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The Right to Worship *

ARTICLE 18 of the Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations on December 10th, 1948, reads as follows:—

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

At a first hearing—and particularly to those brought up in this country—this Article may appear to assert one of the more obvious human rights, one about which there should be little question, one that it should be reasonably easy to establish. Unfortunately, this is not the case. A writer in the *Times Literary Supplement* said of the Universal Declaration as a whole:—

"Since the Declaration was issued . . . the extent to which its principles have found practical application has tended, globally, to diminish rather than to increase." (8/2/68)

Whether, and if so, how far this is true generally will appear at the end of this series of talks and discussions. Certainly we cannot at once dismiss the comment so far as Article 18 is concerned.

The Article had of course, a history and it is worth while to pause a moment over this. Its ancestry includes the American Declaration of

*A lecture given in Coventry on 5th March, 1968, as part of a series on Human Rights, marking Human Rights Year.

Independence of 1776. This drew on the thinking of Milton and John Locke about religious toleration. As spelled out in the constitution of Pennsylvania and Virginia, it declared that "all men have a natural and inalienable right to worship God according to the dictates of their own conscience and understanding". The famous First Amendment to the American Constitution declares that:—

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

The amendment was adopted in 1791, when in Britain Tom Paine was writing his famous pamphlet entitled *The Rights of Man*, a pamphlet which made it politic for him to slip across to Paris. There he shared in the shaping and discussion of the "Declaration of Rights" by the revolutionary Convention. "Every citizen," it was said in paragraph 6 of that Declaration, "shall be free in the exercise of his worship" (culte).¹

Written constitutions and declarations were not much favoured in the nineteenth century, but when after World War I, President Wilson was concerning himself with the draft Covenant of the League of Nations, he tried to secure the insertion of a clause guaranteeing religious freedom. He wished it to read:—

"The Contracting Parties agree that they will make no law prohibiting or interfering with the free exercise of religion, and that they will in no way discriminate, either in law or in fact, against those who practice any particular creed, religion or belief whose practices are not inconsistent with public order or public morals."

But this clause had to be dropped. And the reason? The Japanese, at that time our allies, wished to insert a clause on racial equality in the following terms:—

"The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord, as soon as possible, to all alien nationals of States members of the League, equal and just treatment in every respect, making no distinction, either in law or fact, on account of their race and nationality."

This the British Empire delegation, egged on by the Australian Prime Minister, opposed. The price of the rejection of the racial equality clause was the dropping of President Wilson's proposal guaranteeing religious freedom.²

During World War II the Pope and other religious leaders tried to formulate aims and ideals on which an ordered and peaceful international society could be based. What caught the popular imagination were the famous "four essential human freedoms" spoken of by President Franklin D. Roosevelt in his inaugural address to Congress in 1941: "Freedom of every person to worship God in his own way—everywhere in the world; freedom of speech and expression . . . ; freedom from want . . . ; freedom from fear . . . "³ The widespread

approval of these freedoms and high hopes of their implementation lay behind the Covenant of the United Nations and its Universal Declaration of Human Rights.

What then has happened since 1948? What are the difficulties in the way of securing for all men the right to worship as their conscience directs?

Certain questions have been asked about any claim that there are basic and inalienable human rights. What real foundation has this notion? It is clear that the kind of "state of nature" imagined by Rousseau never existed. The claim that certain freedoms and rights are part of a divine law depends on the eye of faith. The concept of "natural law" is challengeable and ambiguous. This is hardly the occasion, however, nor am I competent, to discuss these more philosophical issues. It will be more profitable to note the practical difficulties which have emerged in regard to the interpretation and implementation of Article 18 of the Universal Declaration.

First of all it has presumably to be accepted that a right to freedom of religious belief and of worship has as a corollary the right to refuse compliance with any form of worship unacceptable on grounds of conscience. The positive claims must be held to imply the negative. This has proved to be important in the discussions which have taken place in the United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. About these discussions I shall say something later. Here it is sufficient to note that freedom of religion or belief must be held to apply to all men in society, whether they be atheists or adherents of a religion. Not all Christians find this at once easy to accept, but the Executive Committee of the World Council of Churches, meeting in Odessa in 1964, agreed to subscribe to it, provided it was joined with recognition that freedom of religious propaganda as well as freedom of anti-religious propaganda must be ensured by law and in practice—a recognition which is not now given under the Soviet Constitution.

Before things like this are spelled out, however, we have to recognise that the claiming of a right to worship is ambiguous, unless some definition of worship is offered. W. W. Simpson in the excellent study guide issued by the United Kingdom Committee for Human Rights Year puts it thus:—

"Is this to be understood as referring only to certain prescribed forms of service, the use of certain liturgies and set forms of prayer? Or does it include the preaching of a sermon or the giving of instruction? And if so, is the teacher or preacher to be free to expound what he believes to be the implications of his faith in relation to the social and political order, or must he confine himself to what are generally referred to as 'spiritual' matters?"⁴

As soon as questions like this are asked, one is moving into controversial areas and raising issues on which different countries and different Churches do not all see alike.

If one turns to Article 18 and to the phrases in which worship is mentioned, yet other difficulties show themselves. "Freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance", so the conclusion of Article 18 has it. Does "manifest" necessarily involve the right to propagate and evangelise? Does it include the right to have schools and to engage in social and charitable enterprises? It is not only secular or anti-religious states which may wish to challenge such activities? Moslem or Buddhist communities may refuse such rights to Christians. A nation claiming to be Christian may hesitate to allow unlimited freedom to those of other religions or to groups such as Jehovah's Witnesses. Where a majority faith or denomination is closely linked with the civil authorities in some kind of establishment, the rights of minority religious groups and churches have often been severely restricted. In any case, the state authorities are responsible for the maintenance of public order and the safety of their citizens. Human sacrifice and orgiastic rites, whatever claims be advanced by their devotees, must be restrained and suppressed. Have people a right on religious grounds to refuse blood transfusion or vaccination to their children or a right to prevent their being educated? Has any religious group a right to priority in the allocation of sites or buildings? These are not idle or irrelevant questions. Much thought has been given to them during the past twenty years.

In the Declaration on Religious Liberty adopted by the First Assembly of the World Council of Churches in Amsterdam, in 1948, it was expressly recognised that:—

"Freedom of religious expression is . . . subject to such limitations, prescribed by law, as are necessary to protect order and welfare, morals and the rights and freedoms of others. Each person must recognise the right of others to express their beliefs and must have respect for authority at all times, even when conscience forces him to take issue with the people who are in authority or with the position they advocate."¹⁵

Since 1948, the Churches' Commission on International Affairs has busied itself in association with Commissions and Committees of the United Nations in seeking to get states to adhere to the Universal Declaration of Human Rights and also to secure a clearer interpretation of Article 18.

In 1953 a "European Convention for the Protection of Human Rights and Fundamental Freedoms" was adopted. It is based upon the Universal Declaration. It has been accepted by fifteen countries, including the United Kingdom. Several of them have set up machinery for the enforcement of the Convention, including the right of individual petition under it. Articles 8-11 of this Convention are relevant to our present subject. Each article has attached to it a paragraph recognising that rights and freedoms, even in matters of conscience, religion and free assembly, carry with them duties and responsibilities. Article 9 of the European Convention, which repeats Article 18 of the Universal

Declaration, has this additional paragraph:—

“ Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”⁶

More recently a sub-commission of the United Nations has drafted an International Convention on the Elimination of all forms of Intolerance and Discrimination based on Religion and Belief. The drafting was begun in New York in January 1964, and a year later the text was approved by 11 votes to 0 with three abstentions. Those who abstained were the representatives of Mexico, Poland and the U.S.S.R. The particular objection of the Soviet representative was to Article IV which recognises the right of parents to bring up their children in the religion or belief of their choice. “ The forcible inculcation of religion in children is a violation of their conscience and feelings,” said the Russian delegate. It had been hoped that the Convention would be adopted by the General Assembly of the United Nations at its main session in 1967. But after what has been described as “ stormy debate ”, only the preamble and the first Article were passed. [The draft came up again for consideration in 1968, but only the Preamble and Article I were adopted.] It is Article III which, if ultimately passed and acted upon, gives the clearest indication of the really desirable content of the right to worship.

ARTICLE III

1. State Parties undertake to ensure to everyone within their jurisdiction the right to freedom of thought, conscience, religion or belief. This right shall include:

(a) Freedom to adhere or not to adhere to any religion or belief and to change his religion or belief in accordance with the dictates of his conscience without being subjected either to any of the limitations referred to in Article XII or to any coercion likely to impair his freedom of choice or decision in the matter, provided that this subparagraph shall not be interpreted as extending to manifestations of religion or belief;

(b) Freedom to manifest his religion or belief either alone or in community with others, and in public or in private, without being subjected to any discrimination on the ground of religion or belief;

(c) Freedom to express opinions on questions concerning a religion or belief.

2. State Parties shall in particular ensure to everyone within their jurisdiction:

(a) Freedom to worship, to hold assemblies related to religion or belief and to establish and maintain places of worship or assembly for these purposes;

(b) Freedom to teach, to disseminate and to learn his religion or belief and its sacred languages or traditions, to write, print and

publish religious books and texts, and to train personnel intending to devote themselves to its practices or observances;

(c) Freedom to practice his religion or belief by establishing and maintaining charitable and educational institutions and by expressing in public life the implications of religion or belief;

(d) Freedom to observe the rituals, dietary and other practices of his religion or belief and to produce or if necessary import the objects, foods and other articles and facilities customarily used in its observances and practices;

(e) Freedom to make pilgrimages and other journeys in connection with his religion or belief, whether inside or outside his country;

(f) Equal legal protection for the places of worship or assembly, the rites, ceremonies and activities, and the places of disposal of the dead associated with his religion or belief;

(g) Freedom to organize and maintain local, regional, national and international associations in connection with his religion or belief, to participate in their activities and to communicate with his co-religionists and believers;

(h) Freedom from compulsion to take an oath of a religious nature.

Should this detailed spelling out really be necessary? Is it desirable? The reasons for it will be clearer if we recall a number of particular situations. In recent years there have been grave infringements of religious liberty and the right to worship, as defined in the United Nations documents, in Spain and Colombia, in Haiti, in Greece, in the Soviet Union, and certain other countries in Eastern Europe, in South Africa and in a number of Moslem lands. There is danger that in a number of Afro-Asian countries, which are not Moslem, religious liberty in the sense in which we cherish it, will not find expression, at present at any rate. But the exact circumstances in these different countries vary greatly.

Let me give a few examples: in Spain and Colombia there has long been close connection between the Roman Church and the State authorities; now one party, now the other seems determined to maintain, if not complete religious uniformity, at least a situation approximating to it. In neither country has the important Decree of Religious Liberty which came from Vatican II had the influence one might have hoped for. At one time it looked as if the new law of associations in Spain would make the situation easier for evangelicals, but this now appears unlikely. The Cortes made important changes in the first draft. Evangelicals differed among themselves as to whether they should register their churches by 31st May, 1968. The more liberal elements in the Roman Catholic Church have remained disappointingly silent. From Colombia also the most recent information is disturbing. The chief of the visa division of the ministry of foreign relations has been refusing visas to Protestant workers and says that the Government is restudying its policy of admitting Protestants. There are those who fear that Colombia is returning to the situation that existed between

1948 and 1958 when there was open hostility shown towards Protestants and in many cases there was actual persecution.⁷ In Haiti, on the other hand, it is the Roman Catholic Church which is under attack.

In Greece it is the Orthodox Church which is in a privileged and protected position. Greece has accepted the European Convention of Human Rights, though she has not yet recognised the right of individuals to petition under it. Greek law guarantees religious freedom, but it forbids "proselytism", and this is understood as covering effective religious witness by any community other than the Orthodox. The position of the small Greek Evangelical Church, always precarious, has become even more difficult as a result of recent political developments. The situation is complicated by the fact that the Greek Government has long been seeking to secure effective control of the Orthodox Church in matters involving the election and support of bishops, and that within the Church, there are many tensions, both theological and personal.

The Western World likes to describe itself as the Free World. The situation in the Soviet Union has naturally caused interest and concern. The first Soviet Constitution, issued on 10th July, 1918, proclaimed complete freedom of conscience. It separated Church and State and also School and Church. It gave all citizens the right to engage in religious and anti-religious propaganda. In 1929, however, drastic changes were made, partly in the interests of Marxist materialistic ideology, partly because of the attitude of the Orthodox Church during a decade of great internal and external difficulty for Russia, partly because Russian Nonconformity seemed often to be a foreign importation. The article in the revised Constitution dealing with freedom of conscience is as follows:—

"In order to guarantee freedom of conscience for all citizens, the church in the U.S.S.R. has been separated from the state and the school from the church. The freedom to hold religious services and the freedom of anti-religious propaganda is acknowledged to all citizens."

"Freedom to hold religious services," not "the right to religious propaganda". Moreover, religious societies may meet only if registered and in approved buildings. Children may not be gathered for instruction. No one under 18 years of age may make a religious profession. The decade after 1929 was the decade of the Anti-God Movement, which aimed at stamping out all religion in the Soviet Union. It failed. But the situation for both Orthodox and Evangelicals has remained extremely precarious, with all religious communities tightly controlled by the civil authorities. Slowly since the death of Stalin, contacts have been renewed between the Christians in the Soviet Union and those in other parts of the world. The Moscow Patriarchate, which in 1948 refused to join the World Council of Churches, was in 1961 received into membership, followed in 1962 by the All Soviet Union of Evangelical Christian Baptists. But the early 1960s were years when the Russian authorities curbed the activities of the churches. What

appears now to be happening, both among Orthodox and Evangelicals, is the emergence of dissident and rebellious groups seeking greater freedom of public witness and propaganda than the present laws of the state allow.⁸

The situation varies from land to land in other parts of Eastern Europe. It is conditioned by history and by the relative strength of the different religious communities. In every land, it would be claimed, the right to worship is acknowledged and protected. In Rumania, in Hungary and in Czechoslovakia, the Churches are supported by public funds, but that does not mean equal freedom for all religious groups, or the opportunities specified in the European Convention and in the draft document for the elimination of religious intolerance.

So one might go on, moving from land to land and noting the effects of the doctrine of *apartheid* in South Africa; the way the Christians of the southern Sudan have been treated by the Moslems of the north; the restrictions imposed on the Christians of south-east Asia sometimes in the name of secularism, sometimes by resilient and nationalistic Hinduism or Buddhism; and so on. In few, if any cases would the right to worship be denied. It is other considerations, political, economic, racial, which determine policy and must often ring from us the cry: "O Liberty! O Liberty! what crimes are committed in thy name!"⁹

But do we not have to agree that there may be occasions and places where certain rights have to be put into cold storage or at least reduced in order to preserve the social fabric on which rights themselves depend? The most democratic of nations recognise this in war-time. When a young man, William Pitt said: "Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves." But he was not able to act up to this when Prime Minister.

This must seem a rather sobering review, accounting for—even if it does not fully justify—the remark of the writer I quoted at the beginning, that the practical application of the principles of the Universal Declaration of Human Rights has tended to diminish rather than increase. One would like to end on a more cheerful note and this may be done, I think, by giving attention for a moment or so to the very important Decree on Religious Liberty which came from the Second Vatican Council.

This Decree is significant because in the past the Roman authorities have not been willing, either in theory or practice, to grant the right to full freedom for beliefs other than their own. In the nineteenth century, Pope Pius IX (1846-78) specifically declared "freedom of conscience and cults" an erroneous doctrine. As recently as 1907, Pope Pius X (1903-14) in his condemnation of what was called Modernism would seem to have shut the door on granting to non-Romans the rights now being suggested by the United Nations Commission.

The question of religious liberty received hardly any public mention at the first session of the Vatican Council, that of 1962. The following

year it was suggested that the subject be mentioned in the schema on Christian Unity and perhaps in that on the Jews. By the time the third session opened in September 1964, it had been agreed that there must be a special statement on the matter. It ran into many difficulties, but at long last, in the fourth session, after a tense debate, general approval of the text of the decree was given on 21st September, 1965, by 1,997 votes to 224, though it was agreed that certain further amendments might have to be made. A well-informed writer disclosed at the time that the vote heralded "a turning-point in Roman Catholic history and possibly in the history of the world". In October 1965, a further vote of 2,031 to 193 adopted a section in the revised text which emphasises that coercion on matters of conscience must be rejected; juridical immunity from this should be guaranteed everywhere. Certain other changes emphasising traditional Roman doctrinal claims have been regretted by non-Romans, but they do not invalidate the significance of the declaration as a whole.

The right to Religious Liberty is based on human dignity. In the course of the debate, Cardinal Heenan declared: "It is the inviolable right of a man to obey his conscience, provided he commits no breach of the peace and does not invade the rights of others".

We have a long way to go before such sentiments are universally accepted and carried out. But we have come a long way. Professor R. H. Bainton gave the title *The Travail of Religious Liberty* (1953) to his account of the matter up to the time of Locke. It is much to be welcomed that Christians, whether Roman or Protestant, can now together support the efforts being made under the auspices of the United Nations to get agreement as to what this basic human right really involves. A few years ago, Dr. Ursula Henriques published an interesting study of *Religious Toleration in England, 1787-1833* (1961). "Religious toleration in England was probably impossible," she said, "until events had proved that uniformity was impossible."¹⁰ In the period she was considering, the issues lay between Anglicans on the one hand and Nonconformists, Roman Catholics and Jews on the other. As we become a multi-racial society in this country, new issues are likely to arise. Unless we are very confident that we shall meet them justly and without conflict, we must be careful in our criticism of those in other lands who seem to us to be intolerant. Difficult questions arise as to the methods which should be employed either within or from outside a country to change existing conditions.¹¹ Dr. Henriques points out how important friendly personal relationships were in securing in this country the repeal of the Test and Corporation Acts and Roman Catholic Emancipation. In the last resort, Dr. Henriques is no doubt right when she says: "The basis of consistent toleration is often that kind of humility which enables a thoughtful man to teach his tongue to say 'I do not know'."¹² But such humility, it must be confessed, is rare anywhere.

¹ See Moncure Conway, *The Life of Thomas Paine*, 1909, p. 171n.

² See Wm. Paton, *The Church and the New Order*, 1941, pp. 134-5, following Sir Alfred Zimmern, *The League of Nations and the Rule of Law*.

³ Paton, *op. cit.*, pp. 59f., 75 and 96.

⁴ *Op. cit.*, p. 189.

⁵ *First Assembly Report*, 1948, p. 98.

⁶ *Human Rights*, p. 205.

⁷ *Christian Century*, 14th February, 1968.

⁸ See Walter Kolarz, *Religion in the Soviet Union*, 1961; Robert Tobias, *Communist-Christian Encounter in East Europe*, 1956; Michael Bordeaux, *Religious Ferment in Russia*, 1968.

⁹ Mme. Roland (1754-93).

¹⁰ *Op. cit.*, p. 2.

¹¹ See *Christians in the Technical and Social Revolutions of Our Time: World Conference on Church and Society*, 1966, pp. 114-117.

¹² *Op. cit.*, p. 277.

ERNEST A. PAYNE

Summer School, July 2 - 4, 1970

The programme of the second Summer School is now being planned and it has been decided to include a number of ten-minute papers. Members who would like by this means to introduce some aspect of research in which they are engaged are invited to get in touch with the Rev. E. F. Clipsham, M.A., B.D., Baptist Church House, 4, Southampton Row, W.C.1. The school is to be held at Bristol Baptist College.