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Freedom of religion or belief in Belgium: Some religions are more equal than others

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ICLRS (05.01.2021) – <https://bit.ly/3ntnhcr> – So-called “Western” nations are not the usual suspects of intrusions into religious liberty. The reason seems obvious: legislation and policies which protect freedom of religion or belief (FoRB) are typically well embedded in and very compatible with strongly secularized contexts with a high appreciation of individual freedom and human rights—typical character traits of said “Western” nations.

While severe intrusions of FoRB involving state-sanctioned use of force are infrequent, there is sufficient reason to also keep a close eye on these nations.

First, following Saba Mahmood’s lead, the “obvious” connection between secularity and religious freedom needs critical scrutiny. Secularity as it is being presented in and promoted by Western nations often includes strict but unspoken definitions of religiosity, including a focus on its private and cerebral (faith) aspects. Expressions of religiosity which do not easily fit the mold and which are “foreign” to the local setting are much less easily accepted and appreciated. While ample space is typically given to individual religiosity and while on paper equal rights may be offered to a variety of convictions, the translations of these rights into policies directed at different convictions often demonstrate underlying rationalities and conditionalities.

Second, in a Western context, a comparative perspective is very instrumental in uncovering cases of religious discrimination. Last year, I co-edited a volume on religion-state relations in Europe, giving attention to both theoretical considerations and case studies from European countries [1]. It features my article giving attention to the small Evangelical Protestant and Islamic minorities in Belgium, which may function as an interesting exemplary study of the above-mentioned statements.

Like most European countries, Belgium, since its independence in 1830, has developed a relationship of “mutual dependence” of organized religion and the state [2]. It started modestly as an attempt to combine liberal and Catholic political agendas in the newly established democratic nation and to avoid returning church property confiscated by Napoleon. In almost two centuries, the system has grown into a complex amalgam of rights and policies involving the different levels of the federal Belgian state system and pertaining to seven recognized “worldviews.” Two key elements of this support system are discussed below. The seven recognized worldviews are the Anglican, Catholic, Islamic, “Israelite,” Orthodox, and Protestant religions and non-confessional humanist philosophy. These are said to make up over 95% of the religious/philosophical self-identification of Belgian citizens. Still, religious discrimination can be found in the fact that some worldviews have no place in this system. Buddhism is currently working towards recognition and receives a small annual subsidy because of its internal organization [3].

In the Belgian system, two key elements are constitutionally fixed: (a) the possibility of state salaries for religious ministers and moral counselors (art. 181 of the Constitution) and (b) the possibility for children to have classes in the religion of their (parents') choice throughout their compulsory school career, the teachers being salaried by the state (art. 24.1). Also, there are various forms of financial and other support for religious communities and their community life. The system is understood by some today as a guarantee for the exercise of the citizens' right to religious freedom. As such, it is discursively embedded in a liberal secular framework that involves competing human rights and liberal values such as democracy, separation of church and state, and good citizenship. Participating in the system is, however, not without consequence. The remainder of this article will offer examples from three policies to demonstrate ways in which state policies are set up to socialize religious minorities and integrate secular values in (a) their institutional organization, (b) their religious activities, and (c) their official communications. Comparisons with the historically majoritarian Roman Catholic religion will demonstrate the hidden discriminations which are also present.

First, participation in the Belgian religion-state relations has necessitated the very diverse and autonomous Evangelical churches and Islamic communities to set up a representative body with democratically elected officers who act as their spokesperson towards the state. Such a structure and hierarchization of religious authority directly contradicts the theological and organizational self-understanding of these faith communities. An alternative arrangement, which would allow local faith communities to directly communicate with the state, is very possible and even has historical precedents [4]. But the state was adamant that for Islam and Protestantism the establishment of such an overarching structure is an essential requirement for full participation in the Belgian public management of religion. Pluralistically organized religions with much inner diversity and variety are thus required to adapt to the structural preferences of the majority religion, the Roman Catholic Church, which has functioned as the model. Moreover, this system involves another interesting form of discrimination vis-à-vis minority religions. While their representative bodies are expected to have been democratically elected, the Roman Catholic equivalent—the bishop—is appointed by a foreign sovereign, the Pope. It is hard to imagine that this would be accepted for the representative body of, let's say, Islam in Belgium.

Second, participation in the Belgian religion-state relations has come to involve (particularly in Flanders) monitoring of religious activities. Since the renewed Flemish legislation of 2005, religious communities that seek recognition and support need to meet several requirements. Of highest importance is the need to annually demonstrate their "societal relevance." This requirement implies that the faith communities are not primarily valued because they enable their members to exercise their religious freedom rights. The religious community is first and foremost evaluated based on its relation/service to non-members, i.e., to the wider society. Most problematic is the fact that these and more requirements for recognition, which may also lead to exclusion of a faith community from state support, only exist for communities recognized since 2006. This means that all 1600+ Roman Catholic parishes can remain certain of their continued recognition and state support without these requirements. Only a small portion of the currently recognized faith communities, including all (minority) Evangelical and Islamic recognized places of worship, fall under the new regulations. The burden of "demonstrating one's societal relevance" and the possibility of losing recognition and support is thus in practice reserved exclusively to minority religious communities, in particular those with a strong migrant constituency. Interestingly, a key way in which one must demonstrate societal relevance is by speaking Dutch in internal and external relations.

A third policy domain in which recognized religious minorities are confronted with problematic demands from the state concerns the public role expected to be played by

their representative organs. We already mentioned that for pluralistic religions without hierarchical structures, the setting up of these organs runs counter to their theological self-understanding. But Evangelical churches, as well as mosques, have accepted their establishment as administrative organs with the sole purpose to mediate in the function of religion-state arrangements. In recent years, however, public authorities increasingly expect these administrators to publicly speak out in response to societal events. After the terrorist attacks in Paris (2015) and Brussels (2016), all “heads” of the religions were summoned by the federal government to jointly voice their concerns over religiously motivated violence and to harmoniously defend the “fundamental values” of Western civilization. Although the administrative bodies have no spiritual authority within their communities, they are also made publicly accountable for theological positions and spiritual activities within the communities they serve. Here, again, they are expected to follow the lead of the majoritarian religion. The Roman Catholic bishops, however, do indeed carry spiritual and practical responsibility for the churches in their dioceses and also have the authority to interfere in their community life.

In conclusion, the religion-state arrangements in Belgium and their effects on the recognized minority religions demonstrates two things. First, state actors increasingly utilize these policies to socialize religious communities into integrating and promoting secular liberal values. Such instrumentalization of FoRB legislation must be criticized, independent of how one appreciates these values in general. Second, a comparative approach demonstrates that minority religions are factually disadvantaged as they are regulated more strictly than the historically majoritarian Roman Catholic church and are expected to adapt themselves to its organizational and authoritative model (be it in a democratic manner). While past injustices can often be forgiven when giving attention to historical contingencies, it is problematic that in the past decades the inequality in the treatment of different recognized religious communities in Belgium has not diminished, but rather increased. At this very moment, new Flemish legislation on recognition and support of religious communities is being prepared. It is clear that also in this “Western” context ongoing attention because of protection and promotion of freedom of religion or belief is essential.

References:

[1] Jelle Creemers and Hans Geybels, eds., *Religion and State in Secular Europe Today. Theoretical Perspectives and Case Studies*, *Annua Nuntia Lovaniensia* 79 (Leuven: Peeters, 2019).

[2] For an overview, see Stéphanie Wattier, *Le financement public des cultes et des organisations philosophiques non confessionnelles. Analyse de constitutionnalité et de conventionnalité* (Brussels: Bruylant, 2016).

[3] Louis-Léon Christians and Stéphanie Wattier, “Funding of Religious and Non-Confessional Organizations: The Case of Belgium,” in *Public Funding of Religions in Europe*, ed. Francis Messner (London: Routledge, 2016), 51–73.

[4] Adriaan Overbeeke, “(Eenheids-)vertegenwoordiging van erkende religies in het Belgische erediensrecht: Pleidooi voor een gedifferentieerde benadering,” *Recht, Religie en Samenleving* 2013, no. 2 (2013): 5–43.