

Noramia headscarves exercise: The European System and Cultural Relativism

Noramia is a mythological, developed country, located in the Global North. A stable democracy, the country has enjoyed robust economic growth in the past several decades which created demand for cheap labor, a demand that largely was met by immigrants from the Global South. Immigrants who arrived in the early wave largely were able to find jobs in industry and manufacturing and their children and grandchildren have joined the middle and upper middle classes. More recently, globalization has resulted in a loss of the jobs that allowed poor, first generation, immigrants to secure stable livelihoods, and unemployment is high among second-generation youth. There is a growing gap between more established immigrants and the more recent arrivals.

There is a lively debate about the nature of social divisions in the country. Some commentators attribute the divide to the wage and opportunity gap between rich and poor, while others observe that there is a growing “cultural divide” between rich and poor that maintains poor migrants in insular communities, largely cut off socially, economically, and politically from “mainstream” society. At the same time, there is a trend within poorer immigrant communities toward a cultural identity defined by affiliation with the dominant religion practiced in their country of origin – Buddhism, Hinduism, Judaism, Islam, etc. Thus manifestations of religious affiliation, through the wearing of dress, jewelry, head coverings, has assumed a form of both **cultural** and **political** identity.

Two founding principles/myths of Noramia are the nation’s embrace of immigrants and commitment to upholding human rights. However national politicians are concerned that the rise in the visible displays of religious practices threatens to undermine social consensus and allegiance to a “Noramian” cultural identity, particularly among the country’s immigrant youth. To address these concerns parliament is considering a law that would ban students attending public primary and secondary schools from “the wearing of signs or dress manifesting a religious affiliation such as the Islamic headscarf, however named, Sikh head covering, the kippa, star of David, or a large cross, which make the wearer’s religious affiliation immediately identifiable.”

Assume for the purposes of this exercise that Noramia is a party to the European Convention on Human Rights and Fundamental Freedoms, and has adopted the Convention into domestic law. Parliament is debating the question of whether the proposed bill would violate international human rights principles, both in general and specifically the treaty obligations enshrined in the ECHR.

The group should divide up the arguments for and against the ban (it will have to be 3-2 or 2-3 – your choice.) In preparing your remarks, please keep in mind the following:

(1) Do use what you know (and what you find out) about ECHR law and jurisprudence.

(2) Your remarks should address student dress which displays religious affiliation *as a cultural practice*. In other words, assume for the purposes of this debate that the practice of wearing dress that signifies a particular religious affiliation confers some measure of social legitimacy and therefore protection on the individual within that particular community – although you may assess the value of that protection differently depending on your perspective on the ban. In still other words, do not limit your remarks to the issue of religious freedom.