

Institute on Religion and Public Policy: Religious Freedom in Serbia

Executive Summary

(1). Serbia's constitution guarantees the right of religious freedom and worship. However, recent Serbian religion laws violate the protections guaranteed by the constitution and the religious freedoms and equality of minority religious groups. The current policy favors recognized "traditional" communities and grants those groups access to benefits not available to others. The required registration of communities allows officials to deny the legality of religious communities after evaluating the legitimacy of their beliefs and practices. Although the government does not itself take part in acts of violence against religious minorities, the lack of action to prevent increasing levels of violence promotes religious tensions and increases the vulnerability of people whose protection is ensured by the constitution.

Institute on Religion and Public Policy

(2). Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights, and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

Introduction to the Legal Situation

(3). Article 43 of the Constitution of Serbia states that the "freedom of thought, conscience, beliefs and religion shall be guaranteed," and "everyone shall have the freedom to manifest their religion or religious beliefs in worship, observance, practice, and teaching, individually or in community with others, and to manifest their religion or religious beliefs."

(4). In April 2006, Serbia's Religion Law, as it currently stands, was signed into action. The law represented an attempt to subjectively codify Serbian religion policy, but in many ways the laws fell short of ensuring religious freedom as a human right for all groups and persons. The laws betray their intention, giving significant freedoms to some groups but withholding significant freedom from many others and recognizing and protecting only a select few. In addition, the law has been inconsistently implemented by the Serbian Ministers of Religion, inhibiting the law's original intention.

(5). Many Serbian officials openly condemn the Religion Law, challenging its violation of human rights. Upon signing the law, President Boris Tadic admitted that it is "not absolutely in agreement with the European Convention on Human Rights which was ratified by the Parliament of Serbia and Montenegro in 2004." President Tadic also called for the Laws to be amended, but there have been no changes to rectify the document's incongruity with the Convention's

standards. Slobodan Karanovic of the Serbian Federal Ministry of Human and Minority Rights has also called for amendment.

(6). Article 10 of the Serbian Religion Law gives seven religious communities “traditional” status and affords them significant advantages other “non-traditional” communities do not receive. These seven “traditional” religions are the Serbian Orthodox Church, the Roman Catholic Church, the Slovak Evangelical Church, the Reformed Christian Church, the Evangelical Christian Church, and the Islamic and Jewish communities.

(7). Under the Religion Law, all those who were not formally recognized as “traditional” are required to apply for registration if they wish to receive the benefits awarded to religious communities by the Serbian government. Under Article 18, the registration process consists of an extensive evaluation of the religion, including an evaluation of theological beliefs and practices, the governing practices and structure, the size of the congregation, and the allocation of funds. Article 43 of the Serbian Constitution guarantees the freedom of thought, conscience, and religion to all people, assuring “the freedom to manifest their religion... in worship, observance, practice, and teaching.” However, these freedoms are not fully insured by government practice. Muslim soldiers, for example, are not provided meal options that adhere to their dietary requirements, and the military offers only Serbian Orthodox religious services to personnel.

(8). In 2006, the Serbian Parliament passed a Restitution Law intended to return significant amounts of property that was previously confiscated by former governments and occupying forces. While both “traditional” and “non-traditional” communities struggle to reclaim property, no attempts have been made to implement the law further than the acceptance of claims from registered communities. Numerous religious communities have faced problems reclaiming lost property. The Federation of Jewish communities of Serbia, the Serbian Orthodox Church, the Seventh-Day Adventist Church, the United Methodist Church, and the Kalmykian Buddhists are among those whose property have yet to be restored.

(9). Many religious communities have been active opponents of the religious situation in Serbia, especially under the religion laws. Some have been forced to merge with other similar religious communities in order to receive the advantages afforded to registered communities, but others have chosen to resist the laws instead of conforming. Groups like the Baptist Union have chosen to challenge the religion law itself, taking their case to the Serbian Constitutional Court. Having no precedent, however, the courts have failed to evaluate the Baptist Union’s case.

Instances of Official Discrimination

(10). The government of Serbia has been actively involved in the oppression of and discrimination against religious minority communities. The Serbian Court system is biased against minority religious communities and their adherents. There have been several accounts of instances when perpetrators facing criminal charges for violence against a religious minority were given a lesser sentence such as paying a fine instead of jail time. The perceptible bias also extends to custody cases. A notable example of these biases was a custody case reported in Velika Plana where an infant child was awarded to the father because the mother, Marija Arsenijevic, allegedly was a member of the Jehovah’s Witnesses.

(11). Administrative inconsistencies denying the required registration for religious communities are credited to “theological differences”. Forum 18 News quoted former Religion Minister Milan Radulovic saying, “some bizarre or experimental religious teachings or cults are not churches or religious communities.” Radulovic believes that such groups can be granted registration “in 450-500 years when they pass historical tests.”

(12). The Hare Krishna community was denied registration because they are “more philosophical than religious,” though their registration application noted community practices to include “performing religious rites and studying religious philosophy and culture.” The community was told to apply as a citizens’ association instead, but the State Administration Ministry denied their request saying they are “obviously a religious organization.”

(13). Article 19 of the Religion Law prohibits the registration of any community “whose name contains a name or part of a name” resembling a community that has already been registered. Many religious groups have been denied registration as a religious community because they refused to unite with an existing group in Serbia that possessed a similar name. For example, the Seventh-day Adventist Reform Movement was refused registration because their name too closely resembled the Seventh-day Adventist Church. All non-Serbian orthodox churches are denied registration and encouraged to unite with the Serbian Orthodox Church in order to receive the benefits of registration. The Montenegrin Orthodox Church has refused to unite with the Serbian Orthodox Church and has thus been denied legal recognition. The same unification requirement forced the Greek Orthodox Church to unite with the Roman Catholic Church. This policy violates Article 79 of the Serbian constitution, which guarantees the right to “national, ethnic, cultural, religious specificity.”

(14). Additional reasons that registration was denied are attributed to the community being non-monotheistic or having a “non-traditional” belief system. Having fewer than 1,000 adult members and having the community headquarters located within Serbia have also been stated as grounds for denial.

(15). Although a non-registered community is not entirely prohibited from functioning, it suffers many legal limitations. Non-registered communities cannot buy, own, or sell property; cannot hold a bank account; and cannot pay taxes to obtain a tax identification number necessary for legal transactions. They also cannot publish literature; employ anyone; obtain state health insurance or pensions available to other communities; or file to reclaim previously confiscated property under restitution laws. Public utility costs are higher because the communities are forced to operate as a business and do not have the benefits of lowered utility costs offered to religious communities.

Religious Violence and Discrimination Among the People

(16). Article 21 of the Serbian Constitution prohibits discrimination “based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability.” Article 49 of the Serbian Constitution declares religious inequality and hatred prohibited and punishable.

(17). However, there is an apparent lack of police and court action regarding attacks on religious minorities. The sole Hare Krishna in Jagodina, Zivota Milanovic, was repeatedly assaulted with a knife between 2001 and 2007. Each of these incidences was reported to the police. However upon questioning the victim, police reportedly asked more questions relating to his religious beliefs than the details of the attack. Further investigative actions, such as attempting to identify witnesses and investigating the scene of the crime, were not taken. There have been significant increases in attacks on religious minorities in other areas as well. For example, the Novi Sod jurisdiction reported 22 attacks on religious minorities in 2006, but 16 attacks in January through April 2007 alone.

(18). The Council of Europe claims that Serbian policy allows a “climate of hostility against religious minorities... partly created by certain media outlets and politicians.” While Serbia’s policy does not directly discriminate against any particular group, it does allow an atmosphere of intolerance and vulnerability of religious minorities.

Conclusion

(19). For Serbia to effectively guarantee the rights promised in their constitution, the Serbian Religion Law must be amended to adhere to the Serbian Constitution and international covenants and treaties on human rights and religious freedom. The police and court system must play a more active role in prosecuting crimes against religious minorities while simultaneously remaining neutral in legal matters such as custody disputes. The inconsistent administrative policies, especially within the registration process for the legal recognition of religious communities, should be re-evaluated to remove the bias of “theological differences” entirely.