

# WORKSHOP 3 - Religious Discrimination

Religious Discrimination

OXFORD  
BROOKES  
UNIVERSITY

*The Relationship Between Religion, Race and Ethnicity*

- Material scope of Directives:
  - Racial Equality Directive applies to discrimination in employment, social security, health care, social advantage, education and access to and supply of goods and services including housing
  - Employment Equality Directive applies to employment and occupation

---

---

---

---

---

---

---

Religious Discrimination

OXFORD  
BROOKES  
UNIVERSITY

- ethnicity is sometimes defined so as to include religious identity
- religious groups may be predominantly from one particular racial group
- some religious groups may understand religion to encompass issues such as cultural practices or rituals, that might otherwise be understood as linked to ethnic identity.

---

---

---

---

---

---

---

Religious Discrimination

OXFORD  
BROOKES  
UNIVERSITY

Jewish Free School case – (2009)

- Admissions criteria based on orthodox rules were found to be discriminatory on grounds of race/ethnicity
  - Court confirms rules not racist
  - New criteria based on religious practice.

---

---

---

---


---

---

---

WORKSHOP 3 - Religious  
Discrimination

Religious Discrimination



Implications of Religion/ethnicity intersection

- Hierarchy of protection, with improved protection where religion and race interact.
- Justification standards for indirect religion and race discrimination may differ.
- Race/ethnicity discrimination cases may need to ensure adequate protection for Article 9 Freedom of Religion.

---

---

---

---

---

---

---

Universiteit Utrecht  Faculteit Rechtsgeleerdheid

**Framing headscarf bans as religion based discrimination**

- Direct discrimination?
- Indirect discrimination?
  - Disparate impact
  - Objective justification
- Article 2 section 5 Framework Directive

---

---

---

---

---

---

---

Universiteit Utrecht  Faculteit Rechtsgeleerdheid

**Framing headscarf bans as sex based discrimination**

- Direct discrimination?
- Indirect discrimination?
  - Disparate impact
  - Objective justification
- How much discretion for member states?

---

---

---

---

---

---

---

Universiteit Utrecht



Faculteit Rechtsgeleerdheid

### Conclusion

- framing issues such as discussed as either discrimination on grounds of religion, race or sex could make a difference under the EU directives

---

---

---


---

---

---

---

Universiteit Utrecht



Faculteit Rechtsgeleerdheid

### Points for discussion

- Would you agree with our analysis? (And what could you perhaps add by reference to the experiences in your own country?)
- If so, how problematic would you consider this to be?

---

---

---

---

---

---

---