



**IAFL Oslo Week
Religion and Family Law Webinar
Thursday 4th June 2020
Supporting Documents**



Chaired by: [Alice Meier-Bourdeau](#) (France)

Panel: [Minna Boström](#) (Sweden), [Juliette Minot](#) (France), [Kai Yun Wong](#) (Singapore), [Juan Zarricueta](#) (Chile)

Page 1: Religion and Family Law Webinar case studies. Prepared by Alice Meier-Bourdeau

Page 4: Religion X Family Law case studies which inspired the webinar's case studies. Prepared by Suzanne Kingston (IAFL Fellow) and Nicola Rowlings (professional support lawyer), Mills and Reeve

Religion and Family Law

- Alice Meier-Bourdeau (France)
- Juliette Minot (France)
- Minna Boström (Sweden)
- Juan Francisco Zarricueta (Chile)
- Kai Yun Wong (Singapore)

This document is inspired by the document established by Suzanne Kingston and Nicola Rowlings, a professional support lawyer, from Mills and Reeve. Their document can also be viewed in this pack.

The main goal of our panel will be to discuss how legal systems integrate religion into Family law. There will be actually four topics, one of them is very close to the topic which was been discussed by the panel which took place yesterday and which was about medicine and family law.

Each topic will be introduced by a little case, to make things easier to follow.

The first topic will be about religion and daily life

The second about religion and primary care and schooling

The third about religion and radicalisation

The last about religion and medical procedures.

Regarding the first topic, let's imagine Hannah and Moiché who are the parents of 2 children under 14. The Family belongs to a community of ultraorthodox Jews. Hannah decides to leave the community and leaves the children with the father.

Hannah sees the children on a regular basis. But Moiché concerned though that Hannah allows the children to do things with her are forbidden by his religious community, for example using their bikes and their electronic devices on their weekly holy day.

Hannah fears losing the children to Moiche's religious community and Moiché fears the exposure of Hannah's secular and fundamentally different world on the children.

Moiché wants to prevent the children from spending any holy or festival days Hannah, Hannah want to spend regular time with the children regarding holy and festival days.

How would your legislation react to this kind of questions?

- General considerations about your legislation and religion;
- General considerations about your legislation and the best interest of a child;
- Answer to the question

Second problem (still in the daily life of the family), Moiché wants that his youngest boy gets a circumcision, Hannah is totally opposed to it and the doctor (or the Mohel) doesn't accept to do it, unless both parents agree or that a judge allows it.

In your legislation, would it possible that a judge allows Moiché to have his son circumcised ?

Regarding now the second topic, lets still stay with Moiché and Hannah.

Moiché wants that the children live with him and attend ultra-orthodox schools. These schools are singlesex and the children must comply with strict practices in accordance with their religion.

Hannah wants the children to attend co-educational Modern Orthodox schools where the boys do not need to not wear religious clothing etc. The other children attending these schools come from more liberal Jewish homes where, for example, television is allowed to be watched at home.

And Hannah wants that the children live with her.

Two questions to you:

- What decision would a judge make regarding the place where they live?
- Which schools should they attend?

- More generally, if both parents agree, could the State refuse that a child goes to a religious school?

Regarding the third topic, let's go to Leila.

Leila is 16 years old.

Her mother reports that she is missing in December 2016.

One of the siblings reveals that she is trying to get to Syria. The Counter Terrorism manages do intercept her flight only few minutes before her departure.

Some of the items found in the family home include videos on terrorist training, videos containing images of corpses, executions and beheadings, material encouraging support for ISIS activities and information on how to get to ISIS territory.

Leila's parents are grateful for the support they receive from both the police and social services to get Leila back on the "straight and narrow". However, a further search of the family home unearths the parents' own electronic devices which show lectures encouraging participation in armed attacks on non-Muslims as well as issues of Islamic State News showing executions. The parents are suspected of radicalising their own children.

Leila is now on police bail and her family are subsequently arrested for terrorism-related offences.

Should Leila be removed from the family home? Should her siblings be removed from the family home? If yes, on what grounds.

Last topic: Paul is the son of Marie and Matthew and is 15 years old. They all belong the community of the Jehovah's Witnesses.

He is involved in a bad car accident and needs blood transfusion.

His parents refuse the transfusion, as their community doesn't accept this. The hospital says that this blood transfusion has to be urgently done and that without it, the boy might die.

What can be done?

Religion X Family Law

Prepared by Suzanne Kingston and Nicola Rowlings, Mills & Reeve

Childhood radicalisation – where the parents are suspected of radicalising their own children

Based on London Borough Tower of Hamlets v B [2015] EWHC 2491 (Fam) 21 August 2015

Case study

B is a 16 year old girl. She is highly intelligent and highly motivated academically. Her exam results are some of the highest in her school and she has shown a keen interest to go to university to study medicine. She had one older sibling already at university and a number of younger siblings.

B's mother reports B missing in December 2014. One of B's younger siblings reveals B may be trying to get to Syria. After the Counter Terrorism Command is alerted, they intercept B's flight only minutes before it is due to take off. In an interview, B is frank about her intention to travel to the Islamic State.

B's passport (and those of her family) are surrendered and a search of the family home results in a plethora of electronic devices which lead B to be arrested on suspicion of terrorist offences. Some of the items found in the family home include videos on terrorist training, videos containing images of corpses, executions and beheadings, material encouraging support for ISIS activities and information on how to get to ISIS territory.

B's parents are grateful for the support they receive from both the police and social services to get B back on the "straight and narrow". However, a further search of the family home unearths the parents' own electronic devices which show lectures encouraging participation in armed attacks on non-Muslims as well as issues of Islamic State News showing executions. The parents are suspected of radicalising their own children.

B is now on police bail and her family are subsequently arrested for terrorism-related offences.

Should B be removed from the family home? Should her siblings be removed from the family home? On what basis?

English and Welsh case references

London Borough of Tower Hamlets v B <https://www.bailii.org/ew/cases/EWHC/Fam/2015/2491.html>

London Borough of Tower Hamlets v M and others <https://www.bailii.org/ew/cases/EWHC/Fam/2015/869.html>

In the matter of X and Y <https://www.bailii.org/ew/cases/EWHC/Fam/2015/2265.html>

Re C, D, E (Radicalisation: Fact-Finding) <https://www.bailii.org/ew/cases/EWHC/Fam/2016/3087.html>

Re M (Children) (No 2) https://www.familylaw.co.uk/news_and_comment/re-m-children-no-2-2015-ewhc-2933-fam#.Wp5vSmacZ0s

Radicalisation - repatriation of children taken to Syria or born to ISIS members

Based on the Shamima Begum case

Case study

S is a young woman approaching 21 years old. Radicalised as a teenager online, she travelled to Syria as a 16 year old to join ISIS. She subsequently married an ISIS fighter and they now have a young child together and are expecting their second child imminently.

S has returned to her home country and has not been convicted of any terrorism offences.

Should S be allowed to care for and raise her children?

English and Welsh case references

A Local Authority v T and Others https://www.familylaw.co.uk/news_and_comment/a-local-authority-v-t-and-others-2016-ewfc-30#.Wp5tM2acZ0s

A Local Authority v A Mother and Others [https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Fam/2018/2056.html&query=\(radicalisation\)](https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Fam/2018/2056.html&query=(radicalisation))

Co-parenting with religious differences – primary care and schooling

Based on Re G (Education: religious Upbringing) [2012] EWCA Civ 1233

Case study

M and F are the estranged parents of three children all aged under 10. The family belong to a community of ultra-Orthodox Jews. M is the children's primary carer. Disillusioned with life as an ultra-Orthodox Jew, M decides to leave the community taking the children with her. She however remains part of the Modern Orthodox community.

M wants the children to remain living with her and to have them educated in a school of her choice but F bitterly disagrees with this. F wants the children to live with him and attend ultra-orthodox schools. These schools are single-sex and the children must comply with strict practices in accordance with their religion.

M wants the children to attend co-educational Modern Orthodox schools where the boys do not need to not wear religious clothing or peyos. The other children attending these schools come from more liberal Jewish homes where, for example, television is allowed to be watched at home. M consider attending these more modern schools will enhance the children's educational opportunities.

Where should the children live and which schools should they attend?

English and Welsh case references

Re G (Education: Religious Upbringing) <https://www.bailii.org/ew/cases/EWCA/Civ/2012/1233.html>

Re T (Minors) (Custody: Religious Upbringing) (1981) 2 FLR 239

Re R (A Minor) (Residence: Religion) [1993] 2 FLR 163

Re X (Number 1 : Religious Differences : Schools) <https://www.bailii.org/ew/cases/EWFC/OJ/2014/B230.html>

Re X (Number 2 : Orthodox Schools) <https://www.bailii.org/ew/cases/EWFC/OJ/2015/B237.html>

Co-parenting with religious differences – daily life

Based on the series of Re X cases

Case study

M and F are both from an ultra-orthodox religious community. They have three young children. When the marriage breaks down, F leaves the community.

F sees the children on a regular basis. M is concerned though that F allows the children to do things with him that are forbidden by her religious community. These include the children riding their bikes and using their electronic devices

on their weekly holy day. M feels that F is putting the children at risk of criticism and possibly exclusion from her community by allowing them to do these activities. The parents are incredibly suspicious of each other; F fears losing the children to M's religious community and M fears the exposure of F's secular and fundamentally different world on the children.

M wants to prevent the children from spending any holy or festival days with F. F wants the court to enforce an order that allows him to spend regular time with the children including when this falls holy and festival days.

Should the court grant M's application? Should F's order be enforced?

English and Welsh case references

Re X (Number 1 : Religious Differences: Schools) <https://www.bailii.org/ew/cases/EWFC/OJ/2014/B230.html>

Re X (Number 2 : Orthodox Schools) <https://www.bailii.org/ew/cases/EWFC/OJ/2015/B237.html>

Re X (Number 3 : Division of Religious Festivals) <https://www.bailii.org/ew/cases/EWFC/OJ/2016/B91.html>

Re C (Prohibited Steps Order) <https://www.bailii.org/ew/cases/EWFC/OJ/2016/B97.html>

Re: L (Care: Threshold Criteria) <https://www.casemine.com/judgement/uk/5a8ff7c360d03e7f57eb1e59>

Medical procedures

Based on Re S (Specific Issue Order: Religion: Circumcision)

Case study

M is Muslim and F is Hindu. Neither is a particularly strict adherent of their faith and their children have been brought up as Hindus with Islamic influences.

M and F have now separated. M returns to live with her parents who are deeply religious. M now wants both children to become practising Muslims and for their son to be circumcised. F is deeply opposed to this.

There is a clash of ideologies. Hinduism permits contact with Muslims but forbids circumcision. Meanwhile Islam forbids contact with Hindus and requires circumcision.

M fears her children will be excluded from her family and community if they are not practising Muslims. F fears losing all contact with his children as a result of M's choice of religion.

English and Welsh case references

Re J (Specific Issue Orders: Muslim Upbringing and Circumcision)

<https://www.bailii.org/ew/cases/EWCA/Civ/1999/3022.html>

Re J (Specific Issue Orders: Child's Religious Upbringing and Circumcision) [2000] 1 FLR 571

<http://www.cirp.org/library/legal/bridge1/>

Re S (Specific Issue Order: Religion: Circumcision) <https://www.4pb.com/case-detail/re-s-specific-issue-order-religion-circumcision/>

Re L and B (Children) (Specific issues: Temporary leave to remove from the jurisdiction; Circumcision)

<https://www.bailii.org/ew/cases/EWHC/Fam/2016/849.html>