Religion, State & Society, Vol. 29, No. 2, 2001

Constitutional Doublethink, Managed Pluralism and Freedom of Religion

NIKOLAS K. GVOSDEV

Religious freedom has been recognised as one of the most fundamental of human rights, and is enshrined in a number of international legal documents. The non-binding Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, declares that 'Everyone has the right to freedom of thought, conscience, and religion; this right includes the freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief in worship, teaching, practice and observance' (Article 18).[1] More than 144 nations have ratified the International Covenant on Civil and Political Rights, of which Article 18 guarantees to an individual the right to religious freedom and to manifest his religion or belief 'in worship, observance, practice, and teaching', and forbids any sort of coercion 'which would impair his freedom to have or to adopt a religion or belief of his choice'.[2] A number of regional human rights treaties, among them the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 9), the 1969 American Convention on Human Rights (Article 12), and the 1969 African Charter on Human and People's Rights (Article 8) all contain explicit guarantees of the individual's right to freedom of choice and expression in philosophical, religious and ideological matters.[3]

Most states, in addition to ratifying international protocols that protect freedom of religion, have also recognised the principle of pluralism within their domestic constitutions or fundamental laws. A state like Saudi Arabia, which declares in Article 1 of its 'Basic Law' that 'The Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion; God's Book and the Sunnah of His Prophet, God's prayers and peace be upon him, are its constitution',[4] is a rarity in the modern world. However, as the US State Department concludes: 'Notwithstanding the existence of ... broadly accepted international instruments protecting religious freedom, there remains in some countries a substantial difference between promise and practice. Much of the world's population lives in countries in which the right to religious freedom is restricted or prohibited.'[5]

Indeed, the debate currently under way in many countries around the world focuses on finding the balance between respecting the freedom of the individual and maintaining societal cohesion. A publication of the Romanian State Secretariat for Religious Affairs comments that many societies around the world are now engaged in a 'deep search for identity, based on solidarity and convergence in diversity'.[6]

ISSN 0963-7494 print; 1465-3974 online/01/020081-10 © 2001 Keston Institute
DOI: 10.1080/09637490120074774

What remains unclear, however, is precisely where the boundary line is to be drawn between those areas subject to government regulation for the well-being of society and the freedom of individuals to determine their own beliefs. As Rousseau observed over two centuries ago in *The Social Contract*, 'The right which the social compact gives the Sovereign over the subjects does not, we have seen, exceed the limits of public expediency. The subjects then owe the Sovereign an account of their opinions only to such an extent as they matter to the community.'[7]

In dealing with the question of the right of the state to regulate and control religious matters, very few states have such an explicit statement as is contained in the Bill of Rights of the US Constitution that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof'[8] or as is found in Article 116 of the Australian Constitution: 'The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.'[9] Instead, clauses proclaiming the right to religious freedom are often modified, redefined or limited, either by other provisions within the constitutions themselves, or by providing for legislation to be passed 'clarifying' what is meant by religious freedom, or by setting up the state as the 'filter' through which an acceptable 'menu' of choices is laid out for the citizenry.

States have at their disposal four main strategies by which governments can legally restrict religious freedom – thus 'managing' the number of choices made available – yet maintain that they are in compliance with international treaty obligations as well as their own domestic fundamental laws. Even many 'democratic' countries, many of which currently do not substantially interfere in areas of religious freedom, nevertheless have such loopholes in their fundamental laws which would legally permit tightened restrictions on religious liberty if conditions changed.

The first and most overt method is the insertion of a so-called 'interests of the state' provision into the constitution, which grants to the government the power to proscribe groups and practices deemed to be in conflict with state goals. Article 70 of the Vietnamese Constitution, after guaranteeing religious freedom, states that 'no one can misuse belief and religions to contravene the law and the State policies'.[10] At the close of the Second Chapter of the Constitution of the People's Republic of China, which lists the various human rights protected by the Chinese government, Article 51 proclaims: 'The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society, and of the collective, or upon the lawful freedoms and rights of other citizens.'[11] Sometimes this type of clause comes in a more subtle version. Article 66 of the 1961 Venezuelan Constitution, for example, states that 'worship shall be subject to the supreme inspection of the National Executive' and that 'no one may invoke religious beliefs or disciplines in order to avoid complying with the laws'.[12] Turkey's Article 24.2 proclaims that 'acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14'. Article 14 prohibits the exercise of any right or freedom with the intent, among others, 'of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic ...'. When this is coupled with Article 13, the government has at its disposal powerful legal tools for diminishing religious freedom.[13] The Constitution of Paraguay likewise has its Article 128, the 'general good' clause, which states: 'In no case will the interests of individuals prevail over general interest. Everyone must co-operate in promoting the

good of the country by providing services and carrying out functions defined as public duties, which this Constitution and the law may establish.'[14]

A second way in which religious liberty may be constitutionally subverted is through the presence of contradictory articles within the text of the fundamental law, where the grant of religious liberty in one section is overtly or covertly eroded in another. Article 36 of the Chinese Constitution mandates that 'no one may make use of religion to engage in activities that ... interfere with the educational system of the state', yet Article 19 defines education as 'socialist' and the preamble links socialism explicitly to Marxism–Leninism, based upon an atheistic–materialistic concept of the universe.[15] In theory, any religious group, by asserting the existence of God and the spiritual world, is interfering with the work of the educational system which is designed to inculcate a materialist world view in its students. In Pakistan, Article 20 states that 'Every citizen shall have the right to profess, practise, and propagate his religion', yet Article 227 states that 'All existing laws shall be brought into conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah.'[16] Islamic law provides for only limited expression of certain faiths, namely Judaism and Christianity. Likewise, the Constitution of the Arab Republic of Egypt states in Article 46 that 'The State shall guarantee the freedom of belief and the freedom of practising religious rights',[17] yet Article 2 proclaims that 'Islam is the Religion of the State ... and the principal source of legislation is Islamic Jurisprudence (Sharia)'.[18] Thus the guarantees of religious freedom found in one part of a state's constitution may be completely contradicted by other articles in that same constitution.

A third way in which states may legally infringe religious liberty is by redefining 'religious freedom' in a narrower or more restrictive fashion than the general understanding of the term.[19] As Gerhard Robbers, Professor of Public Law at the University of Trier, points out:

> Most people will easily agree that it is legitimate and protected under religious freedom to believe or not to believe whatever one likes. The problems arise with a broader definition of religious freedom: the freedom to act according to one's belief. Other people's freedom, the interests of the community, the cultural setting – all these provide limits to the freedom to act according to one's belief.[20]

The classic example of redefining religious liberty to limit its application in society was to be found in the old Soviet Constitution (Article 52), where citizens were guaranteed the right to conduct only 'religious worship' but did not have an equal right with atheists to engage in 'propaganda' (for example education, agitation, proselytising and publishing).[21] However, attempts to limit religious freedom to certain specific activities such as worship are found in other constitutions as well. The Indonesian Constitution (Article 29.2) guarantees only 'freedom of worship' to its citizens, not freedom to act on their beliefs.[22] Argentinian citizens are entitled to 'freely profess their religion' (Section 14) while Section 19 states that 'The private actions of men which *in no way offend public order or morality*, nor injure a third party, are only reserved to God' (emphasis added).[23] This could preclude missionary work and attempts to seek converts, especially since the Argentinian government takes upon itself the obligation to support the Roman Catholic faith (Section 2). Article 13.2 of the Greek Constitution protects freedom of worship but bans proselytising,[24] on the basis of the assumption that the Orthodox Church, the 'prevailing religion' of the Greek state (Article 3), is the inherited religion of Greeks. Article 24

of the Turkish Constitution, stating that 'Everyone has the right to freedom of conscience, religious belief and conviction', focuses on individual, private belief rather than on corporate religious institutions.[25] The Syrian Constitution (Article 35) defines religious freedom primarily in terms of freedom to worship, obliging the state to guarantee 'the freedom to hold any religious rites, provided they do not disturb the public order'.[26]

Some states have tried to redefine religious freedom as a communal rather than an individual right: recognised communities may have the right to religious freedom, but individuals do not have the right to engage in missionary work or to change their faith. Following passage of legislation dealing with religious freedom in Armenia, the late Catholicos Vazgen commented in 1991: 'The law has also accorded freedom to other church and religious organizations and denominations. ... They are to practice in their respective communities only. Acts of conversion and proselytization are forbidden.'[27]

There are also disputes over what precisely the right to 'propagate' religion means, a term found in a number of constitutions in the Middle East and Asia. For many, propagation literally means the right only to bear children and raise them in a particular faith community to which they are attached by right of birth, and does not mean that a community has the right to seek out new members through missionary work and conversion. One is born into and dies in the faith of one's fathers. In some areas, therefore, it is not even possible formally to leave one's ancestral faith (except, in Muslim societies, by converting from a non-Islamic religion to Islam).[28] Religious freedom is thus reduced to a static category by which certain communities can safeguard their existence through reproduction, an understanding which clashes directly with a more western notion of individuals free to enter and leave faith communities at will.

While some states may attempt to restrict the definition of 'freedom' in order to compromise religious liberty, other states focus on providing a definition of 'religion' which restricts the term to a select number of options. A commonly-heard refrain in many parts of the world is that a 'religion' is characterised by its long-term historical association with and penetration of specific cultures belonging to distinct nations (for example Islam among Azeris, Orthodoxy among Georgians), while a 'sect' is a newer 'movement' characterised by rootlessness and lacking the sanction of tradition.[29] When asked to provide definitions of what constitutes 'religion' governments will thus tend to produce rather circumspect lists of what are perceived to be acceptable choices. In Lithuania, for example, the 1992 Constitution left undefined what constituted 'churches'. As a result, 'the Legislature had to "invent" the criteria, because the Constitution of 1992 did not provide any, except hints of societal support and cultural heritage ...'. The end result was a decision that a religion defined under the law as 'traditional' would be one which had enjoyed 300 years of continuous communal existence in Lithuania. Otherwise, religions would be defined as such under the law 'provided that they have a basis in society and their teaching and rituals do not contradict morality or the law' (Article 43:1).[30]

Many states – including most democratic ones – fall into a final category, possessing constitutional clauses that are vague and undefined with regard to mandating limitations on the right of religious freedom. In such countries restrictions on religious freedom may be justified on the basis of provisions found in international human rights law: the International Covenant on Civil and Political Rights does allow for limitations on the freedom to express or manifest one's religion if 'necessary to protect public safety, order, health, or morals or the fundamental rights

and freedoms of others'.[31] Such concerns, however, were never meant to justify sweeping restrictions on religious liberty. In the American context, the Supreme Court, in the landmark case Cantwell v Connecticut (1940), ruled how far such legitimate concerns could be used to limit religious freedom. In the Court's opinion, the religious liberty clause of the First Amendment

> forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts – freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection. In every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom.[32]

Thus, one can argue that restrictions upon religious freedom justified in the name of 'public order' or 'morals' are valid only if such regulations are non-discriminatory in nature – that is, they apply to all groups and individuals equally – and if they are proportionate in nature – that is, there is a direct and compelling link between the needs of society and the belief or practice being proscribed. Thus, banning human sacrifice or the practice of sati (a widow immolating herself upon her husband's funeral pyre), while perhaps violating specific tenets held by a religious group, are justifiable because of a direct conflict between the practice of such rites and the obligations of a state to secure the lives and welfare of its citizens.[33] This is explicitly stated in Article 12.2 of the Swedish Constitution:

> The restrictions [on human rights] may be imposed only to achieve a purpose acceptable in a democratic society. The restriction may never exceed what is necessary having regard to the purpose which occasioned it, nor may it be carried so far as to constitute a threat to the free formation of opinion as one of the foundations of democracy. No restriction may be imposed solely on grounds of political, religious, cultural or other such opinions.[34]

The danger is that ambiguities may be clarified in specific acts of legislation which have the effect of severely limiting religious freedom. In the Mongolian Constitution (adopted 1992), Article 16:15 explicitly guarantees the right to freedom of conscience and religion, but Article 19.3 states that 'In exercising one's rights and freedoms, one may not infringe the national security or rights and freedoms of others or violate public order.'[35] What precisely constitutes 'national security' or 'public order' are however left undefined in the constitution. A similar proviso can be found in the Constitution of Singapore, which, while protecting the right of individuals to 'practice and profess' their faith, nonetheless points out that 'This article does not authorize any act contrary to any general law relating to public order, public health or morality.'[36] Another good example of a vague provision can be found in Article 36.4 of the Chinese Constitution, which prohibits any religious body in China from being subject to 'foreign domination'.[37] To what extent does spiritual dependence on or association with a religious community or centre outside the boundaries of the People's Republic constitute 'foreign domination?'. In authoritarian states such

vague provisions about 'national security' or 'public order' give a wide degree of latitude for the state to ban or severely restrict freedom of religion. The Constitution of Italy likewise contains a vague proviso (Article 19) that 'All shall be entitled to profess their religious beliefs freely in any form, individual or in association, to promote them, and to celebrate their rites in public or in private, provided that *they are not offensive to public morality* (emphasis added)'.[38] How an offence against public morality is to be defined is left unsaid. A similar loophole exists in the Netherlands, where the following limitation (Article 6.2) is placed on the right to free expression of religious belief: 'Rules concerning the exercise of this right other than in buildings and enclosed places may be laid down by Act of Parliament for the protection of health, in the interest of traffic and to combat or prevent disorders.'[39] The free exercise of religion outside certain designated places is here left in the hands of politicians, who may not be willing to support the rights of minority or 'outlandish' faiths for fear of alienating their constituents. Denmark, which by law has an established church supported by the state (Section 4), permits citizens 'to form congregations for the worship of God in a manner consistent with their convictions, provided that nothing at variance with good morals or public order shall be taught or done' (Section 67). However, as with the established church, the rules of such 'dissenting' congregations, as they are officially termed, 'shall be laid down by Statute' (Section 69).[40] In theory, it would be possible for the Danish government to deny registration to a particular religious group on the grounds that its tenets were in violation of morals or order. Similarly vague language can be seen in Paraguay, whose constitution simply states that additional regulations on religious freedom may be imposed by law, without specifying any real limitations. Article 24.1 states that 'freedom of religion, worship, and ideology is hereby recognized without any restrictions other than those established in this Constitution and the law' while Article 24.3 states that 'The independence and autonomy of all churches and religious denominations, without restrictions other than those imposed by this Constitution and the law, are hereby guaranteed.'[41]

A number of constitutions contain provisions regarding respect for and maintenance of national traditions, such as Article 37 of the Constitution of Turkmenistan ('The exercise of rights and freedoms is inseparable from fulfillment by persons and citizens of their obligations before society and the government. Everyone living in or located on the territory of Turkmenistan is required to obey the Constitution and laws and respect the national traditions of Turkmenistan.')[42] or Article 12 of the Egyptian Fundamental Law ('Society shall be committed to safeguarding and protecting morals, promoting the genuine Egyptian traditions ...').[43] In Jordan, freedom of worship is explicitly placed in a cultural context: Article 14 of the Jordanian Constitution mandates that 'The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom ...'.[44] Since Article 2 defines Islam as the religion of the state, freedom of worship is therefore conditional upon Islamic tradition. To the extent that religion is identified with the national culture,[45] then, minority religious activity or missionary work can be banned on the grounds that it is an attack against the national culture rather than an infringement on religious liberty. Thus the move to identify a particular religion or expression of faith with the national culture, even when accompanied by the proviso that the state respects all religions and communities of faith, provides a way of eroding religious liberty protection for the population.[46]

Even a number of 'western' democracies have similar constitutional provisions. The Irish Constitution, promulgated in the name of the 'Most Holy Trinity' and

recognising 'all our obligations to our Divine Lord, Jesus Christ', does acknowledge that 'Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.' (44.2.1). However, Article 40 reserves to the government the right to restrict expression of opinion that could be used to 'undermine public order or morality or the authority of the State' and prohibits the 'publication or utterance of blasphemous, seditious, or indecent matter' (40.6.1(i)).[47] Could the denial of Jesus Christ as Divine Lord in the publications of a religious organisation, therefore, be considered an act of blasphemy and thus subject to proscription?

One of the principal threats to religious liberty is majoritarianism: the danger that parliaments and legislatures, reflecting the mores of the majority group in society, will take action against minority or dissident groups, using these vague provisions to ban particular rites, organisations or practices. Even Sweden, whose constitution, as cited above, prohibits the government from implementing any sort of restriction on rights beyond what is needed to secure a democratic society, nevertheless has legislation on its books that bans *shehitah* (the kosher slaughter of animals for Jews) and *halal* slaughter (as required by orthodox Muslims) as acts of animal cruelty (Animal Protection Act of 1988), as well as health-care regulations which define circumcision as a private, cosmetic surgery not covered by health insurance, thus placing a significant burden on Muslim and Jewish families.[48] Thus even in advanced industrial democracies provisions allowing for the restriction of religious practice on the grounds of public health, order or morality can place impediments in the way of free exercise of religious faith by minority groups.

Another set of concerns arises when the exercise of religious freedom is directly linked to the social positions espoused by particular faith communities. In an effort to maintain an atmosphere of peaceful coexistence among competing religious communities (itself a worthwhile and admirable goal), the Romanian Constitution declares that 'freedom of conscience is guaranteed; it must be manifested in a spirit of tolerance and mutual respect' (Article 29.2) and that 'any forms, means, acts, or actions of religious enmity shall be prohibited in the relationship among the cults' (Article 29.4).[49] Does this mean, however, that if a religious community aggressively markets itself as 'the true faith' or maintains that adherents of other traditions are deceived, it has violated this constitutional provision? A similar question might be raised about a clause in the Fundamental Law of Azerbaijan, which reads: 'Spreading and propaganda of religions humiliating people's dignity and contradicting the principles of humanism are prohibited.'[50] In this case, 'humanism' is interpreted as the promotion of cooperation and civility among citizens, the maintenance of the family unit, and patriotism.[51] A number of religious movements, particularly those that might preach loyalty to faith community over blood-kin, or the necessity for civil disobedience, or refusal to serve in the armed forces, would be particularly vulnerable to repression under such a provision.

Presenting the first annual report on religious freedom to the US Congress, Ambassador Robert Seiple noted that 'the world still has a long way to go before it fulfills the promise of the Declaration'.[52] Constitutional provisions regarding religious liberty are an important first step in ensuring that all human beings are able to practice this most fundamental human right. However, constitutions themselves can do nothing. In many cases, what appear to be solid guarantees of religious freedom when seen from afar reveal, after careful examination, fissures and cracks through which this precious right can slip away. The right of religious freedom is now accepted, in theory, by nearly every nation in the world. The challenge in the

coming century is to insist that states ensure that the actual exercise of that right be paramount, in order to transform the promises of the various declarations and covenants into reality.

Notes and References

[1] As quoted in Natan Lerner, *Religion, Beliefs, and International Human Rights* (Orbis, Maryknoll, NY, 2000), p. 129.

[2] On the number of states ratifying this covenant, see 'Executive summary', US Department of State, *Annual Report on International Religious Freedom for 1999* (GPO, Washington, DC, 1999), released by the Bureau for Democracy, Human Rights, and Labor, and posted 9 September 1999 at hyperlink: http://www.state.gov/www/global/human_rights/irf/irf_rpt/1999/irf_exec99.html; for the text of the relevant article, see Lerner, *op. cit.*, p. 131.

[3] Lerner, *op. cit.*, pp. 129–30, 135–36.

[4] Saudi Arabia, 'Basic Law on Government', as archived by the International Constitutional Law (ICL) project of Bayerische Julius-Maximilians Universität Würzburg, at hyperlink: http://www.uni-wuerzburg.de/law/sa_indx.html

[5] 'Executive summary'.

[6] Nicolae I. Brânzea and Ştefan Ioniţă (eds), *Religious Life in Romania*, trans. Carmen-Iulia Borceanu, Cristina Imbuzan and Giorgiana Zaha (Paideia, Bucharest, 1999), p. 9.

[7] Jean-Jacques Rousseau, *The Social Contract* (Geneva, 1762), (book 4, ch. 8), translated by G.D.H. Cole, public domain, rendered into HTML and text by Jon Roland of the Constitution Society, at http://www.constitution.org/jjr/socon_04.htm#008.

[8] Text as found in Martin Shapiro and Rocco J. Tresolini, *American Constitutional Law*, 4th edn (Macmillan, New York, 1975), p. 760.

[9] 'Australia – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/as00000_.html#S116 .

[10] 'The 1992 Constitution', at hyperlink: http://www.batin.com.vn/vninfo/constitution/chaptr5c.htm.

[11] 'China – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/ch00000_.html.

[12] 'Constitution of the Republic of Venezuela' as provided by the Embassy of Venezuela to the United States, at hyperlink: http://www.embavenez-us.org/politica/constitu.html.

[13] Article 13 states: 'Fundamental rights and freedoms may be restricted by law, in conformity with the letter and spirit of the Constitution, with the aim of safeguarding the indivisible integrity of the State with its territory and nation, national sovereignty, the Republic, national security, public order, general peace, the public interest, public morals and public health, and also for specific reasons set forth in the relevant Articles of the Constitution.' '1982 Constitution', Ministry of Foreign Affairs, Republic of Turkey, at hyperlink: http://www.mfa.gov.tr/grupc/ca/cag/Part2.htm.

[14] 'Paraguay – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/pa00000_.html.

[15] 'China – Constitution'.

[16] Text of the Constitution of Pakistan as maintained by Stanford University, at hyperlink: http://www.stanford.edu/group/pakistan/pakistan/constitution/part2.ch1.html and hyperlink: http://www.stanford.edu/group/pakistan/pakistan/constitution/part9.html.

[17] 'The Constitution of the Arab Republic of Egypt' as presented by the People's Assembly, at hyperlink: http://www.parliament.gov.eg/en_aconst41.htm.

[18] *ibid.*, at hyperlink: http://www.parliament.gov.eg/en_aconst43.htm.

[19] Article 27 of the 1994 Ethiopian Constitution provides a lengthy description of precisely what activities are covered by 'freedom of religion and belief,' as it is generally understood, noting that 'This right shall include the freedom to hold or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and

teaching.' See 'Ethiopia – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/et00000_.html.

[20] Gerhard Robbers, *Religious Freedom in Germany*, paper presented at the Seventh Annual International Law and Religion Symposium, 10 October 2000, Brigham Young University, Provo, UT, p. 3.

[21] Text of the Fundamental Law of the USSR (1977) as found in Gordon B. Smith, *Soviet Politics: Continuity and Contradiction* (St Martin's Press, New York, 1988), p. 347.

[22] 'The 1945 Constitution of the Republic of Indonesia', Department of Information, Republic of Indonesia (1989), archived at hyperlink: http://asnic.utexas.edu/asnic/countries/indonesia.ConstIndonesia.html.

[23] 'Argentina – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/ar00000_.html.

[24] 'Greece – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/gr00000_.html.

[25] '1982 Constitution', Ministry of Foreign Affairs, Republic of Turkey, at hyperlink: http://www.mfa.gov.tr/grupc/ca/cag/Part2.htm.

[26] 'Syria – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/sy00000_.html.

[27] Hratch Tchilingirian, 'Conversation with His Holiness Vazken I, Supreme Patriarch and Catholicos of All Armenians', *Window Quarterly*, vol. 3, no. 1, 1992. ACRAG c. 1992. On-line version at hyperlink: http://www.sain.org/WINDOW/Armenia6.txt.

[28] See the comments of Metropolitan George Khodr of Mount Lebanon in 'The Church of Antioch', *Orthodoxy 1964* (Zoe, Athens, 1964), pp. 267–69.

[29] The 'Preamble' to the 1997 law of the Russian Federation 'Freedom of Conscience and Religious Associations' seems to make this point, that a 'religion' is tied to a nation's socio-cultural heritage, in identifying Orthodoxy's 'special role' in the 'history of Russia, in the establishment and development of her spirituality and culture' as well as recognising the other religions that comprise 'the integral part of the historical heritage' of the other peoples of Russia. See *Federal'ny zakon o svobode sovesti i o religioznikh ob"yedineniyakh* (Os'-89, Moscow,1998), p. 3.

[30] Arnoldas Matijosius, *Some Legal Aspects of Freedom of Religion and Belief*, paper presented at the Seventh Annual International Law and Religion Symposium, 10 October 2000, Brigham Young University, Provo, UT, p. 4; 'Lithuania – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/lh00000_.html.

[31] Article 18.3, in Lerner, *op. cit.*, p. 131.

[32] Cantwell v Connecticut, 310 US, 296, 60 Sup. Ct. 900; 84 L. Ed. 1213 (1940), cited in Shapiro and Tresolini, *op. cit.*, pp. 460–61.

[33] Such was the position taken by the US Supreme Court in Reynolds v. United States, 98 US 145 (1878), cited in Shapiro and Tresolini, *op. cit.*, pp. 450–51.

[34] 'Sweden – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/sw00000_.html.

[35] 'Mongolia – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/mg00000_.html.

[36] 'Singapore – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/sn00000_.html.

[37] 'China – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/ch00000_.html.

[38] 'Italy – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/it00000_html.

[39] 'Netherlands – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/nl00000_.html.

[40] 'Denmark – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/da00000_.html.

[41] 'Paraguay – Constitution', ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/

pa00000_.html.

[42] 'Constitution of Turkmenistan', as provided by the Law and Environment Eurasia Partnership, at hyperlink: http://www.ecostan.org/Laws/turkm/turkmenistancon.html.

[43] 'The Constitution of the Arab Republic of Egypt', at hyperlink: http://www.parliament.gov.eg/en_aconst42.htm.

[44] Text of the Constitution as provided by the Jordanian parliament, at hyperlink: http://www.parliament.gov.jo/english/index.htm.

[45] In Turkmenistan, for example, President Saparmurat Niyazov walks a fine line, identifying Turkmen culture with Islam, but not with Muslim legislation and practice as reflected in the Hadiths (sayings of the Prophet). See his statements on Turkmen Television (Channel One), 10 January 2000, as relayed by the BBC Monitoring Service and archived at hyperlink: http://www.soros.org/turkstan/omri/0005.html. He thus is in a position to attack both Christian missionaries and Islamic traditionalists as betraying 'authentic' Turkmen tradition.

[46] Consider, for example, the curious phrasing of Article 9 of the Constitution of the Republic of Georgia, which states: 'The state recognises the special importance of the Georgian Orthodox Church in Georgian history but simultaneously declares complete freedom of religious belief and confessions, as well as independence of the church from the state.' (Taken from the text published by the Georgian government and archived at hyperlink: http://www.parliament.ge/GOVERNANCE/parl/L_A/S_P/CONSTITUTION/consten.html.)

[47] 'Ireland – Constitution' ICL Project, at hyperlink: http://www.uni-wuerzburg.de/law/ei00000_html.

[48] Jonas Alwall, 'Religious liberty in Sweden: an overview', *Journal of Church and State*, vol. 42, no. 1, 2000, pp. 156–57, 161.

[49] Text as provided in *Constitution of Romania (1991)* (Monitorul Oficial, Bucharest, 1999), p. 17.

[50] *Constitution of the Azerbaijan Republic* (State Publishing House of the Azerbaijan Republic, Baku, 1995), p. 5.

[51] As relayed to the author. A similar attitude about the role of religion can be seen in recent public statements made by Patriarch Aleksi II of Moscow: 'Respecting the right of every individual to confess a religion or to confess no religion, the Church must decisively protest in the interests of the people against the negative influence on society of totalitarian sects, which divide families, which inculcate hatred in children for their parents, which discredit in the eyes of young people an understanding of civic responsibility and patriotism. Our Lord warned us: "Every Kingdom which is divided within itself falls; and every city or home which is divided within itself cannot stand" (Matthew 12:25).' Aleksandr Batygin, 'Zhizn' nashego naroda vse-taki mozhet byt' ustroyena na nachalakh spravedlivosti i dobra', *Rossiiskaya gazeta*, 6 January 2001, and distributed by the Communications Service of the Department of External Church Relations of the Moscow Patriarchate, at hyperlink: http://www.russian-orthodox-church.org.ru:81/nr101101.htm.

[52] 'Introduction', at hyperlink: http://www.state.gov/www/global/human_rights/irf/irf_rpt/1999/irf_intro99.html. Published text: US Department of State, *Annual Report on International Religious Freedom for 1999* (Bureau for Democracy, Human Rights, and Labor, Washington, DC, 9 September 1999).