights (ACHPR) of 1981; the Optional Protocol to the ICCPR; and the Second Optional Protocol to the ICCPR.

Some Relation and Tension Between Religions and State Regarding Human Rights

As highlighted earlier, Tanzania has been enjoying a relatively good relationship between religions on the one hand and government and religions on the other. The relationship has been possible in Tanzania through a constitutional articulations arrangement that guarantees respect of personal freedom of religion as a civil right, and consequently the group's freedom (Constitution of Tanzania, Art. 19). When it comes to human rights, some scholars tend to categorize rights in terms of positive and negative rights. As such civil rights fall under the category of negative rights while positive rights are rights to be provided for. Negative rights typically involve the right to be protected from certain conditions including: arbitrary arrest, detention, torture, and death (Halliday 2008, p. 3). Such a relationship also extends even at the international level keeping in mind that the legally well-organized religions have their origin as visible institutions outside the country. Hence, the same constitutional religious freedom allows the initiators of these religions, Christianity and Islam, in Tanzania to carry on their duties regularly without interference in accordance with the prevailing laws of the country. Further, we have to note that the importance of each religion in Tanzanian society in terms of social, economic and political, influences the relationship between the Church and the state in Tanzania. Thus, the basis of these relations is always the human person with his/her fundamental rights, as an individual and a member of human society at the same time.

When we regard the state as an entity within the human community, the distinction between it and other associations of people is clear. For instance, Christianity also is a well-structured religion with various Churches, with national and international dimensions. In this case, the Catholic Church will shape itself in the state as an independent and autonomous community of persons with its distinct juridical system. At the same time, the two juridical systems will manifest how they complement each other because both systems with different ends serve the same citizens. As already noted, Islam in Tanzania organizes itself in different sects having necessary structures for legal recognition.

The Tanzanian state leadership has made many efforts in cultivating mutual relations with religious leaders. In addition, they have been vocal in challenging the religious institutions to play a greater role in their calling and responsibility to society. Hence, the religious bodies have to foresee that the state is enforcing justice (Nyerere 1967, pp. 98–99). All these rights are accepted and being addressed by almost all religious institutions i.e., Churches and Mosques.

A close relationship has always existed between religion and human rights in Tanzania. For instance, almost all Churches have been in the forefront to address human rights and prohibit all sorts of violations of human rights through their religious teachings and proclamations. Three examples which can be mentioned briefly are female genital mutilation, the rights of miners, and the treatment of refugees.

Female Genital Mutilation (FGM)

One of the issues is the Anti-FGM campaign conducted by the Christian Council of Tanzania (CCT) in the Nyamongo area (Tarime District, Mara Region) which has reportedly reduced FGM by 67%, (only 200 of 600 eligible girls got circumcision). The top five regions with a high prevalence of FGM according to survey are as follows (Table 1):

The success of the CCT campaign is largely based on working closely with the community, teachers, traditional elders, midwives, circumcisers, village government leaders, religious leaders together with famous people in villages by providing them with information about the consequences of the practice (Jacon 2006; Mwere 2006). This has been possible because of an attempt of Tanzania, a signatory of number of human rights international and regional instruments and treaties, to address various human rights issues with all means possible. Hence, under the government laws and regulations it is an obligation to register all religious institutions which affirm human rights.

Miner's Rights

Often the joint religious councils (Christian Council of Tanzania [CCT], Tanzania Episcopal Conference [TEC], Muslim Council of Tanzania [BAKWATA]) have spoken against the state in relation to violations of human rights, for example in the mining sector documentation: *A Golden Opportunity?* (Tundu and Curtis 2008). In the document, they assert, "Our mining communities are discouraged and hopeless. Those evicted from their land by mining corporations are living in conditions no better than refugees"(ibid, p. 6). Consequently, they argue strongly:

The situation challenges each of us and raises a simple question: What would I like to see others do when I am oppressed, I am beaten, I am chased from my property, I am harassed, my environment is polluted, my dignity is made to be of nothing, my children are dying because of my poverty and my rights are violated? As religious leaders, we each of us found the same answer. We will need them to shout of our oppression, to stand for our rights, to be our advocates, to intervene on our suffering and restore our dignity (ibid).

Table 1 Prevalence of female genital mutilation (FGM). (Source: Tanzania Demographic Health Survey Report, 2010)

Rank	Region	Prevalence in %
1	Manyara	70.0
2	Dodoma	63.8
3	Arusha	58.6
4	Singida	51.0
5	Mara	39.9

Refugees

Religious charities in Tanzania have been in the forefront of care for the waves of refugees and asylum seekers from many other (East) African and the Great Lakes region countries (e.g. Rwanda, Burundi, Uganda, DRC) where there are civil violence and wars before the UNHCR comes in.

Pressure on Human Rights in Tanzania

Despite Tanzania enjoying good relations between religions and state/government, there are some isolated tensions within or between religions and state due to various reasons. Individuals or group of politicians, government policies or religious beliefs and leaders have caused this.

Arbitrary or Unlawful Deprivation of Life

In Tanzania during a span of more than four decades since independence, there have been no politically motivated killings by the government or its agents or secret societies. On several occasions, however, security forces have used lethal force against citizens, including persons in custody. In the later, senior police officials have accused subordinate officers of unlawful killings though the accusations have less impact.

In other developments, observations that deaths because of mob violence, including by stoning, beating, hacking with machetes, and burning, are on the decline following a government outreach campaign and non-governmental organization (NGO) efforts to discourage such violence. In pre-colonial Africa belief in witchcraft was common (Simeon 2010). Still today the fear of witches leads to the continued killing of alleged witches by persons claiming to be the victims of witchcraft, relatives of victims, or mobs. Unfortunately, it has been difficult to prosecute persons accused of killing suspected witches, due to the lack of police resources and an unwillingness of witnesses to come forward, although there are some records showing that the government did prosecute several such cases (Sect. 2 of the Witchcraft Act).

There has been dissatisfaction especially from the Tanzania Albino Society on the killings of persons with albinism that have been going on for sometime now in the country, killings which are associated with some traditional beliefs. Earlier in the year 2012, the society organized a rally to raise its voice and threatened the government that they may seek refuge in neighbouring countries if the government would not ensure their safety. The society expressed concern to the government on the lack of responsibility in dealing with the criminals (albino killers), and questioned whether the government was ignoring this crime (LHRC 2012).

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit the practice of torture and cruel punishment; however, police officers abuse, threaten, and otherwise mistreats civilians, suspected criminals, and prisoners. The law requires prisoners to be separated based on age and gender, and whether a person is awaiting trial or has been convicted of a crime. Nevertheless, there is a lack of adequate facilities for juveniles, and what is available is used primarily for housing boys while girls universally are given probation. Authorities often hold male juveniles awaiting trial in one of five remand homes and at times move prisoners to different prisons without notifying their families (see LHRC 2012).

Discrimination, Societal abuses, and Trafficking in Persons

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, social status, or religion. The law requires that anyone who wants to become a citizen must live in the country for at least 10 years, have no criminal record, and be able to speak Swahili. However, the government does not always effectively enforce these prohibitions. The law do not explicitly prohibit discrimination based on gender, age, or disability but rather discourages publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS persists, and ethnic tensions continue in some parts of the country. There are some signs that there is an escalation of societal abuses of street children, housemaids and sex workers.

Religious Institutions Reservations to Specific Rights

Certain religious institutions have reservations about specific rights, which seem to them as against the moral of the Church or their religious institutions. A vital example is the articles of the Maputo Protocol¹ that literally are against or regarded to be immoral on the right to abortion i.e. “How can we not be alarmed, moreover, by the continuous attacks on life, from conception to natural death?” Such attacks do not even spare regions with a traditional culture of respecting life, such as Africa. That means the churches look at the protocol as an attempt to trivialize abortion.

¹ ‘Maputo Protocol’ is the name given to the African Charter on Human and Peoples’ Rights on the Rights of Women in African and was adopted on the 11th day of July 2003 by Heads of State and Government of the African Union (AU) during the Second Ordinary Summit of the AU convened in Maputo, Mozambique. For the Protocol to enter into force fifteen ratifications are required. However, as of May 2004 only Comoros had ratified the Protocol while other 28 countries including Tanzania have signed the document.

There are strong reservations concerning some aspects of Article 14 of the Maputo Protocol. The observation is that the rights of women to protect and promote their sexual and reproductive health in this article exclude the rights of the couple, the family and the larger society (civil, traditional, cultural and religious), from promoting precisely the women's rights to their health care.

Moreover, recourse to abortion and the choice of any method of contraception by women (cf. Maputo Protocol Article 14, (1), (c) and (2), (c)) are particularly incompatible with the Catholic Church teaching, tradition and practice. Additionally, the Church has continually affirmed since the first century that it is a moral evil for any person or agent to procure an abortion, the teaching that has not changed and remains unchangeable. In the light of this, we observe that abortion and infanticide are abominable crimes to almost all of our African cultures, traditional societies and religions. This is one of the rights which the church is considering against the legalizing abortion.

Furthermore, the right to life is the right of every human being, so that when a life of a human being is being endangered, the perpetrator has to be punished. On the other hand, however, executing the criminals who have killed someone is immoral and almost all religious institutions with some exceptions are against death penalty since the punishment can be violating someone's human rights. However, to date the government of Tanzania has retained the death penalty.²

Religion Versus the National Census

The Black Law Dictionary defines census as, “an official count of people made for the purpose of compiling social and economic data for the political subdivision to which the people belong.” (Garner 2004). Hence, the Tanzanian *Statistical Act* (LHRC 2013, p. 75), define census as, “a census of population and housing.” Initially the intention was to establish demographic data about every individual in the country by looking into some of the demographic data including gender, level of education, age and occupation for development purposes.

However, as noted in the first section of this paper on how the issue of population is sensitive, some members of religious sects and their leaders refused, convinced and even prevented their colleagues from taking part on the 2012 National Census. The motive behind that move is unclear, although the government used some force to make them respond to the census. It is a bit difficult to get adequate information on such incidences from the government and religious sects because of the surrounding secrecy. The only speculation put forward is in relation to religious beliefs and allegations or accusations of misuse of their information against their religion or beliefs (LHRC 2013, pp. 76–77). Some stakeholders blame the lack of adequate

² Tanzania imposes death penalty in capital offences such as murder cases, treason, and military offences. The following legislation apply: Sect. 197 of the Penal Code, Cap 16 of the Laws of Tanzania; Sect. 39–40 of the Penal Code, Cap 16 of the Laws of Tanzania and The National Defense Act, Cap 192 of the R.E 2002 Laws of Tanzania respectively (LHRC 2012, 12–16).

knowledge as the reasons for the misunderstanding LHRC 2013, pp. 75–78). Consequently, in order to maintain the status quo of Tanzanians priding themselves on living together in diversity, the use of a statistic that conveniently shows equality (without religious affiliation) is seen as avoiding rivalries between the various religious groups, though not identifying the majority or the numbers. However, that intended purpose practically denies the reality of the actual composition of religious affiliation in the country.

Rights Related to Adolescents Life-World Experiences, for Young People and the Place of Women

As noted above regarding community-based families as a trend in Tanzania, young people and children are always associated with their mothers who either do or do not take care of them to the stage of adolescence and even beyond. Women and children are among the groups that the society considers as vulnerable to human rights violations and incapable of enforcing their rights; other groups include people with disabilities and the aged. Essentially, there has been a development of different international human rights conventions to take care of the rights of these groups in the society including the following: International Covenant on Civil and Political Rights, 1966; Convention on the Elimination of all Forms of Discrimination against Women, 1979; African Charter on Human and Peoples Rights, 1981; Convention on the Rights of Child, 1989; Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, 2000; and International Convention of the Rights and Dignity of Peoples with Disabilities, 2006 (LHRC 2012, p. 325).

In the Tanzanian context the promotion and protection of children's rights are enacted through the *Law of the Child Act 2009* (see Sect. 162, LHRC 2012, pp. 145–146) following the outcry of civil society and the pressure from development partners. Hence, the country has ratified and domesticated the *Convention on the Rights of the Child, 1989* and its two protocols and the *African Charter on the Rights and Welfare of the Child, 1990* (ACHRWC). Thus, the basis of the discussion in this section is on the above theories related to an emphasis of women and children rights and their relationship. The relation between mother and young people might have a direct impact on their behaviour (dependent variables) especially in the areas of motivation to engage and real engagement as well as confidence. That means the family upbringing in particular from the mothers and partially the fathers is likely to shape their attitudes. Furthermore, it is vital to note that the position of women in Tanzania is that oppression or discrimination are going on in all religions, particularly traditional religion, Islam and Christianity. There are many reports in the country on domestic abuse and violence against women that have a direct effect on children and young people (Fumbo 2012, pp. 381–382). The Tanzania Demographic Healthy Survey Report, 2010 captured in detail the prevalence of gender based violence that include physical violence, sexual violence, and marital violence, as indicated in the following table (Table 2):

Table 2 Prevalence of gender based violence. (Source: Compiled from Tanzania Demographic Survey Report, 2010)

No	Region	Physical violence (%)	Rank	Sexual violence (%)	Rank	Marital violence (%)	Rank
1.	Mara	66.4	2	32.5	1	61.2	2
2.	Ruvuma	50.8	3	30.4	4	–	–
3.	Dodoma	70.5	1	–	–	77.7	1
4.	Morogoro	50.1	4	–	–	–	–
5.	Kagera	49.4	5	–	–	54.2	4
6.	Mbeya	–	–	30.8	3	51.2	5
7.	Rukwa	–	–	30.2	5	54.4	3
8.	Kigoma	–	–	31.9	2	–	–

Table 3 Prevalence of violations of the rights of the child. (Source: Compiled from the Ministry of Home Affairs 2011 Statistics)

Type of crime	Year 2010	Year 2011
Rape	6493	5948
Sodomy/other sexual offence	756	780
Abandoned infants	186	176
Stolen children	109	104

In the case of Islam and traditional religions, the violation is with regard to marriage, polygamous marriages and inheritance. There is a systematic oppression and discrimination against Christian women in the same way, based on religious beliefs, culture and traditions in place (Tuin and Fumbo 2012, pp. 220). Nevertheless, the LHRC report (2012) indicates that children in Tanzania are still victims of child labour, torture, corporal punishment, and rape. As a result, the report indicates the persistence of FGM and student pregnancies and even an increase in Tanzania. The girl child who is expelled from school for being impregnated in any way is denied the opportunity to continue in the conventional education system, whereas the culprit is free. Statistics on children who were raped in 2011 indicate 5958 victims, while victims of other sexual offences were 780. The table below has statistics of more violations of the rights of children for the years 2010 and 2011 as follows (Table 3):

The UNICEF report also reflects the above findings on violence against children in Tanzania. The report reveals that three out of 10 females aged 13–24 have experienced sexual violence before reaching the age of 18. For male children of the same group, 13.4% have experienced sexual violence before attaining 18 years (UNICEF 2011, p. 2). The survey reveals that three-quarters of both male and female children under 18 have experienced physical violence. The forms of violence experienced include whipping, corporal punishment, injuries caused by dangerous weapons, burning and confinement. It is unfortunate to learn that the perpetrators of violence are usually close relatives and family members (ibid.).

Other problems faced by young people are physical violence, living in institutions with insufficient care, homelessness, heading households, excessive domestic work, lack of playing grounds in urban areas, drug abuse, forced prostitution, early marriages and trafficking in persons (LHRC 2012, pp. 146–151).

The treatment has consequences for young people's attitudes as far as human rights are concerned. They have a direct and grievous effect on their behaviour to the extent of losing their rights and lacking confidence that may be reflected in their views, unlike young people of the Western World.

Conclusion

In conclusion, it is vital to understand that in this brief paper, the study intended to investigate some relations and tension between religion(s) as well as government/state with regard to human rights. Moreover, the intention was to highlight some of the issues in human rights in Tanzania particularly those in discussion or under pressure, as well as adolescent life-world experiences for young people in Tanzania.

Tanzania is well aware of the basic first and second generations of human rights and has ratified them to affirm its position just like other countries of the world. However, there are a number of significant challenges that do prevent different players like religious organisations (and their teachings), as well as state/government and individuals from meeting the standard of human rights for a number of reasons ranging from beliefs, traditions, cultures, jurisdictions, politics, etc.

Therefore, the Churches and governmental organisations have the obligation of ensuring that religious organisations and the state observe and operate in line with human rights, in the closest way possible, even though it won't mean achieving the goal all at once.

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Religion and Human Rights: The Case of Ukraine

Viktor Yelensky

Abstract After the collapse of Communism a good majority of post-Soviet societies perceived Churches as a ‘natural’ defender of human rights and human dignity. Opinion polls suggest that Ukrainians considered Churches as a bulwark of ‘poor and hapless’.

Gradually, in a complicated and nonlinear manner, the Churches and religious organizations of Ukraine succeeded in forming their own human rights agenda. They addressed the faithful and the whole society with issues on human dignity, rights and duties of citizens, civil society, and numerous urgent domestic, international, social and moral issues. Churches in Ukraine put forward valuable civil initiatives, stand for political freedom and justice for all, and loudly expressed their support for political prisoners.

Ukrainian Churches and religious organizations have played a significant role on the Ukrainian EuroMaidan during the winter 2013/2014. Prayer and worship on Maidan legitimized the protests.

Thus, despite Church hierarchies consider it not only possible but also necessary to restrict human rights when these rights transcend doctrinal dictation and devotional duty, Churches and religious organizations have been the efficient agents of democratic transformation and prominent actors of civil society, whose contribution to the process of promoting human rights and liberties is really hard to overestimate

Recent Developments in the Ukraine

Victor Yanukowich won the Presidential office in the free and fair 2009/2010 election, He started his term with violation of the Constitution, political repressions and implementation of the principle outlined by Dictator Franco: ‘To friends—everything, to enemies—the law!’ Criminal cases were initiated against former Prime

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Minister Julia Tymoshenko (see Ondrej 2013), Minister of the Economy Danylyshyn, Minister of Internal Affairs Lutsenko (democracy 4ukraine), and officials of some ministries and agencies. Most of them, including Tymoshenko and Lutsenko, were arrested. The domestic politics of the new authorities were marked by violation of the rights and guarantees of opposition activity, depriving the opposition of the possibility of equal political competition with the ruling parties, through forcible pressure on the opposition leaders. Although the problem of opposition rights not only reappeared in the home policy agenda but also got an international echo, the authorities took no steps towards a dialogue with the opposition, preferring to act from the position of strength. The authorities turned the judicial system into the submissive tool of political persecution and defense of the interests of top officials and their associates. That situation has already aroused the concern of foreign states and international organizations, indicating the existence of the practice of “selective exercise of justice.” In the present situation bodies of justice cannot guarantee the protection of citizen rights, especially in their disputes with the authorities, and therefore, the principle of the rule of law and equality for all under the law in the country does not work. The politicization of the Ministry of the Interior increased, which gave grounds to refer to it as an “armed detachment of the authorities”. This was accompanied by interference with protests of the opposition forces, public organizations, and ordinary citizens, persecution of the participants in such events, and pressure and attempts to intimidate public figures, known intellectuals, and human rights activists. Politicization trends also affected the activity of the General Prosecutor’s Office and public prosecutor offices in general, not least of all because of changes in the General Prosecutor’s Office leadership. The current authorities, by contrast with their predecessors, exert forcible pressure not only on the opposition forces and their leaders but also on civil society, public activists and ordinary citizens who protest against their actions. Freedom of speech and media in the country is suppressed; the authorities encroach on the citizens’ right to protest publicly and try to gain advantages in political rivalry, using the entrusted powers and capabilities.

From 2010 to 2012, Ukraine weakened its position in all World Indexes. In 2011 the Freedom House special report on Ukraine, *Sounding the Alarm: Protecting Democracy in Ukraine* warned that Ukraine was heading in the wrong direction on a number of fronts: consolidation of power in the executive branch at the expense of democratic development, a more restrictive environment for the media, selective prosecution of opposition figures, worrisome instances of intrusiveness by the Security Service of Ukraine, widely criticized local elections in October 2010, a pliant Parliament, an erosion of basic freedoms of assembly and speech, and widening corruption (Kramer et al. 2011).

And finally, concerning the recent Parliamentary election the message of international observers is clear: an election cannot be regarded as fair if charismatic and appealing opposition figures are arbitrarily disqualified with the help of a pliant judiciary. U.S. Secretary of State Hillary Clinton has called Ukraine’s October 28 2012 parliamentary elections “a step backward” and urged the country’s leadership to curb what she called “the backward slide.” The head of the Organization for

Security and Cooperation in Europe's (OSCE) short-term monitoring mission for the vote said that democratic progress appears to have reversed in Ukraine" (OSCE 2012).

During the election campaign pro-governmental candidates even pressed and bribed Church communities and priests. "We had to deal with large-scale political bribery, including that of priests. We were not familiar with these methods in the past. Our Church emerged from the process wounded and needs treatment because when the Church is used for political purposes, the credibility of its words is undermined and the notion of the Church is distorted," said the Head of the Ukrainian Greek Catholic Church, Patriarch Sviatoslav Shevchuk on November 10, 2012 in the newspaper *Vysoky Zamok*.

When in the mid of November 2013 Viktor Yanukovych officially announced that Ukraine would not sign the Association Treaty with the European Union the protests against his decision grew to hundreds of thousands of people—in some cases, over a million people attended protests rallies. Revolution of Dignity or EuroMaidan had grown into something far stronger than just an insulted reaction to the stolen 'European dream'. It was about injured human dignity, ousted the thoroughly mired in corruption government and standing up for fundamental rights and freedom. The victory of the Revolution of Dignity had changed situation with human rights in Ukraine crucially. However, the annexation of Crimea and Russian aggression in the Ukrainian South-East heavily contributed to the new hot spots and massive human rights violation. In annexed Crimea harassment and discrimination continued against ethnic Ukrainians, Crimean Tatar and other minorities. In areas under the control of pro-Russian guerillas armed groups terrorize the population, pursuing killings, abductions, torture, ill-treatment and other serious human rights abuses, including destruction of housing and seizure of property. (See, for instance, *Office of the United Nations High Commissioner for Human Rights. Report on the human rights situation in Ukraine 16 September 2014* // http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf)

Specific Problems of Youth Rights

The youth are an extremely vulnerable cohort of the Ukrainian population in terms of social and economic rights. The health of Ukraine's youth is substantially poorer, and mortality significantly higher than in Europe: young Ukrainians die 2.6 times more often than people aged 15–29 in EU countries (Ptoukha 2010, p. 135). Accordingly, life expectancy of Ukrainian youth is lower in comparison with their European peers. In the Ukraine the youth are more engaged in active migration activities than any other age group: they account for about 2/3 of the total migration turnover in the country. Inequalities in access to education grow, especially for rural youth. The education system is not well attuned to the labour market, resulting in difficulties with employment for young graduates and higher levels of unemployment in the age group 15–24 years (IOM 2011). In the 2008–2009 financial crisis

conditions, the highest growth of the youth unemployment rate in Ukraine was recorded in the groups of age 25–29 and age 30–34. The total number of unemployed youth in 2009 was more than 1 million or almost 54% of the total unemployed population.

The Ukrainian labour market offers only unskilled jobs to young people who do not have specialized professional education. Therefore, persons with secondary education, who are mostly young people aged 20–25, account for the highest share of persons doing the most low-skilled jobs. A large number of young people without professional education are engaged in the informal economy sector. For those under the age of 25, this situation predominantly results from the problems attributable to finding the first job (as young people often have no previous work experience), since a significant proportion of unemployed youth are educational institution graduates who have not found employment yet.

Governmental authorities are quite inefficient in answering the problems of youth policy and, additionally, are rather inaccessible for purposes of obtaining the information necessary to help youth solve their own problems. As shown by the results of the survey “Youth of Ukraine”, slightly more than one-third of the respondents characterized state officials as accessible (36%), other respondents were of the opinion that they were inaccessible, with one in every six respondents (16%) stating that governmental authorities were absolutely inaccessible in cases when it was necessary to get some information. Given this situation, young people prefer to address their problems to parents and relatives (indicated by 74% of respondents) or their friends (38%). As a last resort, young people solve their problems by own efforts (40%). A mere 2% of respondents indicated that in the case of any problems they would contact governmental bodies with responsibility for youth issues or other governmental institutions. Understandably, younger respondents tended to vote more frequently against all parties and blocs, or for outsider parties. Apart from the lower electoral activity of the youth, this may be viewed as an evidence of the disbelief of these young people in the ability and sincerity of intentions of all political forces to change the situation in the country for the better. It is understandable also that 45.4% of young respondents questioned in 2010 expressed the wish for work abroad for a certain period. Of these 19.4% want to work only in their specialty and 26.0% in any job.

Religious Demography and Religious Freedom

By the mid-1990s Ukraine appeared to have quickly evolved from a promising new independent country with impressive resources and good European perspectives into a corrupt state which violated business, suppressed media and persecuted journalists. During those times the Ukrainian State undermined its own international reputation, especially the trust of Western partners; simultaneously, apathy and disbelief in the very possibility of change were spread over the various strata of Ukrainian society. Against the background of a deep disappointment in state institutions,

manipulated media, all-the-same political parties and state-controlled trade unions, Churches appeared as most trusted social institutions. During the 2000s, Churches remained the social institutes enjoying the highest trust in society.

However, even in those times when the ruling regime brutally violated basic freedoms and human rights, Ukraine had relatively decent standards in the sphere of religious freedom and enjoyed one of the most liberal Church-State legislative situations over all the post-Soviet space (Yelensky 2005).

There were four principal reasons why, for all these years, Ukraine has obtained, and continues to have, good marks for achievements in the realm of religious freedom from the international observers, non-governmental and governmental institutions (particularly, from the US Department of State).

The first reason is the religious configuration of Ukraine. First of all, three Orthodox Churches were constituted in Ukraine, namely the Ukrainian Orthodox Church (UOC) of Moscow Patriarchate (more than two third of all Orthodox parishes); the UOC of Kiev Patriarchate (a fourth of all Orthodox parishes) and the Ukrainian Autocephalous Orthodox Church (7%). The conflict among these Churches is rooted in differing attitudes toward the question of severing links with the Moscow Patriarchate. While one part of Orthodox believers rejects the latter's authority and regards subordination to Moscow as offensive, others accept it totally. The post-1991 evolution of Ukrainian Orthodoxy vividly mirrors its ambivalent nature as both an immense contributor to the creation of Russian imperial identity as well as a guardian of "native Ukrainian," "Cossack" identity. More generally, the split within the Orthodox Church in Ukraine became an adequate reflection of the political and cultural contradictions in Ukrainian society and the conflict of different identities and patterns of historical memory.

The legalization of the 3.5 million Ukrainian Greek Catholic Church after more than 40 years of prohibition and humiliation has also created an explosive knot of contradiction. The very existence of this Church was doubted by the Orthodox hierarchy, while years of being in the catacombs have sparked feelings of triumph, and even revenge from the Greek Catholic side. As a result, a severe struggle between Orthodox and Greek Catholic powers arose in western Ukraine over which church would have a hold on the believers and achieve the dominant position in the distribution of church buildings and property. This struggle, which was accompanied by a physical fray between believers of the conflicting churches in the early 1990s, has already passed the most serious stage of its development but is still far from being fully reconciled.

Roman Catholics (Latin Rite) who have made tremendous gains since the Soviet times, have a distinctly ethnic character. Two-thirds of them are centred in the regions where the greater share of Ukrainian Poles live; a number of Hungarians and Slovak also traditionally have belonged to Roman Catholic communities.

By the beginning of the 2000s Ukraine had become the country with the largest Baptist, Pentecostal and Charismatic communities in Central and Eastern Europe. Their evolution after the fall of Communism involved consistent institutionalization, further diversity of the denominational picture, more precise definition of doctrinal teaching, formulating a "doctrinal minimum", national theology formation,

a rise in the social status of the faithful, active engagement in the social-political and economic processes, and the achievement of a more noticeable place on the religious map of the country.

Thus, several congruous centers of religious power exist in Ukraine. This fact prevents any one of these power centers from dominating over religious minorities or from conducting repressive or even restrictive policy toward them. These power centers function as rivals, addressing their own sector of public opinion and their own corresponding circles of political elite. They create a kind of balance that prevents the establishment of a religious institution that would dominate the others and with which one might identify (*de facto* if not *de jure*) the Ukrainian state (Yelensky 2008).

The second reason is the absence of a strict correlation between denominational and national identity, which also contributes to the dis-establishment of a religious monopoly. Religion is not a core element of the Ukrainian national myth. When we speak about the “True Ukrainian,” we do not mean the religious identity as we do when we speak about Poles, Serbs, Georgians, or Croatians. The “Ukrainian Project,” which was largely based on the intentions of nineteenth century Galychyna thinkers who believed that western Ukraine should not be Polish, Austrian, Russian, or Moscowfile but instead part of a great Ukrainian nation, meant the deliberate ignoring of religious differences between Catholics and Orthodox. The founding fathers of Ukrainian nationalism considered religion as a stumbling block rather than a reliable resource for nation-building.

The third reason for decent standards of religious freedom in Ukraine is that religious freedom in Ukraine never threatened the government’s position as, for instance, the freedom of speech can. Respectively, the Ukrainian government had no reason to seek the destruction of religious freedom and religious human rights about which, in addition, Western Europe and, especially, the USA were so sensitive.

The final reason is the historically high level of tolerance toward other believers. To this very day we are unable to explain the fact that Ukrainians, with a reputation in the West for unrefined emotionalism, now seem to have become so tolerant in the religious sphere. Obviously, the reputation is not wholly deserved. Ukraine’s record of inter-ethnic discord is arguably no worse, but no better, than that of most other countries (Motyl 1993). It is evident that dire predictions concerning possible future development of inter-religious and inter-ethnic conflicts in Ukraine after the attaining of state independence were constructed in many cases under the influence of historical reminiscences of the seventeenth and eighteenth centuries rather than on the basis of the social-political and social-psychological analysis of the Ukrainian situation. During the presidential campaign of 2004, the fragile religious balance had to pass the “destabilizing scenario.” There were efforts to tear up the country across religious lines. The team for the “single candidate of the government”. Some factions viewed religion as a resource to mobilize “us” against “them,” and as an effective propaganda and organizational mechanism. But during the days of the Orange revolution (late Nov. 2004-Jan. 2005) this strategy was opposed not by different churches or inter-church mechanisms but by religion as a symbolic space that reached beyond the ordinary and where people request justice from higher powers.

Then it seemed that religion could be a major unifying and nation-building force, not by demarcating religious territories but by freeing politics of cynicism and providing it with values and a moral dimension.

But in any case, the country was divided more than even on the eve of Ukrainian independence. According to the Institute of Sociology, over 6% of Ukrainian citizens admitted that they experienced major conflicts with friends or relatives over the elections and sometimes these conflicts were still not settled. The number of confrontations on the streets and on transport, in shops and establishments providing consumer services to people of other political persuasions significantly increased. The number of people who went a month without such incidents decreased. There was an increased level of xenophobic behavior as well as protest moods. There were more people willing to go out and defend their rights illegally. The state leadership had the urgent task of stitching up the country. But it had neither the full grasp of the problems, nor a merging strategy, nor the will to implement it. This greatly influenced the future developments in the country, including in the religious and social spheres.

The next challenges to the equilibrium of the centers of religious power in Ukraine came after the 2009/2010 Presidential election. Local governments pressured on priests and the community of believers of the Kyivan Patriarchate to join the Moscow Patriarchate. This was a sign of the “new religious policy,” as had the favoritism and friendship with only one church—the Ukrainian Orthodox Church of the Moscow Patriarchate. This was a real delight in some circles of the church, confusion in others, and suspicion in the society. In late 2010, less than 30% of people surveyed by the Razumkov Center believed that “the government treats all religious organizations in Ukraine equally.” Instead, nearly a quarter said that “there is a church, which the government treats better than others,” and another 11.3% believed that “the government is increasing the power of one church.” During 2011–2012 popular perception of the religious freedom in Ukraine has worsened still more. According to the regular Razumkov Center opinion poll at the beginning of 2013 65.4% of respondents claimed that “Ukrainians enjoy freedom of conscience in full” compare to 75.9% in 2010 and as more as 35.2% believed that “there is a church, which the government treats better than others.” At the same time ‘Religious Restriction Index Scores’ had jumped up from 2.6 in the mid-2007 to 4.0 in the mid-2010 (PEW 2009).

Religious Institutions and Human Rights

Religious institutions, which were the biggest voluntary organizations and the only tolerated bearers of non-Marxist worldviews, heavily contributed to deconstruction of the Communist system. During the period of Brezhnev’s stagnation, religion was firmly considered by the thinking public in the USSR as an alternative system of values that could uncompromisingly withstand the official ideology and slogans, the untenability of which became more and more obvious. Noticing the increase of

adult baptisms, the obsession of the intelligentsia with religious literature, the growing popularity of religious broadcasting by foreign radio stations, and the outspoken neglect of the atheistic propaganda and other materials, party officials expressed anxiety over the anti-Communist trend of the religious processes in the country. As a member of the Ukrainian Helsinki Group, Levko Lukyanenko, claimed in 1977, religion became for Ukrainian dissenters and anti-governmental political activists a battlefield for human rights and freedoms.

After the collapse of Communism a good majority of post-Soviet societies perceived Churches as a “natural” defender of human rights and human dignity. Opinion polls suggest that Ukrainians considered Churches as a bulwark of “the poor and hapless”. Up to 75% of the Ukrainian population trusted Churches more than any other social institution. Neither the president, the government, the parliament, nor the military could compete with Churches on the subject of trust in public opinion polls.

Based on the powerful impulse of social “advancement” given to the church in the 1980s, there was a hope that numerous problems, unsolvable by Communist party and Soviet officials, would be solved by unofficial institutions, the most structured among which were religious organizations.

The number of respondents stating during the 1980 opinion polls that religion was helpful for *society* essentially exceeded the number that considered religion as beneficial for *them personally*.

The socially transforming potential of Ukrainian religious institutions was distorted as a result of the above-mentioned conflict between three Ukrainian Orthodox Churches and between the Orthodox Churches and the Ukrainian Greek Catholic Church, banned by Stalin regime and emerging from the catacombs at the end of the 1980s. Each of these Church represents a different center of political, cultural, and ethnic mobilization and one can speak about the presence of a quite definite correlation between declarations of belonging to some particular church and political preference and political behavior.¹

Additionally, when the “Iron Curtain” disappeared, the countries of Central and Eastern Europe were flooded by religious missionaries from outside.² Competition from well-funded, mobile and experienced missionaries became a serious cause of concern to the hierarchy and clergy of the Orthodox and Catholic churches, who repeatedly expressed their fears that the faithful would be lured away, their commu-

¹ It is not surprising that surveys about the political behavior of Ukrainian citizens reveal that adherents of the UOC MP and those who claim to be adherents of Russian Orthodox Church are more likely than others to vote for the Left, even when ethnicity is controlled for. By contrast, the faithful of the Ukrainian independent Orthodox Churches and UGCC are more likely to vote against the Left. Affiliation with one of the previously banned churches has a powerful deterrent effect for left-wing voting (See, among others, Birch 2000).

² The influx was especially dramatic in the late 1980s and early 1990s. An East-West Church and Ministry Survey carried out in 1996 showed that the number of foreign missionaries in the former Soviet Union alone had risen by 31% in just 1 year. According to reports produced in the mid-1990s, there were over 1900 full-time missionaries from North America and South Korea in the country (Schindler et al. 1994)

nities' cultural profiles transformed, and their identity lost. In fact, the ambition to put aside these rivals became one of the most important goals of the some Churches' administrations. The hierarchs constantly appealed to the public, to the local authorities, and to the Ukrainian government for protection against foreign missionaries and for a curb on the so-called sects and cults and sometimes managed to gain support from the Ukrainian top officials. During celebrations of the fifth anniversary of Ukraine's independence, President Leonid Kuchma spoke openly against "active foreign missionary organizations in the Ukrainian religious space." (1996). All this fuelled a series of quite dramatic conflicts, as the Church hierarchy started to insist that the state must restrict, not just the presence and mobility of foreign missionaries on its territory, but also the religious freedoms of members of the religious communities they had founded. However, while almost all post-Soviet countries have adopted repressive approaches to support the monopoly of their traditional religious institutions—with human rights violations and outbreaks of xenophobia and religious intolerance as the consequence—Ukraine has preserved its quite liberal 1991 *Law On Freedom of Conscience and Religious Organizations*.

Suffice it to say, the Ukrainian Orthodox churches, and to a substantially lesser extent the Ukrainian Greek Catholic church, condemned "liberalism", "unbounded liberty", "European permissiveness" and demonstrated a hostile attitude to the foreign religious missions and new religious movements. In general, Church spokespersons tend to emphasize duties more than rights and quite often insist on the necessity of eliminating freedoms for "alien" religions and prohibiting such religious groups that, in their opinion, are "sects" or "cults". In particular, our interviews with Orthodox clergymen in 1999–2000 suggested that they en masse thought that 'state interests are more important than individual human rights', 'order in the country is more important than freedom', 'preaching of false teachings is not religious freedom and needs to be limited' (Yelensky 2002). Moreover, influential circles within the Ukrainian Orthodox Church of Moscow Patriarchate persistently emphasize vocal anti-globalism and anti-Westernism and openly oppose Eastern Orthodoxy to Western concepts of human rights and propagate '*The Russian Orthodox Church's Basic Teaching on Human Dignity, Freedom and Rights*' that subordinates human rights to the values and interests of the homeland and says nothing about the protection of the individual from attacks by the state, such as political persecution, political murder, discrimination against minorities or the undermining of democratic proceedings and structures.

One more zone of tensions between Churches and State and between Churches and at least part of society were issues of public morality and sex (e.g. the Churches uncompromisingly oppose abortions and same-sex marriages). Particularly, Churches and religious organizations supported the need for the existence of special legislation that would regulate the moral life of Ukrainians. The special focus and particular concern of such legislation should be adolescents, youth and institutes of marriage and family as stated by the All-Ukrainian Council of Churches at the Parliamentary Hearing "The state of public morality in Ukraine" on November 9 2011.

At the same time, gradually, in a complicated and nonlinear manner, by the beginning of 2000 the Churches and religious organizations of Ukraine succeeded

in forming their own human rights agenda. The strongest role in forging such an agenda rightfully belongs to the All-Ukrainian Council of Churches and Religious Organizations, created in 1996 and uniting representatives of the nineteen largest religious bodies. AUCCRO addressed the faithful and the whole society with statements, appeals, memorandums on human dignity, rights and duties of citizen, on civil society, on the memory of millions murdered by Famine Genocide, on justice, on European values, on numerous urgent domestic, international, social and moral issues.

Churches in Ukraine put forward valuable civil initiatives, stood for political freedom and justice for all, loudly expressed their support for political prisoners and asked that convicted ex-Prime-Minister Tymoshenko be released on bail.

Meanwhile, the most acute contradictions between the Churches and governmental structures on human rights focus on three principal issues. First, Churches insist that the government ignores their claims in the sphere of the rights of religious bodies and individual believers. These unfulfilled rights comprised (but are not limited to) rights to reliable legal support of Church activity and, particularly, in the social realm, to returning Church property nationalized by the Soviets, to religious schooling, religious care in the military, the right to choose the mode of collecting the tax payer's personal data, etc. Secondly, Churches maintain that the government does too little to ensure the right of "little Ukrainians" to dignity and justice, specifically, the rights to fair judicial proceedings, to a fair and well-timed salary, to equality behind the law; and to personal integrity. Church hierarchs stressed that human rights were not only violated by police tortures, selective judicial and child abuses, but also by the poverty of the employed and the great inequality. In order to stand up for civil and political rights more effectively, in pushing for a stronger, more responsible society, and one that was closer to Europe, the Ukrainian Orthodox Church of Moscow Patriarchate, the Ukrainian Orthodox Church of Kiev Patriarchate and the Ukrainian Greek Catholic Church endorsed a civil initiative '*1st December*' (named in reference to the day of Ukraine's 1991 referendum on independence). Additionally, Ukrainian Churches and denominations undoubtedly stood for Ukrainian euro-integration on the eve of the 3rd Eastern Partnership Summit in Vilnius in November 2013. In their Address to the Ukrainian People, the Primate of the Orthodox, Greek Catholic and Roman Catholic Churches, the heads of Baptist and Pentecostal Unions, and Jewish and Muslim leaders stressed, "Today Ukraine is to make a decision on its further development. According to us, the future of Ukraine is naturally predefined by our historical roots namely to be an independent state in a circle of free European nations."(IRF 2013).

Churches and religious organization of Ukraine appeared to be very active and responsible during the popular upheaval and severe crisis after the governmental refusal to sign the European Union Association Agreement. Responding to the current regime's attacks against peaceful demonstrators the All-Ukrainian Council of Churches and Religious Organizations called on the government to guarantee constitutional rights and freedoms of the citizens, not to use force against peaceful assemblies, to take into account the demands of protesters, and also to conduct impartial investigations into the provocations and violent confrontations and to punish

the perpetrators. The head of the Kyiv Patriarchate, Patriarch Filaret, unconditionally condemned the use of force against protesters and warned authorities that the result of force could only be a radicalization of the protest and the slide of Ukraine into full-scale civil conflict. He stressed also that the Church was with the people. Similarly, the head of the Ukrainian Greek Catholic Church, Archbishop Sviatoslav Shevchuk during the meeting with President Yanukovych (January 24, 2014) emphasized that “we are, have been, and will be with the people. Over the past 2 months, we were not only on Maidan with our people, but I can also say that we have won the right to be there. Today, everyone understands that the presence of the clergy is essential to appeasing the people and the preservation of peaceful protest as such. We strive to serve our people in every way we can. We opened our churches to welcome and warm those in need” (Sviatoslav 2014).

Significantly, a group of priests of the UOC-MP sent a message to all people of good will, in which they declared their desire to have closer ties with Christian Europe and their readiness to oppose all kinds of lawlessness and violence. On Maidan there were many clerics who were constantly with their faithful. They were with them on the barricades, they were willing to stand between protesters and police, to serve, to profess, and to comfort people in the bitter cold and among the flames. They felt that the people need them much more those days than in ‘normal times.’

Thus, despite the fact that Church hierarchies consider it not only possible but also necessary to restrict human rights when these rights transcend doctrinal dictation and devotional duty, Churches and religious organizations have been the efficient agents of democratic transformation and prominent actors of civil society, whose contribution to the process of promoting human rights and liberties is really hard to overestimate.

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