[MT] Judgment on Incitement to Racial Hatred

IRIS 2008-6:1/19

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Via a judgment delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on 27 March 2008, Mr. Norman Lowell was found guilty of incitement to racial hatred. Less than three weeks before the delivery of this judgment, the Broadcasting Authority had withheld the broadcast of a five minute talk on the public service broadcaster, Television Malta, by Mr. Norman Lowell, who stood as an independent candidate for the general elections held in Malta on Saturday 8 March 2008. Mr. Lowell's broadcast was prohibited from being aired due to the fact that it was considered by the broadcasting regulator to constitute incitement to racial hatred and was consequently in breach of the Criminal Code, the Broadcasting Act and the Broadcasting Authority's Requirements as to Standards and Practice on the Promotion of Racial Equality, 2007.

The charges levelled by the Police before the Court of Magistrates (Malta) against Mr. Lowell were that, in two different places in Malta and in an article he had written, he used threatening, abusive or insulting words or behaviour or otherwise conducted himself in a manner intended to stir up racial hatred or from which racial hatred was likely, having regard to all the circumstances, to be stirred up. He was further accused of having used defamatory, insulting or disparaging words, acts or gestures in contempt of the person of the President of Malta. The accused was given a two year prison sentence suspended for four years and was fined EUR 500, after he was found guilty on all the above charges. Mr. Lowell declared that he would be appealing the judgment before the Court of Criminal Appeal.

The Court of Magistrates noted that the accused had used insulting words against third parties holding different religious, political and other beliefs and opinions. The Court referred to the guidelines as to the interpretation of the words 'racial discrimination' offered by the International Convention on the Elimination of All Forms of Racial Discrimination, which defines the term as "any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

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In the light of the above definitions, the Court examined the accused's speeches and writings. It observed that the accused considered those persons who held a religious belief different from his to be on a par with terrorists, that the British were afraid to be treated at public hospitals, because the doctors and nurses working there were Muslims and that Muslims were responsible for the arson of the underground system in London. The accused further stated that there was no reason why Muslims should not infect patients in hospital by placing poison in their drip, contaminating the food in the hospital and making patients sleep through the administration of anesthetic. In other words, the accused stated that patients in London depended on the Muslims' pity and he emphasised that their religion – Islam – taught them to hate their enemies.

The Court noted that the accused stated that Malta was moving without any direction and without a leader and that crimes were committed by irregular immigrants in Malta. He stated that African children were infected by AIDS and that, as a result, even Maltese children would be infected by this disease. The accused held that Malta should be cleansed of irregular migrants and that, if no action were taken, Malta would end up being conquered by "Negros". The accused referred to the employment in Malta of Africans, who he alleged were taking the jobs of the Maltese, and ridiculed the President of Malta by referring to him, *inter alia* , as "the President of the Africans". The accused also ridiculed the adoption of children from Africa. Mr. Lowell even referred to Muslims as "rodents". He advocated famine in those countries inhabited by non-white people and that war should be employed as a means of eliminating weak persons of his own race. War was envisaged by the accused as a means of cleaning inferior races. Space should be reserved for the white race, which was, in his view, the pioneering race.

The Court heavily condemned these opinions. It concluded that they amounted to incitement to racial hatred, which is a serious crime under the Maltese Criminal Code. The Court further held that it is obliged by law to protect all races in Malta, without distinction; more so those races which are in a minority, as the court has to protect every person in Malta, irrespective of colour, race or religion.

Qorti Tal-Magistrati (Malta) Bhala Qorti Ta' Gudikature Kriminali, Il-Pulizija vs. Normal Lowell, Seduta tas-27 ta' Marzu, 2008, Numru 518/2006

http://docs.justice.gov.mt/SENTENZI2000_PDF/MALTA/TAL-MAGISTRATI%20(GUDIKATURA%20KRIMINALI)/2008/2008-03-27_518-2006_48253.PDF

Court of Magistrates (Malta) as a Court of Criminal Judicature, 27 March 2008, reference number 518/2006

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