



***Droits de l'enfant et
croyances religieuses:
Autonomie, éducation, tradition***

*Édité sous la direction de
Ph. Jaffé, Ö. Lakatos,
N. Langenegger Roux,
Z. Moody, Ch. Nanchen
et J. Zermatten*

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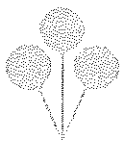
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EDITEUR

Centre interfacultaire en droits de l'enfant (CIDE), Université de Genève

Case postale 4176 – 1950 Sion 4 – Suisse

Tél +41 (0) 27 205 73 93 - Fax +41 (0) 27 205 73 01

Web: www.unige.ch/cide

COMITE DE REDACTION

Philip D. Jaffé

Özlem Lakatos

Nicole Langenegger Roux

Zoé Moody

Christian Nanchen

Jean Zermatten

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Is religion a friend or foe of children's rights?

Philip E. VEERMAN

Past President of Defense for Children International, The Hague, The Netherlands

Abstract

International children's rights norms have, since the *Declaration of Geneva* was adopted by the League of Nations in 1924, become more all embracing and wide-ranging as can be seen in the text of the *U.N. Convention on the Rights of the Child (CRC)*, which includes (in article 14) freedom of thought, conscience and religion. In the thirty years that passed since the adoption of the CRC, a lot of progress on the implementation of the CRC has been achieved. However, on many children's rights issues where progress is impossible to reach, the root causes of this stagnation can be found in religious beliefs and traditional values. For implementation of the CRC, State parties to this Convention are held responsible, while in fact sometimes it is religious leaders who are responsible for the stagnation. It would however be a pity if dialogue with religious leaders be avoided as such dialogue, also on a local level, seems the only way forward. A proposal is presented by the author to have a yearly meeting in Geneva of the CRC Committee, the U.N. Special Rapporteur on Freedom of Religion and Belief, representatives of NGO's on freedom of religion and beliefs and NGO's on children's rights, in order to discuss certain children's rights which are hard to implement because of traditions and religious beliefs and how progress can still be achieved. The relevance of article 5 (right to identity) and 27 (which includes the words 'spiritual development' of the child) is discussed.

Introduction: the Cold War roots of art 14 of the CRC

In my book *The Rights of the Child and the Changing Image of Childhood*¹ I have pointed out that in the Open-Ended Working Group, which helped to draft the CRC, "*East-West ideological differences were obvious (...). Poland focused, for instance, on material rights (such as the right of the child to the highest attainable standard of health) (...) the U.S. focused on non-material rights (such as freedom of thought, conscience and religion)*". In 1982 the United States had come up in the Working Group² with an amendment to the original article VII (a proposed joint article on both education and the best interests of the child) to include freedom of thought, conscience and religion. This idea was discussed for the first time in 1983 in the Working Group, where the representative of the United States came with a revised amendment³.

On 23rd August 1989, Hungary opened its borders to Austria. East Germans were suddenly allowed to freely visit Hungary. On 9 November 1989 the Berlin Wall fell. Eleven days later the U.N. General Assembly adopted the CRC. In the light of

¹ Veerman, Philip, E., *The Rights of the Child and the Changing Image of Childhood*, Dordrecht, Boston and London: Martinus Nijhoff Publishers, 1992, 182.

² *The Legislative History of the United Nations Convention on the Rights of the Child, Vol. I.*, Geneva and Stockholm, Office of the High Commissioner of Human Rights and Save the Children Sweden: 2007, p.453.

³ Amendment by the United States to the original article 7 bis: E/1982/12 Add.12. part C para 118 (page 72-73), revised in 1983: E/CN.4/1983/62, para 57. Strangely Sylvia Langlaude in her book *The Right of the Child to Religious Freedom in International Law* (Dordrecht, Boston, London, Martinus Nijhoff: 2007, p.102) wrote, "A Canadian proposal introduced the issue".

these political changes, it was easier for 'Western' countries to get proposals accepted by 'Eastern' like the inclusion in the CRC of freedom thought and religious beliefs. My hypothesis is that when article 14 was proposed, the American drafters were so taken to score points against the Communists that they did not realise how much the text they proposed would give an opening for autonomy of rights of children.

The U.S. 'Religious Right' opposition to the CRC

The Cold War times in which the United States and faith based organisations and NGO's⁴ played such an active role in the drafting the CRC and its article 14 seems long ago. It is remarkable that the present opposition to the CRC comes especially from certain American religious circles.

This has contributed to the situation that now all U.N. member States have ratified the CRC, except the United States. According to John Witte and Don Browning the opposition to the CRC "comes from the so-called Religious Right in America – particularly politically conservative Christians, mostly Evangelicals, but also some Catholics and Orthodox"⁵. Staff members of The Family Research Council and the Heritage Foundation are, according to Browning and Witte, often spokespersons for the "Religious Right" and have lobbied successfully against ratification of the CRC by the United States. Those strongly opposed to the CRC in the United States express the opinion that "the Convention undermines national and parental sovereignty"⁶. In the American magazine *The Atlantic* Travis Weber (the director of the Center for Religious Liberty at the Family Research Council) explains that his organisation opposes ratification of the CRC "out of concern it might force U.S. lawmakers to recognize rights of same-sex parents, provide teens access to reproductive-health services, and override parental desire to use corporal punishment". Much of these sorts of expressions of opposition to the CRC from Christian-Right circles are sometimes deliberate misinterpretations of the CRC. Anyway, what this points out to us clearly is that there are tensions between children's rights and some religious beliefs.

Religious beliefs are often the reason for stagnation of implementation of the CRC

Children's rights and religious beliefs is also a sensitive subject and – maybe for this reason – it has been neglected. In the past children's rights and religion have been discussed only a few times at a level of special Conferences. The first Conference to ever feature a dialogue on rights of the child and religion in the context of both the 1981 *U.N. Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief*⁷ and the CRC was the International Conference 'Entering the

⁴ During the drafting process of the CRC many religious N.G.O.'s and representatives from religious communities also made contributions. Listed are for instance the International Catholic Child Bureau, Baha'i International Community, Friends World Committee for Consultation, the International Council of Jewish Women, Caritas Internationalis, International Council on Jewish Social and Welfare Organisations, World Council of Indigenous Peoples, World Federation of Methodist Women, World Jewish Congress and the Worlds Union of Catholic Women's Organisations. See: Detrick, Sharon, *The United Nations Convention on the Rights of the Child: A Guide to the Travaux Préparatoires*, Dordrecht, Boston, Martinus Nijhoff, 1992.

In addition I like to pay tribute to the Belgian Canon Joseph Moerman (1920-2012), who headed the *International Year of the Child* (1979). He helped with the IYC-activities to get attention to the CRC-idea.

⁵ John Witte, Jr and Don S. Browning, "Christianity's Mixed Contributions to Children's Rights: Traditional Teachings, Modern Doubts", *Emory Law Journal*, 2012, (61(991)) 992-1014.

⁶ Amy Rothschild, "Is America Holding Out on Protecting Children's Rights?", in: *The Atlantic*, May 2 2017. <http://www.theatlantic.com/education/archive/2017/05/holding-out-on-childrens-rights/524652/>.

⁷ *U.N. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief*, General Assembly, 25 November 1981, A/RES/36/55.

new Millennium: Children's Rights and Religions at a Crossroad, held 21-24 November 1999 in Nazareth and organised by Defence for Children International-Israel⁸, of which I was the Executive Director at the time. It was an achievement that Prof. Abdelfattah Amor, a Tunisian law professor, then the U.N. Special Rapporteur on Freedom of Religions or Beliefs, came to address the Conference in Israel. The second Conference was held in 16-18 May 2000 in Tokyo where the Arigatou Foundation (a charitable foundation started by the Myochikai, a Japanese new Buddhist religion) brought together an amazing group of almost 300 participants from 33 countries. In Tokyo, children's rights professionals and I had the pleasure to meet different religious leaders as Buddhists, Christians, Hindus, Jews, Muslims, Shintoists, Zoroastrians and members of indigenous and other religious traditions. There a *Global Network on Religions for Children (GNCR)* was introduced.

Children's rights and religion have, however, in the last 30 years never been discussed in Geneva, the heart of the children's rights institutions, in a special Conference form, for instance as a Day of General Discussion which the CRC Committee organises every year. The organisers of the Conference 'Children's Rights and Religious Beliefs: Autonomy, Education, Tradition', held in Geneva on 2-3 May 2019, which also lead to this book, dared to take on this complex subject. And it is high time, because many children's rights issues where progress is impossible to reach often lead to the conclusion that religious beliefs and traditional values in a State party are the reason for stagnation of implementation of the CRC. It is like we are driving in a modern car and suddenly the road ends, we are forced to park our car and continue on an old trail on foot into the mountains. Often the obstacles are traditions and religious beliefs, although sometimes they are described not in terms of religion but as cultural practices⁹.

An example of a clash with tradition/religious beliefs: caste-discrimination

Heiner Bielefeldt wrote that "*Whereas in medieval feudal societies people occupied different ranks of dignity which themselves were connected to different legal positions, the modern idea of human rights demands that everyone be treated with equal respect and be entitled to equal right.*"¹⁰ Bielefeldt relates, interestingly, to original opposition of the Catholic Church to human rights "*also motivated by a resistance to modern demands of religious liberty in general*". And he also reminds us of the resistance of Saudi Arabia to the Universal Declaration of Human Rights because of the same issue of religious liberty¹¹. But Bielefeldt did not relate to the system of different ranks of dignity, which survived to this day and has an enormous influence on children in many parts of the world, namely caste-discrimination. Caste-discrimination is an issue closely linked with religious beliefs and it is associated with the South Asian region. Rita Izsák-Ndiaye, who served from 2011-2017 as U.N. Special Rapporteur on Minority Issues, described,¹² "*in that region its existence is linked to the religiously sanctioned social structure of Hinduism, which identified four original and endogamous groups, or castes, called Varna's.*" The former U.N. Special Rapporteur on Minority Issues pointed out that "the term caste has broadened in

⁸ Veerman, Philip and Sand, Caroline, Religion and Children's Rights, *International Journal of Children's Rights*, 1999, (7 (4)), 385-393.

⁹ Freeman, Michael, *A Commentary on the United Nations Convention on the Rights of the Child, Article 3 The Best Interests of the Child*, Leiden, Boston, Martinus Nijhoff, 2007, 35.

¹⁰ Bielefeldt, Heiner, "Universal Human Rights and Religious Traditions", in: Peter G. Kurchschlager and Thomas Kirchslager, editors, *Menschenrechte und Religionen*, Bern, Stampfli Verlag, 2009, 255-260.

¹¹ Bielefeldt, *Op. Cit.*, p. 256.

¹² United Nations Special Rapporteur on minority issues, Rita Izsak. 2016. *Report of the Special Rapporteur on minority issues*, Human Rights Council, Thirty-first session, Agenda item 3, 28 January 2016: A/HRC/31/56, para 24.

meaning, transcending religious affiliation." Many children in Mauritania for instance also suffer from caste-discrimination and therefore the term *descent based discrimination* is maybe more appropriate, but my comments in this framework focus on children in Hindu countries like India and Nepal. There Dalit (untouchable) children have to sit in the back of the class, they can not drink where other children can, are forbidden to enter public places like Temples, Dalit children can't touch food of others, it is expected they will only do certain jobs later and nobody from a higher caste will marry them. In Nepal alone, there are already five million Dalits. The roots of the South Asian caste-discrimination can be found in Hinduism. This is a clear example where the children's rights norms and values clash with tradition, which is 3500 years old. The problem, which the U.N. Committee on the Rights of the Child faces, is illustrated with the example I just mentioned. The CRC Committee enters a constructive dialogue with the State party and formulates Concluding Observations, the 'shopping list' for the next 4 years for the State party, but this is not directed to the religious authorities, because it is the State party, which ratified the CRC. In a way, it is therefore not fair to criticize States parties for something that others than the organs of the State have control over. It is though not a black and white picture. Laws are often just 'window dressing' and the State party is not active enough in fighting the violations of children's rights. In the mentioned case of Dalit (untouchable) children in Nepal, the lack of action by the State party unfortunately is not a strong issue in the CRC Committee's Concluding Observations¹³ of 2016. In my opinion, the CRC Committee lets this State party get away with it in these Concluding Observations. However, we should distinguish the above problems from where a State party takes a lead in violations of children's rights based on religious beliefs. A recent example is a law of 3 April 2019 of Brunei Darussalam stating "Those who persuade, tell or encourage Muslim children under the age of 18 to accept the teachings of religions other than Islam are liable to a fine or jail"¹⁴. Here it is the Sultan and his government taking the lead, not the religious authorities. However, this situation is also more complex. The BBC reported¹⁵: "the influence of the Islamic bureaucracy cannot be overstated. Its leaders have long told the monarch and the public that Brunei must completely enforce God's law, as they interpret it."

Reservations to the CRC based on religious beliefs

Article 14 of the CRC has been one of the most controversial articles and many States (for instance Bangladesh, Djibouti, Indonesia, Iran, Jordan, the Maldives, Morocco, Pakistan and the Holy See) upon ratification made declarations or reservations¹⁶. William Schabas¹⁷ raised the question "*if the fundamental purpose of the Children's Convention is to set out and protect the most basic rights of children, then how can reservation to any of these rights be accepted?*"

Schabas got very irritated by the reservation to the CRC by Pakistan stating that the "*Convention shall be interpreted in the light of the principles of Islamic laws and values.*" Schabas is in my opinion right that this "*reservation could conceivably affect the application of every provision of the Convention.*" (...) Schabas: "*The phrase*

¹³ CRC Committee, *Concluding Observations on the third and fourth periodic report by the State Party: Nepal*, 8 July 2016, CRC/CNPLU/CO/3-5.

¹⁴ BBC, 6 May 2019: <https://www.bbc.com/news/world-asia-48171165>.

¹⁵ Head, Jonathen, *Inside the silent nation of Brunei*, BBC, 10 May 2019.

¹⁶ U.N. Committee on the Rights of the Child, *Reservations, Declarations and Objections Relating to the Convention on the Rights of the Child, Note by the Secretary-General*, July 1994, CRC/C/2/Rev.3.

¹⁷ Schabas, William, A., "Reservations to the Convention on the Rights of the Child", *Human Rights Quarterly*, 1996, (18(2)), 472-491.

'Islamic laws and value' is so vulnerable to different interpretations that it is simply impossible to establish the obligations assumed by Pakistan under the Convention". Schabas points out that Djibouti's reservation to the CRC is similarly far-reaching and even more vague than the reservation by Pakistan. Referring to another State-party to the CRC, namely Iran, Schabas points out: "Iran's reservation¹⁸ is so far reaching that it constitutes a total absence of ratification. It is hardly necessary to even consider whether the reservation is compatible with the object and purpose of the Convention." Schabas asked "What possible protection can the Convention provide to children in Iran if it is hierarchically inferior to internal legislation"?

Many declarations or reservations to the CRC are not of such a general nature, but still relate to article 14 expressing concerns from an Islamic perspective (for instance by Algeria, Bangladesh, Indonesia, Morocco and the Syrian Arab Republic).

Religious tolerance and protecting minorities

The issue of children's rights and religion is closely connected with the right of parents to give their children a religious education fitting with their large group identity. In January *Human Rights Watch* demanded that the Chinese authorities in Qinghai province should *"immediately lift their ban on Tibetan children attending classes in local monasteries. (...) Informal classes taught by monks during school holidays have become popular in Tibetan areas, particularly to teach the Tibetan language, which is used progressively less in government-run schools"*¹⁹.

Seventy-four years after World War II ended anti-Semitism in Europe is again on the rise. The British newspaper the *Guardian*²⁰ recently concluded that in Europe *"hate speech, harassment and an increasing fear of being recognised as Jewish were becoming the new normal"*. Education for tolerance is a key issue here as the European Fundamental Rights Agency (FRA) acknowledged: *"Education is essential to prevent intolerant attitudes. Through education that fosters socialisation, tolerance, universal values and encourages critical thinking, children and young people can bring change to their families and communities and ultimately to the broader society"*²¹.

The importance of the right to identity (article 8)

The issue of autonomy is, as we have seen, a key-issue in article 14. While introduced by the United States, American Christian-Right groups especially expressed objections of the CRC to allowing children too much autonomy. Many reservations of Islamic States relating to article 14 object also to the autonomy of children in this matter. How did the CRC Committee operate in this minefield? Barbara Bennett Woodhouse²²: *"the Committee on the Rights of the Child has interpreted article 14 rather aggressively as calling for examination of potential conflicts between existing laws and children's religious autonomy. In the Committee's view, both the parent and the State must respect the decisions of the child and should limit their*

¹⁸ The Government of Iran *"reserves the right not to apply any provisions or Articles of the Convention that are incompatible with Islamic laws and the internal legislation in effect."*

¹⁹ Human Rights Watch, China: *Tibetan Children Banned from Classes; Authorities Declare Informal Sessions in Monasteries 'Dangerous'*, New York, January 30, 2019.

²⁰ Henley, Jon, Anti-Semitism rising sharply across Europe, latest figures show; France reports 74% rise in offences against Jews and Germany records 60% surge in violent attacks, *The Guardian*, 15 February 2019.

²¹ European Union Agency for Fundamental Rights (FRA), *Anti-Semitism – Review of Data Available in the European Union 2007-2017*, Luxembourg: Publication Office of the European Union, 2018, 86.

²² Bennett Woodhouse, Barbara, *Religion and Children's Rights*, in: Witto, John, jr. and Green, M. Christian, Chapter 16: Religion and Human Rights, Oxford, Oxford University Press, 2012, 299-315.

guidance and instruction to that which is necessary to support the child in his or her religious and moral development. Parents are entitled to provide direction, but not to coerce children into a certain belief system if it goes against the 'evolving capacities of the child'. The Committee's approach has drawn criticism for overemphasizing autonomy without due respect for the child relationships to family and community". Of course the best interests of the child (article 3) and the evolving capacities of the child (article 5) have to give guidance to how much autonomy the child can be granted here. Psychologists have studied stages of development and this can provide guidance. Bennett Woodhouse illustrates how the capacities of the child evolve with quoting the famous psychologist Jean Piaget, who worked at the University of Geneva and studied the cognitive development of children. I like to add that the emotional development is also of great importance and it was the psychoanalyst Erik Erikson²³ who was in this field the pioneer. This brings me to the importance of identity. In the framework of children's rights and religion or belief the importance of article 8 ("*States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference*") is often overlooked.

Erikson explained for instance that during each stage the person experiences a crisis. An adolescent's task is for instance to develop identity and if he or she does not succeed this will lead to role-confusion. Although seeds for being autonomous are being sown at the age of a toddler, the more a child is stimulated by his or her parents to function independently, the better autonomous functioning he or she might have. The school, the media, the peer group and a religious community to which he or she belongs all contribute to the forming of identity.

There are indeed cases where adolescents decide to change their religion. But I believe we should not forget the changes of identity while staying within the religion. Adolescents from ultra-religious families decide to become secular²⁴ and there is also the opposite movement: children from secular families becoming (ultra-)orthodox²⁵. This decision about the change of identity can have grave consequences (parents who do not want to see their child anymore for instance). Ultra-orthodox who come from a closed and very traditional society find it often hard to make the transition to the secular world, because they did not learn basic skills to cope in this society. It is like moving on a continuum to the other end. We have to compare these cases to other changes of identity for instance the sexual identity (adolescents who decide they are gay or lesbian or want a sex change), which can also have enormous consequences.

There is a link between changing somebody's identity within the religion and radicalisation. Nathaniel Howell observed, "*The more closed and isolated the group, the greater the impulse to develop in radical directions*"²⁶.

Article 8 (preservation of identity) has often been understood as the right to have its biological family roots preserved. However, the right to belong to a religious group, cultural or ethnic group is often overlooked. In World War II thousands Dutch-Jewish parents were killed in concentration camps by the Germans. Some of the children survived in hiding in non-Jewish foster families. The Jewish community demanded

²³ Erikson, Erik H., *Childhood and Society*, New York, London: W.W. Norton and Comp., 1950. Erikson, Erik H., *Identity, Youth and Crisis*, New York, London: W. W. Norton and Comp., 1958.

²⁴ Levi, Sarah, Between Worlds: Former Ultra-Orthodox Jews Speak out, *The Jerusalem Post*, 13 January 2018.

²⁵ Zamir, Sarah, The phenomenon of becoming religious among secular pupils of high schools in Israel, *Journal Educational Sciences*, ((43) 4), 2017, 430-441.

²⁶ Howell, Nathaniel, Islamic Revivalism: A Cult Phenomenon?, *Mind and Human Interaction*, (5 (3)), 1994, August 97-103.

after the war that these children would go back to a Jewish family member (a grandparent or an aunt for instance) who did survive. Not easy to establish what would be the best interests of the child here, since many children formed attachments with the foster parents. In many cases it was recognized that these children should have a Jewish upbringing and they were returned to the Jewish community. Several of these children had been converted to Christianity, which the Jewish community saw as another dehumanization²⁷.

The study of large-group identity is also important and explains much of the phenomenon of radicalisation. Vamik Volkan, a American psychoanalyst, who studies the phenomenon of large group identity: *"there are fundamentalist groups within practically every faith tradition – Christianity, Judaism, Islam, Hinduism, Sikhism, Buddhism, and Confucianism included. These movements share certain traits, despite their differences in terms of doctrine, size, social composition, scope and influence. Some religious fundamentalists form 'cults'. (...) Others are more widespread in a society. (...) Significantly, though, extremism in fundamentalist religious groups is closely linked with large group regression"*²⁸.

Is article 27 also important for children's rights and religion?

Several times now I heard from colleagues working in the field of children's rights and religion that paragraph 1 of article 27 of the CRC is of importance, because spiritual development of the child is mentioned there: *"States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development"*. Indeed the words spiritual development do appear here, but the emphasis of this paragraph is on the right to have an adequate standard of living. The spiritual development comes in here not through the front door, but from the back door. To speak about the right to a spiritual development looks in the first instance a bit far-fetched. However, it is a long shot, but the original Polish draft²⁹ from 1978 (and more specifically CRC's original article II, out of which article 27 was developed) can help to promote the point that there is a right to spiritual development of the child. In the rewrite of this draft article of the CRC, the UN Commission of Human Rights put the focus on the right of every child to an adequate standard of living³⁰. It was the observer of the Holy See who proposed in the Working Group to put back in the words spiritual development³¹. Interesting is that an earlier the plea of the Food and Agricultural Organisation (FAO) argued to include the words *emotional development*³² and this did not make it into the text of the CRC³³. Although the right to an adequate standard of living became the center of this article, it is important to recognize that it is not only connected with the right to food, housing, but many aspects that are essential for the child's development were recognised. A Cypriot colleague³⁴ claims that in order for a full development to be achieved, the spiritual development

²⁷ Verhey, Elma, *Om het Joodse Kind*, Amsterdam, Nijgh & Van Ditmar, 1991.

²⁸ Volkan, Vamik, Observations on Religious Fundamentalism and the Taleban, *Mind and Human Interaction*, (12 (3)) 2001, 156-160.

²⁹ *"The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration"*, See: E/CN.4/1292, p. 14.

³⁰ See UN Document E/CN.4/1394.

³¹ E/CN.4/1985/64 para 41-55.

³² E/CN.4/1325.

³³ For more on the history of this article see: Office of the UN High Commissioner for Human Rights, *Legalistic History of the Convention on the Rights of the Child, Volume II*, Geneva and New York, 2007, 618-631.

³⁴ Louca, Eleonora Papaleoniou, Spiritual Development of Children and Adolescents, *Weber Psychiatry and Psychology*, (2)2), 2006, 556-558.

must be included. And it is just what article 27 makes us realize we should not forget³⁵. In article 27 we can see also the roots of international children's rights, because we can recognize in article 27 the original Principle I of the Declaration of Geneva adopted by the League of Nations in 1924: *"The child must be given the means requisite for its normal development, both materially and spiritually"*.

Can religious leaders play a role in advancing children's rights?

Psychologist Gary Melton: *"when the topic of religion enters discourse on children's rights, all too often it is to lament the influence of certain religions on the status and well-being of children"*³⁶. Not many writers on the issue go so far as an Indian secular humanistic researcher from India, Innaiah Narisetti³⁷ who writes *"...the time has come to debate the participation of children in religious institutions"*. He is very negative about the influence of religion on child development and is of the opinion that *"religion contributes to child abuse globally"*. He has collected examples of how children are abused in the name of different religions. Gary Melton³⁸, an American psychologist and jurist, who is also an expert on child abuse, came to a different conclusion, namely that *"people of faith are natural child advocates"*. Melton³⁹: *"Although such organizations have approached children's issues timidly and defensively, it s time to recognize that churches and other religious institutions are well suited by doctrine, mission, structure and resources to be at the forefront of the quest for recognition and fulfilment of children's rights"*. Once you look through the glasses Narisetti puts on, no constructive role for religious institutions can be seen. On the contrary he sees an attempt from religious institutions to get a grip on the life of children in order to control it. He pleads to keep children away from religion. But that is a highly unrealistic demand and I prefer the realistic point of view of Melton who wants to build strong communities to support young parents (who are often isolated) and religious institutions are well placed to play a role in this support.

That does not mean that we should close our eyes to the risks of involving others in the life of our children.

I believe the implementation of the CRC will get stuck if we do not involve religious institutions. Here are some examples illustrating it is important to explore this more:

- Carola Eyber⁴⁰ at all carried out a study in the flood-affected areas in Malawi where faith leaders were participating in the global Christian relief, advocacy and development organisation World Vision workshops on child protection. As a *"result many faith leaders – and their wives – became active in addressing child protection issues as a result of the programme"*. One of the key implications of this study is: *"faith leaders are not a homogenous group*

³⁵ See also: Thompson, Ross A. & Randall, Brandy, A standard of living adequate for children's spiritual development. In: Andrews, Arlene Bowers & Kaufman, Natalie Hevener (Editors), *Implementing the U.N. Convention on the Rights of the Child*, Santa Barbara, CA, ABC-CLIO/Praeger, 1999.

³⁶ Melton, Gary, B., "To Such as These, the Kingdom of Heaven Belongs": Religious Faiths a Foundation for Children's Rights, in, Garbarino, J. and Sigman, G., *Children's Rights to a Healthy Environment*, New York: Springer, 2010, 3-30.

³⁷ Narisetti, Innaiah, *Forced Into Faith; How Religion Abuses Children's Rights*, Amherst, N.Y., Prometheus Books, 2009.

³⁸ Melton, Op Cit, page 13.

³⁹ Idem, page 25.

⁴⁰ Eyber, Carola, Kachale, Blessings, Shields, Tracy and Agar, Alastair, The role and experience of local faith leaders in promoting child protection: a case study from Malawi, *Intervention, Journal of Mental health and Psychosocial Support in Conflict Affected Areas*, (16 (1)), March, 2018.

and strategies to engage with them need to reflect their widely varying status, resources and capacities”.

- The NGO *Girls Not Brides* has tried to involve religious leaders to stop child marriages. A researcher of Girls Not Brides, Julie Rialet: Child marriage doesn't come down to religion, but religion is important to millions of people. Almost 80% of the world population professes a religious belief. So what if we started seeing religious leaders as an asset to address child marriage, not an obstacle⁴¹. The results are still very modest and we can learn from Girls Not Brides how to identify the right local religious leaders and how to involve them.
- In 2014 *Child Abuse and Neglect, the International Journal*, put together (with Gary Melton as one of the editors in chief) a special issue on the role of religion, which I highly recommend to read. In the opening article Marcia Bunge, introducing the six special articles, writes: *“Even though religion can play and has played a negative role in the lives of many children, religions have also been a powerful and positive force in nurturing and protecting children. Religious individuals and communities have established schools, hospitals, and social service agencies. (...) Furthermore, many children who are raised in a religious tradition and involved in religious communities find meaning and purpose and are supported by many caring adults. (...) Within many faith communities, children are also taught values of service and compassion, and they are given opportunities to serve others and to contribute to the common good”*⁴².

Although religious texts are open to interpretations, we will be confronted with limits of what we can achieve. And there will be disagreements with some religious leaders. Thirty years after the CRC was implemented we are only at the beginning with mapping these disagreements and a real dialogue has not been started. Katherine Marshall: *“Making child rights into something that helps the children who need them most means hard, collaborative work by often unlikely partners. The faith-linked (...) are among the partners we need most to overcome the hesitations that stand between our ideals and the future reality of a world where children are both cherished and protected, challenged and cared for”*⁴³.

“Hurricane-force winds of the spirit”

At the time when the CRC as adopted in many places in the world religious norms had clashed with new secular norms, but many believed that religion would be in decline everywhere. The famous sociologist Peter L. Berger had to admit that he had predicted a further secularisation-process, but the opposite was happening. Berger⁴⁴: *“...the assumption that we live in a secularized world is false. The world*

⁴¹ Rialet, Julie, Can Religious Leaders Be Our Best Allies To End Child Marriage?, 21 July 2017, on the website: <https://www.girlsnotbrides.org>

⁴² Bunge, Marcia J., The Positive Role of Religion and Religious Communities in Child Protection, *Child Abuse and Neglect, the International Journal*, (39 (4)) 2014, 562.

⁴³ Marshall, Katherine, The Conflicted Role of Religion in the 'Rights' of Children, blog at the website of the Berkley Centre for Religion, Peace and World Affairs of Georgetown University: <https://berkeleycenter.georgetown.edu/posts/the-conflicted-role-of-religion-in-the-rights-of-children>, June 30, 2011.

⁴⁴ Berger, Peter L., The De-secularization of the World: A Global Overview, in: Berger, Peter L., editor, Washington D. C. and Grand Rapids, Michigan: *The De-secularization of the World, Resurgent Religion and World Politics*, Ethics and Public Policy Center, and William B. Eerdmans Publishing Company, 1999, 1-18.

today, with some exceptions (...) is as furiously religious as it ever was, and in some places even more than ever. This means that a whole body of literature by historians and sociologists, loosely labelled 'secularization theory', is essentially mistaken".

Not only is the importance of religion growing since the CRC has been adopted, we are also confronted with fundamentalism. Howell⁴⁵ quotes from an interview with Martin Marty, a historian who said about fundamentalism: "We have hurricane-force winds of the spirit, blowing in unpredictable places. No one ever foresaw this a few years ago". These new winds were, in my opinion, not so strong during the drafting-process of the CRC (1978-1989) in what way children and adolescents could be "autonomous bearers of this right"⁴⁶. As the Council of Europe⁴⁷ has observed: "The phenomenon of "home-grown" radicalisation has seen a significant increase in recent years. Young people, including many minors, sensitive to ideological discourse and the apparent 'sense of social purpose' offered to them by radical organisations, are drawn into extremist movements involved in violent conflict (...)". These problems were not on the mind of the drafters of article 14 between 1978 and 1989. States parties are more than in the past confronted with dilemma's how to handle radical influences inspired by religion on children.

Children's rights as Trojan horses in order to change religions?

John Witte and Christian Green⁴⁸ argued that human rights should have a more prominent place within religions. Witte and Green: "our argument (...) is not an attempt to import libertarian ideals into their theologies and politics. It is not an attempt to herd Trojan horses into churches, synagogues, mosques, and temples to assail secretly their spirit and structure. Our argument is, rather, that religious bodies must again assume their traditional patronage and protection of human rights, bringing to this regime their full doctrinal vigour, liturgical healing (...)". What did not help was that we in human rights circles often behave as if our Conventions are sacred texts. Eglantyne Jebb⁴⁹, founder of Save the Children International Union, who drafted the *Declaration of Geneva* went from London to Geneva to draft the Declaration of Geneva on top of the Mount Salève and came down from the Mountaintop with the draft of the first International Declaration of Children's Rights. The comparison with Moses coming down from Mount Sinai where he was given the *Ten Commandments* comes to mind. Such hubris dopes not help. We as children's rights professionals should not come to the table with religious organisations as if we come to convert them to our 'children's rights faith'. Such an approach will not work, we have to be pragmatic but also respect each other's opinions.

Conclusions and a proposal

Article 14 of the CRC is one of the most complicated articles of the CRC. From the beginning till the end it has been one of the most controversial articles of the CRC.

⁴⁵ Howell, W. Nathaniel, *Islamic Revivalism: A Cult Phenomenon?*, *Mind and Human Interaction*, (5 (3)) 1994, August, 99.

⁴⁶ Brems, Eva, *A Commentary on the United Nations Convention on the Rights of the Child: Article 14, The Right to Freedom of Thought, Conscience and Religion*, Leiden, Boston: Martinus Nijhoff, 2006.

See also the new commentary: Langlaude, Sylvie, Tobin, Done and Tobin, John, Chapter 14: Article 14: The Right to Freedom of Thought, Conscience and Religion, in: Tobin, John, editor, *The UN Convention on the Rights of the Child, A Commentary*, Oxford, Oxford University Press, 2019.

⁴⁷ Parliamentary Assembly of the Council of Europe, *Preventing the radicalisation of children and young people by fighting the root causes*, Resolution 2103 (2016).

⁴⁸ Witte, John and Green, M. Christian, Introduction, in: Witte, John and Green, M. Christian, editors, *Religion and Human Rights*, Oxford, Oxford University Press, 2012, 19.

⁴⁹ Veerman, Philip, *The Rights of the Child and the Changing Image of Childhood*, Dordrecht, Boston, London, Martinus Nijhoff, 1992, 155.

Even in 1989, just before the process of drafting came to an end, the Jordanian Ambassador declared his reservations to this article⁵⁰. The article is strongly linked with the articles 3 (best interests of the child), 5 (parental guidance and the child's evolving capacities), 8 (preservation of identity), 12 (the child's opinion) and probably also the first paragraph of art 27 (spiritual development). There are numerous examples where religious leaders have abused children. Religion can be friend or foe of children's rights. When religious leaders (as in the case of abuse) are foes of children's rights, there should be no hesitation for criminal prosecution. Where this has not been done but should have, historic child abuse investigations should be started and Truce and Reconciliation Committees established. The CRC Committee has to deal all the time with different situations. They have avoided to deal with religious leaders.

Since we need cooperation from the religious community in order to make progress with implementation of children's rights, I propose to have a yearly meeting of the CRC Committee, the U.N. Human Rights Committee (overseeing the implementation of the ICCPR), the U.N. Special Rapporteur on Freedom of Religion and Belief and NGO's such as World Conference of Religions for Peace (WCRP). Representatives from religious communities need also to be part of the yearly meeting.

The Special Rapporteur on Freedom of religion and belief, Dr. Ahmed Shaheed, told me this idea is timely, since in March 2017 the Office of the High Commissioner for Human Rights launched the *Faith For Rights* framework and at the launch (in March 2017 in Beirut) the *Beirut Declaration on Faith for Rights and Eighteen Commitments of Faith For Rights* was adopted⁵¹. Religious leaders are considered to be very important human rights actors and it was recognized that they have influence on their communities. My proposal in the field of children's rights fits in the larger human rights picture and recent efforts of finding a common base of faith leaders and human rights workers.

⁵⁰ Veerman, Philip, *The Rights of the Child and the Changing Image of Childhood*, Dordrecht, Boston, London, Martinus Nijhoff, 1992, 194.

⁵¹ <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FaithForRights.aspx>
Of the Eighteen Commitments part of Commitment V seems important in the framework of this Chapter (*"We pledge to ensure justice and equal worth of everyone as well as to affirm the right of all women, girls and boys not to be subjected to any form of discrimination and violence, including harmful practices such as female genital mutilation, child and/or forced marriages and crimes committed in the name of so-called honour"*).
Also Commitment XIII seems important (*"We pledge to build on experiences and lessons learned in engaging with children and youth, who are either victims of or vulnerable to incitement to violence in the name of religion, in order to design methodologies and adapted tools and narratives to enable religious communities to deal with this phenomenon effectively, with particular attention to the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion"*).

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