

## Freedom of Belief for Minorities in States with a Dominant Religion: Anomaly and Pragmatism

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### **i. What constitutes a ‘dominant religion’?**

Is dominance based in numerical prevalence or political/social influence?

Is twenty-first century dominance based upon historic cultural matters which may have outlived their current relevance and objective justification?

Is the dominance of one religion purely ‘self-serving’ or can it benefit all religions by, for example, emphasizing the importance of the spiritual in public life and political discourse?

### **ii. What constitutes a ‘minority religion’?**

Is this measured in terms of membership, status, longevity or *de facto* influence?

Does the concept of registration serve to facilitate or frustrate freedom of religion?

How does the social dimension of collective religion relate to conscience and belief as an aspect of the dignity of the person?

### **iii. How is this reflected in varying models of Church-State relations?**

*State church or predominant religion:* In this model there are strong links between the state and one particular dominant religious community. Examples include England, Denmark, Greece, Malta and Finland. Note also theocracies such as Iran and Afghanistan.

*Strict separation:* Here the system is founded upon a strict separation between state and religions, broadly in line with the US model. Examples include France, the Netherlands and Ireland.

*Co-operation:* This type features the basic separation of church and state whilst recognizing a multitude of common tasks in the fulfillment of which there is active collaboration. Examples include Belgium, Poland, Spain, Italy, Hungary, the Baltic States and Portugal. In some there are high level concordats or covenants between organs of government and the church hierarchies.

### **iv. May a country legitimately have a dominant or favoured religion?**

**Lautsi v Italy (European Court of Human Rights)**

*Beyond its religious meaning, the crucifix symbolized the principles and values which formed the foundation of democracy and western civilization.*

**v. What protection or support should a State give to minority religions?**

Should states with a majority religion afford special protection to religious minorities?

Is registration, for example, a means of support or an instrument of control?

Is there a trajectory: persecution-toleration-accommodation-equality- fostering?

**vi. How does the State achieve practical engagement with minority religions?**

Who has authority to speak for or represent each minority religion or minority religions collectively?

Is there a social necessity for minority religions to collaborate together to achieve effective engagement with Government?

**vii. What constitutes equal treatment for religious organisations?**

Does 'equal treatment' mean 'identical treatment'?

Can valid distinctions be made between religions with a longer historical and deeper cultural link with the State?

Who is to be the arbiter: Government, an independent Commission, the Judges in State courts, supra-national Courts or Tribunals?

**viii. Does 'reasonable accommodation' from neutral laws constitute sufficient protection for religious minorities?**

Does secular (State) law provide meaningful exemptions for ritual slaughter, compulsory prayer and fasting, religious dress and symbols, internal regulation of religious affairs, minister exemption in labour law.

Does the mere existence of the impugned law violate religious freedom?

How far should the State foster and promote the interests of minority religions? Has the time come for positive discrimination (affirmative action)?

**Annexe: European Convention on Human Rights**

**Article 9**

1. 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 worship, teaching, practice and observance.

2. 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.

**Article 14**

The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.