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IHF FOCUS: Freedom of expression and media; judicial system; religious intolerance; intolerance, xenophobia, racial discrimination and hate speech; protection of asylum seekers and immigrants; women's rights; rights of the child.

Relations between the media and judicial institutions deteriorated significantly as a result of the sharp criticism of judicial institutions and law enforcement in the paedophilia cases since 1997. Many journalists and media outlets were charged and had to pay remarkable sums in compensation to judges, for example, for alleged "damage" to their reputations. This all led to self-censorship and posed a threat to freedom of expression.

The operation of the bar association was undemocratic and restricted the barristers' independence and freedom of expression. Cases have been denounced in which the power of bar presidents and councils has influenced the course of justice.

Foreigners living in Belgium continued to face discrimination and harassment, with an alarming increase in the number of racist groups escalating the situation. Illegal immigrants and asylum seekers whose claims had been rejected were held in centers and subjected to inhuman treatment. Their treatment and dangerous deportation methods endangered individuals' health and life.

Discrimination and the direct harassment of minority religions members, which began in 1997, continued and intensified in 1999, resulting in police surveillance,

harassment by the Surveillance and Research Brigade (BSR) and anti-terrorist brigades in the attacks against so-called harmful "sects." Other human rights concerns included the trafficking in women from Eastern/Central Europe to Belgium, forced prostitution or other humiliating activities, and the holding of delinquent minors with adult prisoners in detention facilities.

Freedom of Expression and the Media

Since the case of Marc Dutroux,² which began in 1997 and was still running as of the end of 1999, relations between the judiciary and the media seriously deteriorated. Judges, magistrates, police and gendarmes³ were widely criticized and accused by the media of slowness, laxity and incompetence in their enquiries in paedophilia cases. Journalists often found it increasingly difficult to enjoy freedom of expression. The judiciary felt threatened by this and confrontation with the press became more militant.

Between 1997 and the end of 1999, magistrates brought a growing number of cases against journalists. In January 1997, an issue of the weekly magazine *Ciné Télévue* was censored before publication as it contained extracts from the late Judge Martine Doutrève's personal notes, which had been confiscated by the chairman of the parliamentary commission into paedophilia during her hearing. In 35 years of Belgian publishing, there had been only been two other cases of pre-publication censorship.

¹ Based on the *Annual Report 1999* of Human Rights Without Frontiers (IHF cooperating organization).

² Over a period of years, Marc Dutroux, a notorious pedophile, kidnapped, locked up, killed or left to starve children who were to be used as prostitutes. His arrest and the subsequent discovery of the extent of his crimes caused an incredible outcry within Belgian society.

³ The gendarmerie is the national police operating under the Ministry of Interior.

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In another case, the late Judge Doutrève received substantial compensation for the “damage” caused by the publication by the weekly *Le Soir Illustré* of a photograph of the judge at a swimming pool on holiday. This ruling raised the question of whether the incident dealt with the free flow of information or whether it amounted to an infringement of the judge’s right to privacy.

In addition to the increasing number of compensation cases being brought to court, the amounts of compensation claimed and received were extremely high. It appeared that certain judges tried to silence the press through financial penalties. Seeing the situation worsen, investigative journalists took out professional liability insurance on a massive scale to minimize these risks. The threat posed to freedom of expression was clear. The media and journalists were threatened with financial penalties aimed at forcing them into self-censorship.

■ In a money-laundering affair denounced by *Le Soir Illustré*, the journal claimed damages in the amount of half a billion Belgian francs (U.S.\$ 12,560,000).

■ The television program “*Au Nom de la Loi*” (In the Name of the Law) was sued by the private company Sterop for 750 million Belgian francs (almost U.S.\$ 19 million)

■ In September, the *Journal du Mardi* published a series of articles accusing Brussels lawyer Georges Lethé – the driving force behind the so-called sectarian movement Le Caillou – of subjecting a female adolescent to degrading and inhuman treatment during the 1960’s. Lethé sued the journal and claimed 5 million Belgian francs (U.S.\$ 126,600) in damages.

■ On 4 November, the Tribunal of First Instance of Antwerp confirmed its previous decision to ban the distribution of the

book *Edition Guggenheim* by the Flemish writer, Herrman Brusselmans. Fashion designer Ann Demeulemeester had initiated proceedings against him after the book’s author described her in less than glowing terms and, for example, made references to her imagined sexual fantasies. None of the hundred Flemish personalities vilified in the book took any legal action.

■ Also in November, the Brussels Court of First Instance ordered Michel Bouffioulx and Marie-Jeanne Van Heeswijck to pay 500,000 Belgian francs (U.S.\$ 12,600) in damages to Jean-Luc Duterme, the gendarmerie commandant. In the weekly publication *Téléoustique*, they had accused him of failing to properly use certain witness statements in a paedophilia affair. The two journalists appealed the decision.

■ In November, two journalists, Philippe Breways and Jean-Frédéric Deliège, were ordered by a Brussels court to pay 1.3 million Belgian francs (U.S.\$ 32,700) in damages for having published “injurious, offensive and slanderous” articles in the daily newspaper *Le Soir Illustré*. The articles were said to be “particularly set against” two investigators from the Surveillance and Research Brigade (BSR) of the police force.

Judicial System

The president and the council of the bar associations had wide discretionary powers that enabled them to influence the course of justice.

The intervention of some organs of the bar associations was increasingly contested both by barristers and persons on trial. These bar associations were accused of carrying out a corporatist policy and failing to defend the interests of their clients.

The criticism was targeted primarily at the presidents and councils of the bar associations who were not democratically elect-

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ed. In the French Bar Association of Brussels (*L'Ordre français des Avocats du Barreau de Bruxelles*), barristers had to vote for as many candidates as there were positions available to ensure that their votes were valid. In practice, this meant that they often had to vote for candidates who they did not wish to elect, as the number of candidates normally only slightly outnumbered the number of seats available.

Moreover, the same individuals always counted the votes and were always selected by the bar president. Observers were forbidden from monitoring the count.

The president and council of the bar had enormous and unfettered power: in practice, they were able and sometimes did influence the course of justice. Under a pretext of tactlessness, bar presidents could and sometimes did force barristers to drop cases, depriving clients of their chosen counsel, sometimes just before a hearing or deadline. These decisions were made with no compulsory formal procedure or motive and effectively no opportunity for appeal.

Barristers who were critical of bar associations or magistrates were increasingly prosecuted. They faced unilateral sanctions and disciplinary actions, often without details of the infraction to be prosecuted. The presidents of the bar associations could therefore be true censors: they could prevent and sometimes did prevent barristers from defending certain theories, exposing certain arguments or criticising certain decisions.

■ A barrister who was summoned before the French Bar association of Brussels and accused of a lack of deference, dignity and discretion in his approach to a magistrate was supported by some one hundred people, including many of his clients. The barrister in question claimed that the president had not acted independently, but rather on the order of the magistrate, and

that the bar council always condemned and never acquitted.

This sort of procedure threatened lawyers' independence: they were sanctioned for expressing their own opinions, their clients' opinions, or for criticizing a magistrate. It also restricted the barristers' freedom of expression: those visible in the media, notably in the Dutroux case, have since not been authorised by their bar president to participate in televised debates.

■ In June, three barristers were ordered by the president of their bar association to close their website on the ground that "several viewpoints were not acceptable" and that "personal data, inappropriate value judgments of the law and functioning of Justice in general, clumsily selected examples, particularly with regard to probity and fees", were exposed on their website. Although the criticisms only concerned 2–3 pages of the website, the president of the bar ordered the closure of the entire site. Moreover, the barristers concerned were reminded that, according to the regulation of the National Bar Association, barristers need permission, which could be denied arbitrarily and without justification, from the president of their bar in order to launch a website. This regulation of the Belgian Bar Association was inconsistent with the basic principles of freedom of expression contained in all the international instruments that Belgium has ratified.

Religious Intolerance

Institutionalized Discrimination

The relationship between the state and religion in Belgium is historically rooted in the principle of recognition and non-recognition of religions. However, recognition criteria were not enshrined in the constitution or other legislation. Recognized religions and secular humanism (*laïcité*) were subsidized by the state.

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Catholicism (under French rule since 1802), Protestantism (since 1802) and Judaism (since 1808) enjoyed, de facto, the status of state recognition since the Belgian state was created in 1830. Anglicanism was recognized in 1835, Islam in 1974 and Orthodoxy in 1985.

In 1999, the Belgian state interfered in the internal affairs of some religious communities.

In December 1998, elections took place within the Muslim community, in collaboration with the Belgian state, so as to create an administrative umbrella organization that would reflect its various components in Belgium and with which the state could confer and negotiate. Out of 51 elected and 17 coopted candidates, the state used its discretionary power to select the 16 members of the Muslim representative body. This interference aroused much criticism within the Muslim community.

Between 1974 and the end of 1999, Muslim communities received no financial support from the state. In the new legal framework, such support will be possible.

In the past, the Belgian state also used its discretionary power to recognize one or two movements inside spiritual families where pluralism prevailed: the EPUB (*Eglise protestante unie de Belgique*/United Protestant Church of Belgium) and Anglicanism in the Protestant family, or the Greek and Russian Orthodox Churches in the Orthodox family. This selective recognition was also a clear form of state interference in the religious sphere and, until recently, was a source of conflict of interest between Protestant denominations.

Consequently, Pentecostal and Evangelical Churches, which represented 50 percent of the Belgian Protestant population, created a Federal Synod and applied for separate recognition. The Ministry of Justice turned down their application and ad-

vised them to set up a common administrative body with the EPUB. However, no promise was made as to an appropriate increase in state financing. Although the principle of an administrative coordination body was seemingly accepted by both branches of Protestantism in 1999, more conflicts with the state and inside the Protestant community were to be expected due to state interference in religions in Belgium.

Secular humanism (*la laïcité*), whose symbol is the torch, was recognized through the Central Secular Council (*Conseil Central Laïque*) but only a portion of the secular humanists, free thinkers, agnostics, and atheists considered themselves to be part of this organization.

Thus, a number of minority religions were recognized by the state and enjoyed, to some extent and with the exception of Islam (about 250,000–350,000 members), various financial and material advantages. However, Jehovah's Witnesses, who had a monolithic structure and a clear leadership comparable to the Roman Catholic Church, remained non-recognized although they were more numerous than many recognized religious communities. Through recognition, Jehovah's Witnesses did not seek financial support but rather only the right to bring spiritual assistance to their members in hospitals, detention places for asylum-seekers and similar institutions, a right granted only to chaplains of recognized religions and moral advisers of secular humanism.

Other smaller religious groups have also asked for state recognition, but without success.

The distinction between "good" and "less good" religions was discriminatory. The income taxes of about 130,000–140,000 Belgian citizens who belonged to non-recognized religions were used to finance recognized religions and secular human-

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ism, to which they did not profess and which were sometimes openly hostile to their own beliefs.

The Sect Issue

On 28 March 1996, parliament passed a law creating a parliamentary enquiry commission on cults, comprised of 11 members. They presented their report on 28 April 1997. A list of 189 “movements” suspected of being harmful “sects” was attached to the report. In 1999, an observatory of sects called the Advice and Information Center on Harmful Sectarian Movements was created.

Since the publication of the parliamentary report, Human Rights Without Frontiers (IHF member) received an increasing number of complaints from individuals and minority religions mentioned on the controversial list. They had been subjected to various forms of harassment and other human rights violations, including defamation, slander, victimization in the neighbourhood, at work and at school, anonymous threats, harm to reputation, loss of jobs or promotions, dismissals, loss of visitation rights or child custody in divorce settlements, bomb threats, denial of room rental for religious ceremonies, closure of bank accounts, humanitarian agencies’ refusal to get donations from “sects”, denial of access to public display boards, etc.

In 1999, minority religions considered dangerous and harmful “sects” in the 1997 parliamentary report came under police surveillance – a unique phenomenon in Belgium’s history. This disturbing policy, carried out by the Ministry of Interior, was widely documented.

Prior to the June 1999 parliamentary elections, the Surveillance and Research Brigade (BSR) targeted “sect” members,

searched the communities’ offices and homes of their members, interrogated and attempted to collect incriminating evidence. Such operations escalated under the new minister of Interior, Antoine Duquesne – who was the deputy chairman of the Parliamentary Enquiry Commission on Cults – amounting to a clear strategy of intimidation, paralysis and isolation of minority religions. Minister Duquesne also publicly made common cause with an anti-cult movement called *Aide aux victimes de comportements sectaires* (Help to victims of sectarian behaviours). The movement was founded primarily by former Jehovah’s Witnesses.

■ Since the Anthroposophic Society won its case in the first instance against the French Community⁴ with regard to defamatory statements spread in the sect prevention brochure “Guru, watch out!”, its only school (Free Steiner School in Court-St-Etienne), subsidized by the French Community, became a target of administrative harassment. Those schools under the authority of the Flemish Community were not subject to such harassment. Moreover, the BSR visited parents of former students of the Steiner School, trying to collect negative statements about the school. The Anthroposophic Society lodged a complaint with the Court of Arbitration against the creation of an Observatory of Sects, putting forward its unconstitutionality. A decision is expected in the year 2000.

■ The group *Vibration Coeur* (Vibrating Heart) has been trying since 1997 to sue the Belgian State because it was mentioned on the list of 189 suspicious sects – to no avail. *Vibration Coeur* is a non-profit making association of five psychotherapists which holds training sessions for medical practitioners. It claims to have had a loss of approximately U.S\$ 75,000 because it features on “the list” and seeks compensation from the state. Up to the

⁴ Parliament of one of the federal entities of the Federal Kingdom of Belgium.

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end of 1999, the state, represented by the ministries of Interior and Justice, used any means to avoid a court appearance. The case was postponed until the year 2000.

■ In 1999, the headquarters of the Belgian Adventists was visited by BSR officers, allegedly inquiring about religious movements professing the end of the world in the near future.

■ Pentecostal-oriented congregations and groups, which were on the list of 189 suspicious movements, were also harassed by the BSR and fiscal services, while religious institutions linked to established religions were not.

■ In January 1999, Mrs. Vo, the Belgian secretary of the non-profit making association Spiritual Human Yoga, was arrested by the anti-terrorist unit of the BSR and imprisoned for 22 days. The spiritual leader of the movement, Master Dang, an American citizen, was also imprisoned for 65 days. He was released only after paying U.S.\$ 1.3 million in bail. The computers, and files containing the names of the participants in the courses, were confiscated. BSR officers interrogated the participants. The case was pending at the time of this writing. The Spiritual Human Yoga headquarters in Belgium closed down, and the leaders left the country.

■ In spring 1999, a Flemish family practising Sahaja Yoga was visited by BSR officers who had been informed that the child was with his grandmother at an ashram in Rome. The parents were made to sign a statement that the child was at an ashram. A member of Sahaja Yoga in Mechelen, who had advertised courses, was contacted by BSR officers of Leuven to find out more about her activities. In a separate case dating back to May 1998, Lieve Van Roy, the mother of a seven-year old child, was arrested by the anti-terrorist unit of the BSR in the courtroom of Mechelen. She was imprisoned for one month, and de-

prived of her custody rights because she was living with her son in an ashram in Rome. She was not allowed to visit her son for 17 months. On 13 October 1999, she was eventually granted the right to have her son at home every second Saturday, for nine hours.

■ On 30 September, the offices of the Church of Scientology in Brussels were searched by 120 officers of the anti-terrorist section of the police. The homes of the president, the treasurer and ten businessmen were also searched. Private apartments in Belgium and France were simultaneously searched in a joint operation carried out by the Belgian and French police. Among the targets were Martin Weightman, who is in charge of the Scientology's Public Affairs Office. Computers were removed, including files with the list of members. Fifteen people were interrogated. Nobody was charged. The whole operation lasted for about 12 hours. The case is pending as of this writing.

According to Human Rights Without Frontiers, it was clear that any of the 189 groups suspected of being harmful sectarian movements could be concerned about being under police surveillance. The use of an anti-terrorist brigade in all police interventions linked to the "sect issue" has given the impression, in the media, that the incriminated movements, and some of their leaders or members, are dangerous. Media coverage reinforced this image and religious intolerance.

Intolerance, Xenophobia, Racial Discrimination and Hate Speech

Belgium has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and the ICCPR, article 20(2), which forbids any call to national, racial or religious hatred. The Belgian law of 30 July 1981 was aimed at cracking down on acts inspired by racism

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or xenophobia, but, in practice, its application has been limited by several deficiencies.

In 1999, as in previous years, cases of racism and xenophobia primarily involved problems encountered by foreigners with public services, law enforcement (through abusive identity checks, etc), discrimination in the work place, housing, and even access to public places such as nightclubs.

Several extreme-right groups whose central philosophy was racism were active in Belgium, including a small Flemish neo-Nazi group called Odal Aktiekomitee, which, in September 1998, demonstrated against the "foreigners' right to vote"; the group Assaut, which was sentenced in the past for acts of violence or racism; the Referendum party of neo-rexist⁵ in the Liege region; the National Front (FN); the New Front of Belgium (FNB); and the Belgian Nation Front (FNB-Parti). There was an alarming increase in the number of French- and Flemish-speaking racist, neo-Nazi and negationist⁶ Internet sites.

The Center for Equal Opportunities, which was able to act as a civil party in cases involving racism and xenophobia, had 28 files open in 1999. Among these cases was the Vlaams Blok, an extreme-right Flemish party accused of inciting racial hatred during airtime given to political parties on national television. This behaviour led to the adoption, on 12 February of a law that added an article to the 1989 law regulating the financing of political parties. The new article allowed for the suppression of grants allotted to any political party hostile to human rights.

However, many complaints against acts of incitement to racial discrimination, hatred and violence committed by the extreme

right-wing media were thwarted by the incompetence of the criminal courts dealing with cases of press freedom.

Protection of Asylum Seekers and Immigrants

Since 1988 there have been more calls for "closed centres" run by the Foreigners' Office in order to facilitate the deportation of illegal immigrants and asylum seekers whose claims have been dismissed. As of 1999, there were two transit centres called "127" and "127bis" in Melsbroeck and Steenokkerzeel, near Brussels, and two centers for illegal immigrants in Merksplas and Bruges.

Inmates held in these two centers were subjected to treatment that violated international human rights standards. The sanitary and hygiene conditions were frequently criticised. Families who had been refused the right to asylum were kept in detention. Human rights organisations demanded an alternative solution to the detention of children and the way in which they were schooled. In addition, as of early November, there were 20 unaccompanied minors and about 15 children in closed centres.

Transit center "127" was set up in a building with a maximum capacity of 100 beds. Its ventilation, insulation and heating were sub-standard. There were only two communal areas (the detention area and the refectory). Asylum-seekers who had lodged an asylum request at the airport were accommodated there.

Transit Centre "127bis" was inaugurated in March 1994. In 1999, it housed people who had entered the country without the necessary entry papers and then had their asylum requests dismissed by the Foreign-

⁵ Rex was the Wallonian leader of the fascist movement under German occupation in World War II.

⁶ Negationists deny the Jewish Holocaust during World War II.

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ers Office. More than half of the personnel employed there were charged with surveillance. There was only one communal area, which served as both the refectory and leisure area.

Illegal immigrants were held at centers in Bruges and Merksplas, awaiting repatriation. Since 1998, these two centers also offered a separate prison-like wing as an extra transit zone to transit centres "127" and "127bis" once they were overcrowded. The Merksplas Center, set up in March 1994, could house 120 people. The Center at Bruges, open since 1995, could house 80 men and 32 women. A third Centre was opened at Vottem, near Liege, and can hold 160 individuals.

In July 1998, the Council of the State annulled the internal regulations of these centres, finding them more severe than prison regulations. Little or no activity was provided, resulting in idleness and boredom.

Treatment and Deportation

The deportation measures have caused several serious scandals, the most well-known case dating back to 1998 when Semira Adamu was suffocated with a cushion held by two gendarmes during her deportation to Nigeria. As of the end of 1999, no one had yet been sanctioned. Other cases jeopardizing the health of deportees continued.

■ On 4 January, gendarmes violently intervened during a peaceful protest at the Bruges "closed center." Several inmates were bitten by police dogs. On 15 January, similar incidents took place at the Merksplas center.

■ During an abortive deportation on 24 January, a Sierra Leonean woman was reportedly handcuffed and beaten. The then Minister of Interior, Luc Van den Bossche, downplayed the case, claiming she had thrown herself down the stairs.

■ On 30 January, the deportation of a Sierra Leonean man ended in the intensive care unit of a hospital at Conakry after his treatment at the hands of Belgian gendarmes.

■ On 12 March, after a deportation attempt, a doctor at the detention center "127bis" noticed that one of the individuals had wounds on his wrists, neck, torso and left shoulder, and a fractured leg.

■ On 12 August, an attempted suicide took place at the center "127bis." The wardens allegedly turned a blind eye. Disappointed by their attitude, the prisoners rioted. Two prisoners between the ages of 16 and 18 were hospitalized, one with a fractured leg.

■ In early October, Belgium deported 74 Slovak gypsies even though the European Court of Human Rights had previously promulgated a provisory measure to stop the forced repatriation of this type of asylum-seekers.

Illegal immigrants had no right to humanitarian aid, urgent medical care or social assistance at any stage either during their asylum demand or on appeal to the Council of State.

In November 1999, the government adopted a law that shortened and simplified the process of examining asylum claims. This law also provided for the regularisation of certain categories of illegal immigrants. The new Minister of the Interior, Antoine Duquesne, stated that during the past decade, 90,000 repatriations had not in fact taken place. He announced that the repatriation of non-regularized refugees and immigrants would be more forcibly administered, either by voluntary departures, or by putting them on flights – even chartering special flights if the refugees were violent.

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Women's Rights

In 1999, as in previous years, hundreds of women were brought to Belgium via Mafia networks as the victims of human trafficking. They came from countries such as Albania, Bulgaria, China, Hungary, Morocco, Nigeria, the Philippines, Poland, Romania, Sri Lanka, Thailand, Turkey, and the Ukraine. Most were under 30 years of age and were thrown headlong into prostitution or clandestine work. They were lured to western countries by promises of high-paying work but were treated as sexual slaves on arrival. Many women worked under contracts according to which they had to reimburse their travel costs, a fact that virtually forced them into prostitution.

Sentences and fines given to traffickers – from two to six years imprisonment and an average of 100,000–400,000 Belgian francs (approximately U.S.\$2,500–10,000) – seemed too insubstantial to have any dissuasive effect. In addition, the Commission to Defend Victims of Intentional Acts of Violence (a state agency) could only indemnify those persons in Belgium with a legal permit, something which the vast majority of victims did not possess. During legal action, victims and witnesses were not provided with special protection.

Moroccan wives who were repudiated by their husbands, according to Moroccan law, had to have the phrase “repudiated” on their Belgian identity papers, even though this provision does not exist in Belgian law. This administrative practice was both degrading and discriminatory, as Moroccan wives had no option to repudiate their husbands, a right only granted to husbands and without any recourse to the courts.

Rights of the Child

Article 53 of the law regarding the protection of children was in contravention with the European Convention on Human Rights. In practice, this article allowed a judge to place a delinquent minor in prison for a maximum of 15 days if there was no space in a secure center. The law prohibited the mixing of adults and children in prison and as prisons were overpopulated, the minors were placed in solitary confinement. Article 53 led to several tragedies, notably the suicides of young people in prison.

■ On 25 September, the Brussels Court of First Instance fined the French Community (one of the federated entities of the Belgian State) 10 million Belgian francs (approximately U.S.\$ 251,000) a day for failing to place a young delinquent “in a closed center” under the authority of a public institution for youth protection.

The detention of minor plaintiffs in secure centers for criminals was also a violation of childrens' rights. The French Community promised to increase, by September 2000, the number of housing possibilities in closed centers for young delinquents from 27 to 50, but this capacity will still not account for the real number of juvenile offenders. ■