

CESNUR 2017

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### **The role of the spiritual places in the definition of Scientology as a Church and their legal status in France**

This paper develops the idea that, to define Scientology as a Church, a great attention must be made towards the members participating in the diffusion of the religious doctrine in relation with the places where this doctrine is diffused by the clergy members. For some religions, the place where the religion is revealed and/or taught to apprentices or members is not important; more than that, some new religions insist more on missionary aspects than on the necessity to build and maintain specific places dedicated to the religion (LSD Church, Jehovah's Witnesses). On the contrary, the Church of Scientology attaches a great care to the temples and this dedication permits to identify the « priests » as the people receiving and educating the public **inside** these specific places.

Hence the title of this communication about the importance of places of worship in the definition and characterization of a religion.

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#### **1. The ordinary notion of place of worship**

The notion of "place of worship" is linked to the definition of "worship" itself.

Under some expanded definition of religious cults (acts, practices, observances), we can include inside the notion of "worship" topics such as the study of sacred texts, the training of others in the study and recitation of these texts, and various forms of religious instruction. Some religions even mix these kinds of acts with sacred ceremonies.

The place of worship is the place where some of the practices and rituals of religion are taking place.

In other words, the place of worship is the place of a religious praxis. If a religion is defined as the practice of a theory, then the place of worship is important for some religions.

The legal notion of "worship" is vague and inclusive enough to make the temples of Scientology look like places of worship... in common sense.

This is the opinion of Franck K. Flinn:

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I would answer the question "Where do Roman Catholics have places of worship?" with the answer "Where the seven sacraments are ministered to adherents as a matter of course". To the question "Where do Scientologists have places of worship?" I would answer "Where auditing and training in Scientology scripture are ministered to parishioners as a matter of course." Hubbard's works on Dianetics and Scientology constitute the sacred scriptures of the Church of Scientology. The vast majority of these works is devoted to what scientologists call auditing technology and the management

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The necessity of a "place of worship" is not necessary to all the religions. It should be noted that the French Court of Cassation had the opportunity to say that the place of worship is not the essence of Muslim religion:

"The judgment notes that the plaintiff is not in charge of providing residents with the material possibility of exercising their worship and finds that they can practice the Muslim religion without using the prayer room, which only facilitates their Religious practice."

This approach is quite true: the good Muslim has the necessity to pray five times per day and to do it in the direction of The Mecca. There is no necessity of a specific place.

## **2. The legal definition of places of worship in France**

In French Law, the fundamental Act is the 1905 Law organizing the separation of the State with the Roman Catholic Religion.

This Act dated December 1905 9th contains no definition of "place of worship". The expression is not mentioned in the act. Or, more exactly, it appears only to define two criminal offenses:

### Article 34

"Any minister of a worship who, in the places where this worship is practiced, shall have publicly, through speeches, readings, distributed writings, or posters affixed, outraged or defamed, a citizen charged with a public service, shall be punishable by a fine of 3,750 euros and imprisonment for one year, or one of these two penalties only.

The truth of the defamatory act, but only if it relates to the functions, may be established before the criminal court in the manner provided for in Article 52 of the Act of 29 July 1881 (defamation). The requirements laid down in article 65 of the Convention shall apply to the offenses of this section and the following section".

### Article 35

"If a speech or a writing published or publicly distributed in the places where worship is practiced contains a direct provocation to resist the execution of the laws or the legal acts of the public authority, or if it tends to raise or to arm a part of the citizens against the others, the minister of religion shall be punished by imprisonment from three months to two years, without prejudice to the penalties of complicity, if provocation was followed by sedition, revolt or civil war".

The definition of places of worship by law is rather vague: the place of worship is the "place where worship is practiced".

The French Conseil d'Etat (Supreme Court of the Administrative Law) defined the exercise of worship within the meaning of the law of 1905 as being:

"... The celebration of ceremonies organized with a view to the fulfillment, by persons united by the same religious belief, of certain rites or practices."

In this sense, a church of Scientology is a place of worship on the one hand, because it has a chapel in which the religious ceremonies take place and, on the other hand, because it is the place where are held the main religious practices of Scientology (auditing, training).

When the Law uses terms, the exegete must interpret the norm in the most favorable way for the person who invokes it. After all, it is up to the legislature to be more specific, if it so wishes. Since 1905, Parliament had been free to draw up a list of everything that should be considered a place of worship. It did not.

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And again, it will not be enough to speak of "temples" or "churches". Certain movements which the judge wishes to exclude from the qualification of "religion" name their places of worship under the name of temple. For example, for the past "Ordre du Temple Solaire" (Order of the Solar Temple), the judges considered their places of worship as "temples".

Of course, this use of words is not at all innocent: the speaker usually speaks of his beliefs as a religion, and refers to the others' beliefs as a "sect". The "sect" often refers to the religion of another person. This same name logic is applied to the building: the place of worship for my religion is called a "Church", meanwhile the place of worship for another's religion (or sect) is called a "temple".

### **3. The usefulness of the expression "place of worship"**

The law of December 9, 1905 uses the notion of places of worship only to determine its legal regime.

The law provides for three possible cases:

a) The worship buildings owned by the state or local authorities.

Before the law of 1905 (especially those nationalized in 1789), the buildings dedicated to the practice of a religion should remain the property of either the State, the departments (counties) or the municipalities (Article 12 of the Law).

b) The worship buildings belonging to the former public worship establishments must be vested in the worship associations (Article 13 of the Act).

This procedure applies to all the property of religious establishments, except for those which are not part of the practice of worship and which must be transferred to "public or utility services or establishments whose destination is in conformity with that of the said Property".

In 1905, the Protestant and Jewish religious associations became owners of the property hitherto held by the public institutions of worship. The question of property not dedicated to the practice of worship was settled by the creation of associations conforming to the law of 1901. However, the law could not be applied to the Catholic Church, which refused Constitution of religious associations. The law of January 2, 1907, lays down that all the property of the Catholic Church becomes public property but is placed at the disposal of the believers and the ministers of the religion. As a result, these buildings are part of the public domain and their maintenance is carried out by the public authority, which ultimately constitutes a real financial advantage for the Catholic community.

c) The worship buildings erected after 1905 are the property of Religious associations or dioceses who have built them.

This "legal utility" must be distinguished from practical utility ... Some religions are not obliged to have a place of worship.

The Conseil d'Etat has recently mentioned that the article L. 1311-2 of the French General Code of Local and Regional Authorities has given the territorial authorities the power, in accordance with the principle of neutrality with regard to religions and the principle of equality, to authorize an organization which intends to build an edifice of worship open to the public to occupy for a long period a dependence on their private domain or their public domain, within the framework of an emphyteutic lease, subject to the particular conditions laid down by Article L. 1311 -3 of the General Code of Local and Regional Authorities. That the legislature thus permitted local and regional authorities to conclude such a contract with a view to the construction of a new edifice of worship, with, on the one hand, the payment by the lessee of a lease which, the nature of the contract and the fact that the holder does not engage in any for-profit activity does not in principle exceed a small amount. One condition is important: "however, this option

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#### **4. The Church of Scientology and its churches as places of worship**

Churches of Scientology are the official places where Scientology core religious practices, such as auditing and training, are delivered to the parishioners. These churches receive formal authorization to perform their religious duties from the highest ecclesiastical authorities in the Church of Scientology. Staff members, who form the official clergy of the Church of Scientology, and are entitled to perform religious ministry and held responsible for having parishioners progressing on their way to spiritual freedom, are located in their specific churches. They (the churches) are the place where you know you can find them, and get Scientology religious services from them. These churches are never "non-materialized" places, but always materialized by a building which is devoted to the performance of these ministry activities.

Moreover, akin to the Catholic Church throughout the ages, the Church of Scientology makes it a point of honor to build its churches with great care and to build buildings that will reflect their divine mission. The "Ideal Churches" program of the Church of Scientology, which led to the opening of more than 40 mega-churches of Scientology these last years throughout the world, and the opening of the "Scientology Cathedral", FLAG, in Clearwater, Florida, in 2013 is the evidence that these places are intended to reflect the worship purpose of the building, and reflect the divine mission of Scientology itself. The care taken in designing the buildings, internally and externally, to reflect the concepts, the values, the spirituality of Scientology, is tremendous and far above material preoccupations.

Churches of Scientology contain special places for stocking the sacred scriptures of the religion, special places for studying these scriptures and be helped by the clergy in these religious studies, special places for receiving auditing, which for a scientologist is the path to spiritual liberation, chapels for performing Sunday service and other ceremonies as marriages, ordinations and funerals.

This leads us to understand that the churches of Scientology – materially speaking: their buildings – are solely devoted to the kind of worship that is the one of this Church. The Church of Scientology builds churches that must contribute to the spiritual and religious enlightenment of the scientology parishioners, that are safe places conceived to facilitate the religious practice, the worship, of the ones who desire spiritual freedom for themselves. For a scientologist, spiritual freedom includes the (re)discovery of its divine nature as a spiritual being, and through the concept of the 8<sup>th</sup> dynamic, which is the impulse to survive through the infinite, the discovery of God.

#### **CONCLUSION**

Following the French definition of the notion of worship, the places of practice of Scientology (auditing, training) must be considered as places of worship in the sense of the 1905 Law.

Since Scientology did not exist in France before the year 1905, the buildings dedicated to this religion are the property of the associations that have built them or acquired them and are used for the exercise of the Scientology religion.

The notion of ownership can sometimes lead to difficulties: about Scientology, buildings are not the property of religious congregations, nor even of associations accordant to the fundamental 1901 Law, but of foreign entities, and leased by associations of the 1901 Law.

It is questionable whether the legislature intended to limit the notion of Place of worship "solely to the property of the building or to the fact that the building belongs to a religious association". This vision had its importance about the burden of maintenance of the building. It will be remembered that in 1905, the Vatican vetoed the constitution of

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It is questionable whether the legislature intended to limit the notion of Place of worship "solely to the property of the building or to the fact that the building belongs to a religious association". This vision had its importance about the burden of maintenance of the building. It will be remembered that in 1905, the Vatican vetoed the constitution of religious associations by the French Catholic Church. For this reason, the Catholic Church has lost the property of many places of worship which belonged to the former public institutions of Catholic worship (parishes, cathedrals, etc.) under the regime of the Congregation, which did not constitute within one year Provided for by law, the religious associations to which the ownership of the buildings was to be transferred. The law of 2 January 1907 settled this question by placing these places of worship at the disposal of the Catholic ministers, although the ownership of the places became public. Moreover, the worship buildings owned by the State or local authorities before the Law of 1905, notably following the nationalization of 1789, remained public property, but the law still gives the religions concerned the enjoyment of the places.

Thus, the notion of place of worship is not confused with the property of the places by a worship association. To the extent that the issue at stake is not that of the maintenance of the building, the place of worship may be defined as the place where worship is exercised, as it is the case with the Church of Scientology.