

Human Rights Without Frontiers Int'l

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Freedom of thought, conscience, religion or belief

France: *Laïcité*, “Sects” and Muslim Women’s Issues

Recommendations

Human Rights Without Frontiers calls upon France:

- to prevent and prosecute any form of state-sponsored or tolerated stigmatization and defamation of minority religious or belief groups and their members, and to revise in this regard the mandate of MIVILUDES;
- to cancel its support of, and its collaboration with, private associations which stigmatize some religious groups and promote hostility and discrimination based on religion or belief;
- to give unimpeded and equal access to the spiritual assistance of their choice to prisoners of all religions or beliefs;
- to monitor the compatibility of the implementation of the *laïcité* principle with the international standards related to freedom of religion or belief, and to sanction or prosecute the state agents or private persons who violate them;
- to guarantee the equal access to education to Muslim girls who wear headscarves;
- to end the criminalization of Muslim women who choose to cover their faces, and protect those who are coerced to do so without excluding them from public space.

Laïcité, “Sects” and Muslim Women Issues

Since 2000, there have been no less than twenty-five decisions of the European Court of Human Rights of cases opposing religious groups and France. Two categories of cases emerge from this compilation: on the one hand, the relations between France and religious minorities called “sects,” and, on the other hand, with Islam.

“Sect” issues

Towards the end of the 20th century, following a series of collective homicides and mass suicides with a strong religious connotation in Europe and America, a number of EU Member States carried out some investigation to know if so-called “cults” posed a threat to the individual, the family, society, or the state’s democratic institutions. Eleven out of fifteen estimated then that the challenges raised by certain religious movements could be resolved, as in the past, ideally through dialogue or, if necessary, via the judiciary. These countries have not become safe havens for unseemly or even mafia-like religious movements. Nor has a proliferation of offenses or harmful activities on their part been noted in these same countries. The common law is uniformly applied to them as it is to all other associations or organizations, whatever their nature.

However, four states decided to put all so-called cults under surveillance. In **Austria**, state, church, and private centres for information on religious movements, and sometimes also on established religions, have been created in the last few years. In **Germany**, a parliamentary *Enquete Commission on So-called Sects and Psychogroups* was set up in 1996. It published a reassuring report recommending only that the Church of Scientology be placed under surveillance. **France** and **Belgium** created similar enquiry commissions but have gone further and developed, through new laws and institutions, an open policy of fight against cults and harmful sectarian organizations. France set up a *Mission Inter-ministérielle de Lutte contre les Sectes* (MILS—Interdepartmental Mission of Fight Against Cults) and an alert system covering the whole of society to keep watch and to track so-called “cults.” France also adopted the About-Picard law, a law of exception, that specifically targets the cults and was heavily criticized abroad. France nevertheless had to soften its policy following repeated critiques that rose during inter-state conferences (such as those of the OSCE) in other international academic conferences, at the Council of Europe, and in reports of human rights organizations. In 2002, France abrogated the law that created the MILS and promulgated another that created a *Mission Inter-ministérielle de Vigilance et de Lutte contre les Dérives Sectaires* (MIVILUDES—Interdepartmental Mission of Vigilance and of Fight Against Sectarian Deviation), whose actions have, to this day, been much more discreet and much less aggressive than those of the MILS. **Belgium** has very quickly followed suit to France and has globally adopted the same policy of confrontation, to the detriment of any form of dialogue, while eliminating its most controversial and most criticized aspects.

Court rules that MIVILUDES has defamed ‘Tradition, Family and Property’

On 2nd July 2015, the Court of Appeals in Paris upheld an earlier judgement that MIVILUDES be found guilty of defamation against the French Society for the Defence of Tradition, Family and Property (TFP). MIVILUDES is the acronym for the French government’s inter-ministerial agency that monitors and reports on what it considers to be harmful religious movements and organisations.

“The case is on-going as the administrative judge still needs to determine damages and interests to be paid to TFP by the State,” announced the association. “In fact, the Appeals Court had to consider whether Georges Fenech, the president of MIVILUDES at the time, was himself responsible for the defamation and could be given him the benefit of the doubt, The problem was in his operating MIVILUDES.”

The TFP is an international lay Catholic association that was founded in 1960 to defend “traditional Christian values.”

A PhD student in archaeology is discriminated against

HRWF has recently received the testimony of Gérard Gertroux¹, a Jehovah’s Witness who claims that academic authorities deny him the right to present the defence of his work because of his religious affiliation.

He completed a thesis in Archaeology and History of Ancient Worlds^[1] in order to get a PhD (Doctorate) at the University of Lyon II (Maison de l’Orient)^[2]. He had a research director and a jury of six^[3] ready to review his dissertation on December 2007. However, four months before he was to defend his work, his research director, Pierre Villard, and all six jurors received a letter informing them he was a Jehovah’s Witness^[4]. After they received the letter, they refused to grant him the PhD. However his research director agreed to sign a transfer request so he could move to another school to get his PhD. Consequently, he transferred his PhD to the INALCO, a university in Paris, but the President of Doctoral School, Magdalena Novotna, refused on 7 July 2009 to accept him as a transfer despite the fact he received the agreement of Daniel Bodi, his new research director at the INALCO, and two of his former jurors for recording, Francis Joannès^[5] and André Lemaire^[6], who had agreed to serve on his new jury.

The victim filed a complaint of religious discrimination because Daniel Bodi, his research director, sent him an email dated 14 September 2009 in which he clearly wrote that INALCO refused him, solely because he was considered a “fundamentalist”. However, on 10 February 2011 the Administrative Court of Paris (Dossier n°: 0918003/7-3) refused to validate his complaint to religious discrimination because the word “fundamentalist” is not mentioned in French laws.

¹ Contact data : gertoux.gerard@orange.fr

^[1]<http://opac.mom.fr/cgi-bin/koha/opac-detail.pl?biblionumber=487510>

^[2]<http://www.theses.fr/sujets/?q=Gertoux+Gérard>

^[3]<http://mom.academia.edu/GerardGERTOUX/CurriculumVitae>

^[4] Procès Verbal 2009/1011 daté du 25 mai 2009, BSU de Riom (Clermont Ferrand)

^[5] Professor at the Université Paris 1 -Panthéon Sorbonne, Research Director at the Unité Archéologie et Sciences de l'Antiquité.

^[6] Research Director at the École pratique des hautes études, member of the Académie des inscriptions et belles-lettres.

^[7]<http://www.freedomofconscience.eu/discrimination-of-minority-belief-groups-in-france/>

^[8]<http://www.aicongress.org/wp-content/uploads/2012/05/France-Executive-Summary-October17.2011.pdf>

^[9]<http://www.coordiap.com/Document/letter%20of%20Congress%20US.pdf>

^[10]<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-112025#%7B%22itemid%22:%5B%22001-112025%22%5D%7D>

An administrative court recognizes the right for Jehovah's Witnesses in prison to be visited by their chaplains

On 5th March 2015, the administrative court of Limoges ordered the French state to pay 3000 EUR to a Jehovah's Witness detained at the prison of Châteauroux. The applicant had complained that due to his detention conditions he had been deprived of the right to freely practice his religion. He had filed a complaint against the state because he had not been allowed to have a chaplain from his religion visit him or to go to the visiting room with religious publications. According to him, his freedom of religion had been impeded by these prohibitions.

In its decision, the court estimated that between 2006 and 2009, the plaintiff had been deprived of the right to be assisted by a certified chaplain (*) during his detention. He could be visited by a spiritual assistant but in his capacity of "friend" and not as a "religious minister", according to the decision of the court. At the hearing of 19th February, the representative of the Ministry of Justice argued that "no supra-national standard forces the prison administration to offer all detainees the possibility to have access to a representative of their religion."

The administrative court estimated that the request of the prisoner was to be related to the code of criminal procedure which says that "each detainee must be able to fulfill his religious, moral or spiritual needs," but also to the European Convention on Human Rights which states that "the freedom to manifest one's religion cannot be impeded by any restriction" as it is part of freedom of thought, conscience, and religion.

It must be noted that Jehovah's Witnesses chaplains are volunteers and have given up the privilege of their status to be paid by the state.

Muslim Women's Issues

In 2004, a ban on Muslim headscarves and other "conspicuous" religious symbols at state schools was introduced. Though widely welcomed in a country where the separation of state and religion is enshrined in law, this law has been a bone of contention between France, its Muslim community, and human rights organisations. Numerous incidents have been recorded.

In April 2011, France became the first European country to ban the full-face Islamic veil - the niqab - in public places. This ban has been widely criticized by human rights organizations as a violation of individual liberties.

France introduced the ban amid a heated public debate about secularism, women's rights, and security. The law made it a criminal offense to wear clothing intended to cover the face in public, punishable by a fine of up to 150€ (US\$210) and/or a compulsory "citizenship course." The law also rightly criminalizes coercing a woman into covering her face, punishable by up to a year in prison and a 30,000€ (\$40,950) fine, or two years in prison and a 60,000€ fine if the person coerced is a minor.

According to the French [Observatory on Secularism](#) (Observatoire de la laïcité) – a consultative body tasked with advising the government on secularism – between April 2011, when the ban became effective, and February 2014, law enforcement officials fined 594 women for wearing full-face veils. Many of the women affected were fined more than once.

A French Muslim girl was kicked out of class because her skirt was too long

In April 2015, a 15-year-old Muslim girl was sent home from school in Charleville-Mezieres in the northern Champagne-Ardenne region because she was wearing a long black skirt. The student, Sarah, was prohibited twice from attending classes because the principal said her skirt violated a ban on religious signs in schools.

The girl removed her headscarf, but said the skirt was not a religious symbol.

The hashtag [#JePorteMaJupeCommeJeVeux](#), or "I wear my skirt how I want to" has had more than 45,000 tweets in a few days.

Eight Muslim students were told to change their attire by their school in **Montpellier** when they arrived in long skirts last month, local media said.

The Collective Against Islamophobia in France (CCIF) said they had recorded nearly **130 similar incidents** in the country last year.

Woman is thrown out of Paris opera after cast refused to perform unless she removed Muslim veil

In October 2014, a veiled Muslim woman was ejected from a major Paris opera house. The incident broke out when cast members performing *La Traviata* “objected strongly” to the presence of a woman in the audience wearing a niqab-type veil.

A singer spotted her in the front row during the second act and some performers said they did not want to sing in her presence.

The victim was a well-off woman from a Gulf State who attending the performance with a friend.

Police control of a woman wearing a niqab: three nights of violence

On 1st July 2014, Michaël Khiri was sentenced to a suspended three-month prison term and a 1000 EUR fine by the Appellate Court of Versailles for violently opposing an identity control of his wife wearing the niqab in July 2013 in Trappes (Yvelines). This incident then provoked several nights of violence.

Ban on Muslim hijab at beach

In July 2014, the mayor of Wissous, a popular summer leisure spot 30 km from Paris, installed a temporary beach for the summer. Alerted by the presence of two mothers wearing Muslim headscarves, he refused them access on the grounds of a municipal by-law banning religious symbols from public beaches in the suburbs of Paris. He considered this behaviour “an obstacle to living together”.

The Muslim women went to court arguing that the by-law forbidding religious symbols on the beach established by the mayor amounted to “religious discrimination” that “violates the principles of the Republic”. The Administrative Court of Versailles finally suspended the municipal decree.

European Court upholds French burqa ban criticized by human rights organizations

The case was brought by “S.A.S,” a Muslim French citizen, who sometimes wears a “niqab” – a veil covering the face except for the eyes. She contended that France’s ban on full-face veils breached her rights to freedom of religion, expression, and private life. She also contended that the ban was discriminatory on the basis of gender, religion, and ethnic origin.

While the court rejected the French government’s arguments that the ban was necessary to protect security and equality between men and women, it ruled that the ban was justified for the ill-defined aim of “living together,” accepting the French government’s case that a full-face veil prevents interaction between individuals.

The criticisms voiced by the international community were well summed up by:

Human Rights Watch: “The European Court of Human Rights’ ruling approving France’s blanket ban on full-face veils undermines Muslim women’s rights. The ban interferes with women’s rights to express their religion and beliefs freely and to personal autonomy. Bans of this nature – whether formulated in neutral terms or explicitly targeting the Muslim veil – have a disproportionate impact on Muslim women, and thereby violate the right to not be discriminated against on the basis of religion and gender.”

Thomas Hammarberg, the former Council of Europe Commissioner for Human Rights, called general bans on full-face veils “an ill-advised invasion of individual privacy.” The Parliamentary Assembly of the Council of Europe has also opposed such bans, warning against the adverse effects of women being confined to their homes and excluded from educational institutions and public places.

Dr Aaron Rhodes, president of the *Forum for Religious Freedom-Europe (FOREF)*, commented that with this ruling the ECHR has 'given priority to a vague social goal over the fundamental right to manifest one's religious beliefs and undermined the freedom of religion.'