

04 - 05 May 2022

Secular States Struggling with Religious Freedom

INTERNATIONAL ISFORB CONFERENCE

Thursday, 4 May 2023

9:00-10:00	Arrival, registration & coffee	
10:00-11:45	PLENARY SESSION 1 Welcome & Mutual introductions I How Secular and Religiously Free are Europe's "Secular" States? Prof. Dr Jonathan Fox (Bar-Ilan University)	
12:00-13:00	PAPERS SESSION 1	
	Room A	The Great Western-Ukrainian Cult Conspiracy: Russian Anti-Cult Propaganda and the War in Ukraine - Rosita Šorytė Ivan Ilyn, Putin, and Anti-Cultism – Massimo Introvigne
	Room B	Facing Janus: State Incorporation, Local Politics and Muslim Leadership in Belgium – Yehia Sherif Mohamed Fakhry Mekawi Religious Freedom in the Soviet State: International Debates During the Long 1970s – Nadezhda Beliakova
13:00-14:00	Lunch	
14:00-15:30	PLENARY SESSION 2 Mutual introductions II Ideological Challenges of Religious Freedom to Secular State Politics and Jurisdiction Prof. Dr Johan Temmerman (FPTR Brussels)	
15:45-16:45	PAPERS SESSION 2	
	Room A	Secularists no more? The Belgian secular sphere's plight for lifestance recognition in a model of mutual interdependence – Niels De Nutte Structuring the Humanists for their relation with the Belgian State – Rik Röttger
	Room B	The Kokkinakis case - A milestone of the European Court of Human Rights for religious freedom – Matthias Adt Integral mission and FORB – navigating the new Swedish political landscape and its consequences at home and overseas: a case study – Kristina Patring
18:00	Conference Dinner (Optional)	

Friday, 5 May 2023

8:00-9:00	Breakfast	(Optional)
9:30-10:30	<p><u>PLENARY SESSION 3</u> The Freedom of Personal Self-Determination: the Essential Principle of Religious Manifestation Prof. Dr Archil Metreveli (University of Georgia)</p>	
10:45-11:45	<p><u>PAPERS SESSION 3</u></p>	
	<u>Room A</u>	<p>Innovations in the Religious Education to strength the Freedom of Religion/Belief – Elena Miroshnikova (online)</p> <p>Cross-pressures between Secularism and Hinduism: Challenges for Religious Freedom on the Subcontinent – Varughese John (online)</p>
	<u>Room B</u>	<p>Secular States, Anti-Cult Hate Speech, and Courts of Law – Willy Fautré</p> <p>The MIVILUDES and Related Controversies: A Thorn in the Side of French Democracy? - Eric Roux</p>
12:00-13:00	<p><u>PAPERS SESSION 4</u></p>	
	<u>Room A</u>	<p>Some comments in response to András Sajó’s conception of constitutional secularism – Hans-Martien Ten Napel</p> <p>The Assassination of Shinzo Abe and the Campaign Against the Unification Church/Family Federation in Japan – M. Introvigne</p>
	<u>Room B</u>	<p>The Right to Freedom of Religion and Aspirations towards Inclusion in South Africa: <i>Prince v President of the Cape Law Society</i> – Shaun de Freitas</p> <p>A divisive interpretation for individual religious freedom emanating from institutional mandatory Covid-19 vaccination policies in South Africa – Werner Nel</p>
13:00-14:00	Lunch	
14:00-14:30	<p>PLENARY SESSION 4: the GAPS conversation</p>	
14:45-15:45	<p><u>PAPERS SESSION 5</u></p>	
	<u>Room A</u>	<p>The Impact of Tax Policies on Freedom of Religion or Belief: The Tai Ji Men Case in Taiwan – Judith Chiu and Robin Liang</p> <p>Black Magic, False “Victims,” and “Religious Fraud”: Parallels Between the Cases of the Unification Church in Taiwan and Tai Ji Men in Taiwan – Rosita Šorytė</p> <p>Response – Chris Vonck</p>
	<u>Room B</u>	<p>The Impacts of Religion on Politics in Ghana: A Case Study of Neo-Prophetic Churches and Ghana’s Elections – K. Oppong-Konadu</p> <p>Accommodating Freedom of Religion or Belief in the public realm – Lessons from South Africa – Daniela Ellerbeck</p>
15:45-16:00	<p>PLENARY SESSION 6: Closing words</p>	

How Secular and Religiously Free are Europe's "Secular" States?

Prof. Dr Jonathan Fox (Bar-Ilan University)

This study uses data from the Religion and State (RAS) project to examine the extent to which 43 European states are, in fact, secular and religiously free. I find that these European states engage in substantial levels of support for religion, regulation restriction and control (RRC) of the majority religion and government-based discrimination (GRD) against religious minorities. This is true of both countries in Europe with official religions and those which declare separation of religion and state (SRAS) in their constitutions. This and the substantial differences in patterns of support for religion, RRC, and GRD between European and non-European states demonstrates a distinctly European pattern of state-religion relations that is influenced in no small part by anti-religious forms of secularism.

Ideological Challenges of Religious Freedom to Secular State Politics and Jurisdiction

Prof. Dr Johan Temmerman (FPTR Brussels)

In this contribution, J. Temmerman explores the difficulties in jurisprudence within secular society with regard to freedom of religion. To counter polarisation and the accompanying secular and religious populism, he presents arguments for taking a constructive stance on both sides of the philosophical spectrum. In doing so, religious traditions should install in their frames of mind the notion that jurisdiction protects the believer and does not pronounce on beliefs, traditions or institutions. The secular state, in turn, needs to understand that religious freedom makes people resilient, requiring them to protect even the most exotic beliefs, and to do so by adopting a non-identifying policy. In conclusion, these ideological nuances should allow for a broader acceptance of human rights and religious freedom in the future.

The Freedom of Personal Self-Determination: the Essential Principle of Religious Manifestation

Prof. Dr Archil Metreveli (University of Georgia)

Nothing illustrates the modern secular realm more universally than a clear "wall of separation" between the private and the public. This wall is less apparent, but still clear,

between the individual and the collective. For Religion and Belief, as opposed to State and Law, it is this private and individual side of the borderline that is original and authentic. However, not infrequent, this border loses its sensitivity and the wall is not always high enough and impenetrable, in principle. This is the time, when the Freedom of Personal Self-Determination is essentially the only starting point returning to which and observing from which perspective it is possible to make this separate wall sensitive and clear again. In some stances, this separating wall also appears between the internal and external dimensions of the freedom of religion or belief. The Freedom of Manifestation of Religion, as the right to live according to one's personal beliefs, is often a target of the public interest. And this, in the general sense, is considered completely legitimate. However, since the restriction of personal freedoms to balance multiple rights and interests in the public space is indeed legitimate, this should not abolish the Freedom of Personal Self-Determination, as such. Therefore, my intent here is to substantiate, based on appropriate theoretical arguments and ECHR case law, that the right to *Manifest* religion is, in its essence, as absolute and unconditional as the right to *Hold* it. More precisely, it is not a limited right in its nature, but it can be subject to limitations in its application, which extremely vary from each other.

ROOM A

The Great Western-Ukrainian Cult Conspiracy: Russian Anti-Cult Propaganda and the War in Ukraine - Rosita Šorytė

In Russia, the word serving the same function as the English “cult” is “sekta.” The Russian anti-cult movement is largely a branch of the Russian Orthodox Church (ROC). Its connections with the state are a by-product of the close alliance between the ROC and Putin’s regime, which has led to laws incriminating “religious extremism,” which is now a very broad category. Russian anti-cultism is different from its European counterpart, as it traces its roots on the idea of a Western conspiracy to deprive Russia of its soul, of which “cults” are a tool and “cultists” are agents. With the 2014 war, these ideas and practices were exported to Crimea and the pseudo-republics of Luhansk and Donetsk, which became some of the areas in Europe with the lowest degree of religious freedom. The war in Ukraine continues to be justified by the ROC and Russian anti-cultists as a reaction against Western and Ukrainian conspiracies, which allegedly also use “cults” as their agents, including for sabotage operations in Russian territory.

Ivan Ilyn, Putin, and Anti-Cultism – Massimo Introvigne

The discussion on how extensive the influence of Russian right-wing philosopher Ivan Ilyn (1883–1954) is on President Putin started in 2018, when historian Tymothy Snyder called this influence crucial in an article in *The New York Review of Books*, only to be criticized by another well-known scholar of Russia, Marlene Laruelle. Certainly Putin personally supervised the repatriation of Ilyn’s remains to Russia from Switzerland, where the philosopher had died in exile, and presided at their reburial in Moscow. The paper examines an aspect of Ilyn and his influence that is often overlooked, i.e., the philosopher’s claim that “cults,” together with homosexuality and Western-style democracy were the main tools the West use to try to demoralize Russia. Although for Ilyn the quintessential “cult” was Anthroposophy, his ideas about an anti-Russian conspiracy, much more than his admitted sympathy for Fascism, are the most important part of his legacy in Putin’s Russia.

ROOM B

Facing Janus: State Incorporation, Local Politics and Muslim Leadership in Belgium – Yehia Sherif Mohamed Fakhry Mekawi

I seek to explain why sub-national governments in advanced democracies vary in their incorporation of Islam despite operating within shared legal frameworks. I argue that electoral aims and party competition determine the political goals shaping the implementation of nominally bureaucratic policies. As a result, the same policy can be used by different sub-national units to further divergent, and often mutually exclusive, goals. I

demonstrate this by focusing on how Belgian regional governments decide to "officially recognize" mosque-communities. While a great deal of literature has been dedicated to explaining how states arrive at national models of incorporation for Muslim minorities, less work has been done on the role sub-national governments play in policy implementation; comparing recognition outcomes across Flanders, Wallonia & the Brussels-Capital region allows me to demonstrate how local officials can use the same policy towards vastly different ends.

I then use this explanation of state-sided dynamics to examine whether Muslim leaders decide to cooperate with or shun state-led incorporation efforts. After explaining the trade-offs involved in negotiating state aid, I argue that Muslim leaders rely on transnational networks to render those negotiations easier. Contingent on the partisanship of state officials, which signals the political goal driving incorporation and the threat of state control that Muslim leaders perceive, networks can either act as a substitute or compliment to the decision to work with the state. As previous literature suggests, networks can indeed provide finances and act as an exit option to state aid. What the scholarship underestimates, however, are the range of non-material considerations Muslim leaders have when navigating state policy. In a fraught political context, mosque leadership may want to use incorporation policy to build reputations as 'open' and 'trustworthy' actors. Therefore, and especially when the threat of state control is perceived to be low, networks can also facilitate state relations through resource and information-sharing. Consequently, I model how state-Islam relations can settle into vastly different equilibria within the same national, and even local, context.

Religious Freedom in the Soviet State: International debates during the long 1970s – Nadezhda Beliakova

In the topic will be analyzed the discussion about religious freedom and its violations in the USSR, appeared in the agenda of the World Council of Churches (WCC) in the 1975 while open letters from the Orthodox religious dissidents from UdSSR got a public resonance. As opponents of WCC were Keston College (based in Oxford, England), Glaube in der 2. Welt (based in Zollikon, Switzerland), and the Inter-Academical Institute for Missiological and Ecumenical Research (established in Utrecht, the Netherlands). Their position was presented in series of publication about Religious Liberty in the Soviet Union. If the WCC was inclined to communicate with the official leadership of the churches of the USSR and considered its agenda in the context of the North-South social problems, then its opponents were more likely to belong to the wing of "anti-socialist" or human rights organizations. The article, based on the corpus of sources from the archive of the World Council of Churches (Ghent), the archive of the organization «Glaube in der 2. Welt» (Zurich), samizdat of believers within the Soviet Union, will show different optics of interpretation of religious freedom. Religious dissidents and Western organizations, which stood in solidarity with them, spoke about religious freedom as a human right, which was suppressed in the USSR. Whereas "freedom of conscience" provided for the absence of privileged churches, equality of religions and which was part of the progressive socialist doctrine, was very important for the WCC and this

organization was in the dialog with the soviet representatives for the legislative normalization of religious life.

**SMALL PAPERS SESSION 2 (Thu, 15:45-16:45) | Chair: G. Lorein
ROOM A**

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Secularists no more? The Belgian secular sphere's plight for lifestance recognition in a model of mutual interdependence – Niels De Nutte

Belgium is known internationally for the mutually interdependent relationship that exists between the state and the variety of religions and lifestances present in its territory. In this regard, 2023 will see Buddhism added to the circle of 'recognised lifestances' as the second non-confessional lifestance alongside secular humanists (vrijzinnig humanisten). The latter groups' path to recognition still counts as something of an oddity at the international level and allows us to demonstrate aptly how sociocultural tendencies and the historical situatedness of the Belgian case led to this specific outcome. Why did Belgian seculars seem to abandon their laicist goals of old? Why did this repositioning happen in the 1970s specifically? How does this path differ from other like-minded organisational spheres abroad? For this paper, our points of origin will be the 1970 speech given by local secular Gilbert Deygers, president of the Kortrijk chapter of the Oudervereniging voor Moraal, and the 1975 conference held by the Humanistisch Verbond in Hasselt. The speech constitutes the first official call by seculars for action to being 'treated as an equal' to state-funded religions, whereas the Hasselt conference was the first major event where political parties explained their position vis-à-vis such a construction. This allows us to highlight and clarify some of the opinions present within the secular sphere as well as the feasibility and desirability of a lifestance recognition as seen by the political world. All of these processes can of course not be seen without taking into account the secularisation debates of that time as well as the changes in the religious landscape as a consequence of migration movements within the Belgian context.

Structuring the Humanists for their relation with the Belgian State – Rik Röttger

There has been some discussion on the neutrality and secular character of the Belgian State in its approach to the organisation of a single representative organ or interlocutor for the civil powers for both the protestant as Islamic faith between 1993 and 2002. We would like to take up this question for the secular humanist movement. After long internal debate the Union of Secular Organisations (CVR-UVV) did opt for legal recognition as a non-confessional 'cult' on a par with other religions.

In two extraordinary meetings, the 'General Estates of Freethought', UVV chose a tactical position of constitutional recognition and moved the principle of a strict separation of Church and State to the sideline. In this way the why-question was pragmatically bypassed and the how-question came centre stage. In January 1999 the 'declaration of Wemmel' was produced setting out the guidelines for UVV's alternative to the existing pastoral services.



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This secular humanist counselling (morele dienstverlening) in practice had to meet the same public goals and mimic the operational framework of the other established chaplaincy services (army, prisons, hospitals, airport, etc.) and a pastoral care down to the local level. This text was binding for its 20+ member organisations at that time.

My research of the UVV archives confronts this declaration with the legal commentary of the *Conseil d'Etat* on the proposed legislation between 1997 and the adapted law of 2001 we will illustrate the path dependency of organisations like *Humanistisch Verbond* in their advocacy of Freethought as a separate life stance in its own right. This internal discourse was reinforced by the paradigm organisational isomorphism present or perceived to be present in the Ministry of Justice. Paradoxically these two converging forces did make 'organised freethought' resemble the monolithic hierarchical structures of the Catholic Church it had so long attacked.

SMALL PAPERS SESSION 2 (Thu, 15:45-16:45) | Chair: C. Sauer
ROOM B

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The Kokkinakis case: A Milestone of the European Court of Human Rights for Religious Freedom – Matthias Adt

The right to missionary activities is a sub-phenomenon of FoRB. However, it is controversial even in secular states - both in society and in jurisprudence and sometimes in theology itself. In 1993, the EGHR ruled in favor of missionary activities in the case of Kokkinakis vs Greece. This ruling is cited in many scholarly and legal sources as benchmark case. However, there were several minority opinions in the panel of judges, reflecting the complexity of the issue. It is piquant that the court distinguished between proselytism and witnessing, citing papers from the World Council of Churches. The case and its history of impact are presented.

Integral mission and FORB – navigating the new Swedish political landscape and its consequences at home and overseas: a case study – Kristina Patring

This paper will explore the resilience towards increased risks of state instrumentalisation and/or loss of state funding among four Christian FBOs with Evangelical, Pentecostal, and Ecumenical backgrounds dedicated to integral mission and FORB. Sweden is experiencing renegotiation processes in several overlapping social contracts. Two of these processes have intensified in 2022-23 in direct correlation with general elections and risk immanent high impact on FBOs and religious communities in ways which truly portrays a secular state struggling with religious freedom. First there is potential climax in the renegotiation of the social contract between the Swedish state and civil society in general. Overlapping with this is an ongoing renegotiation of whether Swedish state and society, as a consequence of increased multi-religiosity, should embrace inclusive or exclusive secularism in combination with soft doctrinal secularism or acceptance of post-secularism.

The paper will assume a multidisciplinary approach with its theoretical departure in previous research on integral mission, FORB as a human right for all, secularism, nationalism, instrumentalisation of FBOs and the Swedish social contract between state and civil society (including FBOs). A review of previous and current research seems to reveal a clear research gap regarding how Evangelical, Pentecostal, and Ecumenical FBOs currently navigate through the complex socio-political landscape created when all these different subject areas now come together. To contribute with new research findings, the study will analyse key messages in publicly available, and specifically requested, documents from the selected FBOs. The research will be set against a backdrop of global and regional developments. Its core focus will however be on current developments in Sweden.

**SMALL PAPERS SESSION 3 (Fri, 10:45-11:45) | Chair: J. Creemers
ROOM A**

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Innovations in the Religious Education to strength the Freedom of Religion/Belief – Elena Miroshnikova (online)

In spite of increasing interest to gender and climate problems, there is no reason to forget the actuality of the religious freedom issues and the need of effective ways to solve the problems in this sphere. In fact, there is a need of new approaches. I would like to analyze innovative way to the religious factor in the public sphere on the example of religious education in public schools, submitted by the international Research Project Atlas of Religious or Belief Minorities Rights in EU countries and ReMinEm under the leadership of Prof. Silvio Ferrari. It must underline the high level of the theoretical, methodological, and practical research of the Project Atlas. My academic aim is to submit the main trends, innovations, and perspectives of the religious education in public schools, using the results and recommendations of the Project Atlas. To realize this goal, I do analyze 4 clusters: the diversity of models of the religious education, how is R/B education provided, the right to be exempted from the R/B instruction, manifestation of Religion/Belief at school: religious symbols, religious holidays, dietary requirements. The conclusion is made that the project recommended approach to provide all minorities the right to teach their religions and beliefs in public schools generates the new problems in the context of multiculturalism according to the legal status and practical curriculum. The confessional model of religious education is becoming more inclusive, evolving into the interconfessional one. The most representatives of the religious minorities don't perceive the teaching of their religion in public school as an important issue. They would prefer to support the non-confessional model of religious education due its neutrality.

I argue the benefits of the non-confessional model with innovations by Culture and Religion Studies, within which cultural and religious diversity must be maintained and can flourish for the common good.

Cross-pressures between Secularism and Hinduism: Challenges for Religious Freedom on the Subcontinent – Varughese John (online)

In some parts of the Western world, secular states struggle to guarantee religious freedom despite its secular framework. In other parts like in the Indian subcontinent, the struggle is often not despite secularism but because of it. As early as the 1960s, Ernst-Wolfgang Böckenförde asked if “the liberal, secularized state lives by prerequisites which it cannot guarantee itself.” If it were the case that the state depends on some comprehensive doctrine operating within the culture to provide the foundations for secularism, it may be assumed that where those assumptions are inaccessible or where the comprehensive doctrine is not compatible with the principles of secularism, there could be a conflict of purposiveness between the culture and the secular principle.

It is often assumed that Indian secularism (the nature and shape of which has been sufficiently explored) is completely distinct from its Western corollary. Taking a different view, I argue that the ontology of the secular illustrates certain essential features irrespective of where it is practiced. Pivoting on the compatibility between Hinduism and secularism I explore how certain cross-pressures that secularism introduces within the Hindu culture presents challenges for Freedom of Religion and Belief [FoRB] on the subcontinent.

**SMALL PAPERS SESSION 3 (Fri, 10:45-11:45) | Chair: M. Introvigne
ROOM B**

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Secular States, Anti-Cult Hate Speech, and Courts of Law – Willy Fautré

Due to their official neutrality and as a matter of principle, secular states must treat religious and philosophical communities equally, regardless of their historicity or lack of it at home or abroad as well as the size of their membership. These states must ensure that they grant the same rights to the wide range of believers living on their soil and avoid any form of discrimination. They also have to ensure that private and public media outlets do not go unpunished for using some form of stigmatizing or hate speech and fake news. For decades, groups of citizens have campaigned against religious or philosophical movements that have taken root in their country in the recent past and constitute a minority. The initiators of their smear campaigns may be former members who want to take revenge against and publicly settle scores with their former religious community. They may also come from adherents of a majority religion who perceive these newly implanted religious movements as heretics or competitors taking away their flock. Secular movements may also hunt new religious movements on the ground that they allegedly recruit new members by abusing their so-called weakness and violating their free will.

These movements opposing religious, spiritual or philosophical minorities they do not like are cherished by the media because they spread horrific stories that boost ratings and can sell well, even though they often do not stand up to serious investigation and analysis by scholars in religious studies. But this is hate speech and it must be prosecuted. However, a number of states, including democratic states, have been influenced by hate speech and fake



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news of anti-cult and counter-cult activists or movements and have even set up anti-cult institutions. The presentation will focus on court cases won by new religious movements in Europe (Austria, Belgium, France, Germany) and make recommendations for media outlets and governments for an adequate treatment of religious minorities.

The MIVILUDES and Related Controversies: A Thorn in the Side of French Democracy? – Eric Roux

The MIVILUDES is a French governmental agency that is aimed at fighting what France calls “cultic deviances” (“dérives sectaires”). It roots in the deep anti-cult tradition of the French state, and whilst France has been highly criticized for its discriminatory stances against new religious movements throughout the last decades, MIVILUDES managed to survive and is now a sub-office in the “Interministerial Committee for the Prevention of Delinquency and Radicalization” at the Ministry of Interior. The scope of what it calls cultic deviances had to be tremendously broadened, to keep it “needed” at the times where no scandal could be triggered which would have been linked to new religious movements. It rapidly included alternative health tenants, then people searching for natural ways of living, either through yoga or ecological reconstruction, and extended recently to “antivax” and “conspiracy theorists,” These groups do not have much in common with the Jehovah’s Witnesses and the Church of Scientology, which remain favorite targets of the agency. The presentation will cover the history of the MIVILUDES, its background and development. It will also explain the “methodology” used by the MIVILUDES and the flaws inherent to its approach. It will discuss the means used by MIVILUDES to stay alive and how it managed to avoid being dissolved. Finally, the presentation will also cover the international consequences of the French anti-cult policy.

SMALL PAPERS SESSION 4 (Fri, 12:00-13:00) | Chair: J. Fox
ROOM A

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Some comments in response to András Sajó’s conception of constitutional secularism – Hans-Martien Ten Napel

The proposed paper zooms in on the first of the three suggested topics: ‘the notion and different interpretations of the secular state and its relation to (non-)religious paradigms.’ That is an immeasurable topic. Hence it will be further delineated by limiting ourselves to András Sajó’s conception of constitutional secularism. Sajó is an attractive figure in this context, as he is a former judge in the European Court of Human Rights (ECtHR) and has an impressive scholarly output. Moreover, he has explicitly published about ‘Secular States Struggling with Religious Freedom,’ including the article ‘Preliminaries to a concept of constitutional secularism’ (*International Journal of Constitutional Law*, 2008). In the abstract of this article, Sajó states, ‘Constitutionalism relies on the use of the human faculty of reason and popular sovereignty. The first consideration translates into the duty of public reason giving in law and denies the acceptability of divine reasons; the second precludes any source



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of law but the secular. A robust notion of secularism, animated by these considerations, is capable of patrolling the borders of the public square.’ The proposed paper has three purposes: first, it will note whether, and if so, to what extent, this conception of constitutional secularism permeates ECtHR jurisprudence. Second, it raises the question of the substantive merits of Sajó’s conception of constitutional secularism, especially concerning the right to religious freedom. Third, it examines a recently defended, ‘postliberal’ alternative to Sajó’s view in international literature. Does this alternative offer or not offer opportunities for the States Parties to the Council of Europe Convention to shape religious freedom more robustly?

The Assassination of Shinzo Abe and the Campaign Against the Unification Church/Family Federation in Japan – Massimo Introvigne

The assassination in Nara, Japan, of former Japanese Prime Minister Shinzo Abe on July 8, 2022, was explained by his assassin with the fact that the politician had attended initiatives sponsored by the Unification Church, now called the Family Federation for World Peace and Unification. The killer hated the Unification Church, he said, because his mother had gone bankrupt in 2002 after she had made extravagant donations to the religious movement. In fact, he had originally planned to assassinate the leader of the Family Federation, and test-fired his gun by shooting at a building which was once a place of worship for the group. While the weak mind of the assassin had clearly been excited by anti-Unification-Church campaigns by militant lawyers and anti-cultists, the latter succeeded in persuading most media, both in Japan and internationally, that rather than being a victim the Unification Church was somewhat responsible for the homicide and in promoting legislation and administrative actions aimed at severely restricting its religious liberty, in a spectacular reversal of both logic and fairness.

SMALL PAPERS SESSION 4 (Fri, 12:00-13:00) | Chair: C. Sauer
ROOM B

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The Right to Freedom of Religion and Aspirations towards Inclusion in South Africa: *Prince v President of the Cape Law Society* – Shaun de Freitas

There is much room for the progression of inclusivity within a current climate dominated by a liberalism of convergence. This type of liberalism has succeeded in substantively excluding religion from the public sphere and from that which is deemed to be rational; something which bears witness to the stifling of the inclusion of religion in societies that in many ways express pride in being categorised as democratic. Although South Africa’s democracy is still in its early stages, it should not be perceived as being immune to this liberalism of convergence. Since the inception of South Africa’s democratic dispensation, the South African Constitutional Court was confronted with only a few challenges related to the protection of freedom of religion. South Africa’s fairly young democratic dispensation could be viewed as part of the reason for this sparse jurisprudence on freedom of religion;



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however, this provides an ideal opportunity for the laying of a sturdy foundation conducive to a truly inclusive society pertaining to the protection of religious rights and freedoms. In this regard, it is especially the Constitutional Court judgment of *Prince v President of the Cape Law Society (Prince)* that offers constructive insights for the advancement of a deeper sense of inclusivity. As will become evident in this paper, the *Prince*-judgment has much to offer in countering the aforementioned convergent type of liberalism, also with insights that may prove valuable beyond the borders of South Africa.

A divisive interpretation for individual religious freedom emanating from institutional mandatory Covid-19 vaccination policies in South Africa – Werner Nel

The implementation of institutional mandatory vaccination policies by certain public entities, highlighted the implicit interpretive struggles of secular South Africa with the extent of religious freedom.

While not mandated by government, such policies employed the constitutional balance of rights test; in “balancing the collective right of the... community to health and safety, against individual rights to bodily integrity, freedom of religion, belief and opinion, the prevailing view is that the collective right takes precedence.” In accommodating fashion, such policies made provision for employees to apply for exemption from vaccination based on “a seriously-held religious belief that materially conflicts with vaccination”. In such cases, the burden of proof rested with the applicant to provide substantiating evidence, which required, *inter alia*, “an affidavit from a senior religious leader setting forth the key tenets of the religion relied upon and supporting the contention that these ground an objection to receiving the vaccination”. This imposed precondition has potentially divisive interpretive consequences. In comparison with international human rights (IHR) law standards on religious freedom, especially the absolute protection for the internal and private realm of belief (*forum internum*), it could be argued that the mentioned precondition supports the interpretation that, in South Africa, religious freedom is to be interpreted within a communitarian-public domain only. As a result, there seems to be no protection for individual religious autonomy that extends beyond, or that deviates from, the associative inner belief of a particular acknowledged religious community.

On the other hand, one could argue that such an individual exemption from vaccination had an added external and public effect that extended beyond the private internal realm of individual religious autonomy. Therefore, in the broader public interest, individual religious freedom was limited reasonably, justifiably, and rationally.

The proposed paper will explore these interpretative consequences for individual religious freedom in secular South Africa.

ROOM A

The Impact of Tax Policies on Freedom of Religion or Belief: The Tai Ji Men Case in Taiwan – Judith Chiu and Robin Liang

While Taiwan is well-known for its technological development and the gradual transition after 1989 from an authoritarian state to a democracy, its tax system and bureaucracy have been widely criticized as greedy, inclined to abuse, and still maintaining remnants of the non-democratic past. In 1996, a political crackdown on religious and spiritual movements accused of not supporting the then ruling party largely used accusations of tax evasions as a main tool. Although declared innocent of all charges, including tax evasion, up to the Supreme Court, one of the targeted movements, Tai Ji Men, continued to be harassed through ill-founded tax bills. The paper identifies the system of tax bonuses paid to bureaucrats who issue tax bills before verifying whether they are justified as one of the main sources of both tax abuse in Taiwan and the use of taxes to limit freedom of religion or belief.

Black Magic, False “Victims,” and “Religious Fraud”: Parallels Between the Cases of the Unification Church in Taiwan and Tai Ji Men in Taiwan – Rosita Šoryté

The campaign against the Unification Church/Family Federation in Japan and the Tai Ji Men case in Taiwan show that the anti-cult narrative tends to use the same stereotypes in different countries and contexts. One is the allegation that cults “use mysterious techniques capable of depriving their “victims” of free will, which are reminiscent of pre-modern black magic. The second is the public display of “victims” whose credentials in some cases are dubious and even false. The third is the accusation that the targeted groups are only “out for money” and should be punished through the use of the tax system.

Response – Chris Vonck

ROOM B

The Impacts of Religion on Politics in Ghana: A Case Study of Neo-Prophetic Churches and Ghana’s Elections – Kwame Oppong-Konadu

In Ghana, a secular state with a sizeable population of religious people, neo-prophetic churches have gained notoriety for foretelling election results. Some prophets from these churches often claim that God has endorsed a particular presidential aspirant to win elections. They seemingly exploit the religiosity of some Ghanaians, mostly the uneducated, with their statuses as prophets to persuade them to vote for these supposed “chosen ones.” This paper attempts to examine the issue within the scope of political theology using a case study approach. In analyzing the case, it is observed in this paper that one of the basic tenets of democracy, as adopted and practised in Ghana, is the freedom of religion, allowing all

Ghanaians, including prophets, to express their religious convictions without restrictions. Nevertheless, democracy also guarantees the right of every citizen to participate in elections by freely voting for candidates deemed suitable to become president without any direct or indirect influence. Therefore, the paper suggests that in order not to undercut democratic principles, relevant bodies such as the Christian Council of Ghana and the National Commission for Civic Education must work together to conscientize Christians about prophets who misuse their position for their parochial interest and also about the need to participate freely in elections.

Accommodating Freedom of Religion or Belief in the public realm – Lessons from South Africa – Daniela Ellerbeck

The problem with manifestations of different rights in the public realm is that they can “collide” and very often do. This is not just the case in Europe, but also across the globe in countries like South Africa. Without transplanting one legal system into another, Europe can learn from how South African courts have approached such instances and *vice versa*.

The South African Constitution entrenches the right to freedom of conscience, religion, thought, belief and opinion and expressly allows for religious observances at state or state-aided institutions (such as public schools) subject to certain provisions.

There is a strong legal understanding of religious freedom as freedom of religion, and not freedom from religion, with the state being required to treat all belief systems equally. There is no hierarchy of rights and “when there is tension, the courts must do their best to harmonise the relevant provisions, and give effect to all of them.” One way to reconcile rights to one another is through the principle of reasonable accommodation, which requires the state or people must take positive measures, and possibly even incur additional hardship or expense, in order to allow all people to participate and enjoy all their rights equally.

In contrast to several European countries, such as France and Belgium, although freedom of religion or belief exists, there is a potentially stronger emphasis on freedom *from* religion and greater legal resistance to govern the public sphere as an arena flourishing with people expressing diverse religions.

In the spirit of mutual exchange, perhaps there are some legal approaches that can be borrowed from the South African legal order so that freedom of religion or belief can be protected fully in Europe.