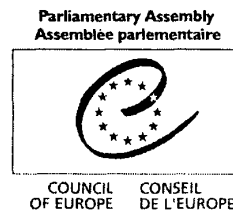


## Parliamentary Assembly Assemblée parlementaire



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### Women and religion in Europe

Report  
Committee on Equal Opportunities for Women and Men  
Rapporteur: Mrs Rosmarie Zapfl-Helbling, Switzerland, Group of the European People's Party

#### *Summary*

In the lives of many European women, religion continues to play an important role. In fact, whether they are believers or not, most women are affected in one way or another by the attitude of different faiths towards women, directly or through their traditional influence on society or the State. This influence is seldom benign: women's rights are often curtailed or violated in the name of religion.

All women living in Council of Europe member states have a right to equality and dignity in all areas of life. Freedom of religion must not be accepted as a pretext for justifying violations of women's rights, be they open, subtle, legal or illegal, practiced with or without the nominal consent of the victims – women.

It is the duty of the member states of the Council of Europe to protect women against violations of their rights in the name of religion and to promote and fully implement gender equality. States must not accept any religious or cultural relativism of women's human rights.

The Parliamentary Assembly should thus call on the member states of the Council of Europe to take the necessary measures to fully protect all women living in their country against violations of their rights based on or attributed to religion and to take a stand against violations of women's human rights justified by religious or cultural relativism everywhere.

## I. Draft resolution

§ 1. In the lives of many European women, religion continues to play an important role. In fact, whether they are believers or not, most women are affected in one way or another by the attitude of different faiths towards women, directly or through their traditional influence on society or the State.

§ 2. This influence is seldom benign: women's rights are often curtailed or violated in the name of religion. While most religions teach equality of women and men before God, they attribute different roles to women and men on earth. Religiously motivated gender stereotypes have conferred upon men a sense of superiority which has led to discriminatory treatment of women by men and even violence at their hands.

§ 3. At one end of the spectrum lie the extreme violations of women's human rights such as so-called "honour" crimes, forced marriages and female genital mutilation, which – though still rare in Europe – are on the rise in some communities.

§ 4. At the other end are more subtle and less spectacular forms of intolerance and discrimination which are much more widespread in Europe – and which can be just as effective in achieving the subjection of women, such as the refusal to put into question a patriarchal culture which holds up the role of wife, mother and housewife as the ideal and the refusal to adopt positive measures in favour of women (for example in parliamentary elections).

§ 5. All women living in Council of Europe member states have a right to equality and dignity in all areas of life. Freedom of religion cannot be accepted as a pretext to justify violations of women's rights, be they open, subtle, legal or illegal, practiced with or without the nominal consent of the victims – women.

§ 6. It is the duty of the member states of the Council of Europe to protect women against violations of their rights in the name of religion and to promote and fully implement gender equality. States must not accept any religious or cultural relativism of women's human rights. They must not agree to justify discrimination and inequality affecting women on grounds such as physical or biological differentiation based on or attributed to religion. They must fight against religiously motivated stereotypes of female and male roles from an early age, including in schools.

§ 7. The Parliamentary Assembly thus calls on the member states of the Council of Europe to:

§ 7.1. fully protect all women living in their country against violations of their rights based on or attributed to religion by:

§ 7.1.1. putting into place and enforcing specific and effective policies to fight all violations of women's right to life, to bodily integrity, freedom of movement and free choice of partner, including so-called "honour" crimes, forced marriage and female genital mutilation, wherever and by whomever they are committed, however they are justified, and regardless of the nominal consent of the victim; this means that freedom of religion is limited by human rights;

§ 7.1.2. refusing to recognise foreign family codes and personal status laws based on religious principles which violate women's rights and ceasing to apply them on their own soil, renegotiating bilateral treaties if necessary;

§ 7.2. take a stand against violations of women's human rights justified by religious or cultural relativism everywhere, including in international fora such as the United Nations, the IPU and others;

§ 7.3. guarantee the separation between the church and the State which is necessary to ensure that women are not subjected to religiously inspired policies and laws (e.g. in the area of family, divorce, and abortion law);

§ 7.4. ensure that the freedom of religion and the respect for culture and tradition are not accepted as a pretext to justify violations of women's rights, including when underage girls are forced to submit to religious codes (including dress codes), their freedom of movement is curtailed or their access to contraception is barred by their family or community;

§ 7.5. where religious education is permitted in schools, ensure that this teaching is in conformity with gender equality principles;

§ 7.6. take a stand against all religious doctrine which is anti-democratic or disrespectful of human rights, especially women's rights, and refuse to allow such doctrines to influence political decision-making;

§ 7.7. actively promote respect of women's rights, equality and dignity in all areas of life when engaging in dialogue with representatives of different religions and work on achieving full gender equality in society.

## **II. Explanatory memorandum by Mrs Zapfl-Helbling**

### **A. Introduction**

1. In the lives of many European women, religion continues to play an important role. In fact, whether they are believers or not, most women are affected in one way or another by the attitude of different faiths towards women, directly or through their traditional influence on society or the State.

2. The three monotheistic faiths (Jewish, Christian and Muslim) have the most followers in Council of Europe member states, but the influence of the different churches on the State and on society varies from country to country. Thus, for example, France is a lay state by virtue of its Constitution; Germany organises religious teaching in schools, and allows Christian, Jewish and Muslim Councils a large say in, for example, matters of ethics; the Russian Orthodox Church holds an important position in Russia; and a Muslim revival can be witnessed both in parts of South-Eastern Europe and in immigrant communities across the whole of Europe.

3. When it comes to the attitude of these faiths to women, however, their influence is not always benign. Equality of women and men is not a doctrine that is central to the faith – on the contrary, centuries-old discrimination against women often continues to reign. It is a well-known fact that, for example, the Roman Catholic and Orthodox Churches do not allow women to be ordained as priests and condemn both “unnatural” contraception methods and abortion; or that, in general, the Muslim faith is interpreted as requiring the use of headscarves (or more) by women.

4. All women living in Council of Europe member states have a right to equality and dignity in all areas of life. This includes the right of women to abide by religious teaching if they so wish – but it also includes their right not to do so, even if this means breaking with the predominant culture and tradition of the community in question. The problem is the reaction of this community, which does not always accept such religious non-conformity practised by women. Some members of the community even go so far as to exclude such women, or resort to so-called “honour crimes” to bring these “errant” women back into the fold (if they do not kill them). You might recall in this context the Assembly’s recent Resolution 1327 (2003) on “so-called honour crimes”, which was based on a report prepared by Mrs Cryer for our Committee.

5. Obviously, the question of women and religion is an extremely sensitive one; nevertheless, in view of the broad influence of religion on society in general and the situation of women in particular, it must be tackled. Council of Europe member states should be encouraged to take the appropriate measures to ensure that women have complete freedom to abide or not by religious teaching, and that they suffer no negative consequences whatever their choice.

6. I took over this file from the former Rapporteur, Mrs Aguiar (Portugal, EPP/CD) a few months ago, as she left the Assembly. She already drafted an outline report, which has also inspired my memorandum, and she organised a hearing on the issue with representatives of the main European faiths in September 2004 within the Committee<sup>1</sup>. At our meeting in Paris on 3 June 2005, we held, in addition, an exchange of views with representatives of the two faiths which were not represented at that hearing, the Catholic Church and Islam.

7. In this explanatory memorandum, I intend to throw light on the possible conflict between freedom of religion and women’s rights. I will then reproduce Mrs Aguiar’s outline of the attitude of the five faiths which have the most followers in Europe, i.e. the Christian faith (broken down into the Roman Catholic Church, Protestant Churches and Orthodox Churches), Islam and Judaism, towards key policy areas which impact on women’s lives: contraception, abortion and divorce. I will also consider the role and weight of women within these faiths, such as whether women are allowed (and encouraged) to hold clerical office, before drawing my conclusions and proposing some recommendations.

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<sup>1</sup> The minutes of this hearing have been declassified and are available from the Secretariat of the Committee (AS/Ega (2004) PV 9 addendum I).

## B. The interface between freedom of religion and women's rights

8. As we all know, certain fundamental human rights are sometimes in conflict with each other (such as the freedom of the press and the right to privacy), and – although both concepts are equally important and universal – it becomes necessary to decide where the one ends and the other begins. This is also the case with the freedom of religion and women's human rights. I think there is no European state which still has discriminatory laws on the statute books that clearly violate women's **human** rights, although there are, unfortunately, plenty of states in the world which still do. But general discrimination against women is a reality also in Europe – for example, our Committee has recently presented reports to the Assembly on discrimination against women in such diverse areas as the workplace and sport.

9. It is a fact that much of this discrimination is inspired by the dominant culture of the respective country, which, in turn, is often influenced by (or justified by) religious teachings or sentiments. Thus, discrimination against women and violation of their rights is often trivialised and tolerated even in our European societies. Of course, depending on the relation between the church and the State, such attitudes are often not openly attributed to religion, but to culture and tradition. Thus, as explains an excellent 2002 study by the then United Nations Special Rapporteur on freedom of religion or belief, Mr Abdelfattah Amor, on freedom of religion or belief and the status of women as regards religion and tradition<sup>2</sup>: "The problem stems from the fact that a number of practices detrimental to women's health or legal status, or to their status in general, are upheld by individuals and communities, and also states, which engage in these practices or perceive them as a component of freedom of religion and as a religious obligation to which they and their ancestors have been subject since time immemorial; they see these practices as having nothing to do with issues relating to the universal protection of women's rights"<sup>3</sup>.

10. For decades, the United Nations has combated this "cultural relativism" argument put forward by a number of states to justify violations of women's rights. I think it is clear to us all in Europe that such cultural relativism is unacceptable, and that women's rights are universal, just as human rights are universal. But it is, unfortunately, sometimes difficult to separate cultural traditions and religion as such – which means that some ostensibly religious practices violate women's universal rights (female genital mutilation, crimes of honour, certain practices linked to marriage and its dissolution, lack of access to education or certain professions, and the preference of boys, being just the most obvious examples). And it is not only men who insist on continuing such practices: paradoxically, in particular in times of conflict or crises of identity, the victims themselves – women – play an important role in perpetuating these practices.<sup>4</sup>

11. In Europe, such practices are rare outside certain minority religions or immigrant communities. However, this does not mean that European societies necessarily fully respect women's rights. As the former United Nations Special Rapporteur pointed out in his study: "In every society there are informal customs and traditions which can play a part – sometimes a greater one than legislation – in controlling women's lives"<sup>5</sup>, "The persistence of patriarchal culture and the importance still assigned to women's traditional role as mothers and wives responsible for childcare and to men's role as breadwinners legitimise and reinforce the prevailing stereotypes. Most cultures, including those of some industrialised countries, are exposed to these patriarchal behaviour patterns"<sup>6</sup>.

12. Thus, for example, Article 41 paragraph 2 of the Irish Constitution reads: "In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home." Liechtenstein, Spain, Germany and Luxembourg have also recently been criticised by the CEDAW Committee for their lack of *de facto* equality between women and men – but I do not expect the situation to be much better in other Council of Europe member states, including my own. As the

<sup>2</sup> United Nations, Economic and Social Council, 58<sup>th</sup> session of the Commission on Human Rights, Document No. E/CN.4/2002/73/Add.2 of 5 April 2002.

<sup>3</sup> *Ibid.*, p. 5.

<sup>4</sup> *Ibid.*, p. 10.

<sup>5</sup> *Ibid.*, p. 11.

<sup>6</sup> *Ibid.*, p. 27.

Special Rapporteur writes: "The most horrifying and obvious examples of discrimination committed in the name of religion should not divert attention from more subtle and less spectacular forms of intolerance and discrimination which are just as effective in achieving the subjection of women, such as the refusal to adopt positive measures in favour of women, for example in parliamentary elections, and the refusal to initiate a public dialogue on sex equality".<sup>7</sup>

13. I think that the interface between the freedom of religion and women's rights has now been made clear: freedom of religion must end when violations of women's rights begin, be they open, subtle, legal or illegal, practiced with or without the nominal consent of the victims – women. It is the duty of the member states of the Council of Europe to protect women against the violations of their rights, and promote and fully implement gender equality. States must not accept any cultural or religious relativism of human rights, they must not agree to justify discrimination and inequality affecting women on grounds such as physical or biological differentiation based on or attributed to religion. This is especially important in those states which permit religious education in schools: it is important for those states to ensure that all religious teaching in schools fully respects gender equality principles.

### **C. Violations of women's rights in the name of religion**

14. Until today, women's rights are violated in the name of religion all over the world. The most extreme violations – those which touch such vital human rights as the right to life, to bodily integrity, to freedom of movement and choice of partner – are, thankfully, not common in Europe, but they, too, are on the rise, in particular in some immigrant communities and communities which have fallen under the spell of religious extremism. The worrying increase in cases of so-called "honour crimes" (murders, attempted murders and the persecution of girls and women refusing to abide by certain religious and/or cultural norms by members of their family and community)<sup>8</sup> and of forced marriages<sup>9</sup>, and the failure to eradicate the violent practice of female genital mutilation<sup>10</sup> are all cases in point.

15. However, the main violations of women's rights which can be attributed to religion in Council of Europe member states are more subtle, and stem from the fact that the dominant monotheistic faiths in Europe (with the exception, perhaps, of the Lutherans) do not genuinely support gender equality. As Ms Sallé from the Pontifical Council for the Laity at the Vatican explained during our second Committee hearing, in the view of the Catholic Church men and women had been given specific and non-interchangeable responsibilities by God. In other words, while women and men may be equal before God, they are meant to fulfil different roles on earth. Traditionally, thus, the Catholic Church has emphasized the role of wife, mother and housewife for women, as has the Orthodox Church. Over the centuries, such religiously motivated gender stereotypes have conferred a sense of superiority upon men, and have thus led to discriminatory treatment of women. They have even been used to justify violence against women "to keep them in their place".

16. That women may want to shoulder other responsibilities instead of or as well as such "caring" responsibilities, including decision-making responsibilities, was vilified as recently as last year by the Congregation for the Doctrine of the Faith of the Catholic Church, which wrote in its letter to the bishops of the Catholic Church "on the collaboration of men and women in the church and in the world" of 31 July 2004: "Faced with the abuse of power, the answer for women is to seek power. This process leads to opposition between men and women, in which the identity and role of one are emphasized to the disadvantage of the other, leading to harmful confusion regarding the human person, which has its most immediate and lethal effects in the structure of the family."<sup>11</sup> The Catholic

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<sup>7</sup> Ibid, p. 48

<sup>8</sup> See Assembly Resolution 1327 (2003) on so-called "honour crimes" and Doc. 9720.

<sup>9</sup> See Assembly Document 10590, my report on forced marriages and child marriages, due to be debated during the October 2005 part-session of the Assembly.

<sup>10</sup> See Assembly Resolution 1247 (2001) on female genital mutilation and Doc. 9076.

<sup>11</sup> Letter available from the website of the Vatican ([www.vatican.va](http://www.vatican.va)) in seven languages, paragraph I. 2. The letter was signed by the then Cardinal Ratzinger, now the new Pope.

Church considers that "woman, in her deepest and original being, exists "for the other"<sup>12</sup> – women are seen as living "the dispositions of listening, welcoming, humility, faithfulness, praise and waiting...with particular intensity and naturalness"<sup>13</sup>.

17. This religious stereotyping of women's character and role is not compatible with our modern understanding of gender equality and equal opportunities for women and men, because it reinforces women and men's traditional positions in society and deprives them of the opportunity to take on responsibilities traditionally reserved for the other sex: men are not encouraged to take on "caring" responsibilities (such as looking after their children or elderly parents, or taking on more household chores), while women are relegated to the "three Ks" (in German: "Kinder, Küche, Kirche" – "children, kitchen, church") and are not encouraged to work outside the home or take on positions of responsibility in the political or economic sphere. It should thus come as no surprise that societies in which the Catholic and Orthodox Churches exert a lot of influence are amongst those in Europe in which the labour participation rates of women and the number of women in parliament are amongst the lowest (Spain being a notable exception)<sup>14</sup>.

18. Islam is, in general, not any better than the Catholic and Orthodox faiths at promoting gender equality. On the contrary, traditional and extremist interpretations of the Islamic faith both curtail women's rights to an alarming degree, and are often used to justify severe violations of women's human rights. The Koran is, in fact, quite explicit about women's rights – but while women are seen as equal before God (just as in the Catholic and Orthodox Church), the Koran also contains a set of instructions and "laws" regarding women. These can be seen as progressive for the time they were written, but no longer correspond to a modern understanding of gender equality and women's rights. Thus, for example, polygamy was limited to four wives (beforehand, there was no limit); a woman's testimony was considered as having half the weight of the testimony of one man (beforehand, women's testimony was worthless), women were given half the inheritance rights of men (beforehand, they had none), etc.

19. In Europe, these "laws" are not directly applied to women (as they are in countries like Iran, Pakistan, Afghanistan, Saudi Arabia, Jordan, Sudan, and the Maghreb to varying degrees). However, a number of immigrant women indirectly still suffer from their application, as some countries (e.g. France) have concluded treaties with some of these countries (e.g. Morocco) recognising their personal status laws. It is thus possible for Moroccan women resident in France, to be, for example, unilaterally repudiated by their husbands, or to have the guardianship of their children over the age of seven taken away from them. Needless to say, these are very severe violations of these women's rights, and France (and all other countries) which have entered into such treaties would be well advised to discontinue the ill-conceived respect of other countries' personal status laws which violate women's rights, even if this means renegotiating entire friendship treaties.

20. In fact, the most widespread – and visible – problem in Europe concerns the Islamic dress code for women, i.e. the headscarf (or, in some cases, even more covering garments, such as the chador, the niqab and the burka). There is a vivid debate in many countries on whether the headscarf is simply a symbol of piety which deserves the same respect as other religions' symbols of piety (be it the Sikh turban or the Jewish kippa), or whether it is rather a symbol of the submission and the subjection of women, of their "purity" or humility. The debate is made more difficult by the fact that it is often impossible to determine whether the wearing of a headscarf (or of even more covering garments) is imposed, self-imposed or a matter of free choice, in particular where young girls are concerned.

<sup>12</sup> Ibid, paragraph 6.

<sup>13</sup> Ibid, paragraph 16.

<sup>14</sup> Examples of such countries with a low participation rate of women in the labour market: Bulgaria (56.34%), Croatia (52.61%), Romania (61.82%), Moldova (61.83%), Russia (59.1%), Ukraine (62.75%). Figures for the year 2000 as published by UNIFEM in 2004. Examples of such countries with a low number of women in parliament: Cyprus (16.1%), France (12.2%), Greece (14%), Ireland (13.3%), Italy (11.5%), Malta (9.2%), Poland (20.2%), Portugal (21.3%), Romania (11.2%), Russia (9.8%), Serbia and Montenegro (7.9%), Ukraine (5.3%). Figures according to IPU data of 30 June 2005.

21. Different European countries have found different ways of dealing with the headscarf. Thus, France recently adopted a law which outlawed the wearing of all ostentatious religious symbols in schools (including the headscarf), while Turkey forbids the wearing of headscarves in state institutions (such as universities or the civil service). At the other end of the spectrum, Great Britain allows the wearing of all sorts of headscarves, veils, etc. everywhere, including by pupils and teachers in schools.

22. Personally, I do not find any of these solutions wholly satisfactory. Coming from the point of view of gender equality and women's rights, I do find it slightly shocking that some girls attending school in Great Britain are forced to wear very restrictive and covering clothing from the age of four or five by their parents, and that this is accepted by the authorities. On the other hand, I can understand that the authorities in some countries do not want to "make an issue" of the headscarf, for fear of increasing its popularity even further; after all, while Muslim girls may not don the headscarf in French schools, as soon as they leave the school gates, they are subjected to so much pressure (from both their parents and elder brothers, but also from their peers) that most end up wearing a headscarf – for fear of otherwise not being respected, being branded as "easy", or worse.

23. The reason why I find it so difficult to respect the headscarf as a religious symbol like any other is that there is so much baggage that comes with it, a sense of submission to the control by men of a girl or woman's destiny and the way she leads her life. Allowing young girls to wear headscarves in school can quickly lead to other demands by certain Muslim communities, such as separate swimming or sports lessons for girls in schools, or even the banning of co-education altogether. Where do we draw the line?

#### **D. Attitudes towards contraception, abortion and divorce**

24. Mrs Aguiar had chosen the three policy areas of contraception, abortion and divorce because they are key areas of policy for women, and impact directly on many women's lives. Artificial contraception (the pill, condoms, etc.) has not only allowed women to make the choice of spacing their children (or not having any at all), but barrier methods (such as the male and female condom) have, in addition, protected many women from sexually transmitted diseases (STDs), including HIV/AIDS. When such contraceptive methods are frowned upon by religious authorities (and this translates into policy choices also by State authorities), the incidence of unwanted pregnancies tends to rise, which – ironically – in turn raises the abortion rate. The incidence of STDs and HIV/AIDS among the female population (normally not a "high-risk"-group) also rises in such cases, as is evidenced by the experience of Roman Catholic women in Africa.

25. Abortion is, of course, an extremely difficult subject – one on which views are strongly held and heavily influenced by moral, ethical and religious teachings and choices. Some 40 million abortions are carried out yearly worldwide, often under unsafe conditions – costing 70.000 women their lives. I think we all can agree that abortion should never be used as a method of family planning, but – as the Assembly posited in Resolution 1347 (2003) on the impact of the "Mexico City Policy" on the free choice of contraception in Europe – it should remain safe and accessible where it is not against the law.

26. Divorce is another sensitive area. A high percentage of marriages end in divorce in Europe. According to the Council of Europe 2003 "Demographic Yearbook", the total divorce rate is rising in many countries, though it still varies widely<sup>15</sup>. It is, of course, true that many people today are choosing to live together without getting married, or make do with a civil wedding. Many divorcees would, however, like to remarry, which is not accepted by all religions. In Islam, divorce rights are not evenly distributed: fundamentalist interpretations of Islam may deny women the right to initiate a divorce, while not protecting them from repudiation by their husbands.

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<sup>15</sup> The highest rates were recorded in Sweden (0.55), Belgium (0.54), Luxembourg (0.51), Finland (0.50) and Belarus (0.5 in 2001) and the lowest (between 0.09 and 0.17) in southern Europe (including the Balkans), Poland (0.18) and the Caucasus region (in Armenia the rate was 0.06, and Azerbaijan 0.11). The greatest changes have been in Portugal, where the total divorce rate was 0.17 in 1995, but had risen to 0.39 in 2002, comparable with the Netherlands.



### **The Roman Catholic Church**

27. The Roman Catholic Church has a very restrictive position on contraception, divorce and abortion. It interprets the sixth commandment ("You shall not commit adultery") widely, and thus reserves sexual intercourse to married partners (of different sexes) with a view to parenthood. The only accepted method of the regulation of procreation is "periodic continence", that is "methods of birth regulation based on self-observation and the use of infertile periods"<sup>16</sup>. Pope John Paul II makes a connection between contraception and abortion in his Encyclical *Evangelium Vitae*: "Certainly, from the moral point of view contraception and abortion are specifically different evils... but despite their differences of nature and moral gravity, contraception and abortion are often closely connected, as fruits of the same tree."<sup>17</sup> Abortion itself is considered a "moral evil", and a breach of the fifth commandment ("You shall not kill."), as human life is to be respected and protected absolutely from the moment of conception<sup>18</sup>. Divorce is considered "a grave offense against the natural law. (...) Contracting a new union, even if it is recognized by civil law, adds to the gravity of the rupture: the remarried spouse is then in a situation of public and permanent adultery."<sup>19</sup> As concerns the position of women in the Church itself, women cannot be ordained as priests.

### **Protestant churches**

28. Unlike the Roman Catholic Church, protestant churches are not centrally organised, and different protestant churches will take different positions on matters of the faith. Thus, for example, evangelical denominations originating in America may hold similar views to the Roman Catholic Church on contraception, abortion and divorce. These views are, however, not dominant in Europe. Taking the birthplace of Martin Luther as an example, the Evangelical Church in Germany, which is an institutional form for Protestant churches that includes a community of 24 Lutheran churches, considers that there is no duty to marry or to have children (although this does not, of course, exclude the desirability of both!)<sup>20</sup>, and thus excludes neither contraception, abortion, nor divorce. Divorcees are allowed to remarry, and women can be ordained as priests.

### **Orthodox Churches**

29. There are 15 Autocephalous (self-governing) and 4 Autonomous (self-ruling) Orthodox Churches around the World, most of them in Europe. The control of the conception of a child by any means is condemned by the Orthodox Church "if it means the lack of fulfilment in the family, the hatred of children, the fear of responsibility, the desire for sexual pleasure as purely fleshly, lustful satisfaction, etc"<sup>21</sup>. As to abortion, the Orthodox Church condemns it as an act of murder in every case<sup>22</sup>. Regarding divorce, the Orthodox Church teaches the uniqueness of marriage, if it will be perfect, and is opposed to divorce absolutely. If, however, a marriage breaks down and collapses, the

<sup>16</sup> The Catechism, Third Part, Section Two, Chapter Two, Article 6, note 2370 (on-line version [www.vatican.va](http://www.vatican.va)). Note 2368 adds: "For just reasons, spouses may wish to space the births of their children. It is their duty to make certain that their desire is not motivated by selfishness but is in conformity with the generosity appropriate to responsible parenthood. Moreover, they should conform their behaviour to the objective criteria of morality. (...)"

<sup>17</sup> Cited in: Cardinal Alfonso Lopez Trujillo : *The Family and Life in Europe*, Pontifical Council for the Family, (on-line version [www.vatican.va](http://www.vatican.va)).

<sup>18</sup> The Catechism, Third Part, Section Two, Chapter Two, Article 5, note 2270 (on-line version [http://www.vatican.va/archive/ENG0015/\\_P7Z.HTM](http://www.vatican.va/archive/ENG0015/_P7Z.HTM) ).

<sup>19</sup> The Catechism, Third Part, Section Two Chapter Two, Article 6, note 2384. It is, however, possible to annul marriages under certain conditions.

<sup>20</sup> Gottes Gabe und persönliche Verantwortung: Zur ethischen Orientierung für das Zusammenleben in Ehe und Familie , 1997, Kapitel III. Familie und Kinder (on-line version [www.ekd.de](http://www.ekd.de)).

<sup>21</sup> Fr. Thomas Hopko: *Meeting the Orthodox, Questions and Answers on the Orthodox Faith*, Question 19 (on-line version [www.oca.org](http://www.oca.org)). The same source qualifies, however, that married people practicing birth control are not necessarily deprived of Holy Communion, if in conscience before God and with the blessing of their spiritual father, they are convinced that their motives are not entirely unworthy.

<sup>22</sup> *Ibid*. The same source explains that, in "regard to all of the very difficult cases, such as a young girl being raped or a mother who is certain to die, the consensus of Orthodox opinion would be that a decision for abortion might possibly be made, but that it can in no way be easily justified as morally righteous, and that persons making such a decision must repent of it and count on the mercy of God".

Orthodox Church does in fact allow a second marriage, without excommunication, that is, exclusion from Holy Communion, "if there is repentance and a good chance that the new alliance can be Christian." Women cannot be ordained as priests.

### **Islam**

30. As with the Protestant churches, the position of Muslim clergy and spiritual leaders will differ in accordance with their interpretation of Islam. It is well known that fundamentalist interpretations of the Muslim faith tend to be quite overtly discriminatory against women, not only concerning the policy questions discussed in this memorandum, and that they are gaining followers in Europe. However, according to more modern interpretations, contraception is not forbidden<sup>23</sup>. Abortion is outlawed unless the mother's health or well-being is at risk (and then, it is only permitted during the first 120 days)<sup>24</sup>. Divorce is possible, but may not necessarily be initiated by the woman (save in very specific circumstances). Islam has been used to justify grave violations of female dignity, such as polygamy and repudiation. Women cannot usually become prayer leaders or members of the clergy.

### **Judaism**

31. As with the Muslim faith, there is no central religious authority. Thus, the attitude to contraception varies. Abortion – in restricted circumstances - is allowed until the 40<sup>th</sup> day, as the fetus is not regarded as an autonomous person<sup>25</sup>. Divorce is authorised, but conditional on the husband's approval. Should the husband refuse to agree to a religious divorce ("guet"), the wife cannot remarry under the Jewish faith, and would commit adultery if she had another partner<sup>26</sup>. In principle, women cannot become rabbis, but certain groups (which are in the minority in Europe) do allow them to do so.

## **E. The blurring of the boundaries between State and religion: religion's impact on non-believers**

32. It is very difficult to portray the attitudes of different religions in Europe to gender equality and key issues impacting on women's lives in just a few pages. In the second part of this explanatory memorandum, I have concentrated on the policy of the different faiths towards their believers. However, there are some instances in which a country's dominant faith has considerably affected State policy, thus imposing religious choices on women, whether or not they are believers themselves. As examples, the divorce policy in Malta springs to mind, as do the abortion laws in Ireland and Poland. Women may also find it more difficult to gain access to birth control in deeply religious countries than in others. Such repercussions on non-believers are difficult to grasp sometimes, but are probably the more dangerous aspects of the conflictual relationship between women and religion.

33. In addition, it should not be forgotten that even many believers choose to ignore their religion's teaching on certain subjects, even though they are devout. Thus, for example, a high proportion of Roman Catholics in Europe do not believe that artificial contraception is a sin – especially when practised within marriage. Similarly, very few Muslims in Europe would support a man's "right" to unilaterally repudiate his wife, or to take up to four wives – and some would argue that a woman not covering her hair is not committing a sin, either. Thus, even in such predominantly Roman Catholic countries such as Malta and Ireland, a too religious State policy on divorce and/or abortion may impose religious choices they do not agree with not only on non-believers, but also on believers which happen to disagree with this particular policy.

<sup>23</sup> Nawal H. Ammar : On Being A Muslim Woman : Laws and Practices, 1995 (on-line version [www.consultation.org/consultation/ammam.htm](http://www.consultation.org/consultation/ammam.htm)). The same source states that Islamic scholars make a distinction between "fertility control" (Tahdid Al Nasl) as a life time halting of reproduction – which is not allowed - and "fertility organisation" (Tanzim Al Nasl) as temporary planning of fertility – which is allowed in certain circumstances. The condom and the diaphragm are encouraged, sometimes oral contraceptives, as well.

<sup>24</sup> Ibid.

<sup>25</sup> Ruling of the Rabbinical Assembly's Committee of Jewish Law and Standards, cited on-line at <http://encyclopedia.thefreedictionary.com/Religion%20and%20abortion>. However, abortion on demand is not permitted.

<sup>26</sup> <http://www.viejuive.com/synagogue/messages/guet.htm>.

34. The failed referendum in Italy to ease the country's restrictive assisted-fertility law in June 2005 is a case in point. The controversial 2004 legislation on "medically assisted reproduction" gave the embryo the same status as a person. As a consequence, embryos created in vitro are not allowed to be screened for genetic disorders, or to be destroyed in a lab, and cloning and embryo stem-cell research has been banned. On the donation of sperm and eggs to infertile couples, the Italian law is amongst the most restrictive in Europe. In a nation-wide referendum, Italians were asked to decide whether or not to relax the law's most restrictive provisions. The Catholic Church waded into the debate, campaigning not for a "no" vote, but instead urging people not to vote at all (for the referendum to be valid, the turn-out had to be at least 50%). Following the new pope's intervention, only 26% of eligible voters turned out to vote – in a country whose mainly Catholic inhabitants voted *en masse* to approve laws on abortion and divorce passed in the 1970s, and who are among the most habitual users of contraception in Europe.

35. While I think that the Catholic Church, like all other religions, has the right to create its own doctrine on such issues as the status of the embryo for the faithful, and to make its views public, I agree with the International Herald Tribune's editorial of 14 June 2005 that "using the power of the pulpit to urge people to stay away from the ballot box is not a religious act, but an antidemocratic one. It is unacceptable interference". As the editorial concludes: "Democracy guarantees the right of every religion to preach its values and beliefs. It does not grant churches the right to dangerously tamper with democracy to impose their rules on everyone else." What the Catholic Church did had a profound effect on those infertile couples who seek fertility treatment but are not accorded it in accordance with the 2004 law – and many of these couples are bound to be non-believers, or Catholics disagreeing with this particular Catholic doctrine.

36. I might add that practically all dominant religious doctrine in Europe (with the exception, once again, of the Lutherans) is formulated by men. In other words, half of Europe's population (the female half) has scant or no opportunity to influence religious doctrine. The more religious influence we thus allow to seep back into our societies and our political decision-making processes, the less representative and the less respectful of women's rights the resulting policies and practices will tend to be.

## **F. Conclusions and recommendations**

37. In the lives of many European women, religion continues to play an important role. In fact, *whether they are believers or not, most women are affected in one way or another by the attitude of different faiths towards women, directly or through their traditional influence on society or the State.* This influence is seldom benign: women's rights are often curtailed or violated in the name of religion.

38. All women living in Council of Europe member states have a right to equality and dignity in all areas of life. Freedom of religion must not be accepted as a pretext for justifying violations of women's rights, be they open, subtle, legal or illegal, practiced with or without the nominal consent of the victims – women.

39. It is the duty of the member states of the Council of Europe to protect women against violations of their rights in the name of religion, and to promote and fully implement gender equality. States must not accept any religious or cultural relativism of women's human rights. They must not agree to justify discrimination and inequality affecting women on grounds such as physical or biological differentiation based on or attributed to religion.

40. The Parliamentary Assembly should thus call on the member states of the Council of Europe to:

i. fully protect all women living in their country against violations of their rights based on or attributed to religion by:

a. putting into place and enforcing specific and effective policies to fight all violations of women's right to life, to bodily integrity, freedom of movement and free choice of partner, including so-called "honour" crimes, forced marriage and female genital mutilation, wherever and by whomever they are committed, however they are justified, and regardless of the nominal consent of the victim;

- b. refusing to recognise foreign family codes and personal status laws which violate women's rights, and ceasing to apply them on their own soil, renegotiating bilateral treaties if necessary;
- ii. take a stand against violations of women's human rights justified by religious or cultural relativism everywhere, including in international fora such as the United Nations, the IPU, etc.
- iii. guarantee such separation between the church and the State as is necessary to ensure that women are not subjected to religiously inspired policies and laws (e.g. in the area of family, divorce, and abortion law);
- iv. ensure that the freedom of religion and the respect for culture and tradition are not accepted as a pretext to justify violations of women's rights, including when underage girls are forced to submit to religious codes (including dress codes), their freedom of movement is curtailed or their access to contraception is barred by their family or community;
- v. where religious education is permitted in schools, ensure that this teaching is in conformity with gender equality principles;
- vi. take a stand against all religious doctrine which is anti-democratic or disrespectful of human rights, especially women's rights, and refuse to allow such doctrines to influence political decision-making;
- vii. actively promote respect of women's rights, equality and dignity in all areas of life when engaging in dialogue with representatives of different religions, and work on achieving full gender equality in society.

*Reporting committee:* Committee on Equal Opportunities for Women and Men

*Reference to Committee:* Doc 9856, reference N° 2855 of 8 September 2003 (extension of the deadline until 7 October 2005)

*Draft resolution* adopted by the Committee on 13 September 2005 with 22 votes in favour and one against.

Members of the Committee: Mrs Minodora **Cliveti** (Chairperson), Mrs Rosmarie **Zapfl-Helbling** (1<sup>st</sup> Vice-Chairperson), Mrs Anna Curdova (2<sup>nd</sup> Vice-Chairperson), Mrs Svetlana Smirnova (3<sup>rd</sup> Vice-Chairperson), Ms Birgitta **Ahlqvist**, Mrs Edita **Angyalova**, Mrs Željka Antunović, Mr John Austin, Mr Oleksiy Baburin, Mr Denis Badré (alternate: Mr Jean-Guy **Branger**), Mrs Gülsün **Bilgehan**, Mrs Marida Bolognesi (alternate: Mr Fausto **Giovanelli**), Mrs Grazyna Ciemniak (alternate: Mr Piotr **Gadzinowski**), Mrs Ingrida **Circene**, Mr Brendan **Daly**, Mrs Krystyna Doktorowicz, Mrs Lydie **Err**, Mrs Catherine Fautrier, Mrs Maria Emelina Fernández Soriano, Ms Sonia Fertuzinhos, Mr Giuseppe **Gaburro**, Mrs Alena **Gajdúšková**, Mr Pierre Goldberg, Mrs Claude Greff, Mrs Arlette Grosskost, Ms Gultakin Hadjiyeva, Mrs Carina Hägg, Mr Poul-Henrik Hedeboe, Mr Ilie **Ilaşcu**, Mrs Halide **Incekara**, Mrs Eleonora Katseli, Baroness Knight of Collingtree, Mrs Synnove Konglevoll (alternate: Ms Jorunn **Ringstad**), Mrs Monika Kryemadhi, Mrs Minna Lintonen, Mrs Danguté **Mikutiene**, Mrs Fausta Morganti, Mrs Christine **Muttonen**, Mrs Hermine Naghdalyan, Mr Hilmo Neimarlija, Mrs Vera **Oskina**, Mr Ibrahim **Özal**, Mrs Patrizia Paoletti Tangheroni (alternate: Mr Gianpietro **Scherini**), Ms Elsa Papadimitriou, Ms Riorita Patereu, Mrs Fatma Pehlivan, Mrs Antigoni **Pericleous-Papadopoulos**, Mr Leo **Platvoet**, Mrs Majda **Potrata**, Mr Jeffrey Pullicino Orlando, Ms Valentina Radulović-Šćepanović, Mr Andrea Rigoni, Ms Maria de Belém Roseira, Mrs Claudia Roth, Mrs Marlene Rupprecht, Mr Össur Skarphéðinsson (alternate: Ms Margrét **Frimannsdóttir**), Mrs Rodica-Mihaela **Stănoiu**, Mrs Darinka Stantcheva, Mrs Rita **Streb-Hesse**, Mr Michal **Stuligrosz**, Ms Agnes Vadai, Mr Vagif Vakilov, Mrs Ruth-Gaby **Vermot-Mangold**, Mrs Williams, Mrs Willot, Mrs Gisela **Wurm**, Mr Andrej **Zernovski**.

N.B. The names of the members who took part in the meeting are printed **in bold**.

Secretaries of the Committee: Ms Kleinsorge, Ms Affholder, Ms Devaux

