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HUMAN RIGHTS AND RELIGION IN CENTRAL AND EASTERN EUROPE

András Máté-Tóth and Kitti Sándor

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In this article we try to delineate the mutual relationship between human rights and religion in the cultural region of Central and Eastern Europe (hereafter CEE).¹ We will do it by using the theoretical framework "wounded collective identity" elaborated in recent years by András Máté-Tóth.

Prelude: Scientology in Hungary

Religious rights and freedom are important aspect of many human rights regimes, including the Universal Declaration of Human Rights. In Hungary, a signatory of the Declaration, a remarkable conflict over this freedom developed at the end of 2017. The new center of the Church of Scientology (CoS) called Ideal Org² was occupied by the police and by the Office of the Hungarian Internal Revenue Service (Office). Police said the search by members of the National Investigation Bureau was related to an investigation into the suspected misuse of personal information and other crimes.³ The church continues to hold street demonstrations with 800 to 1000 national and international participants and declare that the case is a violation against religious freedom and human rights. The Data Protection Supervisor declared to the contrary that the church perpetually violates the law of data protection. The CoS launched a lawsuit against the Office but lost it on March 2019. We don't

¹ This research was supported by the project nr. EFOP-3.6.2-16-2017-00007, titled Aspects on the development of intelligent, sustainable and inclusive society: social, technological, innovation networks in employment and digital economy. The project has been supported by the European Union, co-financed by the European Social Fund and the budget of Hungary.

² An „Ideal organization” is the main building of the Church of Scientology in the respective countries. It should represent the ideals of Scientology and provides all building programs offered by Scientology.

³ Fox News Oct. 18. - <http://www.foxnews.com/world/2017/10/18/hungary-police-search-scientology-center-in-budapest.html>.

wish to analyze and interpret more deeply this particular case but we would like to send a signal by mentioning of this case as a sample of the hot relevance of the topic.

Freedom of Religion is an Elementary Part of the Human Rights

While not a direct focus of this article, we think it is useful to remember the five times the term "religion" is mentioned in the UN declaration of Human Rights. The first two times are rejections of limitation concerning religion.

Article 2. declares that religion must not be used to discriminate between people in having human rights.

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Article 16. declares the same above mentioned right to marry and to establish a family.

"Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family."

Article 18. contains the following declaration of freedom of religion.

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

Limitations

Article 18 is a universal right but as such, the freedom to practice a religion can be limited, if the limitation

- is prescribed by law – not arbitrary;
- is necessary and proportionate – not absolute; and
- pursues a legitimate aim as:
 - the interests of public safety;
 - the protection of public order, health, or morals; or
 - the protection of the rights and freedoms of others.

Although human rights are understood to be fundamental rights for every living person, the needs of the public can raise walls in the interest of the protection of the common good. The public is represented, according to the Hungarian constitution, by the democratic powers, specifically by the parliament and government. Since human rights are not only abstract values but embodied practices, therefore the common good and the interests of the state are also led by different interests.

In fact, all states in CEE have democratic political structures that must also determine the common good. Their democratic culture is rather more than less infiltrated or defined by the central role and value placed on independence, autonomy, and national(istic) ideas. Countries in this region have in their self-interpretation a particularly problematic memory concerning the suppression and abolishment of national autonomy during the last two centuries. Therefore, they are extremely sensitive about their national interests and emotions. Máté-Tóth named this type of cultural context in this region "wounded collective identity" and argues for recognizing this dimension while analyzing the mutual interaction of human rights and religion in CEE.

Religious Freedom is Restricted in CEE Due to Claims of National Interests

In the next section of this article, we will show some casualties regarding human rights suffered in four different countries.⁴ Two of them have a high level of religiosity and some kind of a national church: in Poland, the Catholic Church, and in Romania, the Romanian Orthodox Church. The two other examples are countries which are less religious: the Czech Republic with the loss of the huge influence of the Catholic Church, and Bulgaria, where the Bulgarian Orthodox Church lost its public relevance. In each state one can observe many relevant cases but here we will mention only a single case for each to showcase the various struggles in the region

⁴ Because of our limited capacity we limited the number of the societies analyzed to four.

Poland's Struggle with Free Religious Speech

Freedom of speech is one of the most contentious human rights and often conflicts with religious freedom and cultural values. While one should keep in mind that there are no two identical cases, we could argue that these two cases described below are similar, and, in both cases, they favor the Catholic side.

In 2012 a famous Polish pop singer, Doda (Dorota Rabczewska-Stępień), was financially penalized for mocking the Bible. In an interview in 2009 she said she doesn't believe the Bible because it is "written by someone who was drunk and smoking some plants." The long court process ended by the court finding her guilty for the crime of insulting the object of religious worship and insulting religious feelings. Her prosecutor argued, based on Poland's Criminal Code: "Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or space for the public performance of religious rites, shall be subject to a fine, restriction of liberty or imprisonment for 2 years." In her case they claimed an aggravating circumstance that Doda is famous and therefore her words carry influence.⁵

In another case in 2016, the charge was dropped against a priest who called Judaism a "cancer which swept Poland." The priest implied that the Polish nationality and religious survival is in jeopardy because of tolerance and liberal rights. The Prosecutor's Office in Bialystok was not concerned that the priest's speech was hate speech and did not continue the investigation. The Prosecutor argued that the speech "referred to the historical content and the Bible, pointing to examples of negative behavior of the representatives of the Jewish community from the time of slavery in Egypt, and generally referring to modern times." The priest expressed satisfaction by the judgment and posted it with a picture of a Polish person giving a Nazi

⁵ *National Post*, January 19, 2012 <http://nationalpost.com/holy-post/polish-pop-singer-fined-for-insulting-bible>.

salute in 20th century.⁶ Both cases about freedom of speech and infringement of religious feeling protect Catholic values which are more important to the Polish courts.

Bulgaria Bans the *Burka*

In the Republic of Bulgaria, the Constitution guarantees religious freedom. The most popular religious community is the Bulgarian Orthodox Church. This Church enjoys special benefits. For example, the Orthodox Church does not have to register at the Sofia City Court. One might argue that this is because the Orthodox Church is considered the national church. But this could be considered an unfair advantage, because the religious groups which are not registered do not have the same rights as registered religious groups. For example, they do not have the right to start a newspaper or other media platforms.⁷ Even though the Orthodox Church does have some benefits, Bulgaria is secular state and the government tries to support this by a legislative act. In this process they systematically harm every religious group's right to practice their religion freely.

One telling example is the *burka* ban: Every woman who covers her face has to pay fines. To justify the ban the government stated that it is important because of security reasons. This may be true, however the ban is against one specific religious group and harms the right of adherents to express their religious feelings, even in a country where women's traditional clothing-apparel sometime includes the head scarf.⁸ Furthermore all religious symbols have been banned from public schools, too, thereby abolishing every religious person's right to express her/his religious feelings.⁹

⁶ *The Times of Israel*, September 29, 2016. <https://www.timesofisrael.com/polish-prosecutors-absolve-nationalist-priest-of-hate-crime-charge/>.

⁷ Bulgaria 2016 International Religious Freedom Report, <https://www.state.gov/documents/organization/269042.pdf>.

⁸ *The Independent*, October 1, 2016. <http://www.independent.co.uk/news/world/europe/bulgaria-burka-ban-benefits-cut-burkini-niqab-a7340601.html>.

⁹ *Balkan Insight*, March 27, 2009. <http://www.balkaninsight.com/en/article/bulgaria-to-ban-religious-symbols-in-schools>.

Romania's Obstacles on New Religions

Romania is a secular state but the majority of the population (86%) is part of the Romanian Orthodox Church. Religious freedom is protected by the constitution. For example, Romanians have the right to establish a religious organization. However, there are concerns that the conditions are too strict. Since the new conditions were decided in 2006 no new religion was registered in Romania. In Romania there are three categories for groups with religious affiliation: religious groups, religious associations, and religions. To get the status of a religion, the denomination must have been active in Romania for 12 years and have at least 19,000 members (0.1 percent of the population). It is important because only religions have to right establish schools, teach religion classes in public schools, receive government funds to build places of worship, partially pay clergy salaries with state funds, broadcast religious programming on radio and television, apply for broadcasting licenses for their own stations, own cemeteries, and receive tax-exempt status. There were controversial cases when non-religious or non-Orthodox persons burials were not allowed in church-controlled cemeteries. The International Religious Freedom Report (2015) issued by the US. Department of the State contains many cases, where religious minorities or non-religious persons were prevented to exercise fundamental human rights. For example, local officials, often under the influence of Orthodox clergy, continued to hinder the access of non-Orthodox religious groups to cemeteries.¹⁰

Czech Republic: Hate Speech against Islam

The Czech Republic is a secular state. Religious freedom is protected by the Constitution. The Constitution does not itemize religious freedoms but only states that all the fundamental human rights are protected. The Czech population is not especially religious. But in the last few years it seems that legislative acts are deliberately aimed against Islam. As a

¹⁰ Romania 2016 International Religious Freedom Report. <https://www.state.gov/documents/organization/256445.pdf>.

reaction to the migration crisis there are many court rulings, as well incidents in public and political life, which harm the religious freedom of the Muslims.

In the Czech Republic there is no ban on wearing a *hijab* and *burka*, but there are multiple cases where it is not allowed. In 2011, a Somali woman left her school because the principal asked her to remove her *hijab*. The woman was outraged and went to the authorities. The court dismissed her case because “the complainant does not have the right to wear a scarf as a manifestation of religious belief without any restrictions on the premises of a public school that must be a neutral environment.”¹¹

At another time, in 2016, Martin Kovička, a famous anti-Islamic activist, faked an attack in the middle of Prague. He wanted to simulate a radical Islamic occupation. The action caused public panic and promoted hostile feelings toward Muslims and yet Martin Kovička did not get charged.¹²

This could be seen in political life, too. The Dawn of Direct Democracy political party leader wrote a Facebook post to: “protect [our] democratic way of life and to protect the heritage of our ancestors before Islam.” He suggested that in order to do so people should walk pigs near mosques and boycott Muslims’ shops. He did not get charged or have to apologize.¹³ President Miloš Zeman also made an anti-Islamic statement. He believes there are no moderate Muslims but only Muslim who can be radicalized. He also suggested that Muslim integration is not possible because Muslims do not respect women.¹⁴

¹¹ *Prague Daily Monitor*. September 19, 2017. . <http://praguemonitor.com/2017/09/20/appeals-court-rejects-hijab-complaint-muslim-student>.

¹² *Krytyka Polityczna & European Alternatives*, August 22, 2016. <http://politicalcritique.org/in-pictures/2016/leader-of-czech-anti-islam-movement-arrested-for-staging-isis-invasion-of-prague/>.

¹³ *The Times of Israel*, January 5, 2015.. <https://www.timesofisrael.com/czech-politician-walk-pigs-dogs-near-mosques/>.

¹⁴*The Washington Post*. January 11, 2017. https://www.washingtonpost.com/world/europe/meet-the-pro-russian-anti-muslim-european-leader-who-was-just-invited-to-trumpwhite-house/2017/01/11/18c14536-d808-11e6-9f9f-5cdb4b7f8dd7_story.html?utm_term=.643539dc6532.

Vulnerability of Both HR and National State in CEE

These examples suggest that during these times when countries feel their autonomy is endangered, their response is strong. They start protecting their values by any means deemed necessary from both real or imagined threats. During such processes, human rights, including religious rights, are a casualty. Religions are one of the most significant parts of a nation's culture, so it makes sense that the national feeling intensifies the protection of the national religion. However, this can cause minority religious groups to feel they are being mistreated. This article suggests that such problems are likely to be among the most significant conflicts during the modern troubled times. They are already causing tension all over the world and, of course, in Central and Eastern Europe, too.