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# The Ghent case against Jehovah's Witnesses: a chronology

A paper presented at the Webinar "Jehovah's Witnesses, Shunning, and Religious Liberty: The Ghent Court Decision," April 9, 2021. See webinar at https://www.youtube.com/watch?v=sMoMpgLXLiU

***by Willy Fautré, Human Rights Without Frontiers***

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Bitter Winter International (12.04.2021) - The criminal investigation targeting the Christian Congregation of Jehovah' Witnesses in Belgium which got into the spotlight earlier this year did in fact start in 2015.

## A timeline

**On 19 March 2015,** a former Jehovah' Witness who had freely chosen to recant his faith, filed a criminal complaint against the CCJW.

**On 5 January 2016,** Substitute Public Prosecutor Isabel de Tandt transmitted the criminal file to the Federal Judicial Police. She stated in her cover letter that this is "a file against the Jehovah's Witnesses regarding defamation and, more specifically, regarding their defamation policy."

**On 29 January 2016,** the Federal Judicial Police issued a Pro-Justitia listing the CCJW and its Board of Directors as the subject of the criminal investigation.

**On 10 April 2018,** after over two years of silence, the Public Prosecutor officially notified the CCJW of an investigation that had been ongoing since January 2016. Three CCJW board members were then invited for a hearing.

**On 15 May 2018,** the CCJW responded to that invitation by a letter to the Federal Judicial Police of East Flanders in which it requested a number of details about the criminal investigation: the grounds of the accusation and the author thereof. In its letter, the CCJW specifically addressed the issue of disfellowshipping and stressed that courts in Liège, Mons and Brussels had confirmed this practice is protected under Article 9 of the European Convention on Human Rights.

In that letter, the CCJW indicated its objections to the investigation (due to the little information provided by the police) and asked the Public Prosecutor to dismiss this investigation but indicated "Of course, we are fully prepared to work with you to clarify this issue". There was no response whatsoever to this offer.

**On 13 May 2020,** after two more years of silence by the judicial authorities, the CCJW received a copy of the 11 May 2020 summons charging it with crimes under Article 22 of the Anti-Discrimination Act.

The main issue raised by the criminal case is the questionable assimilation of the CCJW's shunning policy with a form of discrimination and incitement to hatred.

However, Courts in Belgium had already ruled on similar complaints of alleged discrimination.

On 10 January 2012, the Court of Appeal of Mons rejected J.L.'s discrimination claim.

On 5 November 2018, the Court of Appeal of Brussels confirmed the decision of the Court of Appeal of Mons and rejected J.L.'s discrimination claim.

Last but not least, on 7 February 2019, the Court of Cassation rejected J.L.'s appeal against the judgment of the Court of Appeal of Brussels.

## The trial

On 16 February 2021, the trial started against the Christian Congregation of Jehovah's Witnesses (CCJW) at the criminal court of Ghent (East Flanders) on the alleged grounds of discrimination and incitement to hatred with a particular focus on their shunning

(ostracization) practice in cases of disfellowshipping (excommunication) and disassociation (voluntary resignation).

Four lawyers pleaded for the main plaintiff and over a dozen more former or inactive Jehovah's Witnesses who had joined him in the proceedings. They took two hours and a half for presenting their arguments and the situation of their clients about their alleged family ostracization. Their plea was supported by the lawyer of UNIA, an inter-federal independent public institution financed by public money that fights discrimination and racism and promotes equal opportunities. Finally, the public prosecutor formally asked that CCJW would be convicted for the alleged crime.

The CCJW was defended by two lawyers, who pleaded for about an hour and a half. They stressed to the judge that the claimants were in fact asking to have the Bible condemned, as it is the basis for the religious beliefs and practices adopted by Jehovah's Witnesses. This would be the first time since the 16th century that a court in Western Europe would find the Bible criminally guilty, they said.

Half a dozen journalists were present to cover this unusual trial.

***Who are the claimants?***

The main plaintiff had not been excluded from Jehovah's Witnesses but had left of his own will. His wife and their children were not excluded and did not resign, although they too joined the case as claimants.

Only two former Jehovah's Witnesses had been excluded, one of them becoming a civil party on the very day of the trial.

Six had freely decided to recant their faith.

Five had neither left nor been excluded. They are still considered Jehovah's Witnesses, though inactive.

***The statements of the claimants***

In statements relying more on emotions than on facts, the claimants made various allegations concerning alleged inhuman ostracization actions by their family members who are still Jehovah's Witnesses.

However, in a number of cases, the claimants' assertions concerning the alleged moral misbehavior of their family members were contradicted by the latter's written and signed testimonies. This was for example the case of the brother-in-law of the main claimant.

The claimants also relied on statements of three more persons making various allegations about how their friends and family members who are Jehovah's Witnesses have allegedly treated them unfairly. However, strange though it may be, these persons too were never excluded or resigned of his/her own will, which made their testimonies rather irrelevant.

***The position of the CCJW***

In balance, the CCJW provided the Court with nine statements of individuals who had been excluded and who had since been reinstated as Jehovah's Witnesses. These testimonies shed quite a different light on the matter. They explain how they had been fairly treated by congregation elders, family, and others in the congregation when they were disfellowshipped.

The cases raised at the Court in Ghent are obviously and exclusively family matters. It would be reductive to restrict the explanation for perturbated family relationships to the official policy of the CCJW. So many different situations may that explain difference of views and values within a family as many of the protagonists have experienced in their own circumstances.

The CCJW considers it is not legally responsible for the intra-familial relations between its members and former members, as it is an individual decision.

All organized religions have exclusion or excommunication procedures in their statutes and Jehovah's Witnesses are not an exception. Such procedures, rooted in the teachings of the Bible, have been determined by their Governing Body in the United States, the highest theological level of their Church. They are applied in all the countries of the world where they are active, including in Belgium.

In the Belgian case, the decisions of disfellowshipping and of social distancing from excommunicated and disassociated members raised in the court were taken at the level of the local congregations, not by the CCJW.

In their conclusions provided to the Court before the trial, the CCJW says that they do not segregate excluded or resigning members as these can always attend their religious services. They also point out that baptized Jehovah's Witnesses who no longer actively associate with fellow believers, are *not* shunned.

Clarifying the relations between Jehovah's Witnesses and disfellowshipped or disassociated family members, they also say: "In the immediate household, although the 'religious ties' the expelled or disassociated person had with his family change, … blood ties remain. The marriage relationship and normal family affections and dealings continue." In other words, normal family affection and association continues.

## The Verdict and its Consequences

The court totally disregarded the arguments of the CCJW and on 16 March 2021 condemned the legal entity to the payment of a fine estimated at 96,000 EUR on the grounds of discrimination and incitement to hatred. The CCJW has appealed the court decision.

What the whole case in Ghent is all about is an attempt to oblige the Witnesses to change their Bible-based religious practices. This is a dangerous verdict as it breaches the autonomy of religions as guaranteed by the Belgian Constitution and the European Court of Human Rights.

If this decision happened not to be overturned, its consequences would be incalculable in Belgium and abroad. It would have repercussions on other religious communities where

conversion, apostasy and exclusion are followed by family and social ostracization or worse.

It would open the door to the prosecution of the Catholic Church in Belgium and any other country as their priests are forbidden from blessing same-sex couples and could be accused of discriminating against homosexuals.

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# The Ghent Jehovah's Witness decision: dangerous for all religions

***Suggesting that current members do not associate with "apostate" ex-members has been historically common in many religions.***

By Massimo Introvigne

Bitter Winter (19.03.2021) - https://bit.ly/3ltfEU2 - The decision rendered on March 16, 2021 by the Court of Ghent in Belgium, which states that suggesting that current members of a religious organization do not associate with ex-members who have been disfellowshipped or have left the organization amounts to discrimination and incitement to hatred, is not dangerous for the religious liberty of Jehovah's Witnesses only. It represents a danger for all religions, not only because of the intrusion into the sphere of autonomy of a religious body (discussed in the second article of this series), but also because the practice of "shunning" so-called "apostate" ex-members (a technical term used by sociologists without any negative implication) is hardly unique to the Jehovah's Witnesses.

Several new religious movements have similar policies. I would not insist on them, because of the possible objection that "ostracism" is in fact typical of "cults," although not many would use the word "cult" for the Amish, whose shunning practices are the subject of several novels and movies.

But "shunning" the "apostates" is also part of mainline religions. In Medieval and early modern Judaism, the community, including the close relatives, regarded the apostate as morally dead. The apostate was mentioned by using the language usually reserved for the deceased persons, a very effective kind of "shunning." Talmudic Judaism had the notions of *niddui*, a less severe form of social isolation, and *herem*, which was more radical. The apostate, as well any other subject to *herem* had to live in confinement with his family only, no outsider being allowed to come near him, eat and drink with him, greet him. After his death, his coffin would be stoned, if only symbolically by placing a single stone on it. It was a sort of civil death; and indeed, it was said that "a Jew on whom a *herem* lies can be regarded as dead." This practice survives to this very day in some ultra-Orthodox Jewish communities.

There is a large literature about apostasy in Islam. Although the relevant texts of the *Quran* may be subject to different interpretation, and today there are liberals insisting that execution is not mandatory, the opinion that apostates from Islam should be killed is still widespread. Several Islamic states maintain laws considering apostasy from Islam a crime to be punished by the death penalty. Authoritative theologians consider killing an apostate a virtuous deed. Some liberals, and the dissident Ahmadi Muslims (who are themselves regarded as apostates and persecuted by mainline Muslims

in Pakistan and elsewhere), try to argue that death penalty for the apostates was never really taught by Islam. As historian David Cook noted, their efforts are politically "laudable" and may even save some lives, but are historically untenable. Cook states that "it is really amazing (…) to note the ease with which they ignore the weight of the entire Muslim legal tradition." "The accepted punishment for apostasy from early stages of Islam was death." It is true that the penalty was not applied with the same regularity in different times and regions. However, "This attitude has been strengthened immensely over the centuries to the point where even when modern Arab or Muslim states abolish the death penalty for apostasy, it is usually enforced by the enraged populace" (Cook, "Apostasy from Islam: A Historical Perspective." *Jerusalem Studies in Arabic and Islam* 31:248–88).

When Constantinian Christianity went from persecuted minority to state religion, it quickly obtained from the Roman Emperors laws mandating the execution of those Christians who would apostatize and return to the pagan rites (*Codex Justinianus* I,11:1 and 7). Those who would induce Christians to apostatize should also be executed (*Codex Justinianus* I,7:5). If arrests and executions would be carried out timely, there should be no risk that Christians would put their faith at danger by associating with apostates. However, to be on the safer side, the *Codex Justinianus* (I,7:3) also mandated that apostates "shall be separated from association with all other persons."

In more recent centuries, apostates from Christianity managed to escape execution, but still they were harassed in several different ways. Apostates who had been priests were particularly singled out. As late as 1929, in its Concordat with Italy, the Catholic Church obtained from the government that "apostate" ex-priests would be prevented from teachings in all kind of state schools or "be hired or maintain any employment or job placing them in direct contact with the public" (Concordat of February 11, 1929, art. 5). This was Fascist Italy, but the provision remained in the democratic Italian Republic, was successfully defended (if through a technicality) against a challenge before the Constitutional Court in 1962, and was finally abolished only in 1984.

The Orthodox practice was very similar to its Catholic counterpart, which is not surprising, given the common roots in the post-Constantinian legal tradition of Rome and Byzantium. The authoritative Russian *Orthodox Encyclopedia* (Moscow: Church Research Center "Orthodox Encyclopedia", vol. 2, pp. 274–79), discussing the practice of *anathema*, compares it to *herem* in Judaism, and reminds its readers that *anathema* is different from excommunication. While the excommunicated person is excluded from certain rituals but is still regarded as a member of the Church and is not shunned, those anathematized are completely cast off from the Church and should be "avoided" by all believers. It is by no means a practice of the past. The *Orthodox Encyclopedia* mentions the recent cases of dissident priest and human rights activist Gleb Yakunin (1936–2014) and of Patriarch Filaret of Kiev (b. 1929), very much in the news recently as the founder of an autocephalous Ukrainian Orthodox Church separated from the Patriarchate of Moscow, and of those associating with "cults and sects," including Theosophy and Spiritualism. All these persons should be shunned.

Similar practices exist or existed among several Hindus and Buddhist communities. Clearly, all or most faiths find in their scriptures and theologies reasons suggesting that their members should not associate with apostate ex-members.

Nor is this limited to apostates. I would like to conclude this series with a personal note. I am a Roman Catholic, and one who is divorced and remarried. Although not only the present Pope Francis, but also his predecessor Pope Benedict XVI, told divorced and

remarried Catholics that they should feel part of their local Catholic communities, and be treated as such, I have among my friends people of all religious persuasions. Some of them are conservative Catholics and, no matter what the Popes might have said, have decided to cease any association with me after my divorce. Some were friends I knew from my college years. The end of these friendships was certainly painful. Yet, I respected their free decision not to associate with me any longer, and certainly did not ask a court of law to compel them to continue our friendship, nor did I sue the conservative theologians who support this behavior asking for damages or fines. This was not generosity. It was simply common sense, and it should apply to the Jehovah's Witnesses—and to anybody else.

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# The Ghent Jehovah's Witnesses decision: dangers for Religious Liberty

## *Contrary to other courts in several countries, the Belgian judges dangerously intruded into the internal organization of a religious group.*

By Massimo Introvigne

Bitter Winter (18.03.2021) - https://bit.ly/3r17SBO - In a precedent article, I discussed the decision of the Court of Ghent, Belgium, which fined the Jehovah's Witnesses because they suggest that their members do not associate with those who have been disfellowshipped or have left the congregation. I noted that, contrary to accusations by opponents, an exception is made for the immediate family members.

In this second article, I examine some precedents that have established, in my opinion correctly, that the so-called "ostracism" as practiced by the Jehovah's Witnesses is protected by their right to religious liberty.

The first substantial discussion of the practice is included in the 1987 decision of the United States Court of Appeal for the Ninth Circuit *Paul v. Watchtower Bible and Tract Society of New York, Inc.*, which is quoted in all subsequent American cases. The court acknowledged that the plaintiff has experienced some unpleasant incidents in being "shunned" by close friends who were Jehovah's Witnesses after she was disfellowshipped. Nonetheless, the court maintained that, "Shunning is a practice engaged in by Jehovah's Witnesses pursuant to their interpretation of canonical text, and we are not free to reinterpret that text. Under both the United States and Washington Constitutions, the defendants are entitled to the free exercise of their religious beliefs… the imposition of tort damages on the Jehovah's Witnesses for engaging in the religious practice of shunning would constitute a direct burden on religion… In sum, a state tort law prohibition against shunning would directly restrict the free exercise of the Jehovah's Witnesses' religious faith."

The plaintiff argued that shunning had caused to her emotional distress. This may well be true, the court answered, but the harm was "clearly not of the type that would justify the imposition of tort liability for religious conduct. No physical assault or battery occurred. Intangible or emotional harms cannot ordinarily serve as a basis for maintaining a tort cause of action against a church for its practices—or against its members. […] Offense to someone's sensibilities resulting from religious conduct is simply not actionable in tort.

[…] Without society's tolerance of offenses to sensibility, the protection of religious differences mandated by the first amendment would be meaningless."

In this old decision, we find already a convincing criticism of the anti-cult claims based on "emotional harm." While "physical assault or battery" are clearly not justified by an appeal to freedom of religion, if courts were allowed to sanction religious groups for inflicting "emotional harm," that would be the end of religious liberty as we know it. And perhaps of other liberties, too. One can imagine a student suing a professor for the "emotional harm" suffered after failing an exam. The court correctly concluded that, "The members of the Church [Ms.] Paul decided to abandon have concluded that they no longer want to associate with her. We hold that they are free to make that choice. The Jehovah's Witnesses' practice of shunning is protected under the first amendment of the United States Constitution."

In 2007, the Court of Appeals of Tennessee observed that, "The doctrines of the Jehovah's Witnesses and their reading of scripture require that their members ostracize individuals who have been disfellowshipped. While there is no question that this practice has resulted in a painful experience for the Andersons [the plaintiffs in the case], the law does not provide a remedy for such harm. For example, in other contexts, family members sometimes become estranged from each other for various reasons on their own volition, and the law does not recognize a basis for suit for the pain caused by such estrangement. Courts are not empowered to force any individual to associate with anyone else." "Shunning, the court said, is a part of the Jehovah's Witnesses belief system. Individuals who choose to join the Church voluntarily accept the governance of the Church and subject themselves to being shunned if they are disfellowshipped."

In 2010, the Administrative Court of Berlin examined a complaint by a disfellowshipped Jehovah's Witness against the public announcement in congregational meetings of the measure against him, since "members of the association should have no social contact with disfellowshipped persons," and it would become impossible for him to "to have a picnic, celebrate, do sports, go shopping, go to the theatre, have a meal at home or in a restaurant" with friends who remained in the Jehovah's Witnesses. The court denied the request, commenting that the Jehovah's Witnesses' policy on these matters "is not subject to state authority" and is protected by "freedom of religion, the separation of Church and state, and the right of religious associations to self-determination." How the Jehovah's Witnesses decide to "exercise their constitutionally guaranteed right to self-determination" is something the state should not interfere with. Disfellowshipping policies and the so called "ostracism" are "internal church measures."

The Italian Supreme Court (Cassazione) in 2017 ruled that the so called "ostracism" is also protected by the principle of non-interference. The decision observed that in this case "ostracism" is "a refusal to associate" with the disfellowshipped ex-member, and "no law requires a person to behave in the opposite manner." As a conclusion, "no discrimination took place." Even if one would argue that refusing to associate with disfellowshipped members violate "good manners and civilized behavior," this would not "constitute a justiciable crime or civil tort." Individuals, and even a whole "category," have a right to decide to "break off or interrupt personal relations," and courts have no business in telling them otherwise.

On March 17, 2020, in *Otuo v. Morley and Watch Tower Bible and Tract Society of Britain*, the Court of Appeal in London, Queen's Bench Division, upheld a High Court decision of 2019, which found that, "In accordance with Matthew 18:15–17 (the procedural compliance with which is not itself justiciable) it is to be expected that a

[Christian] religious body which is guided by and which seeks to apply scriptural principles will have the power to procure that in an appropriate case a sinner can be expelled. Among other things, this is sensible, if not essential, because someone who is unable or unwilling to abide by scriptural principles not only does not properly belong as a member of such body but also, unless removed, may have an undesirable influence on the faithful." Protecting the faithful from such an "undesirable influence" is thus not a violation of the disfellowshipped member's human rights, but a right of the congregation.

In Belgium itself, the Court of Appeal of Mons on 10 January 2012 dismissed the charge of discrimination, ruling that Jehovah's Witnesses have a right to determine their own internal rules. On 5 November 2018, the Brussels Court of Appeals confirmed that a religious congregation is free to suggest its own standards of behavior to its members, and that individual congregants have the right to decide to restrict their association with a former congregant. On February 7, 2019, the Court of Cassation confirmed the decision.

In the case of *Jehovah's Witnesses of Moscow v. Russia* (2010), the European Court of Human Rights confirmed that Jehovah's Witnesses are a "known religion" and stated that "it is a common feature of many religions that they determine doctrinal standards of behavior by which their followers must abide in their private lives."

In fact, everything that needed to be said was already said in 1987 in the *Paul* decision. Yes, as the Court of Ghent observed, the right of religious bodies to self-organize themselves is not absolute. "Physical assault or battery" certainly justify the intervention of secular courts of law. But "emotional harm" does not. When old friends decide to no longer associate with us—because we divorced their beloved sister, voted for a presidential candidate they found disgusting, or changed our religion—we all suffer "emotional harm." But compelling these ex-friends to continue our association with us, or punishing organizations that suggest that what they do is morally appropriate, would be a gross violation of individual and corporate liberty.

Photo : The United States Courthouse (later renamed after William K. Nakamura) in Seattle, where the landmark decision Paul was rendered in 1987 (credits)

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# Jehovah's Witnesses fined in Ghent for their "ostracism": a wrong decision

***Contrary to rumors spread by opponents, the Witnesses do not suggest that immediate family members shun relatives who left the faith.***

By Massimo Introvigne

Bitter Winter (17.03.2021) - https://bit.ly/3lrweU2 - *Bitter Winter* has followed the case at the Criminal Court of Ghent, in Belgium, where the Christian Congregation of the Jehovah's Witness was on trial for the practice of "shunning" disfellowshipped ex-members. Some of them had complained that the practice amounts to discrimination and

incitation to hatred. Now, the Court of Ghent has sided with the complainants, and sentenced the Jehovah's Witnesses to the payment of a fine.

It is a first-degree decision subject to appeal, but we believe it is extremely dangerous for religious liberty, and indicative of a trend where courts of law intrude into the internal organization of religious congregations, which is forbidden by the European Convention of Human Rights. As the European Court of Human Rights explained in its decision *Sindicatul* (2013), "Article 9 of the [European Human Rights] Convention [which protects freedom of religion and belief] must be interpreted in the light of Article 11, which safeguards associations against unjustified State interference."

There are two problems with the decision by the Court of Ghent. The first is a problem of fact, the second is a legal problem. We discuss in this first article the question of fact, while a second article will be devoted to the legal issues.

Factually, while it is true that the Jehovah's Witnesses believe that the Bible suggests that members do not associate with disfellowshipped ex-members or those who have left the congregation, an exception is made for members of the immediate family, as illustrated in numerous official texts.

In FAQ published in 2020, we read: "What of a man who is disfellowshipped but whose wife and children are still Jehovah's Witnesses? The religious ties he had with his family change, but blood ties remain." In the 2008 book *"Keep Yourselves in God's Love"* we read (p. 208): "Since […] being disfellowshipped does not sever the family ties, normal day-to-day family activities and dealings may continue. Yet, by his course, the individual has chosen to break the spiritual bond between him and his believing family. So loyal family members can no longer have spiritual fellowship with him. For example, if the disfellowshipped one is present, he would not participate when the family gets together for family worship."

On April 15, 1991 (p. 22), *The Watchtower* stated that, "If in a Christian's household there is a disfellowshipped relative, that one would still be part of the normal, day-to-day household dealings and activities."

This is not a new development. On August 1, 1974, *The Watchtower* (p. 470) had already explained that, "Since blood and marital relationships are not dissolved by a congregational disfellowshiping [sic] action, the situation within the family circle requires special consideration. A woman whose husband is disfellowshiped [sic] is not released from the Scriptural requirement to respect his husbandly headship over her; only death or Scriptural divorce from a husband results in such release. (Rom. 7:1–3; Mark 10:11, 12) A husband likewise is not released from loving his wife as "one flesh" with him even though she should be disfellowshiped [sic] (Matt. 19:5, 6; Eph. 5:28–31)."

On September 15, 1981, *The Watchtower* reiterated (p. 28) that, "if a relative, such as a parent, son or daughter, is disfellowshiped [sic] or has disassociated himself, blood and family ties remain," while "spiritual fellowship" ceases."

On April 15, 1988, the same *Watchtower* (p. 28) stated again that, "A man who is disfellowshipped or who disassociates himself may still live at home with his Christian wife and faithful children. Respect for God's judgments and the congregation's action will move the wife and children to recognize that by his course, he altered the spiritual bond

that existed between them. Yet, since his being disfellowshipped does not end their blood ties or marriage relationship, normal family affections and dealings can continue."

In theory, one can discuss whether a religious body should be free to suggest that even blood relatives should shun a family member who has turned against their religion. After all, ex-spouses and children often refuse to see the other ex-spouse after a divorce, and no law compels them to behave otherwise. But, whatever the theoretical answer to this question, before discussing the practice of the so-called "ostracism" among the Jehovah's Witnesses, it is important to note that, contrary to inaccurate information disseminated by the opponents, immediate relatives are not part of it.

Photo : A congregation of the Jehovah's Witnesses. jw.org

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# The decision of the Court of Ghent against Jehovah's Witnesses is dangerous for the Catholic Church

**Willy Fautré, director of *Human Rights Without Frontiers***

HRWF (17.03.2021) - Catholic priests in Belgium and all other countries are forbidden from blessing same-sex couples and are at risk of being prosecuted for discriminating against homosexuals, as a consequence of a judgment issued yesterday by the Court of Ghent against Jehovah's Witnesses.

On 16 March, the First Instance Court of Ghent condemned the Christian Congregation of Jehovah's Witnesses (CCJW) to a fine of 12,000 EUR on the ground that their teachings about the social distancing of their members from excluded members and other ex-members amount to discrimination and incitement to hatred.

## *The Catholic Church and the ban on the blessing of homosexual couples*

In the last few days, in a message approved by Pope Francis, the Roman Catholic Church announced it cannot bless same-sex marriages regardless of how stable or positive the couples' relationship may be. That statement came in response to recent questions whether the church should reflect the increasing social and notably legal acceptance of same-sex unions.

"Does the Church have the power to give the blessing to unions of persons of the same sex?" the question asked, to which the response was "Negative." The Vatican added that that marriage should be limited to a union between a man and a woman, and that same-sex marriage is not part of God's plan for family and raising children.

Explaining this decision in a lengthy note, the Holy See referred to same-sex unions as a "choice" and described them as sinful.

"The blessing of homosexual unions cannot be considered licit," the Congregation for the Doctrine of the Faith, wrote in the statement.

God "does not and cannot bless sin," the statement added.

This doctrine stated and to be strictly implemented by the clergy was fixed by the Catholic Church in Rome on the basis of its interpretation of the Bible.

Catholic priests in Belgium and all other countries are therefore forbidden from blessing same-sex couples and are at risk of being prosecuted for discrimination against homosexuals and incitement to hatred.

### *The Jehovah's Witnesses' case*

On 16 February, a trial started against the Christian Congregation of Jehovah's Witnesses (CCJW) at the criminal court of Ghent (East Flanders) on the alleged grounds of discrimination and incitement to hatred with a particular focus on their shunning (ostracization) practice in cases of disfellowshipping (exclusion) and disassociation (voluntary resignation).

A former Jehovah's Witness who had voluntarily left the movement in 2011, filed a criminal complaint against the CCJW in 2015, and managed to have it supported by over a dozen more former Jehovah's Witnesses.

According to the internal religious practice of Jehovah's Witnesses, when the elders of a local congregation exclude a member or are notified about a voluntary resignation, they make a short neutral public announcement which states: "[Name of person] is no longer one of Jehovah's Witnesses". The CCJW is not involved in the making of that neutral announcement but is notified about the decision.

In their conclusions provided to the Court before the trial, they said that they do not segregate excluded or resigning members as these can always attend their religious services. They also point out that baptized Jehovah's Witnesses who no longer actively associate with fellow believers, are *not* shunned.

Clarifying the relations between Jehovah's Witnesses and disfellowshipped or disassociated family members, they say: "In the immediate household, although the 'religious ties' the expelled or disassociated person had with his family change, … blood ties remain. The marriage relationship and normal family affections and dealings continue." In other words, normal family affection and association continues.

In addition, the CCJW had provided the Court with nine statements of individuals who had been excluded and who had since been reinstated as Jehovah's Witnesses. In their testimonies, they explained how they had been fairly treated by congregation elders, family, and others in the congregation when they were excluded.

The social distancing doctrine stated and practiced by Jehovah's Witnesses in Belgium and all other countries was fixed by their Central College in the United States on the basis of their interpretation of the Bible.

The CCJW considers it is not legally responsible for the intra-familial relations between its members and former members, as it is an individual choice.

### *Conclusion*

Are we on the way to put in the dock the Bible, the interpretation and the implementation of its doctrines fixed by the highest religious authorities and powers in the name of interpretations and implementation of human rights fixed by national judicial powers? If so, this would be a pandora box that would affect other religions and other holy scriptures.

# La décision du tribunal de Gand contre les témoins de Jéhovah est dangereuse pour l'Eglise catholique

## Communiqué de presse

**Willy Fautré, directeur de *Human Rights Without Frontiers***

HRWF (17.03.2021) – Les prêtres catholiques en Belgique et dans tous les autres pays ne sont pas autorisés à bénir des couples de même sexe et risquent d'être poursuivis pour discrimination à l'égard d'homosexuels, suite à un jugement rendu hier par le tribunal correctionnel de Gand contre les témoins de Jéhovah.

Le 16 mars, le tribunal de 1e instance de Gand a condamné la Congrégation Chrétienne des Témoins de Jéhovah (CCTJ) à une amende de 12 000 EUR au motif que leur doctrine sur la distanciation sociale de leurs membres à l'égard des exclus et autres ex-membres constitue une forme de discrimination et d'incitation à la haine.

### *L'Eglise catholique et l'interdiction de bénir des couples homosexuels*

Ces derniers jours, dans un message approuvé par le Pape François, l'Eglise catholique romaine a annoncé qu'elle ne peut bénir des unions homosexuelles quelque stables ou positives que puissent être les relations de ces couples. Cette déclaration est venue en réponse à des questions récentes, à savoir si l'Eglise ne devait pas refléter l'acceptation sociale croissante et notamment la légalisation des unions de même sexe.

La question était "L'Eglise a-t-elle le pouvoir de bénir des unions de personnes de même sexe?" et la réponse a été "Négative". Le Vatican a ajouté que le mariage devrait être limité à une union entre un homme et une femme et que le mariage homosexuel ne fait pas partie du plan de Dieu pour la famille et l'éducation des enfants.

Expliquant cette décision dans une longue note, le Saint Siège a considéré les unions de même sexe comme un "choix" et les a qualifiés de péché.

"La bénédiction d'unions homosexuelles ne peut être considérée comme licite," a déclaré la Congrégation de la Doctrine de la Foi dans un document officiel.

Dieu "ne bénit pas et ne peut pas bénir le péché," ajoutait cette déclaration.

Cette doctrine affirmée et mise en pratique avec fermeté est fondée par l'Eglise catholique romaine sur son interprétation de la Bible.

Le prêtres catholiques en Belgique et dans tous les autres pays ne sont donc pas autorisés à bénir des couples de même sexe et risquent d'être poursuivis pour discrimination à l'égard des homosexuels et incitation à la haine.

### *L'affaire des témoins de Jéhovah*

Le 16 février, un procès contre la Congrégation Chrétienne des Témoins de Jéhovah (CCTJ) s'est ouvert au tribunal correctionnel de Gand (Flandre orientale) sur base d'allégations de discrimination et d'incitation à la haine, en particulier en raison de leur politique de rejet des personnes excommuniées ou décidant de sortir de la communauté.

Un ancien témoin de Jéhovah qui avait choisi de quitter le mouvement en 2011 a porté plainte au pénal contre la CCTJ en 2015 et s'est assuré du soutien d'une douzaine d'autres anciens témoins de Jéhovah.

D’après les habitudes religieuses internes des témoins de Jéhovah, quand les anciens d’une congrégation locale excluent un membre ou bien sont informés d’un départ volontaire, ils font une brève annonce publique neutre disant: “[Nom de la personne] n’est plus témoin de Jéhovah”.

Dans leurs conclusions déposées au tribunal avant le procès, ils disaient qu’ils ne font pas de ségrégation à l’égard des membres exclus ou démissionnaires puisqu’ils peuvent toujours participer à leurs services religieux. Ils indiquaient également que les témoins de Jéhovah baptisés qui ne sont plus actifs avec leurs coreligionnaires ne sont pas rejetés.

En guise de clarification des relations entre les témoins de Jéhovah et les membres de leurs familles exclus ou démissionnaires, ils déclarent: ”Dans l’entourage immédiat, bien que les 'liens religieux’ que les exclus et les démissionnaires avaient avec leur famille changent, … les liens du sang perdurent.” En d’autres termes, ils continuent de mener une vie de famille normale et de se témoigner de l’affection.

Par ailleurs, la CCTJ avait déposé au tribunal des déclarations de neuf personnes exclues qui ont depuis lors été réintégrées par les témoins de Jéhovah. Elles expliquent comment elles ont été bien traitées par les anciens de la congrégation, leurs familles et d’autres membres de la communauté après avoir été excommuniées.

La doctrine de distanciation sociale affirmée et appliquée par les témoins de Jéhovah en Belgique et dans tous les autres pays a été établie par leur Collège central aux Etats-Unis sur base de leur interprétation de la Bible.

La CCTJ considère qu’elle n’est pas légalement responsable des relations intra-familiales entre ses membres et d’anciens membres vu qu’il s’agit de choix personnels.

***Conclusion***

Va-t-on vers une mise au banc des accusés de la Bible, de l’interprétation et de l’application de ses doctrines par leurs dirigeants et organes religieux suprêmes au nom d’interprétations et d’application des droits de l’homme par des pouvoirs judiciaires nationaux? Si oui, ce serait alors une boîte de pandore qui affecterait d’autres religions et d’autres écritures saintes.

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# Les témoins de Jéhovah et les abus sexuels en Belgique

## *L'ancien ministre de la Justice Koen Geens mal informé*

HRWF (12.03.2021) - Lors d'une conférence en ligne sur les « Limitations de la liberté religieuse en Europe » organisée du 4 au 6 mars par deux universités européennes [1], le panéliste belge représentant Human Rights Without Frontiers (HRWF) a déclaré que l'ancien ministre de la Justice Koen Geens avait été mal informé au sujet du rapport du CIAOSN à propos des abus sexuels et des Témoins de Jéhovah.

Le 30 novembre 2018, le CIAOSN a clôturé un rapport de 28 pages [2] sur la gestion des abus sexuels sur des mineurs au sein de l'organisation des Témoins de Jéhovah et l'a transmis au Parlement fédéral avec la recommandation de créer une commission d'enquête parlementaire sur cette question.

Dans son rapport [3], le CIAOSN a justifié le bien-fondé de sa décision comme suit :

« En juin 2018, le CIAOSN a reçu une notification selon laquelle trois des 286 témoignages reçus par la Fondation " Reclaimed Voices " aux Pays-Bas concernent des faits qui auraient eu lieu en Belgique. A partir de juin 2018, le CIAOSN a reçu plusieurs témoignages directs et indirects de personnes affirmant avoir subi des violences sexuelles au sein de l'organisation des Témoins de Jéhovah en Belgique lorsqu'elles étaient enfants. Ces témoignages suggèrent que la gestion des abus sexuels en Belgique est similaire à celle d'autres pays. »

Un membre du conseil d'administration de Human Rights Without Frontiers (HRWF) parlant le néerlandais a contacté Reclaimed Voices aux Pays-Bas pour vérifier la crédibilité de ces informations et obtenir plus de détails sur les trois cas présumés d'abus sexuels en Belgique.

Dans sa réponse, le responsable de Reclaimed Voices aux Pays-Bas a démenti une telle information rendue publique en Belgique, déclarant dans une correspondance privée datée du 10 février 2021 :

« Les informations contenues dans le rapport du CIAOSN ne sont pas correctes. Le 29 mars 2019, nous avons envoyé un courriel à Mme Kerstine Vanderput au sujet de cette inexactitude. À ce moment-là, il a été porté à notre connaissance que Koen Geens, ministre de la Justice (CD&V), avait déclaré sur Radio 1 en Belgique : 'C'est le CIAOSN lui-même qui s'est rendu aux Pays-Bas pour trouver ces informations et qui a déclaré que parmi les 286 plaintes néerlandaises, il y avait trois plaintes belges'. Des propos similaires ont été tenus à la télévision dans l'émission 'Van Gils & Guests'. Dans les médias néerlandais, nous avons seulement témoigné de la situation aux Pays-Bas. Les chiffres qui ont été mentionnés sont uniquement des victimes présumées d'abus aux Pays-Bas [4]. »

De plus, Aswin Suierveld, membre fondateur de l'association néerlandaise, a déclaré dans une interview datée du 30 août 2020 et disponible sur YouTube [5] qu'en fait ce n'était pas environ 300 plaintes mais seulement 70 à 90 témoignages, bien qu'elle ne les ait pas vraiment comptés. Les 200 restantes émanaient de personnes qui avaient entendu parler d'une histoire qui s'était produite dans leur congrégation, dans leur famille ou parmi leurs proches.

Le deuxième argument avancé par le CIAOSN pour justifier la création d'une commission d'enquête parlementaire est qu'il a reçu d'autres témoignages « directs ou indirects ».

Aucun détail supplémentaire n'est disponible dans leur rapport, tel que le nombre de témoignages « directs et indirects » reçus par le CIAOSN, le traitement méthodologique et statistique des données, le type de sources (témoignages de première ou de seconde main), la nature des abus sexuels, le contexte des faits allégués (abus dans les familles ou dans un cadre institutionnel), la période de temps des infractions présumées (les cinq ans, les dix ans, les vingt dernières années ou plus).

Les membres du Parlement fédéral devraient être mis au courant de ces détails avant de prendre une décision et l'opinion publique se doit également d'être informée en toute transparence.

**Notes**

[1] *Sigmund Neumann Institute for the Research on Freedom, Liberty and Democracy* (Allemagne) en coopération avec le *Center for Regional and Borderlands Studies/Institut de sociologie de l'Université de Wrocław* (Pologne).

[2] Titre Officiel : "Signalement sur le traitement des abus sexuels sur mineurs au sein de l'organisation des témoins de Jehovah" du 30 novembre 2018. A la fin du mois de février, le rapport n'était toujours pas disponible sur le site Internet du CIAOSN. HRWF l'a obtenu d'un autre chercheur travaillant sur cette question. Selon le Parlement fédéral belge, il s'agit d'un rapport intermédiaire. (voir https://www.ciaosn.be/54K3713001.pdf).

3] Ce rapport se compose de quatre parties :
Partie 1 : L'organisation des Témoins de Jéhovah (pp 1-4)
Partie 2 : Etat des lieux dans 13 pays sur les initiatives dénonçant les procédures internes des Témoins de Jéhovah dans les cas d'abus sexuels sur mineurs (pp 6-10)
Partie 3 : Etat des lieux en Belgique (pp 12-14)
Partie 4 : Conclusions (pp 15-17)
Annexes (pp 18-28)

La partie consacrée à la Belgique ne comporte que deux pages de brèves descriptions de sept cas ou rapports présumés, publiés dans les médias belges en 20 ans, entre 1996 et 2017.

[4] Extrait du mail de "Reclaimed Voices": "De informatie in het rapport van het IACSSO is incorrect. Wij hebben op 29 maart 2019 mevrouw Kerstine VanderPutte over deze onjuistheid gemaild. Het viel ons destijds op dat Koen Geerts, minister van Justitie (CD&V) daags ervoor in België bij radio 1 het volgende meldde: 'Het is het IACSSO zelf die in Nederland informatie is gaan halen en heeft vastgesteld dat van die 286 Nederlandse klachten er drie Belgische waren'. Iets soortgelijks werd op tv gezegd, bij Van Gils & gasten. Wij hebben in de Nederlandse media steeds alleen gecommuniceerd over de Nederlandse situatie. Aantallen die genoemd zijn betreffen alleen (vermeende) slachtoffers van misbruik in Nederland."

HRWF note: Kerstine Vanderput est la Directrice du CIAOSN. Van Gils & Gasten est un programme de la télévision flamande.

[5] See https://www.youtube.com/watch?v=7ayJU4BtcC4

Traduction du communiqué de presse d'origine publié en anglais : CAPLC

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# Jehovah's Witnesses and sexual abuse

## *Former Minister of Justice Koen Geens misinformed*

HRWF (09.03.2021) - At an online conference on "Limitations of Religious Freedom in Europe" organized on 4-6 March by two European universities[1], the Belgian panelist representing *Human Rights Without Frontiers* (HRWF) declared that former Minister of Justice Koen Geens had been misinformed about the CIAOSN's report on sexual abuse and Jehovah's Witnesses.

On 30 November 2018, the CIAOSN closed a 28-page report[2] about the management of sexual abuse on minors inside the organization of Jehovah's Witnesses and transmitted it

[1] *Sigmund Neumann Institute for the Research on Freedom, Liberty and Democracy* (Germany) in cooperation with the *Center for Regional and Borderlands Studies/Institute of Sociology of the University of Wrocław* (Poland).
[2] Official title: "Signalement sur le traitement des abus sexuels sur mineurs au sein de l'organisation des témoins de Jehovah" du 30 novembre 2018. As of the end of February, the report was still not available on the website of the CIAOSN. HRWF got it from another researcher working on this issue. It is said by the Belgian Federal Parliament to be an intermediary report (See https://www.ciaosn.be/54K3713001.pdf).

to the Federal Parliament with a recommendation to set up a parliamentary inquiry commission on this issue.

In its report[3], the CIAOSN justified the rationale of its decision as follows:

> "In June 2018, the CIAOSN received the notification according to which three of the 286 testimonies received by the Foundation *"Reclaimed Voices"* in the Netherlands concern facts which have allegedly taken place in Belgium. From June 2018 on, the CIAOSN received several direct and indirect testimonies from individuals claiming to have suffered from sexual violence in the midst of the organization of Jehovah's Witnesses in Belgium when they were children. These testimonies suggest that the management of sexual abuse in Belgium is similar to other countries."

A Dutch-speaking member of the board *Human Rights Without Frontiers* (HRWF) contacted *Reclaimed Voices* in The Netherlands to check the credibility of this information and get more details about the three alleged cases of sexual abuse in Belgium.

In his answer, the head of *Reclaimed Voices* in The Netherlands denied such a news made public in Belgium, saying in a private correspondence dated 10 February 2021:

> "The information in the report of the CIAOSN is not correct. On 29 March 2019, we sent an email to Ms Kerstine Vanderput about this inaccuracy. At that time, it came to our attention that Koen Geens, Minister of Justice (CD&V) had said on Radio 1 in Belgium: 'It is the CIAOSN itself which has gone to the Netherlands to find this information and has stated that among the 286 Dutch complaints there were three Belgian ones'. Something similar was said on television at 'Van Gils & Guests'. In the Dutch media, we have only testified about the situation in the Netherlands. The figures that were mentioned are only alleged victims of abuse in the Netherlands.[4]

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[3] This report comprises of four parts:
Part 1: The organization of Jehovah's Witnesses (pp 1-4)
Part 2: State of play in 13 countries about initiatives denouncing internal procedures of Jehovah's Witnesses in cases of sexual abuse on minors (pp 6-10)
Part 3: State of play in Belgium (pp 12-14)
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The section on Belgium only covers two pages of short descriptions of seven alleged cases or reports published in the Belgian media in 20 years' time, between 1996 and 2017.

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Moreover, Aswin Suierveld, a founding member of the Dutch association, declared in an interview dated 30 August 2020 and available on YouTube[5] that in fact there were not around 300 complaints but only 70 to 90 testimonies, although she had not really counted them. The 200 remaining ones were from people who had heard about a story that had happened in their congregation, in their family or among their relatives.

The second argument of the CIAOSN for setting up a parliamentary inquiry commission was that they had received other testimonies 'directly or indirectly'.

No further details are available in their report, such as the number of 'direct and indirect' testimonies received by the CIAOSN, the methodological and statistical treatment of the data, the type of sources (first-hand or second-hand testimonies), the nature of sexual abuse, the context of the alleged facts (abuse in families or in an institutional setting), the time period of the allegedly committed offences (the last five years, ten years, twenty years or more).

The members of the federal parliament need to get such details before taking a decision and public opinion also needs to be informed with full transparency.

Photo: The Palais de Justice, where Ghent courts seat. Source: Belgian Administration of public buildings.

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The members of the federal parliament need to get such details before taking a decision and public opinion also needs to be informed with full transparency.

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# The Belgian Case Against the Jehovah's Witnesses: The Bible in the Dock?

***A criminal court in Ghent is called to examine how the Jehovah's Witnesses deal with some of their ex-members. They maintain they just follow the Scripture.***

*by Willy Fautré, director of Human Rights Without Frontiers*

*The Palais de Justice, where Ghent courts seat. Source: Belgian Administration of public buildings.*

Bitter Winter (26.02.2021) - https://bit.ly/2PbKHrf - On 16 February, a trial started against the Christian Congregation of Jehovah's Witnesses (CCJW) at the criminal court of Ghent (East Flanders) on the alleged grounds of discrimination and incitement to hatred with a particular focus on their shunning (ostracization) practice in cases of disfellowshipping (exclusion) and disassociation (voluntary resignation).

A former Jehovah' Witness who had voluntarily left the movement in 2011, filed a criminal complaint against the CCJW in 2015, and managed to have it supported by over a dozen more former Jehovah's Witnesses. Four lawyers pleaded for the claimants when the first instance court opened the hearing. Their counsel took two hours and a half for presenting their arguments and the situation of their clients about their alleged family ostracization. Their plea was supported by the lawyer of UNIA, an inter-federal independent public institution financed by public money that fights discrimination and racism and promotes equal opportunities.

The CCJW was defended by two lawyers, who pleaded for about an hour and a half. They stressed to the judge that the claimants were in fact asking to have the Bible condemned, as it is the basis for the religious beliefs and practices adopted by Jehovah's Witnesses. This would be the first time since the 16th century that a court in Western Europe would find the Bible criminally guilty, they said.

Half a dozen journalists were present to cover this unusual trial.

### *Who are the claimants?*

The main plaintiff had not been excluded from Jehovah's Witnesses but had left of his own will. His wife and their children were not excluded and did not resign, although they too joined the case as claimants.

Only two former Jehovah's Witnesses had been excluded, one of them becoming a civil party on the very day of the trial.

Six had freely decided to recant their faith.

Five had neither left nor been excluded. They are still considered Jehovah's Witnesses, though inactive.

### *The statements of the claimants*

In statements relying more on emotions than on facts, the claimants made various allegations concerning alleged inhuman ostracization actions by their family members who are still Jehovah's Witnesses.

However, in a number of cases, the claimants' assertions concerning the alleged moral misbehavior of their family members were contradicted by the latter's written and signed testimonies.

For instance, the brother-in-law of the main claimant said: "My brother-in-law (…) decided at a certain point in his life to disassociate himself as one of Jehovah's Witness. I respected this and never had any feelings of hatred towards him. The contacts we have with each other are kept to a minimum; this is my personal decision which is based on the way he treats me, my family and my fellow believers (…) I sometimes meet his wife (and my sister-in-law) and their children, when I visit my parents-in-law. Although these contacts are not as warm as they used to be, they still take place in a friendly atmosphere. My wife also has contact with her sister and her children. These interactions usually take place at their parents' place and are always cordial."

The claimants also relied on statements of eight persons making various allegations about how their friends and family members who are Jehovah's Witnesses have allegedly treated them unfairly. However, strange though it may be, none of those eight persons was excluded or resigned of his/her own will, which made their testimonies rather irrelevant.

In balance, the CCJW provided the Court with nine statements of individuals who had been excluded and who had since been reinstated as Jehovah's Witnesses. These

testimonies shed quite a different light on the matter. They explain how they had been fairly treated by congregation elders, family, and others in the congregation when they were disfellowshipped. Here are some excerpts from statements filed with the Court by two of them, whose names have been changed by the author:

*Ivona:*

"I was disfellowshipped as one of Jehovah's Witnesses when I was 37 years old for a course of life that I knew was contrary to the Bible's standards. I supported the decision of the elders to disfellowship me, knowing it was based on the Bible. The elders who met with me lovingly told me that my exclusion did not have to be permanent and that I could be restored and that this could happen quickly. Unfortunately, I made other poor choices in my life and I wandered even further astray (…) Although I was disfellowshipped, I would from time to time attend religious services of Jehovah's Witnesses at their place of worship called a Kingdom Hall. The elders made me feel comfortable at those religious services, such as by providing me with religious literature so I could follow along with the discussions at those services (…) About three years ago, however, in 2017, I came in contact with a dear friend who is one of Jehovah's Witnesses. I told her I wanted to return to the congregation. (…)."

*Liliane:*

"Were Jehovah's Witnesses rude and disrespectful toward me? Never. I myself have never been hostile and disrespectful to them. Did my mother, who is one of Jehovah's Witnesses, help me when I got sick? Yes. Could I still see my grandchildren? Yes. Could I attend congregation religious services if I wanted to? Yes. Did they still love me? Yes they did. Everyone was on the lookout for me. Did my family and friends adhere to what God desired of them, which included limiting their association with me? Yes, with difficulty and sadness but with faithfulness to God. Not because they were forced to by an organization."

The cases raised at the Court in Ghent are obviously and exclusively family matters. It would be reductive to restrict the explanation for perturbated family relationships to religious beliefs or official policies. So many different situations may factor in that explain difference of views and values within a family as many of the protagonists have experienced in their own circumstances.

The CCJW considers it is not legally responsible for the intra-familial relations between its members and former members, as it is an individual decision.

All organized religions have exclusion or excommunication procedures in their statutes and Jehovah's Witnesses are not an exception. As they state on their website "if a baptized Witness makes a practice of breaking the Bible's moral code and does not repent, he or she will be shunned or disfellowshipped." For them, this is a fundamental religious belief required by the Bible. In this regard, they often quote a number of verses from the New Testament, such as 1 Corinthians 5:6, 11-13 and 2 John 1, 9-11.

According to the internal religious practice of Jehovah's Witnesses, when the elders of a local congregation exclude a member or are notified about a voluntary resignation, they make a short neutral public announcement which states: "[Name of person] is no longer

one of Jehovah's Witnesses". The CCJW is not involved in the making of that neutral announcement but is notified about the decision.

In their conclusions provided to the Court before the trial, they say that they do not segregate excluded or resigning members as these can always attend their religious services. They also point out that baptized Jehovah's Witnesses who no longer actively associate with fellow believers, are *not* shunned.

Clarifying the relations between Jehovah's Witnesses and disfellowshipped or disassociated family members, they say: "In the immediate household, although the 'religious ties' the expelled or disassociated person had with his family change, … blood ties remain. The marriage relationship and normal family affections and dealings continue." In other words, normal family affection and association continues.

In reality, what the whole case in Ghent is all about is an attempt to oblige the Witnesses to change their Bible-based religious practices.

In this regard, a number of scholars have examined disfellowshipping and shunning as practiced by Jehovah's Witnesses. One such scholar, Dr. Massimo Introvigne, founder and managing director of the Center for Studies on New Religions (CESNUR), wrote: "By defending the rights of their judicial committees to remain free from state interference when they decide whether a member should be disfellowshipped or otherwise, and their right to interpret the Bible in the sense that it mandates shunning those who had been disfellowshipped, the Jehovah's Witnesses are, once again, defending the religious liberty of all, precisely in the area where today it is mostly under attack"—*The Journal of CESNUR*,Vol. 5, No. 1, January–February 2021, pp. 54-81.

***Verdict on 16 March***

The Court will announce its verdict on 16 March. It would be difficult to understand that the CCJW could be held responsible for discrimination and incitement to hatred in cases of deteriorated intra-familial relations due to an exclusion or resignation procedure in a local congregation, as there is no ostracization policy towards former members.

However, if the court of first instance were to issue such a verdict, it would certainly be appealed and could go as far as the European Court of Human Rights. This would also have repercussions on other religious communities where conversion, apostasy and exclusion are followed by family and social ostracization or worse.

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# Plainte au pénal contre les Témoins de Jéhovah: la Bible au banc des accusés?

***Un tribunal à Gand est amené à examiner au pénal comment les témoins de Jéhovah traitent certains de leurs membres. Ils soutiennent qu'ils ne font que suivre les Ecritures.***

Willy Fautré, directeur de *Human Rights Without Frontiers*

HRWF (27.02.2021) - Le 16 février, un procès contre la Congrégation Chrétienne des Témoins de Jéhovah (CCTJ) s'est ouvert au tribunal correctionnel de Gand (Flandre orientale) sur base d'allégations de discrimination et d'incitation à la haine, en particulier en raison de leur politique de rejet des personnes excommuniées ou décidant de sortir de la communauté.

Un ancien témoin de Jéhovah qui avait choisi de quitter le mouvement en 2011 a porté plainte au pénal contre la CCTJ en 2015 et s'est assuré du soutien d'une douzaine d'autres anciens témoins de Jéhovah. Les plaignants ont été défendus par quatre avocats lors de l'audience du tribunal de première instance. Pendant deux heures et demie, ils ont exposé leurs arguments et leurs clients ont fait état d'allégations d'ostracisme familial. Leurs doléances ont bénéficié de l'appui de UNIA, une institution publique interfédérale indépendante financée par de l'argent public qui lutte conte la discrimination et le racisme et fait la promotion de l'égalité des chances.

La CCTJ était défendue par deux avocats qui ont plaidé pendant environ une heure et demie. Ils ont attiré l'attention du juge sur le fait que les plaignants demandaient en fait de condamner la Bible puisque c'est le fondement des croyances religieuses et des pratiques adoptées par les témoins de Jéhovah. Ce serait une première depuis le 16e siècle si un tribunal en Europe occidentale condamnait la Bible au pénal, ont-ils déclaré.

Une demi-douzaine de journalistes étaient présents pour couvrir ce procès inhabituel.

## *Qui sont les plaignants?*

Le plaignant principal n'a pas été exclu des témoins de Jéhovah mais il en est parti de son propre chef. Son épouse et ses enfants n'ont pas été exclus et n'en sont pas partis bien qu'ils se soient joints aux plaignants.

Seuls deux anciens témoins de Jéhovah étaient des exclus, l'un d'eux s'étant porté partie civile le jour même du procès.

Six avaient librement décidé de renoncer à leur foi.

Cinq n'avaient ni quitté le movement ni n'en avaient été exclus. Ils sont toujours considérés comme des membres des témoins de Jéhovah, bien qu'ils soient inactifs.

## *Les déclarations des plaignants*

Dans des déclarations reposant davantage sur l'émotionnel que sur des faits, les plaignants ont avancé diverses allégations concernant des actions inhumaines d'ostracisme de la part de membres de leurs familles qui sont encore témoins de Jéhovah.

Toutefois, dans un certain nombre de cas, les affirmations des plaignants concernant le comportement moral soi-disant discutable de membres de leurs familles ont été contredites par des déclarations écrites et signées par ces derniers.

Par exemple, le beau-frère du plaignant principal a dit:

> Mon beau-frère (…) a décidé à un certain moment de sa vie de quitter les témoins de Jéhovah. J'ai respecté ceci et je n'ai jamais eu aucun sentiment de haine à son égard. Les contacts que nous avons l'un avec l'autre sont tenus au minimum; ceci est ma décision personnelle, laquelle se fonde sur la façon dont il me traite ainsi que ma famille et mes co-religionnaires (…). Parfois, je rencontre son épouse (et ma belle-soeur) et leurs enfants quand je rends visite à mes beaux-parents. Bien que ces contacts ne soient pas aussi chaleureux qu'auparavant, ils se déroulent

toujours dans une atmosphère amicale. Mon épouse a aussi des contacts avec sa soeur et ses enfants. Ces interactions ont habituellement lieu chez leurs parents et sont toujours cordiales.

Les plaignants se sont également fondés sur les déclarations de huit personnes ayant avancé diverses allégations sur la façon dont leurs amis et des membres de leurs familles qui sont témoins de Jéhovah les ont prétendûment injustement traités. Toutefois, aussi bizarre que cela puisse paraître, aucune de ces huit personnes n'a été exclue ni n'a choisi de quitter le mouvement, ce qui rend leurs témoignages non pertinents.

Par ailleurs, la CCTJ a déposé au tribunal les déclarations de neuf personnes exclues qui ont depuis lors été réintégrées par les témoins de Jéhovah. Ces témoignages jettent une lumière bien différente sur cette affaire. Elles expliquent comment elles ont été bien traitées par les anciens de la congrégation, leurs familles et d'autres membres de la communauté après avoir été excommuniées. Voici quelques extraits de declarations déposées au tribunal par deux d'entre ells dont les noms ont été changés par l'auteur:

*Ivona:*

"J'ai été excommuniée comme témoin de Jéhovah quand j'avais 37 ans pour un genre de vie que je savais être contraire aux normes de la Bible. J'ai accepté cette décision des anciens de m'excommunier, sachant qu'elle était basée sur la Bible. Les anciens que j'ai rencontrés m'ont dit avec amour que mon exclusion n'avait rien de permanent, que je pouvais toujours revenir et que cela pourrait se faire rapidement. Malheureusement, j'ai fait d'autres mauvais choix dans la vie et je me suis de plus en plus éloignée (…). Bien que j'aie été excommuniée, j'ai parfois assisté à des services religieux des témoins de Jéhovah dans leur lieu de culte qu'on appelle Salle du Royaume. Les anciens m'ont fait sentir chez moi à ces services religieux, et m'ont donné de la littérature religieuse pour que je puisse suivre les discussions pendant ces services (…). Il y a environ trois ans, en 2017, je suis entrée en contact avec une amie chère qui est témoin de Jéhovah. Je lui ai dit que je souhaitais réintégrer la congrégation. (…)"

*Liliane:*

"Les témoins de Jéhovah ont-ils été durs et irrespectueux avec moi? Jamais. Moi-même, je n'ai jamais été hostile et irrespectueux avec eux. Ma mère, qui est témoin de Jéhovah, m'a-t-elle aidée quand je suis tombée malade? Oui. Est-ce que je pouvais continuer à voir mes petits-enfants. Oui. Est-ce que je pouvais assister aux services religieux de la congrégation si je le souhaitais? Oui. Est-ce qu'ils continuaient à m'aimer? Oui. Tout le monde s'occupait de moi. Est-ce que ma famille et mes amis étaient d'accord avec ce que Dieu attendait d'eux, ce qui impliquait des contacts limités avec moi? Oui, avec difficulté et tristesse mais dans la fidélité à Dieu. Pas parce qu'ils étaient forcés par une organisation."

Les cas soulevés au tribunal de Gand sont clairement et exclusivement des affaires de famille. Il serait réducteur de ramener l'explication de relations familiales perturbées à des croyances religieuses ou des politiques officielles des témoins de Jéhovah. Il y a tant de facteurs différents qui expliquent les points de vue et les valeurs des uns et des autres à l'intérieur d'une famille tels que de nombreux protagonistes en ont fait l'expérience dans leur propre situation.

La CCTJ considère qu'elle n'est pas légalement responsable des relations intra-familiales entre ses membres et d'anciens membres vu qu'il s'agit de décisions personnelles.

Toutes les religions organisées ont des procédures d'exclusion et d'excommunication dans leurs statuts et les témoins de Jéhovah ne font pas exception. Comme ils l'indiquent

sur leur site internet, "si un Témoin prend l'habitude d'enfreindre les lois morales de la Bible et qu'il ne se repente pas, il sera excommunié." Pour eux, il s'agit d'une croyance religieuse fondamentale imposée par la Bible. A ce sujet, ils citent souvent certains versets du Nouveau Testament, tels que 1 Corinthiens 5:6, 11-13 et 2 Jean 1, 9-11.

D'après les habitudes religieuses internes des témoins de Jéhovah, quand les anciens d'une congrégation locale excluent un membre ou sont informés d'un départ volontaire, ils font une brève annonce publique neutre disant: " "[Nom de la personne] n'est plus témoin de Jéhovah".

Dans leur conclusions déposées au tribunal avant le procès, ils disent qu'ils ne font pas de ségrégation à l'égard des membres exclus ou démissionnaires puisqu'ils peuvent toujours participer à leurs services religieux. Ils indiquent également que les témoins de Jéhovah baptisés qui ne sont plus actifs avec leurs coreligionnaires ne sont pas rejetés.

En guise de clarification des relations entre les témoins de Jéhovah et les membres de leurs familles exclus ou démissionnaires, ils déclarent: "Dans l'entourage immédiat, bien que les 'liens religieux' que les exclus et les démissionnaires avaient avec leur famille changent, … les liens du sang perdurent." En d'autres termes, ils continuent de mener une vie de famille normale et de se témoigner de l'affection.

En réalité, toute cette affaire à Gand est une tentative d'obliger les témoins de Jéhovah à changer leurs pratiques religieuses ancrées dans la Bible.

A ce sujet, un certain nombre d'experts en matière religieuse ont examiné la politique d'excommunication et de rejet telle que pratiquée par les témoins de Jéhovah. L'un d'eux, le Dr. Massimo Introvigne, fondateur et director exécutif du Centre pour les Etudes des Nouveaux Mouvements Religieux (CESNUR), a écrit: "En defendant les droits de leurs comités de discipline religieuse à se prémunir de toute ingérence de l'état quand ils décident de l'excommunication d'un membre ou d'autre chose, et leur droit à interpréter la Bible dans le sens où elle ordonnerait le rejet de ceux qui avaient été excommuniés, les témoins de Jéhovah défendent une fois de plus la liberté religieuse de tous, précisément dans un domaine où elle est actuellement particulièrement assiégée." ."—*The Journal of CESNUR*, Vol. 5, No. 1, January–February 2021, pp. 54-81.

## ***Verdict le 16 mars***

Le tribunal va announcer son verdict le 16 mars. Il serait difficile de comprendre que la CCTJ puisse être tenue responsable de discrimination et d'incitation à la haine dans des cas de détérioration de relations intra-familiales, suite à une procédure d'excommunication ou de démission dans une congrégation locale, vu qu'il n'y a pas de politique d'ostracisme à l'égard d'anciens membres. Toutefois, si le tribunal de première instance devait rendre un tel verdict, il ferait très certainement l'objet d'un appel et cela pourrait même aller jusqu'à la Cour européenne des droits de l'homme. Ceci aurait également des répercussions sur d'autres communautés religieuses où la conversion, l'apostasie et l'exclusion sont suivies d'ostracisme familial et social, ou pire.

(*) Article initialement publié par Bitter Winter le 26 février 2021 sous le titre "The Belgian Case Against Jehovah's Witnesses: The Bible In The Dock?" Voir https://bit.ly/2PbKHrf

# Slaughtering Religious Freedom at the Court of Justice of the European Union

## *The New Age of Rights*

By Andrea Pin and John Witte, Jr.

Canopy Forum (16.02.2021) - https://bit.ly/3k1QrPR - In the 1990s, the European Union (EU) seemed to be done. The Old Continent was pacified. Soviet imperialism had melted away. European dictatorships — from Portugal to Spain, from Greece to Romania — had ended. European citizens could travel from Italy to the Netherlands, from Portugal to Germany, without border crossings or passport checks. The EU seemed to be a victim of its own success: having reunited a European economy, society, and culture so badly-broken after two world wars.

The EU sought to repurpose itself by taking on the language of rights. The Charter of Fundamental Rights of the European Union was thus born in 2000 and ratified in 2010. It aimed to strengthen the legal integration of Europe, to ground it more fundamentally in familiar political terms, and to provide member-states and their citizens with new responsibilities and freedoms. The Charter included protection for religious freedom (Article 10), prohibitions on religious discrimination (Article 21), and protection of religious diversity (Article 22). These and other fundamental rights provisions were still focused by the EU's principal economic mandates — with labour law, economic regulation, data protection, and business competition the most familiar setting for fundamental rights litigation. But expectations for a new season of EU rights were high.

EU law is enforced by the Court of Justice of the European Union (CJEU). Its judgments are binding law in all 27 EU member states. Domestic judges from any member state can halt their local proceedings to ask the Court to deliver a "preliminary ruling" on EU law matters that are relevant to their local case. The Court's ruling will be binding on them and all other states. Such a quick, effective, and reasonably cheap judicial forum soon attracted many controversies concerning fundamental rights.

It is no surprise, then, that since 2017, the Court's religious freedom case law has grown exponentially, spanning labour law issues, tax exemptions, religious divorces, refugees, privacy, proselytism, and ritual slaughtering.

## *Higher Disappointments*

Most of these cases have had decidedly mixed results for religious freedom. But in a trio of recent religious slaughtering cases, the Court of Justice has demonstrated an especially narrow, weak, and troubling understanding of religious freedom. In all three cases, the Court rejected the religious freedom and equality arguments against local regulations that limited *halal* and *kosher* ritual slaughtering. All three cases feature rather blunt dismissal of the claims of discrete religious minorities whose central religious practices were targeted and subordinated to state concerns for animal welfare.

EU laws require that animals be slaughtered only after stunning them as a way of mitigating the animal's stress, suffering, and pain. However, since *halal* and *kosher* religious rules require that the animal be awake during slaughtering, EU law carves out an exception, allowing such religious ritual slaughtering so long as it is performed in licensed slaughterhouses. In all three cases local authorities put further limits on these EU slaughtering laws that triggered religious freedom challenges. None succeeded.

*Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen VZW and Others* (2018) started in Belgian Flanders. On the few days of the Feast of the Sacrifice, a major Islamic holiday, Islamic ritual slaughtering normally peaks . Until 2015, the Flemish authorities accommodated the extra demand for *halal* meat in preparation for the festival by licensing local temporary Islamic slaughterhouses. In 2015 they suspended this accommodation on the ground that such licenses violated EU rules on the structural and hygiene requirements for all slaughterhouses.

Flemish Muslim communities sued, arguing that the only way to meet the peak demand for *halal* meat and comply with the new rule would be to build a series of permanent slaughterhouses that would be of no use for the rest of the year. The local judge requested a preliminary ruling from the CJEU as to whether the EU regulation on ritual slaughtering, as implemented by national legislation, violated the EU Charter's protection of religious freedom and its prohibition of religious discrimination, as well as Article 9 of the European Convention on Human Rights that also protects religious freedom.

The CJEU's opinions (first by its Advocate General and then the full court) acknowledged that slaughtering an animal without stunning was "indeed a religious precept that benefits from the protection of religious freedom." The EU's general law on slaughtering, however, was "perfectly *neutral* and applies to any party that organises slaughtering." It did not target religious practices discriminatorily. To the contrary, EU laws had already carved out a religious freedom exception to accommodate religious ritual slaughtering. By requiring that religious slaughtering be performed in proper slaughterhouses, the Court said, EU law had done enough "to ensure effective observance of the freedom of religion, in particular of practicing Muslims during the Feast of Sacrifice." The EU's general slaughtering laws, and the Flemish application of them, thus did not violate any rights under the 2010 EU or the 1950 European Convention on Human Rights. The real challenge, the Court noted, was not to religious freedom but to the financial cost for a local Islamic community in Belgium that might have to set up permanent slaughterhouses for only a few days of use.

The 2019 case of *Œuvre d'assistance aux bêtes d'abattoirs* also involved *halal* slaughtering practices. EU law reserved the "organic" label for food that had been produced in accordance with high animal welfare standards. The issue was whether *halal* meat could be labeled "organic," since such ritual slaughtering was performed without previous stunning, thus causing pain to the animals. The Court ruled that *halal* slaughtering practices and organic food labeling were irreconcilable. Albeit permitted under EU law to protect the religious freedom of Muslims, *halal* slaughtering was "insufficient to remove all of the animal's pain." It thus did not meet the high requirements of animal welfare that were among the core goals of organic food production. *Halal* meat could not be labelled "organic" meat in the EU.

It was the 2020 case of *Centraal Israëltisch Consistorie van België and Others* that struck the fatal blow to the right to religious slaughtering. This case involved a new Flemish regulation that required Jewish and Muslim butchers to stun animals before butchering them according to their rituals. A consortium of Jewish and Muslim litigants challenged the new law — a joint venture that tells a lot of the gravity of the matter, given the excalating tensions within and among these religious groups in Belgium. They argued that it specially burdened their core religious practices; introduced a secular requirement that violated ancient religious laws; obstructed religious butchers from practicing their traditional faith; deprived religious consumers from proper food in the niche market of *kosher* and *halal* meat; and discriminatorily targeted the small communities of Jews and Muslims while leaving hunters, fishers, and other sportsmen to kill their captured animals without prior stunning. If this regulation targeting the heart of a religion's core ritual life could pass muster under EU laws and the EU Charter, the claimants further

argued, even firmer measures against minority religious practices would likely follow in Belgium and other EU lands.

Upon request for a preliminary ruling on EU law from the Belgian constitutional court, the Grand Chamber of the CJEU upheld the Flemish regulation. The Court found leverage in the EU provision that empowered Belgian authorities to issue "additional rules designed to ensure greater protection for animals." The Court recognized that the added rule about stunning did impose "a limitation on the exercise of the right of Jewish and Muslim believers to the freedom to manifest their religion." But this limitation was "permissible," the Court argued. It was properly "prescribed by law," not arbitrarily imposed. It required use of the "most up-to-date method of killing" animals humanely. It had a "legitimate objective of general interest . . . to avoid all avoidable animal suffering." This new rule, moreover, was "appropriate and necessary," prescribing "the least onerous" way of harmonizing state interests in protecting animal welfare and the butchers' interest in protecting their religious freedom.

Invoking religious freedom cases of the European Court of Human Rights, the Luxembourg Court now said that Belgium "deserved a wide margin of appreciation in deciding whether, and to what extent, a limitation of the right to manifest religion or beliefs is 'necessary.'" Similarly, the Court cited EU law that called for "a 'certain flexibility' and 'a certain degree of subsidiarity' to Member States" in how to balance EU laws and local standards of health, morality, and culture.

The CJEU also dismissed quickly the Jewish and Muslim litigants' arguments that this new rule was both religiously discriminatory and disrespected religious diversity in open violation of Articles 21 and 22 of the EU Charter. The comparison with sport activities was ill-founded, the Court continued, as this regulation focused on licensed slaughtering houses, and not on hunting, fishing, or licensed sports activities which are subject to their own relevant EU and local laws. Moreover, hunting and fishing are recreational; they are not primarily about producing meats, hides, and other animal products that are sold to consumers. Even if they were, it would be "meaningless" to require hunters and fishers to pursue only animals that were previously stunned.

## *The Fate of Religious Freedom*

These three cases, particularly *Liga van Moskeeen* and *Centraal Israëltisch Consistorie,* while narrow in their immediate reach, signal trouble for religious freedom in the EU. The *Liga van Moskeeen* Court stated clearly that, in principle, neutral laws do not infringe upon religious freedom, whatever their impact on religious practices. In its words, "the obligation to use an approved slaughterhouse . . . applies in a general and neutral manner to any party that organises slaughtering of animals and applies irrespective of any connection with a particular religion and thereby concerns in a non-discriminatory manner all producers of meat in the European Union." But in application, neutral laws like this can and do impose a substantial burden on religious practices, particularly those of minority or disfavored religions who sometimes need exceptions and exemptions from neutral laws in order to practice their faith.

*Centraal Israëltisch Consistorie* is even more worrisome. It upholds a non-neutral local law that specifically and discriminatorily targets a central religious practice of ritual slaughtering that EU law had earlier accommodated on grounds of religious freedom. The new Flemish law is not neutral: Jews and Muslims cannot butcher animals for consumption according to their faith, but sportsmen who kill downed animals or landed fish, or private farmers who kill their animals for food or when they are injured, need not stun those animals first. Religious freedom, religious equality, and religious diversity are all fundamental rights explicitly protected by the EU Charter. Animal rights and animal welfare are only mentioned in the earlier Annex to the European Community

Treaty (1997); they are not part of the EU Charter. But here animal rights have trumped religious freedom.

***Make No Mistake***

These three cases are not just about small Jewish or (not so) small Islamic minorities living in Flanders. And they are not just about the right to religious slaughtering, which is an important feature of religious freedom for these religious communities but not for many other faiths (including that of the authors). These cases are part of a larger seachange in EU case law that subordinates religious freedom to other rights and interests. This is surprising, as EU law has developed a quite sophisticated culture against direct and indirect discrimination alike. The devil is in the details, as usual. Borrowing from the European Court of Human Rights' lexicon, *Centraal Israëltisch Consistorie* stated that the EU Charter of Fundamental Rights was a "living instrument," which had to be understood in light of the changing circumstances and social priorities. Because the new Flemish provision resonated with the wider sensitivity for animal welfare, it deserved stronger EU protection. The Court has thus signalled that religious freedom is not so much the hot new concern of EU law but more a relic of the past and a refuge of the eccentric that must be subordinated — if not sacrificed — to new priorities.

American First Amendment scholars know well the dangers of reducing religious freedom to a mere guarantee of neutrality, and leaving religious freedom protections in the hands of local legislatures. The United States Supreme Court adopted this local neutrality approach in the 1990 free exercise case of *Employment Division v. Smith.* The case held that a "neutral and generally applicable law" is not a violation of the right to free exercise of religion, no matter how great a burden that law casts on a particular religion or religious practice. The *Smith* case itself deprived a Native American Indian from receiving an unemployment benefit that other religious minorities had received in four prior Supreme Court cases. The *Smith* Court's neutrality approach soon led local legislatures to turn on religious minorities, targeting their ritual slaughtering and other religious practices deemed eccentric. Congress and many states responded by passing religious freedom restoration acts that provided stronger statutory protections and remedies for religious minorities. And in *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah* (1993), the Supreme Court stepped in and struck down a new local slaughtering law similarly pitched as a neutral law protecting safety, hygiene, and animal welfare, but in reality targeted a core religious ritual of a minority community of Santerians. The *Smith* Court had made clear that laws that are not neutral and/or not generally applicable can be justified only if they serve a compelling state interest and follow the least restrictive alternative of achieving that interest. That provides a judicial safety net for religious freedom against bald prejudice, just as statutes have provided a stronger legislative safety net for religious minorities against "the tyranny of the legislative majority." It can only be hoped that both Luxembourg Court and the European Parliament will take lessons from this American experience. Among the European integration's early promises was peace for the Continent, not a cemetery for freedoms.

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# A criminal case against Jehovah's Witnesses

***Human Rights Without Frontiers will follow this trial starting on 16 February***

**By Willy Fautré, Human Rights Without Frontiers (*)**

HRWF (16.02.2021) - On 16 February, a trial will start against the Christian Congregation of Jehovah's Witnesses (CCJW) at the criminal court of Ghent (East Flanders) on the

alleged grounds of discrimination and incitement to hatred with a particular focus on their disfellowshipping (exclusion) procedure.

## A timeline

**2015 (19 March):** The criminal investigation began with the filing of a criminal complaint by Patrick Haeck, a former Jehovah' Witness who had freely chosen to recant his faith.

**2016 (5 January):** Substitute Public Prosecutor Isabel de Tandt transmitted the criminal file to the Federal Judicial Police. She stated in her cover letter that this is "a file against the Jehovah's Witnesses regarding defamation and, more specifically, regarding their defamation policy."

**2016 (29 February):** In a Pro-Justicia, the Federal Judicial Police listed the CCJW and its Board of Directors as the subject of the criminal investigation.

**2018 (10 April):** The Public Prosecutor officially notified the CCJW of the investigation that had been ongoing since January 2016. Three CCJW board members were then invited for a hearing.

**2018 (15 May):** The CCJW responded to that invitation by a letter to the Federal Judicial Police of East Flanders in which it requested a number of details about the criminal investigation: the grounds of the accusation and the author thereof. In its letter, the CCJW specifically addressed the issue of disfellowshipping and stressed that courts in Liège, Mons and Brussels have confirmed this practice is protected under Article 9 of the European Convention on Human Rights.

In that letter, the CCJW indicated its objections to the investigation (due to the little information provided by the police) and asked the Public Prosecutor to dismiss this investigation but indicated "Of course, we are fully prepared to work with you to clarify this issue". There was no response whatsoever to this offer.

**2020 (13 May):** After two years of silence by the judicial authorities, the CCJW received a copy of the 11 May 2020 summons charging it with crimes under Article 22 of the Anti-Discrimination Act.

In total, the criminal investigation lasted 4 years and 4 months, from 5 January 2016 until 11 May 2020. However, no investigation measures whatsoever took place between 15 May 2018 and 11 May 2020, a period of nearly two years.

This case is thus similar to *Rouille v. France*, no. 50268/99, § 29, 6 January 2004, where the ECtHR held that "an investigation lasting five years and two months" exceeded the reasonable time requirement and thus violated Article 6(1) of the Convention.

The main issue is however the questionable assimilation of the internal disfellowshipping procedure to some form of incitement to hatred and discrimination.

All organized religions have exclusion or excommunication procedures in their statutes and Jehovah's Witnesses are not an exception. For them, this is a fundamental religious belief required by the Bible. In this regard, they often quote a number of verses from the New Testament, such as

> **1 Corinthians 5:6, 11-13**: "Do you not know that a little leaven ferments the whole batch of dough? … But now I am writing you to **stop keeping company with anyone called a brother who is sexually immoral or a greedy person or an idolater or a reviler or a drunkard or an extortioner, not even eating with such a man.** For what do I have to

> do with judging those outside? Do you not judge those inside, while God judges those outside? **Remove the wicked person from among yourselves."**
>
> **2 John 1:9-11**: "Everyone who pushes ahead and does not remain in the teaching of the Christ does not have God. The one who does remain in this teaching is the one who has both the Father and the Son. If anyone comes to you and does not bring this teaching, **do not receive him into your homes or say a greeting to him.** For the one who says a greeting to him is a sharer in his wicked works." (Emphasis added)

Courts in Belgium have already ruled on similar complaints of alleged discrimination.

On 10 January 2012, the Court of Appeal of Mons rejected J.L.'s discrimination claim, concluding that

> "The fact that a religious movement lays down for its members and publishes in its periodicals **rules of conduct to be adopted vis-a-vis former members who have been properly excluded** (the propriety of the said exclusion is not under discussion here), which are limited to the prohibition on associating with them, speaking to them or even greeting them, **is not sufficient to lead to the presumption that any discrimination exists.**
> "Provided the limits of legality are not exceeded, **any person is free to follow or otherwise the precepts of the religion of his choice, including with regard to the members of his own family.** (Emphasis added)

On 5 November 2018, the Court of Appeal of Brussels rejected J.L.'s remaining civil claims, concluding:

> "Of course, moral pressures may be exerted on followers so that they distance themselves from "excommunicated" persons. However, as emphasized by the Court of Appeal of Mons in its aforementioned ruling, **all individuals are free to decide whether or not to follow the precepts of the religion of their choice, including with regard to their own family.**
> …
> There is no exhibit that reveals that any members of his family or friends refused to see him after his excommunication **because of the instructions of the [religious community]**. Nor is there any evidence that he lost customers for that reason." (Emphasis added)

Last but not least, on 7 February 2019, the Court of Cassation rejected J.L.'s appeal against the judgment of the Court of Appeal of Brussels.

(*) The original article was published by Bitter Winter on 15 February 2021 under the title "Jehovah's Witnesses Disfellowshipping Practices on Trial in Belgium"

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# Freedom of religion or belief in Belgium: Some religions are more equal than others

By Jelle Creemers

ICLRS (05.01.2021) – https://bit.ly/3ntnhcr – So-called "Western" nations are not the usual suspects of intrusions into religious liberty. The reason seems obvious: legislation and policies which protect freedom of religion or belief (FoRB) are typically well embedded in and very compatible with strongly secularized contexts with a high appreciation of individual freedom and human rights—typical character traits of said "Western" nations.

While severe intrusions of FoRB involving state-sanctioned use of force are infrequent, there is sufficient reason to also keep a close eye on these nations.

First, following Saba Mahmood's lead, the "obvious" connection between secularity and religious freedom needs critical scrutiny. Secularity as it is being presented in and promoted by Western nations often includes strict but unspoken definitions of religiosity, including a focus on its private and cerebral (faith) aspects. Expressions of religiosity which do not easily fit the mold and which are "foreign" to the local setting are much less easily accepted and appreciated. While ample space is typically given to individual religiosity and while on paper equal rights may be offered to a variety of convictions, the translations of these rights into policies directed at different convictions often demonstrate underlying rationalities and conditionalities.

Second, in a Western context, a comparative perspective is very instrumental in uncovering cases of religious discrimination. Last year, I co-edited a volume on religion-state relations in Europe, giving attention to both theoretical considerations and case studies from European countries [1]. It features my article giving attention to the small Evangelical Protestant and Islamic minorities in Belgium, which may function as an interesting exemplary study of the above-mentioned statements.

Like most European countries, Belgium, since its independence in 1830, has developed a relationship of "mutual dependence" of organized religion and the state [2]. It started modestly as an attempt to combine liberal and Catholic political agendas in the newly established democratic nation and to avoid returning church property confiscated by Napoleon. In almost two centuries, the system has grown into a complex amalgam of rights and policies involving the different levels of the federal Belgian state system and pertaining to seven recognized "worldviews." Two key elements of this support system are discussed below. The seven recognized worldviews are the Anglican, Catholic, Islamic, "Israelite," Orthodox, and Protestant religionsandnon-confessional humanist philosophy. These are said to make up over 95% of the religious/philosophical self-identification of Belgian citizens. Still, religious discrimination can be found in the fact that some worldviews have no place in this system. Buddhism is currently working towards recognition and receives a small annual subsidy because of its internal organization [3].

In the Belgian system, two key elements are constitutionally fixed: (a) the possibility of state salaries for religious ministers and moral counselors (art. 181 of the Constitution) and (b) the possibility for children to have classes in the religion of their (parents') choice throughout their compulsory school career, the teachers being salaried by the state (art. 24.1). Also, there are various forms of financial and other support for religious communities and their community life. The system is understood by some today as a guarantee for the exercise of the citizens' right to religious freedom. As such, it is discursively embedded in a liberal secular framework that involves competing human rights and liberal values such as democracy, separation of church and state, and good citizenship. Participating in the system is, however, not without consequence. The remainder of this article will offer examples from three policies to demonstrate ways in which state policies are set up to socialize religious minorities and integrate secular values in (a) their institutional organization, (b) their religious activities, and (c) their

official communications. Comparisons with the historically majoritarian Roman Catholic religion will demonstrate the hidden discriminations which are also present.

First, participation in the Belgian religion-state relations has necessitated the very diverse and autonomous Evangelical churches and Islamic communities to set up a representative body with democratically elected officers who act as their spokesperson towards the state. Such a structure and hierarchization of religious authority directly contradicts the theological and organizational self-understanding of these faith communities. An alternative arrangement, which would allow local faith communities to directly communicate with the state, is very possible and even has historical precedents [4]. But the state was adamant that for Islam and Protestantism the establishment of such an overarching structure is an essential requirement for full participation in the Belgian public management of religion. Pluralistically organized religions with much inner diversity and variety are thus required to adapt to the structural preferences of the majority religion, the Roman Catholic Church, which has functioned as the model. Moreover, this system involves another interesting form of discrimination vis-à-vis minority religions. While their representative bodies are expected to have been democratically elected, the Roman Catholic equivalent—the bishop—is appointed by a foreign sovereign, the Pope. It is hard to imagine that this would be accepted for the representative body of, let's say, Islam in Belgium.

Second, participation in the Belgian religion-state relations has come to involve (particularly in Flanders) monitoring of religious activities. Since the renewed Flemish legislation of 2005, religious communities that seek recognition and support need to meet several requirements. Of highest importance is the need to annually demonstrate their "societal relevance." This requirement implies that the faith communities are not primarily valued because they enable their members to exercise their religious freedom rights. The religious community is first and foremost evaluated based on its relation/service to non-members, i.e., to the wider society. Most problematic is the fact that these and more requirements for recognition, which may also lead to exclusion of a faith community from state support, only exist for communities recognized since 2006. This means that all 1600+ Roman Catholic parishes can remain certain of their continued recognition and state support without these requirements. Only a small portion of the currently recognized faith communities, including all (minority) Evangelical and Islamic recognized places of worship, fall under the new regulations. The burden of "demonstrating one's societal relevance" and the possibility of losing recognition and support is thus in practice reserved exclusively to minority religious communities, in particular those with a strong migrant constituency. Interestingly, a key way in which one must demonstrate societal relevance is by speaking Dutch in internal and external relations.

A third policy domainin which recognized religious minorities are confronted with problematic demands from the state concerns the public role expected to be played by their representative organs. We already mentioned that for pluralistic religions without hierarchical structures, the setting up of these organs runs counter to their theological self-understanding. But Evangelical churches, as well as mosques, have accepted their establishment as administrative organs with the sole purpose to mediate in the function of religion-state arrangements. In recent years, however, public authorities increasingly expect these administrators to publicly speak out in response to societal events. After the terrorist attacks in Paris (2015) and Brussels (2016), all "heads" of the religions were summoned by the federal government to jointly voice their concerns over religiously motivated violence and to harmoniously defend the "fundamental values" of Western civilization. Although the administrative bodies have no spiritual authority within their communities, they are also made publicly accountable for theological positions and spiritual activities within the communities they serve. Here, again, they are expected to follow the lead of the majoritarian religion. The Roman Catholic bishops, however, do

indeed carry spiritual and practical responsibility for the churches in their dioceses and also have the authority to interfere in their community life.

In conclusion, the religion-state arrangements in Belgium and their effects on the recognized minority religions demonstrates two things. First, state actors increasingly utilize these policies to socialize religious communities into integrating and promoting secular liberal values. Such instrumentalization of FoRB legislation must be criticized, independent of how one appreciates these values in general. Second, a comparative approach demonstrates that minority religions are factually disadvantaged as they are regulated more strictly than the historically majoritarian Roman Catholic church and are expected to adapt themselves to its organizational and authoritative model (be it in a democratic manner). While past injustices can often be forgiven when giving attention to historical contingencies, it is problematic that in the past decades the inequality in the treatment of different recognized religious communities in Belgium has not diminished, but rather increased. At this very moment, new Flemish legislation on recognition and support of religious communities is being prepared. It is clear that also in this "Western" context ongoing attention because of protection and promotion of freedom of religion or belief is essential.

*References:*

[1] Jelle Creemers and Hans Geybels, eds., Religion and State in Secular Europe Today. Theoretical Perspectives and Case Studies, Annua Nuntia Lovaniensia 79 (Leuven: Peeters, 2019).

[2] For an overview, see Stéphanie Wattier, Le financement public des cultes et des organisations philosophiques non confessionnelles. Analyse de constitutionnalité et de conventionnalité(Brussels: Bruylant, 2016).

[3] Louis-Léon Christians and Stéphanie Wattier, "Funding of Religious and Non-Confessional Organizations: The Case of Belgium," in Public Funding of Religions in Europe, ed. Francis Messner (London: Routledge, 2016), 51–73.

[4] Adriaan Overbeeke, "(Eenheids-)vertegenwoordiging van erkende religies in het Belgische eredienstenrecht: Pleidooi voor een gedifferentieerde benadering," Recht, Religie en Samenleving2013, no. 2 (2013): 5–43.