

The Charter in the Classroom: Students, Teachers and Rights

Argument / Counter Argument

The following arguments were presented in the case of *Multani v. Commission scolaire Marguerite-Bourgeoys* to support a ban of the kirpan in schools. Read each argument and present a counter argument. When you have finished presenting your counter arguments, decide with which opinions you agree or disagree.

Possible Counter Arguments:

Argument	Your Counter Argument
In the 100+ years that Sikhs have been living in Canada, there has never been a violent incident involving a kirpan in schools. But that doesn't mean that a violent incident could never occur. We shouldn't have to wait for harm to happen before we take measures to prevent it.	The Courts themselves recognize that one doesn't have to wait for harm to happen before you can prevent it. The absence of an incident up till now doesn't prove that a kirpan could never be used to hurt someone in school. But if the Court is going to allow the school to limit a basic constitutional freedom like freedom of religion for the purpose of achieving safety, then it must be shown that there there's real evidence of potential harm and not just speculation that something "could" happen under very unlikely circumstances. The school board failed to demonstrate that there was a real risk of harm that would warrant a full ban on the kirpan.
Even if it is established that Mr. Multani is himself a practicing Sikh, and based on his school history, would not likely use the kirpan to hurt anyone, we know that sometimes individuals can snap and act violently when provoked. In addition, even if we were confident that Mr. Multani would never be violent, how can we be sure that other students won't try to take the kirpan from Mr. Multani and use it as a weapon?	In the event that Mr. Multani or others were provoked to the point that they wished to use the kirpan in a violent manner, the safeguards which were accepted by the Multani family and the school principal (keeping the kirpan in a wooden scabbard sewn into a cloth envelope and worn on a strap underneath clothing) would make it very difficult to access the kirpan in a timely fashion. In comparison, there are numerous objects readily available and more easily accessible to students wishing to do harm such as baseball bats, box-cutters and scissors, but those are not banned or restricted in any way.
It's not fair that Mr. Multani should be allowed to wear his kirpan in school, when public schools are not even allowed to have crucifixes on the walls. Why should he be permitted to practice his religious beliefs at school while other students	The elimination of crucifixes on the walls of schools does not preclude individual students from wearing their own crucifix, or another religious artefact/symbol. Public schools cannot promote any specific

<p>who want to have those crucifixes up on the wall they can't have them?</p>	<p>religion above another or indoctrinate students into any one religion. That does not mean, however, that students attending public school are not allowed to express/practice their own personally held religious beliefs. Regardless of whether or not other students choose to wear a crucifix, Mr. Multani believed that he did not have a choice to wear a kirpan or not. He believed he was required to wear his kirpan to fulfill his religious obligations.</p>
<p>The school board created a 'zero tolerance policy' in order to keep students safe. There can be no exceptions to this rule to accommodate Mr. Multani because if the school board doesn't enforce a zero tolerance policy, how will they be able to make a distinction for those other students who may also want to bring knives/weapons to school?</p>	<p>School officials must make a distinction based on the reasons for which a student wishes to bring a potentially dangerous object to school. It was evident that Mr. Multani, for all his years attending that school, was a practicing Sikh, and wearing the kirpan was a requirement of his sincerely held religious beliefs. This religious requirement is very different from a student's desire to simply bring a knife to school for bragging purposes or intimidation purposes etc., and therefore should not be given the same consideration.</p>
<p>We shouldn't tolerate risks to student safety in schools. After all, we know that until the age of 18 in Ontario, students are legally required to be in school every day. How can we place students in a dangerous environment if they are required to be there? How could we possibly take any kind of risk with their safety?</p>	<p>There is no possible way to achieve 100% safety in schools. Even if the kirpan was banned, there are numerous items still available at the school that could be used to hurt students (e.g. scissors, baseball bats, students themselves). If the Multani family and the principal are both willing to restrict the kirpan in such a way that essentially makes it less dangerous and less accessible than any other dangerous object found in a school, then how can you justify banning it in the name of safety, without banning all the other potentially dangerous objects.</p>
<p>We know kirpans are dangerous because we know that they are not allowed on airplanes. Why then would we allow them in a school where teachers and principals are responsible for the safety of many thousands of young people?</p>	<p>There are many differences between a school and an airplane that invalidate this comparison.</p> <ol style="list-style-type: none"> 1) There is an opportunity to flee from a school or get outside assistance if an emergency situation should occur. There is no such opportunity on an airplane. 2) Teachers/students have had a long time to get to know Mr. Multani and were confident that he would not likely

	<p>engage in violent behaviour. On an airplane, security personnel only have a few minutes to assess whether or not thousands of individuals are considered safe to board an airplane, therefore there should be more restrictions on what they are permitted to bring with them onto a plane</p> <p>3) There is no legal requirement to get on a plane. If you cannot part with your kirpan, then you have the choice to not get on an airplane. Also, if there is a very pressing need for you to be on an airplane, the maximum amount of time you would likely spend flying to any destination is 24 – 36 hours with stopovers etc. Perhaps certain individuals would be willing to put their kirpan aside for those hours in order to get on the plane. Mr. Multani on the other hand, is legally required to go to school every day for many years. To ask him to put aside his religious freedom for such a significant portion of his life is a serious infringement of his rights.</p>
<p>There are many Sikhs who do not insist on bringing kirpans of this kind to school. There are many Sikhs who choose instead to wear a symbolic kirpan made of wood or plastic, or to wear a lapel pin or necklace in the shape of a kirpan. If there are other Sikhs who are willing to make this compromise, then Mr. Multani should be willing to make the compromise as well.</p>	<p>Freedom of religion in the Charter allows individuals to practice their religion and exercise their beliefs as they see fit. Even within a single religion, people adhere to the tenets of their faith to varying degrees of stringency. We cannot force individuals to practice their religion in a way that does not comport with their own personal beliefs of their religious obligations.</p> <p>The Courts have held that religion is something that the individual has a right to, and it is not the place of the Court to tell people which religious interpretation is correct and which religious way of life is correct. It would be inappropriate to tell Mr. Multani and his family should take on a different kind of Sikh practice than the one that they believed in and that they wished to practice.</p>
<p>The Charter says that the all the rights and freedoms are subject to reasonable limits. Would it not be reasonable to limit Mr. Multani's right to wear a kirpan when the reason for doing so is as pressing and substantial as school safety?</p>	<p>Certainly school safety is a very important goal and would justify some measure to ensure that students attending Mr. Multani's school are reasonably safe. But if we are going to violate someone's freedom of religion for a worthy cause, it's</p>

necessary to try to do so in a way that limits the individual's freedom no more than necessary to achieve your purpose, otherwise that limit is not fair.

The Court looked at an aspect of law called reasonable accommodation. The school has a responsibility to try to accommodate people who have all kinds of needs, whether for religious reasons, for physical disabilities or otherwise. The school has a responsibility to accommodate those different needs in a way that does not cause the school undue hardship. In the case of Mr. Multani, allowing the kirpan at school under strict conditions would accommodate Mr. Multani's religious needs without causing the school undue hardship and also without limiting his religious freedom more than necessary.