

ENGLISH only

Supplementary Human Dimension Meeting on Freedom of Religion or Belief

Session II

Intervention by the European Humanist Federation

The subject of this session is the Status of Religion or Belief Communities. This includes both the official, legal status and the actual latitude such communities enjoy in the exercise of their religion in private and in public. East of Vienna we hear of appalling restrictions on FoRB imposed on minority groups and religions, generally with little or no opposition from political parties. This occurs in states where compliance of government with the rule of law is faulty, to say the least, and where there is a prevailing religion entangled with whichever party or coalition is in power. We do sympathise with the representatives of the communities of faith who come to HDIMs to inform us of similar situations.

In Western Europe the status of religions and beliefs varies widely, mostly according to which religion prevails in a given country at a given moment in time, but historic traditions of compliance with the rule of law ensures a higher level of legality with the effect that minority religion or belief communities generally enjoy a better standing. However, in states where the prevailing religion is Catholicism and which have signed a concordat with the Holy See, usually the Catholic church enjoys huge privileges that discriminate against non religiously-mainstream citizens and communities of religion and belief. Yet we hear authoritative speakers and representatives of civil society connected to the prevailing religion lament threats and violations to their freedom of religion.

I refer to statements such as “*an antireligious atheism that preaches the need to eliminate religion from the private and public life of citizens should not be welcomed, since this would enter in an irreducible conflict with religious freedom which implies the protection of religion as such.*” This elicits two considerations: 1) that antireligious atheism has the same right of citizenship as Catholicism and is as free to state the absurdities it pleases and 2) that the idea that religions are to be protected from hostile speech is another way of suggesting that defamation of religion has to be punished by law, hence curtailing freedom of thought and of expression and undermining the basic principle of the rule of law according to which rights belong exclusively to human beings.

I also refer to the *need to eliminate religion from the private and public life of citizens* which is often mentioned by religious leaders as a danger that besets freedom of religion and is usually followed by the claim that religions have a *public* role to play. As of late the word *public* has often been accompanied by the word *institutional*. I shall dwell on this because it is tightly linked to the subject of this session. But first let me state firmly that I never heard anybody say that religions have to be eliminated from private and public life. I can safely add that even in Italy where the presence of Catholicism is so pervasive, where practically no public space is free from religious symbols, where radio and television inform us every time the Pope yawns and where religion teachers in public schools are chosen by the diocese and paid out of public funds, even in Italy and even the Union of Rationalist Atheists and Agnostics, has never upheld that religion is to be excluded from public life.

Language can be deceitful at times. This is why it would be helpful to define what we mean by *public life* or *the public square*. In democracy, the word *public*, *res publica*, means not only something that belongs to everybody but to everybody alike. This is the point. Mountains and lakes

are public and so are streets and train stations and state schools and the communal house and playground where all the citizens should feel at home, so signs and symbols other than the national flag should not be displayed there. The display of religious symbols in public buildings is a privilege granted to part of the population and like all privileges it discriminates those people who do not identify with them or, even worse, who may have suffered persecutions in their name. In my country, Italy, but elsewhere as well, this is a constant matter of debate and the more our society becomes multicultural the more debatable this matter becomes. Attempts have been made at explaining that symbols such as the crucifix have a universal cultural value, but this is simply a flimsy and arrogant excuse not to give up an acquired position and should be considered as one aspect of the self-convincing exercise which the Vatican is excellent at.

The issue then is not that religious representatives should not be free to speak in public, but that religion should not occupy public spaces by displaying there its symbols. What religions – or rather religious institutions - have to be firmly excluded from is institutional law-making. This means that when they lobby governments, governments must consider the standing of those organisations. How democratic are they? how representative of their members or followers? Here the churches are often found to be unrepresentative. On matters of sexual morality, notoriously, the Catholic Church speaks for its obstinate institutional position, not for its followers. Likewise on matters of genetic research and sexuality, individual religious believers are often way ahead of their conservative religious institutions. In other words, governments should not uncritically assume that the churches represent even their congregations, whereas in Greece, for example, the state and the courts assume that everyone is a member of the Greek Orthodox Church and make it extraordinarily difficult for people to be recognised as having other or no beliefs. Greece has ignored several adverse rulings in the European Court of Human Rights.

An issue related both to the Status of Religion or Belief Communities and to that of Freedom of Religion or Belief is conscientious objection on religion grounds. Single solutions may be sought to accommodate problems of conscience which citizens may have on any ground, provided such solutions do not become an obstacle to other citizens' exercise of their lawful rights. In the case of abortion, for example, a way out indicated by the EU Group of Experts on the Separation of Church and State consists in the doctor or nurse's duty to refer the patient to a colleague willing to operate in their place if their conscience forbids them to carry out such an act. I think this is a best practice that deserves to be followed.

However, as in other cases where religious institutions claim particular privileges in the form of exemptions to the law, conscientious objection on religion grounds impinges on the rule of law. Were it to be accepted, two birds – or rather two principles – would be killed with one stone: the principle of equality of citizens before the law and the principle that nobody is above the law. Notoriously on this last issue a fundamental disagreement comes from religious quarters. We have repeatedly heard that the only total vision of man is the transcendent one, that *Without God man neither knows which way to go, nor even understands who he is.* (Encyclical *Caritas in Veritate*). And Pope John Paul XXIII stated that *Authority is a postulate of the moral order and derives from God. Consequently, laws and decrees enacted in contravention of the moral order, and hence of the divine will, can have no binding force in conscience...; indeed, the passing of such laws undermines the very nature of authority and results in shameful abuse.* These are the legitimate views of the Catholic church, a private body, which is free to express them in public. But what if such views are applied to specific laws and to government policy? what if, or rather when, religious leaders enjoin their followers to break the law? In Italy where pharmacists are bound by law to deliver the drugs doctors prescribe, the Pope enjoined pharmacists not to sell the day-after pill and, more in general, any drug that runs counter their Catholic conscience - the Pope, a foreign citizen, head of a foreign

state, the only one that has not signed the European Convention on Human Rights puts pressure on Italian citizens to breach the law. Is this in order? Does Freedom of Religion or Belief go that far? Has freedom of religion no limits?

These quotations and the example of the day-after pill (but similar examples are rife) do not seek to place normative limits to the freedom of expression of religious representatives. What they seek to do - apart from expecting from the Vatican hierarchies a greater restraint when dealing with public affairs - is highlight the potentially subversive content that the imposition of views based on dogmas may have on the rule of law. For this reason and with regard to the subject of this session, the Status of Religion or Belief Communities, the European Humanist Federation maintains that only the separation of religion and politics, hence of dogma and law guarantee Freedom of Religion or Belief for all and permit the full implementation of the rule of law.

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