

OPINION OF JUDGE ROUX RENGIFO

I have joined the Court in its decision to abstain from declaring that the State violated Article 12 of the American Convention for a specific reason: in order to vote against it, the case file would have had to contain specific evidence of the fact that, by prohibiting the exhibition of "The Last Temptation of Christ", the right to change religion or beliefs *of the specific victims of this case* had effectively been impaired.

Article 12 of the Convention includes several hypotheses on violating the right to freedom of conscience and religion, including preventing a person from changing his religious beliefs. To do this, the person need not be physically or mentally compelled to remain tied to the faith he professes. That would be the most evident although not the only way of affecting his freedom of conscience and religion. A change of religion or beliefs is usually the result of a long, complex process that includes hesitation, reflection and research. The State should guarantee that, if he should so decide, a person may undergo this process in an environment of complete freedom and, in particular, that no one should be prevented from gathering information and experience and all the elements of an emotional, conceptual or any other nature, without violating the rights of others, that he considers necessary in order to make a fully-informed decision to change or maintain his faith. If the State, by act or omission, fails to ensure those rights, it violates the right to freedom of conscience and religion.

In this respect, we should recall that Article 12 of the American Convention does not merely embody the right to maintain or change beliefs in the abstract, but explicitly protects the process of changing religion against any restriction or interference. This is the meaning of paragraph 2 of Article 12, when it states, "[n]o one shall be subject to restrictions that might impair his freedom to [...] change his religion or beliefs."

Therefore, I believe that, in order to reach definite conclusions on the violation of freedom of conscience and religion in this case, the Court required more convincing and extensive evidence than that which was submitted concerning the personal situation of the petitioners, the proceedings in which they were eventually involved in relation to their beliefs, and the restrictions which they did or did not experience in order to acquire, by means other than the public exhibition of "The Last Temptation of Christ", the elements that this could provide to them with a view to changing their religious beliefs.

Carlos Vicente de Roux-Rengifo
Judge

Manuel E. Ventura-Robles
Secretary