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THE UNDERSTANDING OF RELIGIOUS FREEDOM IN THE SOCIALIST STATES

by Otto Luchterhandt

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The Special Place of Religious Freedom

Religious freedom holds a special place among the human rights in the contemporary list of fundamental and human rights. This is not only the case for the religious citizen, to whom such rights are self-evident, but for all of us, because religious liberty was of decisive importance for the development and practical break-through of the human rights idea in European and North American constitutional history.1

This high ranking of religious freedom has, to a large measure, been guaranteed in the U.N. Human Rights Convention where it found its expression. They were also emphasized in the Final Acts of the Helsinki Conference. Paradoxically, religious freedom is preponderantly not left out of the constitutions of socialist countries. There they are included among the freedoms of conscience. To the contrary, one has to acknowledge that religious freedom, namely freedom of conscience, takes a special place in the constitutions of socialist states. Religious freedom is given its rightful place among the fundamental rights which affect the development of the human spirit, namely freedom of thought,
press, art, and science, among which it holds a special position. This should not be surprising, because in it is reflected on the normative level of the constitution the fact again that religion and totalitarian ideology are mutually exclusive and that the religious citizens and their communities within the official worldview of a socialist country represent an alien element.

The special place of the freedom of conscience in the system of socialist basic laws is noticeable, when one compares the limits of the above-mentioned freedoms reflecting the spirit of the socialist constitutions. Thus, for example, the Soviet Constitution of 1977 relates the exercise of art and science as well as the freedom of citizens to associate themselves to being in "agreement with the goals of the building of communism." And it allows freedom of thought, press, assembly, and demonstration in "agreement with the interest of the people and the strengthening and development of the socialist order." The crucial element for the exercise of these basic rights is, namely, the state and societal interest. The Soviet socialist states maintain a particular relationship with this interest. Namely, the constitution does not play the role of guarantor in the free play of pluralistic political forces as a determinant of compromise from case to case, but this state and societal interest is authoritatively determined by the Communist Party. The Party, and that means its leadership, is hereby not bound by any legal criteria. It can sovereignly, freely, and arbitrarily, according to its own judgment and political opportunism of the moment, determine the content of these so-called political and cultural rights, together or in individual cases. And the Party actually carries this out. These so-called rights of art, science, expression of thought, press, assembly, and association are thereby substantially and functionally merely aspects of Article 62, Section 1 of the Soviet Constitution which are anchored to the basic responsibility or duty of the citizen, ordered by the Party, "to protect the interest of the Soviet State and to contribute to the strengthening of its power and authority."

Similarly the political scientists in the German Democratic Republic emphasize that the central fundamental right of the G.D.R. citizen is to join in the building up of socialist society (Article 21).
Simultaneously, it is regarded a duty and in terms of content it is regarded as nothing but the scientific and determined carrying out of the orders of the party and the state. The right of the citizen to self-determination in spiritual and political areas aside or even against the Party is not allowed by these constitutional provisions.

In principle this is different from religious liberty. Its guarantee is not among the provisions of state and social interest and therefore cannot find a place in such provisions. In those orders we find in any case negatively formulated restrictions of the exercise of religion by means of specific prohibitions.

Thus it is forbidden, for example, in Article 52 of the Soviet law "to spread hate and enmity based on religious views." Article 82 of the Polish Constitution prohibits the use of force to settle religious issues. Article 174 of the Yugoslav law prohibits "the misuse of religion and religious activity for political goals." This provision is obviously quite flexible and therefore enables the misuse leading to repressions against religious communities. Nevertheless, it retains the characteristics of a negative limitation since it does allow the citizen in principle some space for religious or worldview (weltanschau) self-determination.

In this far-reaching elimination of spiritual freedom one finds, however, a great problem for religious freedom, because religion does not have an exact, clearly delineated field, but it radiates upon the entire spiritual and practical human life. Therefore religion maintains an unbreakable mutual relationship with the entire intellectual activity of the human being. Since freedom of the spirit is indivisible, even its partial rejection necessarily leads to the threat to religious freedom, where it is more or less extensively guaranteed.

The same is naturally also valid in the reverse case. Namely, within a closed worldview system religious freedom develops without fail into a dynamic spiritual force which naturally leads toward a pluralism of worldviews.

Here fundamental contradictions appear which bring the religious citizen into a situation of conflicts of loyalty on matters of principle with the socialist state. At this point one can not avoid mentioning a
significant exception among socialist states, namely Albania, whose constitution, as is well known, prohibits all religious organizations and all religious propaganda (Article 55). There one thinks of religious freedom only as a part of the natural freedom of thought, restricted to the internalized service of God, forum internum. The Church can only exist as ecclesia invisibilis. Without doubt this is the most radical application of the well-known, notorious slogan, "religion is a private matter." Is Albania in relation to the freedom of religion the most consistent socialist country? In regard to the situation in Albania my theme is particularly emphasized: Which is the specifically socialist understanding of freedom of religion? Is there such an understanding, and if so, which are the practical consequences for the position of the religious citizen in the socialist state? Answers to these questions must have been raised by the critics of religion, Marx and Engels.

Marx, Lenin and Freedom of Religion

The key to Marx's understanding of religion, i.e. criticism of religion, is his understanding of human beings. The human being is a species being and as such "the sum total of social relationships," the totality of society in a singular form. What the human being is, his or her being, is decisively determined by social work processes. Following Hegel, Marx arrives at the conclusion that under capitalistic production and property relationships people are completely alienated from their being. Namely, they are self-alienated on the basis of unworthy working conditions. They are alienated from the product of their work which is transformed into the estranged capital. And finally they are alienated from fellow human beings who are not seen as enriching one another but are being experienced as competitors on the market and thus as threats. Marx does not regard alienation as an eternal situation, from original sin onward, but as a result of human action, of historical conditions, which he described as "the distorted world," "misery," "the valley of tears." This condition is not unchangeable but can be replaced by a non-alienated situation.

In its alienated world the human being produces religion as his or her adequate "distorted understanding of the world." People do this on
the one hand to express their humanity in an abstract manner, under the sign of "God" as an alien power which rules over against them. At the same time, this "God" gives them an explanation for their misery as well as a solution for their problems. Therefore, Marx describes religion as a "solemn completion," a "halo" of this inhumane world, as their "total consolation and basis for justification" and finally as the "opiate of the people." His criticism of religion permits Marx to arrive at the "teaching" that "man is for people the highest being," as well as the "categorical imperative," "the rejection of all relationships in which the human being is a degraded, exploited, abandoned, and despised being." It is the "duty" to "establish the truth of the real world," i.e. to remove those conditions which demand illusions and therefore create "true happiness." 

Freedom of religion and conscience can, according to Marx, only be freedom from religion. He thought of it as the "freeing of the conscience from the religious spectre" as he formulated it later in the critique of the Gotha Program of the German Social Democracy. In other words, the exercise of religion in the sense of unobstructed development of believing people in the community of prayer, worship, diaconate, and so forth, Marx can understand as a freedom, but, at best, as an internalized coercion, as unfreedom.

The liberation from religion, its withering away, appears therefore as a necessary by-product, i.e. as a negative by-product of the total process of becoming human on the way to Communism, to classless society. Religious thought is replaced by science in the form of dialectical and historical materialism, whose integral part is atheism. Speaking from the perspective of constitutional law, the freedom of conscience in the Marxist sense is attached to the notion of rights to education and science.

An Inconsistently Drawn Conclusion by the Soviet Union

The above teaching was basically accepted by Lenin. The Communists, after their take-over, should have concluded from it the following:

1. Concentrate only upon the successful building of a humanistic society in order to accomplish the withering away of religion;
2. Avoid any special kind of atheist propaganda; and

3. The continued existence of religion in a socialist society would be a sure indication of continued conditions of alienation in it.

On the whole, the Communists drew the conclusions of their religious policies only half-heartedly or perhaps not at all. Thus the Communist Party of the Soviet Union emphasized from the outset the freedom of anti-religious propaganda and built a corresponding propaganda institution, which in the meantime assumed the characteristics of an anti-church. Obviously the Communist Party considers the overcoming of religion primarily as a problem of an effective ideological indoctrination. This means that it primarily considers the continued existence of religion basically due to intellectual roots, namely upon stupidity, backwardness, family traditions, propaganda from abroad or the skillful spiritual "rat-catchers." Influences of the materialist critique of religion from the time of Enlightenment are in evidence here whereby one frequently presented religion as a product of superstition and priestly trickery. These influences apparently affected Lenin to rationalize his hate of the Russian Orthodox Church; to them he willingly succumbed.

A Separate Way in the G.D.R.

The Soviet example was not followed in the G.D.R. Only for a very short time during the early 1950s was there anti-religious agitation and propaganda. Naturally, there also is an orientation toward "Scientific Atheism," which is an integral part of Party education but those who are "professional atheists" are only marginal in the ideological activity of the S.E.D. [Socialist Unity Party, that is Communist]. One of its main exponents, Olof Klohr, at an international symposium on atheism, in 1980, shared the following views, based upon the early Marx:

Religion is a necessary product even of socialist societies; the breakthrough into the domain of freedom may be possible only in mature communism. Out of this follows:

1. The withering away of religion makes progress only to the degree to which the socialist society achieves full humanism.

2. The only possible form of atheist propaganda is the continual
enlightening of the essence of the Party and government policies, and this totally without an obvious atheist accent. Out of this follows:

3. The main question is not how religion is to be overcome, but instead how one is to relate to religious institutions. The answer can only be that Christians and churches should be involved by all possible means into the order of socialist society.

The S.E.D. expects also that the transcending of religion will come out of the results of this aspired integration. It counts upon a step-by-step continuation of secularization even in the churches, by means of adapting the religious person to materialistic forms of thinking.

One may call this disparity between the G.D.R. and U.S.S.R. "Marx versus Lenin." The other socialist countries lie between these two extremes, but mostly closer to the Soviet viewpoint. That is true also of Poland, where the Workers' Party stands firmly in the tradition of a vulgar Marxist anti-clericalism.

Three Principles

The genuine Marxist understanding of the freedom of conscience brings about in regard to religious communities only a negative perspective to the fore. It is silent in regard to the question of what the legal position of the religious citizen and of the religious communities should be in socialist countries. The classical thinkers of Marxism-Leninism did not develop a political-legal concept of religious freedom. From the above-stated concept of the critique of religion three principles follow necessarily, namely:

1. a temporarily, limited and thereby relativized, i.e. from the outset weakened, legitimization of religious communities;
2. repression as the main attitude of the policy toward religion;
3. the negative instrumentalization of the religious law making.

With this position Marx, Engels, and Lenin took over the anti-clerical program of the European left-wing liberalism, namely the separation of church and state, the transformation of religious communities into voluntary private societies with their own support of the clergy, voluntary religious education outside of schools, limiting it into the
"quiet of the private life," as Marx described approvingly the measures of the Paris Commune in 1871.  

Joint Position but Divergent Developments of Socialist States

The programmatic theses were further realized by Communist Parties after they came to power, but no unified political-juridical concept or model of religious freedom, that is the position of religious communities, emerged in the socialist states. To the contrary, today one gets the impression that the differences between them seem to be constantly increasing. These discrepancies seem to least depend upon the views of the Communist Parties. After their ascent to power in 1917, that is 1945-1950, they attempted everywhere to suppress the traditionally strong religious communities of their lands out of public life, and to restrict, by means of more-or-less strict state control, worship in churches and private circles. This example, which was first applied in the Soviet Union, of limiting the exercise of religion and permissible church activity, was followed in all of East Europe after 1945. Thus for a limited time it appeared as if there was going to be an unified socialist concept of religious freedom as a constitutional right. The basis of it was a very definite view which was based on the understanding of religion in the Russian Orthodox Church, religion defined metaphysically, i.e. a strong other-worldly attitude, expressed through spirituality, prayer, worship, ritual, and religious traditions.

The Communist Parties did not succeed with this view in all countries. In the power struggle between church and state the believers have shown themselves to be most resilient and to some degree stronger than the state. The experience of relating to the secular state, some of them having been fascist worldview states, helped enormously both the Protestant and Catholic churches. The Party and government leaders were forced to compromise. In this respect the legal and frequently also the factual situation of believers and religious communities in socialist countries differs greatly.

Overview of Various Countries

The spectrum of options ranges from the prohibition of existence of
religious communities in Albania to the [prominent] place of the Catholic Church in Poland which is implored by the state to be a guarantor of internal political stability and national equilibrium; from the Soviet Union, where religious communities must obtain permission of the state for all their more important decisions, to the G.D.R. or Yugoslavia, where the churches are free from the state's intervention into their internal matters and where the rule is broad internal church autonomy.

The relationships between church and the state in U.S.S.R. and Czechoslovakia on the one hand and the G.D.R., Poland, and Yugoslavia on the other hand differ significantly from one another. The U.S.S.R. and Czechoslovakia have a system of antagonistic top government officials who regulate religion; there is an overpowering influence of the state in church matters and limitations of religious activities to a level slightly above prohibition, namely constant oppression.

In the case of the G.D.R., Poland and Yugoslavia we have, to the contrary, a "system of antagonistic separation of state and church." Antagonistic, because the state here, too, attempts to limit the influence of the church upon society, and especially upon the youth, by means of prohibitions and propaganda. Nevertheless, a system of separation does exist which allows the church relatively broad room for maneuvering, of free decision-making, which actually evolves and extends even to the political deaconal service and a political mandate of the church. It is worth noticing that in the G.D.R. and Poland, in contrast to, for example, Romania, there is hardly any religious legislation. Except for some special provisions of revenue, criminal, and administrative laws, there are only the articles of the constitution. These have entirely the characteristics of general clauses, that is open reference points whose content is determined either autonomously by the traditional large churches of a particular state, or on the basis of bilateral agreements with the state. Minimally, this testifies to the relative strength of the churches in both of these countries. At the time of promulgating their constitutions (1968 in the G.D.R. and 1975/76 in Poland) they permitted a significant degree of religious freedom in the constitution.
National and International Law

At this point one must acknowledge that all socialist countries signed the International Agreement on civil and political rights of December 16, 1966. Thereby they have bound themselves through international law to accept religious freedom, as it is defined in Article 18 of the Agreement. Moreover, the socialist states recognized, according to Articles 2, 26, and 27 of the Civil Rights Agreement, and Article 13, Section 3 of the Social Rights Agreement, as well as Article 5 of the UNESCO Convention against discrimination in raising and educating children, and according to other international documents, the equality of religious citizens, especially in education and in occupational life.

These accepted responsibilities include only the minimal standards of religious freedom. But this is decisive in that it is equally binding to countries West and East and thereby can serve in principle as a platform of a common, identical juridical understanding of religious freedom. Therefore the chances are not as bad as it may seem at first glance since, as previously mentioned, the socialist constitutions are based on a fundamentally liberal understanding of the freedom of conscience. This liberal content can be acknowledged and legally expanded in a number of socialist states, as for instance the G.D.R. The determinations of the international conventions on religious freedom and the equality of believers could become, therefore, a lever in the struggle for a liberal substance of religious freedom in the constitutions of East and Southeast Europe, which is not to be underestimated. In any case it is to be concluded that the discrimination of religious citizens in education and occupation (not to mention politics) and the atheization of the population by means of social and psychic pressure, contradicts clearly the text of Article 18 and of other agreements.

This commitment to the interests of oppressed religious people can succeed only when at least those of us in the West have a broad agreement as to what the content of religious freedom is. To care about this, in my opinion, is one of the essential tasks of the churches.

Translated from German
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NOTES


3 See, for example, Staatsrecht der DDR: Lehrbuch (East Berlin, 1977), pp. 190ff, 200ff.


7 Ibid., p. 378.

8 Ibid.

9 Ibid., p. 379.


13 See, further, Otto Luchterhandt, Der Sowjetstaat und die Russisch-Orthodoxe Kirche: Eine rechtshistorische und rechtssystematische Untersuchung (Cologne, 1976).

