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Exclusion from a courtroom of a woman wearing the Islamic headscarf (hijab)

***Lachiri v. Belgium: Case 3413/09
Judgment in French - <https://bit.ly/2Q7z0lu>***

Lachiri v. Belgium (no. 3413/09) [Judgment in French only] - Second Section Chamber Judgment 18 September 2018. The applicant complained before the Court that the decision of a magistrate of a court of appeals to exclude her from the courtroom when she refused to remove her hijab to testify at the trial of the man who had killed her brother infringed her rights under ECHR Article 9 to freedom of thought, conscience, and religion. In its judgment of 18 September 2018, the Court found by six votes a violation of Article 9. [From the Court's press release:] "The Court found that the exclusion of Mrs Lachiri – an ordinary citizen, not representing the State – from the courtroom had amounted to a restriction" on the exercise of her right to manifest her religion. It also held that the restriction had pursued the legitimate aim of "protecting public order", with a view to preventing conduct that was disrespectful towards the judiciary and/or disruptive of the proper conduct of a hearing. The Court found, however, that Mrs Lachiri's conduct on entering the courtroom had not been disrespectful and had not constituted – or been liable to constitute – a threat to the proper conduct of the hearing. The Court therefore held that the need for the restriction in question had not been established and that the infringement of Mrs Lachiri's right to freedom to manifest her religion was not justified in a democratic society."

Registrar of the court (18.09.2018) - <https://bit.ly/2zv4M1A> - In today's Chamber judgment in the case of Lachiri v. Belgium (application no. 3413/09) the European Court of Human Rights held, by a majority (six votes to one), that there had been: a violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights.

The case concerned Mrs Lachiri's exclusion from a courtroom on account of her refusal to remove her *hijab*. The Court found that the exclusion of Mrs Lachiri – an ordinary citizen, not representing the State – from the courtroom had amounted to a "restriction" on the exercise of her right to manifest her religion. It also held that the restriction had pursued the legitimate aim of "protecting public order", with a view to preventing conduct that was disrespectful towards the judiciary and/or disruptive of the proper conduct of a hearing. The Court found, however, that Mrs Lachiri's conduct on entering the courtroom had not been disrespectful and had not constituted – or been liable to constitute – a threat to the proper conduct of the hearing. The Court therefore held that the need for

the restriction in question had not been established and that the infringement of Mrs Lachiri's right to freedom to manifest her religion was not justified in a democratic society.

Principal facts

Mrs Lachiri, and other members of her family, applied to join the proceedings as civil parties seeking damages in a crime case in which her brother had been killed. In 2007 the accused was committed to stand trial before the Criminal Court on charges of premeditated assault and wounding resulting in unintentional death. Mrs Lachiri and the other civil parties appealed against that decision, submitting that the offence should be classified as murder and that the accused should be tried by an Assize Court. On the day of the hearing before the Indictments Division, in accordance with a decision of the presiding judge the court usher informed Mrs Lachiri that she could not enter the hearing room unless she removed her headscarf. Mrs Lachiri refused to comply and did not attend the hearing. Subsequently Mrs Lachiri unsuccessfully challenged that decision in an appeal on points of law.

Complaints, procedure and composition of the Court

Relying on Article 9 (right to freedom of thought, conscience and religion), Mrs Lachiri complained that her exclusion from the hearing room had infringed her freedom to express her religion. The application was lodged with the European Court of Human Rights on 24 December 2008. On 22 March 2016 the Government submitted a unilateral declaration, which the Court decided not to accept.

Judgment was given by a Chamber of seven judges, composed as follows:

Robert **Spano** (Iceland), *President*,
Paul **Lemmens** (Belgium),
Işıl **Karakaş** (Turkey),
Nebojša **Vučinić** (Montenegro),
Valeriu **Griţco** (the Republic of Moldova),
Jon Fridrik **Kjølbro** (Denmark),
Stéphanie **Mourou-Vikström** (Monaco),
and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 9 (freedom of thought, conscience and religion)

Observing that, according to its case-law², wearing the *hijab* (headscarf covering the hair and neck while leaving the face uncovered) could be regarded as an act "motivated or inspired by a religion or religious belief", the Court considered that excluding Mrs Lachiri from the courtroom on the grounds that she had refused to remove her headscarf had amounted to a "restriction" on the exercise of her right to manifest her religion. The purpose of that restriction, which had been based on Article 759 of the Judicial Code requiring persons entering a courtroom to do so without wearing headgear, had in the present case been to prevent conduct that was disrespectful towards the judiciary and/or disruptive of the proper conduct of a hearing. The Court concluded that the legitimate aim pursued had been the "protection of public order".

With regard to the necessity of the restriction in a democratic society, the Court specified first of all that the Islamic headscarf was headgear and not, as in the case of *S.A.S. v. France*³, a garment which entirely concealed the face with the possible exception of the eyes. It then noted that Mrs Lachiri was a mere citizen: she was not a representative of the State engaged in public service and could not therefore be bound, on account of any official status, by a duty of discretion in the public expression of her religious beliefs.

Moreover, the Court indicated that whilst a court could be part of the “public arena”, as opposed to the workplace for example, it was not a public place comparable to a public street or square. A court was indeed a “public” institution in which respect for neutrality towards beliefs could prevail over the free exercise of the right to manifest one’s religion, like public educational establishments. In the present case, however, the aim pursued in excluding the applicant from the courtroom had not been to maintain the neutrality of the public arena. The Court therefore limited its examination to determining whether that measure had been justified by the aim of maintaining order. In that connection it noted that Mrs Lachiri’s conduct when entering the courtroom had not been disrespectful and had not constituted – or been liable to constitute – a threat to the proper conduct of the hearing. Consequently, the Court held that the need for the restriction in issue had not been established and that the infringement of Mrs Lachiri’s right to freedom to manifest her religion was not justified in a democratic society.

There had therefore been a violation of Article 9 of the Convention.

Article 41 (just satisfaction)

The Court held (by six votes to one) that Belgium was to pay Mrs Lachiri 1,000 euros (EUR) in respect of non-pecuniary damage.

Separate opinions

Judges Vučinić and Gritco expressed a joint concurring opinion. Judge Mourou-Vikström expressed a dissenting opinion. These opinions are annexed to the judgment.

The judgment is available only in French.

Belgian minister calls for religious TV ban after reading on female submission

Catholic lay reader read verses calling on women to submit to their husbands in Songs of Praise-style programme

By Daniel Boffey

The Guardian (04.09.2018) - <https://bit.ly/2oKx2Hp> - The future of Songs of Praise-style religious programmes on Belgian television has been thrown into doubt after a Catholic lay reader gave an on-screen Bible reading calling for women to be submissive to their husbands.

Sven Gatz, the minister for media in Flanders, called for a ban on religious services being shown by public broadcasters in response to the service aired on radio and the television station VRT.

The reading, made by a lay reader during a service at Sint-Servaasbasiliek in Grimbergen, from in the New Testament, said: “Women, be submissive to your husband as the husband to the Lord. For the man is the head of the woman as Christ is the head of the church. He gave his life to save her. In this way the woman must submit her husband to everything as the church is submissive to Christ.” The reader has not been named.

Gatz tweeted in response: "No outdated, woman-unfriendly statements ... please. What if, for example, an imam would have said this?"

The minister, from the Flemish liberal party, Open VLD, later told the Belgian daily Het Nieuwsblad that he would make a renewed push for the abolition of religious services on publicly funded channels, a call he first made in December.

He said: "Of course I am not behind these kinds of statements. The fact that they come from an old book is not an argument for letting them go to our people. This is not of this time, and that it is broadcast on the VRT for the whole of Flanders is already completely crazy."

Gatz added of his previous call for abolition: "My coalition partners CD&V and N-VA did not agree with that at the time. I hope that we can use incidents like this to reintroduce the debate."

The representation of religion, language and culture on television is often a point of heated debate in Belgium, where French, Dutch and German are the officially recognised home languages.

The Dutch Bible Society, which also has Flemish members, said the excerpt read should not have been "ripped out of its context".

A spokesman said: "The contested statement is preceded by a very different sentence: 'Accept each other's authority out of respect for Christ'. This indicates that this is a very different matter than legitimisation of the oppression of women by men."

In a statement, TV channel VRT said it "continues to regard the broadcasting of eucharistic celebrations as a service to the viewers: both for religious viewers and for viewers who want to get acquainted with such a celebration and do not always agree with what is said in the church. The VRT has no problem with these broadcasts leading to debate and discussion."

The BBC's Songs of Praise, which has been broadcast since 1961, has been criticised in recent years for being out of step with British society. There have been calls for the Christian-focused programme to be multi-faith.

Flanders ban on ritual slaughter is legal, says court

By Alan Hope

The Brussels Times (30.05.2018) - <https://bit.ly/2kAl6Wj> - **A ban introduced in Flanders to limit ritual slaughter – killing animals without stunning them first – has been declared lawful by the European Court of Justice.**

The measure is aimed at limiting the number of animals slaughtered according to Muslim rite, by making it illegal to carry out slaughters in temporary abattoirs, which were previously opened up at the end of Ramadan to cope with the demand. Regulated slaughterhouses are still able to carry out the procedure, but have been shown in the past to be unable to keep up with demand.

Under normal circumstances, when an animal is slaughtered it is first stunned, by a captive bolt in the case of cows and calves, and by electrodes in the case of pigs. Under the rules of halal, the animal must be conscious at the moment of slaughter, when it also has to be exsanguinated. Jewish kosher rituals have roughly similar rules and are carried

out by certified butchers (shochet), but there is not the pressure caused by an annual festival, so registered abattoirs are well able to keep up with demand.

Muslim representatives had taken the Flemish ban to the European Court, arguing that it represented a block on freedom of religion – a position previously upheld by the European Court of Human Rights in Strasbourg, on a proposal to ban ritual slaughter altogether. The EU court rejected that argument.

Earlier this week, the Walloon parliament approved a ban on ritual slaughter, which becomes law on 1 June but will only come into operation on 1 September next year.

Meanwhile the Muslim Feast of the Sacrifice, Eid Al-Adha, takes place this year at the end of the fast of Ramadan, on 21 August.

See the full court decision at <https://bit.ly/2JdWvEJ>.

Training manuals in the Grand Mosque of Brussels advocating jihad, anti-Semitism and stoning of homosexuals

Willy Fautré

HRWF (18.05.2018) - The training of imams, delivered in Arabic, within the Islamic and Cultural Centre of Belgium (known as "the CICB"), which houses the Grand Mosque of Brussels, is currently inciting followers to enter into armed jihad "for getting closer to God", "to break the neck" of Druze and Alawite religious minorities, to throw down homosexuals from the top of buildings and to despise Jews.

These conclusions emerged in a report by the Coordination Unit for Threat Analysis ("OCAM") that the daily newspaper *La Libre Belgique* could recently read. The analysis dated 26 February covers the academic year 2016 to 2017, and was recently submitted to the Parliamentary Review Committee for the Implications of the Brussels Attacks in March 2016.

The OCAM says that the report, being around 40 pages, gives a frightening picture of the contents of training manuals used for classes by the CICB which is still dependent upon funding from Saudi Arabia until March 2019 and received 4.5 million EUR from Ryad in the last four years.

It must be recalled that upon recommendation by the parliamentary review committee, the government severed the Grand Mosque concession, giving a year's notice, following which the Grand Mosque will be entrusted to the Belgian Muslim Executive (known as the 'EMB').

Works mainly distributed in the French-speaking part of Belgium

The Grand Mosque of Brussels is part of the controversial World Islamic League. Since its foundation, it has spread Wahhabi Salafist doctrines in Belgium. These teachings reproduce, without any discernment, classical versions of Islamic law and doctrines dating back to the 9th – 12th centuries, the OCAM explains.

The problem is that, although the Grand Mosque will no longer be the property of Saudi Arabia, its manuals have been distributed and will go on circulating in other mosques of the country and even in prisons, mainly in the French-speaking part, according to the OCAM.

In 1984, the CICB created its own sharia school which became the European Islamic Institute. This is the place where imams, preachers and teachers of Muslim religion of the second and third generation are prepared. The training in Arabic lasts four years under the direction of the Egyptian imam Abd al-Hady Swayf. The training in French under the leadership of the Senegalese imam Muhammad Ndaye Galaye is considered moderate.

A manual favored by Al-Qaïda

One of the manuals used in Brussels in the third grade is "The main principles of Sunni Muslims". According to the OCAM, *"in the 80s-90s, this manual was part of the pedagogical material used by the Arab djihadist circles around and within the central leadership of d'Al-Qaïda"*. This brochure incites Sunni Muslims to resort to the armed fight with their leaders, whether they are under the guidance of Allah or corrupt in order to impose the rule of Islam laws. In the same material, Druzes and Alawites, who are to be found in Syria around Bashar Al-Assad but also elsewhere, are considered *"misguided polytheists"*.

Another manual, "The Voice of the Muslim", sold in bookshops in Europe, indicates that *"armed djihad is one of the highest forms of getting close to Allah and the most noble form of religious practice"*. Concerning the homosexuals, it proposes, like Daesh, three types of execution: stoning, funeral pyre or *"find the highest building in the village (or town) and throw the homosexual from its top, head down, and finish him by stoning"*.

Anti-Semitic teachings

A third manual, dealing with other religions and drafted by a contemporary Saudi theologian is a masterpiece of anti-Semitism. It teaches that Jews are *"traitors, infidels and impostors"*, *"obscene and vulgar"*, *"cruel and insensible"*, *"greedy, avid and avaricious"*. According to this famous theologian, *"Jews use violence, power and terror to control the world"*.

The book refers to the "Protocols of Zion", a fiction created at the beginning of the 20th century by the Russian tsarist intelligence and used to fuel all the plot theories in the Middle East. The manual also attacks the Freemasons who depicted as a "secret Jewish organization" whose objective is to put in place secular republic instead of religious states in the world.

Some members of the Belgian Parliamentary Commission having read the OCAM report envisage possible judicial prosecutions.

An encouraging sign though is the OCAM stating that a new generation of imams in Belgium is arguing for a contemporary interpretation of the Islamic texts.

Sources :

La Libre Belgique : <http://www.lalibre.be/actu/belgique/des-manuels-antisemites-et-pronant-le-djihad-au-cur-de-la-formation-d-imams-a-bruxelles-5af1d47dcd70c60ea6e0066c>

The Brussels Times: <http://www.brusselstimes.com/brussels/11255/training-manuals-in-the-grand-mosque-of-brussels-are-advocating-jihad-to-future-imams>

Giving up control of Brussels mosque, Saudi Arabia sends a signal

By Alissa de Carbonnel, Stephen Kalin

Reuters (12.02.2018) - <http://reut.rs/2o800hJ> - Saudi Arabia has agreed to give up control of Belgium's largest mosque in a sign that it is trying to shed its reputation as a global exporter of an ultra-conservative brand of Islam.

Belgium leased the Grand Mosque to Riyadh in 1969, giving Saudi-backed imams access to a growing Muslim immigrant community in return for cheaper oil for its industry.

But it now wants to cut Riyadh's links with the mosque, near the European Union's headquarters in Brussels, over concerns that what it preaches breeds radicalism.

The mosque's leaders deny it espouses violence, but European governments have grown more wary since Islamist attacks that were planned in Brussels killed 130 people in Paris in 2015 and 32 in the Belgian capital in 2016.

Belgium's willingness to put its demands to oil-producing Saudi Arabia, a major investor and arms client, breaks with what EU diplomats describe as the reluctance of governments across Europe to risk disrupting commercial and security ties.

Riyadh's quick acceptance indicates a new readiness by the kingdom to promote a more moderate form of Islam - one of the more ambitious promises made by Crown Prince Mohammed bin Salman under plans to transform Saudi Arabia and reduce its reliance on oil.

The agreement last month coincides with a new Saudi initiative, not publicly announced but described to Reuters by Western officials, to end support for mosques and religious schools abroad blamed for spreading radical ideas.

The move towards religious moderation - and away from the extreme interpretation of Islam's Salafi branch that is espoused by modern jihadist groups - risks provoking a backlash at home and could leave a void that fundamentalists try to fill.

But Saudi Arabia's recent moves on religion are seen by Belgian diplomat Dirk Achten, who headed a government delegation to Riyadh in November, as a "window of opportunity".

"The Saudis are disposed to dialogue without taboos," he told Belgium's parliament last month after the mission was hastily put together after the assembly urged the government to break Saudi Arabia's 99-year, rent-free lease of the mosque.

But he also cautioned: "Some do not, or barely, admit that this form of Salafism leads to jihadism."

DETAILS BEING FINALISED

Details of the mosque's handover are still being negotiated but will be announced this month, Belgian Interior Minister Jan Jambon told Reuters.

The diplomatic contacts, led by the countries' foreign ministers, were intended by Belgium to prevent what Jambon called an "exaggerated response" from Saudi Arabia -- indicating the Belgian government had sought to ensure there was no diplomatic backlash.

This, he said, was "under control" following a visit to Belgium last month by Saudi Foreign Minister Adel al-Jubeir.

Before Saudi Arabia took control in the late 1960s, the Grand Mosque was a disused relic of the Great Exhibition of 1880 - an Oriental Pavilion.

Saudi money converted it to cater to migrants from Morocco invited to work in the country's coal mines and factories. It is run by the Mecca-based Muslim World League (MWL), a missionary society mainly funded by Saudi Arabia.

Concerns about the mosque grew as militant groups such as Islamic State started recruiting among the grandchildren of those migrants, many of whom say they still feel they do not belong in Belgian society, opinion polls show.

Belgium has sent more foreign fighters to Syria per capita than any other European country. Belgian officials now suggest the Muslim Executive of Belgium, a group seen as close to Moroccan officialdom, should run the Grand Mosque.

Although the Saudi government has denied any role in the Sept. 11, 2001 attacks against the United States which killed more than 3,000 people, 15 of the 19 airplane hijackers who carried them out were from Saudi Arabia and linked to late Al Qaeda leader Osama bin Laden, the plot's Saudi-born mastermind.

Bin Laden was a follower of Wahhabism, the original strain of Salafism which has often been criticized as the ideology of radical Islamists worldwide. Yet many of Islamic State's positions are far more radical than Wahhabism, the ultra-conservative branch of Islam dominant in Saudi Arabia and founded by 18th century cleric Mohammed ibn Abd al-Wahhab.

A classified report by Belgian security agency OCAD/OCAM in 2016 said the Wahhabi branch of Islam promoted at the mosque led Muslim youth to more radical ideas, sources with access to the report said.

"The mosque has influence to spread this hateful 'software'," a senior Belgian security source said. "Nobody paid attention for decades."

Belgium's parliament said what it preached was "a gateway or even a predisposition to a more combative Islam that is violent", calling in October for an end to the Saudi lease.

The same month, immigration minister Theo Francken tried to expel the Grand Mosque's Egyptian imam of 13 years, calling him "dangerous", but a judge reversed that decision.

But Belgian security sources say there is no proof imams at the Grand Mosque preached violence or have had links to attacks.

Some who went to fight in Syria had studied there but men are more prey to recruiters for militant groups online and on the streets of underprivileged boroughs such as Molenbeek, in Brussels, where some of the Paris attackers lived, they say.

Tamer Abou El Saod, who was appointed director of the Grand Mosque in May, says there are problems over the way it is perceived but denies it espouses a fundamentalist version of Islam. He says he is ready to work with Belgian officials.

"There are changes happening already and there are even more changes coming in the very near future," he told Reuters.

"EUROPEAN ISLAM"

Belgian leaders say they want the mosque to preach a "European Islam" better aligned with their values - a familiar refrain across Europe following the Islamic State attacks of the last few years.

But it is unclear who will operate the sprawling mosque complex, which receives about 5 million euros (\$6 million) a year through the MWL which has for decades promoted a hardline interpretation of Islam at dozens of institutions worldwide

The MWL has recently adopted a more conciliatory tone. In just over a year since being appointed, its secretary-general, Mohammad bin Abdul Karim al-Issa, has met with Pope Francis and taken a public stance against Holocaust denial. Issa told Reuters in November the organization's new mission was to annihilate extremism.

For Saudi Arabia, the mosque is a chance to prove it is turning over a new leaf after years of accusations it turned a blind eye to - if not actively endorsed - extremist ideology.

Crown Prince Mohammed has already taken some steps to loosen ultra-strict social restrictions, scaling back the role of religious morality police, permitting public concerts and announcing plans to allow women to drive this summer.

The changes, however, may be too late since most militant groups that emerged at some point from Saudi networks have grown independent, says Stephane Lacroix, a scholar of Islam in Saudi Arabia.

"That this is going to solve the problem of radical Islam because if the Saudis change, everything's going to change: It's not the case," he told Reuters.
