

## Religion is a subset of Belief.

### ***About Covid-19 measures and Religion. How sloppy definitions lead to sloppy legal outcomes.***

Dr. Kees (C.N.J.) de Vey Mestdagh), March 30 2021

**Abstract** The (Dutch) exceptions to the Covid-19 measures for Religion(s) as opposed to Belief(s) are illegitimate, illogical and counterfactual and therefore arbitrary. The exceptions must apply equally in all buildings where Beliefs (including Religions) are exercised, i.e. legally, knowledge theoretically and therefore practically in **all** buildings. Since this leads to unacceptable consequences (health risks), at least this aspect of the freedom of Religion must be revised.

In most UN and European treaties<sup>1</sup> and some constitutions<sup>2</sup> the **Freedom of Religion or Belief** is acknowledged, and not an – independent- freedom of Religion.<sup>3</sup> If we make any legal exception for Religion we should therefore make the same legal exception for Belief(s).

From December 1 2020 facemasks are obligatory in the Netherlands in all public buildings, e.g. shops, museums, restaurants, theatres, lecture halls, etc., with the exception of the exercise of **belief or religion** in public buildings.

Common definitions of belief and religion are:

A **belief** is a (set of) *conviction(s) that something is true or exists without (logical or empirical) proof.*

A **religion** is a *subset of the general set of beliefs: a belief in a superhuman controlling power and in ways of worshipping it, i.e. strengthening the belief by a social ritual.*

In most communities religion is not the largest subset of shared beliefs. For example, most people cherish convictions which they *believe* to be based on facts other than the provable fact that they are (individual or social) beliefs. For example, the importance of survival of humankind far beyond our individual existence (both in space and time); the importance of nature as is or as has been (the past/current diversity, the past/current climate, etc.); the importance of local traditional culture as is (all kinds of rituals like classical (sitting) vs. modern (standing) concert attendance, the Dutch rite of passage constituted by Sinterklaas and Zwarte Piet); the importance of a democratic social-liberal society (as the best system of coexistence); or the importance of being represented by a head of state (most people cannot imagine a society without central representation of this outdated kind).

---

<sup>1</sup> A.o. art. 18 of the Universal Declaration of Human Rights, art. 18 of the International Covenant on Civil and Political Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, art. 9 European Convention on Human Rights, art. 10 Charter of Fundamental Rights of the European Union.

<sup>2</sup> Art. 6 of the Dutch Constitution is up to date, other constitutions do not recognize the Freedom of Religion as a separate right (e.g. art. 1 of the French Constitution: no discrimination on the basis of religion and all beliefs, equality), other constitutions are waiting for an update (e.g. the first Amendment still isolates Religion).

<sup>3</sup> Once Religion was considered to be the only legitimate form of Belief, hence the archaic concept of “Freedom of Religion”. In most contemporary treaties Religion and Belief are mentioned both as parts of a “Freedom of Religion and Belief”. The priority and distinction of Religion can only be explained on the basis of tradition, not on the basis of the semantics of these concepts.

All these beliefs seem to find their proof in facts. For example in our personal and relational survival instincts, in our innate need for material welfare and freedom, in our innate need for parental guidance (hence the “father” in many religions), etc.. *Seem*, because concrete survival and concrete welfare and freedom can be facts but their abstractions are just beliefs. We worship these beliefs in our parliaments, in our local societies and also in our social communications. Educational communication and mercantile communication amongst others are subsets of social communications. For example, the ritual of buying and selling products and services is bound to many (formal and) informal rules of conduct expressing beliefs like the belief in an open market, in the liberal economy, in cash etc.. Collectively abiding to these rules of conduct worships and by that strengthens the underlying beliefs (*in cash we trust* instead of *in god we trust*). More generally even our legal system is a system of beliefs of which human normative behaviour is the concrete, provable counterpart.

In many human rights treaties and some constitutions the freedom of religion - and more general beliefs - is acknowledged (see above). For example in Article 6 of the Constitution of the *Kingdom of the Netherlands*:

- 1. Everyone shall have the right to profess freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law.*
- 2. Rules concerning the exercise of this right other than in buildings and enclosed places may be laid down by Act of Parliament for the protection of health, in the interest of traffic and to combat or prevent disorders.*

So, in buildings and enclosed places, there is no legal (governmental, parliamentary or judicial) possibility of limiting our freedom of belief and religion for the protection of health, etc..

Our current parliament’s rulings are legitimate in public buildings like shops, hotels, catering buildings, sporting and event infrastructures and schools, with the exception of public buildings for the exercise of belief and religion.

The confusion of our government and parliament about these concepts becomes immediately apparent because when government considers Covid-19 related restrictions, consultation of traditional religious organizations is standard, but consultation of representatives of other belief systems is absent. Also gatherings surrounding births, weddings and funerals in general are subject to the restrictions, but religious ceremonies related to these same life events are not.

The confusion becomes even more apparent if we apply a clear definition of belief and religion as is done above and must conclude that all kinds of gatherings in which shared beliefs are exercised are subject to the governments rulings but a subset of these beliefs concerning “religion” is not. This is syntactically (literally) and semantically contrary to art. 6 of our constitution as cited above. The distinction in the parliament’s rulings between beliefs and religion is not only illegitimate but also illogical and conflicts with empirical fact (among others about the frequency and dominance of different beliefs). If you believe in scientific idealism or materialism or in mind-matter monism, dualism or even pluralism or the invisible hand (e.g. Adam Smith or Diego Maradona) then you want to be at least treated equally with the believers in an (or more) invisible superhuman(s).

**Concluding:** The exceptions to the Covid-19 measures for religion as opposed to beliefs are illegitimate, illogical and counterfactual and therefore arbitrary. The rulings must apply equally in all buildings where beliefs (including religions) are exercised, i.e. in **all** buildings (☺). Since this renders

the Covid-19 measures absolutely ineffective the special treatment of this aspect of the Freedom of Religion must be revised.<sup>4</sup>

---

<sup>4</sup> Last Sunday Dutch Journalists were molested by believers in the special position of Freedom of Religion. The anger of these believers seems to hint that believing in the Freedom of Religion can be harmful to mental health. Yet another reason to reconsider the privileged position of Religion.