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Freedom of religion and living together in a democratic society

Committee Opinion[1]
Committee on Social Affairs, Health and Sustainable Development
Rapporteur: Ms Liliane MAURY PASQUIER, Switzerland, Socialist Group

A. Conclusions of the committee

1. The Committee on Social Affairs, Health and Sustainable Development welcomes the fact that the draft resolution prepared by the Committee on Culture, Science, Education and Media builds on earlier texts adopted by the Parliamentary Assembly, in particular on children's right to physical integrity. The new text points out, *inter alia,* that all churches and religious communities have a responsibility to respect human dignity and the fundamental rights protected by our democratic constitutions, and that these values and principles are non-negotiable and must prevail over any social or religious norms.

2. From the Social Affairs Committee's viewpoint, however, and in the light of the recommendations made in, the text should be clarified and strengthened to take better account of the European Convention on Human Rights (ETS No. 5).

3. The Social Affairs Committee would therefore like to propose a few amendments to the text submitted by the Committee on Culture, Science, Education and Media for debate.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

At the end of paragraph 4, replace the words "but any restriction not necessary in a democratic society should be avoided" with:

"in conformity with Article 9.2 of the European Convention on Human Rights, the right to freedom of religion can only be submitted to those limitations which, as prescribed by law, constitute necessary measures, 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."

Amendment B (to the draft resolution)

In paragraph 7, after the word "circumcision", insert the words "of young boys".

Amendment C (to the draft resolution)

In paragraph 9, first sentence, after the word "circumcision", insert the words "of young boys".

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1. Reference to committee: Reference 4022 of 31 January 2014. Reporting committee: Committee on Culture, Science, Education and Media. See . Opinion approved by the committee on 11 September 2015.

Amendment D (to the draft resolution)

in paragraph 13.4, at the end of the last sentence, add the words “including within the religious communities themselves”.

C. Explanatory memorandum by Ms Maury Pasquier, rapporteur for opinion

1. The report prepared by the Committee on Culture, Science, Education and Media follows on from on children’s right to physical integrity” and the work on freedom of religion and religious practices which was carried out later in response to this initial text. Most commendably, the new text points out that all churches and religious communities have a responsibility to respect human dignity and the fundamental rights protected by our democratic constitutions, and that these values and principles are non-negotiable and must prevail over any social or religious norms. The text also calls on all the stakeholders to engage in dialogue.

2. Despite these initial, very clear observations, however, the draft resolution becomes more vague in paragraph 4, stating that any restriction “not necessary” should be avoided, something which strikes me as rather obvious, without making it clear at what point a restriction should be considered “not necessary” (for example, by stipulating that there must be no risk to vulnerable groups, such as children). In order to stay closer to paragraph 9.2 of the European Convention on Human Rights (on which the draft resolution draws in this paragraph 4, with its reference to necessary restrictions)[2] and to employ positive, more robust language, the wording of the paragraph should be changed as suggested in **amendment A**.

3. In referring to certain controversial religious practices, a reference to “young boys” should be added after the word “circumcision” in paragraphs 7 and 9, as proposed in **amendments B and C** respectively. The procedures performed on young children pose a short- and long-term risk to their health, whereas, in certain circumstances, circumcision performed on adult (and sexually active) males has sometimes been found to be beneficial, including even by studies carried out by the World Health Organization (WHO). It is important to make it clear, therefore, that it is above all the circumcision of young boys that is controversial. On a positive note, paragraph 9 of the resolution proposed by the Culture Committee goes further than in calling for parents to be duly informed of “any potential medical risk or possible contraindications”, something that probably does not always happen at present (judging from personal experience in my long career as a midwife in Switzerland).

4. As regards paragraph 13.4, this is naturally to be welcomed, particularly if it also refers to developing critical thinking within religions themselves, in other words, the fact that in a democratic society everyone should have the right and the ability (through their education, for example) to question the rituals of their own religious community and the way those rituals are applied (to their own children for example, where the circumcision of young boys is concerned). This last suggestion is set out in **amendment D** above.

5. Lastly, while I welcome the continuity of the Parliamentary Assembly’s work in the field of religious practices involving various groups and religious communities, I would like to draw attention to one section of the explanatory memorandum prepared by my colleague Mr Huseynov, which seems to me to indicate a misunderstanding in relation to the Assembly’s previous text.

6. In paragraph 37 of the explanatory report, Mr Huseynov states that was potentially misleading in listing circumcision of young boys alongside other more harmful procedures. I would point out that the previous resolution merely observes, in a general manner, that it is concerned about violations of children’s integrity. The resolution does, however, make a distinction in terms of the seriousness and the consequences of various procedures, deeming, for example, female genital mutilation and early childhood medical interventions in the case of intersex children to be the most harmful.

7. As my colleague himself points out, the Assembly “never intended to equate” the circumcision of young boys with such practices. In my view, however, in adopting , the Assembly clearly believed that the circumcision of young boys did amount to a violation of children’s physical integrity, albeit a less serious one than other practices.

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2. See Article 9 of the European Convention on Human Rights “Freedom of thought, conscience and religion” and paragraph 9.2 thereof: “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.”

8. I do nevertheless sense the desire on the part of the rapporteur and the Culture Committee to produce a balanced text and to adopt a positive approach based on awareness raising, education and dialogue, an approach I wholly endorse and one to which I would urge the Social Affairs Committee to remain faithful.