

SOCIETY FOR PSYCHOLOGICAL ANTHROPOLOGY

Kevin Birth, Contributing Editor

What is Relevant about Anthropology

To address this year's *Anthropology Newsletter* theme, I have invited several psychological anthropologists to write for the column. Their contributions will be featured throughout the year. This month, Richard Shweder discusses a project sponsored by the Russell Sage Foundation and the Social Science Research Council concerning the law and the diversity of cultural practices.

The Free Exercise Project: Multiculturalism and the Law

By Richard A. Shweder (Committee on Human Development, U Chicago)

Contemporary "multicultural" social life raises many challenges for cultural

anthropologists, who are increasingly called upon not only to describe cultural differences but to judge them. Of course even the word "multiculturalism" is fraught with challenges, but at least it effectively points to the reality of cultural diversity within contemporary democratic nation states (the US, Canada, India, Norway, England, Australia, and so forth). In that limited sense the word "multiculturalism" refers to the fact that many contemporary societies consist (as Joseph Raz has put it) "of groups and communities with diverse practices and beliefs, including groups whose beliefs are inconsistent with each other."

That is where the real interpretive challenge begins, with beliefs (and

related practices) that are inconsistent with each other. How should anthropologists react to a Somali mother living in Seattle who believes that sons and daughters should be treated equally and both circumcised? How should we react to a West African father living in the Bronx who cuts tribal identity markings on the face of his 9 year old son? To a Mexican women living in Houston who finds it perfectly natural to leave her three year old at home in the care of an older preadolescent sibling? To a South Asian father living in Chicago who habitually grabs his disobedient son by the ear as he drags him out of a store? These days the list of practices about which there is controversy and norm conflict within a "multicultural" society such as the US is long and growing: bilingualism, arranged marriage, animal sacrifice, parent/child co-sleeping, physical punishment, female (and, increasingly, male) circumcision, the role of public schools in moral and religious education, school absenteeism and the use of children in family businesses, to name but a few. Especially for those who are anthropological "pluralists" there is a "moment of truth" inherent in contemporary "multicultural life" as members of our profession are called upon or step forward to either defend or deplore such cultural diversity.

Recently the Russell Sage Foundation (RSF) and the Social Science Research Council (SSRC) have sponsored a new working group entitled "Ethnic Customs, Assimilation and American Law" which links anthropology to such public policy concerns. With special attention to Asian, African, Mexican, Latin American, Caribbean immigrant populations and other minority groups in the US, the mission of the new working group is to clarify and investigate some of the problems posed by "multiculturalism." Its mission is to raise and answer descriptive and normative questions about "the free exercise of culture." How free is it? How free ought it to be? While the focus of the project is on ethnic minority customs in the US there is a cross-national comparative dimension to the enterprise as well. In this column I briefly report on some of the issues facing this working group and outline a few of its aims and objectives.

The working group on "Ethnic Customs, Assimilation and American Law" (informally "The Free Exercise Group") is interdisciplinary in character and consists of legal scholars, political theorists, social psychologists and anthropologists, including: Caroline Bledsoe (Anthropology, Northwestern U), Arthur Eisenberg (Law, NY Civil Liberties Union), Corinne Kratz (Anthropology and African Studies, Emory U), Hazel Markus (Psychology, Stanford U), Martha Minow (Law, Harvard U), Richard Nisbett (Psychology, U Michigan), Alison Renteln (Political Science, USC), Lawrence Sager (Law, NYU), Austin Sarat (Political Science and Jurisprudence, Amherst C), Bradd Shore (Anthropology, Emory U), Claude Steele (Psychology, Stanford U), Marcelo Suárez-Orozco (Education, Harvard U), Richard Shweder (Human Development, U Chicago), Nomi Stolzenberg (Law, USC), Gerald Torres (Law, U Texas) and Unni Wikan (Anthropology, U Oslo).

The most general aim of the working group is to organize a critical discussion and series of investigations related to cultural diversity, conflict of norms and legally enforced assimilation. Questions such as: 1) Which aspects of American Law affect ethnic minority customs? 2) To what extent does American law presuppose, codify and hence inculcate the substantive beliefs and values of a cultural mainstream? 3) How much cultural diversity in family life practices ought to be permissible within the constitutional and moral framework of liberal democratic pluralistic societies? 4) How strong are the implications of American citizenship for the way you marry, arrange a "family", school, discipline and raise your children, conceptualize gender identity and parental authority? 5) What does it mean for an ethnic custom (eg, arranged marriage, female excision, physical punishment) to be judged "un-American"? 6) How do ethnic minority groups actually react to official attempts to force compliance with the cultural and legal norms of American middle class life?

There are descriptive and normative components to all of those questions, and plenty of room for fruitful interdisciplinary collaboration. In such interdisciplinary exchanges one quickly discovers that legal scholars and political

about the normative side of the free exercise of culture (how free ought it to be?). This is, perhaps, not surprising. Many liberal democratic nations officially value "tolerance" and imagine themselves to be havens for religious and cultural diversity, while relying on their legislatures and courts to negotiate and define the limits of their pluralism.

One famous and still controversial USA case is *Wisconsin v Yoder* (1972) in which the Supreme Court sided with adult representatives of the Old Order Amish community against a law enforcer from Wisconsin who indicted them for violating the State's compulsory school attendance regulations. Among the several complex issues faced by the court was whether the Amish Order was a genuine culture. Informed by expert witnesses they concluded that the Amish Order was a distinctive way of life premised on comprehensible religious convictions concerning the rejection of modern society (and its technologies) and attachment to manual labor and the soil, convictions that not only pervaded everyday Amish practices but had been adhered to for centuries. In upholding the right of Amish adults not to send their kids to school after 8th grade the court invoked the principle that parents have privilege over the government in controlling the religious upbringing and education of minors. At first blush, the court's decision appears to be a legal model for the defense of pluralism and the free exercise of both religiously based cultural practice and culturally implemented religious beliefs. Curiously, however, *Wisconsin v Yoder* (1972) has come to be treated in jurisprudence as a somewhat exceptional case and courts are sometimes reluctant to invoke it as precedent. (Could it be that when it comes to "tolerance" the Amish have a special place in the hearts of many mainstream middle class Americans? Why?). Beyond that the court's decision left open and

unsettled the crucial and difficult issue of the right of a child to autonomy from received cultural traditions. When do children have a right (backed by the state) to have their wishes and desires command the full respect of their parents? At what age do they have a right to exit from the beliefs, practices and governance of their parents?

A related set of questions that the NSF/SSRC working group plans to address has been raised by Sheldon Hackney (the former Chair of the American Endowment for the Humanities) in his provocative public dialogues about "American identity." Hackney has suggested that America is neither a "melting pot" nor a "mosaic." The "melting pot metaphor" is too assimilative and implies "a bland America without significant differences" he has argued, while the "mosaic metaphor" recognizes differences all right but implies separation, insularity and boundaries between groups. He wants us to come up with a new metaphor, one that makes it possible to participate as citizens in a public life and share a common identity as Americans, while at the same time being able to preserve certain unique yet crucial identity-relevant aspects of our own ethnic traditions. Anthropologists need to be part of such public policy discussions, if for no other reason than to defend, dispute or qualify the meaning and use of the idea of culture in these debates.

Over the next two years the NSF/SSRC working group on "Ethnic Cus-

oms, Assimilation and American Identity" plans to develop a special issue of *Daedalus* (the journal of the American Academy of Arts and Sciences) a subsequent Russell Sage Foundation book titled "The Free Exercise of Culture: How Free Is It? How Free Ought It To Be?" The publication will describe and interpret controversial immigrant and minority group family and social practices, examine how they react to norm conflict by schools, welfare agencies, courts and local communities, discuss comparative legal approaches to cultural pluralism (eg. reference to Canada, India, Norway, Australia) and try to clarify and answer questions about "free exercise" in the domain of culture. The working group would be grateful to receive copies of publications or case materials that relate to its mission, which should be sent to Program Director, Frank Kessel, Social Science Research Council, 810 Seventh Ave, New York, NY 10019 (kessel@ssrc.org, 212/377-2700).

I encourage SPA readers to submit contributions on the AN theme, to respond to the commentaries that appear in the column. Submissions should be limited to 1200 words and need to be received by the first day of the month. If printed, they will appear two months later. Send comments and submissions to Kevin Birth, Dept. of Anthropology, Queens College, CUNY, Flushing, NY 11367; 718/997-5518, fax 718/997-2885; kevin_birth@qc.edu.