

Abstracts of plenary papers

Restrictions on religious freedom: when and how justified

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Abstract: All major human rights instruments include the freedom of religion. At the same time, they provide for limited but undefined restrictions on that freedom. The nature of those restrictions is nowhere set forth: we do not discover from the treaties what are the “rights and fundamental freedoms of others” which can legitimately trump the religious liberties guaranteed by these international instruments. What justifiable criteria can we offer for restricting antisocial religious practices? We begin with an analysis of poor answers to this question, such as that offered by the "Mormon polygamy cases" (Reynolds v. U.S., etc.) in the 19th century. This is followed by a treatment of jurisprudential approaches to the issue: Natural Law (including Neo-Kantian views), Legal Positivism, and Transcendental solutions. The latter is seen as the most productive, and the paper therefore concludes with an evaluation of transcendental options and a general approach applicable to restrictions on religious practices in general.

Just fit in: the treatment of minority religions by a dominant religion

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Many countries have a dominant religion, one that is closely associated with national identity. In India, for example, Hinduism is closely associated with being Indian; in Thailand, it is Buddhism. When there is a dominant religion, public policy usually reflects what is convenient for the majority. Thus, if there is a common pause day, it will be the day of observance of the dominant religion. National holidays will coordinate with religious observances. There is pressure for state-sponsored schools to teach the dominant religion in the classroom. This requires minority religious adherents to adapt to the dominant religion.

This paper will use Canada as a case study of the place of minority religions where there is a dominant religion. Canadian identity was closely associated with being Christian until at least the 1960s. Even today, there are many cultural vestiges of Christianity, including national holidays. Canada has developed an approach that attempts to allow the flourishing of a plurality of religions while recognizing that the majority of Canadians still identify themselves as Christian.

Until the 1960s in Canada, the dominant religion was Christianity. While Christianity has many sub-groups, there was little place for religious minorities, even those observing different Sabbaths or holy days. In many parts of Canada, the school system was divided between Protestant schools and Roman Catholic schools. Jews, Muslims and even Jehovah's Witnesses sometimes had difficulty being accepted into either school system. Sunday was the common pause day so business owners that observed a different Sabbath had to close two days per week and absorb the financial loss.

While Canada is now an officially secular state, vestiges of its Christian heritage remain. Minority religions have demanded a level playing field. Canadian law and public policy has adopted an

approach known as “reasonable accommodation”, requiring that minority religious practices be permitted wherever it is reasonable to do so.

Cautioning Against Irreligious Proselytism in Education

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In South Africa (and in many other democratic and pluralist countries), jurisprudence regarding the interaction between religion and the state against the background of schools, places the focus mainly on religious observances understood as religious practices such as prayer and worship. However, beyond this narrow form of the manifestation of religion in schools are matters related to the dissemination of belief (whether religious or irreligious) in schools. There is currently no scholarship pertaining to the dissemination of ‘religious’ and ‘irreligious’ knowledge in public schools against the background of the South African Constitution.

In many instances, public schools are under pressure not to practise the dissemination of religious knowledge. This is sometimes evident in direct efforts at excluding religious knowledge from public schools: for example, in South Africa, the *National Policy on Religion and Education* (2003) relegates religion to the home and strives for schooling that is as “secular” as possible. This reflects an anti-religious sentiment. What is excluded in all of this is the understanding that faith permeates all of reality and underlies all facts (knowledge). This, therefore, includes school education. The unrealistic endeavour towards ridding education of religion comes into opposition with the liberty of parents (or legal guardians) to ensure the religious (and moral) education of their children in conformity with their own convictions. Not only does this have implications for the rights and duties of the parents to provide orientation to the child, but it is also inextricably connected to the right of the child to freedom of thought, conscience, and religion. Intimately connected to this area regarding the propagation of belief, are matters related to proselytism and change of religion or belief.

This paper, against the background of proselytism, takes a critical look at the dissemination of non-religious knowledge in public schools. In this regard, the possibility of non-religious education being connoted to ‘inappropriate’ or ‘coercive’ forms of proselytism will be investigated. In this, the risk of coercing learners towards irreligious forms of knowledge, as well as the idea that inappropriate proselytism can also be exercised by the irreligious, is brought to the fore. The insights expressed in this regard are also of relevance to other forms of education, such as those resorting under higher (tertiary) education.

Constitution, Charter and Religions in South Africa

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Motivation: The 1996 Constitution of South Africa allows that everyone has the right to freedom of conscience, religion, thought belief and opinion. In 2010 a South African Charter of Religious Rights and Freedoms was endorsed by all the major religions in South Africa and efforts are currently made to take the Charter to Parliament for acceptance – something which the Constitution allows. What can the/a Charter of Religious Rights and Freedoms mean for religions in South Africa or in any other country

The question that the paper wants to address is what the effects of a South African Charter of Religious Rights can be with regard to the major religions in SA and their institutions.

As a start the paper will look at the position of the major religions in South Africa with regard to the Constitution and resulting legislation. The major religions in SA are *Christianity* – with many subdivisions, the *Jewish* religion, the *Muslim* religion and *African Traditional Religion*. With regard to the Constitution and legislation it looks as if in the legislation before 1994 it is taken for granted that it represents the Christian, or then at least a Western value system. Why is this so? The Jewish religion has succeeded to have certain elements of their person law to be integrated into the Divorce laws of the country (Act 95 of 1996) and the decisions of their Beth Din are recognised by the courts. In the courts there are tolerance towards Muslim personal law but still a reluctance to grant recognition to institutions of that religion which do not reflect Western values. African Traditional Religion is in the process of being recognised by the courts but still not completely, many questions exist.

By way of a conclusion some remarks will be made about the effects that a SA Charter of Religious Rights and Freedoms can have for the legal position of the major religions in South Africa.

Who is pushing the brakes on the way to religious freedom in Muslim majority countries: Political Rulers or Theologians?

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Abstract

Now and then it is vaguely stated that "Islam" punishes apostasy with the death penalty as "Sharia" demands it. But how come that apostasy can be punished by state authorities as there is no law code called "Sharia law" and hardly any of the penal law books of the Middle Eastern and Asian Muslim-majority countries mention "apostasy" at all but, on the contrary, guarantee religious freedom to all of their citizens.

At the same time, critical intellectuals, artists, progressive theologians or Qur'an commentators, journalists or secularists, agnostics or atheists, human or women's rights activists, converts or adherents of minorities with no official status like the Baha'i may suffer from serious restrictions in regard to freedom of opinion or religious freedom: some of them like the Koran scholar Nasr Hamid Abu Zaid have been publicly declared apostates, the journalist

Faraj Fawda being killed in broad daylight in the streets of Cairo,

others like the feminist Nawwal al-Sadaawi or Muhammad Hegazy, the latter an Egyptian convert to Christianity severely discriminated against. What are the main positions of contemporary political leaders, parties and Muslim theologians concerning freedom of opinion and apostasy? And which steps would need to be taken to stop discrimination of intellectuals deviating from mainstream theology or state religion?



**Proposal for the International Consultation on Religious Freedom Research
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**“Governance for Peace”
as a Concept to Manage Muslim-Christian Relations in Post-Conflict Environments:
Outline for Research on the Case Studies of Cyprus, South Sudan and Timor Leste**

There is great uncertainty within the academic community and among political leaders at large on how to best manage the transition from a situation of extreme oppression and persecution against Christians, including military occupation, genocide and/or ethnic cleansing, towards independence and freedom, if these options seem to be applicable.

1. May national sovereignty and borders be put into question in order to provide a peaceful environment within an independent state for the oppressed population groups?
2. Under which conditions can a newly shaped state develop successfully and which principles shall foreign policy follow in order to define its new relationship with the former oppressor and “enemy”?
3. How could a tailored research model to analyze the case studies of Cyprus, South Sudan and Timor Leste, in the light of the above mentioned research questions, look like?
4. Which lessons can be learned from the case studies of Cyprus, South Sudan and Timor Leste?
5. Is there a model of “Governance for Peace” that can be derived from the case studies of Cyprus, South Sudan and Timor Leste and which could be transferred to similar post-/conflict settings around the globe?

By sparking discussions with international participants of the “Consultation on Religious Freedom Research” on the proposed issue, new approaches for future research projects shall be developed. A model of “Governance for Peace” shall be envisaged as final outcome of such research which shall enable peoples that are being oppressed and persecuted for ethno-religious reasons to lead and strengthen a worldwide movement for transition of humanity into a post-persecution era.

Frankfurt a.M., 15/11/2012

First Experiences with the New World Watch List Methodology

Frans Veerman, Ron Boyd-MacMillan (Open Doors International)

Abstract:

Since the 90's, Open Doors International (ODI) has been producing the World Watch List (WWL), an annual Index of persecution of Christians, mostly for internal purposes. The focus was on *Communist Oppression*, at that time the only persecution dynamics the organization had identified. Bit by bit ODI developed the WWL methodology by adding questions, and involving external experts for cross-check of Field observations. However, the main focus of the questionnaire remained the same.

In the course of 2011, ODI developed plans to overhaul the methodology of the WWL. Reasons were the (active) recognition of other persecution dynamics, and the need for higher academic standards, felt by ourselves, and encouraged by growing outside interest in the results (esp. secular press).

In 2012 ODI implemented the plans, and came up with a renewed methodology. The squeeze on Christians and the Church became more central than the squash. Basic categories of the new questionnaire are *5 different spheres of life*, completed by the category *physical violence*. Dr. Christof Sauer already wrote interesting articles on the comparison of old and new methodology.

In the paper / lecture we will share our first experiences with the new methodology of the World Watch List. We will use Dr. Sauer's articles as a reference point. We will also show some results (content): i) the overall result, comparing WWL 2013 with WWL 2012 to assess the effect of the methodology change; ii) the scoring pattern of the 5 spheres of life, related to different persecution dynamics and/or the evolution of those dynamics.

Assessing the Impact of Global Trends in Religious Demography on Religious Freedom

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Abstract: This paper will examine global trends in religious demography-- focusing on the period 1970-2020. It will investigate how changing religious demography might impact religious freedom. The dynamics of religious change including births, deaths, conversions, defections, immigration, and emigration will be analyzed. Increasing or decreasing religious diversity in various countries will also be explored. The specific effect of these trends on Christians will be highlighted.