Religous liberty and international law in Europe

Malcolm D. Evans *University of Bristol*



Contents

Acknowledgments •		page xi
Chronological table	of international treaties	xii
Table of cases		xviii
List of abbreviation	s	XXX
Introduction		
1 Early antecedent	SS .	- 6
The Ancient Near	East	6
Rome and Christ	ianity	15
The revival of the	just war tradition '	27
2 From Augsburg	to Paris	42
European 'public	order' treaties	45
The European po	wers and the Ottoman Empire	59
Religious factors	and the post-WWI territorial settlement	74
Conclusion		82
3 The League of Na	tions: drafting the Covenant	83
The first steps		84
Consideration by	the Commission	92
The Japanese 'eq	uality amendment'	97

VIII CONTENTS

4	The Polish Minorities Treaty	. 104
	Introduction	104
	The .political background to the treaty	106
	Preliminary manoeuvres	109
	The Polish Treaty in the New States Committee	114
	The Polish response and the finalizing of the text	119
5	The extension of the minorities system	125
	The principle of application	125
	The minorities treaties	129
	The peace treaties	135
	Declarations on admission to the League	139
	Other League-sponsored instruments	142
	Conclusion ,	142
6	The experience under the League .	145
	The scope of protection	145
	The means of protection _	150
	The practice of protection	157
	Conclusion	170
7	The UN system	172
	Introduction	172
	The separation of the freedom of religion from the	
	framework of minority rights	177
	Religious freedom and the Universal Declaration	
	of.Human Rights	183
8	Article 18 of the International Covenant on Civil and Political Rights	194
	The drafting process The unresolved controversies	194
		201
	The subsequent interpretation of Article 18 The key elements	20° 21°
	THE KEY CICITETIES	Z1.

9 1	The 1981 Declaration on the Elimination of All	
	Forms of Intolerance and of Discrimination Based	
	on Religion or Belief	227
	The background to the Declaration	227
	The freedom of religion or belief in the Declaration	
	and Draft Convention <	231
	The content of the right to freedom of thought,	
	conscience or religion	239
	Subsequent elaboration and the work of the	
	Special Rapporteur	245
	Prospects for a convention	257
10	Religious freedom under the European Convention	
	on Human Rights: the drafting of Article 9 and of	
	Article 2 of the First Protocol	262
	Introduction	263
	Article 9: the freedom of thought, conscience and religion	264
	Article 2 of the First Protocol: parental choice in education	272
11 '	The application of Article 9 of the European	
	Convention on Human Rights	281
	The general principles	282
	The scheme of protection	284
	Who has rights under Article 9?	286
	What is a 'religion or belief?	289
	Does the freedom of thought, conscience and religion	20)
	include the right of actualization?	293
	The manifestation of religion or belief	304
12	Restrictions upon the scope of Article 9(1)	315
14	The relationship between Article 15 and Article 9(2)	315
	•	
	The conditions for limitation	318
	The heads of restriction and Article 9	322
	Trends in the application of Article 9(2)	330
	Postscript	340

CONTENTS

ΙX

CONTENTS

13 The application of Article 2 of the	First Protocol 342
The nature of the 'right to education	on' 343
Parental rights in relation to a chil	d's education 345
Which parental convictions are to	be respected? • 348
'Respect' for parental convictions	354
14 An interim conclusion	363
The OSCE	360
Minority rights .	370
The recognition of States	374
Bibliography •	37
Index ' .	380