

THOUGHTS ON CRIMINAL LAW AND DANGEROUS RELIGIOUS MOVEMENTS – A POSSIBLE LEGAL REACTION REGARDING THE SO-CALLED CULTS

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Abstract

This study analyses destructive religious movements under the scope of criminal law. This problem – often ignored by legislators – could mean a serious threat for our communities. Although the topic is not new, their appearance should be observed in the countries of the former Soviet era. Due to their topicality I examined the substance of such organizations and the possible theoretical issues that may emerge during prosecution.

Firstly, our task is to find the common characteristics that every movements share. That problem has a huge bibliography among theocrats who define „cultists” as followers of newly evolved doctrines that are originated from major religious groups with which they confronted at some point. This definition leads us to heresy too. To distinct the two concepts, we must add one more criterion, since criminal law may only react if the given group is potentially harmful to society.

Secondly, we must have a better insight in their functioning and find what makes them attractive. That requires an interdisciplinary perspective, since the answers shall be sought in the field of social psychology. Elliott Aronson identified several methods used by „prophets” to brainwash members including proselyting and isolation. Moreover, a natural phenomenon also contributes to their success. When someone joins a group, one’s opinion will be affected by the ideology unconsciously. The victim even after leaving the group will worship the learnt values.

When thinking about regularly committed crimes, we see a diverse list of delicts: murder, trading with illegal goods, sexual abuse etc. Henceforth, this can not be the basis of typology. It is more rewarding to review the attitude of the perpetrators (insane leaders, victims of coercion) and to compare cultic activity with organized crime.

As a comprehensive solution, introducing a new state of affairs that punishes manipulation using one’s belief shall be considered.

Key words: cult, destructive religious movement, criminal law, organized crime, insanity, coercion, manipulation

1. Introduction

The freedom of thought and religion is one of the most fundamental human rights. Originating from the era of the Reformation, it was already recorded in the Declaration of the rights of Man and of the Citizen in 1789. These days, when the amount of atheists keeps increasing, the mentioned liberty still has a major importance in our lives. In 2018 an international survey was made in terms of human rights which showed interesting results. Among other questions, ordinary people were asked that in their opinion, from a determined list of essential rights which ones should be protected the most. Participants had to pick 4 or 5 of the given elements. A 25% of the respondents included the freedom of thought and religion in his/her selection. With that result, it was the 6th most preferred opportunity, anticipating such principles like the right to security, the right of children to free education or the prohibition of slavery.¹

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¹ <https://www.ipsos.com/sites/default/files/ct/news/documents/2018-07/human-rights-in-2018-ipsos-global-advisor.pdf> 26. p. (18.03.2021.)

After finishing the process of secularization and breaking the close relationship between church and state, currently the modern European constitutional states provide the opportunity for their citizens to choose and practice their own belief without officially supporting any of those. Here arises a complex dilemma: could we imagine a well-defined limit concerning the liberty of religion, and if the answer was positive, how could we identify that point from which it shall be restricted and finally, what type of instruments should the government use to set up those certain limits?

Attempting to find answers, it is expedient to explore the elements that the discussed right consists of. *Joey Peter Moore* cites the opinion of the Supreme Court of the USA which states that the freedom of religion can be divided in two: freedom to believe and freedom to act.² With a more precise approach, Hungarian scholar of constitutional law, *Schweitzer Gábor* separates 4 distinct entitlements: the choice (and the alteration) of belief, the practice of religion, the freedom of religious assembly and the freedom of religious association.³ From a practical point of view we have to constate that the choice of one's belief shall not be regulated since one's conviction can not be dangerous by itself (though the canon law does not share this statement). Nevertheless, the other three aspects may be the instruments of crime, thus it is possible, and even desirable to determine their legal limits.

The so-called (religious) cults have gained more and more attention during the recent years, they have literally become part of the popular culture. Maybe not so dominant in the movie theatres, but hardly forgettable was the experience of director Ari Aster's „*Midsommar*” (2019) that showed us the everyday life of a Scandinavian neopagan cult, living isolated in the woods and sacrificing their guests for the sake of their gods. In addition, no one could possibly ignore the marketing of Tarantino's „*Once upon a time in Hollywood*” (2019) which was based on the brutal murder of actress Sharon Tate and her friends occurred in 1969. Even without attending the cinema we could easily come across on the TV the story of a murderous religious movement whose insane leader used his rabid followers to start his political career as the senator of Florida in the 7th season of the well-known American series „*American Horror Story*” (2017). These are only a few examples of dangerous sects that appeared in the last years' filmography and although they are probably just the concepts of Californian script writers (except the Tate murders) they demonstrate several characteristics of real-life groups: usage of drugs, sexual abuse, arms trafficking, violation of human rights like the right to freedom or the right to health etc. This is the noticeable point where the authorities have to intervene.

However the situation is not that simple. Such organisations usually cover their activity with a sacrilic purpose and additionally different legal aid establishments tend to assist them to avoid impeachment until they commit something excessively illegal. On the other hand, many cases remain totally undetected till that time when it is too late.

The mission of criminal law is to reduce crime rate with preventive and regressive methods, yet how could it treat such a menace, a rather invisible enemy of the society, the religious radicalism? That's the question for which this brief article meant to search possible solutions.

After approximating the concept of cults, we observe how these perilous groups work, we take a closer look at the character of the „shepherds” and try to discover the motivation of the members. With all this information, we analyse the potential legal answers for the threat. To do that, we have to attempt to categorise the cults under the scope of the penal code and discuss a few problematic questions that may emerge during jurisdiction. Finally, resuming all the gained knowledge about cults, we create a proposal for the legislator to be able to cope with this phenomenon in a more effective way.

² *Moore* (1980) 659. p.

³ *Schweitzer* (2018) 464. p.

2. Main discussion

2.1. Approaching the concept of cults

Firstly, we must emphasize that there is no acceptable definition regarding this phenomenon in the legal terminology, we can not find it neither in the penal codes nor in other laws. As a result, before beginning to analyse the main issue of this work, we are obliged to conceptualise the source of the problem. Since in the field of jurisprudence we are unable to find answers, we need to use the methods of other social sciences, especially the approaches of religious studies.

For a better understanding of our main topic, it is desirable to see the meaning of the words paganism and heresy, since they share some common features with cults.

As paganism is a widely known expression due to historical novels and other types of literature, we do not have to introduce it as a literally new term. However, I reckon that *Giuseppe de Rosa's* interpretation of the Holy Bible should not be omitted. In the Old Testament it is clearly described that all the non-Christian beliefs that reject Judaic monotheism come from Satan himself. This strict idea of the Catholic Church became less and less rigid after the events of Reformation and during the XX. century the clergy even declared that those oriental religions whose purpose is to find the way to God shall not be considered as pagan beliefs.⁴

It is more difficult to outline the exact category of heresy. The widely accepted definition tells that different type of heresies are originated from the „true faith”, but at some point they misinterpret the original doctrines. Concerning this approach, it is surprising that the arianism, in other words the antitrinitarianism was considered heresy in the Roman Empire (IV. century) because of denying the Holy Trinity, and later in the XIX. century Hungary – among others – it was proclaimed as an official religion under the name of unitarianism.⁵ To make the situation more complex, I have to mention that Hungarian priest and scholar, *Tarnay Brúnó* referred to the bogomil movement as a cult⁶ despite of the fact that in the XIV. century Hungarian monarch, Louis I. chased bogomils during his campaigns in the Balkan Peninsula because of heresy.

Last but not least, we have to define the criteria which make a difference between normal religious organisations and cults. According to the Hungarian bishop, *Bütösi János*, cultism is a doctrine that rejects the idea of the Holy Trinity or interprets the personality of Christ in an inappropriate way.⁷ This leads us to the definition of heresy, so in this case we ought to make another consideration. French scholar, *Jean Vernet* states that since in the field of religious studies there is a serious debate about this topic, the science of sociology may provide an answer. From an objective point of view – he says – a cult is a dissident movement which protests against churches or societies.⁸ That reveals an important aspect of sects, none other than the so-called „contra attitude”. This makes a difference between heresy and cultism: the previous one „only” rejects one of the main doctrines of the original religion, meanwhile the other endangers the society.

Vernet uses a sociological method to categorize such groups:⁹

⁴ *de Rosa* (1991) 12-14. p.

⁵ *Mezey* (2003) 274-275. p.

⁶ *Tarnay* (1994) 136. p.

⁷ *Bütösi* (1994) 10. p.

⁸ *Vernet* (2003) 8-9. p.

⁹ *Vernet* (2003) 17-18. p.

- Ones inspired by Christianity and Judaism
- Ones inspired by oriental religions (Hinduism, Buddhism, Islam)
- Gnostic/mystique groups (combining the elements of the previous ones in a particular way)

Chinese researcher, *Guobin Zhu* also separates the concepts of sect and cult: in his interpretation, the first one follows the modified version of classical doctrines, while the second one introduces radically new practice.¹⁰ This type of distinction rarely appears in European bibliography.

Naturally, there are some pseudo-religious associations for whom the religious basis is just some sort of disguise. Concerning these organisations, we must mention the interpretation of Spanish lawyer, *Josue Domínguez Velasco* who says that in a sociological sense, a sect is such a pseudo-religious group that follows purposes that are against the law and has illegal activity under the disguise of religiousness.¹¹

Moreover, it is recommended to pick up a politically correct term to describe the phenomenon. Hungarian scholar, *Schlosser Annamária* thinks that expressions like sect, cult, cultic group, and even free church bear a pejorative connotation, this is why she applies the term „new religious movement” (*új vallási mozgalom*).¹² This terminology (*nouveau mouvement religieux*) also appears in the work of CESNUR, a French organisation that criticises those scientifically unjustified bills of the French legislation which are willing to violate such movements.¹³ Instead, to feature the harmful effect these movements represent, I would rather use the term „destructive religious movement” (henceforward: DRM).

Considering the previous ideas, we should give the following explanation: a DRM is such a religious movement that – evangelizing the modified doctrines of a major world religion – exists and works separated from the historical churches and is harmful to society.

2.2. The working mechanism of destructive religious movements

Most of us know well how a DRM works, yet the phenomenon has not disappeared, certain groups gain more and more followers over the years. Furthermore, these victims of religious radicalism tend to obey all the commands of their leader without thinking. To discover the reason behind this horrific feature of DRMs, we have to explore certain aspects of social psychology.

First of all, we have to remember that in many cases, the ritual initiation of the new member takes place right before the victim gets to know anything about the real purpose of the movement.¹⁴ Henceforth, the „reborn” takes part in further rites and events while step by step he/she is forced to leave behind his/her previous life, the job, the friends, even the family. The integration is often supervised by a reliable elder member of the group.¹⁵

According to French psychologist, *Gustave le Bon*, the DRM is successful if it is able to infect the new member with its ideology, its purpose. This progress consists of three steps: statement, repetition, mental infection. In the first place, a particular statement is created that defines the goal of the movement and at the same time is so commonly formulated that everyone can feel it familiar. After that, the mentioned sentence is repeated over and over again, so the victim has the impression that he/she hears the same opinion from everyone. Finally, to terminate the progress, an „emotional charge” is needed, so the statement receives

¹⁰ *Zhu* (2010) 475-476. p.

¹¹ *Domínguez Velasco* (2017) 194. p.

¹² *Schlosser* (2011) 17. p.

¹³ *Macon* (2008) 190. p.

¹⁴ *Delgado* (1984) 1073. p.

¹⁵ *Vernette* (2003) 11-13. p.

content which can change the victim's way of thinking.¹⁶ After the completion of the „education phase”, the new member is going to obey without any resistance.

Pratkanis and Aronson, experts of social psychology attempted to resume the 7 major tricks of cult leaders:¹⁷

- Creating a particular social reality: excluding the outside world and creating a concept of future.
- Creating a so-called blind group: joining randomly selected people with a common idea or a common surname.
- Decreasing disharmony: gradually asking for more and more sacrifice for the group. For the first time it is enough to pay a „tax”, later one has to sell his/her properties to support the cause and finally one has to be ready to sacrifice his/her own life.
- The ideal of a trustworthy leader: creating the image of a divine leader similarly to the dictators of the XX. century.
- Obligatory proselyting: On one hand, the followers search for potential members and on the other hand, they learn to ignore the arguments of independent people.
- Deflecting non-desired thoughts: new followers receive helpers who supervise them, too much work and too little resting time, punishment for resistance etc.
- So-called „focusing on the phantom” method: creating a utopian concept that the movement have to achieve i. e.: the state of purity.

This kind of „training” – according to French scientist, *Jean-Pierre Morin* – was invented in China as a military tactics, that was used to indoctrinate hostages by disregarding their eating and sleeping habits, so then the ideology can be easily implanted into the tortured and exhausted mind.¹⁸ In the American publicity this method appeared under the name of „brainwashing” (*lavage de cerveau*).

In addition, simply belonging to a group has a certain passive effect on our way of thinking. To demonstrate that, I introduce the experiment of psychologist *Muzafer Sherif*. A simple optic illusion was shown to the participants both individually and in groups. Naturally, the separated individuals created their own explanations, but when they were parts of a group, they tended to give up their alternatives until a single opinion remained. Moreover, after separating the individual from the group, the participant tended to preserve the explanation agreed previously by the group. *Sherif* explains: in a group scenario new and „over-individual” qualities are born.¹⁹ This inconvenient side effect makes the reintegration of the victim more difficult.

In brief, active and passive features of DRMs affect the victims both physically and mentally. In various cases, the damage is irreversible, so emphasising prevention is necessary. In the next chapter, we will make an overview of the existing legal regulation and our opportunities.

2.3. The law concerning destructive religious movements

2.3.1. Supranational law: international and European sources of law

Restricting the freedom of religion is a tough task for all the legislators, not only because of the liberal political attitude of our days, but also thanks to the several international treaties.

¹⁶ *le Bon* (2018) 94-97. p.

¹⁷ *Pratkanis – Aronson* (2012) 182-187. p.

¹⁸ *Morin* (1995) 38-39. p.

¹⁹ *Csepeli* (1997) 423-424. p.

The Universal Declaration of Human Rights (UDHR) gives a chiselled explanation on our topic listing all the relevant entitlements: „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.”²⁰ Furthermore, in the article about the prohibition of discrimination, religion also appears as a protected property of personality.²¹ As general cause of restrictions, Article 29. mentions the prohibition of violation of others’ rights and freedoms along with morality, public order and the general welfare.

The International Covenant on Civil and Political Rights (ICCPR) copies the formulation of Article 18. of the UDHR, but later in the same article it gives us the basis of restriction: „Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”²² The regulation prescribes 3 conjunctive conditions of restriction: it can only affect the manifestation, or in other words the practice of religion, the limitation must be based on regulation placed in laws (no inferior sources) and can only be limited to protect one of the values listed above.

When it comes to Europe we have to mention two international organisations of european countries: the Council of Europe and the European Union. Both created its own document on human rights, although there is a gap of decades between the two conventions.

The European Convention of Human Rights (ECHR), published in 1950 is the human right convention of the member states of the Council of Europe and is also the basis of the jurisdiction of the European Court of Human Rights. Concerning the regulation in connection with the freedom of religion, the content is the same as seen in the ICCPR: firstly, we see the entitlements of the right and secondly, we see the possible method of limitation.²³

The European Union collects in the Charter of Fundamental Rights of the European Union (CFREU) those human rights that shall be respected by the establishments of the Union and the member states. The Charter also has an important role in the jurisdiction of the Court of Justice of the European Union, though the discussed freedom appears in very few judgements.²⁴ The text or at least the content of the related article is identical compared to the previous documents. In addition, it contains a special rule for soldiers.²⁵

In the 90s, some recommendations were published by both European organisations related to DRMs, however these ideas were not implemented by member states, because of the lack of obligation.

All in all, we must admit that this level of regulation does not solve the issue of dangerous religious movements. Then it is up to the states to create an effective defense against this type of crime.

2.3.2. The French way

During the 90s, questions regarding DRM activity were in the spotlight. *Morin* in 1995 stated that the criminal and laboural law regulation of that era was unable to protect people from the exploitation of the religious leaders.²⁶ *Maccone* saw two alternatives in that situation:

²⁰ UDHR Art. 18

²¹ UDHR Art. 2

²² ICCPR Art. 18 3.

²³ ECHR Art. 9

²⁴ For more details see: C-54/99, C-243/19

²⁵ CFREU Art. 10

²⁶ *Morin* (1995) 40-41. p.

either applying a passive attitude and believing that the already existing rules are able to moderate the situation or applying an active attitude and forcing the legislation to create new regulations regarding the control of DRM activity (French way).²⁷

French lawyers saw various applicable methods in several branches of law. *Macone* planned to use the establishment of limited ability to act from the field of civil law, so the „stolen” money could have been claimed back at the court.²⁸

Another French lawyer, *Claude Goyard* suggested to create an administrative establishment with the purpose of making suspicious religious organizations transparent. Among others, this organisation could have collected information about the improvement of particular movements, alerted the prime minister, the police forces and the publicity of the potential threat, mediated between the victims and their families to help the reintegration process etc.²⁹

Finally the field of criminal law was chosen to cope with this issue. In 2001 the „Law Against Cults” was accepted by the French Parliament. Its technique was to increase the criminal law liability of legal entities in connection with several delicts in the Code Penal usually committed by DMRs.³⁰ It was not a secret that the law’s main objective was to stand up against the Church of Scientology.

2.3.3 A notable regulation of the Romanian Penal Code

Under Article 381. of the Romanian Penal Code (henceforth: Rpc.), we can observe the prohibition of preventing or disturbing the free exercise of a religious rite.³¹ This rule also appears in the Hungarian Penal Code (henceforth: Btk.) in the chapter „Crimes Against Human Dignity and Fundamental Rights”, meant to protect both the freedom to choose and the freedom to practice one’s belief. „Any person who: a) restricts another person in his freedom of conscience by force or by threat of force; b) prevents another person from freely exercising his religion by force or by threat of force; is guilty of a felony...”³² – it says.

However, the Romanian rule follows: „order a person under duress, to attend religious services of worship or to perform a religious act related to the exercise of worship shall be punished...”³³ As I see, this rule was indirectly – and maybe unconsciously – designed against DRM activity. „Ordering to attend religious services of worship” can be interpreted as an abstract description of the prohibition of aggressive recruitment and the expression „ordering to perform a religious act” – in a wider sense – may refer to illegal „rites” as well like murdering someone as a sacrifice or desecration. In the second scenario, I suppose that the act of the perpetrator of this crime would be also punished as the abettor of homicide or desecration.

I believe that this particular state of affairs may be an acceptable alternative of restriction in any legal system and should be introduced in Hungary in a similar way too.

2.4. Categorising destructive religious movements under the scope of Hungarian criminal law

²⁷ *Macone* (2008) 186. p.

²⁸ *Macone* (2008) 191-193. p.

²⁹ *Goyard* (1996) 541. p.

³⁰ For more details see: *Macone* (2008) 205-208. p.

³¹ Rpc. Art. 381. (1)

³² Btk. Section 215.

³³ Rpc. Art. 381. (2)

2.4.1. Under the scope of the Special Part

The Special Part of the Btk. lists the particular properties of each delict one by one. At this point, we attempt to create sets of DRMs on the basis of the crimes they regularly commit. According to *Domínguez Velasco*, it is recommended to do the categorisation in this manner, thus DRMs usually commit a certain group of illegal activities such as misleading advertisements, manipulation of members, duress, forced labor, abuse of minor etc.³⁴ To test the validity of this idea, we ought to check the activity of some well-known movements.

Finding the ideal subjects of the analysis is not that easy as it seems for the first sight. There are some particular incidents which can not be considered as a general scenario neither in the life of DRMs. For example, *Moore* tells the story of the Holiness Church that worked in Tennessee. During one of their rites, the chosen one could enjoy the blessing of contacting celestial creatures by getting bitten by venomous snakes.³⁵ The majority of the DRMs that exists or existed for a longer period of time has relatively more normal purposes. To get an appropriate picture of religious radicalism, I chose 3 organisations whose names are presumably already heard: the Children of God, the Church of Scientology and the Unification Church.

Founded by David Berg, the Children of God, also known as the Family, began its activity in the 60s, in America. They foretold an international catastrophe and only joining them could save one's life. They condemned both the capitalist and the communist system. They supported free love except the love of homosexual men. They taught regularly the stories of the Holy Bible in their own interpretation. The members usually starved and were kept awake all day and night. Those who dared to violate the rules were punished physically. They separated the followers from their families and forced them to sell their properties and sacrifice their wealth.³⁶ Despite the insane doctrines, they were not noticed by the authorities, as they lived in closed communities and moreover, they did not commit any extremely serious crimes. The physical punishments may have realised delicts of simple battery³⁷, but due to the lack of private motion, they remained undetected. Because of the doctrine of free love, the members probably realised various times the delicts of sexual abuse³⁸ and incest,³⁹ but there was also a low probability of detection in such a group. In my opinion, the most likely was that later or sooner, the leader had to face the charges of procuring for prostitution or sexual act⁴⁰ and living on earnings of prostitution,⁴¹ since he trained various underaged to earn money using their bodies and that kind of earnings was usually the only income of the group.

The Church of Scientology was founded by sci-fi writer L. Ron Hubbard who adopted numerous elements of his novels. According to *de Rosa*, though they believe in the existence of souls (thetan) and reincarnation, this is not the core of the movement. He rather introduces their activity as some sort of a strange, scientifically not proved therapic method whose only purpose is the financial exploitation of the members.⁴² We have knowledge about prosecutions in which certain leaders were condemned because of defamation,⁴³ budget fraud⁴⁴ and forgery of administrative documents.⁴⁵ In general, it is almost impossible to fight

³⁴ *Domínguez Velasco* (2017) 195. p.

³⁵ *Moore* (1980) 660-661. p.

³⁶ *Lugosi* (1994) 15-17. p.

³⁷ Btk. Section 164 (2)

³⁸ Btk. Section 198

³⁹ Btk. Section 199

⁴⁰ Btk. Section 201

⁴¹ Btk. Section 202

⁴² *de Rosa* (1991) 186-187. p.

⁴³ Btk. Section 226

⁴⁴ Btk. Section 396

⁴⁵ Btk. Section 342; *Lugosi* (1994) 59-60. pp.; *Domínguez Velasco* (2017) 196. p.

their activity, since manipulating innocent people to sacrifice all their wealth for the Church can not be evaluated as fraud. In addition, they usually defend themselves in front of the European Court of Human Rights saying that certain states intended to violate their right to religious practice without any reason. Nowadays, they have founded legal entities in several countries. One state may dismiss one of their organisations, but their international system is literally undestroyable.

The Unification Church or the Church of Moon was founded by Sun Myung Moon in the 50s. His main doctrines were published in his book „Divine Principle” in which he stated that he was the Second Coming himself. His writing is also characterised by an anti-communist ideology. At the beginning, they recruited violently and separated the new members from their families. They forced the followers to gift away their properties, since the „Messiah” shall be the richest of all.⁴⁶ This movement works through a hierarchic model: leaders are always chosen by their superiors and everyone’s superior was Moon himself. It was considered that his children would be free from the original sin. They practiced regularly a strange rite called „collective marriage” where they made strangers marrying each other. Some reports say that they had traded weapons in the Far East.⁴⁷ During their recruitment, they probably committed several times the delicts of violation of personal freedom⁴⁸ and duress.⁴⁹ Moreover, the Far East activity surely realised the crimes of criminal offenses with explosives or blasting agents⁵⁰ and criminal offences of firearms and ammunition.⁵¹

Additionally, we may mention the fact that these 3 organisations cooperated in the past to protect themselves from the authorities.⁵²

Now we have noticed that the criminal portfolio of each DRM is completely different, since they do not share common purposes. This leads us to the conclusion that we need to find another way to categorise such entities.

2.4.2. Under the scope of the General Part

The General Part of the Btk. consists of those rules that have to be applied during the interpretation of each part of the codex. In this chapter, we observe those rules that can be problematic to apply in procedures in connection with DRMs. In my judgement, two topics are conspicuous: the grounds for exemption – especially insanity⁵³ and coercion and threat⁵⁴ – and the question of organised crime.

In the first place, in connection with the grounds for exemption, we have to analyse the two main personality type that always appears in such organisations: the leader and the follower.

When it comes to the leaders, we should make difference between two basic personalities. The first one is the real criminal who has a „unique sense of business”. This kind of false prophet only acts by economic means. Italian doctor, *Cesare Lombroso* mentions an outstanding case from the XIII. century when a self-styled prophet sold all his followers from France to African slave traders.⁵⁵ Such ridiculously bizarre cases do not occur nowadays, but the technique of making immense profit of people’s faith still exists. For

⁴⁶ *de Rosa* (1991) 177-179. p.

⁴⁷ *Lugosi* (1994) 69-74. p.

⁴⁸ Btk. Section 194

⁴⁹ Btk. Section 195

⁵⁰ Btk. Section 324

⁵¹ Btk. Section 325

⁵² *Moore* (1980) 710. p.

⁵³ Btk. Section 17

⁵⁴ Btk. Section 19

⁵⁵ *Lombroso* (1998) 145. p.

instance, the Church of Scientology accepts huge amounts of „donations” in exchange for their books and services.⁵⁶ Concerning this type, there is no chance for exemption.

The other case is far more interesting. According to Hungarian priest, *Süle Ferenc*, DRM leaders usually suffer from mental illness that makes them hear „celestial messages”.⁵⁷ *Le Bon* says that these ideological fanatics become the apostles of their own beliefs and adds that this kind of madness is usually accompanied by excellent rhetorical skills and a passion to act. He also mentions some sort of innate prestige or charisma that makes them respected leaders.⁵⁸ In this case, we should take into consideration the possibility of personality disorder that is one out of five categories of insanity according to Hungarian jurisdiction.⁵⁹ This kind of antisocial personality can not be the basis of exemption in every cases, it must be examined every time by a psychiatrist expert. From the perspective of Hungarian scholar, *Belovics Ervin*, this state of mind can only be evaluated as insanity, if the perpetrator presents severe pathological, psychotic symptoms.⁶⁰ All in all, exculpation in the case of an insane prophet is not beyond imagination.

Concerning followers, it is proved that the most endangered age group is the one of unstable, rootless, self-realising young adults who suffer from emotional crisis. Those who have recently become independent from parents’ control (age 18-20) are especially endangered.⁶¹ Psychological experiments also proved that persons with low self-esteem feel less regret than mentally healthy people when committing crime.⁶²

In their case, neither a high-level manipulation nor „brainwash” could be the basis of exemption, insanity would not be diagnosed. However another ground, the coercion and threat might be able to be proved. We have to examine the validity of this ground if the perpetrator was compelled to do the illegal act by force (physical pressure) or by threat (psychical pressure). In both cases, we can make a difference between depriving and breaking the ability to act according to one’s free will. According to Hungarian law, the previous scenario provides the possibility of limitless reduction of the penalty, while in the other case it can be the basis of full exemption. Our experiences show that in those DRMs where the members live together in a closed community, the leader is able to blackmail its followers by threatening the life of their family. If this was the case, the follower would be acquitted and the leader would be condemned as a covert offender.⁶³

Finally, it is relevant to examine if a DRM should be evaluated as a criminal organization. In the official English translation of the Btk. the definition says that „criminal organization shall mean when a group of three or more persons collaborate in the long term to deliberately engage in an organized fashion in criminal acts, which are punishable with five years of imprisonment or more”.⁶⁴ This translation is not completely satisfying, since it omits two important criteria appearing in the original version: conspirative working and hierarchic structure. All 5 conditions are objective, or in other words independent from the consciousness of the members. For a better understanding, let’s see them one by one:

- *Three or more persons*: the fulfillment of this criterion does not require at least three persons to take part in each illegal act. Moreover, it is not necessary for the members to know each other’s identity. One person who makes the connection between them is sufficient. If during the prosecution it turns out that one perpetrator can not be

⁵⁶ *Lugosi* (1994) 65. p.

⁵⁷ *Lugosi – Lugosi* (1998) 96-97. p.

⁵⁸ *le Bon* (2018) 89-90.; 98-101. p.

⁵⁹ For more details see: *Görgényi – Horváth – Gula – Jacsó – Lévy – Sántha – Váradi* (2019) 200. p.

⁶⁰ *Belovics – Nagy – Tóth* (2015) 206. p.

⁶¹ *Lugosi – Lugosi* (1998) 98. p.

⁶² *Aronson* (1994) 176-178. p.

⁶³ Btk Section 13 (2)

⁶⁴ Btk. 459. § (1) 1.

condemned due to a ground for exemption it will not free the other perpetrators from the disadvantageous legal effect of being part of such an organisation. Regarding DRMs, we can easily recognise that this will not be the barrier of the more severe evaluation.

- *Long term collaboration*: this is also a precondition of conspirativity if we think about it. According to the Hungarian practice, this means at least a half or a whole year.⁶⁵ During this time, cooperation of all the members is not required, only the activity matters. In case of our research, we have seen that the more significant organisations can work over many decades, thus this criterion is also fulfilled.
- *Hierarchic structure*: this one consists of two subconditions: subordinate relationship between the members where the leader is above everyone and normally the inferiors commit the actual delicts and the distribution of tasks. This model can be observed through the Unification Church.
- *Conspirative working*: a new conceptual element replacing the expression „coordinated”. It refers to the coordination between the members including the preplanned distribution of tasks, the distribution of the gained advantages, the common steps to avoid impeachment etc.⁶⁶ Analysing DRMs, we could see how the supreme leader defines the major tasks of the followers, than how he maintains the well-functioning system and community using the acquired goods and capital.
- *Engaging (intentional) criminal acts, which are punishable with five years of imprisonment or more*: means that the organisation was originally designed to commit at least two delicts of the discussed kind. It is important to mention that the original applicable penalty shall reach the minimum of five year imprisonment stated in the Special Part, not the increased version based on the legal effect of criminal organization.⁶⁷ Since we are considering an objective criterion, it does not matter if particular members do not know the exact means of the group. It is sufficient if they know about the other mentioned conditions and the general purpose of committing crime. The legislator also punishes the simple preparation activities realised to help the perpetration of such groups. In this case, members will face the charge of „participation in a criminal organization”.⁶⁸ This is the property that many DRMs fail to have. Thinking about mad prophets and their manipulated followers, it is hard to declare that they do not act in favor of their particular belief. However, in such groups like the Unification Church or the Church of Scientology where the main purpose is the exploitation of the believers, the condition may be fulfilled. *De Rosa* mentions such judgements in Italy where the Church of Scientology was condemned as a legal entity.⁶⁹

3. Conclusion

We have created the legal concept of DRM successfully that covers all the religious movements with which penal law should deal. After observing their activity both in and out of the group, we can constate that the major part of their illegal acts is already punished under common states of affairs. We have also analysed the potential issues that may emerge during jurisdiction, but all we know is that all cases require particular evaluation involving experts. Summarizing the gained experience I would make two suggestions.

⁶⁵ Görgényi – Horváth – Gula – Jacsó – Lévy – Sántha – Váradi (2019) 283. p.

⁶⁶ Görgényi – Horváth – Gula – Jacsó – Lévy – Sántha – Váradi (2019) 284. p.

⁶⁷ Belovics – Nagy – Tóth (2015) 330. p.

⁶⁸ Btk. Section 321

⁶⁹ *de Rosa* (1991) 188-189. p.

In the first place, as I said before, various harmful activities of the discussed groups are under prohibition, though their recruitment and later their method to convince the victims to do terrible things is not forbidden directly by law. Thus a new *sui generis* abettor-like state of affairs that punishes „brainwashing” literally should be created.

At the same time, following the French solution, the liability of religious legal entities should be increased. In Hungary, a way of cancellation already exists in the field of public law, but it is an incredibly slow and circumstantial process. Therefore I suggest that those religious legal entities whose supreme leader commits the previously mentioned hypothetical delict shall be *ipso iure* ceased.

Presumably, the fight against religious manipulation will never end, since lots of cases remain undetected, but these measures may be able to help to reduce the number of victims.

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