

Table of Contents

- [The Netherlands sees "no reason" to criminalize shunning](#)

The Netherlands sees "no reason" to criminalize shunning

After a study by the Open University, the Minister of Justice and Safety told the House of Representatives that taking action against "social exclusion" would be both against religious liberty and unrealistic.

by Massimo Introvigne



Dutch Minister for Legal Protection Franc Weerwind (*credits*) and the letter on the report he sent to the House of Representatives on December 14, 2023.

[Bitter Winter](#) (02.01.2023) - On December 14, 2023, the Netherlands joined **several other democratic countries** that have declared the so-called "shunning" practiced by the Jehovah's Witnesses and other religions not illegal and protected in its teaching and practice by international and domestic provisions on freedom of religion or belief. The Minister of Justice and Security **wrote to the House of Representatives** explaining the reasons why shunning should not be criminalized in the country.

By teaching "shunning," the Jehovah's Witnesses suggest that their members in good standing should not associate with ex-members who have been disfellowshipped or have publicly disassociated themselves from the organization. Cohabiting relatives are not shunned, nor are those "lapsed" members who simply become inactive without publicly disassociating themselves from the Jehovah's Witnesses either through a declaration or

by joining a different religion or an organization whose membership in the Witnesses regard as incompatible with Biblical teachings.

In some countries, including the Netherlands, anti-cultists and others who are hostile to the Jehovah's Witnesses **have called for laws** making the teaching and practice of shunning illegal. In the Netherlands there is a "Dutch Committee Against the Jehovah's Witnesses Shunning," which on March 8, 2022, submitted to the Parliament a petition to criminalize shunning. Some members of Parliament supported the proposal.

As a result, the WODC (Research and Data Center), an independent body of the Dutch Ministry of Justice and Security, asked Open University to present **a report on the features and consequences of "social exclusion"** from religious groups (a broader concept than "shunning," also encompassing practices other than those of the Jehovah's Witnesses) and how national laws deal with the phenomenon, both in the Netherlands and in "Belgium, United Kingdom, France, Norway, and Switzerland" (p. 9 of the report). The list of countries the Open University was asked to focus on was questionable. One may guess that United States and Canada, which have a well-established case law declaring that "shunning" as taught and practiced by the Jehovah's Witnesses is protected by religious liberty, have been excluded because they are not in Europe. However, similar decisions exist in **Italy and Germany**, both large European Union countries.

One has the impression that whoever submitted the question and listed the countries was not sympathetic to the Jehovah's Witnesses. Norway was picked up because in 2022 the County Governor for Oslo and Viken issued **an administrative decision** (currently under appeal) denying to the Jehovah's Witnesses the state subsidy for the year 2021 they should have received as they did for thirty years, finding some aspects of shunning objectionable. Belgium might have been similarly chosen because on March 16, 2021, the Court of Ghent fined the Jehovah's Witnesses for their practice of shunning. However, as the Open University duly noted, the Ghent decision was **overturned on appeal** (p. 138). And while the report mentioned the fact that the Belgian Court of Cassation had not yet ruled on the case, **it did on December 19, 2023**, confirming the verdict of the Court of Appeals. Finally, including Switzerland caused the Open University report to mention that in a decision **I and others criticized**, "In July 2019, the Cantonal Court of Zurich acquitted an expert working at the infoSekta agency" (p. 165) who had used vitriolic expressions to criticize the Jehovah's Witnesses' shunning. Including **Germany and other European countries** in the survey would have led to quote decisions finding similar remarks incorrect or defamatory.

Notwithstanding how the questions were worded, the report by the Open University maintained a balanced attitude, although I would have welcomed some critical comments when discussing the government-sponsored anti-cult activities in France. The study should be commended for including the rarely found remark that shunning creates problems and suffering not only among those shunned but also among those who feel compelled by religious reasons to shun them. For the community too, "there may be a high price to pay" (p. 26).

By interviewing members of different religious communities and examining the literature on "social exclusion" the report concludes that "this phenomenon occurs in social relationships everywhere in society. Consequently, it is not surprising that exclusion also occurs in religious communities" (p. 19). Obviously, there are different forms of "social exclusion," but coming to precise definitions and classifications is difficult if not impossible, the report acknowledges.

Coming to the legal treatment of “social exclusion,” the study emphasizes that, “The autonomous existence of religious communities is indispensable for pluralism in a democratic society and is a core element of freedom of religion or belief. The state should respect the right to autonomy of religious communities” (p. 47). The case law of the European Court of Human Rights, the report notes, has established that religious liberty should be granted to organizations, which should be free to regulate themselves as they deem fit, not only to individuals.

Rightly, the report adds that the right to religious freedom is not unlimited, does not protect criminal activities, and should be balanced with other rights. One example it mentions is the rights of the family, which may be violated in the case of shunning of cohabiting spouses or minor children (p. 183). In fact, however, this example does not apply to the Jehovah’s Witnesses, who **do not shun cohabiting relatives**, although it may apply to **ultra-orthodox Jews and other religious communities**.

“A religious community has the freedom to set its own individual criteria for inclusion and exclusion” (p. 67). The religious liberty of members who dissent from its teachings is guaranteed by the fact that they are free to leave the group, join another religious organization, or even found a new religion. On the other hand, “Article 9 ECHR [European Convention on Human Rights] does not guarantee the right to hold dissenting opinions within the religious community of which the individual is a member: religious communities do not have to tolerate ‘internal pluralism’” (p. 63).

Notwithstanding the exceptional case of a non-final administrative decision in Norway, the report acknowledges that international laws and court decisions in general have not criminalized shunning, and it would be unrealistic to assume that courts can forbid the practice of “social exclusion,” which is common in all societies and not only among religious organizations.

Based on the Open University report, the Minister of Justice and Security **asked the Parliament not to criminalize shunning**. He reiterated that “social exclusion is a common social phenomenon. It manifests itself in different facets of social life, usually takes shape in stages and can also occur in religious communities.” He added that, “From a fundamental law perspective, a religious community has both collective religious freedom and associational freedom. Without a legal basis, the government is not allowed to interfere in the functioning of a religious community. Religious communities are autonomous in determining their internal organization and legal structure and may structure it in accordance with their religious beliefs.”

The Minister concluded that “exclusion as such is not criminalized in the Netherlands and so far, there are no signals that a form of criminalization of this phenomenon might be appropriate or of added value. The [Open University] report confirms to me that there is neither reason nor real possibility to introduce specific criminal legislation with regard to social exclusion of individuals by religious communities. Since exclusion can basically take place in any social situation, delineating it is virtually impossible. Seeking a legally workable definition is therefore unrealistic. Because exclusion is a common social phenomenon, it is also debatable whether exclusion is in itself an undesirable behavior [...]”

A different matter, as the Open University report suggested, is to support those who may experience psychological and other problems as a consequence of social exclusion. The Minister stated that the government should finance this support through cooperation with FIER, a center combating violence in toxic relationships. Interestingly, the academic

report also suggests that those who practice exclusion, not only those excluded, may also need support (p. 29).