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National Center of Competence in Research –
The Migration-Mobility Nexus

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So how do you feel
about religion?
The integration of
religious communities

in a nutshell #3, March 2016



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Messages for Decision-Makers

Recognizing religious communities under public law, giving them legal status, helps to promote integration.

Each canton should develop an administrative procedure, using objective criteria, for the recognition of religious communities as public law bodies.

Providing state-funded training programs for non-Christian teachers of religion is important for promoting integration.

Radical tendencies can be curbed by recognizing and actively integrating religious communities.

What do we mean by ...

... freedom of religion (Art. 15 Swiss Federal Constitution; Art. 9 ECHR)

Freedom of religion means the right of individuals to choose freely their religion or philosophical convictions, and to profess them either alone or in community with others. In addition, everyone has the right to join or to belong to a religious community, and to follow religious teachings. However, no person should be forced to join or to belong to a religious community, to participate in a religious act, or to follow religious teachings.

... prohibition of discrimination based on religion (Art. 8(2) Swiss Federal Constitution; Art. 14 ECHR)

The prohibition of discrimination based on religious beliefs provides protection against social exclusion on grounds of religious affiliation.

... recognition under public law

When religious communities are recognized under public law, they acquire certain rights and obligations. In addition to the right to collect taxes and easier access to public facilities (e.g. hospitals, schools and prisons), religious communities are obliged to work in partnership with the state. Religious communities that are not recognized as public law bodies are organized under private law, thus limiting state control.

Switzerland's growing religious diversity is creating additional legal and integration policy challenges for society and state. It is therefore important for religious communities to be included in ongoing debates, as their active integration also has an impact on the individual members of those communities. The legal bases need to take this into account.

The current challenges in dealing with religious minorities have arisen because Switzerland has no formulated policy or specific body of law to deal with this issue. Religious communities and their members often find themselves faced with legal bases that do not take account of specific cultural or religious needs. The resulting requests for special treatment and exemptions, such as dispensation from swimming lessons or school camps, are a source of legal and social tensions. Questions of the legal enforcement of freedom of religion and the prohibition of discrimination based on religious beliefs incite debate about integration and non-integration.

On the other hand, initiatives have been launched at federal and cantonal level, which, if approved, would allow additional bans on certain religious practices. One such example is the "ban on wearing face veils in public places", a popular initiative approved in Ticino, with changes to the law due to come into force in 2016. Similar popular initiatives or political demands are awaiting approval at federal and cantonal level. Bans of this kind are promoted with catchwords such as security, equality between men and women, and integration. But at the same time, they involve a number of fundamental conflicts with personal freedom, freedom of religion, and the prohibition of discrimination, among others. This is just one recent example that shows how debates about religious minorities play out in Switzerland in the context of society, direct democracy, and fundamental human rights.

"The trend toward employing mechanisms of direct democracy to ban religious symbols and practices promotes conflict and does not help current integration efforts."

In terms of respecting fundamental rights, in particular the freedom of religion and the prohibition of discrimination based on religion, this practice has proven extremely problematic. Better and more active integration of religious communities will go much further toward promoting integration than bans of certain practices. A long-term knock-on effect of recognizing religious communities as public law bodies is that the concerns of individuals will also be addressed. When religious communities are actively integrated, their members also achieve legal and social recognition.

State recognition as a starting point...

Pursuant to Art. 72(1) of the Swiss Federal Constitution, each canton is responsible for regulating the relationship between religious communities and the state. As a result, Switzerland has developed 26 different systems for governing this relationship. These should, in all cases, be based on the principle of freedom of religion. A key question here is whether religious communities are recognized by the canton as public law bodies, as is the case for traditional Christian churches in the vast majority of cantons, and for Jewish communities in some cantons. When religious communities are recognized as public law bodies, they generally acquire rights and incur obligations. A canton can, for example, delegate religious instruction in public schools and pastoral care in prisons to religious communities with public law status, or make it legally binding to enter into an active dialogue with them on integration.

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“What the procedures for granting public law status have in common is that a political process is involved. But these political decisions carry the risk of discrimination and putting certain groups at a disadvantage.”
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The recognition of religious minorities under public law means that they are actively integrated at a legislative level, which has a positive impact on their long-term social integration prospects. What structures are currently in place for recognizing religious minorities in each of the 26 cantons? The study shows that 18 of the cantons (AG, AR, BS, FR, GL, JU, SO, SG, BE, GR, LU, NE, NW, OW, TI, VD, VS, ZH) have legal provision for recognition as a public law body or recognition as a public interest institution. Other cantons make no provision for recognition (AI, SZ, TG, UR, ZG), while three of the cantons (GE, SH, BL) exclude the recognition of religious communities, other than those that have already been recognized.

Public law status should be granted as part of an administrative procedure that is based on objective criteria. Such objective criteria – for example, how long a religious community has been in existence, whether it is likely to continue to exist in the longer term, and whether it is organized in a democratic and transparent way – have already been established by law in some cantons. Similarly, linking recognition under public law to other obligations and rights is not a new concept. Some cantons have made provision for religious communities to be granted recognition under public law on condition that they engage in promoting integration (BS, FR). Actively involving religious communities is also a way of preventing extremism.

...for other activities related to integration

Active recognition leading to integration of religious communities into the legal system is the starting point for further activities related to integration. Many cantons require religious communities to be recognized under public law before they can be entrusted with certain tasks. This includes, in particular, religious instruction at public schools (AG, BL, BS, FR, GR, GL, NW, OW, SZ, TI, TG, UR, VS, ZG), and institutional pastoral care (AR, BE, BL, FR, GR, LU, NW, SH, SG, VD, VS, ZG, with some exceptions). In order to provide religious instruction at public schools and pastoral care in institutions, religious teachers need appropriate training.

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“Up to now, there have been no training opportunities for non-Christian religious teachers in Switzerland, which is why religious teachers come from outside Switzerland to provide private instruction.”
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The entry of foreigners is subject to the provisions of immigration law. Individuals wishing to carry out a religious activity in Switzerland must meet general and personal criteria in order to be admitted. One of the checks is whether these individuals understand Switzerland's cultural value system and laws and are able to impart this knowledge to others. Various studies have shown that imams, for example, play an important bridging role, acting as intermediaries between Muslim society and its members, and the state. In addition, the Center for Islam and Society at the University of Fribourg opened on 1 January 2015. It is currently conducting a situational analysis and needs assessment of Islam-based further education in Switzerland.



Conclusion

The interplay between the state, society and politics is very complex when it comes to religious minorities. Finding a way to coexist in a culturally diverse democratic society should not be framed as an issue of drawing cultural boundaries, but rather seen in terms of creating an environment of mutual openness. To this end, all stakeholders, both private and public, will need to be involved.

Further reading

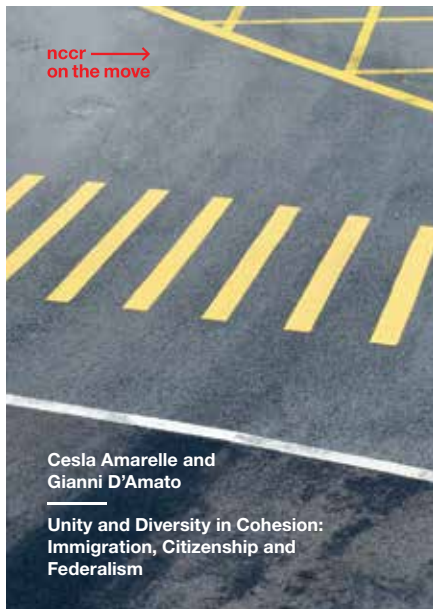
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Unity and Diversity in Cohesion: Immigration, Citizenship and Federalism

Project of the “nccr – on the move” Cesla Amarelle and Gianni D'Amato, University of Neuchâtel

The quest for social cohesion in the context of protracted international migration has become a major field of contestation both in Switzerland and in other liberal democracies that have de facto evolved into countries of immigration. However, what is meant by social cohesion or integration in a multilingual and multiconfessional confederation made up of 26 cantons leaves significant room for controversy. This project proposes to examine how issues surrounding immigrant integration are being negotiated in the Swiss federal context from a legal as well as a socio-political perspective.

in a nutshell #3 is based on the writer's dissertation, which was created as part of the project.

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The nccr – on the move is the National Center of Competence in Research (NCCR) for migration and mobility studies. The center aims to enhance the understanding of contemporary migration patterns. Designed to develop new perspectives on the changing migratory reality, the nccr – on the move brings together research projects from social sciences, economics and law. Managed from the University of Neuchâtel, the network comprises seventeen research teams from seven universities in Switzerland: the universities of Neuchâtel, Basel, Bern, Fribourg, Geneva, Lausanne and Lucerne.

“in a nutshell” provides answers to current questions on migration and mobility – based on research findings, which have been elaborated within the nccr – on the move. The authors assume responsibility for their analyses and arguments.

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