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German Court's Decision Unleashes a Holy Uproar

By Josef Joffe

MUNICH — Jesus will have to go. Thus sayeth the German Constitutional Court, and Bavaria, the most Catholic of German states, is almost ready for a replay of the Thirty Years War.

Were the eight judges of the court acting as henchmen of the Antichrist? Not quite. In a 5-to-3 decision last week, they merely declared unconstitutional an article of the Bavarian schools law that mandated crucifixes in public classrooms.

In a language reminiscent of similar suits in the United States, two Bavarian parents invoked freedom of religion and conscience — principles enshrined at the top of the German Basic Law. Their children, they claimed, should not be forced to study “under the cross.”

The court agreed. Freedom of religion, the majority argued, entails freedom from religion — and thus freedom from the symbols of someone else's faith. Since the plaintiffs' children had no choice but to attend a state school, and could not avoid the daily confrontation with the crucifix, Jesus had to leave the classroom.

Most Americans, French and Britons would probably agree with this reasoning; they keep crosses, Stars of David, even chadors out of state schools. But Germany is an odd case in the church vs. state debate.

First of all, it has three “established churches”: Roman Catholic, Lutheran and Jewish. Second, the state collects the tithe for the favored trio; Muslims, Baptists and Buddhists have to scrounge for themselves. Third, religious education is part of the state curriculum. So there is an odd intimacy between two institutions that history and Enlightenment principle have taught us to keep as separate as matches and gunpowder.

The court has probably struck the most significant blow for the separation of church and state in decades. In truth, it had no choice, as Germany is not a Christian republic, let alone a Catholic republic. (The constitution speaks merely about “responsibility” to an unspecified “God.”)

In striking this blow, the court has also hammered an ancient, unquestioned privilege held by one of the established faiths, Roman Catholicism — a privilege especially held in Bavaria.

Listening to Bavaria's prelates

and politicians, you would think Jesus had been crucified a second time. Theo Waigel, minister of finance in Bonn and the boss of Bavaria's ruling Christian Social Union, is “shocked.” Bavaria's premier, Edmund Stoiber, says minority interests have trumped those of the majority.

Hyperbole is running riot. An “assault on the central symbol of the Christian faith!” thunders the Committee of Bavarian Catholics.

Take away the cross, argues the Bishopric of Augsburg, and you take away respect for the “dignity of human life.”

In short, removing the crucifix from the classroom seems to threaten faith, morality, Christianity — nay, the very Occident. This puts altogether too much weight on a religious symbol, while, paradoxically, denying its emotional impact on those who believe differently.

A Muslim, for instance, accepts Jesus as one of the prophets but finds Jesus on the cross a symbol of sheer heresy. For him there is but one God; he cannot accept a godlike son of God. The same holds true for Judaism.

And both Muslims and Jews remember only too well what was done to them in the sign of the cross for centuries. For them, the crucifix is not an innocuous symbol; it evokes heresy, fear and horror.

Which is why America's Founding Fathers, in their wisdom, decreed that “Congress shall make no law respecting an establishment of religion.” Let everybody worship his own God, but keep the state out of the church and vice versa.

When throne and altar are rigidly separated, neither will be tempted to seek power over the other or to impose the “one and only faith” on each and all. When they are not, European history teaches, several hundred years of war is the price.

And if Jesus is taken from the classroom, how will that keep him from the hearts of the faithful? Maybe, as the American experience and Tocqueville tell us, religion will flourish all the more when the temporal and the sacred go their own ways.

The writer is columnist and editorial page editor of the Süddeutsche Zeitung. He contributed this comment to the International Herald Tribune.