

STRICTLY CONFIDENTIAL

STATEMENT ON RELIGIOUS LIBERTY

Received from Mr. Paton

November 20, 1930

I. IRAQ

A new treaty has been negotiated between Great Britain and Iraq published in June of the present year. It has not yet been ratified by the British House of Commons or approved by the Mandates Commission. Briefly, its purport is to terminate the mandatory relation and to provide for Iraq's applying for membership of the League of Nations, subject to certain British missionaries being safeguarded. It contains no provision for the freedom of missionary enterprise or the religious activities of foreign nationals. Dr. Speer and Dr. Chamberlain, I know, hold that the January 1930 tripartite agreement between Great Britain, Iraq and the United States adequately safeguards missionary freedom, but I think it is also clear that the present treaty will annul all previous ones, and that if it becomes a law, the question of missionary freedom will remain to be considered.

I laid the matter before the Colonial Office here and Lord Passfield's reply indicated that it was not possible to insist on inserting in the new treaty the same provision safeguarding missionary enterprise, as is given to Clause 12 of the 1922 treaty. The Colonial Office added:

"The Iraq Government will presumably be ready to give whatever undertakings are considered reasonable in regard to missionaries."

I may say that I called the attention of the Colonial Office to the suggestions made in the last session of the Mandates Commission by M. van Rees that Iraq on being proposed for membership of the League of Nations should herself make an undertaking to safeguard the freedom of missionaries in the same way as the 1922 treaty safeguarded it. Lord Passfield has taken a note of my views on this point and assures me that they will receive full consideration at the appropriate time.

I may add that it would be possible for the American Government, after the new treaty (June 1930) is ratified, subsequently to make a treaty with the Iraq Government in which the same provisions might be contained as are contained in the tripartite agreement of January 1930.

So far I have spoken only of missionary freedom. Religious freedom, i.e. freedom of conversion, etc., etc., is a different matter. When I was working on the Egyptian situation it seemed to me that the same conditions obtained in Iraq as in Egypt; namely, that while the organic law contained general provisions for freedom of conscience, the sharia still ruled all matters of personal status, and the difficulty that has been found in Egypt in regard to the conversion to Christianity of Mohammedan women would arise in Iraq if a test case were taken. I raised the matter with Dr. Van Ess, and I think I had better incorporate in this letter the greater part of an important letter written to him by Major Dwyer that contains all with which Dr. Van Ess expresses himself as in sympathy.

"There is no statutory provision or administrative decision specifically permitting or prohibiting conversion from Islam.

"Change of religion was formerly regulated by instructions issued by the Turkish Ministry of Justice. They prescribed certain interviews between the religious authorities concerned, etc., etc. They have been done away with and nowadays the only legal provision regarding change of religion is registration under the Census Law as a routine furnishing of signed certificates by the religious authorities of the old and new religions! The former, of course, is never available and we have advised the Census officials to proceed without it provided that the latter certificate is forthcoming. Neither under the old instructions nor under the new law is it mentioned that conversion from Islam is permissible, nor is it to be expected that any Moslem Government would willingly commit itself in writing to the legality of such an act. On the other hand, there is nothing which permits the Census officer to refuse to register any change of religion and I have not heard of any case in which it has happened.

"Registration is not a condition precedent to proof of change of religion. Other proofs may be brought in the absence of a certificate from the registry.

"Some time ago I was talking to a Shara lawyer about mixed marriages and 'irtidad'. He puts three cases, supposing that a Chaldean had married a girl and that her Moslem relations had gone to the Shara Court and demanded cancellation of the marriage.

- A. It turns out that the girl is and always has been a Moslem. The Qadhi will pronounce the marriage invalid.
- B. It turns out that the girl was a Moslem at the date of marriage but is now a non-Moslem. The Qadhi will declare the marriage void.
- C. (i) The girl claims that she was of her husband's religion at the date of marriage. The Qadhi has no jurisdiction, because the validity of the marriage is to be decided by the Spiritual Council of the Chaldean Community.  
  
(ii) Alternatively the family ask that she be punished for her apostasy. The Qadhi finds that no such suit is among the matters to which his jurisdiction extends and he cannot entertain the claim.

"Classes A. and B. are not likely to occur. The marriage would not be a Moslem contract and would be performed under the Chaldean right. The religious nature of marriage in Iraq makes it unthinkable that the girl's conversion will not be established before the ceremony. There might be cases in which the girl was persuaded, after the ceremony, to deny her conversion, and then complications would occur, but I assume such cases are hardly in the contemplation of Mr. Paton's enquiry. Case C is likely to occur. If the Qadhi were to extend his jurisdiction of a Communal Spiritual council the Court of Cassation can be moved to decide the conflict. Furthermore any action unlawfully ordered against the girl in case C, ii, could not be carried out, for the Execution office is under the control of the Civil Court of Cassation which would certainly not permit any such proceeding. I must add that I have never heard of any such case.

"If a woman is converted from Islam without protecting herself by marriage the case is different. If she goes and lives among her co-religionists she should be safe enough for there is only case C, ii, to think of. In the improbable case of her remaining at home anything, even her complete disappearance, might happen.

"As to the rights of converts, there are no disabilities imposed by law except that 'difference of religion' is a bar to inheritance, a rule which works in both directions and is not a disability attaching only to apostasy from Islam. There is also the disadvantage that a non-Moslem is, in practice though not in law, ineligible for many Government appointments. You can imagine how hopeless it would be to send Christians to fill offices in most parts of Iraq.

"So much for the law. Its effect is that though it does not specifically permit apostasy it does not prohibit it, and the Shara Courts have no jurisdiction to interfere with what we understand by 'freedom of conscience' in Article 13 of the Constitution. Nor is there any intention of giving them such jurisdiction.

"Does the law go far enough or should it be supplemented by legislation specifically acknowledging conversion from Islam, and safeguarding the convert? I think it better, far better, to leave things as they are. The state of law does not alter private opinions and no legislation will prevent secret acts of vengeance. You have a wide knowledge of Iraq and will, I think, agree with me that, where conversion from Islam is concerned, the missionary should pay due regard to the circumstances under which the convert does and will live, and should hesitate to assist the convert in taking a step which may expose him to acts of vengeance. A certain number of conversions take place, I believe, but we hear nothing of them and they excite no public resentment, a fact which I put down entirely to the discrimination exercised by the missionaries. Would the result be the same if legislation were passed openly acknowledging the legality of conversion from Islam? Would it not be interpreted as an invitation to increased missionary effort, and so interpreted not only by Moslems but also by the missionary societies. Even supposing that the missionaries remained as discreet as before would there not be resentment at the impious legislation forced on the country by foreigners (no Moslem Government would willingly pass it)? Surely there would, and the last state of the convert would be worse than the first."

I think that this sums up the situation, and in view of the above expression of opinion I have not judged it well to raise the question of the right of conversion in the Iraq negotiations.

## II. SYRIA

In 1928 and 1929 the liberty of Mr. Nielsen, a Danish missionary in Damascus, to conduct a reading room for Moslems in Damascus was menaced by the French Mandatory Government. The ground alleged was that Mr. Nielsen's work was offensive to the Moslems and that he must either close his reading room or move it to the Christian quarter. He placed the reading room just inside the Christian quarter where it was still accessible to the Moslems, having previously received permission from the Arab governor to do so. This was in 1923, and there were during the next five years only a few ineffective attempts on the part of Moslems to prevent his work in the reading room; no official complaint was made regarding it.

In 1928 the reading room was closed, and he was told that not only could he not reopen it unless it were moved right inside the Christian quarter, but that even if continued there it must be on the condition no Moslem complaints or press campaigns were made against him. He was told that, if further complaints were made, the room would be finally closed, and he expelled from Syria.

It is an important point that according to the French Government's statement, objections were made against Pastor Nielsen and also against an Ahmadiyya emissary, and it is just possible that some part of the Moslem fanaticism visited against this heretical Moslem propagandist may have been shared by Mr. Nielsen whose sympathies are, of course, entirely different.

I have been pursuing this question through M. Marc Boegner, President of the Fédération Protestante Française who has friends in the French Colonial Office. He has, however, found it impossible to hold out any hope of a change in French policy. The situation is obviously difficult. I am convinced from the evidence made by missionaries, both American and British in Beirut and Damascus that the alleged permission clause to Nielsen is a myth. Nevertheless every government will always insist that it is the judge of what measures are necessary to preserve law and order.

The point which I still hope to find a way of raising is that under the Mandate freedom is certainly accorded to missionaries, and that they may fairly ask that the limitations of this freedom shall not be of such a vain and indefinite character as those laid upon Pastor Nielsen. No one can fulfill the condition that no complaints must be urged and no press campaign led against him. To accept this is to have one's work put at the mercy of any irresponsible group or individual.

I understand that a French Protestant pastor is to be placed in Damascus at the beginning of 1931, and it is to be hoped that, as in other regions of the world, he may act as a useful liaison between the Protestant missions and the French government. I am personally of the opinion that if this pastor can do anything in the matter, a petition to the Mandates Commission should be considered, but it is essential that it should be a petition by all the Protestant missions in Syria in which the American Presbyterian Church would be a preponderating voice.

### III. ERITREA

The Italian government has ever since the war been seeking to curb the activities of the Swedish mission in Eritrea. The Swedish mission has a number of stations and about 2,000 Christians. At the close of the war permission was only given to such new missionaries to come as might replace those who should leave. No extension of work was permitted. Ever since 1923 the action of the Italian government has been more and more prohibitive and now Mussolini himself has signed a mandate that no new Swedish missionaries are to be allowed into Eritrea, and none who leave will be allowed to return. The Swedish mission has been in touch with the Italian Waldensians and I understand that 19 of these Italian Protestants are to be allowed as missionaries. The Waldensian Church is very small, and it is very doubtful whether they can do what is needed. The Swedes who are now in the country express their intention of staying there until death.

I have consulted with officials of the law as to the possibility of some international action but have been uniformly advised that no good could come of such a course. The Italian government is intensely national and impatient of all international monition and would be especially so when the lead is taken by Anglo-Saxons. Further, as it is inconceivable that the Italians can fear Swedish national aggrandisement, there can be no alternative but to hold that the moving force in this matter is the Vatican. We are therefore left without any means of approach and I have found myself completely baffled.

#### IV. EGYPT

The statement in the report of your May meeting made by Dr. Watson is so admirable both on the question of principles and analysis that I need add nothing to it. I ought, however, to let you know what has happened during the present year. I think you are aware that I persuaded Lord Cecil to write a letter in the London Times of January last calling attention to the fact that the Egyptian Constitution provided for complete freedom of conscience, but that events had shown that the freedom did not extend to the conversion of Mohammedan women. This was followed by remarkably little discussion in Egypt. When the Egyptian delegation came to London to negotiate with the Government here I consulted with the Foreign Office and with Sir Percy Loraine, High Commissioner in Egypt, and with their cordial agreement approached the Archbishop of Canterbury, who very kindly consented to ask the Egyptian delegation led by Nahas Pasha, the Premier, to come to tea at Lambeth Palace, and Mr. Cash of the C.M.S. and I also attended. After the usual exchange of compliments we raised the question of religious freedom, and had a talk of fully an hour and a half when we went with great frankness into the two occasions on which the freedom of women to be converted had been denied. Unfortunately one of these cases turns out to be that of a minor, i.e. a girl under 18 at the time of conversion, and I confess that I felt I should have known of this before and no fight could be made in this particular case.

The other case was far clearer, and on it the Egyptian leader shuffled. It came out quite clearly that none of them were willing to face the idea of not only an amendment or abolition of the Sharia but even of a provision of an appeal from the Sharia courts to the Constitution. Nahas at the same time gave the broadest hints to the effect that he would like that such cases should not come to the religious courts at all. That I think was achieved by the whole interview was that these Egyptian nationalist leaders realise now that people of power in the world such as the Archbishop of Canterbury are interested in this issue of religious freedom and that more is at stake than the persecution of a couple of obscure Mohammedan girls.

We have some ground for believing that the change in the attitude on the question of the persecution of Kamil Mansur was due to the impression made on Nahas in London. I entirely agree with Dr. Watson's views that the trouble in regard to Kamil Mansur who was accused of calumniating Islam, and Dr. Fahakry, against whom the same accusation was made, is not constitutional but simply public opinion. I am going to Egypt on the way to India and shall give especial attention to these matters.

V. PERSIA

The only thing I need add here to what is stated in your May report is that our opinion here is that the present state of things is working pretty well so far as the schools are concerned.

I learn from Bishop Linton, however, that the evangelistic work of the C.M.S. is arousing opposition and in one place they were threatened that the mission would be shut down if any more conversions took place.

The only other thing I must add to this very long letter is that we are seeing over this great area a clash of opposing forces with cross currents. You have the clash between the whole conception of individual liberty which is based on the sharia and that which is based on the western conception of individual freedom. This is seen most plainly in Egypt. On the other hand, in Turkey, where the sharia has been abolished, the opposition to conversion lies neither in religious law nor in constitutional inhibition, but in public opinion inspired by nationalist feeling.

As I understand the matter, the Turkish objection to conversion is at least in part, if not mainly, inspired by a feeling that Christians are anti-Turk or at least non-national. If this is a true analysis then the path of wisdom is just to hang on and to convince the Turks slowly but surely of the bona fides of the Protestant missions and to show them - as India has been shown - that a man can be a Christian and still a Turk, as a man can be a Christian and still an Indian.

I would add that the whole discussion suggests the need both for that thorough consideration of religious freedom in the light of western principles and practice which is desiderated in your Report, and also the most vigorous examination on the part of the missions of their own principles and practice in the matter of conversions, and the most public refutation of anything that savours of veiled compulsion or bribery or unfair means. I do not mean in saying this to suggest that I think such methods are used, but many of the non-Christians think they are used, and I felt, for instance, in our interview with the Egyptian delegation at Lambeth that they spoke with real feeling against the conversion of minor girls, and I should not be sorry if this discussion makes us re-examine some of the things we do.