

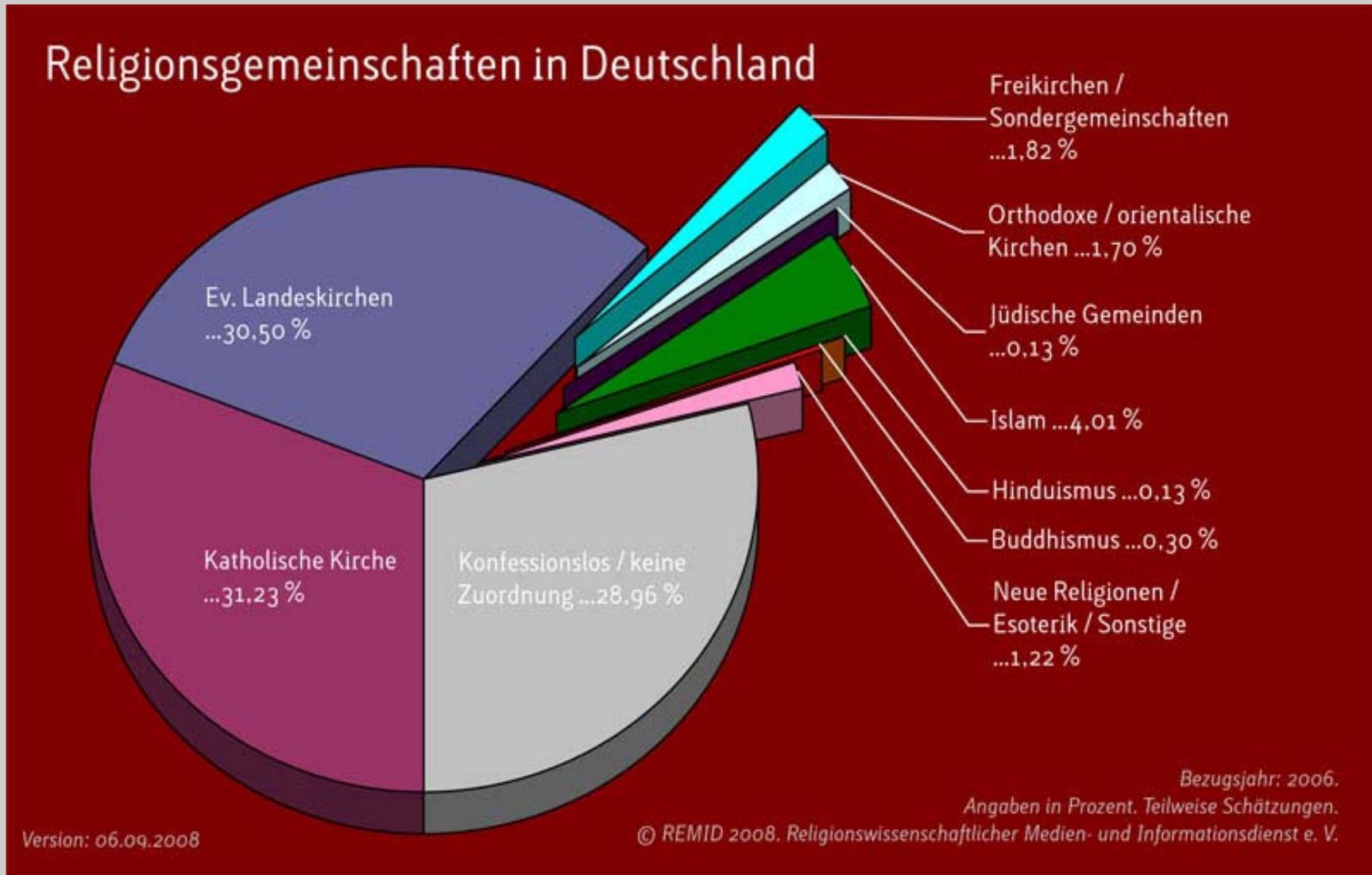
**Steffen Rink, Marburg**

**Religious Plurality,  
Religious Freedom,  
and the Importance of Law**

**Remarks on Developments in Germany**

**Brigham Young University, Provo, UT, Oct. 6, 2008**

# Religious Plurality in Germany?



# Legal Status of Religions

## (1) Religion by Self-Declaration

- No law for registration as religion exists
- Art. 4 constitution guarantees religious freedom for individuals and organizations
- Restrictions for religious freedom by other values and fundamental principles of constitution, i. e. dignity of human being, inalienable rights
- Framework for activities is the common law
- Constitutional court: Self-declaration as religion has to be confirmed by social character, teachings, and activities closed by common ideas of what religion is.

⇒ **Courts decide of status as religion**

⇒ **"Religion" is part of culture and tradition**

# Legal Status of Religions

## (2) Religion as registered society

- Conditions:

- Community pursues only religious aims
- Economic activities are not the main field of activity
- Internal democratic structure

- Advantages:

- Better fiscal status (less or no taxes for organization)
- Better conditions for support by members and friends (funding reduces personal taxes)
- Community is legal person

⇒ **Most religious communities are organized as registered society**

⇒ **Status is controlled by fiscal office**

# Legal Status of Religions

## **(3) Religion as corporation of common law**

- Conditions by constitution:
  - Sufficient number of members
  - Expectation for long-time existence in future
- Advantages (selection):
  - Own internal law-system (includes own jurisdiction)
  - Get involved in parliamentary decisions (city planning)
  - Possibility to erect religious building outside common law
  - Acknowledgement as partner for social welfare (includes funding by state for social work, hospitals, kindergarten etc.)
  - Right to hold religious education in schools

⇒ **Status is includes real privileges in political and social sphere**

⇒ **Status generates partnership between state and religion**

# Religion: Cultural and mental traditions

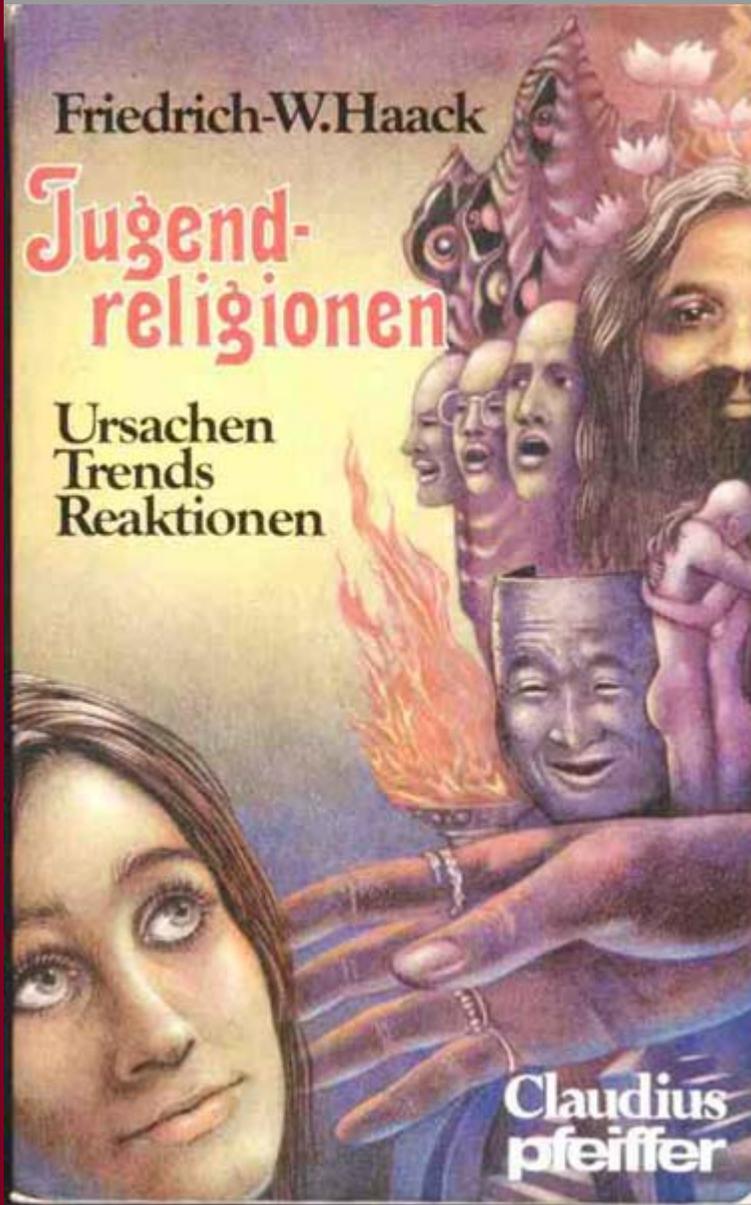
## **"Good religion" (like catholic and protestant church)**

- Is free (because of taxes by members)
- No comprehension of all theological teachings
- No commitments for the members (visiting worship, following moral standards)
- Churches serve for social welfare and foreign aid
- church and state accept each other and work for same objectives

## **"Bad religion" (like sects, desctructive cults, and fundamentalists)**

- Deviant behaviour and life-concepts
- Phsyhic and financial exploitation of members
- No acceptance of democratic and liberal values
- Pre-modern teachings
- High commitment
- Separation from state and society; struggle agains modern values

# Illustration...



# Illustration...



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# Law against state: 2 cases of constitutional court

## (1) Crucifix-decision (1995)

- Plaintiffs: Crosses in classrooms are against religious freedom of our children because of religious influence of Christian symbol
- State of Bavaria: Cross symbolizes common cultural values of state and society and is part of Judeo-Christian, occidental tradition which is represented and protected by state
- Court: Crosses have to be removed to preserve religious neutrality of state

# Law against state: 2 cases of constitutional court

## (2) Jehovah's Witnesses and corporation of public law (2001)

- Jehovah's Witnesses wanted to get the privileged status
- Land of Berlin: Behaviour and belief-system of Jehovah's Witnesses are in opposition of state, fundamental rights and democratic values
  - no internal democratic structure
  - members are compelled to follow a designated way of life
  - Children are in danger because refusal of blood transfusions
  - Organization and members do not participate in political structures (political sphere as "system of things" is under authority of Satan)
- Court: Jehovah's Witnesses are entitled to get the status:
  - Required loyalty for state needs only acceptance of primacy of state and law
  - Loyalty does not require support of state or congruence in values
  - Authorities have to proof real behaviour and not only scriptures

## Conclusion: Plurality and peace-function of law

- Religious plurality in traditional mono- or biconfessional structures leads to new challenges for religious freedom
- Plurality changes society - more religions with its different belief-systems, values and life-concepts want to take part in social, public life
- Plurality provokes reactions of refusal and orientation on own traditions by majorities in society
- Religious plurality does not automatically generates a climate of acceptance of religious freedom
- Function of law:
  - protection of religious freedom
  - Orientation on fundamental rights guaranties an open, liberal society for all
  - Balancing different interests of religious, political or social groups for peaceful development of society

# Thanks for your attention

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