



Ecclesiastical Law (Erasmus)

Unit 2nd: General Comment No.22 of Human Rights
Committee on religious freedom (part A)

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Unit Contents

1. General Comment No.22 of Human Rights Committee (part A)



Unit Objectives

- Understanding of the importance of the General Comment No.22 of Human Rights Committee on religious freedom.





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General Comment No.22 of Human Rights Committee

Analysis of General Comment No.22

- UNCCPR General Comment No.22:
 - ✓ The Comment addresses the right to freedom of thought, conscience and religion protected by **Article 18** of the **International Covenant on Civil and Political Rights**.
 - ✓ It contains authoritative interpretation of international religious human rights standards.



Article 18 paragraph 1 (1/3)

- The right to freedom of thought, conscience and religion:
 - ✓ It includes the **freedom to hold beliefs**.
 - ✓ It encompasses freedom of thoughts on all matters (personal conviction).



Article 18 paragraph 1 (2/3)

- The freedom of thought or the freedom of conscience are protected equally with the freedom of religion or belief.
- The fundamental character of these provisions is that they cannot be derogated **even in time of public emergency** (Article 4 paragraph 2 of the ICCPR).



Article 18 paragraph 1 (3/3)

- There is not only one right, but a **group of rights**.
- This group is divided in two subgroups:
 - ✓ the freedom of **religious conscience** and
 - ✓ religious (or not) **manifestation**.



Article 18 paragraph 2

- The terms “belief” and “religion” are broadly construed.
- Article 18 is not limited in its application to traditional religions and beliefs.
- All beliefs are protected (**theistic, atheistic, non-theistic**).



“Religion” and “belief”

- The legal meaning of the terms is difficult to be defined. This is why they are broadly construed.
- In Europe the subject of legal definition of religion hasn't been elaborated widely, contrary to the USA case-law and legal theory.



U.S.A.

- Three types of legal definition of religion:
 - ✓ **Objective** legal definition with a group of elements (for example: religion is a belief in God).
 - ✓ **Subjective** legal definition of religion (the value which a belief has for the individual conscience).
 - ✓ **Logical** legal definition (two lists of characteristics of already known religions).



Human rights vs. state privileges (1/2)

- Legal definitions of religion are not required for the enjoyment of religious human rights.
- It is enough for a group to state that a religious right is at stake, **proof is not required**.
- Legal definitions are required only if a state confesses religious privileges to religions.



Human rights vs. state privileges (2/2)

- Definition of religious privileges:
 - ✓ religious rights given by the states to religions
 - ✓ beyond religious human rights and
 - ✓ established by international and constitutional law.
- **Examples:** religious assistance in the army, religious education in public schools, etc.



General Comment No.22, Paragraph 2

- It doesn't give a legal definition of religions, but only states that the terms are to be broadly construed.
- The provision is not limited to traditional religions.
- It also concerns the newly established religions with no institutional characteristics.



General Comment No.22, Paragraph 3

- Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief.
- The freedom of thought and conscience or the freedom to have or adopt a religion or belief of one's choice.
- Further explanation of religious freedom:
 - ✓ Freedom of religious conscience (1st subgroup) → **unlimited rights**
 - ✓ Freedom of manifestation (2nd subgroup) → **limited** in General Comments No.22, **Paragraph 4.**



Reference Note

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“Ecclesiastical Law (Erasmus). Unit 2nd: General Comment No.22 of Human Rights Committee on religious freedom (part A)”. Edition: 1.0. Thessaloniki 2015. Available on the Internet address:
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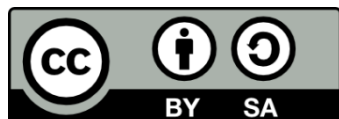
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End of unit

Editing: Marianthi-Eleni Diamantopoulou

Thessaloniki, 26-04-2015



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