

# **faith** **in Europe**

## **BRIEFINGS**

No. 23, July 2015

### **In This Issue:**

**Russia**

**The Equality and Human Rights Commission: Religion  
or Belief Issues**

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# Karelia and Kamchatka

Xenia Dennen

11 July 2013

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## Introduction

Since the turn of the century I have been involved in the research behind what at Keston Institute we call the *Encyclopaedia on Religious Life in Russia Today*, which in seven volumes covers all Christian denominations and religions in all the administrative divisions of the Russian Federation. We are now working on a second edition which will be more analytical, focusing on the most important religious groups which are significant players in today's Russia.

This year my field trips have included one to Petrozavodsk in Karelia, north of St Petersburg at the western end of Russia, and most recently one to the very opposite end of Russia, Kamchatka, which is even further east than Vladivostok. The Karelian Republic, covering 172,400 sq km, has a population more than twice the size of Kamchatka's and Kamchatka is 1½ times larger than Karelia. Both areas were the focus of virulent antireligious activity during the communist period, so that few churches were left standing in Karelia and none whatsoever in Kamchatka.

## Karelia: Petrozavodsk

### *Church-state relations*

A tradition of tolerance was established in the early days of *perestroika* by an official, Boris Detchuyev, who was in charge of official

policy towards religion in 1987 when church-state relations in Karelia dramatically improved thanks to him. As early as 1989-1990 he and officials from the mayor's office visited all the main religious groups in Petrozavodsk, and apologised for all the devastation caused by the atheist campaigns of the communist authorities. He firmly supported freedom of conscience. Today Viktor Birin is head of the Department for National Policy and State-Confessional Relations, and responsible for official policy on religion. Birin continues this tradition of tolerance. The local authorities cooperate with the Orthodox, Lutherans, Pentecostals and Adventists and invite representatives from all religious groups to round-table discussions and seminars. Even an International Day of Tolerance (16 November) is officially observed in Karelia.

### *Roman Catholics*

I will start with talking about the Catholics because it was their priest who gave us the contact number for the diocesan secretary and thus an entrée to the Orthodox Church as well as the telephone number for an Orthodox priest in a nearby town, Kondopoga.

Fr Yevgeni Gendriks (Hendricks), whom I had known 20 years earlier in St Petersburg, met us outside his church, Our Lady of Perpetual Mercy, a nineteenth-century building, quite small but well-appointed. He

lived, he said, in a flat with four parrots, a cat and a guinea pig! The church had been used by the Composers' Union of Karelia until Fr Gendriks got it back in 2003, nine years after his parish had been registered. 90% of Catholics in Karelia were Belarusians, with a few who were part-Polish, very few Lithuanians and Ukrainians, and no Germans at all as they had all left before the Second World War, and anyway most of them had been Lutherans. The Petrozavodsk and Karelia Diocese of the Orthodox Church, headed by Archbishop Manuil whom Fr Gendriks had known many years before *perestroika* in St Petersburg, was an area, he said, where you could have a 'normal religious life'. He had a children's group, but no Sunday school as this would face many problems from the Ministry of Education, but he had six to seven people a year attending catechisation lessons and a few converts each year. His church was 'a church of believers', did not encourage 'seasonal Christianity' and was growing slightly. With the help of his assistant priest, Fr Mikhail, and four parishioners the church had been restored. There were no nuns working in the parish, and as they were nearly always Polish 'they usually interfere in pastoral work' (I knew Fr Gendriks was critical of his church for having so many Polish priests in Russia): 'a parish must maintain itself', he added. There were a few young people in his congregation; some doctors and teachers too. Archbishop Manuil was '*simpatichny*': 'our relations are excellent; I have no difficulties'; the bishop maintained good relations with all denominations, especially with the Lutherans, the largest denomination in Karelia after the Orthodox, and helped the Catholics to get back their church. The diocese, he observed, was one of the poorest: most of the clergy, however, had higher education and 'they don't have expensive cars!' He attended the Orthodox

liturgy in the cathedral and was allowed to stand in the sanctuary, while Orthodox clergy attended his Christmas Mass. The local authorities promoted good inter-denominational relations and a local official had even said 'proselytism in Karelia is not a crime'. His relations with the Lutherans were also excellent: they had given his church its organ.

### *Russian Orthodox*

By the end of the 1980s there were only five Orthodox parishes left in Karelia. Only in 1990 was a Petrozavodsk Diocese created with Archbishop Manuil in charge. He had been trained at the Leningrad Spiritual Academy and had spent 1977-78 at the Ecumenical Centre in Geneva. Today the diocese has 78 parishes, 90 churches, 155 chapels, 86 priests and 14 deacons.

### *Fr Vyacheslav Rasputin: Missionary Department*

Unfortunately the bishop was in hospital at the time of our visit, so a meeting was arranged with the head of the missionary department, Fr Vyacheslav Rasputin. He was a Karelian who had been brought up in an atheist family. He was converted through the Salvation Army but had then been 'told mystically' to go to the Orthodox Church. Now for the past 13 years he had been involved in mission in south Karelia where there was a dearth of Orthodox clergy. The bishop's main priority was theological education, but so far no seminary had been founded - there were insufficient potential students, no qualified teachers and no funding. Nor had the university either a department of theology or a chapel. The clergy were trained in Moscow or St Petersburg, but not in Finland. Of the 90

churches in the diocese, only 40 were really functioning, the rest being 'Potemkin villages'; but there were many (100+) chapels where a lay person led the worship. His missionary department had three aims: mission to the baptised who knew little about church worship and beliefs; mission to those outside the church; and mission to distant areas, like Tuva. His department worked with Protestants on social work projects with funding from the Finnish Orthodox Church, while Orthodox relations with the conservative Lutheran Church of Ingria, he added, were 'neutral'. Society, he commented, was uncouth, people believed in anything, could not distinguish one denomination from another. Paganism still existed among the Veps, a small ethnic group. In the schools only 15% of children had chosen to study the Orthodox course 'Foundations of Orthodox Culture, with 70% taking the course on secular ethics.

### ***Fr Konstantin: Youth Department***

During this meeting we were joined by Fr Konstantin, head of the youth department. He was particularly keen on organising groups of young people to help excavate battle zones, after which any bodies found were reburied: 'In the past we destroyed so much that was sacred... A Christian must be patriotic. I treat the ground here where blood was spilt as holy.' He worked in six higher education institutions and organised courses for which his department had bought a large number of Bibles from the Pentecostals at a discount! About 2000 students were involved in social work, visiting hospitals and children's homes. It was difficult to teach religion in schools as the Ministry of Education was trying to block the introduction of the Orthodox course Foundations of Orthodox Culture. Society in

general was anticlerical and still affected by the communist past. In 2008 a church which had been restored was burnt down and yet the local authorities refused to investigate the crime. 'The gulag system was here and still has an effect. The sons and grandsons of those who were in power in the 1930s are in charge now. We have been brutalised and our area is depressed.'

### **Kondopoga (about 50 km north of Petrozavodsk)**

#### ***Russian Orthodox***

Fr Lev Bolshakov moved from St Petersburg to Karelia in 1991. He trained as an architect (his wife was a painter) and had belonged to educated Leningrad dissident circles before *perestroika*. He had regularly visited Moscow in the 1980s where he had got to know Fr Aleksandr Men', Fr Pavel Adel'geim and Fr Georgi Kochetkov. Archbishop Manuil, as Fr Yevgeni Gendriks had told us, was a tolerant bishop and someone Fr Lev clearly greatly respected; he was ordained by him and in 1991 had got a parish registered in Kondopoga. His parish council were first given a hut for their services, until in 2005 his congregation started to build a proper church which now stood in all its splendour in the evening sun. Fr Lev was concerned about education and regularly lectured at the university in Petrozavodsk and other colleges. He was also often asked to speak on the radio and television. He had organised eleven groups in his Sunday school with a total of 120 children; and ran summer camps at which the children, many street children, as well as having fun joined groups studying maths, art and astronomy. In order to help teachers connect their work with religious faith, he invited them to the library (in the parish house where we were sitting) and held

seminars for them. There was little religious education being taught in the schools, and few children had taken up the Orthodox course Foundations of Orthodox Culture. Fr Lev and his parish had publicly supported the local Pentecostals and Lutherans who had wanted to build their own church. The Orthodox who campaigned against this were 'psychopaths' in his view. He condemned nationalism, adding 'this crucified Christ'.

### *Indigenous people: the Veps*

Fr Dosifei Larionov was another Orthodox priest whom we interviewed. He had been working in the Veps area (*Vepsky volost'*) since 2000 and had created the first parish for Veps in Sheltozero. He now looked after five churches in the area. Educated and trained for the priesthood in St Petersburg, he arrived in Sheltozero aged 20 with just his cross and a small bag, he recounted. He was offered a large building on the edge of the village which was in a dreadful state of repair, once the home of a priest who had been shot in 1937, then used as a police station and later a library. 'I am surrounded by a sense of the martyrs', he said. He had restored this building, created a church inside and added a section where visitors and pilgrims could stay. After 70 years when religion had been crushed 'you cannot revive spiritual life quickly', said Fr Dosifei. The Veps had a cult of the dead and visited cemeteries on Trinity Sunday and Easter Day rather than coming to church; in a club housed in a former church they had 'danced on the bones of their ancestors'. They were converted to Orthodoxy, he added, later than the Karelians and were less open to the outside world. Although the Bible had been translated into the Vepsian language it was not in demand. The culture was dying out and survived as folklore with an admixture of witchcraft; a

Veps Society existed but it was interested only in the language and traditional customs. Luckily a local monastery, the Blagoveshchensky Iono-Yashezersky Monastery, had been founded in the sixteenth century by a Veps saint whose veneration Fr Dosifei was cultivating. The monastery had been closed in 1918 and all the monks shot; he had raised the money to start restoring the monastery with the help of rich contacts in St Petersburg and had been its abbot since 2003. The community consisted of only five monks who lived in Sheltozero while helping restore the monastery buildings, and supporting religious life in a number of villages. The area was extremely poor and sparsely populated. Last year Fr Dosifei was put in charge of all monasteries in the diocese, but most were in a dreadful state of disrepair apart from the Valaam Monastery which was directly under the jurisdiction of the Patriarch rather than the local diocese.

### *Lutherans*

The Lutheran parish of the Church of the Holy Spirit was founded in 1970 and was run from Estonia until 1992, when the Church of Ingria was set up. We spoke to Pastor Aleksei Krongol'm who was now this church's pastor and Area Dean for all Karelia's 15 Lutheran parishes (2 in Petrozavodsk). Lutheranism had been part of Karelian religious life since the time of Peter the Great and had entered the area from Finland and Sweden. The first Lutheran church was opened in Petrozavodsk in 1873. After the Manifesto of 1905 and the Act of Toleration, Lutheran missionary work among Karelians intensified, provoking Bishop Sergi (Stragorodsky) in 1909 to gather representatives from all the Russian Orthodox parishes in Karelia and to galvanise them into resisting this 'Finnish-Lutheran expansion'. Today, however, Lutheranism and Orthodoxy

coexisted with no friction, partly thanks to the tolerant policies of Archbishop Manuil. Pastor Aleksei was not a liberal but adhered to the conservative theological views of the Church of Ingria which does not accept the ordination of women. Most members of Pastor Aleksei's parish were Ingermanlandtsy (70%) who were close to the Finns but had their own dialect; few members were Karelians (many Finns and Karelians had emigrated to Finland). The young people who came to his church were Russians, however, so both Finnish and Russian were used for services. The church building was new: it had been opened two years earlier and had taken ten years to build. About 100-150 attended church on Sundays and 400-500 at Christmas and Easter. Pastor Aleksei wanted a course on Lutheranism to be taught in schools, but found this was not allowed, and no Lutherans were ever invited into schools to speak to the children. Although the local government did not create 'difficulties' for Lutherans, he found no great sympathy coming from that quarter. There was never any mention of Lutheranism on Russian TV programmes. 'We maintain a neutral position. We don't perhaps make enough fuss and we avoid conflict.' Nevertheless, there was no animosity between Orthodox and Lutherans, and some Orthodox clergy sometimes visited his church at Easter.

Pastor Vadim Lysenko, in his 20s, was in charge of the Lutheran church in Kondopoga, a new building paid for by Finnish Lutherans who continued to fund maintenance costs. He was born in Kiev and came to Karelia when he was five. He had joined a Lutheran youth group in Olonets when he was 14 with a Finnish pastor in charge. Although not interested in national differences - 'we make no distinction between one nation and another' - he said that Finnish culture

permeated his church (Church of Ingria) and he included Finnish in parts of Sunday services; for example the Creed and the Lord's Prayer were said in Finnish which the older generation loved. He also ran a Bible study group in Finnish—all the members were OAPs. But most Finnish speakers had left for Finland three years ago, so that now the majority of his congregation spoke only Russian; no one spoke Karelian (it was not taught in school and no one was interested in the Karelian translation of the New Testament). On a regular Sunday he usually had a congregation of about 60, with 87-100 on Christmas Day and 150 at Easter. There was no youth group as few young people remained in Kondopoga after school; the town offered only a technical college and the young went elsewhere to study. But he ran a Sunday school with two groups, one for pre-school children, the other for older children. His church also had a 10-member choir and an effective diaconate whose members cared for the elderly. But when he and his colleagues visited children's homes they were banned from speaking about God. Lutherans were not allowed to teach in schools, although he added the comment that were a Lutheran religious course offered some schools might accept it. A local tourist company which organised trips to Valaam, Solovki and Kizhi regularly brought groups to visit his church's café where he would chat with them and answer their questions about religious faith. Relations with the Orthodox were extremely friendly: the Orthodox had joined up with the Lutherans in a service for disabled children and those from deprived backgrounds, while some Roman Catholics came to their Christmas service. He was a good friend of the young Catholic priest in Petrozavodsk who worked with Fr Gendriks. The consultative committee in the Kondopoga town administration included representatives

from his church, but no Catholics, he added.

### *Church of Ingria*

What was distinctive about the Church of Ingria in Petrozavodsk? Although the Ingrian church had not existed during the Soviet period, it was now rooted in the area, and had unusually cordial relations with the secular authorities; it was considered a 'half-traditional' religion unlike the Charismatics; it had now become mainly Russian; unlike the Roman Catholics with the sharp divide between Polish attitudes and Russian 'mentality', the Lutherans held together different ethnic groups.

### *Schismatic Lutherans*

A Karelian group of Lutherans who supported the ordination of women existed in Sortavala. A woman deacon, Valentina Petrovna Eliseyeva, and Pastor Raimo Yakkinen founded the Karelian Evangelical-Lutheran Church in 1998 after they fell out with the Church of Ingria's leadership, accusing them of behaving like dictators and ignoring Karelian national interests. The members of this group (about 150, with 30 children) were all in the north and supported financially by the descendants of fellow Karelians who had emigrated to Finland from Sortavala. We gathered that this group had become 'lethargic', but thanks to the recent ordination of a new pastor, Aleksandr Kuznetsov, an educated man, by a Finnish bishop, there were hopes that the group would be revived.

### *Salvation Army*

The Salvation Army in Petrozavodsk had about 40 regular members under the

command of Leonid Vasil'yevich Badanin who was grateful for the official ban against antisectarian articles in the press. He and his colleagues distributed humanitarian aid throughout the republic, worked with down-and-outs, collected clothes for the needy and gave out food. The local authorities allowed them to collect money on the street to help single mothers, but they found that their uniforms were the subject of some local jokes. Nevertheless, Badanin believed that he and his colleagues would soon be able to organise Salvation Army parades when they would all be dressed in their uniforms.

### *Pentecostals*

The Pentecostal church, part of ROSKhVYe (the Russian United Union of Evangelical Christians), was run from Finland where its leader, Vasili Vladimirovich Butov, a Senior Presbyter, had lived since 1984, with his deputy Andrei Vasil'yevich Timofeyev living in Petrozavodsk. The church had been founded in Sortavala by Finnish preachers in 1907 but was destroyed by 1937. After the Second World War, with the return of many from the Gulag, groups of Pentecostals reappeared. They were forced to join the Baptist All-Union Council in 1967, but later either joined the *Initsiationiki* (Reform Baptists) or formed independent Pentecostal congregations. Since 1998 Butov had built up 11 congregations which were registered as part of an independent Karelian association; these included a Bible Institute in Sortavala where missionaries were trained. Butov was suspicious of Western values coming in from Finland, and particularly of the Charismatic movement; he felt more at home with traditional Russian Baptists. In Petrozavodsk the Pentecostals had now built a church which could hold 500.

## *Charismatics*

The other main Pentecostal church in Karelia was the 'New Life' Charismatic church, led by Senior Presbyter Fedor Vladimirovich Akimenko, which had a congregation of 500 in Petrozavodsk and a Sunday school of 150 children. Throughout Karelia it ran 50 churches and groups, three of which had congregations of about 200. Twenty of these groups had created their own churches out of former shops or school buildings, while in Petrozavodsk the mayor's office had given them land to build a prayer house. Although the leadership had initially come entirely from Finland, now the church leaders were all Russian. They worked closely with the Church of Ingria on social work projects, and ran an Alpha course which the Russian Orthodox missionary department supported. The Orthodox had also helped 'New Life' to organise a summer camp for wheelchair-bound young people. Fyodor Akimenko was received by Archbishop Manuil whose Christian beliefs impressed him deeply.

## **Kamchatka**

### *Russian Orthodox*

Under Patriarch Kirill the Moscow Patriarchate has become even more centralised; the Keston Encyclopaedia team now find that generally no priest can meet you without his bishop's blessing (Karelia was unusual). This time the Bishop was away in Moscow, so we had a long wait while his press secretary got in touch with him to find out whether any clergy could meet Sergei Filatov and me. Eventually, after a day and half, the message came back 'get the most articulate clergy together and tell Sergei Filatov and the English woman all that is best

in the diocese!' We were greatly relieved. We were received in the Bishop's council chamber in the new Trinity Cathedral which stands imposingly above Petropavlovsk-Kamchatsky, the capital. The diocesan secretary, the head of social work and the abbot of a new monastery in charge of all religious were there to meet us.

There had been 64 parishes before the Revolution, all of which had been closed by the mid-1920s; now there were 25 and 40 clergy. Because of the very low standard of living (food is very expensive as most has to be brought in by air or sea) parishes could not support a priest, but churches and clergy in district centres were funded by the Governor (V.I.Ilyukhin). They claimed that 10% of those in isolated northern villages, mostly with populations of no more than 500-600, were Orthodox, while in the cities the figure was only 7-10%. Their missions to villages, many of which were accessible only by air, consisted usually of a priest and a seminarian from the Belgorod seminary with which the diocese had close links. The two would spend three to five days in a village. The abbot, Fr Fedor, believed that many of the indigenous people (Karyaks, Aleuts, Evenki) had a 'genetic memory' and remembered Russian Orthodox rituals; many remembered the place where a priest had been murdered by the Soviet authorities; many were keen to build chapels, he said. Although they went on to claim that the population as a whole in Kamchatka was 80% Orthodox, they admitted that only 23% of children had opted to do the school religious studies course, Foundations of Orthodox Culture – a useful yardstick for assessing the number of Orthodox believers. Eight young men were studying for the priesthood, some in Moscow some in Khabarovsk. Those clergy with children were keen to found a Russian Orthodox secondary

school where the children could be nurtured in the Orthodox faith, but it was proving difficult to find suitable teachers. There seemed to be few members of the intelligentsia who were interested in the church, except for one who ran a local library. This was very different from most provincial cities where we found educated people who were keen supporters of the Orthodox Church running the local museum, for example, or some cultural club. Nevertheless, there were plans to found a religious-educational centre, the Nicholas the Wonderworker Centre, next to the cathedral. The priest in charge of social work, Fr Viktor Muzykant, told us about a sisterhood of 25 women, the Martha and Mary Sisters, who helped care for the disabled, the elderly and those in hospital. This community of women (they were not nuns) had existed for ten years. In the centre of the city the church ran a youth centre, founded in 1999, which had a chapel, and a youth camp for 9-18 year-olds out in the country on land belonging to a convent. Some work was being done with prisoners: a priest regularly visited inmates and ran a community for former prisoners in the countryside where members of the community helped locals with building and repairs. The church helped at three feeding stations in the city where medical help and clothes were provided, and planned to found a centre for single pregnant women with a view to preventing abortions. The local authorities welcomed the Orthodox Church's help in the social field and were able to provide some funding with state grants for non-commercial organisations.

We visited Fr Fedor's St Panteliemon Monastery with 13 monks plus another 12 men, many former sailors, who were helping flatten out the ground for the foundations of a new church. This would one day look out

over the sea and would be dedicated to the memory of all sailors lost at sea. From there we were taken on to the only convent in Kamchatka, dedicated to the Kazan' Icon of the Mother of God, where a rather scary former army commander now turned Orthodox priest, Fr Aleksei Alpatov, ran the church's summer camp for teenagers along military lines with strict discipline. The youngsters were dressed in camouflage and handled guns, while also being taught hand-to-hand combat. 'We aim to produce citizens', said Fr Aleksei, by which he meant Russian nationalists ready to defend the motherland against the dreadful West.

### *Catholics*

High up on the hillside above Petropavlovsk-Kamchatsky is a tiny Catholic church founded in 1999 and dedicated to St Theresa, standing in a recently created garden beside a mountain stream. You reach it along a dirt track. There Fr Jan Radoń, a Polish priest who belongs to the Polish Charismatic movement, serves a small community of about 30 – mostly Lithuanians and Ukrainians as well as a few Russians. Some of his parishioners are the children of those exiled to Kamchatka during the communist period. Fr Jan had worked before in Ukraine and Magadan and had now been in Kamchatka for five years. He planned to build a youth centre and a centre for children on land next to the church, as he saw a great need for working with the young. He had tried many times to see the local Orthodox bishop, but to no avail. Not once had been received. His own bishop was based in Irkutsk. He told us how he had formerly been a professional volleyball player for seven years – thus he was, not surprisingly, extremely tall! He worked alone after the visas for two nuns were taken away. He found that many young Russians were

interested in joining the Catholic Church as it was more 'approachable'; they had been put off Russian Orthodoxy by its rigidity on how you should dress. Kamchatka, he said, was 'different' from other areas of Russia after all forms of religion had been destroyed by the communists, leaving all religions on the same level in the eyes of the younger generation, who did not see Orthodoxy as superior to other denominations. The young were delighted to find a priest who liked to play sport, was not always in a cassock and smiled, unlike the Orthodox clergy whom they found always looked grim. He thought the Orthodox were afraid of the modern world.

He was regularly invited by the local government to attend a quarterly meeting of representatives from all denominations, apart from the Jehovah's Witnesses and the Reform Baptists (who on principal have no contact with state bodies) but was regularly checked (eight times a year) by the Procuracy and the FSB, who once called at 1a.m. to look at books and journals in order to see whether they contained anything critical of Putin.

### ***Protestants***

Apart from some small congregations of Baptists and *Initsiativniki* (Reform Baptists) as well as members of the highly conservative Pentecostal group the *Fedorovtsy*, the fastest-growing Protestant group in Kamchatka we found to be a Charismatic church, the Full Gospel Church or Good News Church which for ten years had been building a vast modern church on the edge of Petropavlovsk-Kamchatsky, large enough to hold at least 2000 worshippers. One of their pastors, a former marine called Dmitri, introduced us to members of his church from the indigenous peoples, the Karyaks, Aleuts and Evenki, who said that they were treated as equals by the

Full Gospel Church, unlike the Orthodox who visited their villages and treated them as inferior. Andrei, half Aleut and half Mordovian, a champion dog-sleigh driver, had become an effective missionary visiting isolated villages in the winter and staying in each for at least three weeks. Because he neither drank nor swore, the villagers, he said, would begin to ask him 'why are you like this?', whereupon he would talk about his Christian faith. As we were shown round the vast new church, I noticed many young people, some preparing to play in a band, others gathered round a table in a side room and having a lively get-together.

### **Conclusion**

My experience of many different parts of Russia has made me wary of making generalisations about the religious situation in Russia, but one I have often made in recent years after visiting the Far North, Siberia and the Far South, is that the further away you get from Moscow, the more tolerant are interdenominational and interfaith relations. However, my experience in Kamchatka has not supported this theory, alas. Karelia, in the European part of Russia and therefore rather closer to Moscow than some of these other areas, turned out to be one of the most tolerant areas, whereas in Kamchatka, the farthest east that you can get, the Russian Orthodox diocese was intolerant and had nothing whatsoever to do with either Catholics or Protestants.

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# Radicalism or Reconciliation in Russia? Focusing on Religion in the North Caucasus

Neville Kyrke-Smith

11 July 2013

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## Censorship, imprisonment and death

A friend of mine in Moscow, who will remain nameless, recently told me how his offices had just been raided and files taken away – his Christian ecumenical work had come under suspicion, through contacts with foreign organisations and charities. Many other important NGOs have been closed down – human rights organisations in particular have been targeted, as have any liberal media outlets. How many journalists from *Novaya gazeta* have been killed in recent years? I think it is five. People may have heard of the heroic Anna Politkovskaya and read her journals, but I saw a figure of a total of 17 journalists and cameramen who have been killed – plus hundreds of disappearances – in Russia since 2000. Last year in June, you may recall, General Aleksandr Bastrykin, head of Russia's Investigative Committee, personally threatened to kill Sergei Sokolov, the deputy editor of *Novaya gazeta*, because of his critical coverage of his agency.

Mysterious deaths and disappearances, or kidnappings, have not just been confined to writers, human rights workers and journalists. We know of the big businessman and others falling out with President Putin and with those who control the levers of power in the Kremlin – from Mikhail

Khodorkovsky to Sergei Magnitsky (murdered in prison in 2009) we have seen the cost of crossing a thin 'red' line. The unsolved (or untried) murder of Alexander Litvinenko in 2006 was perhaps the most public revelation of the work of the Russian secret services (FSB) – even if he may have been a double or triple agent. Politically, it is said that one of the most dangerous jobs in Russia is that of being a mayor – *Russakaya planeta* recently reported that more than 100 mayors have been dismissed from their jobs or charged with crimes and imprisoned in the last five years – all of them had run and won against United Russia candidates. The popular mayor of Yaroslavl', Yevgeny Urlashov, a human rights activist and lawyer, was warned and then arrested just over a week ago on trumped-up charges just after he had organised a protest of several thousand people against United Russia.

## Foreign policy and security

There is an icy blast as we move towards a new Chill War if not a Cold War, played out amidst the conflicts of the Middle East; or rather the Russian Eastern Question has yet to be answered. The combative Russian position on Syria and the Middle East is challenging the West and Western policy – perhaps rightly – but this is seen as a renewed assertiveness by Russia. (Remember Putin's inscrutable look

when meeting the Prime Minister, David Cameron, at the G8 in Northern Ireland). The crackdown on possible terrorists and the shooting of those thought to be planning an attack in Moscow in late May 2013 – two died – seems to show that the approach is still shoot first, ask questions later. Now with the Winter Olympics in Sochi to be held in February 2014, there is an extra reason to be tough. Last month Doku Umarov, the so-called leader of the Islamist Movement in Russia, stated in a video that

*They plan to hold the Olympics on the bones of our ancestors, on the bones of many, many dead Muslims buried on our land by the Black Sea. We as mujahideen are required not to allow that, using any methods that Allah allows us.*

One could have listed such issues many years ago - censorship, imprisonment without fair trial, unsolved murders, the political use and over-use of security and an aggressive foreign policy...

So has anything really changed for the better in recent times, or in some other areas could we even say that matters have got worse in the last twenty years? Well, there is no full answer to such questions, but perhaps from reflections, meetings and travels I can give a few pointers. Let me reflect on one of my fairly recent trips to Russia last November (2012).

### **The North Caucasus and terrorism**

I stood in the bombed-out remains of the school sports hall, viewing blackened detonator holes in the floor, burn marks above the climbing bars and singed netball hoops. In the middle of the hall stood a cross, surrounded by bottles of water and flowers. I

was in Beslan in North Ossetia - standing in the sports hall of School No 1 where a terrible siege took place in September 2004 when 334 people including 186 children were slaughtered. Here in the nothingness and deadness of what was once a place of life and energy the horror of fundamentalism was palpable. The Chechen rebels were fired up by radicalism, ethnic oppression and a religious fundamentalism without love or humanity.

Now there may be a peace in parts of the North Caucasus, in southern Russia, but the ethnic and religious tensions are growing with a rise in fundamentalist Wahhabi Islam. Many Russian Orthodox are moving out of the region, as the spread of Islamic fundamentalism worries both the Russian Orthodox Church and the Russian government. By some estimates at least twenty per cent of the population of Russia is now Muslim and the radicals have now reached wide and far – even to St Petersburg. The iron fist of President Putin is not able to combat this extremism.

*Life itself gives encouragement to work together. Christianophobia pushes us together. 'The worse the better' as the Russians say! But we need time and patience – we should better understand each other.*

These were the words of Bishop Nazari of St Alexander Nevsky Lavra, St Petersburg. Bishop Nazari is a former champion weightlifter with a PhD in biology and he was telling me strongly how the work of Blagovest' Media and the Cultural and Inter-Denominational Centre for Dialogue – both supported by Aid to the Church in Need – was making a difference to the understanding between the Orthodox and Catholics. Bishop Nazari told me that the publication of books,

guidebooks and films on the undivided Church and the relics of the early Church in Rome were important:

*There are more than 120 churches with relics of the undivided Church in Rome. Relics are treated like icons here – they help us to see the saint to whom we pray.*

It is in the face of mutual challenges that interdenominational cooperation builds up. In Stavropol', in the North Caucasus, the Orthodox seminary was closed down in Soviet times under Khrushchev – remaining shut from 1960 until 1989. Now there are 100 seminarians who receive small grants of £160 per student from Aid to the Church in Need and recently ACN also sponsored a minibus for pastoral work, including in the local prisons. These trainee priests also study Islam and meet with students from the local Koranic school. Metropolitan Kirill of Stavropol' emphasised to me how important the support given was:

*There are no borders to charity – no boundaries or divisions – as we saw with Christ in the way he cared for people and loved them. In the same way this Catholic charity, Aid to the Church in Need, reaches out to the Orthodox as well – responding with love to our needs. Thank you!*

So why do we not actually see any really public signs of positive developments in Catholic–Orthodox relations? Archbishop Zosima of Vladikavkaz referred in a public homily, which I heard, to the important meetings he had held with Pope Benedict XVI. Other Orthodox bishops and priests I spoke to commented – at the time – that there is great respect between Patriarch Kirill and Pope Benedict. Yet, the history of suspicion and mistrust between East and

West does not help progress the relationship. There are reactionaries – particularly in Orthodox monasteries – who do not know Catholicism and blame the West for every perversion and disease. There are also many Catholics who do not know the history of suffering and the tenacity and faithful devotion of the Orthodox – or who are dismissive of all that President Putin says, who last Orthodox Christmas (7 January 2013) praised the social work of the Orthodox Church and other Christian denominations and spoke of interreligious dialogue.

I met Fr Grigori Miknov-Vaitenko, the son of the famous dissident Aleksandr Galich, a singer and songwriter who was eventually expelled from the Soviet Union and went to France, where he died in a mysterious explosion. He is married with four children. Fr Grigori is parish priest of Staraya Russa, the parish where Dostoyevsky lived and where he wrote *The Brothers Karamazov*. Fr Grigori has something of his father about him – and we had a fascinating far-ranging discussion going late into the night. We reflected on the church–state relationship, power, the distance between clergy and laity, the question of catechesis, Pussy Riot, religious freedom and many other issues. It was all interesting and he told me that in his parish he insists that people are known and come for catechism before baptisms. This has created protests, as people feel they are paying for a service – and cannot be refused. He quotes a friend who put it quite simply: just as Moses led the people of Israel in the wilderness for 40 years, so the post-Soviet Orthodox will see a generation die out; but unfortunately a monster is being born at the moment, with no depth of knowledge about how to live a Christian life. Fr Grigori adds that it is no good just saying that you are good if you do not kill! We agree that in East and West there are similar problems and

challenges – we should learn from each other, not just concerning facing the challenges of fundamentalist Islam but on social teaching. As well as discussing the Church we also discussed films and literature. Fr Grigori is a very engaging young priest – and he tells me that many other priests are asking similar questions to him and even some bishops, but not in public.

Reflecting on his words about time in the wilderness, I remember that the late founder of Aid to the Church in Need, Fr Werenfried van Straaten, who died just over ten years ago, said that after seventy years of state atheism it will take a long time for the scars to heal. Indeed, perhaps we still see today many manifestations of *Homo Sovieticus*. It will take a long time for a deep faith to emerge out of the years of suffering.

Yet, there is still a growth in the Christian faith. I visited an Orthodox convent, on the edge of the Caucasus Mountains, where more than 1000 baptisms take place every year in the lake in its grounds. Further north in the Russian Republic of Kabardino-Balkaria, in a beautiful Catholic parish, run by the Community of St John in Blagoveshenka (literally 'Good News'), there is good news. An eco-friendly 'green' church is being built in Blagoveshenka with the help of ACN and hundreds of children come to stay in summer camps, mountain horses are ridden by deprived children and interdenominational and interreligious gatherings take place.

And – after travelling north and eventually arriving in the middle of a snowstorm in St Petersburg - the most public manifestation of the resurrection of Christianity was to be seen in St Petersburg on Nevsky Prospekt.

Having been at a well-attended Mass in the beautifully restored Catholic Church of St Catherine, run by the Dominicans, I witnessed an extraordinary sight. A replica of the icon of Our Lady of Kazan' was carried out of a packed Kazan' Cathedral in a procession of priests and deacons: bells were rung off the back of trucks and flags waved as thousands of people, including the police and military, processed through the streets. This was 4 November, the feast of Our Lady of Kazan' (and Russia's People's Unity Day); it was a remarkable sight. I stood and asked the prayers of Our Lady for the all the people of Russia and those who had suffered and died for their faith, as I recalled that when I first visited Leningrad in January 1983 Kazan' Cathedral was then the Museum of State Atheism.

The present Papal Nuncio to Great Britain, Archbishop Antonio Mennini, told me when I met him in Moscow a few years ago that we had to 'have the courage to turn the pages of history'. If we somehow think that the road to Christian unity has been lost, perhaps we can recall the prophetic vision of the late founder of Aid to the Church in Need, Fr Werenfried. He followed the call of Pope John Paul II to help the Church proclaim the power and hope of the Gospel with both lungs – East and West – across the frozen spiritual wastelands.

I stood in the snow in Novgorod, where Fr Werenfried came twenty years ago to meet the Orthodox Archbishop Lev. Here it was that Fr Werenfried was invited to take part in the liturgy in St Sophia and here audaciously and challengingly initiated the outreach in love of Aid to the Church in Need, a Catholic charity, to our Orthodox brothers and sisters.

It is nothing new – just a journey of rediscovery. For in the very walls of

Novgorod, the ancient city of Russian Christianity founded in 859, you can see the historical evidence of the early undivided Church – Norman arches and Celtic crosses adorning Orthodox Churches inside the Kremlin.

This 'dialogue of charity' in action is of huge significance, even if the work will bear public fruit only in years to come. There are no borders to Christ-centred charity. Archbishop Zosima of Valdikavkaz put it quite simply as he expressed his thanks:

*The Church will always be persecuted.  
There is much to build on and learn.  
Unity is so important – we cannot think  
we are better as Orthodox than Catholics,  
or the other way round. Your help here  
matters –thank you, my dear friends.*

## **Conclusion**

So how do I conclude my talk on Russia? I can only emphasise how important our help is to the Orthodox – as much for our understanding as for the help itself... we need to understand and feel in a deep way what the Russians have been through and what the new challenges are. How to list the challenges? Perhaps in no order of preference:

The rise of fundamentalist Islam - especially in the North Caucasus, but even up to St Petersburg. How can we support the Orthodox Church in all that they have to face? 20% or perhaps 25% of those living in Russia are Muslim, but does Putin admit of this? Being in Beslan shows in an horrendous way what can happen if we do not understand.

Danger of a selective history of the supposed victor – for example when the wipeout of the Circassian people in 1864 is not even remembered, an ethnic cleansing or 'genocide' with the death of perhaps 500-800,000 people. How can Russians expect the North Caucasians to be subservient with what they have suffered through deportations and executions? Has the violent suppression of peoples worked? Chechnya is now a Muslim republic – the one Orthodox priest is protected by the army.

The challenges to deepen the faith. Baptisms paid for by those who come to the Orthodox Church are not good for an understanding of the richness of the Orthodox heritage. How to live as a Christian in modern society? How to deepen trust between Orthodox and Catholics? Yes, 'the worse the better' as Bishop Naziri said – with all we face as Christians are persecuted. We have so much experience to share. Perhaps we can rediscover a Novgorod Christianity – of the undivided Church.

Russia – to adapt Churchill's phrase – is an ethnic enigma wrapped in a blanket of authoritarian rule. It faces huge challenges. The Russians have a huge experience of diversity and almost tribal religion. We in the West can learn a great deal. Is the tough approach the right one, if religious freedom is ignored? Or is this storing up trouble for the near future? Yet, we cannot and must not be patronising as the Russians have suffered so much. Yes, the reality of the German – Russian suffering and loss of millions of lives is being faced up to. However, there is still the unreconciled facing up to Soviet persecution when perhaps more than 20 million died. The Russian Orthodox Church is only beginning to work through the files of the martyrs of this period – tens of thousands of priests and monks and hundreds of thousands of the

faithful. One absolute essential is clear to me – the ‘dialogue of charity’ of Aid to the Church in Need as a Catholic charity is of immeasurable importance; our projects and support may not seem much but are essential – and it is a learning and empathy which both Orthodox and Catholics must have. There is, as Pope John Paul II said, ‘an imperative of charity’ to helping the Church breathe with both lungs – to proclaim the Gospel of reconciliation and hope across the spiritual wastelands of the East where people suffered so much under Soviet atheism. With understanding, respect, admiration and prayer our work for the undivided Church in faith must continue.

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## The Legal, Research and Policy Work of the Equality and Human Rights Commission on Religion or Belief

David Perfect

23 January 2014 (Updated March 2015)

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### Introduction

This paper explores the legal, research and policy work on religion or belief that has been carried out by the Equality and Human Rights Commission (EHRC) since its establishment in 2007.

### EHRC structure and responsibilities

The EHRC is a non-departmental public body which was established in October 2007. Its sponsor body is the Government Equalities Office. It has a statutory role for seven equality strands (age, disability,

ethnicity/race, gender, religion or belief, sexual orientation and transgender) and two other protected characteristics (pregnancy and maternity; and marriage and civil partnership) and has been a National Human Rights Institution since 2011. The EHRC, which replaced three previous bodies, the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, is a GB-wide body with offices in Glasgow and Cardiff. Its current Chair is Baroness Onora O’Neill and there are currently eleven other Commissioners; its core functions include legal, policy, research and communications

work. A small number of policy, legal and research staff specialise on religion or belief issues.

### **Key legislation: equality law**

Equality law on religion or belief is relatively new, when compared with the legislation on race, gender or disability. The initial legislation consisted of the Employment Equality (Religion or Belief) Regulations of 2003, which were followed by the Equality Act 2006. Both pieces of legislation were replaced by the Equality Act 2010; this brought earlier legislation together and added the Public Sector Equality Duty (PSED) for the first time.

'Religion or belief' is defined in the Act very broadly to include any religion; any religious or philosophical belief; a lack of religion; and a lack of belief. There are also important religion or belief exceptions in the Act relating to employment and service delivery. Under the PSED, public bodies are required to give 'due regard' to eliminate discrimination, advance equality and foster good relations.

### **Key legislation: human rights law**

Since the Human Rights Act 1998, which came into force in October 2000, a right to freedom of thought, conscience and religion has existed in UK law. There are two aspects to this right. Under Article 9 (1), there is an *absolute* right of belief and also an absolute right to change religion. There is also a *qualified* right in terms of the manifestation of religion or belief in worship, teaching, practice and observance. Under Article 9 (2), the freedom to manifest a religion or belief is subject to 'necessary' limitations. These limitations are prescribed by law and must be

clear, accessible and non-retrospective; the circumstances and consequences of the limitations must be foreseen; and they must be 'in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedom of others'. As discussed below, the key legal decision with regard to the manifestation of religion or belief has been the judgment of the European Court of Human Rights (ECtHR) in the *Evweida et al* case.

### **EHRC legal interventions and guidance**

EHRC legal interventions on religion or belief have been concerned with both equality and human rights law. Under Section 28 of the Equality Act 2006, the EHRC can assist an individual who is, or may become, a party to legal proceedings involving equality legislation. It can provide legal advice, legal representation (either 'in-house' by Legal Directorate staff or by external lawyers funded by the EHRC), facilitate the settlement of disputes or provide any other form of assistance. Under Section 30 of the Equality Act 2006, the EHRC may apply to become a party to legal proceedings involving equality or human rights issues; this is typically to advise a court on matters within its expertise, either to intervene or to apply for a judicial review. The EHRC's remit in this respect covers domestic courts, the ECtHR and the European Court of Justice.

There have been relatively few EHRC interventions in religion or belief cases and most of these concern either the balancing of competing rights of religion or belief and sexual orientation or the manifestation of religion or belief. Decisions to intervene (or not) are based on considerations within our strategic litigation policy (which is published on our website). The EHRC may choose to

intervene because particular cases advance the objectives of our Strategic Plan and Business Plan. It may also do so because the issue at stake has the potential to help prevent breaches of equality or human rights law by setting a precedent or by raising public interest in the issue raised. Other relevant considerations include whether the legal case has a good prospect of success; cases are not usually supported where the prospects of success are assessed at less than 50 per cent.

### **EHRC interventions: balancing competing rights**

The EHRC has intervened in a number of cases involving the balancing of the competing rights of an individual or group and the rights of others. In *Hall and Preddy v Bull and Bull*, the EHRC funded and led the discrimination claim in 2011 which was taken by Martyn Hall and Steve Preddy, who were civil partners, at the Bristol County Court against Peter and Hazelmary Bull, the owners of a small hotel in Cornwall. Hall and Preddy had booked a double room at the hotel in 2008, but when they arrived, the Bulls refused to allow them to use it. The EHRC also funded Hall and Preddy's defence, when the Bulls appealed at the Court of Appeal in 2012 and again at the Supreme Court in 2013. The Supreme Court unanimously upheld the original County Court ruling (although the judges differed over whether there had been direct or indirect discrimination).

The EHRC's direct support for the applicants in *Hall and Preddy* was unusual; a more typical intervention was that in *Johns v Derby City Council*. Owen and Eunice Johns, who were members of a Pentecostal Church and had previously been foster carers, applied to become short-term foster carers in Derby in January 2007. The Johns held negative views

about same-sex relationships which were not in line with the National Standards for Fostering Services. The EHRC presented evidence about the impact that views which were opposed to, or disapproving of, same-sex relationships and lifestyles might have on the development and wellbeing of children and young people, including gay and lesbian children and young people. The High Court, which found for Derby City Council, accepted a number of the EHRC's submissions in its 2011 judgment.

In similar vein, the EHRC also intervened in *Catholic Care (Diocese of Leeds) v the Charity Commission for England and Wales*. Catholic Care, a Leeds-based adoption agency, had sought to amend its charitable objects to permit it to restrict its services to mixed-sex couples, arguing that otherwise it would be forced to close. The EHRC argued before the High Court in 2010 that as the Charity Commission was a public authority, it was subject to the Human Rights Act and so Catholic Care had to abide by the Act, a view accepted by the Court of Appeal in 2011. Catholic Care lost the case and an appeal to the Upper Tribunal in 2012 was also unsuccessful.

The EHRC's role in *Ladele v London Borough of Islington* and *McFarlane v Relate Avon* was rather different. Lillian Ladele, who was a member of an Evangelical Anglican Church in South London, was employed as a registrar of births, deaths and marriages by Islington Council. After the 2004 Civil Partnerships Act had given same-sex couples rights and responsibilities comparable to civil marriage, Ladele refused to conduct civil partnerships and was disciplined and threatened with dismissal. The domestic courts reached opposite conclusions with higher courts overturning the decision of the Employment

Tribunal which had found for Ladele. Gary McFarlane, a Pentecostal Christian, provided relationship counselling services on behalf of Relate Avon. Believing that homosexuality was sinful, McFarlane refused to provide psychosexual therapy to same-sex couples contrary to his employer's non-discrimination policy, a view supported by the domestic courts. Although the EHRC had not been involved in either case in the domestic courts, it was granted permission to intervene after both were brought before the ECtHR. In September 2011, following an informal consultation of stakeholders, the EHRC published its views on the cases concluding that the domestic courts had reached the correct conclusions. This decision was supported by the ECtHR in its January 2013 judgment.

### **EHRC interventions: manifestation of belief**

The EHRC has also intervened in a number of cases related to the manifestation of belief, including *R (Ghai) v Newcastle City Council*, *R (E) v Governing Body of JFS* and *O'Donoghue and Others v United Kingdom*.

Davender Ghai was a Hindu who wanted to be cremated using an open-air funeral pyre and asked Newcastle City Council in 2006 to dedicate land to construct such pyres. This was opposed by Newcastle which cited the Cremation Act 1902 and Cremation Regulations 2008. The EHRC argued that to deny Ghai an open-air funeral pyre would breach his rights to a private and family life and the Court of Appeal found in 2010 that Ghai's wishes could be accommodated without infringing existing legislation. The EHRC's intervention thus helped Ghai win his case.

JFS, an Orthodox Jewish school in North London, had an admissions policy that gave preference when places were oversubscribed to applicants recognised as Jewish by the Office of the Chief Rabbi (OCR) on basis of matrilineal descent. When a case was brought by a convert to Judaism who attended a non-Orthodox synagogue which was not recognised by the OCR, the EHRC argued that the school's use of an ethnic-based test in selecting students did not comply with the Race Relations Act. The majority in the Supreme Court found in 2009 that there had been direct discrimination by JFS.

Sinead O'Donoghue wished to marry her Nigerian partner, Osita Chris Iwu, in Derry. However, Home Office rules required immigrants without a settled status to pay large fees for permission to marry anywhere except in the Anglican Church. When the case was brought to the ECtHR in 2010, the EHRC criticised the rule arguing that it violated freedom of religion; the ECtHR agreed, O'Donoghue was awarded substantial damages and the scheme was later abolished.

As in *Ladele* and *McFarlane*, the EHRC did not intervene in the domestic courts in either *Eweida v British Airways* or *Chaplin v Royal Devon and Exeter Hospital NHS Foundation Trust*, but did so at the ECtHR.

A Coptic Christian, Nadia Eweida, was a check-in clerk who worked for British Airways (BA) at Heathrow Airport. A new uniform code introduced in 2004 required all jewellery (unless considered mandatory to a religion, like the Sikh *kara*) to be concealed by the uniform. Eweida was sent home from work on unpaid leave in September 2006 for wearing a small silver cross visible to customers. Following widespread external criticism, BA altered its dress code to allow

staff to display a faith or charity symbol while wearing the uniform; Eweida returned to work, but was not compensated for lost earnings. Eweida's subsequent claim for damages was dismissed by the domestic courts. In a broadly similar, but not identical, case, Shirley Chaplin, a member of the Free Church of England, was a nurse employed by Royal Devon and Exeter NHS Foundation Trust. She had worn a crucifix on a chain over her uniform for many years. When asked by the Trust to remove it as it contravened a new policy minimising the risk of jewellery, Chaplin refused; she also rejected a compromise that she could wear the crucifix under a high-necked T-shirt. The Employment Tribunal found against her.

When the cases were referred to the ECtHR, the EHRC was granted permission to intervene and once again following an informal consultation of stakeholders, it published its views on the cases in September 2011. This time the EHRC view was that domestic courts might not have given sufficient weight to the claimants' right to manifest their religion or belief. In January 2013, the ECtHR ruled in a majority decision that Eweida's Article 9 right to manifest her belief had unjustifiably been breached. Domestic courts had given too much weight to the employer's legitimate need to project a corporate image and not enough to the employee's right to wear a visible cross, which did not adversely affect that corporate image. Chaplin's claim was rejected.

### **EHRC guidance post-Eweida**

In the light of the judgment in *Eweida et al*, the EHRC published two guidance documents in February 2013. The first examined the key legal implications of the judgment. The guidance concluded that: it was now easier to

manifest a belief in the workplace; employers can no longer require employees to resign as a last alternative if their requests are turned down; the courts can no longer consider what elements are mandatory to a religion or a belief; and that in future the courts will pay more attention to deciding whether restricting religious rights is justified. The second guidance document examined what kind of religion or belief requests an employer might receive and outlined steps on how to deal with them and ensure that their approach was justified. It also considered whether employees have a right to promote their religion or belief at work and whether they can refrain from their agreed work duties.

### **EHRC research on religion or belief**

As part of our remit to collect and monitor evidence, the EHRC has commissioned and published specialist research on religion or belief issues.

A 2009 report by Linda Woodhead with Rebecca Catto of Lancaster University, *'Religion or Belief': Identifying Issues and Priorities*, set out possible priority areas for future EHRC work following three expert seminars with selected academics and stakeholders.

Religious discrimination, one of the issues discussed in the Lancaster University research, was examined more fully in 2011 by Paul Weller of the University of Derby. This report, *Religious Discrimination in Britain: A Review of Research Evidence, 2000-10*, explored various approaches to defining religious discrimination; considered whether religious discrimination had increased or decreased over the first decade of the twentieth century; and explored the contested concept of Islamophobia as a frame of reference for discrimination against Muslims.

Also in 2011, Woodhead assessed recent research carried out for the ESRC/AHRC Religion and Society Programme and by members of the EHRC's Religion or Belief Network across six broad themes in *Recent Research on Religion, Discrimination and Good Relations*.

In 2012, the EHRC published a major new research report by Alice Donald with Karen Bennett and Philip Leach of London Metropolitan University, *Religion or Belief, Equality and Human Rights in England and Wales*. Based on 67 interviews with a wide range of stakeholders, roundtable discussion events with practitioners and two surveys, the report explored such issues as the law on equality, human rights and religion or belief; responses to the law; and the implementation of equality and human rights in the workplace and in service delivery.

A key finding was that while on some issues there was broad consensus (or at least the possibility of consensus) across a range of perspectives, on other issues no such consensus existed.

There was broad agreement that: religion or belief groups are legitimate interest groups, but should not have a privileged role; reasonable accommodation for religion or belief is beneficial, but there should be limits as to what is allowed; excessive litigation in this area is damaging and the law has a limited capacity to effect change; principles, or 'rules of thumb', are required to pre-empt or resolve disputes in the workplace and the community; practice-based guidance is required for religion or belief issues in the workplace to be handled effectively; and, finally, that there is a need for clear ground-rules for debate in this area, as much previous

public discussion on religion or belief has been intemperate.

In contrast, there was a lack of consensus on whether: conscientious objection opt-outs beyond those that already exist in medical contexts (for example over abortion) are desirable or not; a hierarchy of equality strands exists or indeed should exist and whether (if it does) sexual orientation 'trumps' religion; Christians are 'marginalised' in public life; religion or belief is essentially different from other equality strands; and whether the exceptions in the Equality Act 2010 concerning religion or belief are too narrow or too broad.

As well as these externally commissioned research reports, in an EHRC Briefing Paper, *Religion or Belief*, I published an analysis in 2011 of available statistical data on religion or belief topics from a variety of national sources. The issues covered included religious affiliation; religious practice and attendance; discrimination and prejudice on grounds of religion or belief; belief in God; and gender and church leadership positions.

Apart from specialist reports on religion or belief, the EHRC has published other research which examines religion or belief alongside other equality strands. For example, in a 2009 study, *Integration in the Workplace: Emerging Employment Practice on Age, Sexual Orientation and Religion or Belief*, Sue Bond and others of Edinburgh Napier University examined recruitment, promotion and advancement at work for these three strands. This research, which was based on eight 'good practice' case studies in England, Scotland and Wales, found that good practice in the workplace was less well developed on religion or belief than for gender, age and disability.

All this research evidence has been widely disseminated both through the EHRC's Research Database and its separate Religion or Belief Network (the latter has nearly 700 members).

### **Goldsmiths' dialogue events**

In October 2012, the EHRC commissioned the Religious Literacy Leadership Programme at Goldsmiths, University of London, working in partnership with the Coexist Foundation, to explore a number of key religion or belief themes.

Goldsmiths convened four half-day dialogue events in London in February and March 2013 on the themes of religion and belief in the public sphere; the media and religion or belief; religious diversity in the workplace and service delivery; and balancing competing interests. The events were attended by invited participants from religion or belief organisations (including secular and humanist bodies), employer organisations and trade unions, advice and equality bodies and government officials.

A final event in April 2013 summarised the earlier findings and suggested possible actions for three separate groups: employers and trade unions; religion or belief and civic society organisations; and the EHRC and the government. Although there was no overall consensus on important religion or belief issues, some of the key findings included that: the contemporary religion or belief landscape is complex, diverse and diffuse; Christianity is part of our shared intellectual tradition whatever our own stance; the media do not show the range of views across the religious field and can polarise public views on different religions; the differences between the absolute right to hold a religion or belief

and the qualified right to manifest it are unclear; tolerance and mutual respect in discussing issues relating to the protection of religion and belief is required; and guidance, materials and opportunities for discussion are helpful to build competence and confidence in this area. Some of these findings clearly echoed those previously outlined in the London Metropolitan University research.

A short report of all five events and other project material has been published by Goldsmiths. Subsequently, the EHRC devised a short survey which was administered to all participants at any of the events and to others to help EHRC decide its future work priorities. The findings from the dialogue events have also been publicised through the EHRC's Religion or Belief Network.

### **EHRC religion or belief strategy**

In October 2013, the EHRC published *Shared Understandings: a New EHRC Strategy to Strengthen Understanding of Religion or Belief in Public Life*. This drew on our prior research evidence, notably that by London Metropolitan University, the Goldsmiths' dialogue events, and the views of stakeholders, as expressed in both the earlier research and the dialogue events, about what role the EHRC should play in this area.

The three key elements of the strategy are: to improve understanding and practice by employers and service providers; to create a more balanced and reasonable public dialogue on religion or belief issues; and to assess the effectiveness of the current legislative framework on religion or belief, equality and human rights.

A three-year programme of work has been established to implement the strategy.

Between August and October 2014, NatCen Social Research conducted a call for evidence on the EHRC's behalf which sought to gather positive and negative experiences of religion or belief in the workplace and service delivery by employees, employers, service users, service providers, organisations and the legal and advice community. In part thanks to a range of external individuals and organisations which publicised the call for evidence on our behalf, it achieved nearly 2,500 responses. The subsequent report, *Religion or Belief in the Workplace and Service Delivery* by Martin Mitchell and Kelsey Beninger, with Alice Donald and Erica Howard, was published in March 2015.

In addition, a team from Oxford Brookes University led by Lucy Vickers and Peter Edge is currently carrying out a review of the interpretation and effectiveness of the legislative framework; their report will be published in summer 2015. NatCen is also building on the findings of the call for evidence by preparing guidance, supported by good practice, on a number of key religion or belief topics which affect the workplace

and service delivery. This work will be completed and published by early 2016.

Finally, in 2014, the EHRC set up a high-level group to discuss religious literacy in different contexts at a series of meetings. Thus far these still ongoing meetings have covered the law, the City, school education, higher education and the media.

In late 2015, the EHRC will publish a report on the adequacy of the laws protecting religion or belief. This will draw on the findings from the call for evidence and its ongoing work and will also take account of the views of stakeholder organisations.

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## Recent Developments and Overall Trends in the Relationship between Religion, Law and State in Europe

Ronan McCrea

23 January 2014

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### Introduction

There are two main issues where European law affects religion: the relationship between religious freedom and antidiscrimination

laws and the role of religious symbols in public life and what influence European norms are having in these areas. There is also an overall trend that I think is having a significant impact on approaches to those

issues in Europe.

### **Anti-discrimination laws and exemptions**

Religion has a particularly complicated relationship to non-discrimination as religious bodies and institutions make two very distinct and in some ways conflicting demands of the law in this area.

On the one hand, religious individuals claim legal protection from discrimination. That is why the law prohibits discrimination on grounds of religion in areas such as employment. For religious freedom to be properly protected, individuals should, for example, not be fired from their jobs because their employer disapproves of their religious choices.

On the other hand, religious institutions and individuals sometimes seek the right to discriminate, normally by refusing to employ someone in order to protect the ethos of a religiously-owned institution or by refusing to provide goods or services to a person, usually in order to avoid condoning or facilitating sinful conduct.

European law plays a major role in this area. EU legislation (Directive 2000/78) prohibits direct and indirect discrimination in employment on grounds of religion (and also others including gender and sexual orientation, which can be problematic for religions). This legislation has not been tested or interpreted by the Court of Justice of the European Union (CJEU) as yet. The major developments in this area last year have related to the European Convention on Human Rights and the unsuccessful claims that freedom of conscience and religion protected by Article 9 required exemptions to be given to religious individuals from norms

requiring them not to discriminate on grounds of sexual orientation.

In *Eweida and Others v UK*, the Strasbourg court (ECtHR) ruled, inter alia, that there was no violation of Article 9 in the case of a civil registrar fired for her religiously motivated refusal to register same-sex civil partnerships. The Court held that any restriction of her freedom of conscience and religion and any indirectly discriminatory impact upon her were justified by the need to protect the rights of others.

The UK Supreme Court unanimously reached the same conclusion in relation to two hoteliers who refused to give a double bed to a civilly-partnered gay couple in the case of *Preddy and Hall*. Any EU law challenge is also unlikely to succeed as the CJEU has made it clear on many occasions that, on human rights issues, it will generally follow the rulings of the Strasbourg Court.

The upshot of these cases is that the attempt to use European legal norms to obtain exemptions for religious individuals from anti-discrimination norms has failed. There is still scope for political action on this front as the Courts have merely ruled that states are entitled not to give such exemptions, not that they must not give them. However, the real difficulty that one faces in seeking to obtain such opt-outs is that it is very difficult to grant them without undermining antidiscrimination norms altogether. Simple appeals to 'free conscience' cannot work as all antidiscrimination laws exist to coerce conscience. There would be no need for them if there were not people who sincerely believed that they should not give women with young children jobs or that people should not marry those of a different race. It is very difficult politically to claim that the law should not coerce the conscience of

religious individuals but it should coerce the conscience of those who hold equally strong beliefs on other bases. To do so leaves religious groups in the unenviable position of seeming to claim that their conscience is more important than the conscience of others. Furthermore, such a claim is legally difficult given that the European Court of Human Rights has repeatedly said that Article 9 protects equally non-religious philosophies and forms of conscience. The difficulty is to find a principled way to claim exemptions from antidiscrimination laws in a way that does not destroy such laws all together but which avoids appearing to claim that the conscience of religious individuals is more important than that of others, and I think there is some work to be done in that regard.

Up to this point I have been talking about individual conscience. And the story in terms of European law has not been overly favourable to religious claims. However, in relation to the rights of religious institutions, EU law does give significant exemptions from antidiscrimination norms. Employers with a religious ethos are, under Directive 2000/78, allowed to discriminate in order to protect their ethos provided that this can be justified as proportionate.

This has not been tested in Court. There is some scope for test cases here as the European Commission has issued *Reasoned Opinions* (a document setting out why it believes a member-state is in breach of EU law) in respect of Irish and UK employment law, noting that exemptions provided to religious institutions were not subject to explicit proportionality tests and therefore violated EU legislation. But the Commission decided not to bring these cases to Court.

There have also been rulings of the ECtHR in

*Obst and Schuth v Germany*, in which it was ruled that the dismissal of a married church organist who had been revealed to be having a child with a new partner was disproportionate. The Court indicated that dismissal was disproportionate given a number of factors including his distance from the proclamatory mission of the church, the fact that he had not willingly revealed his conduct to his employer and the difficulty he would face finding alternative employment.

The overall picture is therefore, of a legal landscape that is unfavourable to claims for individual exemptions from antidiscrimination norms but is favourable, to a degree, to exemptions for religious institutions, although there is potential conflict about the boundaries of such exemptions.

### **Religion in public life**

The second major area where European legal norms may impact on religion is in relation to the symbolic role of religions in national life.

This is an area where the EU has no competence but where the Court of Human Rights has played a prominent role. In the very well-known *Lautsi v Italy* decision, the Grand Chamber of the Court overruled a judgment that found the presence of the crucifix in Italian state schools to be a violation of the rights of non-religious parents to respect for their philosophical and religious convictions in the education system.

Many religious groups welcomed this ruling. There are a couple of points I think it is worth making about it. First, while the Court has repeatedly said that the Convention presupposes a democratic and secular political order and that theocracy is contrary

to the ECHR, it made it clear in *Lautsi* that this does not require strict symbolic separation of religion and state or removal of religiously-specific symbols from public life.

Indeed, absolute religious neutrality is simply impossible given Christianity's historical role in the cultures of most European states. In *Lautsi* the court made it clear that countries can 'perpetuate a cultural tradition' as long as this does not become oppressive. It found that, in the broader context of the Italian educational system, the passive symbol of the crucifix was not sufficiently oppressive to trigger European intervention.

On the other hand, there are limits to the acceptability of religiously specific national traditions in public life. In a case from San Marino (*Buscarini v San Marino*), it held that the traditional oath for legislators that required them to say 'I swear on the holy gospel' was sufficiently oppressive to violate religious freedom.

There are dangers for religion in the *Lausti* reasoning. The Court has distinguished between religion as a truth claim and religion as part of national cultural traditions. The latter role can be reflected in public life as long as it is not so specific or indoctrinating as to be oppressive. Thus, insofar as religious symbols can be repackaged as national culture they are acceptable. Sometimes this is clearly acceptable. Scandinavian and UK flags, though religiously specific in their symbolism, have clearly developed meanings independent of their religious origins. Other symbols, such as crosses in schools, are more complex. However, it does seem that the cost of the presence of a religious symbol in a state context is a degree of abandonment of its status as a religious symbol, or at least one that represents a religious truth.

There is a broader tension here. Religions wish to play a part in the symbolic life of the nation but they can only do so if they abandon what makes them most distinctive and valuable. If a religious symbol is truly religious and relates to the truth claim of the faithful the worry is that it cannot be a shared symbol in a religiously diverse society and that it may be oppressive for the state to give its backing to such a claim. However, if the truth claim element is abandoned, potentially sacred symbols become treated as mere cultural artefacts.

## **Two broader structural trends**

I would like to finish by briefly mentioning two broader structural trends that I think are underpinning developments both in relation to religious symbols and anti-discrimination norms in Europe.

### *Migration*

Migration is having a significant impact on the relationship between religion, law and state in Europe. Although recent data suggest that the rise of non-religion in developed countries is a long-term structural trend, Europe is very much in the vanguard in that it has exceptionally high levels of non-belief but also very low levels of religious influence over law and politics.

Many Europeans believed that separation of religion and politics and low levels of religious influence over political life were universal conditions. In fact in many areas of the world, particularly the Muslim world, but also some mainly Christian parts of Africa, religion is a much more muscular affair. The sociologist Grace Davie has written about the damaging misunderstandings that have

arisen from the belief held by many in Europe that all religions have a 'live and let live' approach. Actually, in many parts of the world, the idea that the law should be used to enforce compliance with religious teaching is alive and well.

Migration on a large scale has meant that there are significant numbers of people in Europe whose religious traditions have not been moulded by the secularising influences of European history. The result of this has been the entry into public life of a more muscular version of religiosity seen in the Salman Rushdie Affair, the Mohammed Cartoons affair and the attempt to close down the play *Bezhti* and *Jerry Springer: the Opera*.

Migration is affecting norms in relation to religion, law and state in two ways.

First, most obviously, religious diversity increases. Once nationality is no longer synonymous with a particular religious denomination, the symbols of that religion lose their much of their ability to act as uncontroversial national cultural symbols.

Second, with the populations of European states becoming more religiously diverse, the ability of a particular faith to act as part of a shared national identity is diminishing. In part this is because there are many ethnic communities who do not share Christian cultural loyalties, but it is also because numbers of self-declared atheists and agnostics are rising rapidly at the same time. This is causing a surge in non-religion. The UK census of 2011 showed a surge in the percentage of people who said they had no religion from 15 per cent to 25 per cent. Previously, many of those who are not particularly religious were content to describe themselves as Christian on cultural grounds: in Europe, numbers of such nominal

Christians have long exceeded those who profess belief in the core tenets of the Christian faith. But as religion and national identity have gradually begun to separate, religious identity becomes more a question of ideology and belief than membership of a national community. This has encouraged those who are not true believers to move from a nominal Christian identity to a more clearly non-religious one.

### *Secular backlash*

I suspect that another reason for the major rise in non-religion is that the more muscular religiosity of some migrant communities is causing something of a secular backlash. This is the second trend.

In the past, religion in Europe has played a role somewhat like that of the modern British monarchy. On paper, the British monarch is both a national symbol and the holder of key political and legal powers. However, the powers theoretically held by the monarch — such as the right to nominate a prime minister and refuse to sign legislation — are subject to shared understandings that they will not be used in normal circumstances. Imagine if there were a substantial minority population in the UK who believed that the monarch ought to exercise significant political power. This would create pressure to remove those symbolic, largely unused powers. This is exactly what is happening to the residual influence and presence of religion in the European political and legal sphere.

Olivier Roy, a well-known scholar of European Islam, has noted how suspicion and fear has been created in Europe by 'the emergence of new communities of believers who do not feel bound by the compromises laboriously developed over the past centuries

between the religious and the secular’.

Moves to restrict the wearing of religious symbols in state contexts, to require migrants to sign up to religiously controversial principles such as separation of religion and politics, gender equality and tolerance of homosexuality have been seen in a number of European states. They may be partly motivated by anti-immigrant sentiment but they have been accompanied by other moves such as the abolition of the blasphemy law in the UK which saw previously implicit limits on religious influence (for blasphemy an expectation that the law would not be used other than in extremis) replaced by more black and white legal principles.

Either way, what we see is a general process under which greater religious diversity is making it difficult for religion in Europe to retain the residual political and symbolic roles that it has had until now. These roles relied on religion being seen as a national cultural symbol, and on implicit understandings that churches would largely steer clear of politics and would not use their legally privileged status to restrict criticism or mockery of religion to too great a degree.

Such a system is proving unsustainable. There are now too many diverse cultural expectations about religion, its role in political

life, and the degree to which it can be criticised or mocked. The more muscular religiosity of some migrant communities, among other factors, is provoking European governments to restrict religion firmly to the private sphere and is producing a degree of hostility towards religious claims for exemptions from particular laws and towards religion’s residual roles in public life that is new to many European states. I discuss this more fully in an article in Aeon magazine (available here: <http://aeon.co/magazine/world-views/ronan-mccrea-secular-europe/>)

Thus, even though the EU and national governments have been establishing outreach and dialogue programmes for religious bodies, they cannot be seen to favour religion per se so have had to include nonreligious and antireligious bodies in such dialogues. Furthermore, such bodies, though they appear to expand religion’s role in public life, are operating in a context in which broader trends are squeezing much of religion’s existing public role in European states.

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