

## 17.523: Ethnicity and Race in World Politics-Fall 2005

Prof. M. Nobles

*Lecture 17: Are Human Rights Universal?: Women's Rights versus Cultural Practices  
(Contd.)*

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First Article (John R. Bowen, "Muslims and Citizens," Boston Review, February/March 2004, pp.31-35).

Head Scarves in France

- Seen as a religious symbol, and it became controversial
- What were the principals doing?
  - Expelling girls.
- There was a brewing controversy and finally a commission was formed. They decided that girls weren't allowed to wear them at school.
- The issue in France requires an explanation
- The concern is that in the beginning of the 20<sup>th</sup> century there was a deliberate attempt by the state to limit the power of the Catholic Church. Before the revolution of 1789 the church dominated politics.
- The idea was to put the church in its place
- It's not that religion doesn't have a place in public life, but that the state's interests should be put first.
- There was a law that was passed in 1905 on the separation of church and state.
- Reducing the influence of the church has been an overriding policy for the French
- The schools are state run and the problem is that there are inconsistencies in French policies separating church and state.
  - Private Catholic, Jewish, and Protestant schools receive state subsidies
  - Private schools are exempt from the law that was passed that prohibits girls from wearing head scarves,
- Part of the reaction against the head scarves is that allowing girls to wear them violates the commitment to separate church and state.
- The French are also concerned about the politics of Islam.

What do the girls wearing the head scarves have to say?

- Student: see it as their own personal expression, and they don't feel oppressed when they do it. They are who they are, and they're allowed to express themselves.
- It calls into question the ways in which the French plan to continue policies of secularism.
- The French state has two options
  - Change the way they think about their policies i.e.: allow these religious symbols
  - Force the girls out of public schools and into private schools.
- Student: The head scarf isn't considered symbolic; it's a requirement and the French government is seen here in the U.S. as being oppressive.

What is the difference in the U.S. approach from the French?

- Student: The U.S. doesn't have a history of the institutionalized church.

- Student: Americans respect individual liberty. It was founded on people running away from oppressive states that governed religion and vice versa.
- Student: Free expression trumps separation.
- Student: The interpretation of church and state isn't to promote religion but to allow freedom of expression. In France, it doesn't even allow religious expression. In the U.S. as long as it doesn't promote it, it satisfies secularism in the U.S. thought.

What about holidays?

- The French predominately observe Catholic holidays.

The lawsuit to take [God out of the Pledge of Allegiance](#)

- The man didn't want his daughter to have to say "Under God."
- Supreme Court said that the father hadn't secured custody and didn't have the right to bring the case in the first place.
- The U.S. inserted the phrase into the Pledge of Allegiance in the 50s.
- Spoke to the issue of what role religion has in American public life today?

**Second Article (Christopher Caldwell, "Daughter of the Enlightenment," The New York Times Magazine, April 3, 2005)**

- Theo Van Gogh made a film about treatment of Muslim women in general by their husbands.
- It was done in a provocative way, and it showed clips of women narrating their struggles and a woman with writings of the Quran on her body.
- Film was called "[Submission](#)"
- The issue is how you present the issue of women's rights within Islam.
- This director liked to shock people.
- Free thought is the reigning ethos in Dutch life. What happened to the director?
  - He was [murdered](#) because of the making of the film.
- Many Muslim communities were upset with the film. This doesn't mean that they condoned the murder.
- Since then, there have been attacks on the Muslim neighborhood and burning of Mosques.
- It didn't flare up in the form of riots as in France.
- How do you deal with [Ayaan Hirsi Ali](#)
  - Celebrate her as a daughter of the enlightenment.
    - Say that her efforts are courageous
  - Call her a sellout
    - She is a political opportunist.

What should the Dutch State do? Should they and how can they reform Dutch multiculturalism policies?

- Student: To what extent is that culture being practiced in the Netherlands?
  - It may be going on more than what people would think.
- Student: Isn't she just asking for enforcement of the existing laws?
  - It comes into conflict with multiculturalism.
- Student: To what extent does multiculturalism play into the laws?
  - It's implied in the laws.

○□ In as much as you have laws, those policies need to send a different signal. From the Okin essay, what is the issue with the Chinese man who killed his wife because of adultery? Why does he feel justified to do this? How did the courts respond to his claim?

- Student: the courts made a concession and reduced the severity of the sentence because of the tolerance and respect for cultural differences. The courts want to accommodate other cultures, but the courts think that murder is an inalienable right.

According to Okin, What would the proper response have been?

- Student: Remove the culture from the crime and instruct the jury that the murder was separate from the culture and to look at it simply as a murder.
- The defense will use whatever they can use. Certain defenses that are rooted in culture, at least in U.S. law, makes an attempt to take culture seriously. Okin says that culture shouldn't be taken so seriously in the law.
- Okin says that culture should be considered, but not at the expense of equal protection under the law.

The Hmong Case from Okin's Book

- Okin claims that these defenses are so successful is because they are seen as so different. It makes us stray from our norms.
- Prof. Song at MIT says the reason why this defense succeeded is because this claim of capturing is similar to a common way in which rape is defended. If you take away the cultural component, it is a case of mistaken fact. "I thought she understood. I thought she meant "yes."
- The Hmong culture dictates that the woman says no to sex, but the man sees that as the woman saying yes, which is a typical rape defense in American courts. The man misunderstood. The woman really did mean "yes".
- The lawyers had to do a certain amount of discovery and ask around as to whether the cultural defense has some weight and legitimacy in terms of its prevalence among the culture.