

When In Rome Do As The Romans Do

by Michael Curtis

In his war-time directive when Britain was facing the threat of invasion by Nazi Germany, Winston Churchill told his country, "we shall fight on the beaches...we shall never surrender." France today is divided over the invasion of the sunny beaches of the French Riviera by the burkini, the full body swimsuit, being worn by Muslim women. The crucial question on this controversial issue is whether France will fight or surrender?

The situation cannot be fully understood without awareness of the context. It is occurring in an atmosphere of anxiety, fear and tension after France has been reeling after two instances of Islamist terrorist activity. One was the massacre on July 14, 2016 of 86 people carried out by a Muslim driving a truck on the boulevard in Nice, and the other was the murder on July 26, 2016 of a 84 year old priest, whose throat was slit in his church near Rouen by a follower of ISIS.

The present controversy arises from the fact that thirty French cities, starting with Cannes, banned the wearing of the burkini on the beach. Some small fines were imposed on several women, penalties that are now being contested by human rights advocates.

One of the reasons given by the mayor of Cannes, David Lisnard, and other mayors for the ban is that the wearing of the burkini would risk disruptions to public order, or would result in problems of hygiene.

Understandably, Lisnard asserted he wanted to make sure his city was safe in the context of the state of emergency that French President Francois Hollande had imposed on November 13,

2015 after a terrorist attack had left 130 dead. He explained that beachwear ostentatiously showing religious affiliation was not acceptable while France was and could be again be subjected to Islamist terror attacks. France, he said, expected respect for its customs and secularism, qualities that were violated by wearing the burkini in a public space.

The issue of the ban came to court. On August 26, 2016 the Conseil d'etat, France's highest court, ruled that the burkini ban imposed by the mayor of Villeneuve-Loubet was suspended. It argued that the emotion and concerns arising from the terrorist attacks, notably the one perpetrated in Nice on July 14, did not suffice to justify the ban.

The French human rights groups, that had challenged the ban, declared they would continue to challenge other similar bans in the 30 cities. On the other hand, some of those cities said they will continue to enforce the bans despite the court's judgment. Marc Etienne Lansade, mayor of one of them, Cogolin, was plainspoken, saying , "If you don't want to live the way we do, don't come."

The dispute continues. On August 30, 2016 another court in Nice ruled that the burkini ban imposed by Cannes violated basic fundamental freedoms and was illegal. In addition, some public criticism of the bans arose with the publication of photos that showed French police watching as a Muslim woman removed her top on the Nice beach.

There is a basic legal problem. Did the mayors overstep their powers by deciding a particular form of dress could not be worn on the beach? Then there are the more controversial political problems of the compliance with national law, the adherence to the French ethos of secularism, the suitability of the burkini in the French system, the fear of Islamisation of French society, and whether the bans are feeding a racist political agenda.

Criticism of the ban has come from expected quarters. A strong, indeed heatedly undiplomatic, statement came from the spokesperson for the Office of the High Commissioner for Human Rights, Rupert Colville, who delivered with extraordinary speed and in imperious fashion the message that the UN wanted French officials to remove the bans. For him, the bans are stupid, stimulate friction, and are doubly unacceptable. They are a grave and illegal breach of fundamental freedoms and a stupid reaction to recent extremist attacks in France. They also fuel religious intolerance and the stigmatization of Muslims in France, especially women. Colville's leader, Zeid Ra'ad al-Huissein, the Jordanian UN High Commissioner for Human Rights, issued a similar statement.

Four responses are pertinent to this righteous indignation on the human rights issue. One is the fact that the UNHCR, the UN Refugee Agency, does not come with clean hands. Its concern for human rights hitherto appears limited to one country and to one group. It has a Special Rapporteur who reports several times a year on the situation of human rights in the Palestinian "territories occupied since 1967." The Rapporteur always concludes that the actions of Israeli authorities, sometimes using excessive force, are a "cause for concern." No other country in the world appears to be of equal, or indeed any, concern in the reports.

Secondly, an incident that received little publicity indicates the hypocrisy inherent in Colville's remarks. It is the case of a 21 year-old Muslim woman in Reims, in northern France, who was sunbathing in a park in a bikini. She was attacked and beaten by five young Muslim women for exposing so much flesh in a public place. Apparently, a glimpse of stocking and more was seen as shocking by the intolerant women. No comment seems to have come from the UNHRC.

Third is the fact that French and all Western women abide by local Islamic practice. In visiting a Muslim country they cover their faces or bodies according to the customs of that

country. The disparity between Western willingness to respect local Islamic behavior and the refusal of Muslims, men and women, to respect Western customs and laws seems invisible to the Human Rights officials.

Fourth, Muslim women, when liberated from Islamic religious oppression, behave differently. This was shown in August 2016 in the photos of Syrian women taking off their unwanted religious form of dress when liberated from ISIS control. Moreover, anyone looking at photos of Egyptian women in the period before the advent of extreme Muslim groups and when the country was ruled by Presidents Gamal Abdel Nasser and Anwar Sadat can observe that women wore Western style of dress rather than religious garments.

On one issue the Conseil d'etat was right. Muslim women who wear the burkini do not directly threaten public order. That swimsuit cannot be blamed for the violent or hostile actions of other Muslims as the French Minister for Education, Moroccan born Najat Vallaud-Belkacem, who opposes the ban, argues. But this issue is not the core of the problem.

There are two main justifications for a ban. The first is that the burkini dress code is not liberating or providing freedom of expression for Muslim women. On the contrary, it undermines the autonomy of women and girls by denying them the ability to make independent decisions about how to dress, and is a humiliating and degrading form of control over women and discrimination and inequity by making them second class citizens and subordinate to Muslim men.

The second justification, a vital one, is the issue of supporting adherence to the national law and ethos of France. Public opinion polls show the population of France is divided on the burkini issue; about two thirds support a ban. The French political class is also, but far less, divided as the statements of political rivals indicate.

What is interesting is that support for the ban comes from both the left, especially socialist Prime Minister Manuel Valls, and from the right, especially the conservative Nicolas Sarkozy who is seeking nomination for the presidential election of 2017 and who calls for a law banning burkinis not simply locally but throughout the whole of French territory.

In the French society based on laicite, there is a need for clear rules to be made respecting French secularism, the basis of French ethos. The wearing of the burkini does not reflect that ethos since it is appropriate to a different culture, and to a 7th century ideology that seeks to impose itself in the public space.

The bans are not feeding a racist political agenda. They provide a double signal. One is that the national law, and adherence to the customs of a secular society must prevail over Islamic laws and practices that discriminate against women. The other is that while members of a minority group can dress and behave in private as they like, they have no right to impose that behavior in a public space.