

Research Notes

Why New Proposals to Criminalize Jehovah’s Witnesses’ “Shunning” Are Wrong: A Response to Grendele, Flax, and Bapir-Tardy

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ABSTRACT: Two British psychologists and one criminologist recently suggested extending existing provisions about domestic abuse and “coercive control” in the family in the United Kingdom to religion-based “shunning” as practiced by the Jehovah’s Witnesses. Domestic abuse laws target abusive practices in families. It is argued that the Jehovah’s Witnesses are a “family” in a metaphorical sense and a “gated community.” We argue that there are limits about how far the notion of “family” can be stretched and that the Jehovah’s Witnesses are not a “gated” or “closed” community. We also criticize proposals to amend the existing laws on domestic abuse and “coercive control” within the family to extend them to religious communities and note the methodological and other biases of the authors.

KEYWORDS: Jehovah’s Witnesses, Jehovah’s Witnesses’ Shunning, Jehovah’s Witnesses Ostracism, Windy A. Grendele, Coercive Control.

We are both sociologists who also have a legal training, and have followed with interest for decades legal cases involving the Jehovah’s Witnesses. Legal assaults against the practice of the so-called “shunning” or “ostracism” by the Jehovah’s Witnesses (and several other religions) have been consistently resisted by courts of law in democratic countries including UK, Ireland, Germany, Italy, Canada and United States (see Introvigne 2021a). In short, the Jehovah’s Witnesses counsel

their members to avoid social interaction with ex-members who have been disfellowshipped for having committed serious offenses and having not shown repentance, or who have publicly and formally left their organization. Cohabiting relatives are not shunned, nor are those who simply become inactive and no longer participate in the organization's activities, without publicly disassociating from it (Chryssides 2021; Richardson 2021; Introvigne 2022b).

Courts of law have repeatedly stated that “shunning” is a religious practice willingly followed by individuals and based on the Jehovah's Witnesses' interpretation of the Bible. Prohibiting it would mean interfering with the beliefs and internal organization of a religious body, thus violating the principle of freedom of religion or belief (for a list of cases, see Introvigne 2021a, Introvigne 2022b). Courts have also noted that Jehovah's Witnesses know about “shunning” when they join the organization, and that in general citizens should be free to decide with whom they want to associate—or not to associate. As the Italian Supreme Court of Cassation stated in 2017, some can regard this refusal to associate with ex-members as a breach of politeness, but it is not a breach of any criminal or civil law (Corte di Cassazione 2017).

Opponents of the Jehovah's Witnesses, however, keep trying, and exploring new legal avenues to prohibit “shunning,” or rather prohibit teaching it, since how a court of law can force those who refuse to associate with certain individuals to remain in communication with them is unclear. In our society many also “shun” and refuse to meet or even talk with divorced ex-spouses or former friends they have quarreled with, and courts cannot compel them to behave differently.

One dangerous way of prohibiting (the teaching of) “shunning” is to extend to religious communities the laws on domestic abuse or “coercive behavior” in the family. These laws exist in several countries and do mention “coercive control” and “psychological abuse,” in itself a problematic notion that may be reminiscent of the discredited theory of brainwashing (Richardson 1991, 1992, 1993, 1996, 2014, 2015; Introvigne 2022d). However, by looking at the case law one finds that what is normally punished is a consistent pattern where a spouse abuses the other by controlling access to money, threatening violence, and limiting the freedom of movement, which is something different from mere persuasion.

The United Kingdom is not the only country where proposals to extend laws on domestic abuse incriminating “coercive control” to religious organizations have been formulated. However, one of the few explicit proposals to single out

the Jehovah's Witnesses and their practice of "shunning" has now been presented in the last issue of the *Journal of Law and Religion* by two British psychologists, Windy A. Grendele and Savin Bapir-Tardy, and one criminologist, Maya Flax (Grendele, Flax, and Bapir-Tardy 2023). They had already criticized the Jehovah's Witnesses' "shunning" in a previous article published in *Pastoral Psychology* earlier this year (Grendele, Bapir-Tardy, and Flax 2023). Grendele's 2022 doctoral dissertation was also a critical examination of "shunning" (Grendele 2022).

The three authors would like to apply the U.K. Serious Crime Act 2015 and Domestic Abuse Act 2021, which extend the notion of domestic abuse beyond physical violence by including emotional abuse and "coercive control," to the practice of "shunning" of the Jehovah's Witnesses. What they know about personal experiences of "shunning" derives from having interviewed disgruntled ex-members only (and "two Elders who were *physically in but mentally out* of the church" [Grendele, Flax, and Bapir-Tardy 2023, 298], whatever this may mean), which raises serious doubts about their methodology and scientific impartiality. Although they quote once the magazine *Bitter Winter*, which is against criminalizing "shunning" (Grendele, Flax, and Bapir-Tardy 2023, 295), the objections by several scholars of the Jehovah's Witnesses (including Chryssides 2021) against the common anti-cult reconstructions of how "shunning" works are also ignored.

Relying only on hostile ex-members leads the authors to present as facts very serious allegations ("There have been instances where these suicidal thoughts have turned into successful suicides": Grendele, Flax, and Bapir-Tardy 2023, 310) and to make generalizations that are demonstrably inaccurate. For example, based on the accounts made by "Rose," the authors conclude: "Grandparents are not permitted to see their grandchildren if they are no longer members of the community" (Grendele, Flax, and Bapir-Tardy 2023, 302). In fact, as clarified by *The Watchtower*, while the "shunning" policy prohibits "spiritual fellowship" with disfellowshipped non-cohabiting relatives, "if a disfellowshipped [sic] parent goes to visit a son or daughter or to see grandchildren and is allowed to enter the Christian home, this is not the concern of the elders. Such a one has a natural right to visit his blood relatives and his offspring. Similarly, when sons or daughters render honor to a parent, though disfellowshipped [sic], by calling to see

how such a one's physical health is or what needs he or she may have, this act in itself is not a spiritual fellowshiping [sic]" (*The Watchtower* 1974, 471).

A serious flaw of the article is its summary of legal cases about the Jehovah's Witnesses. There are some references to criticism of how the Jehovah's Witnesses handled in the past cases of sexual abuse, with the usual reference to the Australian Royal Commission (Grendele, Flax, and Bapir-Tardy 2023, 294–95; for a criticism of the Australian report and its use internationally, see Folk 2021, Introvigne 2023a), but comments by other authorities and courts that the current policy of the organization effectively protects children (see Introvigne 2021a) are not mentioned. The findings of the England-Wales Independent Inquiry into Child Sexual Abuse (Independent Inquiry Child Sexual Abuse 2021) are also reported in an incomplete way, ignoring the parts where they acknowledge the effectiveness of the child protection policy introduced by the Jehovah's Witnesses in 2018–19 (e.g., Independent Inquiry Child Sexual Abuse 2021, 64–7).

Criticism that the same Inquiry misinterpreted the “two-witness rule” adopted by the Jehovah's Witnesses for their internal ecclesiastical governance (but not for determining whether an abuse should be reported to secular authorities: see Introvigne 2021b) was also ignored. In this sense, the authors' references to sexual abuse among the Jehovah's Witnesses in a scholarly article are dangerously close to statements published by the Spanish newspaper “El Mundo” that a court in Spain recently declared unsubstantiated (see Introvigne 2023b). It is also unclear what discussions about sexual abuse (and blood transfusions) have to do with the subject matter of the article, i.e., whether “shunning” should be criminalized.

Concerning “shunning” in particular, dozens of decisions, including by national Supreme Courts in different countries, which found the practice not illegal and protected by religious liberty (Introvigne 2021a), are not mentioned. Thanks to “Bitter Winter,” the authors at least know that the controversial decision of the Court of Ghent, Belgium, that declared “shunning” illegal in 2021 was overturned on appeal in 2022 (Introvigne 2022c). However, having mentioned the later decision, they go on and keep quoting from the first-degree ruling (Grendele, Flax, and Bapir-Tardy 2023, 295), ignoring that its arguments were systematically dismantled by the Court of Appeal in the light of the

European Convention and the case law of the European Court of Human Rights (on which see Richardson 2020).

While they claim that they do not want to see the Jehovah's Witnesses banned in the United Kingdom as it was done in Russia in 2017, they still quote several unfounded allegations made by Russian courts as relevant references (Grendele, Flax, and Bapir-Tardy 2023, 295–96), but fail to inform readers that all such allegations have been disproved by the European Court of Human Rights both in 2010 and 2022 (European Court of Human Rights 2010, 2022).

We note that two out of three authors of the article are not trained in law and that the first author Grendele described herself in her 2022 doctoral dissertation as an “inactive” Jehovah's Witness (Grendele 2022, 131). In the same dissertation, she both reported that she had posted her invitation to participate in her survey of “shunning” on social media groups operated by anti-cult and anti-Jehovah's-Witnesses movements (Grendele 2022, 115–16) and that she had suggested to some of her interviewees to contact the same organizations, as well as others, if they “would need support after taking part to the interview” (Grendele 2022, 378).

Grendele's possible conflict of interest is not disclosed in the article. On the contrary, the authors write that, “None of us have firsthand experience of having been shunned from the Jehovah's Witnesses community nor have we been affected by such a practice” (Grendele, Flax, and Bapir-Tardy 2023, 298). As mentioned earlier, it is true that inactive members who have not explicitly disassociated themselves from the Jehovah's Witnesses are not shunned. However, it would have been preferable to disclose that the first author of the article, while not shunned, had a clear potential involvement with the matter, as an inactive member who had gone public attacking the religious movement. Grendele's dissertation is publicly available on the Internet. While the possible conflict of interest might have escaped the peer reviewers, other obvious biases and methodological problems should have not.

The authors suggest that provisions about abuse in the family can be extended to religious communities. They note that some British courts have adopted an extensive notion of family when interpreting the anti-abuse statutes, and some scholars have suggested that gated therapeutic communities, for example, may function like families (Grendele, Flax, and Bapir-Tardy 2023, 307). They write that “the Jehovah's Witnesses consider themselves as a unified spiritual family”

(Grendele, Flax, and Bapir-Tardy 2023, 308). However, metaphorical uses of the term “family” are certainly not exclusive to the Jehovah’s Witnesses. Pope Francis is not the only religious leader who insists that his church should be seen as a large family (see e.g. Francis 2014). Nor is this limited to churches only. Recently, Italian soccer was hit by a scandal of illegal betting by some players. Coaches and team executives (see e.g. *SportMediaset* 2023) reacted by stating that football teams are “families” that should help the repentant sinners and ostracize the unrepentant bad apples. Examples can be multiplied. If laws intended for the family should be applied in all cases where the metaphor of the family is used, they should extend to most social communities. This was never their purpose.

The authors also repeat a common mistake, that the Jehovah’s Witnesses form a “gated community,” “isolated from mainstream society” (Grendele, Flax, and Bapir-Tardy 2023, 308). They rely once again on “apostate” ex-members (Introvigne 2022a) to support this statement, but scholars who have studied the Jehovah’s Witnesses came to opposite conclusions (see Folk, Introvigne, and Melton 2020). The vast majority of the Jehovah’s Witnesses do not live in “gated communities,” much less in an “ongoing state of siege” or in an “experience of entrapment” (Grendele, Flax, and Bapir-Tardy 2023, 297). They have a regular job outside of the religious organization, where they interact with non-Jehovah’s-Witnesses daily. Their children attend public schools. The parallel with therapeutic communities or with small religious movements living in isolated communes simply does not make sense.

In the end, the authors do recognize that it is unlikely that the British laws on domestic abuse as they exist today can be applied to the Jehovah’s Witnesses and their teachings about “shunning.” The notion of “family” can be stretched, but there are limits. Accordingly, they suggest that the laws should be amended to include religious communities.

They realize that their proposal would meet with objections based on freedom of religion or belief and freedom of association. They note that these freedoms are not without limits (Grendele, Flax, and Bapir-Tardy 2023, 312), which is certainly true. Criminal behavior is not protected by religious liberty. There is, however, nothing criminal in “shunning.” As the authors themselves admit, there have been and there are similar practices in many religions—and we would be

curious to know whether they really want to forbid imams to present the Islamic teachings on apostasy in their Friday sermons in U.K. mosques.

These practices derive from how religions interpret their respective sacred scriptures and decide to self-organize themselves, both matters on which secular courts should not interfere. Since courts cannot compel citizens to associate with people they dislike, what the authors ask is that teaching a certain interpretation of the Bible should be prohibited in the U.K.

Or perhaps the Bible itself. In some form, “shunning” is clearly referred to in 1 Corinthians 5:13 (“Expel the wicked person from among you”) and 5:11 (“Do not even eat with such people”), and 2 John:10–11 (“Do not take them into your house or welcome them. Anyone who welcomes them shares in their wicked work”: all quotes from the New International Version). Should the Apostolic Letters be blacklisted as books prohibited in the U.K.?

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