

Religious Identity and the Educational Sphere: International Legal Standards and the Russian Practice

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Translated from Russian

The article is devoted to the analysis of the international law standards and Russian legislation on freedom of conscience. The freedom of conscience is a basic legal concept providing inter-religious dialogue in the contemporary world. In the article the achievements in this area and the threats that are able to suppress the positive trends are described.

One of the basic legal concepts letting present-day peoples express their religious identity is "freedom of conscience." Article 18 of Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly of the United Nations (1948), states that "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."¹

The legal grounds for freedom of conscience, as well as reference to its limits, are also included in the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981), the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992), and a number of regional-level international documents. These regional resolutions include the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Final Act of the Conference on Security and Cooperation in Europe (1975), and the Commonwealth of Independent States Convention on Human Rights & Fundamental Freedoms (1995). In extrapolating from the international legal sources, we can outline the following areas of protection for freedom of conscience: 1) the right to profess one's religion and beliefs either alone or in community with others and in public or private; in countries having ethnic, religious, and linguistic minorities, the persons belonging to such minorities may not be refused the right, jointly with other members of the same group, to express their culture and religion, observe its rites and use their native language(s); 2) the right to change one's religion or belief; 3) the right to perform and observe religious rituals and customs; 4) the right to look for, receive and disseminate information and ideas by all means, across international borders; 5) education must contribute to mutual understanding, tolerance and friendship between all peoples, racial, and religious groups; parents have the right of priority in choosing education for their minor children; every child has a right of access to education in the field of religion or belief in accordance with the desire of his parents, 6) any statements stirring up national, racial, or religious hatred, intended to create enmity and violence, are to be forbidden by law; 7) the freedom to profess religion or to express beliefs is subject only to restrictions set by the law as being mandatory for protection of public security, order, health, and morals as well as the other fundamental rights and liberties of other persons.

In accordance with the precepts of international law, Article 28 of the Constitution of the Russian Federation (1993) asserts that "everyone is guaranteed the freedom of conscience, freedom of religion, including the right to confess any religion individually or jointly with others or to not profess any, to freely choose, and disseminate religious and other beliefs and to act in accordance with them."² The said article is of special importance for the indigenous peoples of Russia with small populations. Article 28 has provided the basis for more recent legislation within the Federal Law of the Russian Federation, "On guarantees of rights of small-population indigenous peoples of the Russian Federation" (1999). In Article 1 of the Federal Law defines small-population indigenous peoples as people living on the territories of

¹ The Human rights. Major international documents. M., 1989. P.138-139.

² Constitution of the Russian Federation // <http://www.duma.gov.ru/>

traditional settlement of their ancestors, preserving traditional way of life, economy, and crafts, which number below 50,000 people in the Russian Federation and who understand themselves to be independent ethnic communities. The Federal Law, as explained by the Institute of Legislation and Comparative Jurisprudence under the Government of the Russian Federation and by the Association of Small-Population Indigenous Peoples of the North, Siberia and Far East of the Russian Federation, further explains that one of the attributes of small-population indigenous peoples is the “cultural values manifested in the first place in relations between people in the family and in the society and in the beliefs, i.e. views concerning the existence of higher forces, [or] deities.”³ Russian legislation thereby legally guarantees the freedom of conscience for small-population indigenous peoples and uses religion as one of the central factors of self-identification to them.

In connection with the Constitutional stipulation, the right to a religious education in the areas characteristic of ethnic and religious diversity, including northern regions of the Russian Federation, became particularly important.

On 19 September, 1997 the State Duma adopted a new federal law “On the freedom of conscience and religious associations.” Article 5 of the law directly addresses religious education:

1. Everyone has a right to receive religious education at his/her choice individually or jointly with the others. 2. Education and the upbringing of children is realised by parents or persons acting in lieu of them, with regard for the child’s right to freedom of conscience and freedom of religion. 3. Religious organisations have the right to set up educational establishments in conformity with their charters and the legislation of the Russian Federation. 4. At the request of parents or persons acting in lieu of them, the administration of the said establishments, in coordination with a relevant institution of local self-government, has the possibility to provide religious education to children beyond the framework of the formal educational programme, with consent of the said children, who are [also] educated at state and municipal educational establishments.⁴

Yet these provisions of the law create a structural challenge to the implementation of the law. Using education in the field of religion as one of the major factors of self-identification loosened the definition and protection provided to minority ethnic communities. Studying the confessional structure of small-population indigenous peoples of the North indicates that,

definition of confessional affiliation, character of religiousness and specificity of beliefs of representatives of small-population indigenous peoples of the North is presently complicated for various reasons. Probably, the global confessions that have extended into this territory relatively recently (the active dissemination started only in the 17th century), have not penetrated the consciousness of the natives so deeply as to supersede completely the traditional beliefs that had impregnated their culture. Besides the global confessions aimed at a person of other type of culture and civilisation level, were perceived poorly and were assimilated by these peoples with difficulty.⁵

The definition of nationhood overlooked the significant intermingling of Orthodox canons with traditional national beliefs. For instance, the indigenous population of Yamal Peninsula now understands St. Nicholas the Wonderworker to be the manifestation of a traditional deity, “Mikola-Torum.” The Mansi nation identifies the

³ Commentary to the Federal Law «On guarantees of rights of small-population indigenous peoples of the Russian Federation» / edited by B.S. Krylov., M., 1999. P.22.

⁴ The same. P.110.

⁵ Federal Law of the Russian Federation «On the freedom of conscience and on religious associations» // Religious associations. Freedom of conscience and freedom of religion. Statutory acts and judicial practice. M., 2001. P.50.

image of St. Nicholas with the image of demiurge, Numi-Torum. (There have been attempts of animal sacrifices in Christian churches in front of the icon of St. Nicholas with placement of the oblatinal animal under the icon and sprinkling the blood of the animal on the icon.⁶ The figures of confessional affiliation of such nations are very conditional. For example, among Nganansans 60.2 % of the surveyed men aged under 30 declared that they were atheists, 26.2 % consider themselves to be adherents of traditional cults, 5.7 % - adhere to Orthodoxy, 6.8 % confess both traditional cults and Orthodoxy, and 1.1 % profess other religions⁷. As such ethnic minorities may not be defined as such when surveyed on the basis of religion.

The difficulty of self-identification gives birth to a new problem. Researchers note that “the problem is not that the natives are deprived of the possibility to talk, sing in the native language, to wear national garments, to observe the ritual beliefs or pasture reindeers as their grandfathers ... The issue is that many of them just do not want to... The native people have lost the internal need and ability to do so. The major fountains [of inspiration] have been broken.”⁸ Education plays an important role in resolving this problem. However, it is quite difficult for representatives of the Northern peoples to achieve the right to learn about their traditions. More traditional comprehensive schools have closed,⁹ and the forms of present public education that allow for and encourage the preservation of the traditional culture are underdeveloped.¹⁰

However, another tendency is developing in parallel to the dissolution of many indigenous traditions and cultural norms. The search for national identity in recent decades has led to the re-emergence of traditional shamanism. In South-Siberian republics – Buryatiya, Tyva, Sakha (Yakutia) – traditional shaman practices have gained the status of officially recognized confessions. However, the boundary between the ethnic and religious identification and nationalism is not always clear. Here, for example, is a fragment from a textbook for five to seven year-old pupils, devoted to the culture of Yamal. The six year-old pupils are allowed to get acquainted with the northern hunters' incantation:

... I shall bring to you the words of the great Num:
‘The great shaman, your people
Have become not so strong as before.
Dark people deceive your nation,
Dark people have brought diseases
And evil to your land,
They ruin the souls of your people,
My brother Nga has been opened the way to your land,
So that he could take away people's souls'....

Our destiny depends on us.
Let us bar the way to Nga.
Do not hold evil in your heart.
Let the stone
That was brought by the dark people, become their grave
And close the gate to the Great Nga.
*Narrator Hudi Yatti.*¹¹

⁴ Present-day position and perspectives of development of small-population peoples of the North, Siberia and Far East. Independent expert's report / edited by V.A.Tishkov, M., 2004. P. 161.

⁵ Religious-mythological views of the Mansi: the problem of transformation // Natives of Siberia: the problems of disappearing languages and cultures. Novosibirsk, 1995. P.100.

⁶ Present-day position and perspectives of development of small-population peoples of the North, Siberia and Far East. Independent expert's report / edited by V.A.Tishkov, M., 2004. P. 161.

⁷ The same. P.139.

⁸ See, for instance, World of Indigenous People. Living Arctic. 2005. No. 17. P.140-146.

⁹ Present-day position and perspectives of development of small-population peoples of the North, Siberia and Far East. Independent expert's report / edited by V.A.Tishkov, M., 2004. P.143-144.

The clear interplay in this text between national and religious beliefs may spark more extreme forms of nationalism that goes against the purposes of legislation intended to protect ethnic and religious identification and even international legal standards composed for the same purpose.

Thus, the revival of traditional beliefs of small-population indigenous peoples in Northern Russia in terms of realization of their right to freedom of conscience and education in this sphere take on general significance. They favor the enrichment not only of the natives' cultures, but also - through intercultural and inter-confessional dialogue – of the cultures of other nations. In the present-day ecological situation, the experience of traditional treatment of nature is of special interest. The comprehension of importance of this revival, of the role of education in this sphere has taken place at the international and at the Russian levels. However, the workout of concrete forms of realisation of the recognised rights proves to be an extremely difficult. It is required the special knowledge, efforts and professionalism.

¹⁰ Popov Yu.I., Tsymbalistenko N.V. Mythology, folklore and literature of Yamal. Textbook. 5-7 years school material. Tyumen: Publishing house of Institute of the Problems of Development of the North, Siberian Branch of the Russian Academy of Science, 2001. P.73.