

Yugoslavia: New Legislation on the Legal Status of Religious Communities

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Although religious freedoms were guaranteed in Yugoslavia in the war-time declarations of the Partisans and in every Constitution promulgated after the War, the early post-war years were very harsh. It was not until 1953 when the first federal law on the legal status of religious communities was passed that the Churches and individual believers began to feel some assurance that they could appeal to the law for the defence of their rights. This assurance grew slowly, but by the middle '60s, and particularly by 1965 when the 1953 law was amended and one or two harsh provisions were removed, the situation was much more favourable for believers.*

The new Constitution of 1974 reaffirmed (Art. 174) the provisions concerning religious communities and religion already laid down in the 1965 Constitution (Art. 46) and before that in the 1945 Constitution, but provided that individual republics and provinces should pass separate enabling laws to take the place of the earlier federal law. Draft laws were published by all the republics in 1975-76 and have now all been enacted. All the drafts were submitted for public discussion in which the religious communities were invited to take part, an opportunity which the Catholic and Orthodox Churches in particular took up with vigour.

The religious communities were given certain guarantees in the Constitution: the profession of religion is free and an individual's private affair; no one may be either forced to or prevented from joining a religious community; they are separated from the State and are free to carry out religious services and rites and concern themselves with "religious affairs" (a term which has never been precisely defined). All religious communities have equal status before the law; they are legal persons and may own real estate within the limits determined by law. The social community may—not shall—provide financial help to religious communities. The abuse of religion and religious activities for political purposes is unconstitutional,

*For the Catholic Church, the 1965 law came just a year before the signing of the protocol between the Yugoslav government and the Vatican which gave the guarantees to that Church the force of an international treaty.

and the spreading of religious and national hatred and intolerance is prohibited.

The official Yugoslav quarterly *Survey* published a commentary on the constitutional guarantees in August 1977. It stated:

Every person is guaranteed the right to profess his or her religious feelings without any consequences for his or her status as a citizen.

This falls short of guaranteeing that a person's religious beliefs shall not be a hindrance to employment of any kind, and in fact there are large areas of public life which are in practice closed to known believers, i.e. the officer class in any of the armed services, the diplomatic service, senior posts in government ministries, and most senior posts in the economy. This is a disability which believers share with other citizens who are not members of the League of Communists. A known believer will also have difficulties as a teacher, except in a "neutral" subject, or in exceptional cases, and it would be unwise to be seen in church.* Commenting on the abuse of religion and religious activity, *Survey* states categorically that "religious communities do not have the right to take part in public life". Individual believers, including priests, may express their political opinions in the Socialist Alliance through social organizations of which they are members, including the officially supported Priests' Associations.

It is clear that there is room here for considerable differences in interpretation, and while the laws of the various republics are not contradictory there are differences of emphasis.

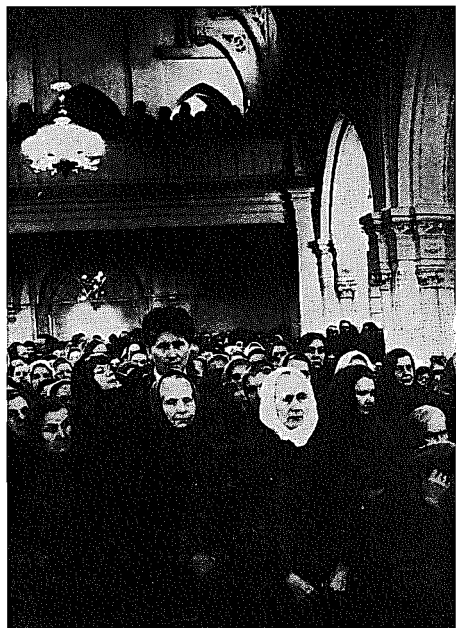
The New Laws†

Some provisions are basic, and common in one wording or another, to all the republican laws. No one's constitutional and other rights may be restricted on the grounds of religious belief or membership of a religious community; but neither may members of religious communities enjoy any special privileges or protection or be exempt from their civil obligations. Citizens may establish religious communities of which the authorities must be notified and which must be registered 15-30 days before undertaking any activities; established religious communities are required to register within six months of the laws being passed.

All the republics prohibit the abuse of religion, religious activities and the religious press for political purposes. Coupled with this, Slovenia (Art. 7), Croatia (Art. 9) and Serbia (Art. 10) prohibit any interference

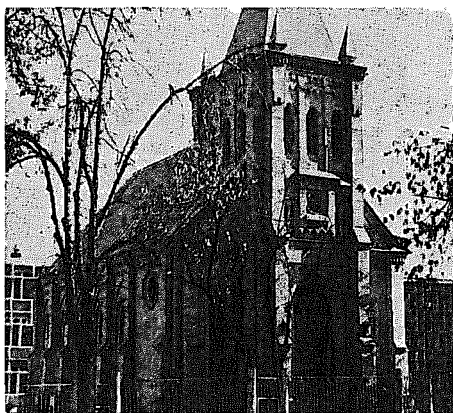
*There are frequent public debates about whether believers may be teachers and considerable variation in local practice.

†This section is based on the laws of Slovenia, Croatia, Serbia, Bosnia and Hercegovina, Macedonia and the Vojvodina Autonomous Province. The writer has not been able to obtain copies of the laws of Montenegro and the Kosovo Autonomous Province.

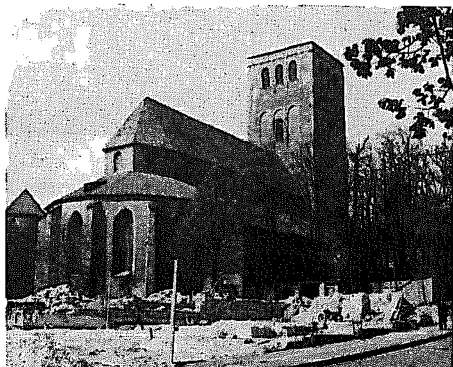


The congregation of the Lutheran Church at Pushkino, outside Leningrad. Lutheranism in the USSR since the Second World War is the subject of an article in this issue of *RCL*, pp. 113-18.

(Photographs, courtesy Keston College)



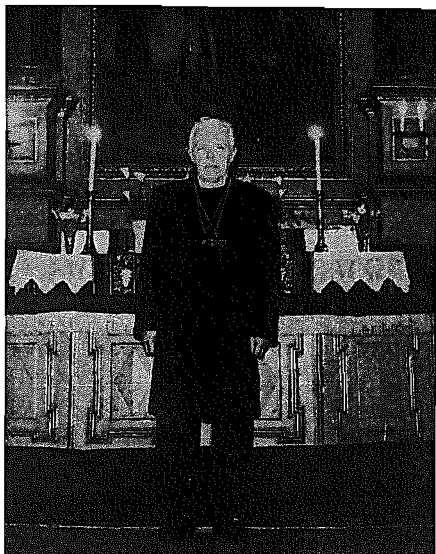
The Lutheran Church in Tashkent which is now used for secular purposes.



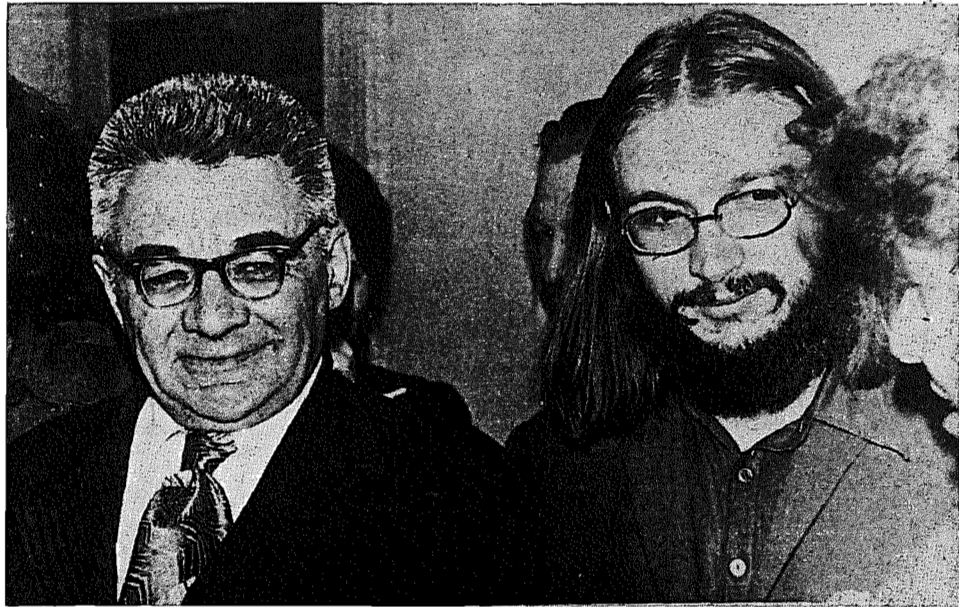
The Lutheran Church of St Nicholas in Tallinn (Estonia).



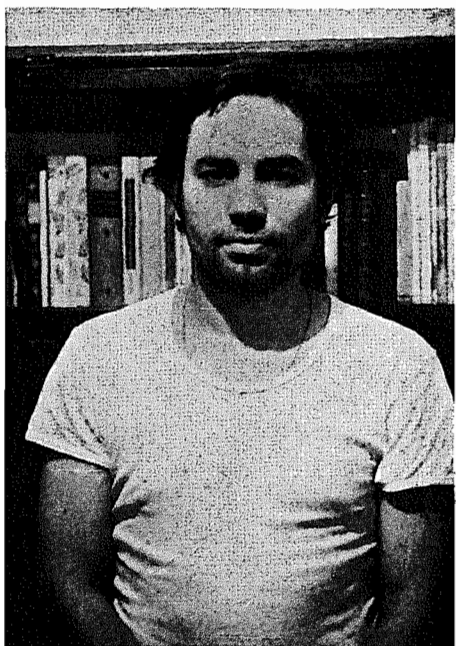
Archbishop Alfred Tooming (d. 1977) who was head of the Estonian Lutheran Church.



Archbishop Edgar Hark standing in front of the altar in the Cathedral of Tallinn. He succeeded Archbishop Tooming in 1977. (© *Eesti Kirik*)



The Russian Orthodox writer Anatoli Levitin-Krasnov and Alexander Ogorodnikov (*right*). In 1974 Alexander Ogorodnikov, a Russian Orthodox Christian, founded the "Christian Seminar on Problems of the Religious Renaissance" in Moscow. See the article and documents pp. 92-112. (© G2W)



Boris Razveyev, a member of the Christian Seminar. (© Aid to Russian Christians)

with the holding of religious assemblies. The Macedonian law (Art. 7) is more precise and prohibits activities which are against the general or particular interests of society, the spreading of religious intolerance, hatred or discord and the preaching of inflammatory sermons; it also prohibits the disturbing and breaking up of religious assemblies.

All the republics allow religious communities to establish a religious press. The laws in Croatia (Art. 7), Bosnia and Hercegovina (Art. 26) and Macedonia (Art. 10) give blanket permission, subject to the provisions of the law on the press, but the Slovenian law (Art. 9) is more precise and specifies that the religious press shall deal with religious instruction, the carrying out of religious rites and activities, and, in general, religious and church matters, and the Serbian law (Art. 11) is similar. The Serbian law also adds (Art. 12) that every publication must be registered 15 days before the start of publication, with its name, its means of finance, and a statement that the editor and responsible editor are citizens of Yugoslavia and have not been convicted of a criminal offence during the preceding five years. The proposal of the Catholic bishops that the Churches should have access to the mass media, i.e. radio and television, was turned down.

All the republics allow persons in hospitals, sanatoria and old peoples' homes to practise their religion and to receive visits from a priest, so long as house rules are obeyed and other inmates are not disturbed (the Serbian law, Art. 34, does not mention house rules). Visits of a priest to prison inmates are not, and never have been allowed.

A new feature of the recent laws is the ban on social activities of the Churches. The draft law in Croatia banned both social and economic activities of religious communities. This would have abolished the charitable activities of the Catholic Church, which in Croatia are extensive and important. The bishops protested strongly, and indeed the disappearance of the work of Caritas would have left such a gap that the clause was withdrawn. Now only social activities, which do not directly serve religious requirements, are banned. Many energetic parish priests organized, for example, sports, excursions and clubs for the young people of the parish, and this has now been virtually stopped. The law in Bosnia and Hercegovina (Art. 6) makes an exception to the above for the conservation and upkeep of objects of cultural-historical and ethnological value belonging to the religious community—a rather curious clause whose application in practice it would be interesting to know more about.

The founding of priests' associations (which are supported by the government) is specifically provided for in the Croatian (Art. 12), the Serbian (Art. 33) and the Macedonian (Art. 27) laws. The Croatian bishops would have liked to see this clause deleted but were unsuccessful in persuading the government to remove it. The other republics do not mention them.

The State may give financial assistance to religious communities, and

all the laws specify that the religious community may spend the funds as it chooses, unless the money is given for specific purposes in which case it may be required to account for them (i.e. the funds given for the upkeep and restoration of historical buildings and art treasures). All republics allow religious communities to collect voluntary donations from their adherents on their own premises, and outside their premises with permission; no one may be either forced to or prevented from contributing; priests may also receive fees for religious services (i.e. weddings, funerals, the blessing of a house).

Use of Premises

All the republic laws allow the performance of religious rites and services in churches (temples or mosques) and in their courtyards, and in other church buildings. Bosnia and Hercegovina (Art. 10) is more precise on this point and adds "insofar as they constitute a whole with it"; religious rites may be performed outside religious premises with the permission of the local authorities (Bosnia and Hercegovina Art. 10, Croatia Art. 15; Serbia Art. 14 requires 15 days' notice). All republics require church premises to be registered, usually 30 days before use begins; all make provision either specifically, or by reference to the Law on Public Gatherings, for the banning of gatherings for reasons of public order or health. Family religious rites (e.g. *slavas**, blessing of a house) outside religious premises are allowed in all the republics without special permission, and all allow religious rites in cemeteries; but all republics make it illegal to introduce political or non-religious matter into funeral orations. Persons who are not Yugoslav citizens may not officiate at religious services or preach except with the permission of the authorities.

Religious Education

‡ All republics allow religious communities to found schools for the education and training of priests, pastors and imams. There is no significant variation in the conditions laid down. Schools and halls of residence must be registered—they come under the general supervision of the competent ministry—but the curriculum and the appointment of teachers are under the control of the religious community. (This, as far as one can see, is genuine. No one whom the writer consulted knew of any instances of improper interference.) No one who is not a Yugoslav citizen may teach in a religious school except with the permission of the authorities. No one may attend until they have completed compulsory education (7-15 years). Slovenia (Art. 10) specifically allows persons who assist the priest, but are not going to be ordained, to attend religious schools, and in practice this is common in all republics, i.e. nuns attend the theological faculties and

*Celebration of a family's patron saint's day. *Ed.*

teach in some of the seminaries and young men who attend both Orthodox and Catholic seminaries and faculties may go on to work in the offices of religious communities, or become catechists, without proceeding to ordination. Bosnia and Hercegovina (Art. 20) is, as usual, more specific than other republics and stipulates that the authorities must be notified of the curriculum and that nothing in the curriculum shall be in opposition to the Constitution. Students at religious schools, with the exception of Bosnia and Hercegovina, now have all the rights (social and health insurance, travel concessions) of students at state schools and universities, except the right to shorter and deferred military service until the completion of education. These are concessions which the Churches sought for many years and have at last been granted in part.

The religious instruction of children is provided for in all the republics. It must be held on religious premises which are places of public access (i.e. a church or church building), it must not clash with school hours or school-linked activities, and must have the consent of both parents and the child. Slovenia (Art. 14), Serbia (Art. 19) and Bosnia and Hercegovina (Art. 19) do not specify the child's age of consent, but Croatia (Art. 17) and the Vojvodina (Art. 11) specify that the child must be over 14 and Macedonia alone specifies 10. (The Macedonian draft law was to have contained a clause forbidding religious instruction of children under the age of 17, but this was leaked in advance and picked up by *Glas Koncila*, the Zagreb religious fortnightly. There was such an outcry that the proposal was dropped.) Clearly the phrase "school-linked activities" lends itself to abuse. One of the most common complaints is that teachers frequently arrange out of school activities which clash with religious instruction or other religious activities, and this is done sometimes with the object of making it impossible for a child to take part in religious activities. There are great variations in practice: as well as many incidents which have led to complaints, the writer has been told of places where the priest and the school reach an informal understanding. There are also many complaints about teachers who, quite illegally, bring pressure on children not to go to religious instruction, or single them out for public ridicule. A determined priest or bishop can very often obtain redress by complaining immediately to the local authorities: for example, in Slovenia recently Archbishop Pogacnik of Ljubljana referred to this abuse in a sermon and asked the authorities to take steps to curb it.

All the republics (with the exception of Croatia which deals with the matter in other legislation) provide that weddings, christenings and circumcisions can only take place after the civil ceremony or registration of birth. An engaging oddity is the provision in the law of Slovenia (Art. 19) and Serbia (Art. 35) for the ringing of church bells at times of natural disaster; Macedonia (Art. 29) provides that church buildings and court-yards may similarly be used in emergencies.

Legal Penalties

Violations of the various laws are not criminal offences but contraventions. The penalties differ considerably but none is particularly heavy: the biggest fine is 10,000 dns (£220/£1=45dns) and the longest prison sentence 60 days. Serious offences such as incitement to religious, national or racial hatred and intolerance are crimes covered by the federal criminal code (Art. 134) and can be punished by imprisonment for up to ten years.

These are examples of differences between republics. Religious instruction given without the consent of both parents and the assent of the child is punished in Serbia by a fine of 1,000-5,000 dns (£22-£110), in Macedonia by a fine of 500-5,000 dns (£11-£110) or 30 days' imprisonment, in Slovenia by a fine of 1,000 dns (£22), in Croatia by 2,000 dns (£44) or 30 days, in Bosnia and Hercegovina by a fine of 500-5,000 dns (£11-£110) or 30 days, and in the Vojvodina by a fine of 10,000 dns (£220). Those conducting religious rites or services outside permitted places without prior authorization are punished in Serbia by a fine of 2,000-4,000 dns (£44-£220) or 30 days' imprisonment, in Croatia by 2,000 dns (£44) or 30 days, in Macedonia by 500-5,000 dns (£11-£110) or 60 days (this article also includes the disturbing or breaking up of religious rites), in Croatia and Hercegovina by 60 days, while Slovenia and the Vojvodina do not mention this article in the legal penalties. Slovenia and Vojvodina punish the religious press for going beyond the permitted boundaries of matters of religious or church interest with a fine of 10,000 dns (£220) and Serbia with a fine of 5,000-20,000 dns (£110-£440). A couple of dozen further infringements of the law are mentioned.

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This mass of detailed legislation is far more close-webbed than the previous federal law on the legal status of religious communities. In some respects the law has been tightened up, in others the religious communities have obtained relaxations which they have sought. The way in which the federal law was applied, especially at a local level, always depended on the temper of the local authorities, the particular circumstances and other chances, although the general climate was determined at the top and this had its influence on the effectiveness of any representations or protests made by the religious communities. All one can be sure of is that these uncertainties and variations will continue, conditioned on the one hand by the very real desire of the higher authorities to include believers and the Churches in the unity of the Federation which is so important to Yugoslavia at this time, and on the other by the gut reactions of hard-liners at all levels who would like to hasten what they see as the inevitable demise of religious belief. The resulting tension will create a situation familiar to all students of Yugoslavia, unpredictable, sometimes painful, often an illuminating pointer to the underlying realities of the political situation.