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Why the European Court of Human Rights rejected a complaint from a disfellowshipped former Jehovah's Witness

The case of a disfellowshipped woman who demanded that courts compel the Jehovah's Witnesses to readmit her was widely misinterpreted by the media.

By Massimo Introvigne

[Bitter Winter](#) (25.02.2023) - The European Court of Human Rights put an end to a bizarre Norwegian legal saga where a court of appeal, later corrected by the Supreme Court, claimed that secular judges can order a religious organization, in this case the Jehovah's Witnesses, to readmit a member it had excluded.

The saga generated a significant media coverage in Norway, and a good deal of misunderstanding. The anti-cult narrative, fueled by "[apostate](#)" [ex-members](#), inspired several articles. One newspaper [reported the statement](#) by the ([now disbarred](#)) lawyer representing the excluded female member that, by ruling in favor of the Jehovah's Witnesses, the Norwegian Supreme Court "allowed the introduction of religious special courts in Norway. We should not have Sharia-like courts," the lawyer said.

This was a misleading statement, since Sharia courts in Muslim countries rule on issues with civil effects such as the validity of marriages or how heritages should be distributed, while the judicial committees of the Jehovah's Witnesses, as it happens with the ecclesiastic tribunals of several other religions, ruled in this case on an internal ecclesiastical matter, i.e., whether a member should be excluded from the religious organizations.

Others insisted that the "human rights" of the excluded member had been violated. Rolf Furuli, a professor emeritus of Semitic languages at the University of Oslo and a disfellowshipped Jehovah's Witness himself, [told reporters](#) that he believed the European Court of Human Rights should affirm that religious liberty includes the right "to practice and express [one's] faith within the religion [one] has chosen, and together with fellow believers to preach to others" on behalf of that religion.

In fact, there is no such right. Religious organizations have the right to exclude those members that they believe have violated their rules. The religious liberty of the excluded members is protected by the fact that they remain free to join and even establish a new religious organization, and preach to others on its behalf.

Some Norwegian media tried to introduce in the case the question of the so-called ostracism or [shunning](#). Since Jehovah's Witnesses are counseled to avoid associating with

disfellowshipped former members, it was argued that the risk that she would be shunned justified the court of appeal's order to the Jehovah's Witnesses to readmit her. In fact, [courts in several countries](#) have ruled that the practice of shunning cannot be prohibited without violating both freedom of religion or belief and the personal liberty we all have to decide with whom we want, or do not want, to associate.

Considering what exactly happened is also important. Bitter Winter covered the previous installments of the saga by mentioning only the initials of the woman who started the case, Gry Helen Nygård, but she has now decided to go public with her real name.

In 2018, Nygård, a married woman, went to a restaurant in Oslo with a divorced male Jehovah's Witness, after which they went to the man's hotel room. They started kissing and fondling. Then, she fell asleep and woke up the next morning, naked and with the man on top of her. Later, the man told her he had started engaging in oral sex with her while she was asleep.

Or this was what she reported to an ecclesiastical judicial committee of the Jehovah's Witnesses, which convened after she had told her story to the elders of her congregation. In the subsequent court case, she denied the kissing and fondling part, and said she had visited the man's room just to recover a coat she had left there. Then she decided to take a nap in the room, but while sleeping she was raped.

The judicial committee found that her behavior had been immoral, and she was Biblically unrepentant, so she was disfellowshipped in 2018. She appealed, and an ecclesiastical appeal committee confirmed the verdict.

Only after she had been disfellowshipped, she started describing what has happened to her as rape, but, rather than suing the man who had allegedly raped her, she challenged her local congregation before secular courts asking to be readmitted. On June 5, 2019, a Conciliation Board sided with her, and declared the decision of disfellowshipping her invalid. The Jehovah's Witnesses took the case to the Follo District Court, which on February 27, 2020, reversed the Conciliation Board's verdict and decided that secular courts cannot "review the decisions of a religious community that require an assessment of religious issues."

However, on July 9, 2021, the Borgarting Court of Appeal [reversed the decision of the District Court](#). Two out of three appeal judges stated that "it would be offensive to the general sense of justice if someone is excluded from a religious community on the basis of something that it is possibly a rape," and ordered the Jehovah's Witnesses to readmit the woman within their fold.

On May 3, 2022, the Supreme Court of Norway with a unanimous decision (5-0) [reversed the strange appeal verdict](#), and confirmed that religious and theological assessment are not open to review by secular judges.

Nygård then took her case to the European Court of Human Rights (ECHR), which has now rejected her complaint without giving any further reason, which is common when the ECHR regards complaints as clearly unfounded.

But, as mentioned earlier, Nygård has also taken her case to a different court, the media. Some of them even attacked the Jehovah's Witnesses by claiming that the courts have

protected their right to disfellowship a raped woman because she has been raped. This is a factually incorrect reconstruction of the case, since the ecclesiastical judicial committee of the Jehovah's Committee disfellowshipped Nygård for the behavior she confessed to have engaged in "before" what she later qualified as a rape.

What eluded some media is that the legal case was not about whether Nygård had been raped or not—she could have had a verdict on this by filing a complaint against the man involved. The case was on whether secular judges can second-guess a verdict of exclusion from a religious organization issued by an ecclesiastical body and based on a theological evaluation. There are dozens of decisions of courts all over the world, [including on cases about the Jehovah's Witnesses](#), stating that excluding a member from a religious body is a matter that cannot be reviewed by secular courts. The Supreme Court of Norway and the ECHR have just confirmed this fundamental principle of religious liberty.

Why did some media misunderstand the case? The reason is not so much a lack of legal culture, but [a general bias of the media](#) against minority religions, which often leads them to accept at face value claims by "apostate" ex-members and anti-cultists rather than examining the facts dispassionately and consult those academic scholars who may offer a neutral point of view on organizations such as the Jehovah's Witnesses that they have studied for years.

Anti-cultists' stories are more sensational. Some journalists may believe they will attract more attention. But that does not mean that they are true. Happily, there are cases such as this one where the highest courts of law do not buy them.

The Jehovah's Witnesses' Norwegian remote translation office and theocratic school facility, which served as the Norway branch office until 2012 (when the work in Norway came under the supervision of the Scandinavia branch, located in Denmark). Source: jw.org.

Oslo District Court suspends de-registration of Jehovah's Witnesses

A draconian and unjust decision by the County Governor of Oslo and Viken has been blocked by quick judicial intervention. The fight, however, continues.

By Massimo Introvigne

Bitter Winter (04.01.2023) - <https://bit.ly/3jX3LZy> - Norway is generally considered a country friendly to religious liberty. I remember how, when I was the Representative of the OSCE (Organization for Security and Cooperation in Europe) for combating racism, xenophobia, and religious discrimination, I enjoyed the support of Norway as an OSCE participating state willing to criticize limitations of religious liberty in other countries. Norway has a system of registration of religious communities, amended in 2020, and has registered 739 different religious groups. Until December 2022, none had been de-

registered on account of an assessment of its beliefs and practices. Even the Russian Orthodox Church has kept [five religious entities registered](#) (and receiving state grants), despite its vocal support for the Russian invasion of Ukraine.

There is, however, one religious organization some Norwegian media and state agencies have showed consistent hostility to for almost 25 years (the first media campaign started in 1989). Investigating the reasons for this hostility would go beyond the limits of a magazine article. It seems, however, that one element has been that accusations by ["apostate" ex-members](#), i.e. those former members who become militant opponents of the group they have left, were taken at face value. A significant body of international sociological literature on apostates was ignored. This literature had warned for decades that "apostate" and "ex-member" are not synonyms; that apostates are [only a small percentage](#) of ex-members of a given religion: and that, while not deprived of interest, their accounts are more expressions of subjective discomfort and anger than objective depictions of the religious organization they have left.

Based on this hostility, administrative authorities and lower courts in the 1990s decided in child custody cases that Jehovah's Witness parents were unfit to raise their children, until in 1994 and 1996 the Supreme Court of Norway ruled twice that these decisions were based on religious prejudice.

More recently, attacks have focused on the so-called ["shunning."](#) This is the teaching and practice of Jehovah's Witnesses, which they believe is based on solid Biblical precedents, that members in good standing should not associate with ex-members who have been disfellowshipped for serious sins, of which they have not repented, or have formally left the organization (as opposed to simply becoming inactive), unless they are cohabiting relatives.

On July 9, 2021, the Borgarting Court of Appeal rendered one of the most bizarre decisions I am aware of in the long legal history of Jehovah's Witnesses. It ruled that, since she ran the risk of being shunned, a woman who had been disfellowshipped by Jehovah's Witnesses should be readmitted within their fold. Regardless of the reasons for disfellowshipping her, which I have [discussed in another Bitter Winter article](#), that a secular court can compel a religious organization to readmit an excluded member was a legal monstrosity. Happily, with a unanimous (5-0) decision of May 3, 2022, [the Supreme Court eliminated the monstrosity](#), and affirmed that secular courts cannot second-guess decisions of exclusion religious organizations have taken based on their interpretation of theological principles, and this regardless of the consequences of the exclusion, including shunning.

It appears the woman was supported by Rolf Furuli, a professor emeritus of Semitic languages at the University of Oslo and a disfellowshipped Jehovah's Witness, whom I know and with whom I maintain a respectful dialogue, although we disagree on almost everything.

In Norway, Jehovah's Witnesses have received state subsidies for thirty years. These are not "gifts" but allocations provided for by the Norwegian Constitution and laws to respect the principle of equality, since the Church of Norway (Lutheran) is supported by taxpayers' money. In [an administrative decision](#) of January 27, 2022, the County Governor (Statsforvalteren) for Oslo and Viken explained that she had "received a letter from Rolf Furuli in connection with the exclusion and expulsion of members. The Ministry of Children and Family Affairs has asked the County Governor to assess whether the

inquiry from Furuli reveals information of importance for the registration of and state subsidies to the Jehovah's Witnesses."

In the decision, the County Governor denied Jehovah's Witnesses the state subsidy for the year 2021 based on two grounds. The first was that, in her opinion, the shunning policy created pressure on members willing to leave and thus denied their religious freedom. The second was that the shunning policy creates a "negative social control" of minors, because it is extended to baptized minors who commit serious sins and do not repent (although their Jehovah's Witness parents and guardians should continue in their duties towards them). The County Governor added that, to some extent, the policy is also extended to unbaptized minors who had been allowed to preach before baptism and had later been excluded as unrepentant of serious sins. These unbaptized minors are not shunned, but it is recommended that Jehovah's Witnesses in good standing should be "careful" in associating with them.

The decision of the County Governor was confirmed by the Ministry of Children and Families on September 20, 2022. These were administrative decisions, which Jehovah's Witnesses challenged by filing on December 21, 2022, an invalidity lawsuit at the Oslo District Court.

On December 22, 2022, the County Governor issued a second administrative decision, withdrawing the registration Jehovah's Witnesses had as a religious community in Norway since 1985, and stating that a request for re-registration under the new law had also been rejected. The grounds offered were the same that led the Governor to deny the state subsidy for 2021, after in correspondence with her Jehovah's Witnesses had confirmed that they had no intention of changing their religious practices to humor secular authorities in Norway.

The County Governor observed that Jehovah's Witnesses would not be denied religious liberty. They could continue to worship and preach in Norway, except that as of January 1, 2023, they would lose the right to perform legally valid marriages and to apply for government subsidies.

On December 28, 2022, Jehovah's Witnesses applied to the Oslo District Court, seeking a temporary suspension of the de-registration decision until courts of law would decide on the substance of the matter. They observed that the marriage issue is not minor, considering also that several couples had already scheduled their religious marriages with Jehovah's Witnesses. They also argued that the County Governor's decision would surely fuel public hostility against Jehovah's Witnesses, which had already manifested itself after her first order of January 2022, not only through media slander but also through physical violence against at least one Kingdom Hall.

They quoted also an editorial by Vebjørn Selbekk, editor-in-chief of the respected Norwegian Christian newspaper "Dagen," the oldest Protestant newspaper in the country, who is not a Jehovah's Witness and is critical of their theology. Selbekk [expressed the fear](#) that the County Governor may go on and punish other religious groups whose beliefs and practices she happens to disagree with, regarded the decision as anti-democratic, and expressed the hope that the Jehovah's Witnesses will "emerge victorious from the upcoming court process."

Interestingly, Monsignor Torbjørn Olsen, the [Secretary of the Catholic Norwegian Bishops' Conference](#), wrote [a letter to "Vårt Land" on December 27](#), supporting Selbekk's

position. Olsen wrote that, "If the denial of registration stands, it may soon only be a matter of time before a number of other communities with 'incorrect' positions will be deregistered." He also observed that the practice of shunning is not unique to the Jehovah's Witnesses, and the Catholic Church itself had in its Canon Law until 1983 a provision that Catholics should not associate with those their Church had excommunicated.

This argument also appeared in Jehovah's Witnesses' request for a temporary injunction. They observed that many of the 739 religious communities registered in Norway have provisions similar to shunning. For example, there are dozens of Muslim entities advocating sharia, where the treatment of the apostates is certainly harsher than shunning, yet action has been taken only against Jehovah's Witnesses. They also observed that the European Court of Human Rights has found the practices of Jehovah's Witnesses not objectionable and deserving the protection of international principles on religious liberty in dozens of cases.

On December 30, 2022, the Oslo District Court expressed "the opinion that the considerations and interests that Jehovah's Witnesses have brought to the fore in the case here appear to be relatively weighty. There is a clear preponderance of considerations that require temporary use of the exception rule, and the court determines that the decision of 22 December 2022 will not be implemented until further notice."

Jehovah's Witnesses scored a point but the fight continues. Clearly, there are in Norway persons in position of authority who do not accept the principle that shunning is a matter of religious choice and teaching and practicing it is protected by religious liberty, a conclusion [courts have reached](#) in the United States, Canada, Germany, Italy, and other countries. I join my voice to the editor of the oldest Protestant newspaper in Norway and the Secretary General of the Norwegian Conference of Catholic Bishops. I, too, hope that courts of law will get rid of what is an obvious administrative abuse.

Photo: Oslo Courthouse, where the Oslo District Court is located. [Credits](#).
