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## **Cults and religious freedom around the world**

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# **Cults and religious freedom around the world**

The title that was given to me is too vast for me to be able to cover it all in the framework of this session. In addition, the title also raises a number of questions, which I will come on to now, that need answering.

Is there a distinction to be made between cults or sects and religions? Should religious freedom be only accessible to so-called historical religions and their members? Should other minority religious or spiritual movements called “sects” or “cults” be denied the enjoyment of the provisions of international declarations and covenants guaranteeing freedom of religion or belief?

Should the individual right to change one’s religion be restricted? Should individual conversion to so-called “sects” or “cults” be prohibited, warned against, discouraged by Governments? Should abduction and forced de-conversion of adults carried out jointly by relatives and other actors be tolerated or encouraged?

I will address these questions from the perspective of a human rights organization and international law rather than from the point of view of a theologian or a sociologist of religions. .

## **Is there a difference between a cult and a religion?**

International instruments guarantee freedom of religion or belief and not only religious freedom.

Article 18 of the UN Universal Declaration of Human Rights states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 18.1 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of conscience and religion in the following terms:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

The United Nations, religious experts, and UN treaty-based bodies have consistently found that the expression "religion or belief," as well as the individual terms "religion" and "belief," must be construed broadly to include non-traditional religions and all forms of belief.

In particular, the UN Human Rights Committee provided in its General Comment No 22 on the interpretation to be given to Article 18 of the ICCPR on the Right to Freedom of Thought, Conscience and Religion<sup>1</sup>:

Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. **The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.** (emphasis added)

Furthermore, the 1996 Annual Report by the UN Special Rapporteur on Religious Freedom makes clear the Rapporteur's opinion on the broad scope of the term "religion" and the need for equal treatment of all religions, including so called "sects" or "cults". First, the Rapporteur noted the inadequacy of labeling certain belief groups as "sects":

The term "sect" seems to have a pejorative connotation. A sect is considered to be different from a religion, and thus not entitled to the same protection. This kind of approach is indicative of a propensity to lump things together, to discriminate and to exclude, which is hard to justify and harder still to excuse, so injurious is it to religious freedom.

Second, the Special Rapporteur then explained:

Religions cannot be distinguished from sects on the basis of quantitative considerations saying that a sect, unlike a religion, has a small number of followers. This is in fact not always the case. It runs absolutely counter to the principle of respect and protection of minorities, which is upheld by domestic and international law and morality. Besides, following this line of argument, what are the major religions if not successful sects? (...)

Again, one cannot say that sects should not benefit from the protection given to religion just because they have no chance to demonstrate their durability. History contains many examples of dissident movements, schisms, heresies and reforms that have suddenly given birth to religions or religious movements."

And finally the Rapporteur concluded by writing that:

All in all, the distinction between a religion and a sect is too contrived to be acceptable. A sect that goes beyond simple belief and appeals to a divinity, or at the very least, to the

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<sup>1</sup> See <http://www.unhchr.ch/tbs/doc.nsf/0/9a30112c27d1167cc12563ed004d8f15>

supernatural, the transcendent, the absolute, or the sacred, enters into the religious sphere and should enjoy the protection afforded to religions.<sup>2</sup>

The terminology to be used when discussing these issues is of utmost importance. The UN language in this regard is neutral and universal. It is not influenced by the perception in a particular cultural and religious context or in a particular part of the world, such as European and American countries with Christian traditions.

The UN experts and treaty bodies use the neutral term “religious or belief systems” to cover the broad spectrum of religions and worldviews, and the term “religious or belief communities” to encompass the various forms of religious, spiritual and non-religious communities or organizations. They never endorse the terms “sects” or “cults”.

First conclusion, all religious or belief communities around the world and their members are treated equally by the UN. Therefore they must be treated equally by Governments and must have access to the same rights and also the same duties as other citizens. Governments have a duty to neutrality and they should not discriminate against specific religious or belief communities nor should they adopt a specific law that puts specific mechanisms and implements specific policies to target specific groups. Last but not least, Governments also have a duty to protect their citizens against any infringement upon their rights regardless of their religion or belief.

Second conclusion, freedom of religion or belief is indivisible. If a faith or a belief community, their leaders or their religious ministers violate laws which are consistent with international standards, they must be prosecuted. If a member of a religious or belief community violates the laws, he/she must be prosecuted but his/her community should not be stigmatized on this ground.

### **Should the individual right to change one’s religion or belief be restricted?**

In many Islam-dominated countries, Muslims do not have the right to change their religion. In some countries, Muslims can be sentenced to death by courts on the grounds of apostasy. It is also important to mention that often citizens take the law into their own hand such as when, in some cases, converts to Christianity have been killed. In Europe and America, where Muslims are in the minority, the families and the communities exert intense pressure on any Muslim who wants to leave his/her religion.

In India, where Hinduism is the dominant religion, converts to Christianity have been massively and forcibly re-converted to Hinduism on several occasions. The Rashtryia Swayamsevak Sang

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<sup>2</sup> Report E/CN.4/1997/91 of 30 December 1996, para. 95-98., see [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.1997.91.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.1997.91.En?Opendocument)

(RSS) umbrella group of hard-line Hindu extremist groups asserts that all people born in India are Hindus and that therefore anyone who believes otherwise must be de-converted, i.e. from Christianity, and re-converted back to Hinduism

Our Western states are not immune from the bad practice of interfering in the individual choice of a religion. In countries with a Christian or secularist culture, some Governments warn the public against conversion to new religious or belief movements called “sects” or “cults”, though duly registered under the law on associations, even though the Government has a responsibility to remain neutral in these matters.

In this regard, Art. 18.2 of the ICCPR says:

**No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.**

However, some UN member states still fail to protect a number of their citizens against coercion.

### *Japan, a case study*

In the last 40 years, a huge number of adults who converted to the Unification Church and Jehovah’s Witnesses in Japan were abducted by their families, confined during long periods and submitted under constraint to so-called “exit counseling” with the purpose of de-conversion. Japanese politicians, the police, the judicial authorities, civil society and the international human rights community have always ignored this long-standing problem, considering that this practice was “a family matter”. All known complaints filed jointly against abducting parents and/or exit counselors have been declared ineligible for criminal proceedings by prosecutors. Only a small number of complaints before civil courts have been taken in consideration.

The failure to provide the victims of such kidnappings with equal protection under the law, and the impunity of those responsible, constitute a serious violation of the Japanese people’s constitutionally guaranteed rights and the international human rights standards to which Japan as a UN state member is legally bound.

In 2011, at least five adult converts to the Unification Church<sup>3</sup> were abducted by their parents for the purpose of religious de-conversion. In 2010 and 2009 there were nine and three known cases, respectively.

All but one of the converts were in their 30s and late 20s. Like most Japanese, their parents considered themselves non-religious but partook in some social Buddhist and Shinto practices<sup>4</sup>.

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<sup>3</sup> The Unification Church (UC), founded by the South Korean Reverend Moon, started its activities in Japan in 1959 and was incorporated on 16 July 1964.

Most of the converts were young women<sup>5</sup>. They mostly belonged to the middle class and many had a university education background. A few had been abducted for the second time. Some could escape and kept their faith; some could leave after their family's unsuccessful attempts to de-convert them; some recanted their faith. In a few cases, the help of former members or anti-cult actors, including Protestant pastors, was requested by the parents and was obtained.

### ***Kidnapping, confinement and forced de-conversion in the US and Europe***

In the United States and in some European countries, abduction and de-conversion under coercion was also practiced by non-state actors, mainly in the 1970s and 1980s.

While the planned objective of the parents is “to save” their adult children against their will from a perceived or real danger and although they act out of love, the outcome of their strategy is usually a painful rupture. Many parents have lost much of their money, their time, and their health; their relations with their children have been irreversibly broken and they may never know their grandchildren.

There are cases of restoration of the family relations (the quality and the frequency of contacts vary) but there are also situations where children keep away from their family out of rancor or fear of a new abduction. Some parents regret their choice, while others do not feel any remorse.

The courts in the US and in Europe concluded that abduction for forcible de-conversion could not be squared with the protected right to religious freedom and constituted a violation of criminal laws.

In Europe sentences have been pronounced by the courts and parents have not been excluded from criminal proceedings. I will just cite a few examples here.

In **Germany**, a sentence to a prison term of three and five months on probation for false imprisonment and bodily harm sanctioned the attempt of two British so-called “deprogrammers” to persuade a 32-year old member of the Church of Scientology in Munich to resign from this community in the village of Herrsching. To that end the two British sequestered the convert in a holiday home and “treated” her, after she was asked by her mother under false pretenses to come from Munich to Herrsching.

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<sup>4</sup> Japanese usually practice the Shinto ritual at New Year, the Christian or Shinto rite for marriages and the Buddhist rite for funeral.

<sup>5</sup> Globally, there are more young women than young men in Japan's Unification Church. Hence probably the higher number of cases involving young women. Moreover, in the Japanese culture, many parents of the older generation still consider that their children, though adults, remain under their authority and owe them obedience during their whole life (Confucian influence). Hence probably the higher number of cases involving young women.

The two “deprogrammers” claimed to have acted on the initiative of the mother. However, the statements of the two in an attempt to blame the mother alone were not followed by the court.

In its judgment of 29 December 1987, the District Court Weilheim in Upper Bavaria found the accused guilty of “a jointly committed false imprisonment legally coinciding with a jointly committed bodily harm” and convicted them to three and five months suspended jail terms.

The mother was prosecuted separately subsequently and in her case the prosecution was discontinued on the basis of her paying a penal fine of 2.000 DM at the time - by reason of her confused mental state.

In **Switzerland**, in March 1989, Sandro P., who had joined the Hare Krishna movement, was kidnapped by four men on the initiative of his parents who were both members of SADK, a Swiss anti-sect association. Their purpose was to submit him to a “deprogramming” treatment. The four “deprogrammers” took Sandro P. to an isolated holiday home where he was detained against his will. Two days later, after the Hare Krishna community had alerted the police on the situation, the police stormed the house and freed him. The leading “deprogrammer”, an English citizen, later got a 6-month suspended prison sentence and the two parents got 10-month suspended prison sentence.

In **France**, in August 2011, a couple forced their 24-year old daughter into their car in Nice. They then handcuffed her, drugged her and took her in a wheelchair to Corsica. The parents claimed they acted in such a way because they had been advised by an anti-sect association to take their daughter away from her boyfriend’s influence, who was allegedly Antoinist.

Both parents were subsequently charged in September for kidnapping and sequestration. The criminal investigation is pending.

The **European Court of Human Rights**, which enforces the European Convention on Human Rights and Fundamental Freedoms that 47 countries have signed and ratified and which contains similar freedom of religion or conscience provisions to the ICCPR, has ruled that law enforcement forces cannot participate or endorse such abductions for forced de-conversions by private parties.

In its decision *Riera Blume and others v. Spain* of 14 October 1999, the Human Rights Court found a violation of the Convention by the Spanish State even though the abduction and “deprogramming” had been performed by the parents and an anti-sect association, *Pro Juventud*:

29. (...) From the undisputed account of the facts it appears that, in accordance with the judge’s instructions, the applicants were transferred by Catalan police officers in official vehicles to a hotel about thirty kilometers away from Barcelona. There they were handed over to their families and taken to individual rooms under the supervision of people

recruited for that purpose, one of whom remained permanently in each room, and they were not allowed to leave their rooms for the first three days. The windows of their rooms were firmly closed with wooden planks and the panes of glass had been taken out. While at the hotel the applicants were allegedly subjected to a “deprogramming” process by a psychologist and a psychiatrist at *Pro Juventud*’s request. (...)

35. In the light of the foregoing, the Court considers that the national authorities at all times acquiesced in the applicants’ loss of liberty. While it is true that it was the applicants’ families and the *Pro Juventud* association that bore the direct and immediate responsibility for the supervision of the applicants during their ten days’ loss of liberty, it is equally true that without the active cooperation of the Catalan authorities the deprivation of liberty could not have taken place. As the ultimate responsibility for the matters complained of thus lay with the authorities in question, the Court concludes that there has been a violation of Article 5 § 1 of the Convention.

The European Court of Human Rights has also ruled that the right to religious freedom has to be protected even when relatives are hostile towards one’s religious choices.

In its landmark decision of 10 June 2010 *Jehovah’s Witnesses of Moscow v. Russia*, the European Court reasserted the right for adults to conduct their life in a manner of one’s own choosing and in particular the right of self-dedication to religious matters.

The Court found that:

111. It further appears from the testimonies by witnesses that what was taken by the Russian courts to constitute “coercion into destroying the family” was the frustration that non-Witness family members experienced as a consequence of disagreements over the manner in which their Witness relatives decided to organise their lives in accordance with the religious precepts, and their increasing isolation resulting from having been left outside the life of the community to which their Witness relatives adhered. It is a known fact that a religious way of life requires from its followers both abidance by religious rules and self-dedication to religious work that can take up a significant portion of the believer’s time and sometimes assume such extreme forms as monasticism, which is common to many Christian denominations and, to a lesser extent, also to Buddhism and Hinduism. **Nevertheless, as long as self-dedication to religious matters is the product of the believer’s independent and free decision and however unhappy his or her family members may be about that decision**, the ensuing estrangement cannot be taken to mean that the religion caused the break-up in the family. Quite often, the opposite is true: **it is the resistance and unwillingness of non-religious family members to accept and to respect their religious relative’s freedom to manifest and practise his or her religion that is the source of conflict**. It is true that friction often exists in marriages where the spouses belong to different religious denominations or one of the spouses is a non-believer. However, this situation is common to all mixed-belief marriages and Jehovah’s Witnesses are no exception. [emphasis added]

The same judgement also contains some considerations about the argument of “**brainwashing**” made by the Russian authorities to justify the banning of Jehovah’s Witnesses’ activities, **the Court found this concept legally inexistent and totally inapplicable to consenting followers:**

128. The Russian courts also held that the applicant community breached the right of citizens to freedom of conscience by subjecting them to psychological pressure, “mind control” techniques and totalitarian discipline.

129. Leaving aside the fact that **there is no generally accepted and scientific definition** of what constitutes “**mind control**” and that no definition of that term was given in the domestic judgments, the Court finds it remarkable that the courts did not cite the name of a single individual whose right to freedom of conscience had allegedly been violated by means of those techniques. Nor is it apparent that the prosecution experts had interviewed anyone who had been coerced in that way into joining the community. On the contrary, the individual applicants and other members of the applicant community testified before the court that they had made a voluntary and conscious choice of their religion and, having accepted the faith of Jehovah’s Witnesses, followed its doctrines of their own free will.

In conclusion, no argument of family “concerns” or labelling of conversion as so-called “brainwashing” can justify abduction and forced de-conversion attempts in confinement conditions. Kidnapping and deprivation of freedom of followers of new religious movements who have voluntarily adhered to their new community in Japan, in France, in Germany and any other country are illegal under international human rights law and national criminal law.

Therefore, there is no legal ground for Governments to restrict the individual right to change one’s religion, to warn against or to discourage conversion to religious or belief communities they have legally registered even if they are subject to societal hostility. Whether there is a dominant religion or worldview or not, states have a duty to neutrality in religious freedom matters, have to protect their citizens against conversion or de-conversion under coercion and to prosecute any person or group who encourages or resorts to this bad practice.

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