

Human Rights Without Frontiers Int'l

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France: About the Protection of Christian Places of Worship

Conference “Places of Worship and Holy Sites in Europe and in the Middle East:

Status and Protection under National and International law

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The issue of the protection of holy places and places of worship is usually raised in areas and countries affected by war. France is not at war with any country but, in the last few years, the country has been a main target of Islamist terrorist attacks. Individuals and groups motivated by feelings of hate against a specific religious group have also targeted religious buildings and threatened clerics and believers during religious services.

Protection of religious community buildings

According to statistics from the Interior Ministry, published on 1st February 2017, 4,320 places of worship and religious community buildings were under surveillance and protection of mobile (non-static) patrols by law enforcement and military forces in 2016:

- 2,400 out of 45,000 Christian sites (5%)
- 1,100 out of 2500 Muslim sites (44%)
- 820 Jewish synagogues, schools and community centers (100%)

Moreover, in the last two years, a budget of 12.5 million EUR was approved to purchase security and video-protection material for the most sensitive religious sites.

Noteworthy is the fact that soldiers who were protecting religious buildings were targets of physical attacks. On 3rd February 2015, three soldiers guarding a Jewish community center were targeted in a knife attack in Nice, and on 1st January 2016, a man tried to run down troops guarding a mosque in Valence.

In 2016, incidents targeting Jewish and Muslim community buildings respectively decreased by 54% and 37.5% in comparison with 2015 while there was an increase of 17.4% concerning Christian (Catholic) places of worship¹: 949 according to the Ministry of the Interior, including 399 acts of vandalism and 191 cases of theft of worship items.²

The Ministry of the Interior also notes that 14 incidents were satanist motivated, and in 25 cases there was an anarchist connotation, but most of the time the perpetrators and their motivations are unknown.

These statistical ups and downs follow the same trend as the global statistics about anti-Semitic, anti-Muslim, and anti-Christian incidents.

Anti-Semitic, anti-Muslim, and anti-Christian incidents

After a record number of reported racist, anti-Semitic, and anti-Muslim incidents in 2015 (2,034 incidents), their number largely decreased in 2016 with 1,125 reported incidents (-44.7%).³ The French government sees this drop as "the fruit of government initiatives", in

¹ En 2016, les actes racistes, antisémites et antimusulmans ont baissé en France mais pas les actes antichrétiens, France-Info, 1 février 2017, <http://bit.ly/2l9GWS2>

² A closer look at the statistics indicates that from 2008 to 2016, reported incidents concerning Christian places of worship increased by 245 %.

³ Baisse des actes racistes, antisémites et antimusulmans en 2016, Gouvernement français, 1 février 2017, <http://bit.ly/2lxuflf>

particular a €100 million campaign to "fight racism, anti-Semitism and all forms of discrimination linked or originating from religion".



Religiously motivated attacks and incidents in churches in 2016-2017

On 26th July 2016, Father Jacques Hamel, an 86-year old Catholic priest, was killed with a knife by two young French Muslims during a church service in Saint-Étienne-du-Rouvray and a churchgoer was wounded. Both aggressors were shot dead by police.⁴

In October 2016, a 22-year-old Moroccan was sentenced to 6 months in prison for attempting to burn down several churches.⁵ A month before, he was reported to have set fire to two churches in Millau, in southern France: the Sacré-Coeur church and the Notre-Dame de l'Espinasse, 400 meters away. French police then placed the third church in Millau under surveillance and arrested the man as he attempted to burn it down. The police did not communicate on these acts of vandalism and the name of the perpetrator was not revealed in the French media.

On 2nd April 2017, there was an attempt of criminal arson against the Armenian Evangelical Church in Alfortville (Val-de-Marne).⁶ A garbage can was filled with petrol in front of the

Sortie du Rapport 2017 du CCIF : une évolution du fait islamophobe, <http://bit.ly/2gankNa>

⁴ Le Père Jacques Hamel, un homme bon mais qui ne transigeait pas, Le Monde, 7 août 2016

http://www.lemonde.fr/religions/article/2016/08/07/le-pere-jacques-hamel-un-homme-bon-mais-qui-ne-transige-pas_4979475_1653130.html

Abdel Kermiche et Abdel Malik Petitjean, tueurs de l'église de St-Etienne-du-Rouvray, L'Express, 18 août 2016 http://www.lexpress.fr/actualite/societe/fait-divers/adel-kermiche-et-abdel-malik-petitjean-tueurs-de-l-eglise-de-saint-etienne-du-rouvray_1816387.html

⁵ Six mois de prison pour des incendies dans des églises, Le Figaro, 12 octobre 2017,

<http://www.lefigaro.fr/flash-actu/2016/10/12/97001-20161012FILWWW00341-6-mois-de-prison-pour-des-incendies-dans-des-eglises.php>

⁶ Alfortville: Incendie criminel à l'église évangélique arménienne, Le Parisien, 2 avril 2017

<http://www.leparisien.fr/alfortville-94140/alfortville-incendie-criminel-a-l-eglise-evangelique-armenienne-02-04-2017-6818292.php>

building and set on fire. Pastor Gilbert Léonian expressed his anger in the media because the local authorities had not taken any action after acts of vandalism had been perpetrated against the same building on 26th February. The pastor did not rule out that the attacks might have been motivated by his inviting pastor Norek Hovsétian of the Armenian Evangelical Church in Baghdad for a cycle of conferences in France about the situation of Christians in the Middle East.

On 23rd April 2017, a young Muslim woman went to the Catholic church of Rennes-le-Château with an axe, started hitting the stoup, decapitated the famous red devil of the Bible Asmodea attached to it, cut off his arm, put a Quran on it, and lacerated the bas-relief of the altar.⁷ Worshippers immediately called the mayor and the gendarmerie arrested her. When asked why she had committed such a misdeed, she answered calmly: “Today is election day here but in Syria the West is bombing and killing children. You are all kafirs! My husband is over there.” She was examined by psychiatrists and declared accountable for her acts. After her arrest, she was placed in police custody and then referred to the Office of the Public Prosecutor in Carcassonne. At her trial on 27th October, the woman, who was working in a law firm, recused her lawyer, attorney Hichem Laredj, and defended herself. She admitted that her act had been premeditated and had a symbolic effect. The court sentenced the woman, only known as “Kenza”, to a suspended two-year prison term and an amount of 17,718 EUR to repair the damaged statue. She was also prohibited from appearing in Rennes-le-Château. The judgment was publicized on 27th November.

Other religions

No other religious group, except Jehovah’s Witnesses, has collected and publicized any data about incidents aiming to damage or destroy their places of worship or other religious community buildings. Between January 2016 and July 2017, they recorded about 15 cases of vandalism and arson attempt. They filed criminal complaints but claim that law enforcement officials have failed to properly investigate the incidents and prosecute the perpetrators.

No impunity

Acts of violence targeting places of worship and religious meetings cannot remain unpunished and must be tackled with determination by the law enforcement forces and the judiciary whatever the religious or belief group.

France’s criminal code does not have any specific provisions against vandalism and (attempted) acts of total or partial destruction of places of worship and religious community buildings but such incidents can be prosecuted on the basis of general articles:

Article 322-1 (and 4): Vandalism (attempts)

Minimum: A fine of 3750 EUR and community work

Maximum: 2-year prison term and a fine of 30,000 EUR

Article 322-6 (and 11): Destruction and arson (attempts)

⁷ Diable décapité, le procès ce matin, La Dépêche, 8 septembre 2017

<http://www.ladepeche.fr/article/2017/09/08/2640955-diable-decapite-le-proces-ce-matin.html#xtor=EPR-1>

Maximum: 10-year prison term and a fine of 150,000 EUR

France prosecutes the perpetrators of acts of vandalism against religious buildings when they are identified and hereby abides by the strong recommendations of UN Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt (2010-2016), who stated in his Report on the prevention of violence committed in the name of religion (**Document 1: A/HRC/28/66**)⁸:

Para 90: “States have the obligation to act swiftly to stop acts of violence committed in the name of religion, against individuals, groups and places of worship. Overcoming a culture of impunity, wherever it exists, must be a priority. Those who commit or are complicit in acts of violence must be brought to justice.”

However, it must be noted that the national media and news outlets usually keep silent about acts of vandalism and desecration in Catholic churches while they are swift to denounce anti-Jewish and anti-Muslim incidents.

ANNEX

Some UN Resolutions protecting religious sites

UN Human Rights Council, Resolution 6/37 on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (2007):⁹

9 (e): The Human Rights Council urges States, "To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, **to ensure that religious places, sites, shrines and symbols are fully respected and protected** and to **take additional measures in cases where they are vulnerable to desecration or destruction;**"

UN Commission on Human Rights, Resolution 2005/40 on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (2005)¹⁰:

4 (b): The Commission on Human Rights urges States, "To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure **that religious places, sites, shrines and religious expressions are fully respected and protected** and to **take additional measures in cases where they are vulnerable to desecration or destruction;**"

The Hague Instruments protecting religious sites in cases of conflict and war

Hague Regulations (1899)¹¹

Article 27: “In sieges and bombardments all necessary steps should be taken to **spare as far as**

⁸ http://www.ohchr.org/Documents/Issues/Religion/A-HRC-28-66_en.doc

⁹ http://ap.ohchr.org/Documents/E/HRC/resolutions/A_HRC_RES_6_37.pdf

¹⁰ <http://www.un.org/documents/ga/res/36/a36r055.htm>

¹¹ <https://www.loc.gov/law/help/us-treaties/bevans/m-ust00001-0247.pdf>

possible edifices devoted to religion, art, science, and charity ... provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.”

Hague Regulations (1907)¹²

Article 27: “In sieges and bombardments all necessary steps must be taken to **spare, as far as possible, buildings dedicated to religion**, art, science, or charitable purposes, historic monuments ... provided they are not being used at the time for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.”

Hague Convention (IX) (1907)¹³

Article 5: “In bombardments by naval forces all the necessary measures must be taken by the commander to **spare as far as possible sacred edifices, buildings** used for artistic, scientific or charitable purposes, ... on the understanding that they are not used at the same time for military purposes. It is the duty of the inhabitants to indicate such monuments, edifices or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white.”

Hague Convention for the Protection of Cultural Property (1954)¹⁴

Article 1 defines **cultural property**, irrespective of origin or ownership, as:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, **whether religious or secular**; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;...

Article 4:

“1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties ... by refraining from any act of hostility directed against such property.

2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.”

Article 19(1): “In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the provisions of the present Convention which relate to respect for cultural property.”

Article 28: “The High Contracting Parties undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.”

¹² http://www.opbw.org/int_inst/sec_docs/1907HC-TEXT.pdf

¹³ <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000001-0681.pdf>

¹⁴ <http://unesdoc.unesco.org/images/0018/001875/187580e.pdf>

Additional Protocol I (1977)¹⁵

Article 53: “Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited:

- a. to commit any acts of hostility directed against the historic monuments, works of art or **places of worship** which constitute the cultural or spiritual heritage of peoples.”

Article 85(4)(d) considers the following a grave breach of the Protocol: “making the clearly-recognized historic monuments, works of art or **places of worship** which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, sub-paragraph *b*), and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives.”

Additional Protocol II (1977)¹⁶

Article 16: “... it is prohibited to commit any acts of hostility directed against historic monuments, works of art or **places of worship** which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.”

Rome Statute (1998) (establishing International Criminal Court)¹⁷

Article 8(2)(b)(ix) and (e)(iv): “...**intentionally directing attacks against buildings dedicated to religion**, education, art, science or charitable purposes, [or] historic monuments ... provided they are not military objectives” constitutes a **war crime** in both international and non-international armed conflicts.”

Other Instruments

Oxford Manual¹⁸ (1880)

Article 34: “In case of bombardment all necessary steps must be taken to **spare, if it can be done, buildings dedicated to religion**, art, science and charitable purposes ... on the condition that they are not being utilized at the time, directly or indirectly, for defense. It is the duty of the besieged to indicate the presence of such buildings by visible signs notified to the assailant beforehand.”

Report of the Commission on Responsibility¹⁹ (1919)

The Report lists violations of the laws and customs of war which should be subject to criminal

¹⁵ https://www.icrc.org/eng/assets/files/other/icrc_002_0321.pdf

¹⁶ https://www.icrc.org/eng/assets/files/other/icrc_002_0321.pdf

¹⁷ http://legal.un.org/icc/statute/99_corr/cstatute.htm

¹⁸ Refers to: The Laws of War on Land, adopted by the Institute of International Law, Oxford, 9th September 1880. See <https://ihl-databases.icrc.org/ihl/INTRO/140?OpenDocument>

¹⁹ Report submitted to the Preliminary Conference of Versailles by the Commission on Responsibility of the Authors of War and on Enforcement of Penalties, Versailles, 29th March 1919. See <https://www.jstor.org/stable/pdf/2187841.pdf>

prosecution, including “**wanton destruction of religious**, charitable, educational and historic buildings and monuments”.

Hague Rules of Air Warfare (1923)²⁰

Article 25: “In bombardment by aircraft, all necessary steps must be taken by the commander to **spare as far as possible buildings dedicated to public worship**, art, science, or charitable purposes, historic monuments ... provided such buildings, objects or places are not at the time used for military purposes.”

ILC Draft Code of Crimes against the Peace and Security of Mankind (1991)²¹

Article 22(2)(f): “[w]ilful attacks on property of exceptional religious, historical or cultural value” constitute exceptionally **serious war crimes**.”

Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY Statute) (1993)²²

Article 3(d): includes among the violations of the laws or customs of war in respect of which the Tribunal has jurisdiction: “seizure of, destruction or wilful damage done to **institutions dedicated to religion**, charity and education, the arts and sciences, historic monuments and works of art and science”.

United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 2000/15²³

Establishes panels with exclusive jurisdiction over serious criminal offences, including war crimes. According to Section 6(1)(b)(ix) and (e)(iv), “[i]ntentionally **directing attacks against buildings dedicated to religion**, education, art, science or charitable purposes, [or] historic monuments ... provided they are not military objectives” constitutes a war crime in both international and non-international armed conflicts.

²⁰ <https://ihl-databases.icrc.org/ihl/INTRO/275?OpenDocument>

²¹ http://legal.un.org/ilc/publications/yearbooks/english/ilc_1991_v2_p2.pdf

²² http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf

²³ <http://www.un.org/en/peacekeeping/missions/past/untimet/Reg0015E.pdf>