



Civil Society Section

Report of the Secretary General

"Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief"

Report on France

Submission by CAP

(Coordination des Associations et des Particuliers pour la Liberté de Conscience – Coordination of Associations and Individuals for Freedom of Conscience)

Introduction

Pursuant to §10 of the General Assembly Resolution 66/167 invitation to provide input for the Secretary General's forthcoming report on steps taken by States to combat intolerance, negative stereotyping, stigmatization and discrimination based on religion or belief, CAP provides the following report regarding the French policy on minorities of religion or belief in France that needs to be changed to effectively implement the Resolution.

Stigmatization of Minorities of Religion or Belief within the School System

The Inter-ministerial Mission of Vigilance and Fight against Sectarian Drifts (MIVILUDES), placed directly under the Prime Minister in France, has set in place a policy that directly contradicts Article 18.4 of the International Covenant on Civil and Political Rights (the "Covenant") which provides:

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

For years, France has had a policy of stigmatization and negative stereotyping of minorities of religion or belief it first labeled as "sects" or, since a Prime Minister Decree of 2005 prohibiting such practice, now labels as "sectarian movements". This derogatory classification corresponds to the improper assessment of religion or beliefs and the consideration that some of them are "deviant".

In MIVILUDES Annual Report 2009, under the heading “Assimilation of the sole beliefs of the movement”, the President of MIVILUDES, Mr. Fenech, explained that children brought up in a context of “sectarian subjection” are ideologically isolated because they are subjected to a unique and exclusive discourse, for example by the daily repetition of a credo of allegiance to a superior entity or the substitution of a mythical discourse to rational explanations. According to him, such education - which could correspond to the raising of children in any religion - enslaves and diminishes the possibilities of the child.¹

He concluded by this question: “If such a [psychological] risk is established, isn’t the solution, as very often, to protect the young, and mostly the teenager, from a univocal vision of the world by arranging for him, giving the largest place possible to the non-follower parent, some windows on other realities, and this even if he, in the exclusive sphere of his follower parent, has blossomed, works well at school and does not complain about anything?”²

Therefore, in cases of family conflicts and whatever general affirmations to the contrary, MIVILUDES does not give equal rights to parents who are members of targeted religious minorities and recommends an encroachment of the parent’s rights presenting it as a “solution” to protect the child from parents’ beliefs, in violation of Article 18 of the Covenant and Article 14.2 of the Convention on the Rights of the Child.

But what Mr. Fenech derogatorily refers to as “mythical discourse” as opposed to rational explanations is precisely belief in the sense of the religious freedom principles articulated in the International Human Rights Instruments signed and ratified by France. He considers that some beliefs are acceptable while others are not and assesses their legitimacy, in total violation of his duty of neutrality as a State agent.

For parents who belong to religious minorities he labels as “sectarian movements”, MIVILUDES’ President has set unusual procedures in domestic family law. In his 2008 Justice Facing Sectarian Drifts Report, the President of MIVILUDES recommended, as concerns family conflicts with “a sectarian background”, that these cases, although civil cases, be communicated to the General Prosecutors who would check for penal offences and be assigned to specialized family judges, who would be assisted by specially trained professionals (social investigators, psychologists).

Additionally, due to the vagueness of the concepts used, MIVILUDES’ President noted in the 2009 Report that repression of sectarian movements will not be efficient if the Judges and social workers dealing with the Protection of the Youth are not specially informed on what movements and practices should be targeted with these measures:

However, as regards specific knowledge of the sectarian context, the actors of the protection of children are still lacking detailed and updated information. Due to the extremely fast evolution of the movements and practices, the personnel in charge of children matters must be kept informed of the variety of situations in a regular and precise manner.

Mr. Fenech recommended further information and training of these personnel as part of their continuing education on the various movements and practices which should be considered as “sectarian” by the Judges and social workers adding that “Only on the condition of this preliminary step can prevention and repression of the sectarian phenomenon be really efficient”.

¹ http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf, p. 128-129

² http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf, p. 214

This kind of one-sided, biased information on religious or belief minorities, which has already been given by MIVILUDES in the form of “awareness” seminars proposed to the Judges, Prosecutors, Police and Youth workers as part of their continuing education, has shown to be entirely based on uniformly derogatory documentation provided by anti-sect associations without any possibility for the concerned communities to contradict the accusations it contained.

Based on documents released under the Freedom of Information law, the presentations on the targeted religions have been biased. The seminars delivered to Justice Agents have included briefings on targeted religious groups, with information provided by the two anti-sect associations UNADFI and CCMM, and without any possibility of contradiction, debate or rebuttal by the concerned groups. As part of the documents distributed to the attending Justice personnel, press articles hostile to these groups were provided, as evidenced by the list of documents attached to the programs of the seminars.

The mountain of positive jurisprudence and official recognitions regarding these groups has been completely ignored. Only a few negative court decisions were provided, and decisions from higher judicial authorities directly contradicting those decisions were also not discussed. Objective and scientific information regarding these groups was not included – neither objective scholars nor experts in the field of religion were included in the program, exposing the program as an attempt to prejudice the judiciary against minority religious organizations.

Such “awareness” programs for court officials have been condemned by the United Nations Human Rights Committee. In its *Concluding Observations of the Human Rights Committee: Germany, 18/11/96 (CCPR/C/79/Add.73)*, the Human Rights Committee recommended, in strikingly similar circumstances, that Germany discontinue the holding of “sensitizing sessions for judges against the practices of certain designated sects”. Otherwise, the right to a fair trial is destroyed for religious minorities.

The above policy and recommendations of MIVILUDES have been implemented and they inevitably result in an infringement of the rights of believers to educate their children in their own faith and in discrimination.

In furtherance of this policy, a new Circular has been enacted on 22 March 2012 (Circular N° 2012-051) by the French Ministry of National Education addressed to education authorities of primary and high schools entitled “Prevention and Fight against Sectarian Risks”.

Contrary to the preceding Circulars of 14 May 1999 and 26 December 2011 which provided merely and legitimately for control of the acquisition of knowledge and level of education of children receiving education at home, this Circular provides for the identification of “sectarian risks” by the National Education personnel. This has led to visits by national education agents to parents belonging to minorities of religion or belief whose children were doing “at-home” correspondence courses delivered by a State recognized organism. The national education agents were checking for any ideological or religious motivation behind the choice of the parents to take their children out of the regular school system.

The Circular provides the following explanation of what constitutes a “sectarian risk”:

“A situation of sectarian risk, for a child, is therefore the one in which some views and practices are imposed on him with the exception of any other views or practice. This situation is likely to harm his intellectual development, his social integration and finally his attainment of autonomy. The risk concerns not only the content of the knowledge passed on, the possibility of access to the values and pluralism of democratic societies, but also the

possibility for the child to develop and exert a critical mind, an independent judgment. The context can be family, or even community: the child is then likely to be under the undue influence of views and practices threatening his education; or extra-family: the child is then likely to be subjected to views and practices which can be harmful to him either: - at school (through the teacher, his friends, an association delivering services at school or distributed literature), or at tutoring associations or during a stay with a family abroad”.

This constitutes discrimination and a direct violation of the right of parents to raise their children according to their own beliefs protected by the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

Per the Circular, National Education personnel (teachers, Principals, etc.) have the duty to denounce any child and family suspected of “sectarian drifts” to the special units created for “the collection, processing and assessment of worrying situations” (CRIP) in each of the French Departments, or to the Public Prosecutor.

In parallel, MIVILUDES and the French Ministry of Education launched during the last years a campaign against “sects” in schools. Posters are put in schools and the subject is addressed with the students during civic education courses.

This has led to situations where children of members of religious or belief minorities have been under pressure to criticize or recant their parents’ faith.

In her report following her official visit to France on 18-29 September 2005, Asma Jahangir, the United Nations Special Rapporteur on Freedom of Religion or Belief, noted as regards “new religious movements or communities of belief”:

108. However, she is of the opinion that the policy and measures that have been adopted by the French authorities have provoked situations where the right to freedom of religion or belief of members of these groups has been unduly limited. Moreover, the public condemnation of some of these groups, as well as the stigmatization of their members, has led to certain forms of discrimination, in particular vis-à-vis their children.

The UN Rapporteur made the following recommendations:

112. The Special Rapporteur urges the Government to ensure that its mechanisms for dealing with these religious groups or communities of belief deliver a message based on tolerance, freedom of religion or belief and on the principle that no one can be judged for his actions other than through the appropriate judicial channels.

113. Moreover, she recommends that the Government monitor more closely preventive actions and campaigns that are conducted throughout the country by private initiatives or Government-sponsored organizations, in particular within the school system in order to avoid children of members of these groups being negatively affected.

Instead of complying with these recommendations from the United Nations, MIVILUDES continues to implement a policy of stigmatization and discrimination which violates the rights of believers under Article 18 of the International Covenant on Civil and Political Rights, the Human Rights Committee General Comment N° 22 and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

CONCLUSION

By its Resolution 66/167 on Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief, the General Assembly called upon States (§6):

(a) To take effective measures to ensure that public functionaries, in the conduct of their public duties, do not discriminate against an individual on the basis of religion or belief;

(b) To foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on an equal footing to society;

And (§8):

Call[ed] for strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs;

The public functionaries of MIVILUDES and other French institutions, who receive directives through Circulars to do so, implement a discriminatory policy which violates the recommendations of Resolution 66/167.

It is time for France to comply with its international commitments as regards freedom of religion or belief and freedom from discrimination.