



Religious Rights and Religious Freedom

Freedom of Religion in the World Today

Kevin Boyle

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This is an important time to discuss the subject of religious freedom in the world: it was in the context of religion that the western world (previously largely remote from terrorism, if we exclude these islands) absorbed the horror of the attacks of 11 September in the United States. In the UN Office of the High Commissioner for Human Rights we were correct at an early point to label the attacks as crimes against humanity in international law. Militant Islam espoused and executed those attacks and undoubtedly the nexus long evidenced in history of different religions being linked to violence and conflict was reinforced worldwide. The 11 September attacks were carried out in the name of God and in the aftermath it is not the most propitious time to envisage greater religious freedom. Indeed under the banner of counter-terrorism we have seen a backlash against various religions, including Islam, in many countries.

In the lifetime of most of us in the room, however, there has been one major process of unalloyed achievement at global level, and that is the formal agreement on international human rights principles, standards and laws. We can date the radical idea that the human rights of all should be internationally recognised to the end of the Second World War. This work was inspired by the United Nations, and a significant factor leading to the encouragement and promotion of respect for human rights in the 1945 Charter was pressure from specifically religious organisations.

There are two key points to note here. The Charter did not provide for an active protection mechanism. This was resisted by states fearing that it might interfere with their practices, which at the time

were generally very far from respecting the human rights of individuals and groups. It was only later, through the pressure of events, that the legitimacy of a protection role was established. The second point is that, nevertheless, the language of the Charter added the language of equality and non-discrimination, specifically on grounds of race, language, sex and religion, to the human rights objectives of the new United Nations organisation.

It was never anticipated by the founding fathers, not least by the powerful states such as the UK, the USA and certainly the USSR, that this human rights language would mean anything in reality. But they were wrong. The motor which kicked everything into life was the issue of racial discrimination, in the context of the radical idea of human equality in the Charter. The emergence of the Apartheid regime proved the focal point for sustained pressure on South Africa, and this led to opposition to all forms of racism and ethnic discrimination, led by the newly decolonised states of the South which took their seats in the UN from the 1960s. A further focus slowly emerged in struggle for women's equality. In both cases generations have worked to advance the achievement of equal treatment. There is a range of strong international conventions and active civil societies everywhere working to advance these causes. There have been world conferences, most recently in Beijing and Durban.

What, then, about the third area in which discrimination is prohibited: that of religion and belief? Here there has been an altogether less dramatic process of change. There has been no special Convention agreed to outlaw religious discrimination. There has been no UN World Conference. Why? It is hardly because fifty years ago there were no problems with denial of religious freedom in the world, or that there are none today. On the contrary, the scale of discrimination and persecution on grounds of religion or belief was and remains a serious scandal and shame not in any one region but in all regions. So why no outcry?

We might discuss that later. But I see the basic problem as the following. Although there is still racism and discrimination against women in the world, the notion that people of different races and sexes are equal has rapidly gained a global consensus which repudiates discriminatory thinking throughout the world. However, the same cannot be said for religion. The second half of the twentieth century saw the world riven by fundamental divisions over belief, and the subject was complex and sensitive.

What has been different about religion and belief is that no strong common morality or collective view emerged at international level which would ensure that secular statesmen or diplomats focused their attention on denial of equality over religion or belief. After all, it was quite a challenge to expect Stalin's regime, which was

resolutely atheist, to promote the cause of freedom of religion at the international level; and the expectation that the West and especially the USA would espouse freedom for atheists, and in particular for communists, was also implausible. And to these considerations should be added the sensitivities of colonial history, with questions arising about enforcing common standards of freedom of thought, conscience and religion in Christian and Muslim countries alike. There is a weak consensus worldwide on a number of key issues such as the right to change one's religion or the right to engage in missionary activity (pejoratively called proselytising).

Against this background, then, we must accept that the idea of a common universal standard of freedom of thought, conscience, religion or belief universally accepted and enjoyed is a task for the twenty-first century.

At the theoretical level, what has been achieved is in fact considerable. Despite the international paralysis during the Cold War period remarkable progress was made in defining human and religious rights. There are now at global level formal and universal standards for all rights, including freedom of religion. The problem is, however, that religious freedom does not generally prevail in practical terms in the world today. The annual reports of the UN's Special Rapporteur on Freedom of Religion or Belief amply bear this out. By coincidence, yesterday the 2002 International Religious Freedom Report, prepared by the US State Department since 1998 under the International Religious Freedom Act, was published. I must admit that I would have preferred it if the USA had acted to put the resources it has used on the three major global reports to date into a multilateral effort through the United Nations machinery to encourage freedom of religion and monitor and protest against religious intolerance - machinery that is pathetically funded.

Nevertheless the Report is a valuable source of information and analysis of the nature and scale of the violations of freedom of religion in the world. The story it tells is much the same as the story told in the reports of many religious NGOs and in the annual reports of the UN Special Rapporteur on Freedom of Religion or Belief; but since it is the most recently published report its main headlines are worth noting

The Report puts the countries where religious freedom is restricted into 5 categories.

1. Countries with totalitarian or authoritarian regimes where the control of all freedoms includes oppression of dissent and of religion: China, Myanmar (Burma), Cuba, Laos, North Korea and Vietnam.
2. Countries where there is state hostility to minority or non-approved religions: these include Iran, Iraq, Pakistan, Saudi

- Arabia, Sudan, Turkmenistan and Uzbekistan.
3. Countries where there is state neglect of established patterns of discrimination or persecution of minority faiths: Bangladesh, Belarus, Egypt, Georgia, Guatemala, India, Indonesia.
 4. Countries with discriminatory legislation or policies disadvantaging certain religions: Brunei, Jordan, Malaysia, Israel, Russia, Turkey.
 5. Countries where the state stigmatises certain religions by wrongfully associating them with dangerous 'cults' or 'sects': France, Germany and Belgium are cited, especially in respect of Scientology.

In terms of significant improvement, the one country identified is Afghanistan, since the fall of the Taliban.

What is to be done?

The first task is to combat ignorance. The starting-point has to be education, aimed at spreading an understanding of the sheer diversity of fundamental beliefs in the world and the principle that all such beliefs are entitled to respect.

We know that a root cause of both communal and state persecution of and prejudice against religions which differ from the majority is ignorance. The more intense or committed people are to their own beliefs, the greater their ignorance tends to be of the faiths of others - and these others are not necessarily far away, but are often minorities in their midst. And of course minorities who are victims of intolerance are all too often ignorant and intolerant of the majority beliefs.

An interesting event last year in this regard was a conference in Madrid on religion and education, which at least opened the question of the content of what is taught in schools about religion. It agreed on the need in principle for pluralistic approaches to religious education, but this was only the first step in international discussion of this sensitive issue.

There is need for ever more effort at interfaith and intercultural dialogue. We have had the UN effort, initiated by Iran, on Dialogue among Civilisations, and there have been many initiatives such as the World Parliament of Religions and the great work undertaken by Hans Kung at Tübingen on a Global Ethic. The work must intensify and it must be based on the right of all to equal human dignity, including respect for their beliefs. Religious diversity should be not only recognised but celebrated.

The work must intensify because in an era of irreversible globalisation we live in a world without walls. In the words of the

UN Secretary General, in which it is no longer possible to imagine that people of diverse cultures and beliefs can live happily apart in closed societies in ignorance of each other. Blissful ignorance is no longer an option. This, I suggest, is one truth to have come home to us after 11 September. Another is the fact that globalisation is not yet a process from which the majority of the world benefits. This was also the message of the Secretary General in his recent speech on globalisation which I recommend to your attention.

Of course the promotion of dialogue cannot hope to be effective if it is disconnected from the process of building democratic societies on the basis of respect for all human rights and where the rule of law is a central value. In this context we come up against another problem: that of religious absolutism.

Claims to the superiority of one set of beliefs over other sets of beliefs, or over all other beliefs, has led in history to countless wars and continues to be the source of much religious conflict and intolerance. The notion of equality of esteem is not easy to advance where religious organisations consider that the other's beliefs are inferior or even evil.

A real challenge now for all churches is to find a language which, without diminishing the integrity of their own beliefs, recognises the entitlement of all other beliefs to equal moral dignity. How should the norms I discussed earlier of non-discrimination and equality function in the case of religions? It is the case that international and national law explicitly condemns all racist doctrine, all theories of racial or ethnic superiority and inferiority, as scientifically false and morally condemnable. But is the same thing possible in respect of religious belief systems? I do not have the answer; and it is here that the most serious work needs to be done.

Current Religious Freedom Issues in Formerly Communist Countries

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Three Baptists are fined 200,000 roubles each for 'singing religious songs' in the open air. Police break up a Hindu meditation ceremony in a public park. Troops in camouflage uniforms surround a village, block off the roads and bulldoze the church. Scenes from the Soviet Union in communist times, with its ideology of militant atheism?

No, scenes from the former Soviet republic of Belarus in the summer of this year, 2002. Some things haven't changed in the part of the world we have been studying since communist times.

I shall be concentrating on the former Soviet Union as an area where I believe current developments are posing some new and important questions, specifically in two fields of old debate: the tension between individual and communal rights; and the question of whether human rights are universal or culturally determined.

Whose Rights?

There are basically two types of religious rights: i) the right of an individual to confess a faith freely; and ii) the right of a religion to function as a community living in accordance with its own internal rules. Declarations on human rights have always defended both types. Take for example Article 18 of the Universal Declaration of Human Rights (1948): 'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public and private, to manifest his religion or belief in teaching, practice, worship or observance.' There is always potential tension between the two, however.

A personal religious faith does not necessarily impinge on the public space; the activities of a religious community, by contrast, normally do so impinge. One might suspect that the latter would provoke a more violent response than the former from those interested in curtailing religious freedom. In communist times this was certainly so. If you wanted to avoid trouble you kept your religious faith to yourself, as a private matter. In postcommunist times, at a superficial glance things look very different. Official militant atheism is no more. However, although the players may be different the problems remain similar. The biggest problems are still connected with manifesting one's faith in public. The increasing tendency in many postcommunist countries is that you can manifest your faith freely, but only if you belong to one of a small number of state-approved confessions.

The State and Religion

One thing should be clear. It is not the business of the state to promote or protect particular religions or to suppress or persecute others, or indeed to interfere in the internal affairs of religious organisations. The role of the state is to ensure human rights for all and to ensure the continuing existence of a neutral public space in which different religious communities can coexist and enter into dialogue or dispute with one another.

The last decade has however seen something of a resurgence of state interest in controlling religion. This is most obvious in the postcommunist world. Just last week a new law on religion was passed in Belarus. If it is signed by the president, which seems inevitable, it will be the most repressive in Europe: unregistered religious activity will be illegal, all religious literature will be subject to censorship, foreign citizens will be banned from leading religious organisations, and religious meetings in private homes will be severely restricted. (Note: the law was signed by President Lukashenka on 31 October 2002 and came into force ten days later.)

Reassertion of state control over religion is however a marked tendency in many Western countries too. In May 2001 a law was passed in France empowering the authorities to ban a religious group when two or more of its representatives are found guilty of offences including fraud, the illegal practice of medicine, misleading advertising or sexual abuse. The meaning of these terms is not closely defined. The most fundamental problem with the law is that an entire group of citizens (in this case all the members of that particular religion) is thus penalised for the actions of individuals.

Religion versus Religion

Turning once again to the postcommunist Soviet Union, we find that a growing tendency is for religions which regard themselves as 'traditional' to resist and try to thwart the activities of religious groups which they regard as harmful and aggressive newcomers on the scene. The buzzword is 'proselytism'.

'Proselytism' is a pejorative term for what in general in human rights terms is a perfectly permissible religious activity: seeking to gain converts. This is permissible in that it is seen to be a natural consequence of the combination of two rights said in Article 18 of the Universal Declaration of Human Rights to belong to religious believers: the freedom to manifest one's religion in public and the freedom to change one's religion. Human rights case law, notably the outcome of the so-called Kokkinakis case in Greece which came before the European Court of Human Rights in 1993, upholds the rights of believers to engage in missionary activity.

The Moscow Patriarchate has helped to persuade the Russian government to introduce legislation which is more restrictive of religious liberty. A worrying development is that all too often the representatives of so-called 'traditional' religions' align themselves with the secular authorities, seeking their help in the suppression of minorities. It is symptomatic of the present alignment that President Lukashenka of Belarus calls himself 'a Russian Orthodox atheist'.
How

does the Moscow Patriarchate believe that the 'problem of

proselytising', as it sees it, is to be resolved? Metropolitan Kirill of Smolensk, head of the Patriarchate's External Relations Department, argues that a great deal of what calls itself 'Christian mission' today is in fact 'spiritual colonialism'; and at a conference on world mission organised by the World Council of Churches in 1996 he proposed the following solution:

It lies in basing mission on the fundamental principle of early Christian ecclesiology: the principle of the local church. This stipulates that the church in a given place shall be fully responsible for its people before God. This principle can be applied not only to the Russian situation, but to Christian mission in the world in general, on the understanding that nobody anywhere shall ignore a local church. To ignore a local church means to break a whole into pieces, to tear the seamless robe of Christ. Missionary efforts from abroad should be made in each place as a support and assistance to the local church or local churches.

The metropolitan does not address a crucial question, however. In the case of Russia, is it only the Russian Orthodox Church which is the local church 'responsible for its people before God', or do other Christian denominations - the Baptists, Catholics, Pentecostals, Adventists and others - share this responsibility too? The experience of many congregations of these and other non-Orthodox denominations in Russia during the 1990s would give them ample grounds for believing that the answers to the two questions are 'yes' and 'no' respectively. The Moscow Patriarchate has resurrected the concept of 'canonical territory', where one particular religion is said naturally to have prior claim on the souls of all who live there.

Globalisation

Particularly since the nineteenth century in (post-)Ottoman Europe, the Orthodox Churches have tended to become identified with particular nation-states. However, we now live in an age when the nation-state is losing its position as the predominant unit of political and economic power. The new enemy for any particular self-perceived community at the start of the twenty-first century is no longer another aggressive nation-state but a process called 'globalisation'. This concept is becoming just as much a bugbear as 'proselytism' for the Russian Orthodox Church (as indeed for many other churches and religious organisations in Eastern Europe and other parts of the world), particularly since 11 September 2001 as the USA assumes a more active role on the world stage. 'Globalisation' is seen to mean the undifferentiated triumph of Americanism with its secularised market-orientated ideology.

There is an irony here as far as pluralism is concerned. The 'American' system thinks of itself as nothing if not pluralistic, the ideal environment for the individual to realise his or her rights; but Eastern European churches see the USA following a secularising and neo-colonial agenda which will impose an unacceptable uniformity, based on materialist consumerism.

Problems for Pluralism

Metropolitan Kirill talks about 'a local church' in 'a given place'. How local is local? In other words, what sort of community does the metropolitan have in mind?

In its current discourse the Russian Orthodox Church seems to be approving of pluralism at the level of 'nations and other human communities':

Spiritual and cultural expansion aimed at the total unification of humanity should be opposed by the joint efforts of church, state, civil society, and international organisations with a view to promoting a truly equitable and mutually enriching exchange of information and cultural values, combined with efforts to protect the identity of nations and other human communities.

Here an important question arises: what about pluralism at the level of the individual? I shall return to this in a moment.

Are Human Rights Universal or Culturally Determined?

But first let us look at another question raised by Metropolitan Kirill's concept: are human rights universal, or are they culturally determined, and if so to what extent?

A few days after the destruction of the World Trade Centre, and in the midst of talk about a new international war on terrorism, Metropolitan Kirill spoke about what he saw as the desirable outcome of the current developments:

..a transition to the peaceful coexistence of various value systems - religious, philosophical, cultural. There are many such systems in the world, and behind each stand tens or hundreds of millions, in some cases more than a billion, people. It cannot be permitted that only one of them should dominate and be considered 'ban-human'. while the others - be it

Islam or be it consistent Christianity - are humiliated. Each value system must have its proper degree of influence upon the development of international law, and be taken into account when decisions are taken at the world level. If this happens, we shall knock the ground from under the terrorists' feet. No longer will they be able to appeal to public opinion by decrying an unjust world order.

All this has an implication for the question of human rights. Metropolitan Kirill is envisaging a world made up of 'communities', each with its own 'value-system'. Here his thinking chimes in with that of today's 'communitarians'. The nineteenth-century hope that nation-states would provide the antidote to the atomisation caused by industrialisation was not fulfilled, and today's 'communitarians' (as opposed to 'liberals') are tending to focus on smaller 'natural communities of origin' as the environment in which values are to be preserved.

What Happens to Individual Freedom of Conscience?

There are, however, in my view deep and serious problems with the concept that religious rights are intrinsically communal rather than individual. It has been said that while for liberals the concept of 'difference' stands for individual freedom, for communitarians the concept 'difference' involves the role of the group in limiting the individual freedom of its members.

One basic problem is that the essential element of 'freedom of conscience' as a right precisely of individuals can be obscured.

In this context, it should be noted that the Bishops' Council of the Russian Orthodox Church has recently voiced criticism of the concept of 'freedom of conscience' which is an essential presupposition for any coherent defence of individual religious rights. In August 2000 the Bishops' Council produced the document *Foundations for a Social Concept for the Russian Orthodox Church (FSC)* which states that

the appearance of the principle of freedom of conscience testifies to the fact that in the modern world religion is turning from a 'common concern' into a 'private affair' - this process is evidence of the collapse of spiritual values, of the loss of all striving towards salvation in society at large. Affirmation of the legal principle of freedom of conscience is evidence of society's loss of religious aims and values. of mass apostasy and de facto indifference

to the activity of the Church and to victory over sin.

In a newspaper interview Metropolitan Kirill said that the working group which drew up the social doctrine, and over which he presided, had 'expressed doubt as to whether the principle of freedom of conscience is rooted in the Orthodox tradition descended from apostolic truth.'

It is clear to me that the concept of communal rights poses a paradox. Let me continue to take the example specifically of religious communities.

A key feature of a 'religion' is that it is to some degree exclusive: its members are expected to subscribe to a set of beliefs and/or moral principles, and others are by definition excluded from the group of those who do so. By contrast, 'human rights' are supposed to be intrinsically inclusive of all human beings by virtue of their humanity, and irrespective of membership in any social group. My conclusion is that it is essential to retain the understanding that freedom of conscience is intrinsically an individual right. And I would argue that there is a need to promote not only the right of a religion to live according to its own system of internal rules and values, but also the right of an individual, including an individual who is a member of that religion, to dissent from some or all of that system.

Can we Overcome this Paradox?

Ecumenism It is here that the whole ecumenical endeavour shows its relevance to the question of human rights. First of all it promotes mutual respect and tolerance amongst groups which are by definition different. The aim is not one church for all, but unity in diversity. In the city of Perm in the Urals, Russian Orthodox Bishop Afanasi works with the Catholics, calling the Catholic priest 'the second spiritual leader' in Perm; he also works with Muslims and Lutherans. How have these good relations come about? I asked him when I met him in December 2000. His answer was disarmingly simple: 'We've got used to them'.

But I would go further.

Concern for the Internal Affairs of a Particular Faith

Does the process of human rights monitoring have a duty to concern itself with what goes on inside a religious community? It is clear that this is certainly not the role of the state; but perhaps other bodies concerned with the fostering and growth of human rights need to encourage religious denominations to promote an inner

pluralism.

A question is thus sharply posed for human rights advocates worldwide: do their responsibilities stop at the border of a particular confession, on the grounds that whatever internal rules it applies are its own business? It may be argued that in freely choosing to join a given faith community an individual has exercised the freedom voluntarily to limit his or her freedom of conscience in the name of obedience. It is arguable, however, that following a programme of promoting human rights to its logical conclusion will involve encouraging religions to develop internal pluralism: after all, the accepted canons and doctrines of any religion started out as heresy within another, and without the exercise of the human right of freedom of conscience any given religion is bound to fossilise.

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