

May 18, 1990

GHANA

Official attacks on religious freedom

The Ghanaian government, the Provisional National Defence Council (PNDC), has attempted to crack down on churches and other religious organizations through the imposition of a controversial new law. PNDC Law 221 requires all religious bodies to register with the Ministry of the Interior, so as to make them "accountable" to the government. The law is being opposed by Ghana's major churches on the grounds that it constitutes an infringement of fundamental rights, as guaranteed by the Universal Declaration of Human Rights.

In the past the PNDC has frequently used its legislative powers in order to silence what it regards as voices of political dissent. In a previous newsletter (July 14, 1989) Africa Watch reported on the government's attack on the Ghana Bar Association, the press and the trade unions. The churches, one of the few remaining public organizations which have not yet come under direct government control, are the latest target of the PNDC's attack on independent institutions.

Africa Watch believes the fears of the churches, that PNDC Law 221 constitutes an infringement of fundamental human rights, to be well founded. If enforced, the new law will have grave implications for the further erosion of human rights and civil liberties in Ghana.

PNDC Law 221, also known as the Religious Bodies Registration Law, was introduced on June 14, 1989. Its implementation followed allegations of corruption among several of Ghana's numerous religious organizations.

Section 3 of PNDC Law 221 requires that:

...every religious body in Ghana shall be registered under this Law and no religious body in existence in Ghana shall after three months from the commencement of the Law operate as such unless it is registered under this law.

Section 20 defines a "religious body" as:

any association of persons or body or organization which professes adherence to or belief in any system of faith or worship, or which is established in pursuance of a religious objective.

Registration carries with it a fee of 50,000 Cedis (\$150). In addition all religious bodies, upon registration, are required to submit their constitutions and their accounts for scrutiny to the Ministry of the Interior. Responsibility for the enforcement and administration of the law lies with the Religious Affairs Committee of the National Commission for Culture. Its members are directly appointed by the PNDC government and it is responsible to the Ministry of the Interior.

Under the provisions of PNDC Law 221 extensive discretionary decision-making powers are devolved upon the Religious Affairs Committee. It is the Committee's prerogative to grant or deny applications for registration to the individual religious organizations. The decisions of the Committee are final: there is no right of appeal to a legal court against its decision. The Committee is also, under the new law, empowered to inspect places of intended worship before recommending approval of applications. The Religious Affairs Committee is thus empowered to make final and legally binding decisions on the basis of its own recommendations.

Officially, the purpose of the Religious Bodies Registration Law is to protect all citizens from religious malpractice and, in the words of the Head of State, Flight Lieutenant Jerry Rawlings, to "preserve the purity of religious teachings."

According to the Secretary of the Interior, Nii Okaija Adamafo, the law had become necessary because "too many bogus churches" had sprung up in Ghana, which were largely "one man operations," and which, "recognizing no law," posed a "social nuisance," using the pretext of religion in order to further their own private interests. In such a situation, Adamafo said, it was "absolutely inexcusable for a responsible government to stand by and stare on the lame pretext that religious worship is a private matter." Adamafo, who made his remarks at the Silver Jubilee Durbar of the Police Church in Accra in November 1989, concluded by urging all religious organizations to explain "the need and necessity" for the law to their memberships.

However, the need for such a law has been questioned by many of the established churches in Ghana, who have consistently protested against its implementation. The churches argue that laws on good order in public worship already exist and that their enforcement would be sufficient to check, where necessary, against religious malpractice and corruption. The churches fear that the real purpose of PNDC Law 221 is to establish a mechanism of political control and surveillance by the government over the churches.

Indeed, when not addressing religious organizations in public, the Ministry of the Interior has been far less cautious in its remarks regarding the "good intentions" of the government with

respect to PNDC Law 221. The Ministry was recently quoted as saying that the law had been introduced because "certain individuals and groups are using or planning to use church premises as meeting grounds in furthering their political schemes." Some church premises had, according to the Ministry, already been used "for activities calculated to undermine national security." (*Africa Events*, February 1990)

Given that under the provisions of the new law no legal recourse exists against the decisions made by the Religious Affairs Committee, there clearly is an extra-legal dimension to PNDC Law 221. The churches' apprehensions, that the law constitutes an infringement of individual rights on the excuse of protecting Ghana's "national security", are thus well-founded.

The Churches' Opposition to PNDC Law 221

Significantly, it is not the Interior Secretary's "bogus churches" which have been most consistent in their opposition to the new law, but rather Ghana's well-established and respected major churches - in particular the Ghana Christian Council of Churches and the Catholic Bishops' Conference.

The first public opposition to PNDC Law 221 was expressed at the end of the Catholic Bishops' Conference in Ho on July 7, 1989. Its President, Bishop Kwasi Sarpong of Kumasi, expressed disquiet at the bannings, the previous month, of two religious sects: Nyame Sompá Ye at Ekwamkrom in the Central Region, and Jesus Christ of Dzorwulu in Accra. Bishop Sarpong warned that these bannings set a precedent which could endanger all religious groups.

On November 14, 1989, the Ghana Christian Council of Churches and the Catholic Bishops' Conference made public their opposition to PNDC Law 221 and stated their reasons for opposing it, in a pastoral letter which was distributed and read out to their congregations:

In its present form PNDC Law 221 constitutes an infringement of the fundamental right of the freedom of worship. For this reason we are of the view that our churches would be surrendering, both for their present membership and for future generations, a fundamental and inalienable right if we registered in accordance with this law. We cannot, in conscience, register under PNDC Law 221 as it now stands. In fact, our decision has been communicated to the government in a letter dated November 10, 1989.

The pastoral letter goes on to argue more explicitly that in making registration a condition for being allowed to worship, PNDC Law 221 constitutes a violation of Article 18 of the Universal Declaration on Human Rights, as well as of Article 8 of the African Charter on Human and Peoples' Rights. The churches also point out that PNDC Law 221 is in direct contradiction with PNDC Law 42, which states:

Respect for fundamental human rights and for the dignity of human persons are to be cultivated among all sections of society and established as part of the basis of social justice.

The churches further argue that the extensive powers given to the Religious Affairs Committee under the provisions of the new law endanger civil liberties. In the absence of provisions for recourse to a court of appeal against the Committee's decisions, the law constitutes a violation of Article 10 of the Universal Declaration which entitles everyone "in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charges against him".

Finally, the pastoral letter states the moral objections of the Churches to the Religious Affairs Committee's power to inspect places of worship:

What we find basically unacceptable about this section of the law is that it will enable a secular bureaucrat to intrude into places of worship ... an intrusion into the privacy of our churches and our worship.

In February 1990, at the Ghana Catholic Diocesan Priests Association's annual congress, the national president of the association, Reverend Charles Palmer-Buckle, called for the repeal of PNDC Law 221 and for the enforcement instead of existing laws on good order in public worship. He also suggested the establishment of a forum between church and government leaders in order to "find a solution to the abuses and immorality perpetrated by some under the guise of religion".

The Government's Response to the Churches' Opposition

The government has consistently rejected calls for a repeal of PNDC Law 221. It argues that opposition to the law is based either on mere stubbornness or on a misinterpretation of the letter of the law.

Speaking at the Scripture Union Rally in Tamale in December 1989, the Northern Regional Secretary, W.W. Zakari, warned that the churches would not be allowed to "infringe upon the interests of the state" and that the government would ensure that the churches would "subordinate themselves to the government." In a similar vein, the Eastern Regional Secretary, Ohene Kena, accused the churches of using "unfair tactics in a bid to stop the government from taking action that many of our people support."

The government sees evidence for widespread support for the law in the fact that more than 19,000 application forms have been purchased by the various religious bodies, most of which have been completed and submitted to the district assemblies. The Pentecostal Association of Ghana and the Organization of Independent Churches, which together claim to represent over 1200 churches in Ghana, are said to have written to affirm their support for the registration exercise.

However, the government has twice had to extend the deadline for registration. The original deadline was October 19, 1989. It was initially extended to November 14, 1989 and has since had to be extended once more because of the failure of Ghana's major churches - the Methodists, Anglicans, Presbyterians and Roman Catholics - to register. These churches continue to ignore the registration deadline.

As a result of this persistent conscientious objection to PNDC Law 221, the government has in recent months been forced to adopt a more conciliatory approach. In December 1989 PNDC member Justice D.F. Annan announced that the government was considering various submissions made for a review of parts of the Religious Bodies Registration Law. It requested leaders of all religious groups to forward their own views to enable the government to take into account all points of view. In March 1990 the government announced that a committee had been set up, headed by the Chairman of the National Commission on Culture, K.B. Asante, to discuss the issues raised by the Christian Council of Churches and the Catholic Bishops. Justice Annan called on them to enter into a dialogue with the government and said that religious freedom had been a continuous feature of independent Ghana.

Religious Freedom under the PNDC Government

In fact, there is a history of at times violent conflict between religious bodies and the PNDC government, dating back to 1982, when the leader of a spiritual church in Kumasi, Odyo Asare, was shot and his body set ablaze in the city centre after a soldier had attempted to open fire on Asare's congregation.

Flt-Lt Rawlings himself is on record as saying that, if he were not head of state, he would have "punched Bishop Sarpong on the nose," following a series of pastoral letters accusing the PNDC of failing to confront Ghana's social and economic problems and imposing harsh and dictatorial rule.

In 1985 the *Catholic Standard* newspaper was banned on the grounds of its "irresponsible use of religious freedom" for political purposes (see *News from Africa Watch*, July 14, 1989). The government is widely believed to have been implicated in the murder of Father Buckle which coincided with the banning of the newspaper. The murder of Father Buckle - thought to have been mistaken for the *Catholic Standard's* then editor, Rev. Charles Palmer-Buckle, has still not been resolved after nearly five years. Meanwhile, the *Catholic Standard* itself remains banned.

In 1986 the Makola Mosque in Central Accra was demolished to provide a car park, after security forces ended an occupation of the building by Muslims, who claimed that it was an act of sacrilege.

The PNDC's attitude towards religion during its eight years in power is best summed up by

the statements of the current Secretary for Culture and Tourism, Dr. Mohammed Ben Abdullah. As far back as 1986, Dr. Ben Abdullah warned that church leaders should guard against the adulteration of Ghana's culture by monitoring the activities of foreign evangelists working in the country, and against a proliferation of religious bodies, which had led to an invasion of "crooks and cultural imperialists." During the last months of 1989, Dr. Abdullah issued prominent warnings along similar lines, and defended PNDC Law 221 as a protection against the emergence of "dubious sects."

PNDC Law 221 and its Implications for Human Rights

In a speech in April 1990 at the Ghana Ahmadiyya Muslim Mission held at Saltpond, Flt-Lt Rawlings reaffirmed his government's commitment to respect the principle of freedom of worship. It would be "irresponsible for any government committed to democracy to want to dictate how God or Allah should be worshipped". This, he went on to say, was not the purpose of the law. At the same time Rawlings also reaffirmed his government's resolve to uphold "the principle that all identifiable bodies, professional or religious should openly declare their identity so the government can adequately protect the interest of all citizens."

The implementation of PNDC Law 221 has to be understood within the wider context of government action against such professional bodies as the press, the trade unions, and the Ghana Bar Association (GBA). As Africa Watch reported (*News from Africa Watch*, July 14, 1989) these organizations have repeatedly come under government attack for their attempts to uphold the principles of freedom of expression and constitutional rule in Ghana. Africa Watch drew attention in particular to the gradual erosion of the constitutional independence of the judiciary through the establishment by the PNDC of special courts - the Public Tribunals - alongside existing civil courts. The GBA has repeatedly protested the PNDC's attempts to extend its political control over Ghana's legal institutions and courts.

Ghana is a deeply religious and religiously tolerant society. Moreover, in view of the economic hardships suffered by large sections of the population, the churches have taken an important social function, acting as meeting places for the organization of communal events and modest entertainment and inevitably providing a forum in which individuals feel relatively free to voice their grievances and opinions without fear of immediate government reprisals.

The churches have repeatedly stressed that they are not opposed to the government's attempts to eliminate religious malpractice and the economic corruption perpetrated by some of the religious organizations. Yet they emphasise that existing laws already provide an adequate legal framework for the control of such religious abuses. From this perspective the implementation of an entirely new law and the establishment of a PNDC-controlled Religious Affairs Committee with such extensive discretionary powers are entirely uncalled for.

The legal guidelines of the Religious Bodies Registration Law have already been breached

by the PNDC headquarters liaison office (based at Gondar Barracks) itself. In January 1990, one of its officers, Lieutenant Colonel J.K. Attipoe set up a seven-member interim management committee to investigate the failure of the management board of the Pentecostal Church International to account for a sum of over 3 million cedis (\$10,000). Under Law 221 the PNDC headquarters liaison office is not authorized to supervise the affairs of religious bodies.

It is also unclear, under the provisions of PNDC Law 221, whether all the branches of all churches, or only their headquarters are to register; and whether it is to the Ministry of Interior (as had been initially envisaged) or to the district assemblies that applications for registration should be submitted. This uncertainty as to which official PNDC body carries ultimate responsibility for the law's enforcement, together with the absence of any provisions for juridical arbitration in the event of disputes between religious bodies and government authorities, further undermines the position of the churches. There is strong reason to suspect that far from eliminating religious malpractice and corruption, PNDC Law 221 will encourage official bribery and the political co-operation of religious organizations which, in return for being granted registration as religious bodies, will submit to the government's attempts to establish its control over them.

Short of a repeal of PNDC Law 221, the churches are demanding the re-establishment of an independent court of appeal which religious organizations can have recourse to and which will protect them against the abuse of the Religious Affairs Committee's discretionary powers should the law come into full operation. In this sense PNDC Law 221 is a test case with far-reaching implications.

What you can do to help:

Please write politely worded letters to any of the Ghanaian government authorities listed below:

- * urging the government, in view of its stated commitment to the protection of fundamental human rights, to repeal PNDC Law 221;
- * stressing that laws on good order in public worship already exist and that their enforcement would make PNDC Law 221 unnecessary;
- * asking the government to restore public faith in its commitment to democracy by abolishing the Public Tribunals and restoring the full independence of the judiciary.

Messages to:

Flight-Lieutenant J.J. Rawlings
Chairman
Provisional National Defence Council
The Castle
Osu, Accra
Ghana

Mr. G.E.K. Aikins
Secretary for Justice
and Attorney General
Ministry of Justice
The Castle
Osu, Accra
Ghana

Mr. Nii Okaija Adamafo
Secretary for the Interior
Ministry of the Interior
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His Excellency Mr. Eric K. Otoo
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Embassy of Ghana
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His Excellency Dr. J.L.S. Abbey
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Africa Watch is a non-governmental organization created in May 1988 to monitor human rights practices in Africa and to promote respect for internationally recognized standards. Its Executive Director is Rakiya Omaar; Richard Carver is Research Director; Alex de Waal is Research Consultant; Janet Fleischman and Karen Sorensen are Research Associates. Jo Graham and Ben Penglase are Associates.

Africa Watch is part of Human Rights Watch, an organization that also comprises Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch. The Chairman of Human Rights Watch is Robert L. Bernstein and the Vice-Chairman is Adrian DeWind. Aryeh Neier is Executive Director of Human Rights Watch and Kenneth Roth is Deputy Director; Holly Burkhalter is Washington Director, Susan Osnos is Press Director and Joyce Mends-Cole is Counsel to Human Rights Watch.