

DETERIORATION OF RELIGIOUS LIBERTY IN EUROPE



July 22, 1998

**Briefing of the
Commission on Security and Cooperation in Europe**

ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

ABOUT THE COMMISSION (CSCE)

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

DETERIORATION OF RELIGIOUS LIBERTY IN EUROPE

WEDNESDAY, JULY 22, 1998

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC.

The briefing convened in Room HC-5, U.S. Capitol, Washington, D.C., at 1:10 p.m., Wayne Merry, Helsinki Commission Staff Member, presiding.

Mr. Merry. Good afternoon, and welcome to this public briefing by the Commission on Security and Cooperation in Europe. My name is Wayne Merry, Senior Advisor to the Commission.

I've started a little late on the view that some people might have as much difficulty finding this room as I did, but I would like to proceed now.

For people who are not familiar with the Commission and its work, let me briefly describe the procedure we will use today. The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a small, but independent, U.S. government agency created by law for the purpose of monitoring implementation of the commitments of the Helsinki Final Act and of other documents of the Organization of Security and Cooperation in Europe, the OSCE.

The focus of our activities is very heavily on human rights questions. We have been in existence for over 20 years, and I think have a laudable track record over that period.

The work of the Commission is all public; we do no classified work. A good deal of what we do is conducted in public briefings and public hearings of this type. This session is being transcribed and will be published and available both in hard copy and on the Commission's web site, however, not too soon, it takes a while for the transcriptions to come back from the printers.

There is information on the Commission available on the table outside, and if any of you wish to be on our addressee list or find out more about us members of the Commission staff here will be happy to help you.

Our procedure today will be to hear statements from our two visiting guest experts, and then we will have an open discussion session, in which there can be comments and questions from members of the audience on the very important theme that we are dealing with today.

Let me say that the question of problems of religious liberty is one which is occupying an increasing priority and attention from the Helsinki Commission. This is by no means a new theme in our work. During the Cold War, however, most of the attention that we gave on questions of religious liberty were focused in the eastern countries, countries with at least formerly communist and atheist ideologies, and the problem was one of the situation of religious believers in state political systems which were either overtly hostile or discriminatory toward those believers and towards organized religion.

Today, in the aftermath of the Cold War, and regrettably the geographic scope of our interest has widened, as we are concerned with what we see as a developing pattern of

discrimination against religious minorities and other belief groups in a number of countries in the OSCE region.

I will note a number of specific cases on which the Commission has been very active. Most of you are aware of the new law in the Russian Federation on religious activities. This is one which members of the Commission and Commission staff have had an active dialogue with Russian Government officials and legislators, and while there have been some positive developments on that legislation in recent months it is certainly one which we follow with concern and which we will be continuing to monitor very closely.

Recently, Uzbekistan has promulgated a new rule on religious activities which we find very disturbing, both because of the actual content of the statute and because in some of the public statements made by senior government officials at the time that it was introduced, and this is a case which I think we are going to be following with great attention.

Many of the other former communist countries have similar problems which are the focus of a good deal of our efforts. However, unlike during the period of the Cold War, we now must devote a fair amount of our attention to countries further west. It is not new for the Commission to express concern about problems with religious minorities in some of the western countries. For example, we have been concerned about problems with religious minorities in Greece for many years.

More recently, however, we have had to spend time and attention on countries where traditionally this had not been much of a subject of concern for us. There is, however, for example, a new law in Austria, which members of the Helsinki Commission spoke directly with members of the Austrian Parliament during a trip in January, which is a subject of concern.

More recently, the Inquiry Commission of the German Federal Bundestag issued its final report, which we have been examining, and which certainly has some very disturbing elements.

Also, there have been practices in France and in Belgium, which we shall hear more about today, which are disturbing to us.

Let me say that the Helsinki Commission proceeds always on the basis of those principles contained in the Helsinki Final Act and in other OSCE documents, so this is not the case of a United States organization trying to apply American standards to European countries. We are very well aware of the fact that most European countries proceed from a tradition of a state sanctioned or state sponsored church, but the principles contained in the Helsinki documents are internationally accepted principles by all of the states party to the Helsinki Final Act, and they involve, with great priority, fundamental freedoms of religious belief and other belief and of practice. And, it is these principles which we seek to monitor and where we hope to improve compliance.

Let me note that today's briefing is only one in a series of public sessions sponsored by the Helsinki Commission on this important subject. The Helsinki Commission will be in collaboration with the House International Relations Committee sponsoring a joint public hearing next week, on Thursday, July 30th at 10:00 in the morning, in Room 2172 in the Rayburn House Office Building, on continuing religious intolerance in Europe, and you are all certainly invited to attend that session.

Let me also note that the priority and interest which the Helsinki Commission devotes to this important question is reflected in the recent creation in the Helsinki

Commission's permanent staff of a position, counsel for religious liberties, occupied by Karen Lord who is with us today. If any of you have any specific questions concerning the Commission's work in this area, I suggest you may wish to be in touch with her.

Today we are honored to have two expert witnesses, who will give us their views on this subject. These are Mr. Willy Fautré, Director of the Human Rights Without Frontiers organization in Belgium, and Mr. James McCabe, who is the Assistant General Counsel of the Watchtower Bible and Tract Society, and I will ask each of them to speak in turn.

Mr. Fautré, who was born in Belgium in 1944, is both the founder and the chairman of Human Rights Without Frontiers, which is a secular organization promoting rule of law, democracy and human rights. The organization was created in 1989, fortuitously, the year which the Berlin Wall came down, and it gives priority to the field of religious liberty, and it has a press service in both English and French.

Mr. Fautré.

Mr. Fautré. Thank you for giving me the floor, Mr. Chairman.

I want to thank the OSCE for giving me this opportunity to brief you about the deterioration of religious freedom in a number of West European countries since some parliamentary and European Commission on Cults have been set up in the last few years.

The European continent is multicultural, multilingual and multireligious, and it can be said that religious pluralism really exists within the borders of the Member States of the European Union, 15 countries, and more widely of the Council of Europe. However, most European countries have a two-tiered system, and even a three-tiered system, in which religions have different statuses and in which citizens are not treated in the same way and even suffer from various forms of institutionalized inequalities and discrimination on the basis of their religious or philosophical beliefs.

This background, on which recent massacres committed by groups such as Aoum or the Order of the Solar Temple, have left their mark should allow one to better understand the sudden emergence and development of parliamentary commissions on cults in Western Europe. So, I will brief you very shortly—between 15 and 20 minutes— about such commissions in France, in Belgium, in Germany, at the European Parliament, and at the Council of Europe.

Mr. McCabe will talk extensively about the situation in France and more precisely about Jehovah's Witnesses. You have certainly read the advertisement that they have put in an American newspaper, so he will talk about that; but the situation in France is not only serious for the Jehovah's Witnesses, but also for a number of other minority religions.

In fact, thousands of religious associations may now or tomorrow be targeted by the fiscal services, as Jehovah's Witnesses, because they are not worship associations recognized as such by the Ministry of Interior. According to statistics published in 1993 by the Ministry of Interior, only 109 out of 1,138 Protestant associations, 15 out of 147 Jewish associations, and two out of more than 1,000 Muslim associations are currently entitled to benefit from legacies and exemption on donations.

Tomorrow, Catholic associations may also fall under the guillotine blade of the Internal Revenue Services, including the Youth World Days, through which huge amounts of money were collected to cover the expenses of the Pope's last visit to France, and a small evangelical pentecostal church of Besançon, with which I am in contact, is already hit by

the fiscal measures of the IRS and is being pressured to pay about \$500,000 on donations received between 1994 and 1997.

It remains to be seen, if collectors of the Internal Revenue Services will limit their action to the 172 cults, or so-called cults, listed in the French Parliamentary reports. Jehovah's Witnesses are on the black list; that small evangelical, pentecostal community of Besançon is also on that black list.

If such is the case, then it would be quite discriminatory and contrary to the constitutional principle of separation between state and church, which forbids the state to establish a category of good religions and a category of bad religions.

Moreover, there's no reason for fiscal services to fail to apply the measures to hundreds of thousands of secular non-profitmaking or philosophical, cultural, or some other associations which collect donations to finance their activities, an action that would then jeopardize, not only the freedom of religious association, but also in a much wider sense the right to association.

One more attack is now threatening minority religions in France. In the first days of July, 1998, the French Observatory on Cults publicized its yearly report. It noted that, according to them, about 50 organizations were indoctrinating children in 1998, against 28 organizations in 1996. In this general climate of anti-cult hysteria which started in 1995–1996, the French Law Commission adopted two draft laws introduced by Mr. Jacques Guyard of the Socialist Party and Jean-Pierre Brard of the Communist Party.

One asks for an inquiry about the finances of cults, and proposes a financial control of those who have budgets superior to \$80,000.00. The other is supposed to control if children of cult members abide by the laws on compulsory education. Mr. Gest, Mr. Brard and Mr. Guyard, who were respectively chairman, vice chairman and rapporteur of the French Parliamentary Commission on Cults in 1995–1996, have asked for cults to be included in the category of combat groups and private militias.

By the end of 1998, the French Parliament will have to vote a resolution creating two more inquiry commissions, one about the financial situation of cults and another one about their influence on children.

On this background, we can see a threefold pattern of real persecution which is developing in France. First, minority religions have been marginalized, stigmatized and lynched. Access to public halls for meetings has been denied to a number of them, has been made more difficult or more expensive than for other organizations. Officials have become picky in fulfilling their administrative duties. Children at school and adults in their neighborhood have been stigmatized as members of cults.

Secondly, we now see an “unpopular” minority religion isolated from all the others and targeted by the fiscal administration: Jehovah's Witnesses now in France. But before that it was Scientology. The reaction of public opinion, or the lack of reaction, may be a testing ground for the treatment to be applied tomorrow to other minority religions.

And, thirdly, it can be feared that plans are being carried out to crush and kill minority religions one by one.

As the first country to have attacked minority religions, France is today paving the way to new subtle forms of religious persecution in Europe. In the '80s, the Hare Krishna movement was killed financially by the fiscal services for a number of reasons that will not be analyzed here. Today, Jehovah's Witnesses and the Evangelical Pentecostal Church

of Besançon are targeted by the same service. Tomorrow, other countries may think of forging new fiscal laws, new fiscal weapons, against minority religions.

The second country that set up a parliamentary commission was Belgium, the country I'm coming from, and where most of European institutions are based. The Belgian Commission on Sects—we usually use the word sects in Europe—started its work in April, 1996 and released its report in April, 1997. In one year's time, it held 58 meetings and heard 136 witnesses.

The most striking recommendation of the Sect Report is certainly the draft law that the Parliamentary Commission has proposed to introduce into the Belgian Penal Code and that provides for a sentence of two to five years in prison and/or a fine for those who use beatings, violence, threats, psychological manipulation to persuade an individual of the existence of false undertakings, imaginary powers or imminent fantastical events. This is the literal translation of that draft law.

Another astonishing fact is that some Catholic organizations are also targeted by the Belgian Commission, the Charismatic Renewal, Opus Dei, The Work (which is an association recognized in 20 European dioceses and which has its headquarters in Rome), the community of San Egidio and the small Opstal community led by Jesuit fathers mistakenly mentioned in the list of 189 controversial movements, and it is on purpose that I don't use the word sect or cult. Maybe I will answer some questions about that terminology later on.

Now, on the Protestant side, more than 20 Protestant movements are also victimized by the report: the Evangelicals (globally, just the Evangelicals without any distinction), the Pentecostals (also globally), the Adventists, the Amish, the Darbyists, Operation Mobilisation, Youth With A Mission, YWCA, and for some mysterious reasons not YMCA, and so on, many others. So, attacks must also be deplored against the Soka Gakkai, a Buddhist movement of about 15 million members, and the Satmar, a Jewish community which has become the symbol of religious freedom and freedom of education in the United States.

So, this is, in a nutshell, what happened with the Belgian Report.

But, since the publication of that report, that was a bit more than one year ago, an Information and Advisory Center was created by the Parliament. That was in April of this year, and it will soon be operational. On that occasion, a group of Belgian Protestant Satmar and Baha'i leaders whose movements were labeled as cults by the Belgian Parliamentary Report, set up a so-called Belgian Citizens' Forum against religious intolerance, discrimination and inequalities in Belgium in May, 1998, at the initiative of our organization.

It held a press conference about their plight at the European Parliament in Brussels under the patronage of Mr. David Hallam, who is a member of the European Parliament, British and a member of the Labor Party.

A conclusion about Belgium: in many societal matters, Belgium is prone to follow the example of its French neighbor. In the struggle against so-called "cults," the Belgian Parliamentary Commission had the same prejudices and made the same methodological errors as their French counterpart. This can already be noticed from the repressive measures that are being studied, such as a draft law to penalize mental manipulation, protection of children of cult members, special control of bookkeeping of cults, ban on tax exemp-

tions on places of worship, and so on.

The third country chronologically that set up a Parliamentary Commission was Germany. In June last, after 2 years' work, the Enquiry Commission, "So-called Sects and Psychogroups," passed its report with a large majority. The report represented quantitatively and qualitatively the most intensive analysis to date of the phenomenon of new religious and ideological groups.

In its conclusions, the Commission stated that sects and psychogroups do not represent any danger to the democratic state, which basically corresponds to the conclusions drawn out by a Parliamentary Enquiry Commission in the Netherlands in 1984. However, a special provision concerned the Scientology organization which the Commission did not consider a religious denomination, but rather, as they phrased it, a "political-extremist" movement. This is why an extension of its observation, the observation of Scientology, by the Constitutional Defense Office was requested by the Commission.

The chairman of the Commission, Ortrun Schaetzle (CDU), also stressed that there is no undermining of economy by religious and ideological associations. However, the Commission shared the opinion that it is the duty of the state to protect the individual against exploitation and harm. According to the report, the extent of state action in relation to new religious and ideological groups and psychogroups ranges from education and information on the one hand to concrete measures on the other. This spectrum reflects the course of action recommended by the Enquiry Commission. The Commission recommended the establishment of a federal foundation which would tie together the various aspects associated with new religious and ideological groups and psychogroups, and the introduction of a legal arrangement for the state sponsorship of private advisory and information offices. Moreover, it recommended improving the protection of consumers, consumers of religious services and psychological services, by voting a law which should deal with transparency about psychotherapist qualifications, their methods and financial obligations.

The conclusion about Germany: the German report was surprisingly less negative than it had been feared from the interim report that had been publicized before.

The German Commission was the first to approach the issue from the point of view that it is the state's duty to protect consumers against illegal or unfair practice of cults and psychogroups. It now seems that consumers protection is originally typical of the German-speaking sphere of the European Union, as a member of the European Parliament, Maria Berger, who is Austrian, also took over the idea in a report on cults in the European Union.

But now this concept is extending its effects to other European institutions, such as the Council of Europe, which comprises 40 Member States.

Fourth on the list is the European Parliament. There were quite recent developments about their work, because about a week ago, exactly on the 13th of July, Mrs. Maria Berger's report on cults in the European Union was rejected for the second time by plenary session of the European Parliament.

According to David Hallam (Labour MEP), it seemed that while some MEPs were still flapping about the cult issue, more took on board arguments about religious liberty concerns and decided that it was not for them to make judgments on religious matters.

Others thought that the cult issue was not a problem. As the draft report was saying, the representatives of national parliaments in most Member States regard the existence

and activity of cults in the Member States as insignificant or unproblematic and there is no reason to fear that the firmly established democratic institutions, based on the Rule of Law in the Member States, are in immediate danger.

So, we could have expected from the report of the European Parliament that it would at least have gone as far as the German report, which professed to drop the concept of cults because of its bad connotation and its stigmatizing effect. It could have also been expected that the word “cult” be replaced by religious and philosophical movements.

The European report, unfortunately, failed to sufficiently investigate the terminology issue and just piled up opposing amendments, which deprived it of any coherence and led to its rejection. Now it remains to be seen what lesson the Council of Europe will draw from this failure, because the Council of Europe is preparing a report on cults which should be released, if everything is all right, this year at fall.

Just some extracts from the recommendation of the draft report. It's written in the recommendations that the Assembly calls on the governments of the Member States to set up independent national information centers on cults; also to penalize systematically illegal practice of medicine; to encourage the setting up of nongovernmental organizations for the victims or families of victims of sects, particularly, in Eastern and Central European countries, and other things like that that I can quote if there are any questions about the work of the Council of Europe.

So, with regard to the terminology issue, the Council of Europe solution is to refer not to cults, but to groups of religious, spiritual and esoteric nature, because according to them the word “cult” has a negative effect. We could also add of philosophical nature of such groups.

Now, general conclusions about all those reports and the basic issue that is behind those reports. In fact, as I told you at the beginning, there is a two-tiered system in most European countries, with recognized and non-recognized churches, and the cult issue is inseparable from the recognition issue and the financing of religions by the state.

In the current two-tiered system, state recognition implies access to state financial support. This explains why most religions, whatever their historicity or their size, apply for state recognition. However, state subsidies are provided by all the taxpayers, including those that profess a non-recognized religion, or do not profess any religion. Such a system of state recognition is quite unfair and we think that it should be dismantled.

It's simply not fair that members of minority religions, atheists, agnostics and so on, pay for religions which do not tolerate them or are openly opposed to them. As Europe has a long history of welfare state in most sectors of society, including the religious sphere, it is more pragmatic to plead for a reform of the system which can awaken synergies between various segments of society than for a radical change such as putting an end to state financing of religions, which would trigger much opposition from the religious establishment and would not find any political support.

Germany, Italy and Spain have introduced a system that partially allows taxpayers to allocate a part of their income taxes to the religion of their choice. However, there are big disparities between the systems of these countries. I will not analyze them here, but the philosophy behind those systems is that the taxpayer should be allowed to finance the religion or the philosophical movement of his or her choice and should not have to contribute to the financing of religions they do not profess or they do not like.

So, we have a proposal to make, a solution to recommend, with this regard. First point: replacing the two-tiered system with recognized and unrecognized religions by a system in which all religions, whatever their historicity or their size, should apply for juridical status of their choice. Religions with small memberships, maybe some hundreds of adherents, could be requested to provide a number of signatures of people supporting their application.

Second point: allowing taxpayers to allocate a part of their income taxes to one of the religions or philosophical movements enjoying a juridical status (this proposal follows the Italian model but goes beyond it).

And third point: granting tax exemption to citizens making donations to religions enjoying a juridical status.

Such a fundamental reform would put an end to the two-tiered system with two or sometimes more categories of religions and citizens and the cult issue as such would then become quite irrelevant.

I thank you for your attention.

(Applause.)

Mr. Merry. Thank you very much, Mr. Fautré.

I would note the publication of Mr. Fautré's organization, Human Rights Without Frontiers, for anyone interested we can give you the address where it may be obtained.

Our next speaker is Mr. James McCabe, who is the Associate General Counsel of the Watch Tower Bible & Tract Society. Mr. McCabe is an experienced lawyer who has argued a great many religious liberty cases before the American courts.

Mr. McCabe.

Mr. McCabe. Thank you, Mr. Chairman, and thank you on behalf of the Jehovah's Witnesses for inviting me to present a picture of the tax situation of Jehovah's Witnesses in France.

It's interesting that the 21st chapter of the Bible book of Luke describes a very poignant scene where a needy widow drops two little coins of small value into the contribution box at the temple in Jerusalem. The Lord commended this woman's generous spirit. Today, in the nation of France, if this woman is a member of a small pentecostal congregation or a member of Jehovah's Witnesses, the Ministry of Finance wants to impose a 60 percent tax on those two coins of little value. How was this determination made? Why are Jehovah's Witnesses and other religious minority groups under this fiscal attack?

Well, it should be noted at the outset that Jehovah's Witnesses are not a new religious movement in the country of France. As far back as 1891, the first president of the Watch Tower Bible & Tract Society, a legal corporation, used worldwide by Jehovah's witnesses, visited France. By 1913, there were religious assemblies of Jehovah's Witnesses being held in many different cities and departments of France. By 1928, there were 400 active members of the faith and participating with others in some 45 congregations in France. And, in 1939, six weeks after the beginning of World War II, Jehovah's Witnesses were banned as a religion in France.

During the next several years, the Witnesses faced extreme persecution, and many were deported to concentration camps. Today there is a group of them known as "the deportees" of France that survived that ordeal. Oppression that was heaped upon the witnesses during this time period was because of their Bible-based conscientious stand on

neutrality and their refusal to cooperate with the Nazi Regime. Some of the Witnesses were even executed during this time period.

But, despite the extreme difficulty emerging after the war, the group had grown from 1,004 in 1939 to over 2,000 in 1945. And, the religion has continued to grow steadily over the past few decades and is now the third largest Christian religion in the country of France.

In November of 1997, a special one-day religious assembly of Jehovah's Witnesses was held in a facility called Villepinte in Paris, where a total of 95,000 Witnesses and their associates attended. The latest yearly report for France indicates that the number of Witnesses and their associates is now well over 220,000 with some 1,685 congregation in the villages, towns, and cities throughout France. Now, in addition to their Bible-educational community service, Jehovah's Witnesses in France have been active in the organization of humanitarian aid to several African countries over the last ten years.

Despite the clear religious nature of their activities, Jehovah's Witnesses along with other so-called "sects" that are mentioned in the report that Mr. Fautré has described for us, have been the subject of widespread media attacks. In a climate that stems no doubt from growing concern about so-called "dangerous cults" following mass suicides of the adherents of the order of the Solar Temple in the forest of France, the subway gassing in Tokyo, events that took place in Waco, Texas, and even more recently the suicides of the Heaven's Gate group in San Diego, cult-watch groups in France urged official inquiries be made by the government into the activities of the so-called "sects" or "new religions." As Mr. Fautré has indicated, the National Assembly formed a Parliamentary Commission on Cults.

After a year-long study, they issued their report in January of 1996, which I believe interestingly enough did not list the Order of the Solar Temple as being one of the cults under investigation. The report is largely based upon hearsay and has no legal characteristics in France, yet it is frequently cited as an official determination that the list of groups, the 172, are dangerous cults. The religious groups that are singled out and classified by some individuals in governmental agencies are then described as not being religious at all, they come under the nomenclature of dangerous cults.

So, the report concluded, among other things, that the laws on taxation should be used to control, suppress and eliminate these dangerous cults in France.

Not surprisingly, in January of 1996, the tax authorities in France began an official audit of "Association les Témoins de Jéhovah" (ATJ), the principal legal corporation used by Jehovah's Witnesses in France. The audit was extended beyond the normal one year statutory period to a period of 18 months, and during this time period no irregularities were found in the Witness books of accounts, and it was determined that there was no commercial activity being engaged in by the group.

Nevertheless, a ruling was issued that a transfer tax applies to the religious offerings received from the faithful. A similar determination was made by the local tax officials in both June and then in November, and ATJ was held to be liable to pay the "transfer tax" of 60 percent of the donations it has received.

So, the scope of this decision eventually covered all offerings received from the contribution boxes from the Kingdom Halls, which is what Jehovah's Witnesses call their houses of worship, during the period from January 1, 1993 to August 31, 1996. After add-

ing the penalties and interest, the total figure sought by the Ministry of Finance was in excess of 303 million francs or in excess of \$50 million.

Now, the law on manual donations, or this transfer tax, is normally applied only to estates or is comparable to what we have in the United States known as a gift tax. Now, the law simply provides that any deeds containing either a declaration by the donee or his representatives, or a judicial acknowledgement of a manual donation, are liable to the donation tax. Article 795 of the same law provides an exemption from the tax for donations and bequests made to religious corporations, unions or religious corporations and recognized congregations, and that's where the problem comes in because the Ministry of Interior refuses to recognize the Jehovah's Witnesses and many of the other 172 listed organizations as religious, so the Ministry of Finance has determined the tax applies.

Well, despite the clear exemption that religious organizations have from the tax, an additional measure was taken on May the 14th of 1998, the tax official sent a bailiff to the headquarters of the Witnesses in France located near the coast of Normandy in Louviers and presented them with a lien on all of their real property and moveables. This lien means that they cannot move their moveables or sell or encumber their property in any way.

It's interesting, in obtaining the judicial approval for the lien, the Ministry of Finance lawyer alleged that the Jehovah's Witnesses were arranging their insolvency, somehow trying to dispose of their assets to avoid paying the tax. No facts were supported or supplied to support the allegations, and yet the judge granted the lien.

The imposition of such a tax is clearly unconstitutional on its face and it has technical problems even within its own framework. To date, the Ministry of Finance has not presented the religion with an official bill to pay the tax. French lawyers inform me that until this event takes place, an actual court case challenging the constitutionality of the tax cannot take place. That such a tax has been imposed on just one religion, while a vast majority of other religions and religious organizations are not similarly taxed on the contributions provided by the faithful, reveals its discriminatory nature. Surely, such an inequality cannot survive the scrutiny of the French Constitution, let alone the European Convention of Human Rights or other international treaties to which France is a signatory.

It's the intention of the Witnesses to challenge this infringement on their religious activities through the courts of France and in the European Court of Human Rights should that become necessary.

It's also interesting to note from a recent historical perspective, though, that already in the courts of France Jehovah's Witnesses have had their places of worship recognized as such by nine different administrative courts. These numerous rulings have meant that in the various courts view, Jehovah's Witnesses are a religion and their buildings are thus exempted from the habitation and property taxes imposed on non-religious buildings. Additionally, the European Court of Human Rights has ruled as far back as 1992 in the Kokkinakis case and several times since then discussing the situation of Jehovah's Witnesses in Greece, that they are a well-known religion.

On the face of this jurisprudence internally and externally, it's hard to fathom how the Ministry of France can continue the attack under the guise that Jehovah's Witnesses are not a religion of France.

In the words of former Chief Justice Marshall of the United States Supreme Court, "The power to tax involves the power to destroy," and he also went on to say, "... (and) to carry it to the excess of destruction would be an abuse." Certainly, that's the way we view the Ministry of Finance attempt to impose a tax on the "widow's mite" in the congregations of Jehovah's Witnesses in France. It is surely an attempt to destroy the religious activities of this group. It is also an attempt to destroy the congregations' generous spirit that in the past ten years has risen to meet the dire needs in the face of disaster and trouble in Burundi, Rwanda and some eight other African nations. Surely, it is a serious violation of the fundamental human right of freedom of worship.

While I have attempted to, in these brief remarks, to focus on the very recent activities of the tax authorities in France, I think it's also of note to point out the disturbing results directly attributable to the climate of intolerance growing in France. Virtually every week over the past three years, a segment of the French Government has caused to be published information in the popular media in which Jehovah's Witnesses are presented as a religion that breaks up families, that there's somehow a higher incidence of mental health problems among Jehovah's Witnesses than in the general population, and an old baseless lie that comes from a faulted study from the United States by a former member of the Jehovah's Witnesses, that they have a higher rate of suicide than the general population in France.

Results of all of this media campaign and this misinformation has had a tremendous impact on the lives of a number of Jehovah's Witnesses, and it's noteworthy, I think, that numerous teachers who are Jehovah's Witnesses lost their employment specifically due to their adherence to their religious faith.

One example involves Mrs. Maryline Bouchenez who, after teaching at one school for 18 years was forced to undergo severe scrutiny from the school authorities simply because she is one of Jehovah's Witnesses. In their findings, the authorities found that "Mrs. Bouchenez carries on her work in a satisfactory manner. The children are happy in her class. When observing the professional action of Mrs. Bouchenez, it is impossible to say that the neutrality of the public teaching is at stake here." Yet, in spite of this favorable official report, she was forced to transfer to another school and told that she should not let those working there know of her religious affiliation.

A second example involves Mrs. Catherine Guyard, who, incidentally, had been a teacher for 18 years. A meeting was organized by the parent-teacher association in 1996. The purpose was worded thusly, "Your children will be entrusted to a school teacher who is a member of Jehovah's Witnesses, who are a sect organization. We invite you to discuss this matter on September 2, 1996, at 8:30 p.m. at the school." The academy forced Mrs. Guyard to teach at another school, and when she was to return to the school she taught at for 18 years she learned that a tract was being distributed to the parents and posted on information boards outside the school. According to the judge who examined the case, he said, "The tract was written to harm the reputation of Mrs. Guyard and to provoke discriminatory attitudes."

Weekly, the central offices of Jehovah's Witnesses of France received reports from Witnesses living in six different French departments that they had lost their employment as day care specialists.

With increasing frequency, we are finding that French authorities are refusing to

allow Jehovah's Witnesses to rent facilities for use of religious services. For example, in Lyons, where the Witnesses have rented the same facility for over 20 years, they were recently denied access to that facility.

Mayors of numerous French towns have also refused to extend building permits to local congregations to construct houses of worship. In nine cases, "Kingdom Halls," as the centers for religious worship of Jehovah's Witnesses are called, could not be built. The congregations affected either continued meeting in private homes or in other facilities other than municipal facilities.

Also, it's interesting to note, too, that in at least 11 cases that we are aware of mothers going through painful divorce proceedings were denied custody to their children, on the simple basis that they were members of Jehovah's Witnesses.

In conclusion, I think we can say that today religious liberty is definitely under attack in France. Added to the personal toll of living in an environment of religious intolerance as mentioned, the Ministry of Finance in France is attempting to control and destroy the religion of Jehovah's Witnesses in that country by the imposition of a 60 percent tax on its contributions. These contributions have been voluntarily donated by members of the faith to support their places of worship and carry out their religious charitable activities in France and in French-speaking Africa. Jehovah's Witnesses see this as a direct result of the Enquete Commission's report.

Equally disturbing is the fact that as Mr. Fautré has brought out, Belgium and Germany have commissioned similar reports in their respective lands, and we are awaiting the other shoe to drop shortly in those countries.

If similar fiscal restraints result from the Enquete Commission reports in Germany and Belgium, ominous restraints and protracted legal battles to ensure basic freedoms and fundamental human rights among the member states of the European Union are sure to follow.

In a speech last month at the inaugural luncheon of the French-American Business Council here in Washington, Madeleine Albright noted that, "Both France and the United States must stand together for peace and human rights." No doubt our distinguished Secretary of State had in mind helping less developed nations adhere to the lofty principles of fundamental human rights embodied in international treaties such as the Universal Declaration of Rights, the Helsinki Final Act, the European convention on Human rights, but today, we see the need and we see support of all lovers of religious liberty and freedom to demand that France itself respect the human rights of more than 200,000 French citizens associated with Jehovah's Witnesses within its borders.

Thank you, Mr. Chairman.

(Applause.)

Mr. Merry. Thank you very much, Mr. McCabe.

The floor is now open to members of the audience to address comments and questions to our two expert witnesses. I would ask people please to stand and use one of the two available microphones in the aisles, and please to identify yourself for the—as a courtesy to our guests.

Anyone can be first.

Questioner. My name is Jim Andrik, I'm with the General Counsel's Office of Jehovah's Witnesses. I had a question for Mr. Fautré. You mentioned the word "cults" and "sects"

that's often used in Europe and you had some information about using a different term, movement, religious movement and so forth. Did you mention that?

Mr. Fautré. Yes, yes. There is a whole debate about the terminology issue, because members of Parliamentary Commissions try to give legal contents to the word "sect." They haven't managed to do it, and so they propose various alternatives.

For example, in Germany survey talked about groups having philosophical—esoteric, religious and philosophical contents. In Belgium, they have transformed the denomination of the observatory—the so-called "Observatory on Cults," into an advisory and information center on illegal and harmful sectarian organizations. So, these examples show that they don't feel at ease with the word "cult." But, in France, they keep the word "cult." So there should be an alternative to that word, which has a very negative connotation. The European Parliament says, for example, "we keep on using the word cult but we don't give a pejorative connotation to that word," but never do they say that they give a positive connotation to the word religion.

The tendency in most Western European countries is to make a distinction, it's not openly said, between religions and cults; and those who are members of a religion should be entitled to enjoy the benefits of international instruments on religious freedom, religious rights and so on, and those who would be in the category of cults or sects wouldn't enjoy the same rights in that field.

Questioner. Okay, thank you.

Questioner. My name is Robert Buckley, and I've been a Consultant at the Holocaust Museum in Washington. I've been in Europe probably since 1988, a number of times interviewing Communist prisoners, Jehovah's Witnesses, as a matter of fact, I had the privilege of interviewing—DeGaulle and Madame Simone Veil. Interestingly enough, I found that in my interview with Madame DeGaulle the Jehovah's Witnesses assisted her in arriving at their concentration camp.

So, in these reports about these religions, these sects or cults that are being referred to as minority religions, have been found in underlying areas in the continent, that they should be so concerned about these people, if they obey the laws and so on? What has been your exposure to that? Is there some type of theory of that, or is there some type of influence?

Mr. Fautré: I think that general anti-cult climate started after the massacres committed by Aum, the gas attempt of Aum in Tokyo's subway, and also after the homicide/suicides of the Order of the Solar Temple.

Before that happened, there were already forces, ideological forces or political forces, which did not sympathize with all that was connected to religious groups or religiosity in general, and which were sometimes hostile to what was religious.

But, they hadn't got an audience in the media. When those massacres were on the front pages of the press, journalists were looking for people who had some experience about those groups, and so they tried to find former members of those groups, or families who had members in those groups, and who didn't agree with such a situation or who had to complain about that.

So, it's the way it started in the media in public opinion, but according to the country, those ideological, political forces present some variety. If we take the example of France, which has a tradition of separation between church and state, churches are not openly, at

least, supported financially by the state, so there seems to be a stricter separation. The state is secular, public schools are secular, there have been a number of issues that have been taken to court, such as wearing a veil as a Muslim and so on. So they are very sensitive on that issue.

Behind the issue of what they call in French “laïcité,” I would say secular humanism, it’s impossible to translate that concept into English, behind that concept we have political forces, such as the Communist Party, which is still rather strong in France. Its anti-religious position is been known; it was like that all over the world, where Communists were in power. Then, you have the Socialist Party. Socialist Party is rather much divided, you have all sorts of opinions, but also inside it you have people who are anti-clerical, anti-Catholic Church and things like that, but you also have Protestants. Prime Minister Jospin is Protestant, for example, and also Michel Rocard.

The second force consists in all those movements, anti-cult movements, where you find members, former members of religious groups who at a time of their own personal history started to disagree with the movement of which they were adherents, and so they probably wanted to take revenge. That’s for France.

Also, a third group in France is the extreme right. Being from the extreme right means that you are nationalistic. If you are nationalistic, you don’t like immigrants, you don’t like asylum seekers, you keep the faith of your ancestors, and you don’t want new religious movements to come into the country because they threaten your national identity.

And all those forces are working in France. There’s no objective visible alliance between all of them but there’s an exchange of information in one way or another, through internet, through the publications and so on.

In Belgium, you also also have such forces, but the historical content, the historical perspective is different. In Belgium, you have Catholic parties, political parties, that have been in power since the independence of the country in 1830. So if you didn’t want to be in that Catholic political party you joined the Socialist Party. Being in the Socialist Party meant to be anti-clerical, anti-Catholic, anti-religious, anti-Christian in general. Also, joining the liberal party put you in that category of anti-clericalism, grossly said.

Now, as there have always been alliances between those parties, so the anti-religious positions, or sentiments, feelings of some of the politicians were down played, but on a number of occasions you see them come to the forefront.

For example, the members of the Parliamentary Commission on Cults in Belgium were, number one, President Serge Morout, who is Socialist, and is atheist. One of his rapporteurs, Mr. Duchenes, is from the liberal party and he is a free mason.

If you look at the composition of the French Parliamentary Commission, you also find such people who have anti-religious sentiments, such as the Socialist Guyard, who is the head of that commission, then you have Brard, the Communist who is really anti-religious, and he made statements in the media which were really insulting to believers in general.

And so, according to the Country, because European Continent is a very—there is much diversity, every country, every nation state has its own history, but in every country you have that secularism and those anti-religious sentiments.

And so, those forces existed and the sect issue was a wonderful opportunity for those

people to come to the forefront in the media and to take care of their publicity as politicians, as they ask to chair such commissions or to be rapporteurs and so on and so on.

I don't know if I answered your question, but those issues are so much complicated that you have to put them in historical, and political and even sociological perspective.

Questioner. James Polechia, Director of International Public Affairs for Jehovah's Witnesses.

Listening to you, Mr. Chairman, and Mr. Fautré, and Mr. McCabe, I have some notes and I'd like to make a statement and an appeal to what this portends, what I think it portends.

Four hundred years ago, I witnessed an important document of religious liberty being born, it was the Edict of Nantes, the place was in France. The first time I was shoved aside when there were severe persecutions of the Huguenots, the French Protestants, and 200,000 French Protestants had to flee the country in order to save their lives. Many went to England. So, today, will France give due honor to the Edict of Nantes on its 400th anniversary?

Apparently, the stark answer is a no. The religious freedom of Jehovah's Witnesses are seriously threatened, but not only the religious activity of Jehovah's Witnesses, not only this religious group, but the—for religious intolerance to reign over other religious groups and charity organizations in France, and if this intolerance is not stopped in France it threatens all of Europe, East and West.

So, I call on all responsible people to appeal to the Government of France to protect and promote the human rights and fundamental freedoms of all its citizens, including Jehovah's Witnesses, which according to the Charter of Paris is the first responsibility of government.

Thank you.

Mr. Fautré. Can I comment on this?

Mr. Merry. Oh, yes.

Mr. Fautré. Just a short comment.

The example of France, or what's happening currently in France with Jehovah's Witnesses, and as I told the Pentecostal Evangelical Congregation of Berzonsol, has got worldwide coverage in the media and has attracted the attention of some former Communist countries, which see there maybe an opportunity to keep repressive legislation against their minority religions, we call them minority religions, they call those cults or sects.

Just a concrete example, a few months ago the Latvian Government held a hearing about the cult issue and invited some people from France, who were involved in the Observatory on Cults, then a few weeks ago a delegation was sent by Latvia to France to study how they coped with that issue. So, that means that the fiscal weapon that France is currently using against Jehovah's Witnesses and against the Protestant denomination, and used before in the '80s against Harry Krushna, might give some thoughts to more repressive regimes in Central and Eastern Europe. And, those countries are applying for integration into the European Union, and one of the conditions that have been set is that they respect human rights and the—rights of religious liberty.

Now, they will say, well, how do you want to treat us differently from France, or from Greece, or from any other country where they make a distinction between religions and cults or sects, and where they give different rights to cults and religions, and where you

have two-tiered or three-tiered systems.

So, that was a short comment on the gentleman's comment.

Questioner. My name is Bob Destro, I'm from Catholic University here in Washington.

I had a question for Mr. Fautré and also a question for Mr. McCabe. Let me do the—point out a part of your report, it's under the heading of the "Divided Academic World."

Mr. Fautré. Yes.

Questioner. And, I wanted to ask you what impact you thought that those divisions had. You said that the Commission basically has taken and made a genuine choice between the contending parties. In the United States, there has been a lot said and written about the division of elite opinion on various civil rights issues, and I wondered what you thought that division in the academic world would portend for cases brought before the European Commission and other multinational human rights organizations.

Now, that's the question for Mr. Fautré. I thought I would ask a quick question for Mr. McCabe too, and then let you address them seriatim.

The question with respect to foreigners, and the view of at least the French and some of the other governments in Europe appears to be that these new or, actually, not new, but apparently foreign religious groups is inconsistent with their national identity, and I was wondering what you thought in terms of tying the two questions together with the idea of the emergence of the concept of the Common European Home and whether or not a concept of European citizenship might embody a principle of religious liberty that really looks at people as individuals with human rights, rather than as Frenchmen who have to be Catholic or Germans who have to be Protestant, or whatever.

Mr. Fautré. So, about the academic world, very interesting question.

So, when France, when the French authorities decided to set up a Parliamentary Commission, they invited a lot of people to be heard, and nobody from the academic world was invited. It may be very amazing for you here in America, but that meant that they were disqualified in one way or another for such a debate.

Now, why were they kept outside the debates? I think there are two reasons for that. Before that Commission was set up, as Mr. McCabe stressed, the media had played a role in influencing the minds of civil society and the minds of those who are involved, including those who are involved in sect issues in one way or another. So, there are a lot of reports against cults, illegal activities, so-called "illegal activities" of cults, so-called "harmful" cults and so on, and the media did not go to the academic world, they didn't invite academics to such debates. So, it is as if they didn't exist, and so they were not invited.

Second reason is that there was much lobbying by the anti-cult movements and groups of victims, or former victims, or so-called victims, or families of victims and so on, and it's more spectacular, of course, for TV or radio to get an interview of someone who has left such groups and who says, well, I was inside the group, I know what's happening, and those people from the academic world, they are in the ivory tower and they don't know what's happening in those groups.

So, that's the basic argument used by the media and in the Parliamentary Commissions to say we don't invite those people, they are just theoreticians and they don't know the situation in the field.

In Belgium, they tried to do better than France, and they said we will invite some

university professors who are known to have some knowledge about that issue, so they invited some from Catholic universities and from the ULB, some free-thinking university I would say, and after they were heard they listened to the testimonies of former victims of so-called former victims, who were probably, very probably presented by anti-cult movements, also by representative of anti-cult movements, and after hearing both sides Belgian Commission decided that the testimonies of the academics were not relevant and they under-assessed the dangerousity of such groups and they gave the priority to the testimonies of those who had been victims. So, that was quite bluntly said by the Parliamentary Commission in Belgium, that the testimonies of the academics were not reliable, really insulting the way it is phrased in the report.

When we look at the level of the Council of Europe, there was a meeting last year, I think it was in May, and again when we look at the list of the people that were heard by the preparatory hearing for the report on cults, we only see members of the anti-cult family or those who in the academic world are presented as experts by the anti-cult movements, but nobody was invited from the academic world that had different opinions, such as Professor Bolbero, which is well known, who is well known, and many others. So, there's really an ideological choice in the fact that such people are thrown out of the debate.

Now, is there a division in the academic world about that issue? In the special issue of our magazine about the work of the Parliamentary report in Belgium, we published a contribution of Professor Massimo Intravenio, who will be present here next week at their hearing, and it was stating with utmost energy that there was no such division, and that it was an argument that was used by the anti-cult movements. And so, to be credible in the eyes of those in Parliamentary Commissions who had some time to decide between which part of the academic world they should choose and take a standing point.

Did I answer your question?

Questioner. Yes, thank you.

Mr. McCabe. I forgot the question now.

Historically, Europe has been troubled by religious intolerance. We can go back to the inquisition, the Crusades, the persecution of the Huguenots. Today, with the infusion of many "foreigners" into the European Community there has been numerous instances of racial and xenophobic intolerance going on, and I think that religion has been lumped into it and fueled by the attacks of the anti-cult groups that have been so well publicized.

It's amazing how misinformation gets into the news media, and even when the persons are called to account, such as happened in France when the governing body of Jehovah's Witnesses, who are 11 men who are mostly 80 years and older, were accused by one anti-cult leader of being drug traffickers and money launderers. The case was won in court against that individual on slander, but there was no publicity about it. Yet, the charge, when originally made, was widely publicized.

So, I think that what we have in Western Europe primarily is the strong propaganda activities of the anti-cult movement, which as we see very favorable press coverage, both, not only in the print, but in electronic media, simply because of its sensational claims that they make and usually are very baseless or extremely anecdotal when you consider the numbers of adherents.

However, I think in Eastern Europe the concept of national identity is so often tied up with the national religion that new religious movements, or unfamiliar to majority

religious movements, constitute a threat to the national identity. I think that was the situation in Bulgaria when they moved in 1994 to deregister 24 religions, very strong, the feeling was that we have to support the church, and the church is the Bulgarian Orthodox Church, and that supports the national identity of Bulgaria, and it's going to help us against the invading Muslim hordes that they perceived were diluting their national identity.

But, I think in Western Europe it's more the anti-cult movement not tied up with patriotism and state.

I don't know if that answers your question, but it's what I thought of when you asked it.

Questioner. Well, the reason that I asked the question is that, at least in the United States, there is at least a historical tradition, whether we carry it through or not is another question, of associating the United States as a place where people came to escape religious persecution.

Now that I've been sitting on this side of the ocean and watching the development of the Euro, for example, my concern is that as this idea of the Common European Home develops, where is religious liberty going to be in that mindset? Is it just going to be "Well, we are all secular, and you can be a Catholic or you can be a Jehovah's Witness, just don't act like one." Or is religious liberty going to be looked at as a value to be protected, as much, for example, as the value of being able to make sexual orientation choices, because that's a very big concern of the European Commission.

And so, what I'm looking at is the differential ways in which religious liberty is looked at, both here in the United States and other places, and that's why I really asked the question, what are European academics saying about this kind of thing. It might be too theoretical, but at least if you can get them talking they might be influential.

Questioner. Thank you.

Mr. Fautré. And, I think that in French-speaking countries in Europe, so France and the southern part of Belgium, that the role that's given to the academics is much less important than in the Germanic countries. I think of more than part of Belgium, so the Flemish, on the Flemish side, you see interviews of academics in the press, and not in the French-speaking part of Belgium, which is more socialist minded and socialist means in Belgium to be anti-clerical, anti-religious and so on and so on.

Also in Germany, you had that paper that was published by some university professors about the work of the German Commission that was relayed by the German press, and in a positive way.

Also in Holland, the academics are also welcome, but not in Latin or at least French-speaking—the French-speaking sphere of the European Union.

Mr. McCabe. I think you may have hit the nail on the head with your characterization that you can be anything you want, just don't manifest it.

Recently, during the French Tennis Open, they interviewed the American tennis star, Venus Williams, and in the English she was asked why she appeared to be different from other tennis stars, and she mentioned because of her religion as being one of Jehovah's Witnesses. But, in French subtitles it didn't identify her as a Jehovah's Witness, it just said it's because of her religious thinking.

So, be anything you want, just don't let anybody else know.

Questioner. I'm Richard Finn, International Religious Liberty Association out in Sil-

ver Spring. A rhetorical speculation that I want to draw on the appeal of the public affairs representative of the Witnesses in calling for a stand against this, it seems to me that if France can do this to the Witnesses, then France would have to do this to others, else if not then it is an admission, n'est-ce-pas? that they are after the Witnesses alone.

Now, let me see if I have this straight. For Mr. McCabe, you cannot now fight this in court because you don't have juridical standing, did I get that correct?

Mr. McCabe. That's my understanding, it's held that government actually presents a bill, here's the amount, pay it, we cannot attack the constitutionality, it's just not right for judicial review. We can attack the lien that's been imposed, but the lien is, from my understanding, like a temporary restraining order, you give the government 30 days to present the bill, today is the 30th day. So, if we haven't received the bill by tomorrow, postmarked today, that the lien should resolve.

Questioner. That is the official bill for the millions of francs.

Mr. McCabe. Yes, so we haven't received that bill, nobody is standing at the door saying, here, pay this amount, that's the amount alleged that's owed under this lien and under the audits that it conducted through the last 18 months.

Questioner. Then if the bill doesn't come then—

Mr. McCabe. We smile.

Questioner. Good.

Mr. McCabe. We don't have to go to court and fight it.

And, I think there might be an indication that that may be the case, because the first publicity of this lien that was placed on the property in Louviers was in *Le Monde*, and the article was very neutral, it was not something put in the media by the anti-cult group, it didn't characterize Jehovah's Witnesses as being a criminal organization that needed this fiscal control, but it was a very factual report which raised a question, can this be constitutional, can this be legal?

And, since then the media has approached the Ministry of Finance, made inquiries as to what is going on, what's the situation here, and their response has been, this is a private matter, we have no comment, again an indication that they might be embarrassed by the steps that they've taken, they might have gone too far.

Questioner. Are your current contributions besieged?

Mr. McCabe. No, not for the present time, because there are no contributions going into that organization presently, with that particular organization.

Questioner. I see, all right.

For both—

Mr. McCabe. We have other religious organizations that have not yet been attacked.

Questioner. Okay, all right.

For both of you, specifically, for Mr. McCabe relating to the Witnesses, but in general for Mr. Fautré, in this current situation how are the principal confessions responding, we've talked about the academics and we've talked about government, but what are the principal confessions, the big churches, religious organizations, saying about this?

Mr. Fautré. The big churches as such, so if you mean for the Catholic Church, the hierarchy of the church, as far as I know, as I've read in the French press, there's no reaction about that, but the Catholic press has written about that issue because they feel

there might be concern by the interpretation of the legislation.

That's why I mentioned in my brief report the fact that that or Catholic organization that had collected a lot of donations to count for the expense of the last visit of the Pope in France might fall under the guillotine blade, and so there was much interest from La Croix, sort of the daily Catholic newspaper in France, in the press conference that we held early in July in Paris on that issue, and also from other Catholic media, but I think it's because they feel the danger might reach them too, and you must put that in the context of separation of church and state, and the fact that there are anti-Catholic feelings in a number of segments of French society. So, the press, Catholic press, and the Catholic hierarchy.

Now, on the Protestant side, I didn't hear any open reaction from the top leaders of the Protestant churches, the Protestant churches only represent three or four percent, less than three percent I think, one percent in Belgium, but I read an article in Reformation, a French Protestant magazine, saying we might be targeted by the IRS, and, for example, I think I have got the article here if you want a copy of it I can give it to you, if you use your places of worship for concerts, for, well, anything else that has nothing to do with worship, and you ask what you are doing, in fact, it was written in the article, and you charge and the access to that concert then you might be removed your status of worship association.

So, be careful, and let's be careful, Jehovah's Witnesses are hit by that measure now, but maybe tomorrow it will be our case.

Mr. McCabe. I have not heard any official comment, but we have noted comments like I think at the press conference Mr. Fautré was referring to, a lawyer, a prominent Parisian lawyer who was a Catholic, said he was very concerned, but I don't think we've heard anything official from any other groups.

Mr. Fautré. Yes, and some rejoice about the situation in which Jehovah's Witnesses are in.

Questioner. I'm Karin Finkler with Congressman Joseph Pitts.

Mr. Fautré, you mentioned the press conference that David Hallam held with a number of different religious groups.

Mr. And, I was wondering how the governments and the European Parliament reacted to that press conference and the statements that were made, and how the general public at large, if they heard about that press conference, how they reacted to the statements that were made, repeating some of the characterizations that you made.

Mr. Fautré. Thank you for your question.

It was at the end of May that we held the press conference in Brussels, with representatives of various Protestant denominations, Baha'is and Satmars. I could explain if you want why it was limited to such groups, but I will not analyze it here.

So, those people were isolated from each other, they don't have any contacts with each other, and I managed to reach them and say please come to the same table and let's talk about your situation. And, I suddenly discovered that I had experienced the same sort of problems after the publication of the Belgian report on the cults, a number of problems, such as slander in the media, but also difficulty of access to public halls because they were asked, are you not a member of a sect? I saw the Adventists were on the sect list. I cannot take the decision, I am just an official and I have to refer to the Mayor, and I

referred to the Mayor and I cannot decide on my own.

Although until that period, they had always rent such a hall to the Adventists or to the Baha'i, I have to refer to the Municipality Council, and then there was a meeting of the Municipality Council and the Adventists, they knew some people on the Municipality Council, they called them, and that's the way things changed. We had a very simple situation until the Belgian report, after the Belgian report the situation got complicated, not just the Adventists. We had some sort of experience, the Baha'i said we wanted to meet, the Minister of Justice or the Department of the Ministry of Justice, because they deal with religious affairs, relationships between state and church, and here is the letter that I got, and the letter is, we cannot receive you because we only have relationships with recognized religions, and you haven't got—you are not a recognized religion. So, that means that the state refuses any dialogue with those religions which are not recognized or with those citizens who are members of non-recognized religions.

So, everything gets very complicated after such reports, and so all those people coming from those various groups told about their situation, the difficulties they had, about the numerous errors, rumors, hearsay, as here Mr. McCabe said, that were found in the report about their own religious movement, these were—that were taken over very probably from the popular press, from anti-cult movements and so on, and so we decided to hold a press conference.

Then we had to choose where shall we hold the press conference. We know the press very well in Belgium. If you hold a press conference, you say we have minority religions, we invited a scientology of the old camp to shut you down.

So, scientology was not inside, Moon was not inside, so we thought if we held a press conference in a press hall in Brussels they will not come because there's nothing to write about, Scientology is not there, they cannot criticize that initiative, so let's do that at the European Parliament. So, we considered that the European Parliament was not Belgian territory, that it was European territory, and we addressed our invitations to almost exclusively, exclusively to members of foreign countries, foreign correspondents in Brussels. So, we purposely—we didn't invite on purpose those Belgium journalists, because we knew in advance what they would write about if they come, and they have nothing to criticize, they don't write anything. That's the way it's going in Belgium, and it is also the way it is going in France.

So, we held the press conference, I just invited two or three Belgium journalists who know me, I know them, I can rely on them, and there was the Catholic Press Agency, they made a very good report about our press conference, and then some from abroad, too. So, it had no impact on the Belgian press itself, but the purpose of the press conference was not to inform the media of our initiative and public opinion of our initiative in Belgium, but to draw the attention of foreign countries of what was happening in Belgium.

And, after the press conference, we wrote to the president of the Parliamentary Commission on the cults, and also the rapporteurs, we told them that we had held a press conference and we joined a petition that had been drafted by the members of the Belgium Citizens Forum, and insisted on Belgian citizens not to give the impression that it was monitored by American sects and things like that. That was very important.

And, we wrote to the king, we got an answer saying, okay, we've got your letter, your petition, thank you, something like that. We wrote to the president of the Commission, no

answer. We wrote to both rapporteurs, we got an answer of one of them, the one who was a freemason, very violent answer saying that he disagreed with the contents of the petition, and the fact that we had mentioned that people such as Massimo—Professor Massimo Intravenio or Aileen Barker in England were reliable sources of information about cults in general. They had published books, they were really recognized of the highest scientific level, I was answered in this letter, I got a confirmation of what was in the Belgian report, those people are not reliable in our eyes, we have made a choice, and we don't want to use their information.

So, so far, we are so far in the discussion and the difficult dialogue that we want to open with the Belgian authorities on that issue.

Questioner. I'm Susan Taylor with the Church of Scientology International and I have a question for Mr. Fautré.

Mr. Fautré pointed out that in France the Jehovah's Witnesses are named in court cases. The same is true for our church in Germany, the Scientologists, many cases have been won, in fact, an awful lot of them recognizing Scientology as a religion and allowing us to practice the words of—in public, yet the administrations in both countries would not adhere to these particular court case decisions. And, my question to you is, what do you think can be done about that, to resolve this particular conflict? And, how can we here in the United States assist in that?

Mr. Fautré. Conflict, what sort of conflict do you mean exactly?

Questioner. Well, that the court systems in both countries recognizing our religions as religions, yet the administrations, like the Ministers of Interior and Ministers of Finance do not recognize this, and they were refusing in some cases, as in Germany, to adhere to the court decisions.

Mr. Fautré. Well, I think that the first question is, the first problem is that the state has the right or has not the right to recognize a religion, and it's the basic problem that we have in the whole of—almost the whole of Europe, people think that the state is entitled to recognize their own religion or not, and so they all apply for recognition by the state.

But, I think that we should go into another direction and say the state hasn't got the right to recognize religions. That would solve the problem, of course, that's why I explained that system at the end of my report, say of moving to another system which wouldn't imply a recognition by the state, and so a form of interference, in fact, into the religious field.

So, I couldn't go further than that.

decisions about the fact that Scientology or another group is or is not a religion, and judges might say at some time, well, it's not our role to decide what the state hasn't been able to decide.

1Mr. McCabe. We've seen the European Court of Human Rights able to identify a known religion, and the court sits, of course, in Strasbourg, and it's very interesting that we have this problem today in France. The country of Greece has been embarrassed, I think several times now, at least five times ordered to pay monetary fines to their own citizens over the issue of religious discrimination.

And, unfortunately, I don't see any other way that we're going to move governments like France. I mean, it's kind of like it's just too big, who is in charge, or, it's they that are imposing this tax, and we've been to the highest levels of Government in France asking for

some assistance and they say, oh, yes, this is a very serious problem, this is embarrassing for us, but we can't stop it.

So, fortunately, the Rule of Law is alive and well in Europe, and we have to apply to the European Commission when serious human fundamental rights are violated, and if this matter, this current taxation problem cannot be resolved internally within France, certainly we'll be applying to the European Commission.

Questioner. Bob Destro, Catholic University again, I just had—you both mentioned something that I think is very important, I'd like your reflection on it.

Mr. Fautré mentioned that at least in Belgium he wanted to avoid the impression with the press conference that a bunch of American sects were breathing down the neck of the Belgian Government. I suspect that exactly the same reaction would be in France probably even more so, that we don't want a bunch of Americans telling us what to do.

Now, certainly in this country we have been through the experience in the early '80s and mid-'80s of a big awakening and controversy about cults, and thankfully that's behind us, but, being up here on Capitol Hill, what do you suggest in terms of an approach taken from this side of the ocean that would minimize that notion that these were a bunch of ugly Americans coming over trying to just tell you what to do and to kind of foster a cooperative relationship among the people who are concerned?

Mr. Fautré. Yes, about the press conference, we didn't want to give the impression that the Americans were behind that, because they were not first, but even if they were not the press could have used that argument to destroy our initiative, and so we wanted to have an open forum where everybody could exchange ideas and own experience, because we have to set up a network of information with correspondents from various minority religions to know what's happening and to get also copies of the letters, of the correspondence that they have with the Belgian authorities, and we found quite amazing things in those letters.

For example, about that list of 189 movements, the word "sect" is not mentioned, that's important, and that's typically Belgian compromise between one side and the other side of the political game.

So, yes, we have to set up such a network, of course, because otherwise we wouldn't be aware of the situation, and through a letter that the Adventists came from the Belgian authorities, said why were you on that list of sects. Say, okay, you were on that list of sects because you rented—yes, you rented a hall to another group that was labeled as a "sect" in our files, just that, just that.

Now, how did you draw up that was another letter to the Gendarmerie, so that's the police depending from the Minister of Interior in Belgium, there was another letter to the Gendermerie, and say, well, it was said that the list of sects was coming from your services, is that true? And, the big boss of the Gendermerie wrote the Commission, the Parliamentary Commission on Cults asked us to get a list of cults, so we haven't got a list of cults, what are the criteria for drawing up such a list? Just give us a list of complaints that you have in which cults are mentioned, and so they made such a list, but the Gendarmerie didn't want to give that list because they said, it's not reliable, it must be checked. But, the Parliamentary Commission insisted, say, okay, we will cross examine and check and so on and so on.

And so, under pressure that police, depending from the Minister of Interior, had to

give the list to the Parliamentary Commission. It's written in the letter.

And, that list was not changed, there were errors inside that was recognized afterwards, that was not changed, not checked, not examined, and just put bluntly like that in the report in the Annex.

Now, the Belgian members of the Parliament, the Belgian president of, not the Parliament, but the

Parliamentary Commission, had a long forward before putting the list in the report, in which it was saying, so we have got a list of 189 movements, but it doesn't mean that they are sects, or that they are dangerous, or they have committed illegal activities and so on and so on, but they were mentioned during the hearings. So, really, you go to hearing, you say I was a member of that group and I tell you it is a sect, it was listed as a sect like that.

So, when we came to the vote about the report, the Belgian report, there are 660 pages, I think about 660 pages, and there was so much debate, such discussions inside the Parliament about the vote, that only 19 pages were adopted by the Parliament, so 19 pages out of 660 were approved by a vote of the Parliament, and those 19 pages were the conclusions and the recommendations.

But, but, the list was still in the report, and all the rumors and hearsay remained in the report, but they were not approved by the Parliament, but they were published as such. So, it means that the Parliament didn't think that it was irrelevant not to publish that report, although it had only approved 19 pages of it.

So, you see how complicated it might be sometimes.

And, when the President of the Parliamentary Commission was interviewed on the fact that only 19 pages of your work have been approved by the Parliament, said, ah, but that does not mean that they disapprove of the rest.

And, when they say, you are talking about 189 sects, we have never said that they were sects, and that they were dangerous, and that they were illegal, and when they are told by us, but you knew that the media would say it would be, it is a list of sects, they say we didn't say that, we didn't write that. Look at our four words, so how ambiguous it was handled.

Mr. McCabe. Two things come to mind, in view of your question.

I think there is a perception that there is a great exportation of religion from America to Europe, particularly, Eastern Europe, but I think it also is an idea that's popular and common in Western Europe. We always try to emphasize that we are not talking about the 200,000 American citizens practicing a religion in France, it's 200,000 French citizens, or 150,000 Russian citizens who are being denied the basic fundamental human rights because of a brand.

But, it's kind of like the Mayor of Louviers commented on the occasion of Jehovah's Witnesses establishing their headquarters operation there in France, and proceeded to say in the free marketplace of ideas, have been ideas—people will accept, and if it isn't they'll reject it, and that's the way she viewed religion. People will take and choose what they want, and those that do not satisfy basic needs of people will be rejected by them.

So, I think what we have to communicate to the European Community is not our religious experience so much as just that, people do what they want to do, punish criminals, tax commercial operations, but certainly you don't want to tax the widow's mite.

Mr. Merry. If there are no other questions from the audience, let me, as chairman, draw attention to one point which Mr. Fautré, and that is the very unfortunate impact which some of the practices in Western European countries are having as an example for some of the newly independent states of the Eastern Europe and the former Soviet Union. This is a subject which the Commission, in some of its discussions with representatives from other governments has drawn attention, that at a time when the former Communist countries and the newly independent states are drawing up their laws and their regulatory practices for the 21st Century, after having emerged from decades of formerly atheistic practices, this should be a time when West European countries should be presenting the best possible examples for them to follow, and not be providing them with excuses for why they should not themselves be adhering to their international and domestic commitments on religious liberties.

On that note, let me thank both of our guests for traveling to Washington to be with us and to share the information they have given us, which has been very valuable to us. I would like to remind people in the audience that we have another similar session next week, which will be a joint public hearing of the House International Relations Committee and of the Commission on Security and Cooperation in Europe on the theme, Continuing Religious Intolerance in Europe. This will be on Thursday, July 30th, at 10:00 a.m., in Room 2172 in the Rayburn House Office Building.

Thank you all for coming.

Mr. Fautré. Thank you.

(Applause.)

(Whereupon, the meeting was concluded at 2:57 p.m.)

[Documents submitted for the record follow.]

**GENERAL CONSTITUTIONAL GUARANTEES RELATING TO FREEDOM OF
RELIGION AND BELIEFS
SUBMITTED FOR THE RECORD BY WILLY FAUTRÉ**

The first Belgian constitution was issued soon after the independence on February 7, 1831. It was a model and a source of inspiration for other states in Europe in the nineteenth century—Spain, Greece, the Netherlands, Luxemburg, Romania.... It guaranteed the basic freedoms of press, education, association and religion. In more than a century and a half it was regularly adapted to the evolution of society.

The last fundamental revision took place in 1994, making of Belgium a federal state with three communities—the French, Flemish and German-speaking communities, three regions—the Wallonian, Flemish and Brussels regions, and four linguistic regions—the French-speaking, Flemish-speaking, German-speaking regions and the bilingual region of Brussels Capital City. The new constitution comprises 198 articles and transitory provisions. The current constitution which can be called the second constitution of Belgium was signed and released by King Albert II on February 17, 1994. Very few articles deal with religious freedom, directly or indirectly. They are mainly concentrated under Title II “About the Belgians and their rights” (See the text of the next articles in the original language in Annex I).

Article 11: The use of rights and liberties granted to the Belgians must be assured without discrimination. To this end, law and decree namely guarantee the rights and liberties of ideological and philosophical minorities.

Article 19: Freedom of worship and public practice of the latter as well as freedom to demonstrate one’s opinions on all matters are guaranteed, except for the repression of offences committed when using these freedoms.

Article 20: Nobody can be compelled to take part in one way or another in activities and ceremonies of a religion or to observe its days of rest.

Article 21: The State has not the right to intervene in the appointment or in the installation of the ministers of any religion. It cannot prohibit them from corresponding with their superiors either and to publish their own acts, except, in this last case, the customary responsibility concerning press and publishing. Civil marriage will always have to precede the marriage blessing, except the exceptions to be provided by the law, if need be.

Article 24: There is freedom of school education; any preventive measure is prohibited; the repression of the offences is only settled by a law or a decree. The community (4) ensures the free choice of the parents.

The community organizes an education system which is neutral. The neutrality namely implies the respect of the philosophical, ideological or religious beliefs of the parents and the pupils.

The schools set up by the public authorities offer until the end of compulsory school education the choice between the classes of one of the recognized religions and the non-religious ethics classes.

Everyone has the right to education in the respect of the fundamental freedoms and rights. The access to education is free of charge until the end of compulsory school education.

All the pupils subject to compulsory school education have the right, at the cost of the community, to a moral or religious education.

All the pupils or students, parents, teaching staff and school institutions are equal before the law. The law and the decree take into consideration the objective differences, namely the characteristics specific to each school authority, which need an appropriate treatment.

The wages and retirement pensions of the religious ministers are to be paid by the State; the sums required for this purpose are to be drawn out of the Budget on an annual basis.

The wages and retirement pensions of representatives of organizations recognized by the law who give moral assistance, on the basis of a non-religious philosophy of life, are to be paid by the State; the sums required for this purpose are to be drawn out of the budget on an annual basis.

Some comments on these articles are all the more so necessary since a number of specific words and concepts are difficult and even impossible to translate into English and need to be clarified.

Article 11 which provides for the rights of “ideological and philosophical minorities” could be interpreted as a safeguard of the rights of religious minorities.

Article 19 does not explicitly guarantee “religious freedom” or “freedom of religion” in the broad sense of the expression but “freedom of religious practices” or “freedom of worship” (*liberté des cultes*). This approach shows that in 1830 the Constitutional Assembly was more interested in the external facets of religious life than in the contents of the faith or its inspiration. The Belgian juridical system has no common opinion about the concept of “culte” and a clear definition of it fails. However, constitutionalists currently agree on a wide interpretation of the word “culte” which is supposed to comprise all religious and philosophical beliefs.¹ This freedom includes the right to have a belief and to change it.² This is all the more important since a “culte” can enjoy exemption from taxes on land and property.

The expression “religious freedom” is never used in the Belgian Constitution. The wording that is recurrently used to express this idea is “*liberté de(s) culte(s)*,” which is a source of misunderstanding. “Culte” has nothing to do with the English word “cult” as synonym of “sect.” It is untranslatable in English and according to the context, several approximate formulations must be used, such as “religious practices,” “worship” or “religion.”

The second part of article 19 somewhat limits the use of religious freedom inasmuch as it is no longer guaranteed when offences are committed. In this regard, article 268 of the Penal Code³ says that “An imprisonment of eight days to three months and a fine will

¹ F. Delperee, *Droit constitutionnel*, I, Bruxelles, Larcier, 1987, n. 119; J. Dembour et P. Lewalle, *Institutions de droit public*, Liège, Presses Universitaires de Liège, 1985, 48; A. Mast et J. DuJardin, *Overzicht van het Belgisch Grondwettelijk Recht*, Gand, E. Story-Scientia, 1985, p. 551, n. 480

² F. DelPeree, *op. cit.*, I, n. 120; J. Dembour et P. Dewalle, *op. cit.*, 48.

³ Other examples in the Penal Code: art. 142 (forcible or prohibited participation in religious practices), art. 143 (disturbance of worship), art. 144 (outrage against liturgical objects through facts, words, behaviors or threats), art. 145 (outrage against a religious minister in the exercise of his pastoral duties through facts, words, behaviors or threats), art. 146 (aggravating circumstances in case of serious blows and injuries), art. 267 (marriage blessing preceding civil marriage).

be imposed on the religious ministers who in the practice of their pastoral duties will have directly attacked the government, a law, a royal decree or any other act from the public authorities through speeches held before public assemblies." There is no legal definition of the concept of "religious minister" or "minister of religion" (*ministre du culte*) which comprises priests, pastors allowed to conduct a worship.

The separation between State and religions and the ban on any State's interference in the internal matters of a religion are a basic principle which is clearly enshrined in article 21. However, the latter forbids the performance of a marriage blessing by a religious minister" before the civil marriage.

The precedence of civil marriage to religious marriage was introduced by a law dating back to the French occupation (April 8, 1802) which provided for very severe sentences.

After the abolition of this principle in 1814, at the end of the occupation, abuses were committed, mainly in the countryside where religious marriages failed to be registered as civil marriages. The Napoleonic law was restored in 1817 under the Dutch occupation.

Article 24 which deals with school education counts 5 paragraphs. This is not astonishing for those who know how sensitive this issue has always been throughout the whole history of the country. Belgium has a network of Catholic schools subsidized by the State which has always been more extensive than public schools. Catholic religious classes are organized in Catholic schools, There are also some Jewish and Protestant schools which have their own religious classes in their curriculum. In public schools under the authority of one of the three communities (French-speaking, Flemish-speaking and German-speaking) of the provinces and of the municipalities, a free choice of religious classes is offered to the pupils insofar as it is related to a recognized religion.

Article 181 provides that the wages and retirement pensions of the clergy of the six religious denominations ("culte") recognized by the State and and of the moral advisers appointed by a non-religious philosophical movement (*Conseil Central Laéque Secular Central Council*) are chargeable to the State.

Apart from these constitutional guarantees, it is also worth mentioning the Belgian Cultural Pact which states in article 1 that "the decrees voted by any of the cultural councils cannot contain discrimination of an ideological or philosophical character and cannot restrain rights and freedoms of ideological and philosophical minorities."

Moreover, Belgium has ratified the Universal Declaration, the European Convention on Human Rights, the International Covenant on Civil and Political Rights and other international instruments which guarantee freedom of religion and belief.

**THE HISTORICAL PROCESS OF STATE RECOGNITION OF THE MAJORITY
RELIGION AND A NUMBER OF MINORITY RELIGIONS
SUBMITTED BY WILLY FAUTRÉ**

When Belgium became an independent state in 1830, the laws, decrees, orders and regulations preceding the Belgian Constitution remained in force inasmuch as these provisions were not replaced or abolished by the said Constitution. Therefore, Catholicism (since 1802 under French rule), Protestantism (since 1802) and Judaism (since March 17, 1808) enjoyed de facto the status of State recognition and the financial advantages deriving from it. After the promulgation of the Constitution, other religions (“cultes”) were recognized by a law or by a royal decree. Anglicanism was recognized by two royal decrees (18 and 24 April 1835). Catholicism, Protestantism, Judaism and Anglicanism were again explicitly recognized by a law on the temporal needs of the religion (“culte”) released on March 4, 1870. More than a century later, they were followed by Islam (law of 19 July 1974 amending the said law of 1870) and finally Orthodoxy (law of 17 April 1985 amending the same law of 1870). Moreover, secular humanism (“l’*l*acit ”) has indirectly enjoyed State recognition since the last revision of the Constitution as article 181K 2 states that the payment of the wages and the retirement pensions of its moral secular advisers providing moral assistance are to be paid by the State. However, such an extension of article 181 was not legally necessary¹ as the State budget already allotted an annual subsidy to the organisation officially representing secular humanism and as the salaries and the pensions of the moral secular advisers in the army were already paid (Law of February 18, 1991). However, it cannot be denied that the extension of article 181 grants a certain constitutional recognition to secularism and is not without psychological importance even outside Belgium. It is indeed striking that through the Declaration to the Final Act of Amsterdam Treaty in June 1997, the Statesmen of the European Union have also decided to stress the importance of non-religious thinking.

As can be seen from this short historical overview, very few recognitions have been granted since 1870 although a number of minority religions have applied for such a status. Except “social utility for society,” no official criteria justify the State recognition. In 1985, Jean Gol, the then Minister of Justice (member of the Liberal Party PRL and of the Jewish community) tried to clarify some criteria for the recognition of a religion (culte): its membership (several tens of thousands), its historicity and its interest in society. Though, he stressed that the worldwide dimension of a religion was not a sufficient criterion. However, his considerations were never enshrined in a law. However, the basic problem of defining a “culte” is still failing.

The Belgian recognition system has always been based de facto on the monolithic structure and the functioning of the dominant Roman Catholic Church: an ecclesiastical structure with a clear hierarchy and clear territorial divisions. However, it is exceptional for a religion to be monolithic. There is a wide range of Protestant denominations, of Orthodox Churches, of subdivisions in Islam (Shiites, Sunnis, Wahabites), in Buddhism, in Hinduism. Some religions have no hierarchy or no clergy. In an increasingly multireligious

¹G. VAN HAEGENDOREN and A. ALEN, “The Constitutional Relationship between Church and State,” in A. ALAN (ed.), *Treatise on Belgian Constitutional Law*, Deventer/ Boston, Kluwer, 1992, 267.

society, this is a challenge to the Belgian system which now seems outdated and quite inappropriate. Orthodoxy is only recognized through the Greek and Russian Orthodox Churches. The United Protestant Church of Belgium² (EPUB) which is the legal heir of Protestantism recognized by the State in the 19th century³ now represents less than half of the Protestant population⁴ while about 50% of the Belgian Protestants adhere to unrecognized Evangelical, Pentecostal, Adventist Churches united in an umbrella organization called "Federal Synod of Protestant and Evangelical Churches in Belgium." Islam is recognized but has failed until now to fulfill a number of conditions such as an administrative umbrella organization reflecting its various components in Belgium.⁵ Secular humanism ("la laïcité"), the symbol of which is the torch is as less monolithic as the aforementioned religions. Only a part of secular humanists, free thinkers, agnostics, atheists identify themselves with the Central Secular Council ("Conseil central laïque") which the State considers as the administrative body representing secular humanism.

For some time, the civil authorities did not know who was entitled to represent Protestantism (as it has now been the case in the last decades with the Muslim community) but fortunately for the state, in 1839, the subsidized Protestant churches managed to find a common representative. However, the question was raised if a Protestant congregation which was not under the authority of the Synod of the Union of Evangelical Protestant Churches could be recognized by a Royal Decree. On April 20, 1888, the Liberal Protestant Church was recognized by a Royal Decree. The Lutheran Church which left the Synod is still recognized and subsidized: it is based on the law of 18 germinal, year X, which also concerns the Churches of Augsburg Confession.

Recognition entails several material benefits that are described extensively under the heading "State Financing of Recognized Religions" but here are already a few briefly presented. Clerics get (modest) wages from the State and appropriate housing from the municipalities or the provinces which have to cover any expenditure for this purpose. Legal personality is attributed to the ecclesiastical administrations responsible for the temporal needs of the recognized religion (culte). Free public radio and TV broadcasting time is put at their disposal. They can appoint army and prison chaplains whose salaries are paid by the State. They are entitled to provide religious instruction in public schools.

This general overview clearly highlights two categories of minority religions. A number of them are recognized by the State and enjoy financial and material advantages described briefly here above: Islam (about 350,000 members), Judaism (about 40,000), United Protestant Church of Belgium (about 40,000), Orthodox (about 50,000), Anglicanism (about 6,000).

² Once called the Union of Evangelical Protestant Churches and now the United Protestant Church of Belgium. Since 1979, it has been successively integrating the Liberal Protestant Church, the Methodist Church, the Reformed Church and the "Gereformeerde Kerken."

³ The EPUB numbers about 40,000 members and the unrecognized Churches about 50,000 (MICHEL DANDOY, *Le culte protestant*, in *L'Islam en Belgique*, Bruxelles, Editions Luc Depire, 1998).

⁴ A solution may be in sight by the end of 1998 as the "Centre pour l'égalité des chances" (Center for Equal Access) has mediated a process between the State and the Belgian Muslim community through which elections will take place in the Muslim community in autumn to create a representative platform for negotiations with the State.

⁵ PAUL LEMMENS, Professor at the University of Leuven, *New Religious Movements and the Law in Belgium*, 1997, Text of an unpublished speech.

Non-recognized minority religions do not enjoy any of the advantages linked to the status of State recognition. They include: Protestantism represented by the “Federal Synod of Protestant and Evangelical Churches in Belgium” (about 50,000 members), Jehovah’s Witnesses (about 25,000 members and 50,000 church-goers), the Church of Scientology (claiming about 5,000), Mormons (about 3,000-4,000), Buddhists (about 3,000). Other smaller groups number some hundreds of members (Baha’is, Hare Krishna, Sahaja Yoga, Sukyo Mahikari and the Raeblian movement) or less than 150 believers (The Family, Soka Gakkai, Unification Church, Nouvelle Acropole, Fraternité Blanche Universelle, Human and Universe Energy, Ingreja Universal do Reino de Deus, Church of Christ of Brussels, Ogyen Kunzang Chölling, Le Mouvement, Institut Gnostique d’Anthropologie, Ecoovie, Antoinism, etc.).

Up to now, the “Federal Synod of Protestant and Evangelical Churches in Belgium” has asked for State recognition independently from the EPUB but to avail. Jehovah’s Witnesses, which have a monolithic structure and a clear leadership like the Roman Catholic Church have also unsuccessfully applied for State recognition without any financial advantages in order to have access to their members in hospitals, detention places for asylum-seekers. Other smaller religious groups have also asked for State recognition but with the same negative outcome.

This quest for recognition manifests a need of State legitimacy which is not the role of the State. Such a trend is not to be encouraged since it is in contradiction with the basic and constitutional principles of separation between State and Church and it might in the long term trigger a dangerous process of State interference in the religious sphere.

ENQUIRY COMMISSIONS ON CULTS IN WESTERN EUROPE

The European continent is multicultural, multilingual and multireligious. It can be said that religious pluralism really exists within the borders of the Member States of the European Union and more widely of the Council of Europe. However, the variety of their national histories, which is a richness in itself, raises some problems. In many cases, a specific religion has been closely linked to the edification of modern Nation States and pretends to enjoy or effectively enjoys some privileged status legally, politically and socially. Consequently, most European countries have a two-tiered and even a three-tiered system in which religions have different statuses and in which citizens are not treated in the same way and even suffer from various forms of institutionalized inequalities and discrimination on the basis of their religious or philosophical beliefs.

The most obvious separation is indeniably between on the one hand religions which the State recognizes and therefore legitimizes with some sort of quality label and on the other hand second-rank religions which are not recognized, exclusively minority religions, also called “sects” or “cults,” which do not enjoy the state quality label. However, even in the predominant category you have a second separation between the prevailing religion(s), so-called historical or traditional, and minority religions which are considered as honorable.

This historical background on which recent massacres committed by groups such as Aoum or the Order of the Solar Temple have left their mark should allow one to better understand the sudden emergence and development of parliamentary commissions on cults in Western Europe.

FRANCE

France is the first country of the European Union to have set up a parliamentary enquiry commission on cults. On January 10, 1996, the National Assembly published the so-called "Guyard report" which listed 172 cults supposed to be harmful or dangerous and in which cults were compared with "associations of criminals."

It was preceded first by an "information mission on cults" within the law commission in 1981 and then by the Vivien report drafted in 1982-1983 and published in 1985. The suicide-homicide of 53 members of the Order of the Solar Temple in Canada and Switzerland in 1994 and the gas attempt by Aoum in Tokyo's underground in 1995 incited the French government to reopen this issue. On June 29, 1995, the National Assembly approved the proposal to set up a parliamentary enquiry commission. The appointment of its members was ratified on July 11 and the commission started its work on July 18. Strangely enough, no ethnologists or sociologists or historians of religions were included in the commission which decided to hold 20 hearings of witnesses during 21 hours behind closed doors. The secrecy of the procedure was quite unusual as such a step is only taken when it concerns national defence issues. Before the official publication of the report, the media circulated excerpts from it, especially a "black list" of harmful or dangerous sects, and this had a disastrous effect on minority religions and their members.

Since 1996, a number of cases of intolerance and discrimination produced by the "Guyard report" can already be listed. For two years, a number of media have been libelling minority religions, circulating rumours and false information, inciting religious intolerance with impunity. On this background, a threefold pattern of real persecution is developing.

Firstly, those minority religions have been marginalized, stigmatized and lynched. Access to public halls for meetings has been denied to a number of them, has been more difficult or more expensive than for other organizations. Officials have become pernicky in fulfilling their administrative duties. Children at school and adults in their neighbourhood have been stigmatized as members of cults.

Secondly, we now see an "unpopular" minority religion isolated from all the others and targeted by the fiscal administration: Jehovah's Witnesses. The reaction of public opinion or its lack of reaction may be a testing ground for the treatment to be applied tomorrow to other minority religions.

Thirdly, it can be feared that plans are being carried out to crush and kill minority religions one by one.

A concrete example will highlight this destructive strategy. The French tax administration has now launched a serious attack on the freedom of religious association and worship by enforcing a 60% tax on "hand donations" made by more than 200,000 Jehovah's Witnesses in the last four years. The amount involved is about 50 million dollars (!) and every donation made to cover it will be taxed again on a 60% basis. After several years of legal battles, a court has just ordered the seizure and the provisional mortgage of their patrimony.

This is the first time the tax law on "hand donations" (in French: dons manuels) reformed on May 19, 1992 is applied to a religious group or association thus depriving it of vital means for practising its worship and Jehovah's Witnesses think this might be the end of the world for them in France.

The financial contributions of Jehovah's Witnesses to their organization are used for religious and missionary activities, for worship expenses and for humanitarian relief help in the Third World. Their commercial activities such as printing and selling magazines and books are carried out in the framework of another organization which is submitted to normal taxes.

In 1996, in the climate generated by the parliamentary report on cults, public authorities adopted specific measures on so-called cults such as the publication of ministerial decrees and the creation of a national observatory on cults. In the aftermath of these events, the tax administration audited the Jehovah's Witnesses over a period of a year and a half and the non-profit character of the "Association Les Témoins de Jehovah" was recognized. However, in the framework of a procedure aimed at tax exemption on places of worship it was put forward that they are not a "worship association" (in French: association cultuelle) but a sect listed by the parliamentary commission and that as such they cannot benefit from the requested exemption. Consequently, a number of congregations of Jehovah's Witnesses took the French state to court. For two of them, it was acknowledged that they were entitled to obtain tax exemption while others were nonsuited and will go to the Appeal Court.

These events are clearly linked to the parliamentary report on cults. Fiscal services say that "the association of Jehovah's Witnesses forbids its members to defend the nation, to take part in public life, to give blood transfusions to their minor children and that the parliamentary commission on cults has listed them as a cult which can disturb public order. Therefore, they consider that tax exemption cannot be granted to their local congregations.

This arm-wrestling between the state and Jehovah's Witnesses started in 1985 when the Council of State confirmed a verdict denying the association the right to accept a legacy on the ground that it was not a "worship association." The second act of the play resulted in a truce: the Council of State recognized the right to tax exemption on buildings or parts of buildings used by two local congregations for worship. With the fiscal attack we are now in the third act.

In the fourth act, thousands of religious associations may be targeted by the fiscal services because they are not "worship associations" recognized as such by the Ministry of Interior: according to statistics published in 1993 by the Ministry of Interior, only 109 out of 1,138 Protestant associations, 15 out of 147 Jewish associations and 2 out of 1,050 Muslim associations are currently entitled to benefit from legacies and exemption on donations. Tomorrow, Catholic associations may fall under the guillotine blade of the internal revenue, including the Youth World Days through which huge amounts of money were collected to cover the expenses of the Pope's visit to France. The small Evangelical Pentecostal Church of Besançon is already hit by the fiscal measure and is being pressured to pay about 500,000 dollars on "hand donations" received between 1994 and 1997. It now remains to be seen if collectors of the internal revenue will "limit" their action to the 172 cults listed in the French parliamentary report—Jehovah's Witnesses and the Evangelical Pentecostal Church of Besançon are on that black list. If such is the case, this would then be quite discriminatory and contrary to the constitutional principle of separation between State and Church which forbids the state to establish a category of "good" religions and a category of "bad" religions. Moreover, there is no reason for fiscal services to

fail to apply their measures to hundreds of thousands of secular non-profit making philosophical, cultural, sports associations which collect donations to finance their activities, an action that would jeopardize not only the freedom of religious association but also in a much wider sense the right to association.

One more attack is now threatening minority religions in France. In the first days of July 1998, the French Observatory on Cults publicized its yearly report. It noted that about 50 organizations were indoctrinating children in 1998 against 28 in 1996. In this general climate of anticult hysteria which started in 1995-1996, the French law commission adopted two draft laws introduced by Mr Jacques Guyard (Socialist Party) and Jean-Pierre Brard (Communist). One asks for an enquiry about the finances of cults and proposes a financial control of those which have a budget superior to about 80,000 dollars. The other is supposed to control if children of cult members abide by the laws on compulsory education. Gest, Brard and Guyard who were respectively chairman, vice-chairman and rapporteur of the parliamentary commission on cults in 1995-1996 have asked for cults to be included in the category of "combat groups" and "private militias." By the end of 1998, the French parliament will have to vote a resolution creating two enquiry commissions: one about the financial situation of sects and another one about their influence on children.

France is now the only European country where donations to churches and religious associations are taxed by the State. This fiscal aggression against minority religions which has been largely publicized abroad might very soon inspire the same sort of policy in former communist countries of Central and Eastern Europe where there is no real separation between the state and a historical majority religion.

CONCLUSIONS

As the first country to have attacked minority religions, France is today paving the way to new subtle forms of religious persecution in Europe. In the 1980s, the Hare Krishna movement was killed financially by the fiscal services for a number of reasons that will not be analyzed here. Today, Jehovah's Witnesses and the Evangelical Pentecostal Church of Besançon are targeted by the same services. Tomorrow, other countries may think of forging fiscal weapons against their minority religions.

BELGIUM

The Belgian Parliamentary Commission on Sects started its work on April 25, 1996 and released its report on April 28, 1997. In one year's time, it held 58 meetings and heard 136 witnesses.

The most striking recommendation of the Sect Report is certainly the draft law that the Parliamentary Commission has proposed to introduce into the Belgian Penal Code and that provides for a sentence of 2 to 5 years in prison and/or a fine for those who use beatings, violence, threats or psychological manipulation to persuade an individual of the existence of false undertakings, imaginary powers or imminent fantastical events.

Another astonishing fact is that some Catholic organizations are also targeted by the Belgian Commission: the Charismatic Renewal, Opus Dei, The Work (recognized in 20 European dioceses and with its headquarters in Rome), the community of San Egidio and

the small Opstal community led by Jesuit fathers mistakenly mentioned in the list of 189 controversial movements.

More than twenty Protestant movements are also victimized by the report: the Evangelicals, the Pentecostals, the Adventists, the Amish, the Darbyists, Operation Mobilisation, Youth With A Mission (YWAM), the Young Women's Christian Association (YWCA) but not, for some mysterious reasons, the Young Men's Christian Association (YMCA), and so on. Attacks must also be deplored against the Soka Gakkai, a Buddhist movement of about 15 million members, and the Satmar, a Jewish community which has become the symbol for religious freedom and freedom of education in the U.S.

This report will focus on the methodological errors committed by the Parliamentary Commission.

BEHAVIOR AND BELIEF

First of all, the Commission took the stand—which is typical of the anti-sect approach—that it is possible to rigorously separate the “deed” from the “creed.” According to this methodology, the harmful deeds of “sects” could be analyzed without making a global analysis taking into account the problems of a doctrinal character. Some observers studying religious movements occasionally qualify them as “pseudo-religious” and thereby eliminate from the analysis the religious elements which constitute the crux of the problem. Moreover, the rigid separation between doctrine and behavior is, in fact, impossible: the behavior of a religious movement cannot be interpreted or reconstructed nor understood, if the doctrines from which it proceeds are deliberately ignored.

THE WITNESSES

This problem of methodology is highlighted by the sort of dialogue the Belgian Commission has opened up with witnesses defending some religious movements (none of them had been invited, but all were heard “on their request,” contrary to the representatives of anticult associations who had been duly invited), and with academic specialists. The Commission seemed to be insufficiently interested in knowing the specific characteristics of each group or movement. On the contrary, it accused the witnesses of violations of specific laws or of debatable affirmations based on newspaper articles or (very often) on publications of anticult movements.

CONFLICTS BETWEEN THE ACCOUNTS

With regards to new religious movements, different and even opposing accounts are provided by current members, ex-members—hostile, indifferent or even still favorable towards the group that they have left—anticult associations, academic specialists, major churches and the media. It is difficult—especially for a non-specialist—to determine which account is closest to the reality.

The method used by a Parliamentary Commission should be at least that of a “par condicio” (condition of parity) between the different sources. Following the example of the French Commission, the Belgian Commission opted for another method.

First of all, a rationalistic prejudice which has profound roots in the history of secularism and anticlericalism in Belgium often emerges from the interventions of the presi-

dent of the Commission in his dialogue with the witnesses. For this reason, a source of information about the movements put under examination was ignored, namely the official representatives of the majority churches. Unfortunately, they were deliberately ignored. However, it would have been very interesting to know what the Catholic Church thinks of the indictment of The Work, the Charismatic Renewal or Opus Dei. As a compensation, the views of a marginal Catholic priest, such as Rick Devillé, were given extensive coverage. This priest is the author of a diffamatory publication about The Work, in which he even wonders whether the entire Catholic Church has not become a “sect” under the pontificate of Pope Jean-Paul II.

In the category “authors,” six witnesses were given a hearing—the author of a study work on Internet, and five virulent authors of anti-sect books. The choice of such writers is questionable as literature about new religious movements is extremely abundant. As non-Belgian authors were invited to the hearing, it could have been easy to find dozens of authors with diverse and more balanced opinions amongst journalists, psychiatrists and clinical psychologists.

Amongst the representatives of associations that were invited, four belonged to Belgian anticult associations: one was the chairperson of the UNADFI (National Union of the Associations for the Defence of the Families and the Individual), the most important anticult movement in France, and another was the director of a Luxemburg-based anticult association. The fact that the minutes of their hearings have been publicized is a positive aspect of these hearings. They show the inconsistency and the cultural poorness of the anti-sect associations’ speech, which totally ignores the scientific literature on new religious movements, being exclusively based on their own texts and on newspaper cuttings.

However, it is surprising that the Belgian Commission did not invite representatives of organisations having another approach to the problem, such as INFORM—Information Network Focus on Religious Movements—based in the London School of Economics in Great Britain, which is consulted by the government and supported by major churches.

It is also surprising that important associations of sociology and history of religion, which often deal with these problems were ignored. For example, the current chairperson of the SISR (The International Society of Sociology of Religion), Professor Liliane Voyé, who is Belgian.

And last but not least, ex-members of 49 movements got a hearing following the request of the Commission and obviously on the proposition of anticult movements.

Ten of the attacked movements got a hearing on their request (an eleventh, the Sahaya Yoga, explained by letter the reasons why it preferred not to be present). All these elements show a preferential option for the anticult accounts rather than for a mediation procedure between opposed or even contradictory accounts. The principle of “par condicio” (condition of parity) was obviously not respected.

A DIVIDED ACADEMIC WORLD?

The Commission also fell into a fundamental error with regard to the current international scientific debate concerning new religious movements. It affirmed that “the academic world is strangely divided about the way of assessing sects. There are very few fields of investigation where the specialists are so opposed to each other as in this realm.” This leads to personal settlings of scores—face to face or in writing—between certain

personalities of the two conflicting parties: on the one hand, the ‘theoreticians’—sociologists and historians of religion—and on the other hand, the ‘practitioners’—those who help victims and their relatives, especially militants of anticult movements.

The conflict also opposes the aforementioned sociologists and a number of psychologists and psychotherapists who perform clinical (and scientific) work with ex-members of “cults.”

In its report, the Commission declared that the first group is mainly structured within CESNUR. With regards to the second group, Madeleine Landau Tobias, Janja Lalich, Marc Galanter and Jean-Marie Abgrall are once again presented as qualified experts. The Commission also stated that it had “become aware of this division in the academic world” and that it had decided to make a genuine choice between the two conflicting parties.

On the basis of its own work (notably the dozens of hearings of former victims), the Commission came to the conclusion that it could not side with the conclusions of the group of sociologists of religion because they had obviously under-estimated the potential dangers represented by the sectarian organisations, due to their restrictive and unilateral approach to the issue. The Commission reproached the sociologists, and CESNUR in particular, with denying the existence of mental manipulation and stressed that it had been convinced by opposing testimonies on the subject.

The Commission even sat in judgment on the sociologists, saying that “... it deplores that the conclusions of such analyses on ‘new religious movements’ (a) were published without a thorough examination. From the ethical point of view, it is extremely disputable to consider a sectarian organisation as a “new religious movement.” Analyses of this kind, which ignore one side of the reality, contribute to the exoneration of harmful sectarian organizations. As a result, they give them a free hand or, at least, enable them to run more easily their pernicious practices.”

THE VALUE OF THE TESTIMONIES

Amongst thousands of ex-members of new religious movements who, in most cases, do not adopt a militant attitude towards the groups that they have left—the Commission had chosen to hear about fifty of them. Almost all have repeated the anticult Vulgate of “mental manipulation.”

The Commission did not examine any statistical study on the opinions of ex-members in general. Not one representative of the international community of academic and non-academic psychiatry which rejects the model of “mental manipulation” was granted a hearing.

Concerning “scientific sources,” Professor Johan Goethals confessed that he exclusively made use of three texts, the “scientific” character of which can be questioned and which are examples of militant anticult speech.

From these texts, the Belgian criminologist went back to the theses on the reform of thought of Professor Robert Jay Lifton. However, he ignores the discussions that the application of these theses to new religious movements has provoked in the United States and he does not say a single word about the oscillating and ambiguous stands of the same Robert Jay Lifton with regard to such an application.

Of course, if the Commission ignores the academic psychological and sociological literature which massively rejects the model of mental manipulation and if it proposes a

simple summary of the texts which emanate from anticult activists, the results can be none other than unilateral. They are even presented in a language impregnated by an outdated rationalism.

FACTUAL ERRORS

The Belgian Sect Report reveals a number of paradoxical and ridiculous errors.

The Bahai's would be "first and foremost a group having financial and political interests which, like Scientology, wants to establish a new world order, a new nation with only one master."

Sukyo Mahikari, "one of the most dangerous sectarian organisations in our country," is allegedly "an extreme right group, using symbols such as the swastika" and would mainly aim at collecting money. If the second statement is purely grotesque, the first one seems to ignore the fact that the use of the swastika as a religious symbol in the Orient dates back to at least two thousand years before the creation of the national-socialist party.

Jehovah's Witnesses seemingly prefer boys as little girls are systematically depreciated as compared with the male members of the family; they are beaten and subjected to continuous physical violence." This very grave accusation (which is false) is reported in the synthesis of the testimonies without any verification or any element of evidence.

The Satmar community (for which the Commission prefers the spelling Szatmar), which is a part of Hassidic Judaism and which is widely known in Antwerp, is described as being "close to the centre of the diamond industry," as having "considerable economic impact." It is also portrayed as having "rather difficult relations with the judiciary" because it is said to apply the "principle according to which a Jew does not denounce another Jew—even a criminal—to a non-Jew." In the United States, the judges are said to "close their eyes on certain things for fear of seeing this electoral block (Satmar) turn against them when their mandate is again at stake." "Finally, cases of kidnapping of children and their harboring in international ramifications of the movement would not be isolated practices." Contrary to what the Belgian Commission thinks, the Satmar community has been extensively studied by specialists, particularly—but not exclusively—in the United States. This group is conscious of its difference with regard to civil society and even to other streams of Judaism: for example, they are opposed to the current State of Israel and to Zionism.

The accusation of "kidnapping children" who would then be "harbored" was certainly influenced, in Belgium, by a well-known case—that of Mrs. Patsy Heymans, whose former Satmar husband took away their three children, notwithstanding a contrary decision issued by a Belgian tribunal. But, without specific references to the Heymans case (which is not mentioned), the accusation seems to come directly from the ideological headquarters of the worst anti-semitic propaganda.

NEW LEGAL PROVISIONS

Concerning the new penal provisions to be introduced into existing laws, the Commission has made several specific proposals.

One of them makes unlawful the "active incitement to commit suicide." It is also proposed to adopt the rules concerning "the abuse of a situation of weakness" which al-

ready exist in the French penal code.

However, ambiguous commentaries about this ruling suggest extending its field of application to people who are neither minor of age nor mentally deficient. The sentences that the draft law has proposed to introduce into the Penal Code are particularly serious: a prison term of up to five years, and/or a fine for those who use beatings, violence and threats or psychological manipulation to persuade an individual about the existence of false undertakings, imaginary powers or imminent fantastical events.”

Since the publication of the Belgian report, an information and advisory centre has been created by the Parliament (30 April 1998) and will soon be operational. On that occasion, a group of Belgian Protestant, Satmar and Baha'i leaders whose movements were labelled as “cults” by the Belgian parliamentary report set up a “Belgian Citizens' Forum Against Religious Intolerance, Discrimination and Inequalities in Belgium” in May 1998 at the initiative of “Human Rights Without Frontiers” and held a press conference about their plight at the European Parliament in Brussels under the patronage of David Hallam (Labour Party, UK).

CONCLUSIONS

In many societal matters, Belgium is prone to follow the example of its French neighbour. In its struggle against so-called cults, the Belgian parliamentary commission had the same prejudices and made the same methodological errors as its French counterpart. This can already be noticed from the repressive measures that are being studied: a draft law to penalize mental manipulation, protection of children of cult members, special control of the bookkeeping of cults, ban on tax exemptions on places of worship, and so on.

GERMANY

On June 19, 1998, after two years' work, the Enquiry Commission “So-called Sects and Psychogroups” passed its report with a large majority. The report represented quantitatively and qualitatively the most intensive analysis to date of the phenomenon of new religious and ideological groups.

The basis of the work of the commission was exclusively the problems and conflicts that arise in relation to this phenomenon. It was not the duty of the Commission to test individual groups or even their beliefs. The Commission constantly let itself be guided in its work by the requirement of state neutrality and tolerance, according to Article 4 of the Constitution.

In its conclusions, the Commission stated that sects and psychogroups do not represent any danger to the democratic state, which basically corresponds to the conclusions drawn up by a Parliamentary Enquiry Commission in the Netherlands in 1984. However, a special provision concerned the Scientology organisation which the Commission did not consider a religious denomination but rather a “political-extremist” movement. This is why an extension of its observation by the Constitutional Defence Office was requested by the Commission.

The chairman of the Commission, Ortrun Schetzle (CDU), also stressed that there is no undermining of economy by religious and ideological associations. However, the Commission shared the opinion that it is the duty of the state to protect the individual against

exploitation and harm. According to the report, the extent of state action in relation to new religious and ideological groups and psychogroups ranges from education and information on the one hand to concrete measures on the other. This spectrum reflects the course of action recommended by the Enquiry Commission. The Commission recommended the establishment of a federal foundation which would tie together the various aspects associated with new religious and ideological groups and psychogroups, and the introduction of a legal arrangement for the state sponsorship of private advisory and information offices. Moreover, it recommended improving the protection of consumers by voting a law which should deal with transparency about the psychotherapists' qualifications, their methods and their financial obligations.

Furthermore, the commission called for a strengthening of national and international co-operation which would also help solve the considerable deficiency of research in this area.

The commission also considered a change in the constitution in order to deal with new religious and ideological groups and psychogroups, to be wholly dispensable and stressed that society must learn how to live in peace and tolerance with religious philosophical pluralism. One of the major conclusions of the Commission was that it recommended abstaining from using the concept "sect" any more because of its bad connotation and its stigmatizing effect.

The SPD and the Greens released their own reports. On the one hand, the Greens did not share the opinion that danger was no longer to be feared from the 600 sects and spiritual groups which exist in Germany ; on the other hand, the Socialists found the recommendations too weak and asked not to grant undemocratic ideologies such as the Jehovah's Witnesses the status of corporation of public law but their reasoning was not followed by the other parties. The CDU/CSU Christian Democrats and the Liberal FDP took a middle of the road position between these two extremes.

The commission was praised by the German Bishops' Conference. However, before the release of the report, a number of legal experts and university professors reproached the commission with unproved suspicions and with despise towards small religious groups. These famous academics are:

Hans Apel, Professor of economics at Rostock University and former Federal Minister of the Federal Republic of Germany;

Gerhard Besier, Professor of contemporary church history at Heidelberg University, and presently at the College of History in Munich;

Niels Birbaumer, Professor of medical psychology at Universities of Tübingen, and Padua (Italy);

Martin Kriele, Professor of constitutional law at Cologne University;

Hermann Lübke, Professor of philosophy at Zurich University (Switzerland);

Erwin K. Scheuch, Professor of sociology at Cologne University.

With regards to the protection of consumers on the psycho-market proposed by the Commission, the academics stressed that an open society needs no ideological controls and the state is not a remedial aid institute which should relieve citizens of all risks in life for the sake of their freedom. The university professors also mentioned a number of meth-

odological anomalies.

Among the expert members of the Enquiry Commission, there were sect-watchers and ideological officers from both dominant churches but there were no experts in the field of other religious and ideological communities, and no representatives of heavily criticized free self-development market and management training. Through that Commission, the sect watchers of the State Protestant Church had the opportunity to pronounce judgment over those who are in ideological competition with them and whom they have been confronting for years in the German courts. Unfortunately, there appears to be double grounds for suspecting prejudice on the part of one element of the Enquiry Commission's membership: firstly, they are agents on behalf of competing religious communities and secondly, they have for years been involved in legal proceedings and disputes with the very people on whose activity they had to pronounce judgment.

The work of the Enquiry Commission was surrounded by journalists who, for moral and/or material reasons, had specialised in the persecution of sects and psychological groups. They claimed in German courts to have been given reports by members of the Enquiry Commission regarding witnesses' statements made during in-camera sittings of the Enquiry Commission. However, the Chairman of the Enquiry Commission did not see any possibility of punishing indiscretions on the part of the body. Moreover, the Enquiry Commission did not give the defendants the opportunity of making a statement to this body. The accused had not even heard that there was a case against them, let alone in which manner that case was being presented.

When the targeted organizations brought in legal, psychological/psychiatric, sociological or theological reports compiled by independent experts, their conclusions were mostly ignored and the experts marginalized because they were viewed as being prejudiced. In this way, the affected parties' own attempts at giving an account of their work methods and practices went unheeded.

The German academics appealed to the German population not to allow itself to be taken in by these new attempts to gain spiritual monopoly and control, and equally not to allow themselves to be drawn in by the hysterical heresies of those hunting down sects. They appealed to them not to take part in the demonization of minorities or to denounce others just because they attended the events of a particular group.

CONCLUSIONS

The German report was surprisingly less negative than it had been feared. The German Commission was the first to approach the issue from the viewpoint that it is the state's duty to protect consumers against illegal or unfair practices of cults and psychogroups. It now seems that consumers' protection is originally typical of the German-speaking sphere of the European Union as MEP Maria Berger, who is Austrian, also took over that idea in her Report on Cults in the European Union (15 member states). But now, this concept is extending its effects to other European institutions such as the Council of Europe which comprises 40 member states.

EUROPEAN PARLIAMENT

On July 13, 1998, Mrs. Maria Berger's report on cults in the European Union was rejected for the second time by plenary session.

According to MEP David Hallam (Labour/ UK), it seemed that, while some MEPs were still flapping about the cult issue, more were weary, took on board arguments about religious liberty concerns and decided that it was not for them to make judgements on religious matters.

Some thought that the cult issue was not a problem as the draft report was saying "the representatives of national parliaments in most member states regard the existence and activities of cults in their member states as insignificant or unproblematic" and "there is no reason to fear that the firmly-established democratic institutions based on the rule of law in all the member states are in immediate danger." In the meantime, the German parliamentary commission had come to the same conclusions after two years of investigation. At last, Maria Berger's report was also affirming that "there was no need or justification to introduce a common European policy against cults or to set up a special European agency."

Other members of the European Parliament said that the report was not hard enough on "cults." They complained that "penalties only had to be applied to members of cults in relation to their individual illegal activities" as they would have liked to find some arguments for involving "cults" as organizations in legal proceedings.

Consequently, the Parliament voted to send it back to the Civil Liberties Committee for further consideration. The proposal was made by another member of Maria Berger's political group, the German social-democrat Martin Schulz.

There are now two main possibilities. The report will either get dropped because there is not enough time to deal with it before the next European elections in June 1999—or else it will have to be pushed through during this time period which is not seen as all that likely as there is a heavy schedule already planned.

Some more comments can also be made about the report in which its supporters or its opponents could find anything to substantiate their viewpoint.

Some members of the parliament stressed as a positive point the fact that it had drawn the lesson from the French and Belgian reports as it was failing to draw up a black list of suspicious movements.

Another positive point was that the European Parliament also called on the member states "to apply existing legal provisions and instruments effectively and to ascertain whether there are sufficient provisions, particularly in the areas of the law on associations, corporation law, tax and social security law and criminal law, to protect the public from unlawful activities and in particular to ensure that minors whose parents are members of cults are not cut off from the application of provisions intended for the protection of young people, such as those on welfare and education ; it reaffirms, however, that it considers inappropriate any specific legislation against cults as such."

The refusal to adopt specific anticult legislation was particularly important and was reinforced in another part of the report where the European Parliament called on the member states and the European institutions "to take action only on the problematic activities of cults and in connection with their specific activities if they affect people's physical and mental integrity or social and financial standing, taking action also when such

behavior occurs in other types of organizations, whether religious or not, while fully respecting fundamental civil rights.” In comparison with former versions of the European report, the issue of “brainwashing claims against minority religions” had been reduced to a reasonable concern and had been put in a wider context, probably to the great displeasure of European anticult movements.

Moreover, the recommendations did, on balance, maintain a positive stand for religious freedom and various statements attempt to take it away from the hysteria generated on this subject by certain parties. However, there were still two major problems concerning the report from a human rights viewpoint.

One point was the call to create and support information centres on religious movements. This idea was still present in the former reports. However, it was controversial as it put the government, or certain groups, in a position of being able to judge on whether various religious groups are socially correct or acceptable although no government has any right to intrude into the field of religion in this way. No clear guidelines were set for the mandate of such information centres. Should they have been administratively independent from the state and however be subsidized by the state or, on the contrary, be put under the authority of an existing ministry ? This vague approach could open the door to national deviations in the implementation of the European Parliament’s advice. The danger was that with the current anticult hysteria ongoing in some countries, the ease with which such information centres could have been misused as a propaganda tool for antireligious elements was quite obvious. In any case, clear instructions should have been fixed. That was not the case.

A complementary advice was also questionable when the European Parliament called on the member states “to provide unbiased information, education and advice services, particularly for young people and families, to enable individuals to make a free and informed choice, and to provide support structures for those wishing to leave cults and for their families.” The question was raised whether it is the state’s role to interfere in the individual’s religious or philosophical choices.

Another point concerned the concept of applying consumer protection laws to the psychological services market. In this regard, the European Parliament called on the Commission, in the context of its competence in the area of consumer protection, “to investigate whether consumers need protection from abuse in connection with the commercial services which cults may offer on the ‘psychological services’ market.” This idea appeared for the first time in the German report but it was a confused concept mixing religious practice with psychological practices. They are not the same and cannot fall under the same rules or reasoning. Religion, by definition, is something that falls outside of the rules that apply to the normal exchange of goods and services. A priest may promise salvation in this life or in the next but cannot be subject to consumer protection laws because he did not ‘deliver’. Similarly, religious groups which require members to take courses or instruction in order to attain spiritual gain cannot be pushed into classifications such as ‘psychological services’ as this is quite a different category altogether.

It could have been hoped that Maria Berger’s report would have gone as far as the German report which proposed to drop the concept of “cult” because of its bad connotation and its stigmatizing effect. It could have at least been expected that the word “cult” be replaced by “religious and philosophical movements.” The European Parliament report

unfortunately failed to sufficiently investigate the terminology issue and just piled up opposing amendments which deprived it of any coherence and led to its rejection. It now remains to be seen what lesson the Council of Europe will draw from this failure.

COUNCIL OF EUROPE

In 1992, the Parliamentary Assembly of the Council of Europe adopted Recommendation 1178 on sects and new religious movements in which it considered that major legislation on sects was undesirable on the grounds that such legislation might well interfere with the freedom of conscience and religion guaranteed by Article 9 of the European Convention on Human Rights as well as harm traditional religions. In that text, it was therefore simply recommended that the Committee of Ministers take measures to inform and educate young people and the general public and requested that corporate status be granted to all sects and new religious movements which had been registered. Since that recommendation was adopted, a number of serious incidents took place in which AOUM, the Order of the Solar Temple and other dangerous “so-called” religious groups were found to be at the centre. The publication of sect reports by parliamentary commissions and the creation of sect oversight organizations in France, Belgium and Germany are additional events which explain why a report on Illegal Activities of Sects is being prepared by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe.

PRELIMINARY DRAFT RECOMMENDATIONS

In its preliminary draft recommendations dated May 15, 1998, Rapporteur Adrian Nastase (Romania, Socialist Group) wrote that

“The Assembly calls on the governments of member states:

- i. to set up independent national information centres on sects;
- ii. to include information on the history and philosophy of religions, while respecting the state’s neutrality, in general school curricula;
- iii. to ensure that legislation on compulsory schooling is enforced without exception, and that the social welfare services responsible for protecting children take action whenever that obligation is not met;
- iv. to penalise systematically the illegal practice of medicine;
- v. to give thought to the legal consequences of the indoctrination of members of sects;
- vi. to ban any group whose members repeatedly carry out illegal activities and which does not expel those members;
- vii. to encourage the setting up of non-governmental organizations for the victims, or the families of victims, of sects, particularly in eastern and central European countries;

Furthermore, the Assembly recommends that the Committee of Ministers

- i. provide for specific action to set up information centres on sects in the countries of central and eastern Europe in its aid programmes for those countries
- ii. set up a European observatory on sects to make it easier for national centres to exchange information.”

SECTS OR RELIGIONS

In three of 52 points of a draft explanatory memorandum, Mr Nastase made some interesting remarks about sects and religions:

“A pitfall which state authorities should avoid is that of making a distinction between sects and religions. A perfect illustration of this potential risk, linked to the term “sect,” is the attitude of certain groups who claim religious intolerance or even racism, as soon as a state plans measures. These groups assert, expert reports at the ready, that they are not sects but, in fact, religions and that consequently the state has no right to act against them. Confronted with such allegations, if the state enters into the debate by trying to demonstrate that the group in question is not a religion, it fails in its duty to maintain neutrality and participates directly in a spiritual or religious controversy.” (Point 12)

“Of course, it is clear that it is very tempting for state authorities to use the term “sect,” given that it is easily understood by everyone. However, state authorities would be well advised to forgo using this term since there is no legal definition of it and it has an excessively pejorative connotation. In the public mind today, a sect is extremely evil or dangerous. There are three possible ways of avoiding use of the term “sect.” ” (Point 14)

“Firstly, definition as a sect could be eliminated by classifying all such groups as religions. Nevertheless, in our opinion, this approach would be misguided because it would be unduly restrictive, the world of sects being so diverse. A group based upon an esoteric doctrine is not necessarily a religion founded, in theory, on the relationship between individuals and a supreme being or force.” (Point 15)

“Secondly, the state could agree to adopt the course suggested by certain groups and distinguish between religions,—by definition good—and sects—necessarily dangerous— or even between good and bad sects. Once again, we do not think such an approach is acceptable. Under article 9 of the ECHR, states are prohibited from distinguishing between different beliefs and from creating a scale of beliefs, which is, in our view, unacceptable. Merely making such a distinction would constitute a disproportionate violation of the freedom guaranteed by article 9 of the ECHR, because the very basis of this freedom is the absence of distinction between beliefs, which explains the state’s duty to maintain neutrality.” (Point 16).

SOME COMMENTS

With regard to the terminology issue, Mr Nastase’s solution is to refer to groups of a “religious, spiritual or esoteric” nature because this general formula which is negative can accommodate the various facets of beliefs.

This positive approach of the issue could be fully satisfactory if he added groups of a philosophical nature.

Among the negative points, a number of major factual errors could be listed. I will only mention two of them. Firstly, the Phare and Tacis programme for democracy in Central and Eastern Europe has come to an end and can no longer be referred to in order to cope with the problem of cults in those countries. Secondly, the information according to which “The Church of Scientology was found guilty of ‘criminal association’ by the Milan Court of Appeal in January 1997” is biased as the Supreme Court of Appeal quashed the Milanese decision on October 9, 1997.

Another characteristic of Mr Nastase's memorandum must also be stressed: the reference to the French and Belgian parliamentary reports on sects to substantiate the upcoming report on sects of the Council of Europe as if they were holy bibles although their methodology has been heavily criticized by prominent academics in France, Belgium and other countries.

Moreover, there are numerous ambiguities in a number of fields.

The recommendation of setting up national information centres independently of the state and to bring them together in a European Observatory on sects is very unclear and incomplete. The Belgian observatory will be under the authority of the Minister of Justice while its French counterpart is under the influence of anticult movements and its report may enjoy the state label. In Central and Eastern Europe particularly, Mr Nastase's memorandum says, "the establishment of non-governmental organizations which collect and disseminate information on sects should be encouraged" but no provisions or limits concerning their mandate and their ethics are to be found anywhere.

The provision about "the banning of certain groups which are known to shelter the perpetrators of criminal activities" is also ambiguous. What is clear is that illegal activities committed by persons or organizations of whatever nature must be prosecuted and penalized.

In brief, it can be said that the contribution of the Council of Europe brings some positive ideas to the debate, confirmed by the German report, but some clarifications, corrections and amendments are absolutely necessary if we want the enactment of upcoming recommendations to abide by the generous principles of freedom of thought, conscience and religion proclaimed in the international instruments and in the introduction to Mr Nastase's memorandum.

CONCLUSIONS

In most European countries, a two-tiered system of recognized and unrecognized religions (often called cults) is in force and maintains a situation of religious discrimination and inequality not only between both categories but also inside the category of recognized religions.

Nobody can snap one's fingers at this reality inherited from the history of the various European states and ignore it when aiming to promote the implementation of international instruments regarding religious freedom.

Therefore, UN and NGO bodies and European institutions monitoring and protecting religious liberty should always keep in mind this historical contingency which must remain the starting point upon which they can build up their strategies if they want to transcend them successfully.

Cloning the system of religious liberty in the U.S., its strategies both inherited from its own history and its own case-law would be a major pedagogical and cultural error insofar as the image of the American free market of religions conveyed by European media is rather negative. Europe has therefore to work out its own forms of religious pluralism from which inequalities and discrimination will have to be banned. In this regard, "Human Rights Without Frontiers" has developed a system and a strategy of implementation which aims to inspire all those who are opposed to discrimination and inequalities based on religious beliefs.

CULTS, RECOGNITION ISSUE AND STATE SUBSIDIES

The cult issue is inseparable from the recognition issue and the financing of religions by the state. In the current two-tiered system, state recognition implies access to state financial support. This explains why most religions, whatever their historicity or their size, apply for state recognition. However, state subsidies are provided by ALL the tax payers, including those who profess a non-recognized religion or who do not profess any religion.

Such a system of state recognition is unfair and must be dismantled. It is indeed not fair that members of minority religions, atheists, agnostics pay for religions which do not tolerate them or are openly opposed to them.

As Europe has a long history of welfare state in most sectors of society, including the religious sphere, it is more pragmatic to plead for a reform of the system which can awaken synergies between various segments of civil society than for a radical change such as putting an end to the state financing of religions which will trigger much opposition from the religious establishment and will not find any political support.

INCOME TAXES AND FINANCING OF RELIGIONS

Germany, Italy and Spain have introduced a system that partially allows tax payers to allocate a part of their income taxes to the religion of their choice. However, there are big disparities between the systems of these countries ; they will not be analyzed here but the philosophy behind those systems is that tax payers should be allowed to finance the religion or the philosophical movement of their choice and should not have to contribute to the financing of religions they do not profess or they do not like.

In this perspective, "Human Rights Without Frontiers" has a far more efficient solution to propose:

1. Abolishing the two-tiered system with recognized and unrecognized religions and replacing it by a system in which all religions, whatever their historicity or their size, should apply for the juridical status of their choice (the same sort of registration possibilities as for non-religious associations). Religions with very small membership (some hundreds of adherents) could be requested to provide a number of signatures of people (1,000 for example) supporting their application.
2. Allowing tax payers to allocate a part of their income taxes to one of the religions or philosophical movements enjoying a juridical status (this proposal follows the Italian model but goes beyond it)
3. Granting tax exemption to citizens making donations to religions enjoying a juridical status.

Such a fundamental reform would put an end to the two-tiered system with two or more categories of religions and citizens and the cult issue as such would become quite irrelevant.

*Willy Fautré
Chairman of Human Rights Without Frontiers
July 22, 1998*

JEHOVAH'S WITNESSES IN FRANCE

**JAMES M. MCCABE, ASSOCIATE GENERAL COUNSEL,
WATCH TOWER BIBLE & TRACT SOCIETY OF PENNSYLVANIA**

The 21st chapter of the Gospel of Luke describes a poignant scene observed by the Lord Jesus. He saw a needy widow drop two coins of little value into the temple contribution box. The Lord commended this woman's generous spirit. Today, in the nation of France, the Ministry of Finance wants to impose a 60 percent tax on those two coins of little value if that widow happens to be one of Jehovah's Witnesses. How was this determination made? Why are Jehovah's Witnesses and other religious minority groups under fiscal attack?¹

We have unconfirmed reports that the Evangelical Church of Besançon has also been assessed a 60 percent tax.

Bible literature published by the Watch Tower Society, the legal agency for Jehovah's Witnesses, began to be translated into French shortly after the visit to France by the Society's first president, C.T. Russell, in 1891. In the mid-1890's, a young Swiss man, who was one of Jehovah's Witnesses, returned to Europe from America to preach the Gospel to the French-speaking population. By 1903, the Watchtower magazine was being published regularly in the French language and distributed throughout the country. By 1913, religious assemblies of Jehovah's Witnesses were being held in many different cities in France. By 1928, there were nearly 400 active members of Jehovah's Witnesses and countless others serving in 45 congregations in France. In 1939, six weeks after the beginning of World War II, Jehovah's Witnesses were banned in France.

During the next several years, the Witnesses faced extreme persecution, including sentences for both men and women to the Nazi concentration camps. This oppression was heaped on them due to their firm adherence to their Bible-based consciences to maintain complete neutrality, and their staunch refusal to support the Nazi regime. Some Witnesses were even executed for this stand. Despite those extremely difficult years for Jehovah's Witnesses, the number of active members actually doubled from 1,004 in 1939 to 2,003 in 1945. On September 1, 1947, the work of Jehovah's Witnesses was again legally authorized in France. The religion continued to grow at an astounding rate over the next several years. In 1973, additional facilities were acquired in Louviers to support the offices in Paris. Today, the facilities in Louviers serve as the main offices to direct the work of Jehovah's Witnesses in France. The Bible literature produced by the France offices of Jehovah's Witnesses has been distributed to French-speaking countries around the world without charge. The religion has continued to grow steadily over the past few decades and is now the third largest Christian religion in France. In November of 1997, a special one-day religious assembly of Jehovah's Witnesses was held just outside of Paris with a total attendance of over 95,000. The latest yearly report for France indicates that the number of Jehovah's Witnesses and their associates numbered 220,467, with 1,685 congregations in the villages, towns, and cities of France. In addition to their Bible-educational community service activity, Jehovah's Witnesses in France have been active in the organization of humanitarian aid to several African countries.

Despite the clear religious nature of their activities, Jehovah's Witnesses along with other so-called "sects" have been the subject of widespread media attacks. In a climate of growing concern about "dangerous cults" following the mass suicides of adherents of the Order of the Solar Temple in the forest of France, the subway gassing in Tokyo, the aftermath of the events in Waco, Texas, and even more recently the suicides of members of the Heaven's Gate near my home town of San Diego, cult-watch groups in France urged official inquiries by the government into the activities of the so-called sects or new religions. The National Assembly formed a Parliamentary Commission on Cults (Commission d'Enquête sur les sectes) in 1995.

After a year-long study, the Commission issued its report in January of 1996, which labeled Jehovah's Witnesses and some 172 groups as "sectes" [cults]. Although the report is based largely on hearsay and has no legal character in France, it is frequently cited as an official determination that the listed groups are "dangerous cults." The religious groups singled out are classified by some individuals and governmental agencies not to be religions but dangerous cults. Thus, the report concluded, among other suggestions, that laws on taxation should be used to control, suppress, and eliminate "dangerous cults" in France.

Not surprisingly, in January of 1996 tax authorities in France began an official audit of "Association les Témoins de Jéhovah" (ATJ), the principal legal corporation used by Jehovah's Witnesses in France. The audit was extended beyond the normal statutory period of one year to eighteen months.

No irregularities were found in the Witnesses' books of accounts and it was determined that the religion did not engage in any commercial activity. Nevertheless, a ruling was issued that the law on "transfer tax" applies to the religious offerings received from the faithful. A similar determination was made by the local tax authorities on June 26, 1997 and November 19, 1997, that the ATJ is liable to pay "transfer taxes" of 60 percent on donations it has received.

The scope of the decision eventually covered all offerings received from the contribution boxes in the Kingdom Halls, or houses of worship, of Jehovah's Witnesses during the period from January 1, 1993 to August 31, 1996. After adding penalties and interest, the total figure sought by the Ministry of Finance is in excess of \$50,000,000 (FF 300,000,000).

The law on manual donations ("Loi des finances pour 1992") is normally applied only to estate matters and personal gifts. This law simply provides in Article 757 that deeds containing either the declaration by the donee or his representatives, or the judicial acknowledgement of a manual donation, are liable to the donation tax. However, Article 795 of the same law provides exemptions from the tax for donations and bequests made to religious corporations, unions or religious corporations and recognized congregations.

Despite the clear exemption of religious organizations from the tax, on May 14, 1998, tax authorities officially advised the Association les Témoins de Jéhovah that it is liable for a 60 percent tax on all the voluntary offerings and obtained a lien on the association's property near the Normandy coast in Louviers, France. In obtaining judicial approval for the lien, the lawyer for the Ministry of Finance alleged that the association was "arranging its insolvency" and the lien was necessary to insure that the taxes could be collected. No facts were supplied to support these allegations.

The imposition of such a tax is unconstitutional on its face and has technical problems even under the statutes that impose it. To date, the Ministry of Finance has not

presented the religion with a tax bill or a request to pay the tax. French lawyers inform us that until that event takes place, the tax itself cannot be challenged in the courts. That such a tax has not been imposed on the vast majority of other religious organizations reveals its discriminatory nature. Surely, such an inequality cannot survive the scrutiny of the French Constitution or the European Convention of Human Rights. It is the intention of Jehovah's Witnesses to challenge this infringement on its religious activities through the courts of France and in the European Court of Human Rights should that become necessary.

Already in the courts of France, Jehovah's Witnesses have had their places of worship recognized as such by nine different administrative courts. These numerous rulings have meant that in the court's view, Jehovah's Witnesses are a religion and their buildings are exempt from the habitation and property taxes imposed on non-religious buildings. Additionally, the European Court of Human Rights has repeatedly declared that Jehovah's Witnesses are a "well known religion." In the face of this jurisprudence internally and internationally, it is hard to fathom how the Ministry of Finance can continue this attack under the guise that Jehovah's Witnesses are not a religion in France.

In the words of former Chief Justice Marshall of the United States Supreme Court, The power to tax involves the power to destroy . . . (and) to carry it to the excess of destruction would be an abuse² The Ministry of Finance's attempt to impose a tax on the "widow's mite" in the congregations of Jehovah's Witnesses of France is surely an attempt to destroy the opportunity of Jehovah's Witnesses in that land to meet freely, associate together and worship God according to the dictates of their Bible-trained consciences. It is also an attempt to destroy the congregations' generous spirit that in the past ten years has risen to meet the needs in the face of disaster and trouble in Burundi, Rwanda and some eight other African nations. Surely, it is a serious violation of the fundamental human right of freedom of religion.

While I have attempted to primarily focus on the very recent egregious actions of the tax authorities in France, I would be remiss if I did not mention another disturbing result directly attributable to the climate of intolerance growing in France. Virtually every week over the past three years, a segment of the French government has been successful in having information appear in the media in which Jehovah's Witnesses are labeled as a religion that breaks up families, that there is a higher incidence of mental health problems in Jehovah's Witnesses than in the general population, that Jehovah's Witnesses have a higher rate of suicide than the general population in France and other baseless lies.

Some of the troubling results this misinformation has had on the lives of a number of Jehovah's Witnesses is worthy of note. Allow me to relate just a few examples that have occurred over the past three years:

Numerous teachers who are Jehovah's Witnesses lost their employment specifically due to their adherence to their religious beliefs.

One example involves Mrs. Maryline Bouchenez who, after teaching at one school for 18 years was forced to undergo severe scrutiny from the school authorities simply because

³McCullough v. Maryland 17 US 431 (1819)

she is one of Jehovah's Witnesses. In their findings, they concluded: "Mrs. Bouchenez carries on her work in a satisfactory manner. The children are happy in her class. When observing the professional action of Mrs. Bouchenez, it is impossible to say that the neutrality of the public teaching is at stake here." In spite of this favorable official report, she was forced to transfer to another school and told that she should not let those working there know of her religious affiliation.

A second example involves Mrs. Catherine Guyard, who has also been a schoolteacher for 18 years. A meeting was organized by a parent-teacher association in 1996. The purpose of this meeting was thus worded: "Your children will be entrusted to a school teacher who is a member of Jehovah's Witnesses, who are a sect organization. We invite you to discuss the matter on September 2, 1996, at 8:30 p.m. at the school." The academy forced Mrs. Guyard to teach at another school. On February 1998, Mrs. Guyard was supposed to resume her job in the first school. She learned that a tract was being distributed to the parents and also posted on the boards outside the public school. According to the judge who has been assigned the case, "the tract was written to harm the reputation of Mrs. Guyard and to provoke discriminatory attitudes."

The central offices of Jehovah's Witnesses in France received reports from Jehovah's Witnesses living in six different French states that they had lost their employment as day care specialists due to being Jehovah's Witnesses.

Often the French Department of Social Welfare receives anonymous letters of denunciation stipulating that the "childminder" (day care specialist) is one of Jehovah's Witnesses. Following this, the social welfare authorities refuse to renew the employment agreement they have with the worker who is one of Jehovah's Witnesses. The reason given in one set of cases was that, "their adherence to the faith of Jehovah's Witnesses does not allow to guarantee the safety, the morality and the conditions of education of the children in their care."

With increasing frequency, the French authorities are refusing to allow Jehovah's Witnesses to rent facilities for use in religious services. For example, the municipal authorities in Lyons refused to allow the Jehovah's Witnesses to rent facilities in that city although they have been meeting there for more than 20 years.

The Mayors of numerous French towns have refused to extend building permits to local congregations of Jehovah's Witnesses. In nine cases, "Kingdom Halls," as the centers for religious services of Jehovah's Witnesses are called, could not be built. The congregations affected either continue meeting in much older facilities or in the homes of individual Jehovah's Witnesses.

In no less than eleven cases, mothers who are Jehovah's Witnesses and who were going through divorce proceedings, were denied custody and, in one case even visitation rights, only because they are Jehovah's Witnesses.

CONCLUSIONS

Today, religious liberty is definitely under attack in France. Added to the personal toll of living in an environment of religious intolerance as mentioned, the Ministry of Finance in France is attempting to control and destroy the religion of Jehovah's Witnesses in that country by an imposition of a 60 percent tax on its contributions. These contributions have been voluntarily donated by members of the faith to support their

places of worship and carry out their religious charitable activities in France and French-speaking Africa. Jehovah's Witnesses see this as a direct result of the Enquête Commission's Report. Equally disturbing is the fact that Belgium and Germany have commissioned similar reports in their respective countries.

If similar fiscal restraints result from Enquête Commission reports in Germany and Belgium, we fear ominous restraints and protracted battles to insure basic freedoms and fundamental human rights among the member states of the European Union among whom are some of the staunchest allies of the United States.

In a speech last month at the inaugural luncheon of the French-American Business Council here in Washington, Madeleine Albright noted that both France and the United States must stand together for peace and human rights. No doubt our distinguished Secretary of State had in mind helping less developed nations adhere to the lofty principles of fundamental human rights embodied in international treaties such as the Universal Declaration of Human Rights, The Helsinki Final Act, and the European Convention on Human Rights. But today, we seek the support of all lovers of religious liberty and freedom to demand that France itself provide respect for the human rights of more than 200,000 French citizens associated with Jehovah's Witnesses within its borders.