

Cults : Do democracies need laws of exception ?

The Belgian experience

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Are most of the religious minorities in the European Union that have not received a form of legitimization from the State threatened with expulsion from the religious sphere protected by international instruments and are they not going to be reduced to the status of cults, disarmed and disempowered of all means of defence against intolerance? As astonishing as it may appear, this is the question that has been posed since the end of the twentieth century. Several tragic events which were caused by a very restricted number of religious movements brought their criminal activities to light, stimulated public emotion and provoked various, sometimes disproportionate, reactions from certain EU States towards recently settled religious minority groups.

Situation in the European Union

Eleven of the fifteen Member States of the European Union estimated, after examination of the situation within their borders, that so-called cults do not threaten the individual, the family, society and its democratic institutions. They estimated that the problems posed by certain religious movements could be resolved, as in the past, by dialogue or by the usual judicial route when necessary. These countries have not become safe havens for not very commendable or even mafia-like religious movements and a proliferation of offenses or harmful activities on their part has not been noted in these same countries. The common law is applied to them as to all other associations or organizations, whatever their nature.

This observation could be sufficient to respond to the question posed in the title of this exposition. It is nevertheless not uninteresting to examine the policies of other States that have opted for another way of dealing with the issue and to draw lessons from them.

Four states have taken various initiatives. In **Austria**, state, church and private centers for information on religious movements, and sometimes also on established religions, have been created. In **Germany**, a parliamentary *Enquete Commission on Sects and Psychogroups* was set up. It published a reassuring report recommending only that the Church of Scientology be placed under surveillance. **France** and **Belgium** created similar enquiry commissions but have gone further and have developed, through new laws and institutions, an open policy of fight against cults and harmful cult-like/sectarian organizations. France set up a *Mission Inter-ministérielle de Lutte contre les Sectes* (MILS—Interdepartmental Mission of Fight Against Cults) and an alert system covering the whole of society to keep watch over them and track them. It has also adopted a law of exception targeting so-called cults, the law About-Picard, heavily criticized abroad. It nevertheless has had to backtrack, following repeated critiques that rose during inter-state conferences such as those of the OSCE, in other international academic conferences, at the Council of Europe, in reports of human rights organizations. In 2002, France abrogated the law that created the MILS and promulgated another that created a *Mission Inter-ministérielle de Vigilance et de Lutte contre les Dérives Sectaires* (MIVILUDES—Interdepartmental Mission of Vigilance and of Fight Against Sectarian Deviances), whose actions have not, to this day, been criticized. **Belgium** has very quickly followed suit to France and has globally adopted the same policy of fight, to the

detriment of any form of dialogue, all the while eliminating its most criticisable/controversial and most criticized aspects.

The anti-sect policy of Belgium

The law of June 2, 1998

On June 2, 1998 was promulgated the “Law creating an Information and Advisory Center on Harmful Sectarian Organizations” and an “Administrative Coordination Agency for the Fight Against Harmful Sectarian Organizations.”

This law, which appears to have drawn lessons from certain deviances of the French anti-cult policy, has often been presented as a model of moderation. By “harmful sectarian organization,” the Center means, according to its website, “every movement with a philosophical or religious purpose, or claiming to be so, which through its organization or practice, commits harmful illegal activities, harms the individual, society or human dignity. The harmful character of a sectarian movement will be investigated on the basis of principles which are embodied in the Constitution, laws, decrees, ordinances and in international treaties regarding the protection of human rights, which have been ratified by Belgium.”ⁱ

The Center comprises twelve members and twelve substitutes designated by the House of Representatives. Six members and six substitutes are appointed upon presentation of the Council of Ministers. The members are chosen among prominent experts known for their experience and their interest in the issue of harmful sectarian groups. They are designated for a term of four years, renewable once. They are supposed to offer all the guarantees of independence, objectivity and impartiality for the exercise of their mission.

The Center is charged with several missions :

- to study the phenomenon of harmful sectarian organizations in Belgium as well as their international ties;
- to organize a documentation center accessible to the public;
- to receive and inform the public, to answer anyone’s enquiry about his/her rights, his/or obligations and on the means of enforcing his/her rights;
- to formulate either under its own initiative or at the request of any public authority advice and recommendations on the phenomenon of harmful sectarian organizations, and in particular on the policy of fight against these organizations.

To accomplish its missions, the Center works in collaboration with the Administrative Coordination Agency.

The information provided by the Center in response to a request from the public is founded on information that it has at its disposal and cannot be presented in the form of systematic lists of harmful sectarian organizations.

The Administrative Coordination Agency is presided over by the Minister of Justice or by his/her delegate. It is charged with the following missions:

- to coordinate actions carried out by the competent public services and authorities;
- to examine the evolution of illegal practices of harmful sectarian organizations;

- to propose measures that can improve the coordination and the efficacy of these actions;
- to promote a policy of prevention to the public against the activities of harmful sectarian organizations together with the relevant administrations and services ;
- to work in close collaboration with the Center.

Such is the official presentation of the Belgian policy and if I were a representative of the Belgian state in an international conference, I would undoubtedly stop here my presentation.

It is here, therefore, that I begin my critical analysis of this law.

Sects and harmful sectarian organizations

The law claims to distinguish sects from harmful sectarian organizations. Nevertheless, the criteria defining the “sectarian” and “harmful” character of an organization, that can be found in the first and only report of activities published to this day since 1999 by the Center, take up three pages and are formulated in a manner so complicated that it does not permit a clear identification of “harmful sectarian groups.”ⁱⁱ

Besides, the law conceals a basic contradiction. On one hand, it proclaims that it wants to fight against harmful sectarian organizations, and on the other hand, it says that in its public information mission the Center cannot release lists of such organizations. Without doubt, this is a form of implicit recognition of the moral and material harm caused by the publication of a list of 189 movements suspected of being harmful sectarian organizations in an annex to the parliamentary report. Now, how can public opinion be warned against these organizations if they are not identified and if the law of June 2, 1998 forbids to do so?ⁱⁱⁱ If certain sun products are dangerous for the skin, how can consumers be put on guard if the brands cannot be revealed? This is a deadlock and the Center is doomed to endless acrobatics to try to square this circle embodied in the law.

Continuation of the work of the Commission

The Center is supposed to continue and complete the work of the enquiry commission. Following the example of this commission, the Center has not made a move towards the 189 movements suspected of being harmful sectarian organizations in order to go on studying them, either to clear them of suspicion or to put them in the category of harmful sectarian organizations. The Center has only taken a spontaneous step towards the movements about which it had the intention to publish an information leaflet. To this day, only three such leaflets have been disseminated: on the Mormons, the Baha'is, and the Jehovah's Witnesses.

What do the targeted movements think of the anti-cult policy of the Belgian state? HRWF Int. is currently conducting a poll on their perception of this policy and has visited about fifteen of them, questionnaire in hand. Their attitude is generally as follows: “We are not a cult and we are not harmful. We have nothing to see with the Center. It should not deal with us, but it does. We have therefore no other choice than to approach it, but with the particular request to be removed from the list of suspected movements.” Our survey among these movements is therefore difficult. Although the sample treated at this time may not yet be representative, a coherence arises around the answers to certain questions. The Center has always welcomed the representatives of the concerned movements and has listened to them each time they have asked for an interview. The Center has taken their documents and has

placed them in its library in the section devoted to all material provided by the movements, but commentaries collected during the poll indicate that all the judicial decisions in their favor furnished by them have not been filed in the category of neutral sources, which may conceal them from the attention of researchers and diminish their value.

The independence of the Center and the Administrative Coordination Agency from political authorities

The Nastase Report of the Council of Europe (1999)^{iv} invited the governments of the Member States to “create national information centers independent from the State. These centers, to be more efficacious, should be united in a European Observatory of groups of religious, esoteric or spiritual character.” This suggestion had already been made in Recommendation 1178 (1992), in which it was underlined nevertheless that “the recourse to a major legislation for sects was inopportune.” The Belgian law claims to have been drafted in the perspective of the Nastase Report. Do the Center and the Administrative Coordination Agency respond to these criteria? Quite obviously, no. The law is a major piece of legislation on sects. The Coordination Agency is, by its very nature, an interdepartmental tool of fight against harmful sectarian organizations that depends on political power. This is no less true for the Center.

In a *Carte Blanche* that was published in the newspaper *Le Soir* on January 7, 2003 under the title “*A quoi sert donc l’Observatoire des sectes?*” (“What use then is the Sect Observatory?”), Professor Anne Morelli^v summarizes quite well the arguments questioning the Belgian policy with regard to certain religious minorities. She writes: “The recruiting method of these members is very far from guaranteeing their impartiality and their independence from political parties, the Catholic Church and various anti-religious ideologies. Indeed, half of the members were nominated by the Council of Ministers for approval by the House of Representatives, while the other half was directly appointed by the House of Representatives. That means that a good share of appointees immediately came from political personalities. Moreover, representatives of various anti-sect movements were also to be found among the members. The chairman, a theologian and a former senior of Brussels high seminary, has been an anti-sect activist in the Catholic Church for more than twenty years, is a judge and a party at the same time and does not seem in a better position to respond to the guarantees required by law from the members to exercise their mission with independence and in a spirit of objectivity and impartiality. This disparate group of members who have religious, philosophical, and political commitments lacks coherence; divergent, indeed even contradictory points of view, have been reflected in a number of interviews in the media....

“Political” named as substitutes complained that their participation in the meetings was not paid, when the senior member was present. Thus, positions have rapidly become vacant. The replacement procedure is inefficient. An initial call for candidates that was published in the *Moniteur* (Official Gazette) of March 30, 2001 was not—despite the number of applications—followed by any appointments. A second call in the *Moniteur* on May 20, 2001 also aroused applications. However, there is no one at the General Directorate of Religions – the competences of which are being transferred from the federal level to the federated entities - who can say at what stage the appointment procedure is at or what the constraints of some hidden political agendas are.^{vi}

“As for the Observatory, the independence of its functioning is hardly guaranteed because of its ties with the Ministry of Justice or the presence of detached staff.^{vii} Its activities are

limited to those of a costly supplementary library, without the acquisitions of wealthy university libraries already existing on religions. It has published some “folders” and the rare reports that it has provided, on requests from the police, contain eminently predictable conclusions such as, for example, ‘No, Mormons are not dangerous in Belgium.’...

“One might wonder whether it is useful to have such an observatory, which causes more problems than it solves and the mandate of which seems to us to be eminently controversial: a state agency that decides which religions are good or bad and which all the countries of the world can do without, except Belgium and until recently France. The latter has just deeply reformed its ‘Interdepartmental Mission of Fight Against Cults’ (*Journal officiel* of November 29, 2002) and gotten rid of Alain Vivien, who has damaged France’s international reputation...

“... the Provisional Report on Human Rights in the European Union criticizes the creation of this type of observatory and more generally the attitude towards religious minorities in Belgium.

“Belgium must rethink its discriminatory religious policy. Our Constitution does not foresee either a state agency or a judge to decide if a religion is or is not licit. Freedom of religion and belief is without limit other than the repression of general crimes and offenses.”

The position taken here, proclaimed loudly and strongly, reflects well what many think down deep. Confirmation of the well-foundedness of Professor Anne Morelli’s critiques concerning the lack of independence of the Center is the latter’s silence and its failure to ask for a right of reply. The only one to react was the president of the Parliamentary Commission on Sects, former senator Serge Moureaux; he did it in a polemical fashion in the columns of *Le Soir* (instead of the Center?) without responding to Professor Morelli’s basic critiques, notably those concerning the political supervision of the Center.

Study of the sectarian phenomenon

The Center has for its mission the study of the sectarian phenomenon. This is a vast, very vast program, which leaves the door open to all interpretations.

Strange voices

Thus, the first report of the Center mentions a request from the Vice-Premier and Minister of Foreign Affairs^{viii} to give him an opinion about the FECRIS^{ix}, an international federation grouping together some dozens of anti-sect movements. The goal of this request was to obtain official recognition “so that it can be consulted by the European Parliament, the Council of Europe, the OSCE, as well as by the United Nations and the organs and commissions that depend on it. In addition, the FECRIS will be in liaison with administrative authorities empowered to take all possible steps to implement procedures for fiscal and customs control on behalf of States and the European Union as well as with international services created for the same reason.”^x The Center submitted an favorable opinion to the Minister.

One might wonder about the well-foundedness of such a request, emanating from a minister and his motivations, about the mandate of the Center and its independence in this matter. All the more, that the FECRIS request to obtain consultative status to the Council of Europe was

severely criticized and turned down on the basis of a detailed and motivated analysis of several pages.

Discordant voices

Another object of surprise: “Divergent, even contradictory, points of view were reflected in quite a lot of interviews in the media,” said Prof. Anne Morelli in her *Carte Blanche*. Dissonant opinions have for example been expressed in the printed media, on the radio, and on television when the Hare Krishna movement found itself amidst a media tempest at the beginning of the year 2002. The Center was far from speaking with a sole voice. Two representatives interviewed held contradictory positions, and a third, member of the Center but speaking in the name of his anti-sect movement, did not show any shade of nuance.

Silence

On the contrary, when minority religions complain of discrimination and intolerance from public authorities or non-state actors, it is total silence.

Doesn't Prof. Anne Morelli write in her *Carte Blanche* : « ...the Observatory stays mute on religious discrimination committed by public authorities^{xi} and keeps critiques to itself about the concerned ministers or mayors refusing public halls to groups operating in full legality, on the grounds that they are to be found on a so-called list of harmful cults.”

How could it be otherwise, when we see its close dependence on the political authorities ? Could the Center criticize mayors who are part of the majority in power? Wasn't the new Minister of Justice appointed after the elections of May 18th of this year the same minister-president of the French Community who, in 1999, launched a huge media campaign against cults, published and disseminated a luxurious brochure in four-color printing to warn against 189 so-called active cults in Belgium, a false “detail” that the Center did not denounce? Can we expect that the staff of the Center detached from the Ministry of Justice would criticize the previous activities of their new boss? The answer is obvious.

The minority religions have presented tangible evidence of discrimination committed by the public and private authorities. HRWF Int. did the same even before the publication of the first report of activities. Nothing is mentioned in it. The silence of the Center speaks for itself.

Information to the public

Internet site

The Center has an Internet site, but four years after its creation, the public is still unable to find anything on a particular movement, not even the contents of the folders published on the Mormons, the Baha'is, and the Jehovah's Witnesses. The sections « The Center in the press » and « Communiqués and articles by the Center » is still in construction.

In the section « Publications , » we can only find the report of activities disseminated to this day, covering the years 1999-2000, the law of June 2, 1998, royal decrees, the internal rule of order adopted by the House of Representatives, an decision by the Court of Arbitration

favorable to the Center and a link to the Report of the Parliamentary Enquiry Commission on Sects.

In the section « Library » can be found a very interesting bibliography of more than 300 reference works.

In the section « Associations of assistance and information in Belgium » are inventoried ten associations that nearly all have in common the mission of providing aid to the victims of cults. Other associations covering the phenomenon differently could be mentioned here but they are not.

Information service by mail

The Center responds to the questions of the public that are communicated by mail, by telephone or by any other means. In its first report of activities, the movements that were the object of information requests were not mentioned. No other statistic is available on this subject.^{xii} It would be, among other things, useful to know the content of information chosen and transmitted unilaterally by the Center. In fact, the reference to Article 6, § 4 of the Law on page 19 of the Report is neither clarifying nor reassuring because the manner in which information available to the Center is treated is not known.^{xiii} This information is not public and is therefore inaccessible to any external control by civil society, a fortiori by those directly concerned. Now, this activity of the Center is very sensitive, for it influences the image of the movements in public opinion and can reinforce intolerant attitudes. Some people said they tested it and received nothing but clippings of negative newspaper articles. These responses must not for the time being be generalized nor ignored, but opacity does not help researchers.

Is it, besides, acceptable that the Center does not consult the movements about which it disseminates information? Is it a utopia to believe that the Center could not collaborate with the movements concerned for the drafting of responses to questions posed about them?

Collaboration between State and religious minorities : an Austrian experience

This utopia has become a reality, but not in Belgium. In Austria, there exist about 35 centers of information on churches and religious movements. They are divided into four categories: associations of families and individuals, ecclesiastic associations, private associations, and state organizations.

Kult & co Tirol, a state agency, has co-edited with those concerned a 70-page brochure^{xiv} on nine religions active in Tirol, from the Mormons to the Catholic Church, passing through Islam and Judaism. It has thus proved that a dialogue is possible between the State and its religions, even those classified as cults in certain countries, and that they could act as responsible movements. *Kult & co Tirol* also published a 23-page study entitled « The current situation of information and advisory centers on so-called sects and psycho-groups in Austria. »^{xv} Fourteen centers of information responded to the questionnaire. In its poll, the Austrian state institution asked its counterparts what attitude the state should have with regard to so-called sects and psycho-groups. Five responses were proposed, and several could be checked. All answered that the information dispensed by the state should be factual. Five indicated that the state must be honest and tolerant towards so-called sects and one asked that the state treat churches, religious associations and so-called sects on equal terms.

This investigation could be a good starting point for some reflection on the law of June 2, 1998.

Conclusions

“But what use then is the Sect Observatory?” exclaimed Prof. Anne Morelli in the newspaper *Le Soir*. That is right, what is the use of it in its actual legal framework? Who does it serve? And who does it do a disservice?

The Sect Observatory cannot function correctly in the current legal framework that created it.

My exposition could lead to the belief that I am opposed to the Center and its leadership. This is absolutely not the case. My target is the law of June 2, 1998 because it is a bad law. This is even more so because the Coordination Agency for the Fight Against Harmful Sectarian Organizations, with which the Center works, does not disseminate any reports of activities and escapes any control by civil society.

Our poll currently carried out among minority religions stigmatized by the Parliamentary Enquiry Report asks if the June 2, 1998 law is a good initiative or whether it should be amended or abrogated. There is no movement polled that declares that it is a good law, and the responses are currently divided equally between the two other options: amendment or abrogation.

For all of the aforementioned reasons, I believe that this law is not a good law, and that it should be noticeably amended. In what direction? The commentaries by the polled movements open up a line of thought to which I adhere. A revision of the law creating not a *Information and advisory center on harmful sectarian organizations*, that to this day have not been identified, but an *Inter-university information and advisory observatory on religions and philosophies*. The religions recognized by the Belgian state would not escape the scrutiny of such an observatory. Besides, why should they be treated in a privileged manner when we now discover, for example, the extent of the criminal activities committed for a long time in total impunity by religious ministers paid by the state? Why should the public be warned against risks of sexual abuses in a so-called sect and not in a recognized religion? An inter-university observatory would have the advantage of independence from the political authorities and from the ideological interests of external groups, which is not currently the case with the Center. It could pool existing resources on an active Internet site accessible to the public, entrusting the study of philosophical and religious movements to specialists in this area, remain in control of its methods of work and communicate motivated advices to public authorities.

I leave this proposal for your reflection, and especially for the reflection of the Belgian legislators.

(For the French version of the text, send an email to info@hrwf.net)

ⁱ <http://www.ciaosn.be>

ⁱⁱ C.I.A.O.S.N., Biannual report (Years 1999-2000), pp 11,12,13 .

ⁱⁱⁱ Art . 6, § 4 : « The information that the Center supplies at the request of the public is based on the information which the Center has available and may not be presented in the form of systematic lists of harmful sectarian organizations.”

^{iv} Illegal Activities of Sects, Doc. 8373, April 13, 1999. Report. Commission of legal and human rights questions. Rapporteur : M. Adrian Nastase, Romania, Socialist.

^v Professor at the Institut d'étude des religions et de la laïcité de ULB.

^{vi} Interviewed by Prof. Anne Morelli, M. Herman De Croo, president of the House of Representatives, told her on March 27, 2003 "...The collection of applications introduced in order to supply for nomination of members of the *Information and Advisory Center on Harmful Sectarian Organizations* was announced at the plenary session of March 13, 2003. It was stated that the number of candidates was insufficient.

"Conforming to the opinion of the Conference of Presidents of March 19, 2003, the plenary assembly of March 20, 2003 marked its agreement with the postponement until October 31, 2003, of the mandate of the current members of the *Information and Advisory Center on Harmful Sectarian Organizations*.

"In the meantime, a new call for candidates will proceed.

"Your application is still valid, and it is not necessary for you to resend the required documents to the House of Representatives.

"The services of the House will not fail to keep you informed of future stages of the procedure..."

And Prof. Anne Morelli said to *Human Rights Without Frontiers* : "One can of course wonder what point of the regulation the 'insufficient number of candidates' refers to and in virtue of what procedure a minimal number of necessary candidates is set so that there can be a nomination..."

"Is it legal to prolong an incomplete structure in order to avoid having to name competent persons but which cannot participate with enough vigor in the fight against sects?"

^{vii} Note from the author : The mode of recruitment of the Center personnel charged with daily management is not indicated in the law of June 2, 1998. In removing personnel from the Ministry of Justice, the political authorities created the necessary conditions to create a dependent and docile organ. The margin of manoeuvre of the Center is well marked, although it is not expressed in the law. Its choice is simple: either to be politically incorrect and enter into a head-on collision with policy, or to practice self-censorship.

^{viii} Letter dated October 4, 1999.

^{ix} C.I.A.O.S.N., Biannual Report (Years 1999-2000), pp 9, 15, 23, 24.

^x pp 23-24 of the Report.

^{xi} Note from *Human Rights Without Frontiers Int;* : for example, the anti-sect campaign orchestrated by the French Community of Belgium that wrongly calls the 189 movements inventoried in the Parliamentary Report "active sects." Or again, the intolerance and discrimination practiced both by public and private authorities, with regard to minority religions: slander, stigmatising broadcasts and articles in the media, victimization at work or school, attacks on the reputations of ordinary persons or intellectuals having dissident opinions in the matter, loss of employment or promotions, refusal or limitation of the right to visit or rejection of the right to custody in cases of divorce, impossibility of renting public or private spaces for religious ceremonies or meetings, denial of access to public posting boards, police supervision and interrogation, judicial complaints for supposed illegal practice of medicine, cases of temporary imprisonment, etc. See detailed cases on the Internet site [Hhttp://www.hrwf.net/newhrwf.net/html/belgium2002/htmlH](http://www.hrwf.net/newhrwf.net/html/belgium2002/htmlH), [Hhttp://www.hrwf.net/newhrwf.net/html/belgium2001/htmlH](http://www.hrwf.net/newhrwf.net/html/belgium2001/htmlH), [Hhttp://www.hrwf.net/newhrwf.net/html/belgium2000/htmlH](http://www.hrwf.net/newhrwf.net/html/belgium2000/htmlH), [Hhttp://www.hrwf.net/newhrwf.net/html/belgium1999/htmlH](http://www.hrwf.net/newhrwf.net/html/belgium1999/htmlH)

^{xii} On page 19 of the Report, it is indicated that regarding the 50 most recent requests introduced at the Center in the year 2000, 44 received a response within 8 working days, 33 within 3 working days and 13 within one working day. On page 20, one finds statistics for the year 2000 on the subjects concerned: 42% of the requests concerned a movement or an association cited in the parliamentary report, 31.2% a movement or an association not cited in the parliamentary report, 11.6% about the Center and 15.2% miscellaneous. The total number of requests is not indicated and it is perhaps necessary to deduce that 50 requests were made, as referenced previously.

^{xiii} "The information that the Center supplies at the request of the public is based on the information which the Center has available and may not be presented in the form of lists or systematic statements of harmful **sectarian** organizations."

^{xiv} Kirchen und Religionsgemeinschaften in Tirol. Eigentümer, Herausgeber und Verleger: Verein Jugend und Gesellschaft. Address: Meinhardstrasse 8/1, A-6020 Innsbruck. <http://www.kult-co-tirol.at>

^{xv} Zur gegenwärtigen Situation von Informations- und Beratungsstellen in Bezug auf so-genannte Sekten und Psychogruppen in Österreich.. Endbericht. Von Dr. Peter Schulte (kult& co tirol). Informations- und Beratungsstelle des Landes Tirol zu religiösen und weltanschaulichen Fragen.