

WRITTEN BRIEFING

RELIGIOUS FREEDOM CHALLENGES IN LATIN AMERICA

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REGISTRATION LAWS AND ANTI-CULT LAWS

A number of Latin American countries have problematic legal requirements for the registration of religious groups. In Mexico, for example, in order to register as a religious association, the group must submit various pieces of evidence to the federal government for review and approval. This includes evidence that it has existed in the country for more than five years, as well as detailed information on its internal statutes, governance and doctrine. Once approval is granted, however, a notice is published in the official gazette and any member of the public has 20 days to lodge a protest. This can derail the entire process and is open to abuse.

Over the past five years there have been attempts, some successful, in other countries in Latin America to establish prohibitively high membership thresholds for legal recognition. In Peru in 2010, legislation misleadingly named the Religious Freedom Law was adopted which effectively stripped all religious organisations of their registered status and forced them to reregister under the new criteria. These criteria included a membership of at least 10,000 adults who all have to be verified individually by the National Elections Board. While unregistered religious groups are not illegal, registered groups receive preferential treatment including tax exemptions and the right to run religious schools, obtain missionary visas for foreigners, own property, and solicit and receive voluntary donations. The law was implemented in 2013 and while our contacts on the ground in Peru say that it has not been applied as vigorously as some feared, the fact that it is still on the books and open to abuse is a cause for concern.

In 2013 Peru's neighbour, Bolivia, adopted legislation that was, in some way, strikingly similar but which was expanded to exert control over not just religious groups but all non-governmental organisations. The law, which was supposed to enter into force last month but which is under review by the Constitutional Tribunal, forces all religious organisations to reregister. In order to do so they must submit a notarised list of all of their members to the government, and submit an annual calendar of planned activities to the Ministry of Foreign Affairs for 'control and follow up'. The law also removes the cancellation of a religious group's registration from the courts and turns it over to the Ministry of Foreign Affairs, leaving groups with little legal recourse or transparency should their registration be revoked. Of most concern to religious leaders, however, is a clause in the new law which states that religious groups must operate within the parameters of 'vivir bien',¹ a political ideology incorporating elements of indigenous spiritual beliefs and promoting alternatives 'to capitalism, to modernity and to development'. This clearly poses a problem for many religious organisations whose belief systems do not align with this particular ideology.

Problematic anti-cult legislation has also cropped up in Bolivia's southern neighbour Argentina. CSW has regularly expressed concern about the adoption of anti-cult legislation which can be used to limit religious freedom. Such legislation often goes beyond targeting criminal actions to criminalising a system of belief and non-criminal acts of worship.

Minority religious groups, even those with a lengthy history, are often targeted by these laws. Law 9891 in Argentina, which was adopted at the state level in Córdoba, exemplifies the problematic nature of these laws and their potential for arbitrary and abusive implementation in Article 1, where it states, 'Any person who demonstrates a change in personality is a possible victim of a dangerous cult that uses coercive methods of manipulation.' Argentinian religious leaders have expressed concern that the law on the provincial level is a test run for an attempt to pass anti-cult legislation on the national level. In 2013 the law was used, unsuccessfully, to target the Pueblo Grande Baptist Church in Rio Tercero; it remains on the books.

While the laws in many Latin American countries present a potential threat to religious freedom, a state of lawlessness in many countries presents an even more urgent threat. More Catholic priests were killed in Mexico in 2014 than in any other country in the world. According to the Catholic Multimedia Centre, which has been documenting attacks on Catholic church leaders since 2000, criminal groups tend to see priests and lay leaders as promoting a way of life that is contrary to the objectives of the criminal groups in their preaching and ministry. Although not as well documented, the situation for Protestant leaders is similar. In some cases the criminal groups have prohibited evangelistic work, demanded the active cooperation of church leaders, or attempted to use the church as a front for money laundering or a target for extortion. Uniquely to Mexico, some criminal groups have incorporated a religious element into their ideology – the cult of Santa Muerte for example – and attempted to force church leaders to endorse these beliefs through word or actions. Church leaders who refuse to comply with these demands are met with serious repercussions.

The threats do not always come from criminal groups, however, but sadly sometimes from government security forces. I have just returned from El Salvador, where criminal violence is out of control and where the government is implementing repressive policies that violate fundamental human rights including religious freedom. One pastor told me, "We are in an impossible situation. You cannot work in most of this country without some contact with the gangs. In our children's ministries, for example, 90% of them are the children of gang members. If we hold a special programme their parents, the gang members, attend. We want to use these opportunities to reach out to them and to try to change their lives and turn them away from violence, but for the simple act of having contact with gang members the government security forces label us collaborators. 'Illicit association' is a crime in El Salvador even if you don't commit a criminal act. Pastors working in difficult zones are especially vulnerable to this charge." Earlier this year, Pastor Mario Vega, pastor of a megachurch in San Salvador and head of Elim International Christian Ministries, a major denomination in the country and internationally, was named and threatened on an

1 Praxis en América Latina, 'Horizontes del vivir bien' (Spanish) www.praxisenamericalatina.org/4-12/horizontes.html

internet message board allegedly run by a police death squad. Pastor Vega has openly spoken about the impact of these repressive policies on the churches' ministries, and made calls for the government to incorporate respect for fundamental human rights in its security policies.

Mexico and El Salvador are two examples where widespread criminal violence has had a chilling effect on religious freedom, but similar situations can be found in Colombia, Honduras, Guatemala, and Argentina.

I now want to turn to unique religious freedom situations in three countries which CSW considers to be a priority for religious freedom advocacy in the region. Returning to Mexico, criminal violence is not the only source of religious freedom violations. Religious intolerance in some states, manifested by local leaders attempting to force all inhabitants to adhere to the majority religion, results in widespread and egregious violations of religious freedom. Most cases follow a common trajectory: first the local leaders declare the village to be one particular religion and prohibit the practice of any other. Members of minority faiths are pressured to convert to the majority. If they refuse they will likely first see their water and electricity cut off, their children will be banned from attending school, and they will be prohibited from burying their dead in the public cemetery. If the government does not intervene, as it rarely does, these situations often escalate to violence including arbitrary detention, physical assault and expropriation or destruction of property, and end in mass expulsion and forced displacement.

Despite numerous investigations and strong recommendations from national and state government human rights commissions on some of these cases, the Mexican government at all levels has utterly failed to address this problem. To give one example, 127 people in the village of Union Juarez in the state of Chiapas have been living without electricity or access to clean water for a year and a half. Many now, especially the children, suffer poor health as a result of this. Despite being fully aware of what is happening from the beginning, the government has failed to do anything to remedy the situation. Those responsible for these serious violations which constitute criminal acts are virtually never held to account in the legal system, as if committing a crime for religious reasons constitutes a kind of exemption. To give another example, in 2013 four Protestant men were arbitrarily imprisoned and tortured for four days by the mayor of the municipality of San Juan Ozolotepec in the state of Oaxaca. Their church was destroyed, and the mayor made public calls to lynch all the Protestants. The men were only released after the case received national attention in the media and the National Human Rights Commission opened an investigation. Almost two years later, the mayor, Pedro Cruz Gonzalez, remains in his position with no repercussions. He has in fact gone on to commit even more religious freedom violations, stripping all Protestant members of the municipality of their civil and political rights, including the right to vote in 2014. The victims of the 2013 attack have seen no justice and have been doubly victimised as they are now displaced and unable to return to their homes because of fears for their safety. We estimate there to be at least 100 of these kinds of cases in Mexico today, each involving anywhere from 20 to 130 victims.

Moving now to Colombia. The internal conflict in this country which has gone on for more than a half century has also had a direct impact on religious freedom. I have already mentioned criminal violence, perpetuated in Colombia by neo-paramilitary groups; one of which, the Black Eagles, issued public death threats to civil society leaders, including five named Protestant leaders in the Atlantic Coast region, earlier this year. The group also named 'all Protestant churches' in the cities of Barranquilla and Sincelejo as military targets.

On the other side of the conflict, leftist guerrillas the FARC and the ELN have historically severely restricted religious freedom in areas under their influence or control. In some cases they have prohibited any Christian activity and persecuted, even killed, church leaders who defied these orders. In other cases, while not prohibiting Christian activity across the board they have imposed severe restrictions. In 2013 a document published by the FARC called the *Manual for Co-Existence*, which is still in effect today in the southern region of Putumayo, was leaked. It states that 'Evangelical chapels may only be built in municipal capitals', and 'Pastors and priests will only hold their masses in the churches in the municipal capitals.' Priests and pastors in the heavily rural Putumayo region who have attempted to conduct ministry outside of the municipal capitals have come under threat or been forced to flee.

The manual's restrictions on religious practice are in line with other reports received by CSW. The FARC-EP, a left wing guerrilla group which took up arms in the 1960s and is currently in the midst of an ongoing peace dialogue with the government, has targeted religious groups and leaders since its inception. It is believed to be responsible for the targeted assassinations of hundreds of church leaders over the past 50 years. These include the murders of Reverend Manuel Camacho in the Guaviare region in 2009 and Pastors Humberto Mendez and Joel Cruz Garcia in Huila in 2007; all three pastors reportedly defied FARC-EP restrictions on preaching and evangelising.

Once again, in Colombia state actors have also been accused of violations of religious freedom. Despite numerous rulings by the Constitutional Court that the right to conscientious objection on religious grounds to obligatory military service is protected by the constitution, military forces have not respected this right and have forcibly inducted young men who hold strong religious beliefs that prohibit them from taking up arms. Following a study and recommendations from the National Ombudsman's Office, there are currently efforts underway to put in place legislation that would establish the legal parameters of this right.

I conclude now with Cuba – unique in the Western Hemisphere. From the very beginning the Castro regime attempted to co-opt or control religious expression as much as possible. Religious organisations are overseen by the Office of Religious Affairs of the Central Committee of the Cuban Communist Party. They must seek permission from this office for things ranging from the right to own a vehicle to something as simple as expanding a bathroom or repairing a roof. The Office, in turn, uses the granting or withholding of these permits to manipulate religious groups. Those perceived as uncooperative or unsupportive of government policies often struggle to receive any response at all, much less permits from the Office. Church leaders of legally recognised denominations report harassment, discrimination and threats from government officials as a daily part of their ministry. Religious groups that do not have legal recognition are severely persecuted, and threatened with confiscation or destruction of their property. This year, Reverend Jesús Noel Carballeda spent six months in prison for holding unauthorised religious meetings in Marianao. Another national leader of an unrecognised group, Reverend Yiorvis Bravo, has been fighting a government order to arbitrarily expropriate his home and the location of his ministry since 2013. A request for preventative measures was filed earlier this year at the Inter-American Human Rights Commission.

Over the past five years, CSW has documented a continuous and sharp rise in religious freedom violations. Much of this is rooted in the decades-long government policy of attempting to separate Cubans linked to human rights or pro-democracy movements from bodies of faith. In recent years more and

more church leaders have defied this policy and welcomed all Cubans regardless of their political beliefs into their churches. This has become a flashpoint for religious freedom violations – perhaps most obviously manifested in the violent arbitrary detention each weekend of women linked to the Ladies in White movement, in order to prevent them from attending Sunday Mass. Protestant churches which have opened their doors to all Cubans have also seen repercussions. The Trinidad First Baptist Church in Santa Clara, for example, had its bank account frozen by the government in 2010 as retaliation for the then pastor's permitting of prayers for political prisoners in the church, and the presence of Sakharov Prize-winning dissident Guillermo Farinas in church services.

Finally, new legislation, Legal Decree 322: the General Law on Housing, announced on 5 September 2014 and which went into force in 5 January 2015,² has reportedly been used by government officials to claim the right to seize church properties and to force the churches into the role of paying tenant. Cuban lawyers have told CSW that while the law is meant to regulate private properties (mostly homes) and enforce zoning, and does not specifically mention religious groups, government officials have claimed that it gives them the authority to expropriate property when they deem it 'necessary.' One of the most prominent cases is that of the Maranatha First Baptist Church in Holguin which was informed earlier this year that the property where the church is located, and which has belonged to the church since 1947, now belongs to the government. An international campaign appears to have caused government officials to review their position, and the head of the Office of Religious Affairs informed the denominational leadership that they could expect a decision on the status of the property in October.

The general global perception that Latin America is a Christian region of the world with strong western values has often led to violations of religious freedom, many of them serious, being overlooked. As I have mentioned, the causes for these violations are varied and some are unique to particular countries; however, the good news is that most governments in Latin America, with the exception of Cuba, are willing and open to engage on this issue. Well thought out policies by the United States to promote freedom of religion or belief in the region, carried out in consultation and cooperation with civil society on the ground, have real potential to make a change.

As religious freedom violations in other parts of the world grow in severity and numbers, I believe that Latin America could be a valuable ally in the fight to defend the freedoms and rights we all hold dear. Before it can do this effectively, however, Latin American countries must get their own houses in order.

² More information on the law can be found at www.cubadebate.cu/noticias/2014/09/24/cuales-son-las-principales-modificaciones-a-la-ley-general-de-la-vivienda/#.VXCxNM9Viko (Spanish)

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CSW is a Christian organisation working for religious freedom through advocacy and human rights, in the pursuit of justice.

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