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Engaging with the Other: Religion, Identity, and Politics in the Mediterranean

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Engaging with the Other: Religion, Identity, and Politics in the Mediterranean

by AVI ASTOR and MAR GRIERA
(Universitat Autònoma de Barcelona)

Abstract

The Mediterranean has long been a space of encounter between different nations, religions, and cultures. The fusion of national and religious identity in the region has added complexity to current debates regarding the recognition and accommodation of religious minorities. In this introduction, we outline recent scholarship on religious nationalism and the governance of religious diversity in the Mediterranean. We draw upon the articles included in this special issue to highlight the distinctive modalities of the religion-national identity link that exist in the region, and the manner in which these modalities have influenced policies of religious accommodation and strategies of political mobilization among religious minorities. In concluding, we draw attention to the need for more studies that help to connect recent analyses of ethno-religious and political transformations in the Mediterranean with the work of historians and social scientists on the historical constitution and evolution of the region as an interconnected space in which core socio-political and cultural dynamics are shaped by cross-border flows, engagements, and exchanges.

Keywords: religion, identity, religious diversity, Islam, Catholic Church, Orthodox Church, secularization, Mediterranean

Introduction

At the crossroads of Europe, Africa, and the Middle East, the Mediterranean is a key space of encounter between distinct nations, cultures, and religions (Braudel 1972; Purcell and Horden 2000). While these encounters have, on many occasions, resulted in major conflict and bloodshed, they have also generated exchanges in information and knowledge that have proven critical to the development of modern civilization. With time, different societies in the region have taken distinct paths in their political, economic, and socio-cultural development. But despite these differences, religion has remained a lynchpin of national identity throughout the region.

The historical fusion of religion and national identity in Mediterranean societies has rendered current debates more complex regarding the recognition and accommodation of religious minorities. These debates have taken on new significance in recent years due to the profound social and political transformations that have transpired in the region. In Southern Europe, historically mono-confessional societies have become home to increasing numbers of religious minorities as a result of high levels of immigration from neighbouring areas (Pérez-Agote 2010; King 2001; Karyotis and Patrikios 2010). In several North African and Middle Eastern countries, relations between politics, law, and religion

have been unsettled and renegotiated as a consequence of the processes set in motion by the Arab Spring (Roy 2012; Panara and Wilson 2013; Lesch and Haas 2012). Moreover, the rise of political Islam in Turkey has generated significant unease among religious minorities in the country.

Most analysts of “religious nationalisms” emphasize their exclusivity toward religious minorities, whether real or imagined (Ignatieff 1994; van der Veer 1994; Zubrzycki 2006). According to Rieffer (2003), the development of religious national identities often entails the identification of “alien others” who are portrayed as a threat to the vitality of the nation. She writes:

This tends to create internal moralities that give preference to the needs and interests of those inside the religious national community. One consequence of this preferencing is the common indifference or hostility to those outside the religious national community (p. 234).

Historical studies, and to an extent contemporary studies, of the Mediterranean in particular are replete with references to how the construction or fortification of religious nationalisms has entailed the subordination or persecution of religious minorities (Yiftachel 2006; Álvarez-Junco 2011; Zeidan 1999; Grigoriadis 2012; Perica 2004).

As Barker (2008) argues, the extent to which the form of nationalism present in a given country may be said to be “religious” does not hinge on the religiosity of the general populace or the formal relationship that exists between church and state. It hinges, rather, on whether belonging to a particular religion is part of the national self-concept and the tacit understandings that underlie national identifications. It also depends on the degree to which religious principles are reflected in national laws and policies pertaining to core aspects of social and personal life.

The presence of religious nationalism in a given society may influence the integration and accommodation of religious minorities in a variety of ways, some more directly than others. As Laurence and Vaïsse (2006) and others have highlighted, the fusion of religion and national

identity commonly contributes to perceptions and (mis)representations of religious minorities as disloyal and unwilling to adopt the values and customs of the national community. In an effort to evade such characterizations, religious minorities may strategically refrain from pursuing strong forms of political recognition and engaging in practices that render their religious identities visible, instead emphasizing features that they share in common with the majority population (i.e. language or political ideology).

As an example, Dressler (this issue) shows how the reticence of religious minorities in Turkey to seek public recognition and accommodation derives largely from the continued dominance of Sunni Islam within Turkish imaginings of nationhood, despite the purportedly secular and neutral conceptions of national identity developed during the early years of the Turkish Republic. Given the historically negative connotations of the term “minority” in public discourse and the perceived incompatibility between minority status and national belonging, Alevis and other religious minorities in Turkey generally refrain from claiming rights on the basis of international conventions regarding minority rights, as doing so would reinforce their status as (excluded) minorities. At the same time, they strategically employ the semantics of international human rights discourse when fighting discrimination and exclusion. The complexity of minority politics in Turkey, Dressler writes, “shows that minority discourse should not be naively understood as a liberating or emancipatory discourse that as such empowers groups marginalized due to their ethnicity or religion,” as is the case in most Western contexts.

The decision of religious minorities to strategically refrain from seeking explicit or strong forms of political recognition as a means of attaining measures of religious accommodation may be prudent in contexts where their presence is relatively novel within the ethno-religious landscape. The case of Malta is illustrative in this regard. In analyzing the Maltese context, Darmanin (this issue) argues that, given the relatively novel

presence of Islam and other minority religions in the country, strong forms of recognition and accommodation would likely precipitate social backlash, potentially heightening the prevalence of hate crime and other expressions of intolerance. There is no facile solution, however, as more minimalist forms of toleration ultimately do little to promote the lasting acceptance and appreciation of non-Catholic cultures and traditions in the country.

Although the religion-national identity link, to use Fokas' (this issue) terminology, is present in each of the countries analyzed in this issue, the modalities that it takes, the institutional and political contexts in which it is embedded, and its consequent ramifications for the accommodation of religious diversity vary significantly across different national contexts. While in some countries symbols and narratives of national identity are deeply entangled with majority religions, as in the case of Malta or Turkey, this entanglement is more lax in other countries. In Southern Europe, with the exception of Greece, the intertwining of religion and national identity, though certainly present, is less prohibitive of strong claims for recognition and rights by religious minorities than in other parts of the Mediterranean.

In Spain, for example, religious minorities have been quite forthright in seeking public recognition and special measures of accommodation (Rozenberg 1996; Fernández Coronado 1995). Although the Catholic Church enjoys special mention in the constitution and continues to receive significant public funding, the general population is deeply divided on questions of religion. For many, explicit references to religion and national identity arouse bitter memories of Franco's National Catholicism. Moreover, the specificities of Spain's democratic transition and subsequent projects aimed at refashioning Spain as a modern and plural society have given rise to a particular form of minority politics that has incentivized strong claims for religious recognition (Astor 2014). Unlike in Turkey, religious minorities in Spain do not experience great tension in seeking strong forms of recognition, on

the one hand, and remaining firmly situated within the national community, on the other.

While there are clear differences in the degree to which religion and national identity are intertwined *across* countries in the Mediterranean, there are also important differences in public expressions of the connection between religion and national identity *within* countries, as well as in the impact of these expressions on the integration and accommodation of religion minorities. Building on Billig's (1995) classic work on "banal" forms of nationalism, Fokas (this issue) develops an analytic framework that distinguishes between "banal, benign, and pernicious" manifestations of the religion-national identity link. Focusing on the Greek context, she uses this framework to analyze distinct manifestations of the religion-national identity link in three main social domains: public education, laws regulating religious freedom, and the presence of clergy at state functions and national celebrations. Her analysis illuminates how distinct religious actors perceive and evaluate public manifestations of the religion-national identity link very differently, depending on their respective social positions and vantage points. For example, whereas Greek Orthodox clerics and public officials tend to view mandatory courses on Greek Orthodoxy as a "banal expression of the historical place of Orthodoxy in Greek society", religious minorities tend to view the content of such courses and the disincentives for soliciting exemptions as unfair and detrimental to their efforts to gain acceptance.

In theory, religious minorities residing in liberal democracies are shielded from many of the "pernicious" effects of the religion-national identity link by laws and institutions that protect their personal and collective rights and freedoms. However, in contexts where democratic institutions are less developed and weaker, religious minorities often do not enjoy such protections. Oraby's (this issue) analysis of the Egyptian context shows how, rather than acting as a neutral arbiter of citizen-initiated disputes against the state, the administrative judiciary (*Majlis al-Dawla*) has consistently based its deci-

sions on legal concepts like “public order” as a means of justifying the control and subjugation of religious minorities. Oraby focuses her analysis on the precarious legal status of converts in Egyptian society. Her findings highlight how state ideologies regarding religion and national identity, and the supposed dangers posed by religious Others, are reproduced through highly local judicial decisions regarding matters of personal status.

Although religious nationalism may have a significant influence on religious minorities’ general sense of belonging, access to citizenship rights, and socio-political strategies, scholars must be cautious not to attribute too much explanatory power to religious nationalism *per se* when explaining specific dynamics of religious accommodation. As Bowen et al. (2013) persuasively argue, processes of religious accommodation are complex and generally do not flow straightforwardly from monolithic understandings of national identity or formal configurations of church-state relations. Rather, they are shaped by a variety of schemas, pressures, and priorities that are often specific to the historical development and practical functioning of different institutional spheres (Martínez-Ariño et al. 2015; Wohlrab-Sahr and Burchardt 2012).

Since public education is central to the transmission of national identity and a mandatory requirement for all youth regardless of religious affiliation, schools have become a key site for the negotiation of religious accommodation. Giorda (this issue) details the controversies that have emerged surrounding religious education, school canteens, and the presence of crucifixes in Italian schools. Her analysis shows how processes of ethno-religious diversification have sparked public reflection not only on questions regarding religion and national identity, but also on seemingly unrelated issues such as nutrition and health. With respect to school canteens, for instance, the growing presence of religious minorities with dietary restrictions has generated a broader dialogue about the quality and variety of food that Italian students are offered in school can-

teens. The degree to which local schools elect to accommodate the dietary restrictions of religious minorities may ultimately depend on the successful framing of more accommodating menus as nutritionally beneficial for all students and useful for fostering social cohesion among increasingly diverse student bodies.

While sensitivity toward religious pluralism may be greater in countries like Spain and Italy than elsewhere in the Mediterranean, due in part to the presence of weaker religious nationalisms, religious minorities – and particularly Muslims – nevertheless suffer significant discrimination and are often portrayed in a negative light, increasingly for their purported hostility toward the liberal, democratic, and secular traditions of the “West” (Joppke 2008; Adamson, Triadafilopoulos, and Zolberg 2011; Schuh, Burchardt, and Wohlrab-Sahr 2012).¹ The flood of headlines regarding the atrocities committed by ISIS, sectarian violence in the Middle East, and the rise of political Islam in Turkey, as well as the media attention garnered by radical European Muslim leaders such as Anjem Choudary, have reinforced stereotypical representations of Islam as antithetical to Western modernity.

Several recent scholarly works on religion and politics in the Mediterranean echo this view. In a special issue dedicated to religion and democratization in the Mediterranean, for instance, Haynes and Ben-Porat (2013) argue that Muslim and non-Muslim religious actors in the Mediterranean “seek to remodel public life – including both social and political realities – according to their religious ideals and ethics, and to try turn the polity and its political direction away from a perceived real or perceived secularization which, they believe, seriously threatens to undermine religion’s societal position” (p. 159). Although there are clearly many religious actors who resist

¹ The increasing prevalence of “illiberal liberalism” in European societies has led Joppke (2013) to conclude that, assuming a general commitment to pluralism, polities that embrace a “Christian identity” might actually be more accommodating of religious difference than polities that embrace “liberal state identities”.

processes of secularization in the Mediterranean, such a characterization obscures the diversity of religious leaders and organizations in the region, some of which are quite liberal and supportive of core aspects of secularization.

Guia (this issue) shows how Muslim minorities in Spain have contributed to the process of democratic consolidation and supported key dimensions of secularization, most notably state neutrality. She contends that Muslim leaders have played an important role in pressuring the Spanish state to be more equal in its treatment of different religious confessions. Although the Catholic Church continues to enjoy far more privileges than other confessions, Muslims and other minority religious actors have made a degree of headway in promoting greater state neutrality. Guia's analysis reminds us that although there are certainly Muslim ideologues who have taken strong stances against secularism and democracy in Spain and other Southern European contexts, they are the exception as opposed to the norm. In general, Muslim leaders in the region have sought equality and freedom, as opposed to the imposition of religious norms.

While much has been written on religious nationalism and its influence on the accommodation of religious diversity within the territorial boundaries of the nation-state, less has been written about its influence on diaspora politics and state policies aimed at citizens living abroad. Planet and Larramendi (this issue) show how the Moroccan state has devoted increasing attention to religious matters in its "diaspora policies." Specifically, it has invested significant resources into promoting the continued engagement of Moroccan ex-patriots with Islam through sponsoring organizations such as the European Council of Moroccan Ulema and facilitating the availability of imams and female spiritual guides for diasporic communities. Through encouraging sustained connection with Islam, the Moroccan state accomplishes its dual objective of fostering continued identification with the Moroccan nation and maintaining influence over the type of Islam embraced by Moroccans residing abroad.

Planet and Larramendi's contribution reminds us that the Mediterranean is an interconnected space, and that social and political dynamics oftentimes cut across national boundaries. Although taking national contexts as units of analysis remains useful for examining certain questions pertaining to the politics surrounding religious diversity in the region, there is a need for more studies regarding transnational processes that bear upon national and local governmental policies and social relations. Such studies would help to link recent analyses of ethno-religious and political transformations in the region with the work of historians and social scientists on the historical constitution and evolution of the Mediterranean as an interconnected space in which core socio-political and cultural dynamics are shaped by cross-border flows, engagements, and exchanges (Ben-Yehoyada 2014; Burke III 2014; Greene 2002).

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Historical Trajectories and Ambivalences of Turkish Minority Discourse*

by MARKUS DRESSLER (Bayreuth University)

Abstract

This article inquires into the work of modern minority discourse and politics that delineates the boundaries of the Turkish national subject as Turkish-Islamic. It argues that the Turkish minority concept, which is based on imaginaries that justify claims of national and religious sameness and difference, needs to be understood against the backdrop of its historical formation. In the late Ottoman Empire, the socio-political grounds of communal sameness/difference were radically transformed. In this process, ethno-religious *millet*s turned into national *millet*s, culminating in the re-conceptualization of the non-Muslim millets as religious minorities in the early Republic of Turkey. The article further shows how the restriction of minority rights to non-Muslims puts the Turkish concept of minority/*azınlık* at odds with international conventions on minority discourse. It creates ambivalences with regard to citizenship and nationhood status not only for them, but also for disadvantaged Muslim subgroups, such as the Alevis. Drawing in particular on the case of the Alevi community, I will demarcate the contested entry and exit points of nationhood and religion, in relation to which the minority label is organized in Turkey. Having to negotiate the pitfalls of Turkish identity discourses, Alevis employ the semantics of international human rights discourse in their quest for equal rights and recognition, while rejecting the minority label.

Keywords: minority discourse, Turkey, Alevism, Turkish nationalism, Turkish secularism, religion in the Ottoman Empire, religion politics

Introduction

In the Republic of Turkey, public articulation of claims with regard to ethnic and religious difference has always been restricted. The early Kemalist period (1923-1938) established an authoritarian political order that was heavily indebted to

experiences made in the late Ottoman period and managed diversity qua interdiction. In the modernizing empire, inter-communal relations, as well as relations between religious communities and the state, were drastically transformed. Centralization of the state structure, and nationalist and religious revivalism sharpened the

* This article furthers the arguments of earlier essays of mine on the work of Turkish minority politics (see Dressler 2014 and 2015). For helping me to clarify my thought process through various stages of writing I am grateful to the anonymous reviewers, to the editors of this volume, to Samim Akgönül and especially to Elizabeth Shakman Hurd and Matthias König. I also benefitted from feedback on earlier versions that I presented at the workshop "Secularism and the Minority Question across the Mediterranean", Euro-

pean University Institute, Florence: Mediterranean Research Meeting, Mersin University, March 20-23, 2013; the conference "Religious Heterodoxy and Modern States", Yale University, March 28-29, 2014; and the annual conference of the European Association for the Study of Religions, Groningen, May 11-15, 2014. dresslermarkus1@gmail.com

boundaries between ethno-religious communities and this ultimately pitched the latter as rivals in a political plain under rapid change.

This article argues that Turkish minority discourse is both a result of these historical dynamics, as well as of global political developments and the reception of international discourses on religious freedom and minority rights. It advances a dual perspective on Turkish minority politics, historical-sociological and theoretical-critical. Following the work of Baskın Oran and Samim Akgönül,¹ it aims to account for how current political claims with regard to matters of identity are influenced by particular historical experiences and memories. These experiences form the background of republican Turkish subjectivities and need to be considered when investigating current Turkish politics of doxa as well as minority politics. They are sedimented in collective memories of different scope (from the family to the national level) and in their public representations (both material and discursive). The historical perspective also allows us to make visible the impact that more recent dynamics emerging, since the 1980s, within the political economy of the country, within the global political order and within international human rights discourse exerted on Turkish politics of minoritization. My analysis aims to connect this historical perspective with recent theoretical work on the politics of minority discourse. Critical perspectives informed by post-colonial epistemology have so far been fairly lacking in the discussion of the Turkish case. The recent publications by Elizabeth Shakman Hurd which, engaging the Turkish case, launch a critique of the liberal conception of religious freedom and the politics that it endorses, are an important step in this direction (see Hurd 2014 and 2015). What is still missing, I argue, for a more comprehensive understanding of the Turkish case, is relating this theoretical perspec-

¹ Oran is the major public intellectual in Turkey critically analysing and commenting on minority issues in all their dimensions (for example, Oran 2004 and 2011); Akgönül has more recently added a comparative perspective (see Akgönül 2013).

tive to a historically informed account of the formation of post-Ottoman discourses on religion politics in general, and politics of religious difference in particular.² This article hopes to be a step in this direction.

I hold that the critical perspective on the disciplining and homogenizing work done by discourses of religious freedom in general, and minority politics in particular, offers an important corrective to multiculturalist discourses that too easily take for granted the emancipatory impact of these politics. Such a perspective has been recently advanced by scholars such as Saba Mahmood and Elizabeth Shakman Hurd. At the same time, I would like to stress that we should not overlook the emancipatory promise that discourses on religious freedom and minority rights continue to hold for communities in different national contexts battling their underprivileged positions. Ultimately, the minority concept contains the potential of both emancipation and subordination for those who are subjected to its regime, and/or draw on it voluntarily. It is thus inherently ambiguous. Analysis of the Turkish political field, in which the minority concept has a crucial role in delineating the boundaries of the national subject as Turkish-Islamic, shows this clearly.

The article begins with a discussion of the ideological subtexts of modern minority politics. According to recent critical scholarship, liberal discourses on religious freedom, minority rights and tolerance establish and reify particular ideas about sameness and difference that ultimately undermine these discourses' promises of emancipation. Taking a slightly modified perspective in relation to this critique, I stress the plurality of actual minority discourses, not all of which, and certainly not the Turkish one, can be called liberal in the political theory sense of the term. I argue that one central effect of minority politics, of which the Turkish case is a fine example, is the

² For an exemplary study that connects such theoretical with historical perspectives see White (2012) on the case of French Syria.

creation of a subject that is marked by ambivalences. These ambivalences are the product of uncertain relations to central markers of modern public belonging, namely citizenship, nationality and religion. In minority discourses these ambivalences are invoked as reference points for inclusion and exclusion. The article then turns to the historical and political dynamics of minority discourse in Turkey. It discusses the genealogy of the Turkish minority concept and the imaginaries at work in the reification of claims of national and religious sameness and difference, by means of which majorities and minorities have been constructed since the late Ottoman context. The political dynamics of the late Ottoman Empire, especially the increasing inter-communal rivalry and violence, have been sedimented in collective memories and inform modern Turkish subjectivities in distinctive ways. Drawing in particular on the case of the Alevi community, which is not considered a minority in Turkey, I will demarcate the contested entry and exit points of nationhood and religion, in relation to which the minority label is organized in Turkey. I will emphasize that the Turkish concept of minority is at odds with the liberal definition of minority and minority rights in international human rights discourse. The essay concludes with comparative reflections on the relation between politics of doxa and politics of minoritization, which help me to further my argument about the ambivalences that the Turkish minority concept fosters with regard to national and religious belonging.

The Work of Modern Minority Discourse

Minority discourse as a political project that aims to define and secure the rights and status of communities different from the dominant communities within a state gained momentum in the post-World War One period, when the political landscape of Europe and the Middle East was reshaped and new nation-states were created.³

³ For a historical overview on the development of modern minority discourse since the Westphalian Treaty see Krasner and Froats (1996).

It was based on the assumption that “populations are primordially separated into clearly-bounded, coherent units, and that one state can represent only one such unit” (White 2012: 23). In this context, minorities were populations whose nationality was understood to be different from the hegemonic conception of nationhood within the state in which they resided. Consequently, the minority treaties following the Great War testified to and cemented the otherness of the minorities:

On the whole, the minorities treaties only exacerbated the perception of each state concerned that its minorities were disloyal – that their primary loyalty was to the (often hostile, sometimes neighbouring) state within which their own nationality was the majority. (White 2012: 24)

Akgönül has pointed to the tension that the minority treaties thus implanted into the involved nation-states: “The sovereign state will be one and indivisible; and the continuity and protection of minorities under the same state will be guaranteed. This balance is precarious at best” (Akgönül 2013: 74). Despite the very ambivalence that the minority status brought along, the protections that it promised “encouraged a wide range of groups (especially disadvantaged ones) to constitute themselves as ‘minorities’” (White 2012: 25). This observation is important. While it is necessary to critically inquire into the work of disciplining and homogenization that may be advanced by discourses of religious freedom in general, and minority politics in particular, we should at the same time not overlook the emancipatory promise that these discourses may carry for groups who seek shelter in them. It would be a mistake to underestimate the agency of communities that voluntarily subscribe to the discourse of religious freedom and/or minority, well aware of the ambivalences that this carries. At the same time we should ask about the consequences and costs – obviously depending on the national context – of being granted (or denied) a particular minority status. Our analysis of (religious) minority discourses therefore needs to pay attention to a variety of perspectives based on different loca-

tions in terms of geography and power. Accordingly, Saba Mahmood has underlined that the historical impact of the notion of religious liberty has been experienced rather differently in the European context, where it first emerged, and non-European contexts, into which it would soon be translated with the spread of colonial power:

[While] in European historiography, the symbolic birth of the concept of religious liberty is deeply intertwined with the establishment of the principle of state sovereignty...and the creation of an interstate protocol for handling what used to be called "religious dissidents" but later came to be regarded as "religious minorities" . . . the introduction of the principle and practice of religious freedom to non-Western lands was often predicated upon the violation and subjugation of the principle of state sovereignty. (Mahmood 2012: 421)

Mahmood directs our attention to the transnational power imbalances embedded in the minority question. She observes that especially in the encounter between European states and the Ottoman Empire as well as its successor states, "the discourse on religious freedom from its inception has been intertwined with the exercise of Western power". In this context, the figure of the religious minority was produced in the process of the European engagement on behalf of non-Muslim populations, with the purported goal of ensuring their religious liberty (Mahmood 2012: 419). Pursuing a similar line of critique, Hurd has recently directed our focus to the broader political implications of contemporary international religious freedom discourse:

Protections for minority religions are seen as the key to unlocking democratic reform, ensuring the rule of law, and implementing tolerant legal regimes to manage otherwise unwieldy and recalcitrant sectarian differences that are re-emerging after the fall of authoritarian regimes in the [Middle East] region. Support for a right to legal personality for minority religions is part of a European and North American commitment to international religious freedom, and denial thereof is categorized as a restriction on the right to religious freedom. (Hurd 2014: 15)

The post-World War One reshuffling of the political geography of (post-)Ottoman lands was

based on the assumption of minorities constituting more or less coherent social groups distinct from majority populations.⁴ In this context, minority rights were instituted to protect and empower ethnic, linguistic and religious communities that were outside of the fulcrum from which a particular nation was defined. However, against the backdrop of newly enshrined national orders, the new minority discourse not only protected the groups that were defined by it, but also cemented their otherness in relation to the national mainstream, which was reified by discourses of minoritisation. Jane Cowan has cautioned that against a discourse of Manichean otherness, "a minority should better [be] understood as a product of particular ideological, social, political and economic processes" (Cowan 2001: 156). She has given particular attention to the totalising effects that the discourse of multiculturalism has on minority politics. Discourses of authenticity and difference diminish if not eradicate the possibility of cultural ambiguity:

This is the central ambiguity of a minority rights discourse: that it must deny ambiguity and fix difference, in the realms of identity, and of cultural practice, in defence of distinct cultures. Recognition of one's culture is increasingly constructed and consequently increasingly experienced as a deep, primordial human need, as well as an inalienable right, one whose denial brings both suffering and indignation. (Cowan 2001: 171)

This line of critique has been furthered by Wendy Brown's reading of the discourse of tolerance in the United States. For Brown, "tolerance is exemplary of Foucault's account of governmentality as that which organizes 'the conduct of conduct'" (Brown 2006: 4). She argues that liberalism has contributed to the normalization of differences, and the creation of cultural, ethnic as well as religious hegemonies. Since the act of protec-

⁴ This assumption demonstrated evidence not the least through the works of Orientalist scholarship, which was very much interested in historicising and ordering the non-European populations that had entered the radius of European perception and imperial reach.

tion presupposes the existence of clear boundaries between the object of protection and those forces against which it needs to be protected, the discourse of tolerance, she suggests, is systematically implicated in the very creation of these boundaries. It carries the potential to contribute to the essentialization of notions of racial, ethnic, sexual and religious difference: "All otherness is deposited in that which is tolerated, thereby reinscribing the marginalization of the already marginal by reifying and opposing their difference to the normal, the secular, or the neutral" (Brown 2006: 45). Consequently, the empowerment that can be achieved through tolerance remains marked by ambivalence:

[S]ince...tolerance requires that the tolerated refrain from demands or incursions on public or political life that issue from their "difference," the subject of tolerance is tolerated only so long as it does not make a political claim, that is, so long as it lives and practices its 'difference' in a depoliticized or private fashion. (Brown 2006: 46)

Transferring this critical perspective to the question of minority rights helps to explain how the incorporation as minority into a state structure and society may come with a restriction of the right to dissent in the public sphere (Brown 2006: 92). Both tolerance and minority rights always point to their own limits: "The heterosexual profers tolerance to the homosexual, the Christian tolerates the Muslim or Jew, the dominant race tolerates minority races ... each of these only up to a point" (Brown 2006: 186).⁵

Against proponents of multiculturalism, the critiques by Mahmood, Hurd, Cowan and Brown share that they point to how ideas of freedom, equality and tolerance, which undergird minority discourse, can in the political practice contribute to the reaffirmation of difference. I value that criticism and the broader, global perspective that it establishes, although I think that it might not in every instance give enough credit to locally specific contexts and the agency of those involved in

⁵ On the history and semantics of discourses of tolerance in Turkey see Kaya (2013).

the production of minorities and majorities. To sufficiently account for this agency, locally specific parameters and trajectories, as well as specific interests and stakes implicated, need to be considered. The ambivalences that are created in the process of minoritization are the result of a bargain in which rights and recognition are extended to the prize of politicized otherness. The genealogy of the Turkish concept of minority exemplifies this.

From Ottoman Millet to Turkish Minority: Changing Parameters for Politics of Communal Difference

The socio-economic, cultural and political transformations that the Ottoman Empire underwent since the 19th century brought to the fore powerful ideas of nationalism, citizenship and secularism that severely impacted the ways in which ethnic and religious communities were perceived by the State and by each other. Analysing late Ottoman changes in discourses and politics of communal difference, and later republican reverberations of these changes, both locally specific and transnational contexts need to be considered.

Already prior to the Tanzimat reform period, inaugurated in 1839, had the non-Muslims' legal privileges, stipulated by the capitulation treaties between the Ottomans and the European powers, raised questions with regard to their loyalty to the Ottoman state (Akgönül 2013: 69). From the Tanzimat reform period onwards, European interference on behalf of the non-Muslims influenced Ottoman attitudes toward them as well as Ottoman reform policies and contributed to the transformation of the *millet*s (Mahmood 2012: 421-423).⁶ In this period, European states (especially Great Britain and France) positioned themselves as mentors of the Ottoman Chris-

⁶ The term *millet* referred in the Ottoman usage to religious communities with a certain degree of recognition by the empire and autonomy in their internal affairs. This became known as "*millet* system" in Western literature. See van den Boogert (2012), Akgönül (2013: 69-73), Rodrigue (2013: 37-41).

tians. From the European perspective, the success of Ottoman reform was measured not the least by the development of the situation of the non-Muslim Ottoman subjects, in particular the Christians. Ussama Makdisi has described this in terms of religion becoming an important site of the colonial encounter (Makdisi 2000: 3-12). The major Tanzimat declarations themselves had been strongly pushed for by the European powers, even if they also found support among the newly emerging elite of Ottoman bureaucrats. The Tanzimat edict Hatt-ı Şerif from 1839 introduced the idea of equality among all subjects, now made citizens, independent of religion. These notions and basic human and individual civil rights were then formulated more explicitly in the Hatt-ı Hümayun edict from 1856 (Hanioglu 2008: 72-76).

The Tanzimat reforms have to be situated within the context of a perceived need to modernize (that is, to centralize and rationalize government and state institutions) in a period in which the Ottomans realized that their sovereignty was under threat from various directions. In the light of heightened nationalist and separatist sentiments and activities, initially in particular among the Christian subjects of the Balkan parts of the Empire, ethnic and religious differences were increasingly understood as a political problem of international significance – both within the Ottoman state as well as in European public opinion. Matters of religious difference and inter-communal conflict, which used to be resolved on the local and inter-communal level, became thus connected to much larger political contexts (Deringil 2000: 566; see also Becker 2015).⁷

In the following, I would like to outline some crucial moments in the epistemological transformation of ideas about communal difference in the late Ottoman period. Aron Rodrigue has argued that it was in fact only in the modern period that

the Ottomans began to embark on a politics of eradicating difference, based on enlightenment-rooted claims of universal equality and nationalist claims of homogeneity, in the context of which the majority/minority distinction would become relevant (Rodrigue 1995: 83-86). Prior to that period “the Muslim/ non-Muslim relation was *never* formulated in terms of majority/ minority” (Rodrigue 1995: 84). The crucial point is that until the first half of the 19th century Ottoman governance was oriented toward managing difference, not toward creating equality among its multi-ethnic and multi-religious population (Barkey 2008). This mode of governance was legitimated within a sharia framework that privileged the Muslims (*ahl al-islam*) against recognized non-Muslims (*ahl al-dhimma*) (Masters 2001: 18-31; Rodrigue 2013: 37). It found expression in a hierarchical order, institutionalized in a system of a conditional legal pluralism, which allowed, within certain limits, the recognized non-Muslim communities to handle legal issues within their communities autonomously. The Muslims, too, sometimes had choices, for example, with regard to which judge/*qadi* they consulted in a particular matter. This Ottoman system of conditional legal pluralism varied from place to place and from period to period, before modernization of the state apparatus in the 19th century also began to reorder the legal system (see Rubin 2011). As for groups at the margins of the Islamic tradition, the state tended to not interfere in their internal affairs as long as they remained loyal to the central authority.

With important changes already under way since the 18th century, Ottoman reform in the 19th century was a catalyst for the gradual transition of the empire into a modern nation-state (Barkey 2008). Benjamin White suggests understanding the Tanzimat reforms as an attempt of the Ottoman state “to widen its repertoire of legitimating practices” by introducing the principle of representative government in contrast to the earlier imperial system of rule based on dynastic and religious legitimacy alone (White 2012: 29). He points to the connection between

⁷ For a critical discussion of the dynamics of inter-communal violence and how they contributed under pressure of Ottoman and European interests to the formation of majorities and minorities in Mount Lebanon see Makdisi (2000).

the concept of representative government and the gradual formation of a concept of national identity. Only within the semantics of new concepts of citizenship, nationality and national homogeneity as well as the formation of a public sphere could the distinction between majority and minorities make sense (White 2012: 30-36; see also Rodrigue 2013: 42). For the emergence of nationalist politics, the secularization and rationalization of the rights and organizational forms of the non-Muslim *millet*s as part of the Tanzimat reforms played an important role.

The Tanzimat reforms also paved the way for Ottomanism, which emerged in the middle of the century and in 1869 found its legal expression in a new citizenship law (Rodrigue 2013: 40). Şükrü Hanioglu characterized Ottomanism as an “inherently secular ideology” (Hanioglu 2008: 76).⁸ Based on the discourse of religious freedom introduced in the Tanzimat period, Ottomanism was anchored in the idea that all citizens of the empire were equal with regard to rights and duties independent of religious (and implicitly also ethnic) belonging. As a discourse of judicial and political inclusion, Ottomanism appeared, at first sight, to transcend the separation between the *millet*s, which had been one of the building blocks of Ottoman society.⁹ The Greek Orthodox and Armenian *millet*s were, however, interested in maintaining their distinction on religious grounds, which increasingly gained a national colouring. While often supporting Ottomanism politically, they at the same time resisted any levelling of established notions of communal

difference. The formal acknowledgement and specification of their rights, and the demand by the Tanzimat edict of 1856 to inner reform led to internal changes, through which the bourgeois lay classes of the *millet*s were given a more pronounced role in the communities’ organization and representation. In particular, the religious elites of the *millet*s harboured resentment against the secularizing aspects of the Tanzimat reforms and Ottomanism.¹⁰ In effect, the reforms increased ethno-religious consciousness and intensified competition among the religious communities. In this way, they politicized ethno-religious identities and prepared the ground for nationalist discourses (Masters 2001: 133-141; Dressler 2013: 63-66; Rodrigue 2013: 40-41).

The secularization of the *millet*s was an important step in their gradual nationalization, foreshadowing the re-signification of the non-Muslim communities as ethno-religious minorities, defined in juxtaposition to a Turkish-Muslim national subject. Sections of the newly emerging secular elites among the *millet* populations, particular those of the Greek Orthodox and later the Armenians, began to embrace nationalist rhetoric against Ottomanism. Aware of the declining power of the Ottoman state, some of them began to aspire to political independence, a factor that contributed to the inter-communal violence of the late Ottoman Empire, which would reach its peak in the genocidal policies of the Young Turks during World War One.

With the transformation of religious into ethno-national *millet*s, religious boundaries began to turn into national boundaries. Consequently, the nationalized *millet*s/minorities were seen as outside of the Ottoman, and later the Turkish nation. In this context it is significant that

⁸ Similarly, Makdisi speaks of the Tanzimatists’ aim to develop a “secular Ottoman subjecthood” (Makdisi 2000: 11), and Rodrigue describes Ottomanism as a program that aimed to push religion and ethnicity into the realm of the private (Rodrigue 2013: 40).

⁹ It has to be noted, however, “that the Millet System is not the ONLY social framework in which the [O]ttoman society was organized. There are other social structures as geographical hierarchy or professional stratification which cross the Millet system. In other words this system is not a mechanical and pyramidal social classification one” (Akgönül 2013: 65 FN1).

¹⁰ The Muslims, too, were sceptical about the changes in the system of Ottoman rule. Hanioglu claims that “[t]he reconciliation of this new, nondenominational ideological basis of the state with Islam’s traditional centrality in the legitimizing framework of the empire remained the most delicate and challenging issue for the administration until the end of the Ottoman era” (Hanioglu 2008: 74).

the term minority (Ottom. *ekaliyet*)¹¹ was “introduced to the Middle East in the last decades of the nineteenth century by the European Powers, who cited the protection of Ottoman Christians as justification for intervening in Ottoman domestic affairs” (Longva 2012: 4). It began to be widely used concomitant to the policies of demographic engineering that the Ottomans embarked on in the Young Turk period:

En ce qui concerne l’Empire ottoman et l’espace balkanique, la construction des minorités nationales est donc un phénomène historique contemporain de la violence de masse qui s’abat sur les populations considérées comme minoritaires *i.e.* comme non assimilables à la nation. (Sigalas and Toumarkine 2008: §5)

In accordance with such late Ottoman perception, the minorities served within the Turkish minority discourse, which emerged during the Turkish nation-building process, as the others against which the religious and ethnic contours of the nation could be defined. As Mahmood has argued in her discussion of the Egyptian case, “[t]he terms ‘majority’ and ‘minority’ came to serve as a constitutional device for resolving differences that the ideology of nationalism sought to eradicate, eliminate, or assimilate” (Mahmood 2012: 424).

Nation-Building and the Interpellation of Religious Difference in Turkey

The understanding that a “real” Turk is a Muslim forms a core element of Turkish nationalist imaginary. Its roots can be traced back to the formative period of Turkish nation-building in the last decade of the Ottoman Empire (Cagaptay 2006; Baer 2009; Dressler 2013). In the hegemonic narrative, the time span of almost ten years from the Balkan Wars through World War One to the Greco-Turkish War (or Turkish War of Independence) is remembered as a struggle of Turkish (and implicitly Muslim) people against foreign and/or inimical (non-Muslim) forces. This

perceived antagonism played a constitutive role in the formation of the nationalist ideal of ethnic and religious unity and homogeneity. In the nationalist Turkish narrative, the primary “others” are always non-Muslims: inimical outside forces, or enemies from within.¹² The modern Turkish concept of minority (*azınlık*) is intrinsically connected to these ethno-cum-religious others. It is anchored in a mixture of memory and amnesia of inter-communal and political rivalry and violence that has itself become a marker of Turkish identity and motor of nation-building (Akçam 2004).

A foundational document for the Turkish understanding of minority is the post-World War One Treaty of Lausanne (1923), an important section of which deals with the minority problem posed by the dissolution of the empire into nation-states. The treaty replaced the earlier Sèvres Peace Treaty (1920), in which minority rights had been extended to Muslim and non-Muslim groups based on racial, linguistic and religious criteria. Following the Greco-Turkish War, the Lausanne Treaty overwrote the Treaty of Sèvres in recognition of the changed political constellations, which boosted Turkish nationalist claims. Consequently, it neither acknowledged protection of ethnic or language-based minorities, nor protection of religious minorities in general, but only protection of non-Muslim religious minorities (Rodrigue 2013: 42-43). In the articles of the treaty dedicated to the rights of the non-Muslim minorities in Turkey (articles 37 to 44) there is no mention as to which communities should actually be granted the minority status. Interpreting the treaty within a post-Ottoman framework, the Republic of Turkey would grant the minority status only to Greek Orthodox Christians, Armenians and Jews – those communities that had been the most prominent *millets* in the late Ottoman state. Contemporary Turkish minority discourse and policies need to be ana-

¹¹ The Turkish neologism *azınlık* only emerged in the middle of the 20th century (Rodrigue 2013: 42).

¹² In the context of the conflict between the Turkish state and the Kurdish PKK, Turkish nationalist discourse variously depicts the latter as uncircumcised, Zoroastrians, atheists or of Armenian descent (Estukyan 2015).

lysed on the background of this very particular post-Ottoman framework, which, as I will show, puts Turkey at odds with multiculturalist discourse and international human rights conventions.

In its early years, Kemalist nationalism was still ambivalent with regard to the ethnic and religious requirements of Turkish nationhood. Turning away from Islam as the outward marker of the national self, since 1924 territorial and citizenship-based definitions of the nation were promoted. The first Turkish president and mastermind of the Kemalist project, Mustafa Kemal (the later Atatürk), thus declared that “the people of Turkey, who established the Turkish state, are called the Turkish nation” (quoted in Cagaptay 2006: 14). Nevertheless, emblematic of the early republican quest to fix the boundaries of the national body, the question of where to position the non-Muslims in relation to the nation was controversially discussed during the preparations for the 1924 constitution. While some demanded that everyone living in Turkey should be considered Turkish by nationality, the majority tended to side with the position expressed by the prominent nationalist Hamdullah Suphi, who argued that “although they could be citizens, it was not possible to acknowledge Armenians and Jews as Turks unless they abandoned their language, as well as Armenianness and Jewishness” (Cagaptay 2006: 15). This position, which suggests that the concept of Turkish nationhood was not only based on language, but also on some vague notion of religious, ethnic and/or cultural identity, has indirectly found its way into the 1924 constitution. Paragraph 88 of the constitution declared: “The People of Turkey, regardless of religion and race, are Turks as regards citizenship” (transl. Cagaptay 2006: 15).

Distinguishing citizenship from the dominant attributes of nationhood at that time, namely religion and ethnicity/race, the 1924 constitution thus followed the logic of Hamdullah Suphi’s argument.¹³ In this way, all inhabitants of Turkey,

¹³ Akgönül wrongly translates the Turkish term

independent of ethnicity and religion, could, in principle, be Turkish citizens. This civic inclusivism may be regarded as an achievement of the early Kemalist state. However, already in the first years of the republic, many laws and policies were put into place that targeted non-Muslims and revoked certain citizenship rights.¹⁴ In the mid-1920s, the Turkish government pressured the minorities to renounce many of their privileges as granted by the treaty (Cagaptay 2006: 28). Such incursions into the non-Muslims’ rights were justified by their proclaimed otherness from Turkish nationhood. This argument retained the principal differentiation between citizenship and nationhood in theory, while at the same time undermining civil rights based on national difference. From early on, the Kemalists perceived in particular the Christians as “a separate ethno-religious community; citizens outside the body of the Turkish nation” (Cagaptay 2006: 39). Even today, institutions and members of minority communities, although many of them have lived in the country for many centuries and are Turkish citizens, are at times referred to as *yabancı*, “foreigners” – often by state representatives, and in official documents (Başbakanlık İnsan Hakları Danışma Kurulu 2004: 3-5). The position of the recognized minorities in Turkish society has thus remained ambiguous. Legal and political practice shows that minorities have, throughout the history of the Turkish republic,

vatandaşlık (“citizenship”) of the constitutional text as “nationhood”, therefore missing the important differentiation between nationhood and citizenship that was here pronounced (Akgönül 2013: 71). For the original text of the constitution see Türkiye Büyük Millet Meclisi (n.d.).

¹⁴ This involved first of all policies of (de-)naturalization. While it was comparatively easy for Muslim immigrants to obtain Turkish citizenship, local non-Muslims could be denaturalized on various grounds. For example, denaturalization could occur if they could not prove residence in the country during the Greco-Turkish war. Non-Muslims were also discriminated professionally, such as being prohibited from certain professions (this applied to medical doctors, midwives, nurses, maids, chauffeurs, stockbrokers and others) and from government offices (Cagaptay 2006, chap. 4).

been marked¹⁵ and disadvantaged to a degree that their citizen rights were seriously curtailed. Major disputes between the minority communities and the state continue with regard to autonomy in education, ownership of old community properties annexed by the state, representation in and support by state institutions as well as the symbolic recognition of being Turkish nationals – not foreigners with Turkish passport. What is at stake for non-Muslim Turkish citizens is equality in terms of civil and political rights (Oran 2011).

From a comparative perspective, Turkish republicanism remains close to the French model, which emphasizes

equal citizenship with the notion of a common public culture and with the relegation of particular cultural and religious identities to the private sphere. Inevitably the common public culture is aligned in certain respects with the majority culture: it is the majority's language that serves as the common language of the republic; it is the majority's sense of political community that determines the boundaries and internal constitution of the republic; and it is the majority culture that influences the choice of public symbols and norms. (Patten 2014: 3)

This model is at odds with more accommodationist arrangements, such as those institutionalized, for example, in the United States, and with multiculturalism broadly speaking.

Identity Politics since the 1980s

Given the authoritarian approach to matters of identity in the Turkish political tradition, conflicts were bound to occur after identity politics emerged as a major arena of contestation since the late 1980s, when Turkey was confronted with Muslim groups demanding religious (in the case of the Islamist and subsequently also Alevi movements) or ethnic (in the case of the Kurds) freedom. Following the military coup in 1980,

¹⁵ Until recently, Turkish citizens used to have their religion inscribed on their ID cards as Muslim, Christian or Jewish, with no other options available. Only since November 2006 is it possible, upon request, to have the religion entry on the ID card left blank. At the same time, it became possible to have the information on religion in family registers changed. See Commission of the European Communities (2007: 16).

the generals had masterminded a new constitution that increased the state's control over the public sphere, and strengthened Islamic institutions as a bulwark against the left. The left was in the cold-war scenario perceived as the major threat to the sovereignty of a country that was as a NATO member part of the Western hemisphere (Öktem 2011: 58-78). This and a gradual liberalization of the public sphere created, since the mid-1980s, new opportunity spaces for a growing Islamic movement and also contributed to the going public of the heretofore largely invisible Alevi community.¹⁶ However, any claims for recognition of particular ethnic and religious identities challenge the secularist and nationalist conventions of a state and society ideologically geared towards ethno-religious homogeneity.

Global political changes were conducive to the re-emergence of ethnicity and religion based identity politics. The end of the Cold War and the dissolution of the Warsaw Pact, through which new nation-states came into being, prepared the ground for a new politics of recognition. Notions of authenticity and cultural diversity now received a public re-evaluation reflected in international discourses demanding recognition of difference and minority rights – the latter had lost political momentum in the aftermath of World War Two (Taylor 1994; Cowan 2001: 153 and 156; Mahmood 2012: 427-428). While earlier human rights discourse had been based on a “presumed congruence of state membership, individual rights and national identity” (Koenig 2007: 96), after 1989 the increasing specification of minority rights through international organizations came along, within the framework of multiculturalism, with the recognition of minorities as collective identities, independent of citizenship and nationality (Koenig 2007: 106-107).

The global resurgence of religion as a legitimate ground for public engagement and, more generally, as a factor in the new rise of identity

¹⁶ For the history of the Islamist movement see Yavuz (2005); for the emergence of the Alevi movement see Massicard (2012).

politics was strongly felt in Turkey and began to influence public sentiments and discourses (Akgönül 2013: 86-87). As part of this development, the language of religious freedom, originally directed against the authoritarian mainstream interpretation of Turkish laicism, has, since the 1990s, powerfully entered political discourses in and about Turkey (Dressler 2010). Turkish reactions to reports of various human rights organizations, and the annual reports of the EU Commission monitoring Turkey's progress toward fulfilling the criteria for EU membership, bear witness to how the minority question re-emerged as an issue that connected highly sensitive topics, including the question of state sovereignty, the question of national identity and the question of the legitimacy of communal difference. These reactions show that the Turkish concept of minority is incompatible with the much broader definition of minority and minority rights in international human rights discourse (see Akpınarlı and Scherzberg 2013).

While the minority question gained new significance in international human rights discourse, and Turkish minorities (according to the terms of international minority language) in fact adopted the rhetoric of this discourse, using the term for Muslim communities has remained a taboo. Whenever international organizations or prominent politicians label as minorities Muslim ethnic or religious groups in Turkey, this produces a nationalist reflex denying the applicability of that term to groups considered by the dominant national discourse as part of the nation. For example, the 2004 annual report by the European Commission documenting Turkey's progress in fulfilling membership criteria admonished that "Alevi are still not recognized as a Muslim minority" (Commission of the European Communities 2004: 166). This created furious reactions in the Turkish public and among Alevi themselves, united in their rejection of the application of the term minority to the Alevi. The two main arguments put forth were legal and political: First, Lausanne had restricted the application of minority rights to non-Muslim religious commu-

nities. Accordingly, since the Alevi were Muslim, even if not Sunni, they could not be a minority. Second, the Alevi would be "original elements" (*asli unsur*) of the Turkish nation-state and therefore not a minority (implying that minorities are not founding members of the state). The same report also discussed aspects of the Kurdish issue under the term minority rights (Commission of the European Communities 2004: 18). And the Kurds, too, were quick to reject the minority label, much like the Alevi arguing that they belonged to the majority – understood as the majority of Muslims who had built the nation.¹⁷

As these examples illustrate, communities of nominal Muslims that have clear social boundaries based on either religious or ethnic criteria (such as Alevi, Alawis, Kurds and Arabs) normally refrain from using the term *azınlık* in their inner-Turkish struggle for rights and recognition, even if they are aware that their engagement in politics of recognition is in congruence with international minority discourse.¹⁸ In their responses to the EU Commission's 2004 report, both Alevi and Kurds indirectly drew on Islam as a boundary marker of the nation (Dressler 2014: 146-153). Within their reasoning, being non-Muslim turned into an argument for exclusion. The experience of an acquaintance of mine who belongs to the Sephardic Jewish community in Istanbul aptly illustrates this point: She has a secular lifestyle and keeps only remote relations to the local activities of the Jewish community. Though she makes clear that she sees herself as Turkish, even if her Jewish background is part of her social and cultural identity, she nevertheless is regularly confronted by acquaintances in Istanbul, by fellow residents from her conservative and nationalist Turkish neighbourhood, and when traveling in Turkey with questions such as "How is it that you don't have an Israeli passport?" and "How can you identify yourself as Turkish if

¹⁷ For a more detailed discussion of the contestation around the Alevi' and Kurds' minority status see Dressler (2014), also Akgönül (2013: 87-90).

¹⁸ For a stark example of this from the Alevi case see Dressler (2014: 152).

you are Jewish?”¹⁹ Similar experiences have been recorded by Esra Özyürek, who observed that Turkish Christians, often accused by nationalist discourse of being disloyal to the state as well as the nation, and pursuing hidden agendas, tend to firmly and often emphatically emphasize their Turkishness (Özyürek 2009: 410). It is also interesting to see that Turkish converts from Islam to Christianity do not aspire to the minority label. They instead tend to emphasize their Turkishness, which they understand would be challenged by the minority status (Özyürek 2009: 411-412).

Alevis fear to be excluded from the nation, as well. Their responses to the debate on their minority status, which furthered suspicions as to their loyalty to the Turkish nation-state, clearly demonstrated this. Aware of the negative connotations of the term minority in Turkish nationalist discourse, most Alevis rejected the category. The example shows how awkwardly Turkish minority discourse relates to the universalist claims of international discourses of human rights and religious freedom. Due to the negative connotations of the concept of minority/*azınlık*, it is not a useful tool for the Alevis to fight the discrimination they complain of in their public campaigns.²⁰ But there is an even more principal problem with the impact of liberal discourses of equality and religious freedom on Turkish religion politics. Hurd has argued that in addition to Turkish state institutions' negative responses to the Alevi demand

of being recognized as legitimately different from Sunni Islam, the international human rights based response to the Alevi demands

formalizes and entrenches forms of social and religious difference...[and] also limits the spaces in which Alevis can individually and collectively articulate alternative forms of subjectivity, agency, and community. It stabilizes Alevi collective identity in *religious* terms, fixes its relationship to Sunni tradition, and reinforces a conventional Turkish statist approach to governing religion. (Hurd 2014: 4)

I have argued above that the Western interest in the minorities' situation has historically been implicated in the minority problem in Turkey. From the nationalist Turkish perspective, international discourses and politics of equality and religious freedom are not neutral, but carry biases and hidden agendas. This is evidenced by the fact that outside supervision in a context of unequal power relations is quickly perceived as undue interference in the internal affairs of the country, igniting national sensibilities that reinforce the nationalist interpretation of the minority concept, in which the Alevis themselves partake. Similar dynamics have been analysed by Mahmood in her discussion of the situation of the Copts in Egypt, and their conflicted relation to the minority question. As Mahmood shows, the dominant position of the Copts, until rather recently, was to reject the minority label since they regarded it as part of a European and (historically mainly British) attempt to increase political influence at the expense of national sovereignty. Considering themselves Egyptian nationals first, the Copts perceived the minority label as an imperialist act of protectionism. For them, loyalty to the Egyptian nation-state used to be more important than emphasizing their religious difference from the Muslim majority (Mahmood 2012). The examples of the Egyptian Copts and the Turkish Alevis point to the fact that – something easily forgotten when positioning social groups within seemingly antagonistic vectors of identity politics – “minorities share many cultural values and practices with the majorities. They are as much part of the local societies as

¹⁹ Personal communication and email exchange (August 2014).

²⁰ Alevis complain that in Turkey, only Sunni Muslim institutions receive state support, with religious services concerning Islamic education and practice being controlled and financed by the state. State institutions consider Alevis a Muslim subgroup and thus not eligible for any extra subventions. In this context the most contested issue is the status of their places for ritual assembly, the *cemevi*, which is (unlike mosques, churches and synagogues) not recognized as place of worship and therefore not financially supported by the state. Alevis further have been battling the mandatory religious education in school, which shows biases against Alevism. They also complain everyday discriminatory practices due to their alleged heresy from the traditional Sunni Muslim viewpoint. See, e.g., Massicard (2012).

the majorities” (Longva 2012: 4). Longva therefore cautions not to reduce minority discourse to a discourse of victimization, and to pay attention to the agency of both majorities and minorities (Longva 2012: 3-4).

Secularism, Politics of Doxa and Minority Discourse

Following the destruction of the Ottoman Empire and the formation of the Turkish nation-state, Turkish secularism (*laiklik*) established nearly total control over the political and public roles of religion. Connecting the legitimacy of religion with the question of state sovereignty, religion was politicized in a new and confrontational way. The Kemalists were not only convinced that religion was a threat to the sovereignty of the state, but regarded it an obstacle on the way to modernization. Nevertheless, the semantics of Turkish secularism and nationalism has retained religious biases, through which hierarchies between different religious traditions continue to be reified.

In the following pages I employ the term “politics of doxa” to foreground how matters of religious difference become part of public and political contestations. In doing so, I follow Bourdieu’s conception of the religious field as organized by unequal power relations embedded in broader structures of domination, to which it responds. As for the politics of doxa in this field, I am sympathetic to Bourdieu’s assertion that “a system of practices and beliefs is made to appear as *magic* or *sorcery*, an inferior religion, whenever it occupies a dominated position in the structure of relations of symbolic power” (Bourdieu 1991: 12). At the same time, I would not endorse the extent of autonomy that Bourdieu’s concept of the religious field suggests, and neither the functionalist understanding of religion that it is tied into. Challenging the assumption of the religious field having gained a large degree of autonomy in structurally differentiated societies, there is manifold evidence that puts doubt on the extent of the differentiation of religion from other spheres in the modern context, rather suggesting the con-

tinuous implication of religion in society, politics and the legal sphere (Asad 2006: 208-209). Secularist regimes themselves, as the Turkish case shows most clearly, are often directly implicated in the reification of religious knowledge (Dressler 2011).

Inquiry into politics of doxa offers an interesting angle on the implication of secularism in the regulation of religious difference in modern states. But as the dynamics of Turkish minority discourse demonstrate, analysis of Turkish politics of doxa needs to also take into account the work of nationalism. Together, these two knowledge regimes, and the norms and practices they regulate in the public sphere, normalize a Sunni-Muslim Turkish ideal as fulcrum of national identity formation. Since the Turkish minority concept is based on a rationale of religious difference, the question as to whether and how a group relates to Islam is of immediate relevance for the identification of majorities and minorities. Within this semantics, the issue of “Muslim minorities” is a non-issue since Muslims are by definition majority, as discussed above. This does not, of course, mean that groups considered by the hegemonic political discourse as Turkish, but still carrying ethnic or religious particularities that distinguish them from the Sunni-Muslim Turkish mainstream, could not be subject to a politics of minoritization. The way in which Alevi are represented as different from Sunni Muslims is a case in point (see, for example, Dressler 2011).

To further work out the ambivalences created by Turkish minority discourse, I would like to point to the parallels and differences between minority politics and politics of doxa, which establishes orthodoxies and heterodoxies. Both politics express unequal power relations. Minorities are not necessarily minorities in a numerical sense, and heterodox groups are heterodox not due to particular doctrines that they uphold, but due to their subordinate position in a particular religio-political field. It is such subordination through which both minorities and heterodoxies, and by default also majorities and orthodoxies, are established, evidenced and maintained. In

the Turkish context, both minority politics and politics of doxa need to be analysed against the backdrop of the homogenizing aims of secular nationalism, which regards difference as a problem to overcome. The differences between the two politics are, however, significant. In Turkey, minority discourse establishes the boundaries of the nation, whereas politics of doxa are concerned with defining and legitimating the dominant theologico-political position within Islam. For the Alevis, the two politics pull in different directions. On one side, the nationalist perspective declares that the Alevis as Turks and Muslims cannot be a minority. On the other side, the religio-political discourse continues to perceive the Alevis through their religious otherness (rationalized as heterodoxy) that keeps their integration into the nation incomplete and makes full social and political integration impossible. They are thus left in a state of ambiguity with regard to their place within Turkish nationhood.²¹ The ensuing enigma for the Alevis cannot, in my opinion, be resolved within a framework of a secularist-nationalist knowledge regime that is bound to the inscription of ethnic and religious identities. The predicament of the Alevis as well as other groups othered from the perspective of the hegemonic national subject could only be overcome through a concept of citizenship that subverts the reigning politics of doxa, as well as ethno-religious distinctions, allowing instead for a pluralism that does not – drawing on registers of communal difference, such as religion, ethnicity and culture – create hierarchies with regard to citizenship and nationality.²² But this would require a post-nationalist framework, which from today's view seems rather utopian (cf. Kadioglu 2007).

²¹ For an analysis of how Turkish Alevism has been rendered "heterodox" by academic discourses akin to Turkish nationalism see Dressler (2013: esp. chapters 5 and 6; 2015).

²² Kabir Tambar has in a recent book addressed the tension between the promise of pluralism and the nationalist goal of unity and homogeneity intrinsic to the Turkish nation-state project (Tambar 2014).

There are other aspects in which politics of minoritization differ from politics of doxa. As a legal status, minority always comes with recognition of difference and generally with certain rights tied to that recognition. Nevertheless, minorities (as in the Turkish case) may not be considered as fully part of the nation, and their members may therefore be subject to restricted citizenship rights. By contrast, in the context of the modern state, groups that are othered through particular politics of doxa are not automatically excluded from the nation. In Turkey, the attribution of heterodoxy to the Alevis does not *necessarily* impinge on their standing within the Turkish nation, especially within a nationalist discourse that locates the roots of Alevi religious difference in pre-Islamic Turkish shamanism (Dressler 2013). Nevertheless, integration of the Alevis into Turkish nationhood in practice appears to be incomplete since the religious difference of the Alevis can always be used to marginalize their position within the nation.

While minority is a juridico-political term, while notions of orthodoxy and heterodoxy are situated firstly in theological and scholarly discourses that do, as such, not directly impact on matters of legal or political status, but are first of all devices of symbolic othering.²³ The term heterodoxy has its origins in Christian apologetics, from whence it evolved as a concept in the study of religion that qualifies religious beliefs within a particular tradition as secondary – either, when the term is used in a dogmatic manner, indicating deviation from a particular "main" tradition, or when it is used in an interactional manner, as a subordinated religious interpretation within a particular religious discourse. I argue that it is exactly this haziness of the concept, carrying the potential of being employed in both descriptive and normative ways without always distinguishing between the two, that makes it such a

²³ Of course, as Bourdieu argues in his analysis of the religious field, we need to acknowledge that politics of doxa are embedded in broader dynamics of social and political control and therefore never unpolitical (Bourdieu 1991).

powerful means in the hands of those who use it as device to explain, reify and regulate inner-religious difference. A similar dynamic between alleged neutrality and more or less explicit normativity is characteristic also for liberal rhetoric that undergirds minority discourse. Equality and freedom are key principles of liberalism with claims of universal validity and interpolate minority discourse as a rights discourse. At the same time, the legal and political reification of groups as minorities reifies their difference and puts a normatively grounded doubt to more open-ended approaches to diversity.

Both politics of minoritization as well as politics of doxa keep the groups subjected to it in a state of ambivalence – be it with regard to their belonging to the nation, or with regard to their belonging to a religious tradition. They both need to be analysed against the backdrop of the homogenizing aims of secular nation-states, in which difference is constituted as a problem that needs to be dealt with either by minimizing it, as in the Turkish assimilationist approach, or, as in the liberal approach, by addressing it through postulates of equality or pluralism. Nations by their very nature feel a need to monitor the boundaries of the grounds of nationhood, and secular states are interested in defining and controlling the role of religion in the public. These two interests are not unrelated. Privileges for particular religions are justified, often tacitly, through assumed historical and cultural bonds to the nation. Accordingly, other religions, or religious interpretations within the same religious tradition, are discriminated against with references to demands of national unity. The web of hierarchies and domination spun in this way is organized by nationalist and religio-secularist semantics through which (acquired or, allegedly, primordial) cultural, as well as religious differences (and claims of sameness) are constantly reified. In the process, subordinate ethnic and religious groups are transformed into minorities, and subordinate religious interpretations within larger religious traditions are rendered heterodox.

Conclusion

I have argued in this essay that contemporary developments, both local and global, need to be considered when assessing the recent Turkish debate over matters of religious difference in general, and the concept of minority in particular. International minority discourse has, since the late 1980s, been increasingly employed by minoritized Turkish communities in their struggle for recognition and equal rights. At the same time, the notion of minority itself has maintained its specific vernacular meaning, which is incompatible with international human rights discourse, and is therefore usually avoided. This creates confusion among more distant observers, not familiar with the intricacies of the Turkish case, and raises interesting questions with regard to the problem of translating internationally operating, flattened discourses into national contexts, shaped by particular and complex experiences and knowledges.

The Turkish example shows clearly that minority discourse should not be naively understood as a liberating or emancipatory discourse that as such empowers groups marginalized due to their ethnicity or religion. Liberal discourses on equality and religious freedom in general, and secularist regimes in particular, can contribute to the reification of religious boundaries, thus fostering the religionization of differences between socio-cultural communities. In this way, they create ambivalent positions for those who fall through the dominant rasters through which national subjects are defined.

I have emphasized that certain dynamics central to the reification of collective identities and boundaries in Turkey are the result of specific historical trajectories. In the late Ottoman context, ethno-religious plurality was not based on an ideal of tolerance or equality as claimed by neo-Ottoman nostalgias. Rather, the Ottomans took differences and hierarchies between religious communities for granted and were interested in how to manage them. Gradually, with the transformation of religious *millet*s into proto-national *millet*s, religious boundaries became national

boundaries, and *millet*s were reconstituted as religious minorities and national others. In this way, the non-Muslim *millet*s, which constituted an organic part of Ottomanism, were rendered into internal others of the Turkish nation. Due to the hegemonic memorization of the political dynamics of the late Ottoman Empire, which gives evidence to very specific claims of national and religious sameness/difference and justifies politics of inclusion/exclusion based on these claims, the citizenship rights of the non-Muslims remained contested from the beginning of the Turkish republic until today.

As a consequence of the secularization of Turkish state and society since the late Ottoman Empire, the public role of religion has changed considerably. While previously the major public and social function of religion was to define and supervise licit behaviour and practices in public spaces and to organize communal boundaries, religion now, within the semantics of secular nationalism, was transformed into a source of social morals and national belonging. Whereas Islam was, in the Ottoman Empire, not of major importance for aligning the subjects of the sultan-caliph under Ottoman leadership, in the last three decades of the Empire and then in the Turkish republic, religion has been linked to notions of nationhood and citizenship in new and distinctively modern ways. As a result, the modern Turkish subject, atheist or pious, is defined not only by secular-national, but also by religious belonging, which has remained the main marker of difference/sameness for the social boundaries of Turkish nationhood.

Within Turkish nationalism, minority discourse is an important site for the production of a homogeneous Muslim nation that excludes the non-Muslims. Contrary to the egalitarian promise of the secular nation-state and the promises associated with the minority concept in international human rights discourse, Turkish minority politics created a two-tier model of citizenship, marked by constantly reified ethno-religious boundaries. Historically, the nationalist fixation on ethnic and religious homogeneity worked toward the

Turkification of the non-Turkish Muslim (e.g., the Kurds), and the Sunnification of the non-Sunni Muslim population (e.g., the Alevi)s, respectively. Any further investigation into Turkish minority politics will need to consider this boundary work in light of both local historical trajectories and knowledges tied into these, as well as the impact of international politics and discourses.

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Toleration of Religious Diversity in a Small Island State*

by MARY DARMANIN (University of Malta)

Abstract

This article explores individual and institutional discursive regimes of toleration in Malta, a small new 'host' EU member state with a Roman Catholic ethnic religion. With new immigrant populations, Maltese schools have become reluctant sites of multiculturalism. The state is currently under pressure to move from toleration to accommodation and formal equality. However, Maltese Catholic nationals respond to religious 'Others' with different classes of tolerance, sometimes even with intolerance. This lack of acceptance by Catholic nationals raises specific political dilemmas for institutional actors, which will be discussed in relation to the provision of religious education in schools. Given this context, the article asks, what processes could lead to participative equality in reluctant sites of multiculturalism? Taking a pragmatic approach, sensitive to context and temporality with regard to discourses of toleration, this article argues that tolerance, especially democratic institutional pluralism that supports respectful engagement with and participation of religious 'Others' in public institutions, creates spaces for social relationships and social bonds to flourish between majority and minority citizens. These bonds are required to achieve 'deep equality'.

Keywords: toleration, religious recognition, democratic institutional pluralism, ethnicity, Malta

Introduction

This article explores the classes of toleration expressed to the religious 'Other' on the Mediterranean island of Malta, the EU's smallest new 'host' member state. Malta's Roman Catholicism presents as an ethnic religion with a strong, though increasingly challenged, monoculturalism. With new immigrant populations, Maltese schools have become reluctant sites of multiculturalism that have not, to date, achieved the toleration

and accommodation of multiculturalism, understood as a political project of formal equality and acceptance of multiple differences (Modood and Dobbernack 2013). The state is under pressure from different interest groups to move from toleration to accommodation, respect, recognition and formal equality; yet Maltese majority-religion nationals respond to religious 'Others' with minimalist tolerance or even with intolerance. This lack of acceptance by the majority-religion nationals raises specific political dilemmas for institutional actors, which will be discussed in relation to the provision of religious education in schools. The article reviews recent work on tolerance that argues that in specific contexts, toleration may better achieve respect, recognition and accommodation as well as participative equal-

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ity for religious minorities than formal equality. Institutional actors act within contexts of competing discourses and claims made by groups, as well as by individual actors of the majority-religion. Discourses of toleration are explored through in-depth interviews. The regimes of toleration (Forst 2009; McKinnon 2009) and classes of acceptance (Dobbernack and Modood 2013) that Malta's institutional and individual actors adopt regarding the religious 'Other' will be studied in response to these actors' own interest in moving to institutional pluralism and accommodation of religious and non-believing minorities or, conversely, in retaining the status quo in religious education. The present 'settlement' offers an 'Ethics Education' [hereafter EE] curriculum to those who, under the Constitution 'conscience and freedom of religion' clause¹, 'opt out' of Catholic Religious Education [hereafter CRE]. The Minister for Education and Employment subcontracted the drafting of the new EE Programme curriculum to a small group composed of philosophers of education from the University of Malta as well as specialized teachers². Recently, the Imam³ and a representative of the Humanist Association of Malta were invited to contribute to a seminar on the proposed syllabus⁴. This is the first, crucial phase of planning for cultural pluralism in schools which indicates, however, that the opportunity to engage religious and non-believing Others on a participative equality basis has been lost. This article asks whether this

minimalist tolerance (Dobbernack and Modood 2012), though currently inhibitive of democratic institutional pluralism (Bader 2003), may, given the religious majority's attitudes of in/toleration, secure more stable forms of cultural pluralism and participative equality in the near future. The article adopts a case-specific, problem-oriented approach (Lægaard 2013) to contextualised theories of morality (Bader 2003: 132), which emphasizes that 'the context in which the question of toleration between citizens arises is a context of justice' (Forst 2009: 76).

The Malta context

In Malta, as with other new 'host' countries bordering the Mediterranean (Triandafyllidou 2013), the attachment to an ethno-religious national identity is pervasive though not monolithic. Research based on successive European Values Survey [EVS] studies (Siegers 2010: 18) has consistently placed Malta high on both the 'religious belonging' index and on 'religious believing'; however, 'a shift towards a stronger emphasis of religious individualism' is noted. The fourth wave EVS reports that 97.6% of the population state they are Catholic, such that Malta's Secretariat for Catechesis (2008: 14) holds 'one can hardly speak of religious pluralism'. Malta's ethno-religious identity has been challenged by forms of state secularism (Darmanin 1978) and the secularisation of society with a decline in religiosity, but not belief (Abela 1993). The 2005⁵ Sunday Mass Census (Discern 2006) found that 52% of the Maltese Catholics attend mass (compared to 63.4% in 1995, 75.1% in 1982). The passing of the 'yes' vote with a 53% majority in the Divorce Referendum of 2012⁶ is one indication of this change. Non-belief, religious indifference and secularism are all threats to a unitary ethno-religious identity. A strong attachment to this identity is a response to secularism as much as it is to influx of new immigrant religious Others. In comparing it to Europe, Martin (2011: 93) calls

¹ Article 40, Sub-article 2 of The Constitution of Malta. <http://www.constitution.org/cons/malta/chapt0.pdf>

² The scholars are from the field of Philosophy of Education and include a respected self-identifying Humanist. The process started in 2013; the first classes were phased in as of 2014.

³ There is currently only one Imam in Malta. He has diplomatic status. He is regarded as the 'natural' leader of Muslims in Malta, although other Muslim groups are active which are not under his religious leadership.

⁴ 'Introducing Ethics Education in Schools.' Seminar jointly organised by the Ministry for Education and Employment, the Directorate for Quality and Standards in Education and the Faculty of Education, 25th January 2014. Blata l-Bajda, Malta. http://www.um.edu.mt/educ/educstudies/ethics_education

⁵ To date no other Sunday Mass Attendance Census has been commissioned.

⁶ Act XIV of 2011

Malta 'a resistant niche' to secularisation. The attachment to the Catholic faith is matched by an attachment to the family, marked by a 'religious familism' (Edgell 2006).

The religious Other has, in successive periods, included Muslims and Jews (Wettinger 1985, 1986), British and local Protestants as well as the supposed anti-clericalists of the early 1920s (Frendo⁷ 1979) and of the 1950s, in which the political movement militating for the separation of church and State was construed as anti-Catholic rather than anti-clerical (Darmanin 1978). The effects of the politico-religious *debacle* in the 1960s and 1970s produced 'a dismantled church – a religious people' (Koster 1984: 244). The process of 'dismantling' the Church occurred not least because of the internal differentiation within it, with the growth of Pentecostal groups such as Charismatic Renewal (Theuma 2001); a fragmentation which still provokes a fear of Others such as Jehovah's Witnesses, who are seen to contribute further to this 'dismantling'. Faced with 'unchurching' (Casanova 1994) and with conversions to Islam (Woolner 2002), both forms of defection, religiously-inclined Maltese Catholics have responded to these signs of modernity through 'pervasive nostalgia, or sensitivity to the historical' which have not only characterised 'the nineties' as Mitchell (2002: 6) argues, but which are prevalent in the present response to immigrant religious Others.

The Roman Catholic religion is constitutionally established as the religion of Malta, which, together with specific agreements with the Holy See and the local Episcopal Conference, obliges the state to provide Catholic RE in all schools where Catholic pupils attend (Darmanin 2013a). Moreover, the ethos of the state as well as of the government-dependent Catholic Church and most independent schools is predominantly Roman Catholic (Darmanin 2013b). This may be seen as denying non-Catholic pupils and their parents the right of freedom of conscience, despite supposed provisions for 'opting-out' of

CRE. There has been a steady increase in the proportion of children 'opting out' of CRE in the last twenty years or so. In 1991, 0.8% of pupils opted out of CRE in state schools (Vella 1992); in 2009⁸, 2.4% (or 876) did not follow CRE, whilst in 2013 this increased to 1,017⁹ or 3.7% of pupils in the state sector. There are no available statistics for 'opt out' in the government-dependent Church or in the Independent sector¹⁰. The current situation perpetuates a context of institutional monism and acts as an obstacle to cultural pluralism. The current National Curriculum Framework (Ministry of Education, Employment and the Family 2011) continues to accord curricular privilege to a Catholic Religious Education.

Minority religion leaders have themselves until recently been loath to articulate public demands for formal equality. Leaders of the Muslim community such as the Imam, as well as the leader of Ahmadiyya Muslim Jamaat, discursively articulate deference to the Catholic majority culture. For example, whilst conceding that online blogs are replete with Islamophobic comments, especially since the recent beheadings of non-Muslims by ISIS, the Imam downplayed these slurs against Muslims as penned 'by uneducated people'. He calls the Maltese 'a tolerant and peaceful people'¹¹. The president of Ahmadiyya Muslim Jamaat calls¹² on Muslims in Malta to

⁸ Parliamentary Question 11995 of 2009, House of Representatives, Valletta, Malta

⁹ Reported in Maltatoday, 12th May 2013, 56

¹⁰ In 2007 (National Statistics Office 2011), the mandatory age pupil sector share of the three schools sectors was 62% in State schools, 26% in Church schools and 12% in Independent schools. At the same time the State school sector received 46.5%, the Church school sector 8% and the Independent Schools sector 45% of all immigrant children in school. In 2011-2012 the sector share of all pupils was 57.6% for the State sector, 31.2% for the Church and 11% for the Independent sector (National Statistics Office 2014c). There are no official data on religious belonging across the three school sectors.

¹¹ As reported in the Times of Malta, 29th August, 2014. "Lack of Education Fuels Sense of Islamophobia".

¹² Reported in the Sunday Times of Malta, 21st September 2014 (Independence Day). "Muslims in Malta Have a Religious Duty to Love Island".

⁷ Frendo (1979: 74) dates the 'politics of religion' to a political meeting held in 1893.

express their 'religious duty to love the island'; he reiterates the discourse of Malta as, ethnically, 'a Catholic country'. This religious minority is trying to avoid the 'backlash' of the supposed 'principled intolerance' (Dobbernack and Modood 2013: 2) or European Islamophobia of our times by downplaying demands for formal equality. The Imam has taken a position that supports religious segregation through faith-based schools, and he has worked to secure state aid¹³ for the Muslim school attached to the Mosque he leads. Despite the aid, many parents of Muslim children cannot afford the fees for this independent faith-school. More recently, the Imam commented that if parents of Muslim children become unhappy with the EE programme, a claim in favour of an Islamic Studies programme in state schools would be made. The demand for an Islamic Studies curriculum in state schools was raised in the seminar¹⁴ that introduced the new EE programme as well as during an Interfaith Forum meeting¹⁵. Both of these were closed meetings, reported through press releases; however, one meeting was held under the auspices of the office of the Ministry for Education and Employment and the other under the auspices of the President's Foundation for the Wellbeing of Society. They were both reported in the press¹⁶. The question of the imposition of CRE and of the lack of a faith education for children of minority faiths has, to date, been raised exclusively by leaders of the Muslim community¹⁷, which is also the largest minor-

ity religion group. NGOs working in the field of human rights and of immigration have repeatedly and vociferously drawn attention to this lack of formal equality of Muslims in Malta (Camilleri and Falzon 2014; Aditus 2014).

The old and new 'Others'

Currently, and despite its long 'human history' (Abulafia 2011), the Mediterranean is seeing an unprecedented movement of persons, the majority of whom are, by virtue of their legal status, of religious or ethnic and/or visible difference, presenting as 'Other' to the 'new' 'host' receiving countries (Jordan, Stråth and Triandafyllidou 2003). Although Malta has developed demographically and culturally through successive waves of immigration, its Europeanisation during in the medieval period (Wettinger 1993), its 'repudiation' of its Islamic past (Borg and Mayo 2006:154) and its struggle to refuse the *Protestant* British colonising domination prior to becoming independent in 1964, have contributed to its adoption of Roman Catholicism as an ethno-religion of a collectivistic type (Jakelić 2010). During key moments in Malta's recent past, such as its accession to the EU, Roman Catholicism has been politically instrumentalised (Baldacchino 2009). On the one hand, arguments in favour of accession constructed the Maltese as quintessentially European by virtue of their Christianity and their perceived 'visible difference', in particular to North African Muslims (Baldacchino 2009). On the other hand, concerns regarding the secularisation of Europe transformed religiously fervent Maltese into 'ambivalent Europeans' (Mitchell 2002). Baldacchino (2009: 153) contentiously argues that *not* having 'championed' anti-colonialism nor resisted previous occupations (except the Napoleonic) nor developed a cohesive national

¹³ During the Libyan 'crisis' a loan of €400,000 was given; a promise to clear this debt was made by both Government and Opposition during the 2013 general election campaign. Upon election, the new Labour government agreed to fund the school to the tune of €300,000 annually (Ministry for Finance, 2013). It is now becoming as populated by Third Country Nationals such as wealthier Muslims from Libya and Syria as by Maltese Muslims.

¹⁴ See footnote 5.

¹⁵ The Interfaith Forum of the President's Foundation for the Wellbeing of Society, consultation meeting with the Muslim community, 9th October 2014.

¹⁶ <http://ahmadiyyamalta.org/2015/02/06/president-presided-over-interfaith-forum/>

¹⁷ The Interfaith Forum of the President's Foundation for the Wellbeing of Society, under the chair of Profes-

sor M. Zammit, has held consultation meetings with the Jewish; the Anglican; the Georgian, Romanian, Russian, Serbian and Ukrainian Orthodox; the African Orthodox; the Coptic Orthodox; the Unification Movement; the Redeemed Christian Church of God communities as well as the Malta Humanist Association.

identity, Malta may be considered a 'nationless state' in which the Roman Catholic Church 'takes on symbolic powers of national representation'.

At the same time that Malta's 2004 accession to the EU opened its borders to mobile Europeans, it became, and still is, the centre of the human tragedy of mass (undocumented) immigration in the Mediterranean. The Maltese expressed anxieties related to new competition in its small labour market, as well as to unsustainable demographic and social welfare pressures in the pre-accession period (Mitchell 2002; Baldacchino 2009). With the new waves of undocumented immigration, arrivals make Malta's responsibility share relative to size, including costs relative to its GDP, the highest in the EU (Thielemann, Williams and Boswell 2010). Objective factors such as 'fixed' and 'economic' size combine with 'perceptual size' (Thorhallsson 2006) to make 'smallness' Malta's dominant trope both in its policy responses and in individual attitudes to immigrant Others (Darmanin 2013a). A number of studies report persistent intolerance and racism (National Commission for the Promotion of Equality 2011; European Network Against Racism 2013).

Demographic statistics show that 94.1% of Malta's population of 425,384 is composed of Maltese persons (National Statistic Office 2014a)¹⁸. According to the Imam's estimate¹⁹ in 2009, 1.2% of the population were Muslim, whilst in 2013 this rose to 1.44% of the population (6,000 persons) (Zammit 2009, 2014). This excludes the recent influx of refugees from Libya and Syria. Of the 6% non-Maltese residents, the absolute number of EU national immigrants (3,143) is roughly equal to that of Third Country Nationals (3,418)²⁰. Compared to the immigrant

populations of other EU countries, this proportion is small but subjectively perceived as large (Darmanin 2013a). To this immigrant population we should add the undocumented immigrants who move in and out of Malta with some frequency. In 2013 (National Statistics Office 2014b) a 6.2% increase in arrivals of undocumented immigrants was recorded. That so many objections to the 'Otherness' of this small but visibly and culturally different minority are raised would suggest, *contra* Baldacchino (2009), that Malta does indeed have a national identity which it jealously protects, and which, in its (oft-times racist) intolerance or minimalist toleration, serves as an obstacle to multiculturalism as a political project of both formal and substantive 'deep' equality (Beaman 2011).

A theoretical framework

Recent discussions of how states respond to the global movement of persons, especially of those immigrants who are seen as religious 'Others' or whose 'cultural difference' raises 'new anxieties' (Dobbernack and Modood 2013:1), has led to a more positive assessment of the concept of tolerance than critical theorists would admit. While Brown's (2008: 5) monumental critique of liberalism's tolerance discourses and their 'governmental and regulatory functions' is incontrovertible, if we do not engage with the productive elements of what Lægaard (2010: 29) calls 'positive tolerance', we are left without political and personal responses to religious Others, given that formal equality is also suspect (and rarely forthcoming). Notwithstanding Brown's (2008: 46) insight into how tolerance discourses 'convert the effects of inequality' into cases of 'different patterns and beliefs', this article argues that insights from pragmatic, 'intellectualist' and sensorial orientations to tolerance provide a political, not depoliticized, path to participate equality, a condition necessary for substantive 'deep' equality to be achieved.

Although Europe denies that it exercises a racism based on visible difference, cultural racism allows even political or academic elites to

¹⁸ Asylum seekers who have been granted refugee, subsidiary or humanitarian protection are included in this total population; however, those living in Open Centres or in Detention are not.

¹⁹ None of the national Censuses of Population to date have recorded data on religious affiliation.

²⁰ Some of whom may be asylum seekers and refugees whilst others are from the US, Canada, the Philippines and 'Third countries'.

intolerantly reject multiculturalism and cultural pluralism from a position of 'muscular liberalism' (Dobbernack and Modood 2013: 3). Dobbernack and Modood (2013: 9), among others, argue that 'there is a practical concern to safeguard a prudent minimalism against an illiberal or extra-liberal perfectionism' which is often camouflaged in some versions of the politics of recognition. Lægaard (2010: 29) defines 'positive toleration' as a 'positive engagement with difference' that may prevail even if the attitude of the subject toward the object may be negative (toleration). The aim of multicultural recognition would be to reveal the 'non-neutral character of the norms and expectations that structure society' (Lægaard 2010: 32). Such a revelation challenges the legitimacy of the majority and its capture of the public sphere. Moreover, it insists that members of minority groups participate fully in the public sphere as proper partners and citizens with equal status. This form of equality, according to Modood (1997: 19), encompasses 'public ethnicity'; it requires respect and 'public attitudes and arrangements' that do not demand assimilation. The focus on fairness and equality in the public sphere, and the right to participate in it, is of concern. Moreover, the question of how to reconcile the religious majority's 'desire to preserve its identity' in the face of new identities, some of which may include 'controversial minority practices' (Parekh 1994: 289), coupled with minority claims also poses specific challenges. A number of typologies describing and explaining toleration in culturally pluralistic societies have been developed which are amenable to empirical investigation. These are in a continuum ranging from less to more demanding forms of acceptance.

These typologies allow for questions to be raised as to which 'class of acceptance' is most appropriate to the situation' (Dobbernack and Modood 2013: 6). Forst (2009) distinguishes between toleration as a political practice (based on moral norms or reasoned justifications) from tolerance as an attitude (based on individual ethical values). Though Tønder (2013: 7 *passim*)

finds the separation of ethics from morality an intellectualist privileging of reason, this heuristic device allows for a way into the 'active tolerance' of the 'sensorial reasoning' he proposes, by showing how, where and when, political actors may encourage the 'expansive connections' of social bonds between tolerators and tolerated, which, albeit wrought by 'the endurance of pain', is a necessary component of 'empowerment and pluralisation'. McKinnon (2009: 56) identifies four types of toleration as 'a political principle': repression, official discouragement, toleration and political inclusion. In the sphere of personal toleration, McKinnon (2009: 57 *passim*) distinguishes between repression, toleration, engagement and appreciation. Similarly, in his review of conceptions of toleration, Forst (2009: 73) identifies four 'regimes of toleration' (see Table 1): the 'permission' regime, the 'co-existence conception' or '*modus vivendi*' model, the 'respect' conception with formal equality 'as moral-political equals' wherein religion is relegated to the private sphere, and the 'qualitative equality' model of respect. This respect is derived not simply from a value attached to political equality, but more demandingly from an appreciation of what these ethical and cultural values mean to individuals. The ethical values held by Others 'provide good reasons for certain exceptions or change to social structures in order to promote material and not just formal equality' (Forst 2009: 74). Finally, Forst (2009: 74) names the 'esteem' conception as a 'fuller, more demanding recognition between citizens'. Here, esteem is held both for the person of the Other as well as for his or her beliefs as 'ethically valuable conceptions' which, different though they may be to one's own, are understood to be 'in some way ethically attractive and held for good reason' (Forst 2009: 75). Different 'contexts of justification' will suggest which of these 'regimes of toleration' may most achieve justice and equality. For Forst (2009: 71 *passim*) toleration 'is a virtue of justice' since it asks for public justifications for in/equality, and a 'demand of reason' since justifiable reasons, agreed in the public sphere with the full par-

Table 1. Typologies of Toleration

		Typology			
Author/s	Sphere	Non-toleration and non-acceptance		Accept I	Accept II
Dobbernack and Modood (2013) 'Classes of acceptance'	Both political/public and personal sphere.	Toleration sought is not granted (intolerance).		Toleration subject to discretionary power of tolerators. Minimalist tolerance may achieve valid forms of acceptance.	Recognition, respect and admission as equals (accommodation).
Lægård (2010)	Mainly political/public sphere.	[Intolerance]		Toleration Positive toleration (engaging) and negative (disapproving) toleration.	Recognition Status recognition and factual recognition.
McKinnon (2009)	Political principles Personal attitude	Repression To achieve assimilation or submission Repression Prejudice /hatred or 'conversion'	Official discouragement Obstacles to the preferred way of life	Toleration Refrains from repression, limits participation Toleration Refusal to interfere, but also disapproving or 'persuasive'	Political Inclusion In major social institutions Appreciation Self's ethical values not an obstacle to appreciation of ethical values and preferences of Other
Forst (2009) 'Four conceptions/regimes of toleration'	Political sphere	Permission Denies equality. Difference to be expressed solely in private sphere.		Co-existence/modus Vivendi Pragmatic, stable, mutual accommodation and interaction within limits.	Esteem Respect and recognition for both person of Other and his or her ethical beliefs, as equal and valuable. Respect As 'formal equality' and 'qualitative equality'. Reason and justice.

tipication of all parties (the generality principle), will be made from 'validity criteria different from the ones in ethical contexts'. Dobbernack and Modood (2013: 5) provide a synthesis which collapses some of the concepts discussed above into three analytic 'classes of acceptance'. In situations of non-toleration and non-acceptance (or intolerance), toleration sought is not granted. Toleration or Accept I refers to situations in which toleration is granted, subject to the discretionary power of the tolerator/s, whilst 'Recognition, respect and equal admission as normal or Accept II' (also known as accommodation) involves 'going beyond' toleration to more 'demanding' forms of acceptance.

Since toleration in both the personal and political sphere is, by virtue, *inter alia* of differences of culture, religion and /or beliefs, values, and life-style, of a 'disliked or disapproved of' person or community, McKinnon (2009: 55) finds that the question of how to relate to Others will differ between what is required of the personal attitude ('appropriateness') and what is expected of the political sphere (reason and justice). The distinction between the personal attitude/ethical values and the political sphere/moral values is important since it allows a more demanding toleration in the political sphere of the esteem, accommodation or recognition type, while accepting that in their personal attitudes tolerant majorities may still retain their own valued ethical beliefs. In the political sphere, Bader's (2003: 131 *passim*) proposal for 'democratic institutional pluralism' emphasises that it flexibly includes religious and other minorities (representation) as equals, rejects 'institutional monism', distinguishes between cultural assimilation and cultural pluralism, and supports membership in collective groups as well as individual autonomy. Most importantly, it is based on 'overlapping and crosscutting membership in many associations' which increases opportunities for integration into the political process in institutions 'characterised as power-sharing systems' (Bader: 2003: 133). States differ in how they respond to the discourses and claims of their

competing publics (Modood 1997), a response which is prompted by the interaction between the (historical) personal attitudes of citizens and public policy formation in the political sphere.

Methodological note

This article draws on data generated from an EU funded project²¹ [REMC] on the place of religion in educational systems across Europe. Primary data was collected on the relative role of school and home in the religious socialisation of children of primary school age 9-11 (Smyth, Lyons and Darmody 2013). The data presented here are based on in-depth, semi-structured interviews with 32 parents or guardians of primary school children aged 9-11 from the state (two schools with relatively large immigrant and Muslim ethnic minority populations), government-dependent Church (one girls' school) and independent school (one Muslim faith school and one formally non-denominational, but culturally Catholic school) sectors in Malta. Schools from the different education sectors were included in the REMC project to explore how important religious education is to these education market sectors, as well as to their clients, who have distinctive SES characteristics (Darmanin 2013b). Of these, 29 informants were female²². Recruitment for all participants was on an opt-in basis. They have been given pseudonyms. Amongst a raft of questions, parents/guardians were asked about their own religious belonging, about how important religion was in their choice of partner /spouse, how they regarded the presence of children with diverse religious and ethical values in their children' schools and how schools could accommodate to religious difference. The interviews were transcribed; the data discussed

²¹ This FP-7 study was co-funded by the European Commission and the University of Malta. 'Religious education in a multicultural society: School and home in comparative context'. [REMC] Topic SSH- 2007 - 3.3.1 Cultural interactions and multiculturalisms in European societies.

²² One participant was the grandmother of the child, another the Social Care Worker of a boy in residential care.

here have been analysed using critical discourse analysis. Where required, they have been translated from the Maltese by the author. Ethics clearance was obtained from the University of Malta Research Ethics Committee. The opt-in method may have presented a bias in favour of participants more attached to their ethical beliefs and more interested in their children's religious socialisation (more female respondents). The sample includes parents from different social economic backgrounds and geographical locations. The participants self-identified as practising Catholic (18), Muslim (2), Catholic convert to Islam (3), Catholic married to a Muslim (3), non-practising Catholic (4), an agnostic (1) and an atheist (1). Amongst born Catholics, there were participants who believed and belonged, who believed without belonging, and who belonged without believing (Davie 2007). Of the participants, 29 were Malta born nationals. Two Muslims from Syria have acquired nationality by virtue of residency of over 18 years, and a third is from Bulgaria. The Catholic mothers of Muslim children were married to immigrant spouses, who have since acquired Maltese citizenship. Their children, though Maltese citizens by virtue of birth to Maltese mothers, occupied an uneasy positioning whereby though 'Maltese' they were 'Othered' as Muslim and as the children of an immigrant (the father).

Personal attitudes of toleration

In this section, personal attitudes to religious Others are explored by examining attitudes to religious familism, to the fear of religious dilution, to Muslims (Islamophobia), and through attitudes to the presence of religious Others in schools, especially regarding their accommodation. Additionally, the perspective of the minority Others and of 'Accept II' participants is described.

Religious familism and classes of acceptance

The religious familism of the Maltese is expressed in attitudes regarding the choice of spouse, where an attachment to the faith coincides with the desire to live a harmonious Cath-

olic family life. A number of participants would not consider marrying a 'foreigner', especially a non-Catholic.

I think to be of the same religion is a wonderful²³ thing. However, I surely would not marry a Muslim. Other Christians are more like us. Do you understand? A Muslim, surely not! (Ms. Borg, state school)

No. Not even a foreigner. I think. (Ms. Shaw, independent school)

Many mentioned how being of a different faith would create 'conflict' in the family, especially in relation to the religious socialisation of the children:

For me it is important [to have a husband of the same religion] because I think had my husband been of another religion, the children would not know what to do. ...If he had been of another religion I would not have considered him.

(Ms. Vella, independent school)

The apprehension regarding potential 'conflict' translated into a form of xenophobia. Ms. Mercieca, who lives with neither of the fathers of her children, thinks that the 'confusion' resulting from a mixed family arises from an ethnic 'mixing' or even untoward permissiveness; the word 'tahwid/ mixing', used in different contexts, incorporates these different meanings. Her lack of acceptance is directed at Islam and Muslims:

From what I hear, understand? From others. You get confused /mixed up/ mixed with [tithawwad]. The result is that usually, the woman, the Maltese [women], I know many women who have turned to/over [jeqilbu] to Muslim men/Islam²⁴. They convert. I do not agree with this. I would not convert. No. That is what I learnt. And then? He [the Muslim man] will live 'the way'. But the children will be torn/broken [jkissruhom]. Would you keep arguing? What would you do?

(Ms. Mercieca, state school)

²³ In the original Maltese 'hija haga sabiha'.

²⁴ In her words 'hawn li nisa mal-Mussulmani jeqilbu huma.'

Fearing religious dilution

Ms. Vassallo, a grandmother, talks about how her son joined the Jehovah's Witnesses, which threw her into a 'panic'. She is relieved that he has now left 'the sect' and is bringing up his children in the Catholic 'normal way'. That he survived a possible permanent 'turning' or conversion is of great relief to his mother.

My son still has a friend who is a Jehovah's Witness. At first I was thrown into a panic. 'Don't you dare, don't you dare come back [as a Jehovah Witness]'. Up until recently, I mean, this boy, youngster, man, I mean. Because he is father of two now. His son has made his First Holy Communion. *In the normal way*. Because now he [my son] is of age. And he has realised [the damage]. He goes nowhere and he does not participate [with the Jehovah's Witnesses]. I mean, my son had the chance to convert [be turned/jaqleb] and he was not converted. Not because I pushed him. He realised himself.
(Ms. Vassallo, state school)

The fear that religious Others may persuade Maltese Catholics to 'convert' to another sect or religion is not restricted to a concern regarding children. Ms. Gatt, a carer in residential home for the elderly, says that she herself found that Jehovah's Witnesses, who frequently knock on her door, 'made her feel confused [igerfxuni]'. She is not the type of person 'who slams the door in their face'. However, she found she was getting so 'confused' that she then broke off contact.

If you don't have that true faith, they try to see [if they can convert you]. They begin to say, hmm, 'Death...you will always be happy'. They try to tell you appealing things [affarjiet sbieh] and these begin to attract you. But if you really have the true faith, you do not change [turn from/ iddurx] your religion.
(Ms. Gatt, state school)

Islamophobia: a 'repression' approach

The non-accepting or intolerant views were expressed against Islam as a religion and Muslims as persons. For example, Ms. Borg, who like Ms. Gatt (above) 'did not condemn²⁵' the (Mal-

²⁵ In the Maltese 'Ma nikkundannahomx, ta'.

tese) Jehovah's Witnesses at her door, went on to remark that 'however, there are certain religions which I look upon with dislike²⁶'. She argued:

Muslims, Islam, is not like us/ours [bhalna]. No. Because for them war is holy. They consider a woman a slave.
(Ms. Borg, state school)

Ms. Borg's stereotyping of Islam coincides with a 'repression' approach to Muslims. In a telling phrase 'you cannot discard/throw them away²⁷', she reluctantly concedes that her son should 'integrate' with Muslim children in school. For her, the question regarding the accommodation of minorities is about immigration and how to interact with Others who are not 'Maltese' (where being Maltese is conflated with being Catholic), since it is 'only recently that we are getting mixed/mixed up²⁸ with them [Others]'.
(Ms. Borg, state school)

Well, they came to our country. When we go to their country will they bring a Catholic priest to instruct us, our children? I mean, when you go to another country, you have to go by the norms²⁹ of that country.
(Ms. Borg, state school)

Ms. Williams, a nurse, thinks 'it is good that children should be exposed' to Others of different religions, but talks about being '*a bit sceptical about a certain religion in particular*'. She recounts how when they passed the Mosque a week or so ago, her son told her that they were studying about Islam in school. Her son referred to Muslims as 'those people we see on TV'. On the one hand, Ms. Williams states that 'I try to instil in them that there are different religions, we have to respect them'. On the other hand, in responding to her son's comments, Ms. Williams does not distinguish between Muslims and

²⁶ She uses the word 'inhares lejhom bl-ikrah' where 'ikrah' suggests distaste, deriving as it does from the word for ugliness.

²⁷ In the Maltese 'ma tistax tarmihom' where 'tarmi' means 'to throw away' and refers to the rescue of undocumented migrants at sea.

²⁸ She uses the word 'jithalltu' which has a pejorative connotation.

²⁹ The word used is 'ezigenzi' or exigencies.

'jihadists'. The message is that all Muslims have a propensity to kill in the name of God:

I said but, hmm, 'Those who say that they are, like, killing in the name of God', I said. I said, sort of, I really painted a picture, I said 'Nobody can kill and say [it is acceptable to kill], because God always preaches love ...'

(Ms. Williams, independent school)

'We are a Catholic country': a permission discourse

When asked about how they feel about the presence of religious Others in their children's schools, parents frequently expressed anxiety arising from a dilution of the faith by recourse to the idea of the Nation as unitary, Catholic and European (white); if the faith were to be lost, the unitary, Catholic and European (white) identity would be lost with it. This anxiety is most strongly expressed in relation to the religious socialisation of children. These discourses are of the 'permission' type where the Other is required to assimilate or to live his or her faith in private.

As long as they don't influence my son. As long as in class they don't, for example, talk about themselves. There are a lot, a lot of polemics. There are those who want the crucifix to be removed from classrooms. No. As long as these things do not happen, I would not disagree [to having Others in school]. *We are a Catholic, Christian country and I expect that in my children's classroom, this is how it is.*

(Ms. Massa, state school)

A typical response, such as Ms. Massa's, purportedly disavows the racism of visible difference by using a cultural (racism) card. As in Islamophobia (above), Muslims Others are constructed as those wishing to undermine the religious education and socialisation of Catholic children.

Myself. Personally. I am not a racist. Absolutely [not]. I mean, these people do not bother me. They're in class with my son. It's not a problem whatsoever. No. But that they impose [their] religion on my son, just because one of theirs...No. I'm sorry, but just take them [Others] aside to another class, by all means, They have every right to do something else [during CRE]. In other classrooms,

however. Not whilst the Religion lesson is being held in our children's class.

(Ms. Massa, state school)

This understanding of the nation as Catholic and Christian³⁰ justified, for a number of participants, the imposition of the majority culture. Even less accepting are those parents who desire a more religious formation for their children, this despite sending them to a non-denominational school. Ms. Shaw is unhappy that the school stopped her daughter's teacher (a member of the Charismatic Renewal group) from saying the Rosary every afternoon. For her, the majority should determine what is to go on in class, even if this denies freedom of conscience to minority faith children. If these children find that a Catholic ethos pervades school and lesson time, from which, unlike CRE, they cannot opt out, then 'that is their problem'.

Apparently someone asked about this. And they said that [it was stopped] because we have a lot of different religions. Which I don't think is fair because as a country, *we're a Catholic country*. Now, if they [the minority] don't like it, I mean that is their problem, cause ...

(Ms. Shaw, independent school)

'Smallness': a pragmatic minimalist tolerance

The 'nation as Catholic majority' argument was made even by those whose personal attitudes were more positively tolerant and respectful of different Others. For example, Ms. Randon, a successful business woman, has a pragmatic '*modus vivendi*' approach finding it 'no problem whatsoever' that her son is at school with religious Others; 'this is the real world' in which she does not see 'why our children should be segregated' since segregation 'can only narrow their mentality'. This attachment to the mantra 'we're a Catholic country', repeated by Ms. Randon, is argued in relation to the question of size; 'smallness' dictates a minimalist toleration.

³⁰ The word 'Insara' which was most frequently used whilst specifically meaning 'Christian' has come to mean 'Catholic Christians'.

We live in a world where there is everybody. We need to know a bit about everyone and accept everyone, you know. And having said that, as I said, if you have a religion lesson and you have people of other faiths in the class. Ok, so what? Are you going to have a lesson in the Catholic, Catholic faith and a lesson in [Islamic Studies]? And again it just becomes more and more complicated for the school, you know.

(Ms. Randon, Independent school)

Ms. Constantin also reiterates the 'smallness argument; it is 'too complicated, I think to organize something for the non-Catholics', since at every year level there are only 'maybe two, two children' who are not Catholic. While Ms. Randon recognises the unequal power relations in toleration, stating that '*Toleration is not a nice word, actually, because you sound almost like with, with reservation*' toward the presence of the Other, at the same time she finds that 'political correctness' (or recognition) is excessive:

I do not think that to be politically correct we should go completely the other way, just as they have done in many other countries. In fact there's the, the ridiculous uproar about that you don't say 'Happy Christmas' because it is not Christmas for everyone. Christmas is the birth of Christ. You either celebrate it or you don't. You don't have to celebrate it but it is still Christmas and there's no denying it is Christmas. So why should you be [politically correct] because you might be worried you might offend someone, you do not say 'Happy Christmas'? Say 'Happy Holidays' instead? It's ridiculous you know.

Ms. Randon goes on to explore the concept of 'to offend' by stating that the present toleration which denies recognition to Others is not 'offensive' to her, as if it is she who should be accommodated.

At the end of the day it's a Catholic school. So you can have a crucifix in a class and you can introduce Catholic values in an assembly. I don't find it offensive. As long as you're not putting down, obviously, other faiths.

(Ms. Randon, Independent school)

Another justification for minimalist tolerance that involves a reversal (or counter-transference), in which a majority participant makes a case

as if she were the Other, occurs in the position articulated by Ms. Xerri. Whilst stating that she herself has no objection to having religious Others admitted to her daughter's Church school, a very long case against this admittance is made on the spurious grounds that a minority religion pupil would feel 'a fish out of water'. She argues that 'it is obvious' that the church school teaches 'certain [Catholic] values':

There are ten pupils and you are the only one, you begin to feel that you [are different]. . . If I am of a religion and have values that are different to the Church school, I am not going to send my child to a Church school *because I know she would feel uncomfortable*³¹ with this. Because she is not taught these values at home...You might try to avoid [certain practices]. But, certain practices, it is obvious that in a Church school, you are going to have them.

(Ms. Xerri, Church school)

Another 'smallness' *modus vivendi* approach is articulated by Ms. Williams who argues that since the school is an independent and *not* a Church school and that there are 'Indian children, Russian children, I mean, Muslim' then the school should 'make exceptions and have these children practice their religion'. Though Others have a right to a religious education, the religious majority should be able retain its dominance of the school's ethos (and ethnos) through public symbols.

In a school like this, which is, like, independent ... I don't think that it [accommodation] should take over. Like if there is a crucifix in the class I don't think it should be removed. You know, we're not disrespecting them by that, but I think they have to have some time to practice their own religion in their [own way].

(Ms. Williams, independent school)

Accept II: Respect, Engagement, Appreciation and Esteem

A small group of participants have personal attitudes of respect, engagement, appreciation and esteem. Ms. Gili, a lone parent on social benefits,

³¹ The word used is 'antipatika'.

describes how upset she is with the 'racism' (her word) present in the state school her sons attend. She responds to the racist comments of other parents by telling them how she encourages her children to assist all children. Her son takes extra food to school which he surreptitiously³² passes on to a girl who comes without a meal. Regarding a pupil who is not Catholic, Ms. Gili argues 'I don't think there is any need to send/expel³³ him from class, just because he is not Catholic.' Another mother, who also by virtue of her marriage breakdown and the Catholic response to this, has become 'believing without belonging', thinks that 'it would be ideal' if minority religion children could 'follow a religion lesson, according to their religion, definitely.' A teacher in the Church school her daughter attends speaks with esteem of the one Muslim pupil in the school. This esteem is based on the way the pupil and her family live the Muslim way; their religiosity is of value.

In their own religion, they are very religious. For example, this particular girl was in class with one of my daughters. I know how much her mummy used to help others of her community. ...As long as there is sincerity and the idea of faith in the sense of true love toward your neighbour and toward your God³⁴, there are no clashes that I can see.

(Ms. Ciantar, Church school)

Ms. Lia, a teacher, who, together with her husband and children, is actively involved in the Church and is profoundly accepting of different Others, such as of non-practising Catholics and others who are separated, divorced or gay, non-believers and minority religion Others.

What I tell Ella is that people have different up-bringsings, they have different lives, they have different needs. We can't judge a person because she

³² Unfortunately, when the boy was openly passing the food on, he too became the butt of disparaging comments. He was told he had nits, that he was the boyfriend of the girl he was befriending, among other hurtful comments.

³³ The word she uses is 'ikecci' which means 'to send out' but also 'to expel' or 'send away'.

³⁴ In the Maltese 'Alla tieghek' where 'Alla' refers to both a Christian and a Muslim god.

is that or she does that. We can't, we can't point fingers at anyone, we can't... So for her, for Ella, a person, she's, *she's ok with different* and we are ok with her having friends who, who have parents, for example, even if she had friends coming from a different [religion]. She does have friends actually who are, who are not of the same religion, who have different perspectives on life.

(Ms. Lia, Church school)

This personal attitude translates into a concern regarding the present exclusion of Others from CRE in schools. As a teacher herself, Ms. Lia finds it morally wrong that minority Others have to sit in on CRE. Despite her valued religiosity and her own socialisation of her daughter into the Catholic faith, she would prefer a Values Education which would effectively express and foster respect and esteem of Others.

First of all I don't agree with, with schools that make children of other religions sit in for the Religious Education [class]. And that is why I prefer Value, Values Education rather than Religious Education. Because I wouldn't feel comfortable with having to chuck out a child out of class simply because he is of another religion.

(Ms. Lia, Church school)

The position is one clearly articulated from a respect and esteem position which incorporates 'fairness' as equality. Ms. Lia ponders how, in providing a Values Education in place of a Religious Education, schools could still provide a faith-based RE for pupils. She cannot envisage an easy solution; one that would be 'unfair' would not be acceptable:

Or else they could hold special classes for the children. But then, I think to be fair to everyone, they should hold them, for, for, for the different religions. It would be unfair to, to give Religious Education because she's a Catholic, so you provide religious education and another child who's Muslim, for example, you don't provide religious education [for her].

(Ms. Lia, Church school)

Minorities: From toleration to Accept II

Both the Catholic and Muslim parents of Muslim children, accept that a catechetical Roman Catholic education should continue to be provided

in state schools. Most of them accept that the cultural ethos of schools, especially state schools, would be strongly informed by Catholicism. However, they wish that within this context there would be respect and esteem of their religion and for their person as well as equality for their children as Muslims. The parents made claims that could be considered to be moving beyond toleration to Accept II. For example, Ms. Daher felt that 'at least they [Muslims] should not have to follow the Maltese [sic] religion lesson'. She wished that at least one Muslim teacher would be available in schools with a Muslim population to enable Muslim pupils to get an Islamic Studies education. This would avoid the problem whereby 'they are sent to watch a video in some room' where they 'gain nothing'. This would also encourage the majority Catholic pupils to appreciate Islam and Muslims:

Because there is no lesson for them [Muslims]. Perhaps this exactly why there is the desire to insult them. Because they [Catholics] would ask 'What are they learning?' And then the Christians would, sort of, learn more about what Islam is. And even better they would not just insult³⁵ [Muslims].
(Ms. Daher, Muslim independent school)

This sentiment is shared by Ms. Essa, a Maltese Catholic who converted to Islam. She would like state schools 'especially' to teach 'World Religions, Christianity and Islam' so that there 'would not be that hatred³⁶ [of Muslims]'. She talks about teaching her children to respect their Christian teachers, a respect and esteem personal attitude taken also by her born-Muslim husband who argues for a tolerance of respect and equality without discrimination.

And respect for everyone. There is no difference, neither between who is white or who is black nor of religion. On the contrary, if I make a distinction, I am not worshipping Allah. If we discriminate... To obey my religion I need to respect the religion of others. It is not my religion I should respect but the

religion of others. So, to respect my religion I need to respect the religion of others.

(Mr Essa, Muslim Independent school)

Ms. Spiteri, another Maltese convert to Islam, whose children attend a state school because she cannot afford to send her children to the Muslim independent school, would be content with 'at least one Islamic Studies class a week' where her children could learn the *Qu'ran*. Given that the 'school is half Muslim' in intake, according to her to group Muslim pupils in vertical age groups at the time when their peers are at CRE; this is 'the least it could do'. Living at a distance from the Mosque and unable to send her children to Saturday classes, Ms. Spiteri states that this 'would be enough for me'. Similarly, Ms. Himsi Borg, a Catholic, also points out that not all Muslims can afford the independent sector school. In the state school he attended prior to moving to the Muslim independent school, her son found it 'hard to live the Muslim way of life'. For her, the provision of an Islamic Studies teacher together with some minor adjustments to the state schools' culture would be acceptable.

An acceptance of the CRE cultural norm was also held by Mr Naudi, a 'belonging without believing' guardian of a boy in care, and Ms. Dinova, the non-believing mother of a newly arrived Bulgarian child. Mr Naudi feels that although it is not 'right' that there is no alternative to CRE, since both the school and the residential care home where his charge lives are 'Catholic organisations', then 'one has to go along with it'. Ms. Dinova, who as a child was brought up under a repressive Communist regime and was forced to be atheist, is content that her daughter, of her own choice, is now following the CRE curriculum:

Yes, yes, she likes it, she likes it and for me it is good...Because the religion is something good.
(Ms. Dinova, state school)

Ms. Dinova feels that since 'Malta is a Catholic country' she should not expect any religious education apart from CRE. It is sufficient that there is the tolerance of 'choice' and 'opt-out'. The

³⁵ Expressed thus 'Mhux joqghodu jghajru biss' where 'jghajru' means 'insult' or 'call names'.

³⁶ In the Maltese 'dik il- mibgheda'.

minimalist tolerance of the 'conscience clause' is regarded as sufficiently protective of rights and freedoms; equality is not sought.

Maybe they, if they give, give a chance to make a free choice for the religion. If they *don't tell them* 'You must be Catholic' or 'You must be...' like that. It is enough, I think.
(Ms. Dinova, state school)

Discussion

Currently, Maltese persons from very different social and economic backgrounds embrace Roman Catholicism as an ethno-religious identity. For many, this combines deeply held beliefs with a religiosity that presumes a culture of public religion. The values attached to the importance of the family and to a harmonious family life make a shared religious belonging between spouses and children a central element. Participants' responses to questions about whom they would or would not marry/partner indicate a religious familism 'that interprets religious involvement as central to the construction of a good family life' (Edgell 2006: 8). This religious familism discourages intimate contact with non-Catholic Others. However, there are a number of individuals who live religious familism in other ways, either by converting to the spouse's religion (as with converts to Islam), or who, whilst retaining their own valued ethical beliefs, such as with Catholics married to Muslims, offer sincere support of their spouses' and children's religious beliefs and ethical values. In all families, the religious socialisation of children is seen to be a major responsibility of parenthood and guardianship. The Catholic parental response to suggestions of change to their children's religious education should thus be understood as a response to a rather complex context, in which the presence of new religious Others is seen as a further strain on already delicate 'chains of memory' (Hervieu-Léger 2006). That said, there are parents like Ms. Lia, who, though a very active participant in the Church, interprets her religious vocation of Christian love as one of appreciation and esteem of religious

Others; the Muslim Mr. and Ms. Essa share the same approach. This contrasts with the attitudes of those, such as Ms. Mercieca, whose religious familism translates into non-tolerant personal attitudes regarding religious Others.

Minimalist toleration of religious Others is characterised by recourse to the idea of the Nation as unitary, Catholic and European (white). It articulates an anxiety that the presence of the Other might lead to a dilution in the religious identity or religious practices of the Nation. The sensorial experience of anxiety of these Maltese has not yet led them to 'an endurance of pain' as the 'world making' active tolerance of 'empowerment and pluralisation'; in their majority, they are as yet stuck within a passive tolerance of 'restraint and repression' (Tønner 2013: 90). Participants are oblivious or indifferent to the fact that with a predominately Catholic culture pervading all school time, the freedom of conscience clause is not being respected. They turn on its head the 'reversibility' argument. Instead of testing the provisions made for religious Others against standards that would be acceptable to them as Catholics, they behave as if the majority culture is under threat, especially from immigrant religious Others. Even among participants with a pragmatic or *modus vivendi* approach who are positive regarding 'diversity' there is still an inability to 'go beyond' (Dobbernack and Modood 2012) to accommodation. The recognition that is shown to Others by *not* taking Catholicism as norm (such as in wishing them 'Happy Holidays') is considered an extreme 'political correctness'. In the 'pragmatic attitude', an ideology of 'smallness' permeates the arguments against extending a faith-based education to religious Others. This attitude matches the justifications for refuting accommodation put by key policy stakeholders (Darmanin 2013a) which are of the 'official discouragement' type (McKinnon 2009). The minimalist toleration argument is evident also in the attitudes of those who argue that Church schools, in particular, cannot be expected to accommodate religious Others. For these participants, the segregation of faith-based school-

ing is the solution to the vexing challenge of cultural pluralism.

Currently, intolerance is expressed as Islamophobia, where there is a conflation of 'Muslim' with 'foreign' and 'undocumented immigrant'. Rather than an appreciation of the ethical values and religious devotion of Muslims, there is the anxiety of dilution, of the 'mixing' of conversion (to Islam) and/or of intermarriage with Muslims. However, this personal Islamophobic attitude is not monolithic, as the attitudes articulated by converts to Islam, or of those married to Muslims, or who are parents of Muslim children, demonstrate. For these latter participants, whose personal attitudes are characterised by engagement and appreciation, there is much consternation regarding the intolerance, even 'racism' of Catholics. Whilst they accept a political response of minimalist toleration, for example, in their fidelity to the idea of Malta as 'a Catholic country', their desire to have an Islamic Studies curriculum in State schools with large Muslim populations would require, minimally, an Accept II (Dobbernack and Modood 2013) political response (discussed further below). Neither as individuals nor as a group have their 'claims' been articulated publicly, though they are being presented in closed, formal meetings and selectively reported in the press.

Given these personal attitudes it is perhaps not surprising that a political response or institutional attitude has been very slow to develop. Having given recognition and considerable support to the Muslim community in the early 1970s (Darmanin 2013a), diversity rather than equality discourses have since permeated policy texts such as the National Minimum Curriculum and education policy practices (Darmanin 2013a). The Ethics Education Programme is the sole institutional response to religious Others contemplated in the education sector. The Interfaith Forum of President's Foundation for the Wellbeing of Society is creating a 'public sphere' space where the claims of religious minorities for formal and substantive equality may be made. Through the press and its own social media site, the Founda-

tion broadcasts some of these demands to the public. The President herself champions the rights of religious minorities³⁷; as a result of this, she often receives criticism on the social media. There are limits to her endeavour; the Office of the President has no executive power.

Conclusion

This article asks whether minimalist toleration (Dobbernack and Modood 2012) may, given personal attitudes of in/toleration, secure more stable forms of acceptance for religious minorities in Malta or whether democratic institutional pluralism is now required for both formal and substantive equality? In the case of Malta, the attachment to Catholicism as an ethno-religious identity and to children as bearers of that 'chain of memory' suggests that any changes to the CRE of Catholic children which arises out of the claims of minority religious Others or from non-believers will lead to a 'backlash' and to more intolerance in personal attitudes. This could see a rise in hate crime and a shift in voting patterns to the Far Right, a trend already evident in the 2014 European parliamentary elections. Whilst the new settlement of the EE Programme may suit humanists or other non-believers, it leaves religious minorities, such as Muslims, without a faith-based education in public schools. Since the state provides a faith-based religious education for Catholics in its schools, then how it can support the faith-based religious education of minorities is an equality question requiring a 'justice and reason' reply (Forst 2009). For religious minorities who desire a faith-based education in public schools, rather than a segregated faith-based schooling, this present settlement will be not only disappointing but also unjust. When the National Curriculum Framework of 2011 introduced the EE Programme, no public discussion regarding what type of religious and moral education would best suit Malta took place, or

³⁷ <https://www.facebook.com/Presidents-Foundation-for-the-Wellbeing-of-Society-1515279792042330/timeline/>

was even contemplated. A short statement declared that 'an Ethics Education Programme is preferred over a Comparative Religion Education programme' (Ministry of Education, Employment and the Family 2011: 8). The Humanist Association of Malta³⁸ made the point that all children, including Catholics, would benefit from an Ethics Education. By discarding a Comparative Religion (and Moral) Education Programme, the opportunity for majority and minority children to together learn about and from different religious and secular ethical beliefs is lost. With it is lost the opportunity to foster intercultural understanding, engagement, appreciation and esteem. The settlement leaves intact a CRE which desperately needs revision (Secretariat for Catechesis 2008) and which is open to critique from an autonomy perspective (MacMullen 2004). Moreover, the Accept II participants who hoped that Maltese Catholic children could learn enough about Islam, in particular, to reject stereotypes and prejudice against Muslims, will be disappointed to learn that Catholic children will not benefit from an education in ethics, nor learn about the ethical beliefs and practices of diverse religions, currently promoted (albeit modestly) in the new EE Programme.

Most significantly, the process of establishing this new curriculum has fallen short of the institutional democratic pluralism proposed by Bader (2003), since non-believing and religious Others have *not* been invited, as equals, to participate in the formulation of policy leading to the 2001 National Curriculum Framework, nor to subsequent curriculum development of the EE Programme. The political inclusion of religious and/or non-believing Others, (McKinnon 2009) in public institutions has, to date, been lost but not irrevocably so. There is still time to establish democratic institutional pluralism which, as Bader (2003: 148) argues, is a power-sharing process that leads to trust, to the political empower-

ment of minorities, to egalitarian distributive policies, and to the interaction required by a political project of multiculturalism. Within a *positive* tolerance, understood, following Lægaard (2010: 29), as a 'positive engagement with difference' made even when one has a *negative* toleration of the ethical beliefs of Others, it would be possible to include religious and non-believing Others in the on-going plans for the EE Programme. Having been one of the political movers in the Divorce Referendum Campaign, the present Minister of Education and Employment³⁹ is well placed to make a bold move towards this democratic institutional pluralism and toward respect and accommodation of religious and non-believing Others. This shift in the political sphere can, firstly, reassure the Catholic majority that their children will still receive their CRE entitlement (controlling the climate of intolerance and repressive tolerance in personal attitudes). Secondly, it can serenely introduce the concept of institutional engagement and institutional pluralism as processes of incorporation (Bader 2003) and participative equality that do not require majority individuals to give up valued ethical beliefs (Forst 2009). The incorporation of Others as equals in the political sphere will, as Lægaard (2010: 29) and others argue, 'reveals the non-neutral character of social norms and values'. Furthermore, as Bader (2003: 144) points out, this 'integration into some common public institutions' provides an opportunity for respectful 'everyday interactions' and 'the development of common civic virtues, and a *minimally required identity and commitment in the polity*' as well as the establishment of the 'expansive' connections of persons, their empowerment and pluralisation (Tønder 2013). It supports 'public ethnicity' (Modood 1997: 19). This is the foundation from which minimalist tolerance may 'go beyond' to the accommodation of Accept II (Dobbernack and Modood 2013), to the equality of respect and esteem (Forst 2009) and, ultimately, to 'deep equality' (Beaman 2011).

³⁸ In comments posted on the HAM website following the seminar on 'Ethics Education'. <http://www.maltahumanist.org/ethics-education-in-malta-information-seminar/>

³⁹ The Hon. Mr Evarist Bartolo, MP.

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Banal, Benign or Pernicious? Religion and National Identity from the Perspective of Religious Minorities in Greece*

by EFFIE FOKAS (Hellenic Foundation for European and Foreign Policy, ELIAMEP and Hellenic Observatory, LSE)

Abstract

Intersections between religion and law are increasingly permeating the public sphere. From burqa bans to same-sex marriage, a strong relationship between religion and national identity (whether 'negative', as in the French case, or 'positive' as in the Greek case), can often be found as a central factor therein. Based on empirical research conducted on pluralism and religious freedom in Greece and other majority Orthodox countries, this article seeks to locate the religion-national identity link within the grey area at the intersection between religion and law. The voices of religious minority groups illustrate the blurred lines between the benign and the pernicious in banal manifestations of the religion-national identity link in the Greek context. Against the backdrop of the Greek example, the article then navigates through normative debates about whether and how limitations to the freedoms of religious minorities, in cases where these limitations are linked to the relationship between religion and national identity, can be effectively redressed.

Keywords: Orthodoxy, church-state relations, religious education, proselytism, equality

'Kokkinakis is in the drawer'. With these words a representative of the Greek ombudsman offers important insight into religious freedoms as experienced by religious minorities in the Greek context. His reference is to the 1993 European Court of Human Rights (ECtHR, or the Court) case of Greek Jehovah's Witness Minos Kokkinakis, against the Greek state, after he was arrested

over 60 times for violation of the Greek ban on proselytism.

This was a watershed case for the ECtHR: it was the first Article 9¹, that is, religious freedom, conviction issued by the Court, after its first 34 years of operation. In the 20 years since then, the Court has issued over 50 Article 9 decisions (and far more on religious freedom, but in

* This article draws on research conducted by the author on pluralism and religious freedom in majority Orthodox contexts (PLUREL, Contract no. 255533), funded by the European Commission 7th Framework Package (Marie Curie Fellowship). The country cases examined in PLUREL are Greece, Romania, Bulgaria and Russia, and the research was conducted between 2010 and 2013. I would like to thank the two anonymous reviewers of this article for their constructive comments. An earlier version of this paper was presented to the LSE Hellenic Observatory Research Seminar Series ; I thank the participants for their helpful feedback.

¹ Article 9 on Freedom of thought, conscience and religion provides that: 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

conjunction with another right – such as non-discrimination or freedom of expression). These numbers suggest a rapid judicialisation of religion, post-*Kokkinakis*.

Of those 50-odd convictions, the Greek state has been on the receiving end of over 20% of them. This is a striking statistic, given that of 47 countries covered by the European Convention of Human Rights (ECHR), and thus by the Court which protects it (the ECtHR), a single country, Greece, is responsible for such a large percentage of violations found of the religious freedoms article. Seven majority Orthodox countries account for over 63% of these violations².

Though these statistics should be taken with a grain of salt³, still this data, together with a broad body of literature that questions the relationship of Orthodoxy to democracy and to pluralism (Pollis 1993; Payne 2003; Prodromou 2008), at least raises some concern about Greece specifically and Orthodox countries more generally from a religious freedoms perspective.

This article draws on research conducted on pluralism and religious freedom in four majority Orthodox countries, the aim of which was to ascertain factors and mechanisms influencing limitations to religious freedoms in majority Orthodox contexts. The present focus is on the case of Greece, and the above-cited quotation serves as a good introduction to a critical dimension of the Greek case: namely, the uneasy balance between courts and governments in

² Armenia 3; Bulgaria 5, Georgia 1, Greece 11, Moldova 4, Russia 5, Ukraine 3.

³ These statistics regarding Article 9 convictions alone are of limited explanatory value regarding religious freedoms jurisprudence in general, given that many religious freedoms cases are decided under or in conjunction with other Convention articles (e.g., Freedom of Expression, Art.10, Freedom of Assembly and Association, Art.11, and Prohibition of Discrimination, Art.14). Another factor to consider is the timing of *Kokkinakis*, so soon after the inclusion into the ECHR framework of a number of newly democratizing post-Communist countries, many of them majority Orthodox. From different perspectives Ferrari (2012) and Richardson and Shoemaker (2008) argue that an example was made of Greece to communicate a message to the new member states.

addressing religious freedom issues. The Greek Ombudsman's representative delivered this statement as a positive thing: police no longer send Jehovah's Witnesses to jail in Greece, he said, because they have the *Kokkinakis* case in their desk drawer, like a trick up their sleeve, in order to justify to complainants why the Jehovah's Witness in question could not be sent to jail (and of course to remind themselves of the same thing).

But from a different perspective, namely, from that of religious minorities, the *drawer* is not a particularly prominent or effective place for *Kokkinakis* to be; it should be on the *books*, in the legislation. Instead, the 1938 law banning proselytism, which dates back to the Metaxas dictatorship, is still formally in effect. At the same time, in theory *Kokkinakis* could be on the books but *not* in the drawer, and with more adverse effects for religious minority groups. This example points to a recurrent theme in my research, which is that there's a significant *grey area* around the intersection between law and religion. My research suggests that we need to give a great deal more attention to this grey area, and to what is happening on the ground, in the shadow of the law, and in the shadow of court decisions, because this is one context where the daily experiences of religious pluralism on the ground have more to tell us than do laws and court decisions⁴.

The objective of this paper is twofold. First, it seeks to locate the religion-national identity link within the grey area at the intersection between religion and law. Intersections between religion and law are increasingly permeating the public sphere, and a strong relationship between religion and national identity can often be found as a central factor therein. This point applies equally to cases where the strong relationship between religion and national identity is 'posi-

⁴ This is the topic of a current (2014-2018) European Research Council (ERC) – funded project entitled 'Directions in religious pluralism in Europe: Grassroots mobilisations in the shadow of the European Court of Human Rights religious freedoms jurisprudence' (Grassrootsmobilise).

‘negative’, as in the Greek case for example, or ‘negative’, as in the French and Turkish cases, where secularism, rather than a majority faith, is central to state-promoted conceptions of national identity⁵. Second, the paper navigates through normative debates about whether and how limitations to the freedoms of religious minorities, in cases where these limitations are linked to the relationship between religion and national identity, can be effectively redressed.

The first part of the paper sets out what may be described as a conundrum around the relationship between religion and national identity. In a second part I outline a research agenda designed to better understand the challenges faced by religious minorities in majority Orthodox country contexts where a close link between Orthodox Christianity and national identity permeates politics and society to varying degrees and in different ways. Third, the paper engages the voices of religious and civil society actors in the Greek context consulted for this study, in order to illuminate the difficulty in distinguishing between the banal, the benign and the pernicious in terms of the implications of the religion-national identity link, from the perspectives of religious minorities. A fourth section presents schematically debates within socio-legal scholarship on potential ways to address the latter problem, including the relative virtues of parliaments vs. courts in the efforts to secure religious freedom and equal treatment for religious minorities.

The religion-national identity link as a conundrum

In the contexts and in the extent to which a close religion-national identity link leads to exclusions, at various levels, of religious minorities, it represents a conundrum for those striving towards religious pluralism⁶. The religion-national iden-

tity link represents a conundrum for several reasons, one of which is that it is often banally manifested. A close relationship between religion and national identity is manifested in all kinds of symbols around us, including flags, anthems, depictions on currency, etc., much like Michael Billig’s description of ‘banal nationalism’ (this is the title of his popular 1995 book on nationalism). In other words, it is so common and ordinary as to go unnoticed most of the time. A religion-national identity link underlies a number of ‘invisible national norms’, as for example in the Swedish case of the taken-for-grantedness of using church buildings for public school functions and ceremonies (Pettersson and Edgardh 2008). In majority Orthodox contexts, one seemingly banal expression of a close relationship between Orthodoxy and the identity of the nation is the embedding of special references to the Orthodox faith or church either in the actual texts or in the ‘symbolic clauses’ of their constitutions or laws on religion⁷.

The question is, where do banal manifestations of a majority religion (or of a majority *non*-religion, or secularism, as the case may be) stop

⁷ The Romanian 2006 Law (Law 489/2006) on Religion indicates that ‘The Romanian State recognises the important role of the Romanian Orthodox church and that of other churches and denominations as recognised by the national history of Romania and in the life of the Romanian society.’ (Art.7(2)). The preamble (which has no formal legal effect) to the Russian 1997 Law on Freedom of Conscience and Religious Association recognizes Orthodox Christianity’s ‘special role’ in Russia’s history, spirituality and culture, and proclaims respect for Christianity, Islam, Buddhism, Judaism, ‘and other religions, constituting an integral part of the historical heritage of Russia’s peoples’. In the Greek case Article 3 of the Constitution indicates that Greek Orthodoxy is the ‘prevailing’ faith, though whether this is a descriptive or normative statement is debated. In the Bulgarian case, Art. 13 (3) of the Constitution defines the Christian Orthodox Religion as ‘the traditional religion of the Republic of Bulgaria’, and the preamble of the 2002 Denominations Act (the preamble of which is also without formal legal effect) refers to the ‘special and traditional role’ of the Bulgarian Orthodox Church in Bulgarian history and the formation and development of its spiritual and intellectual history is acknowledged.

⁵ A point which applies less to the AKP-led government of course.

⁶ Nota bene: I use pluralism not as a descriptive term (as is diversity, or plurality), but as a *prescriptive* term – i.e., normative support for religious diversity which is enacted through policies protecting that diversity.

being banal and actually impinge upon freedoms of religious minority or non-religious groups? As Billig notes, banal does not imply *benign* (1995: 1). A lot more than we may realize may fall within a grey area between the benign and the pernicious.

A second reason the religion-national identity link represents a conundrum is that – if and where it is found to be pernicious – you can't exactly put it on trial. Thinking about the European legal context, European institutions go to great lengths to assure Europeans that European unification does not require, but in fact (or, in theory at least), *discourages* cultural levelling. Unity in diversity is an EU motto, and protection of diverse national identities (including whatever relation the national identities have to religion) is part of the EU's claimed aim. This means also that different forms of church-state relations are meant to be respected and that there should not be what Olivier Roy (2010: 9) describes as a 'formatting' of religion in the name of freedom and equality.

The European Court of Human Rights, itself not an EU institution but still an integral part of the European unification project, also embraces this aim of unity in diversity. The Court respects national diversity especially through the principle of subsidiarity and the 'margin of appreciation'. The margin of appreciation was, until recently, an informal tool developed through the Court's case law in order to allow individual states certain extra breathing space on nationally sensitive issues (as is, for example, the relationship between religion and national identity, and the same applies to church-state relations).

In 2013 both the subsidiarity principle and the margin of appreciation became formally embedded into the European Convention on Human Rights, which the ECtHR protects⁸. This

⁸ More specifically, in 2013 Protocol 15, which inserts a reference to the principle of subsidiarity and the doctrine of the margin of appreciation into the Convention's preamble, was adopted; it will formally take effect upon ratification by contracting states.

happened largely as a result of a reform process within the Court following a legitimacy crisis (which, in turn, has conspicuous links especially with the *Hirst vs. UK* judgment of the ECtHR on prisoner's voting rights). So while, as mentioned, there had been a rapid judicialisation of religion after the 1993 *Kokkinakis* case, in the context of this reform process the Court may be considered to have become more conservative in religion-related convictions that can be avoided by using the margin of appreciation⁹.

Third, it is difficult to change: the relationship of majority religions to national identities is often deeply embedded in the national narrative, especially within the education system. It is also often enacted by nationalist forces, whether on the part of the church or the state. People *mobilise* around religion-national identity links – we see this conspicuously in majority Orthodox contexts but not only. And finally, who, if anyone, has the authority to try to change it? Is that a legitimate aim?

All of the above provoke interesting normative questions, and there is a great deal of excellent scholarship arguing in divergent directions (e.g., Evans 2008; Weiler 2010; Bielefeldt 2013; Nussbaum 2008; Durham 1996). This scholarship frames a fascinating debate about the proper place of majority religion in the public sphere.

Rather than seeking to add another analyst's voice to an already well-developed scholarly discussion, this paper injects instead the voices of actors at the grassroots level – those of the *interviewees* in the referenced study – to explore the question of how, why and under what conditions the relationship between religion and national identity becomes problematic. After sharing these voices, I will consider the notion of what, if anything, can be done about the problems that arise from this relationship.

⁹ This, in any case, is a trend suggested by the more recent judgments of the Court in the cases of *Sindicatul Pastoral v. Romania* (2013); *Fernandez-Martinez v. Spain* (2014); and *S.A.S v. France* (2014).

A Research Agenda – methods and definitions

As noted above, though statistics regarding convictions for violation of religious freedoms should be taken with a grain of salt, still they provoke legitimate questions regarding majority Orthodox countries' practices related to religious freedom and thus warrant careful consideration. Accordingly, a scholarly inquiry was built around the following two questions: what are the experiences of religious minorities in the country contexts of Bulgaria, Greece, Romania and Russia? And what are the factors and mechanisms influencing limitations to religious freedom, where experienced?

The country case study selection includes old, new and non-members of the EU (Greece 1981; Bulgaria and Romania 2007) and countries with and without the experience of a communist regime. Together the countries cover a range of levels of religiosity vs. secularity (from highly secular in the Bulgarian case and highly religious in the Romanian case).

The empirical research was qualitative in nature, aimed at understanding the attitudes and practices of the religious majority *vis-a-vis* religious minorities, and the experiences of religious minority groups within this context. The fieldwork consisted of in-depth semi-structured interviews, conducted mainly in the capital cities of the countries studied, with representatives of religious minority groups; representatives of the Orthodox Church; representatives of state organs dealing with 'religious affairs'; and representatives of NGOs dealing with religious freedom issues (often representing secular and secularist organisations) and lawyers handling religious freedom cases. Between 25-30 interviews were conducted in each country case¹⁰.

Besides offering a vibrant picture of current grassroots developments in the domain of religious pluralism, in-depth interviews offered

insight into the deeper mentalities, perceptions and perspectives of people in positions of power, and to their broader objectives – i.e., what do they hope to achieve? These perspectives and mentalities have value independent of the actual facts and realities on the ground: together they offer a picture of pluralism, or lack thereof, internalised by the representatives of various stakeholder groups.

The research generated rich and fascinating material about each of these four cases individually, and in comparison with one another. It yielded a view of a broad range of experience, from extreme limitations to more minor annoyances. It also yielded a broad spectrum of *expectations* of religious minority groups, from a basic right to worship to a demand for non-discrimination and equality amongst all religious groups, including the majority Orthodox Church. Certainly the Greek case was more on this side of the spectrum with more vocally advanced equality demands.

Most importantly for our purposes, though, the research also offered rich insight into the various ways the relationship between Orthodoxy and national identity in each case impacted upon the experience of religious minority groups and thus factored into conceptions of pluralism and religious freedom.

Religion and national identity links as banal, benign or pernicious

I will now draw from the interview material to present different perspectives on particular manifestations of the religion-national identity link in the Greek context which are commonly treated as banal (i.e., so common, ordinary, and routine as to be almost/somewhat invisible), but which from some perspectives are considered benign (and so certainly not harmful and, in fact, helpful), and from others, pernicious (i.e., harmful, malign). And I will draw from different voices from each category of interviewees.

I have chosen to focus on such manifestations arising in three particular areas: religious education; the so-called 'Metaxas laws' on reli-

¹⁰ In November of 2010 in Romania, in December of 2010 in Bulgaria and, following a maternity leave gap, in November of 2012 in Russia and in January-February 2013 in Greece.

gion; and the public presence of Greek Orthodox clergy. As will become clear eventually through these examples, the boundaries between the three categories of the banal, benign and pernicious in these three areas are somewhat fuzzy.

Religious Education

Currently in Greek public schools there is a mandatory course of religious education taught which is catechetical in character, teaching the Orthodox faith (catechetical to varying degrees, depending on the level of education in question, whether primary or secondary and with variations within each stage of education). Exemption from the course is formally available only to the non-Orthodox¹¹.

The course in religious education has been at the centre of intense debates in Greece with contributions from human rights advocates, representatives of religious minority groups, spokespersons of the Ministry of Education and Religious Affairs, the Office of the Greek Ombudsman, individual theologians and members of the Union of Theologians and, finally, representatives of the Greek Orthodox Church. The religious education curriculum has, both because of and in spite of the above debates, undergone a significant reform process within a broader process of reform of the Greek education system which has yielded a pilot programme of a new religious education course, implemented in a number of Greek schools between 2011 and 2014. The latter retains the course as compulsive but is meant to be less confessional in nature (Koukounaras-Liagkis 2015).

The mandatory course in religious education is treated by many interviewees as a banal expression of the historical place of Orthodoxy in Greek society. One Greek Orthodox cleric

describes the course as a natural reflection of reality: *“What we say is that since the Orthodox here are more than 85% of the population, the course ought to be taught as Orthodox.”* Meanwhile, a representative of the Ministry of Education and Religious Affairs describes the course as so inconsequential as to be irrelevant: *“What many don’t understand is that what one paper says is one thing, and what happens in a classroom is another. If someone thinks that a 15-year old child will become Orthodox because the theologian teaches him Orthodoxy, then that person is in the dark.”*

That very same representative, however, also explains the teaching of the mandatory course in benign terms. He describes the course as a fair and healthy recognition of the important historic role of the Orthodox Church:

“The revolution had, as a basic parameter, the Church. And so the Church was with the ethnos when the ethnos was established. And it was established through blood in the revolution. They came to die as Orthodox, and not as Greeks or something else. Kolokotronis made the clear statement, we took arms first for our faith and then for the fatherland. These are things our history has written.”

Simultaneously, though, religious education in its current expression entails a conspicuous problem area for many religious minorities – globally but particularly in many majority Orthodox contexts. Many minority interviewees complained about the negative ways in which religious minorities were depicted in the public school text books and about the process of exemption (as explained above, exemption requires a formal declaration of minority religious status which then appears on the school diploma). Here, the words of a parent and representative of a Pentecostal church point to more subtle problems, indicating the discomfort experienced by his child:

“There was a teacher always putting him outside of class, with the excuse that he was causing trouble. Never before had a teacher taken him out of class. Of course, I had the right and I asked for exemption, and so it was ok. He sat in an empty room and studied.”

¹¹ For approximately a two-year period in the last decade, exemption was also formally possible on purely philosophical grounds and without requiring a formal declaration of a minority faith or of non-belief. Now such exemptions on philosophical grounds, where granted, are offered informally and on an ad hoc basis.

Metaxas laws

The so-called 'Metaxas laws' on religion were introduced under the Metaxas dictatorship in 1938 and brought into force in 1939. These include the banning of proselytism and requirements for the building of minority religious places of worship¹². It is the Metaxas law on proselytism which was 'on trial' in the *Kokkinakis v. Greece* case, and it is in the aftermath of *Kokkinakis* in particular that the Metaxas laws have largely been rendered either weak or irrelevant through subsequent legislation, but they still remain formally in force. *Kokkinakis* is 'in the drawer', as a reminder to police that proselytism should not land its perpetrators in jail, but it remains in force legally, 'on the books', both because governments avoid potentially upsetting a majority church which enjoys protection of the state from 'external threats', and, critically, because of the aforementioned 'margin of appreciation: in its ruling in the *Kokkinakis* case, the ECtHR did not actually enforce a change in the law. Instead, it convicted the Greek state for applying the law too harshly. A judgment requiring a change in religion laws would have been perceived by national governments as too intrusive on church-state relations, particularly then, given this was the *first* religious freedom conviction issued by the Court. So the Court chose instead to show deference to national cultural tradition in the state's handling of religious affairs, through use of the margin of appreciation.

For many, the gradually decreasing enforcement of the Metaxas laws makes the latter a banal remnant of the past not worthy of attention given the fact that they are not currently implemented. Furthermore, one Greek Orthodox cleric, charged specifically dealing with

¹² The Metaxas laws provided that for all applications to the Ministry of Education and Religious affairs for the building of a minority faith place of worship, the opinion of the local Orthodox bishop must be sought. The opinion was not officially binding but still of course barred the state to critique for involving the majority church at all in the process. This practice ceased in 2006, and the opinions of local bishops are no longer sought by the Ministry.

the Greek Orthodox Church's relations with religious minorities, argues that the introduction of the laws under a dictatorship is more or less irrelevant given the laws' recognition and acceptance by so many subsequent governments: *"It doesn't mean that the law must be abolished because he was a dictator. All the governments following the dictatorship, all recognised the law and left it in force. I know that the study of law says there must be continuity in the law..."*

Meanwhile, a government official who engages with religious affairs explains that we must keep a balance, not rocking the boat with extreme nationalists by forcing a change in the laws. Thus keeping the laws on the books also serves the benign purpose of maintaining the balance: *"They will change... they can't help but change at some point. But at this point in time because of the crisis the far right forces are heightened..."*

Religious minorities, however, point to the negative effects, for them, of the continued legal relevance of the laws. Here a Jehovah's Witness representative indicates that indeed, post-*Kokkinakis*, matters are much better and there are far fewer arrests, but still the fact that the Metaxas law banning proselytism remains in place serves as a platform for such arrests:

"Yes, things are better than in the 70s and 80s, when we had 100+ court cases per month about proselytism especially. But there are still annoyances, "come to the station with me, and stay for 2 hours", trying to stop them passing out literature ... a priest could have called, a fanatic Orthodox. But not a word about removal of that law. No one dares remove that law."

From his perspective, the failure to abolish the laws continues to signal to the mass public – members of which may be likely to contact the police about an 'annoyance' from a 'proselytising Protestant' – that proselytism is illegal and that the rights of the majority are being violated when people of a different faith approach them in the hope of converting them.

Public presence of Greek Orthodox Church clergy

In Greece, the Archbishop presides over each opening session of Parliament and blesses each of the Parliamentarians with holy water. And in general Orthodox Church and state leaders often jointly preside over state functions and national holiday celebrations. The same may apply even to sports celebrations¹³.

Below we have the words of an Orthodox cleric suggesting that it is common, it is natural, and it is fine. Further, what is the harm, given that 'the others are alongside us too'. In fact, this particular cleric goes further to argue that this sharing of the public space is definitive of religious freedom in Greece:

'But you see...also present is the Catholic archbishop, and the rabbi, the mufti... No one takes them out of the parade. That's how we see religious freedom. But we can't understand why the Orthodox Church must relinquish its freedom, for the sake of others. All of us have our freedom.'

The very same issues are presented as benign from different perspectives. In fact, on *minority faith* representative echoes the words of one of the Orthodox clerics cited above, indicating that indeed it is good that his faith group is also represented at certain public state functions. But at the same time he notes that this happens only at the top level and does not impact upon the experiences of religious minorities in general. His broader point is that he is not seeking a public square devoid of religion and of clergy in general, so it is good that more religions can have a public presence, but the effects should not remain only at the formal level:

'At the highest level there is a difference; we are on the list of invitees for foreign ministry events, but this is a matter of protocol and has nothing to do with real life; it does not influence the experience of the common people.'

But the public presence of Orthodox Church clergy appears as pernicious from yet again dif-

ferent perspectives. Many interviewees feel that this public presence cannot but have a *less* transparent side to it, whereby the Church influences state decisions in ways that are detrimental for the non-Orthodox.

Below are three supporting quotations, the first two from people working in the Ombudsman's office, and the third from an NGO representative. The first suggests that there is a *message* communicated by the public presence of the clergy which influences how others in society act. The other two quotations suggest that the public presence has a behind-the-scenes element of political influence of the church. In the reference to the identity cards case below¹⁴, the suggestion is that the government won the battle but lost out in the next parliamentary and local elections (as was indeed the case; see Fokas 2004).

"Even now the Church comes in the Parliament to bless them. Most of the problems of religious freedom don't have as much to do with laws as much as with relations of the church with the state, because that relationship gives the impression to the [local] administration that church and state are one and the same."

"We have to move carefully on these issues, because our competence to intervene on issues with an ethno-political character is doubted. In other words, whatever may result in the limiting of the power of the Church."

"Remember what happened with the identity cards! No one wants to open a front against the Church when it can help you win votes, or at least when it's quiet, it doesn't prevent you from winning votes."

Again, it is easy to see from these examples that the lines between the banal, benign and pernicious are blurred, in terms of effect. The lines are *not* blurred, however, in terms of the perspectives of the actors in question; this distinction is key.

¹⁴ This is a reference to the church-state conflict over removal of the religious field from the national identity cards in 2000. For discussions of this development, see Fokas 2004; Molokotos-Liederman 2007.

Scholarly debates on potential solutions

On to the second question I posed at the outset: what, if anything, can be done about the problems that arise, if and when they do, around close religion-national identity links? As mentioned before, scholars are divided on this issue, and they actively disagree in religious freedom literature about the boundaries between the banal, benign and pernicious.

Some argue that strict separation of church and state is the solution. Others contend that we need to go further than that and have *no* privileging of one or more religions by the state, because no matter how much a state *may* try to keep the privileges specified and bounded, the message of preference communicated to society in general may have an *amplifying effect* on those privileges. This point reminds us not to think only in terms of state attitudes and actions but also in terms how these may be adopted and possibly skewed or amplified by society in general.

The UN Special Rapporteur on the Freedom of Religion or Belief, Heiner Bielefeldt, is amongst those scholars who see any privileging of one or more religions as fundamentally contrary to religious pluralism. Bielefeldt is cited, as opposed to the many scholars who share his views (most outspoken of whom is Martha Nussbaum), specifically because of the import of his position: his is not meant to be merely an ivory tower conception, given he engages with matters of freedom of religion or belief on the ground in various country contexts.

Bielefeldt posits that equality and freedom inextricably belong together, as part of the 'architectural principles' of human rights (2013: 50-51): "Without equality," he posits, "rights of freedom would amount to mere privileges of the happy few." Bielefeldt argues further that identity politics which are focused on *particular* identities rather than being universal, *when* practiced, as they often are, together with political favouritism towards particular religious groups, entail a threat to the idea that freedom of religion *should be* universal, for all peoples (2013: 34). He gives as an example various countries with constitu-

tions or laws on religion that give a privileged status to one or a few 'recognised', or, in the case of Greece, 'known' religions. The various lists of recognised religions, he argues, whether short or long, are problematic in that their mere existence suggests that 'pluralism can only unfold within a predefined set of permissible options', and this runs counter to the foundational concept of normative universalism (Bielefeldt 2013: 37).

Many scholars resist such 'human rights approaches to religion', both as expressed through the ECtHR religious freedoms jurisprudence but also as embedded in the spirit of Bielefeldt's above-cited perspective. Efforts within human rights circles to secure pluralism and tolerance between religions are, in some cases, seen as a direct restriction upon the manifestation of religion by believers. According to Malcolm Evans, the elevation of secularism in the name of pluralism, where evinced, is deeply problematic as it is achieved by 'sanitising' public life of traces of the religious (Evans 2008: 312).

Here Evans is focusing on rights at the individual level and argues that the individual right to practice religious freely is too often curtailed in the name of pluralism and equality. But he also expresses concern regarding religious rights at the national level, seeing in certain human rights approaches 'an attempt to brush aside the reality of church-state relations and with it a foundational element of national identity' (2008: 303).

These concerns are echoed by Olivier Roy, who argues that gradually, "a common template of 'religion' is emerging" because, in the context of the struggle for pluralism, institutions are seeking a one-size-fits-all definition that applies to all religions. Such 'formatting' of religion which, in the past, occurred in state interventions seeking to control, dominate and acculturate religion, happens today "for precisely the opposite reason: it is done in the name of freedom and equality" (Roy 2010: 9).

Beyond these conceptual problems which provoke scholarly debate, we also have significant *practical* problems in the implementation of equality in the domain of religious freedom or, as

Bielefeldt (2013: 56) puts it, “the practical problem of whether and how freedom of religion or belief can actually be implemented in a strictly non-discriminatory manner.” Equality in celebration of public holidays is an obvious example of a problem area.

Here the term ‘reasonable accommodation’ comes in. According to Bielefeldt, “What [reasonable accommodation] means in practice cannot be defined abstractly, but must be worked out in a case by case manner... ‘but when there is goodwill on all sides, practical solutions can usually be found’” (2013: 57-58).

The problem, of course, is the fact that there is not always, and in some contexts not *often*, goodwill on all sides. To take an example, following Bielefeldt’s suggested case-by-case approach, below I present two different takes on the financial privileges enjoyed by the Orthodox Church in Greece.

In particular, the fact that Greek Orthodox Clergy salaries are paid by the state is a sticking point for many religious minority representatives. It is also something strongly defended by the Orthodox clergy. I use my interviewees’ voices again to illustrate the different perspectives and the impasse between them.

Below is the perspective of an Evangelical church in Greece; his statement includes reference to a lack of goodwill on the side of the Orthodox Church which, from his perspective, ‘fights him’:

“Think about how all of us, we not only don’t get paid, we have our own other jobs and rather even contribute financially to the running of the church. Meanwhile, Orthodox priests have pay of civil servants. They justify this saying we’ve given, we’ve offered, etc. This, for us, as a serious injustice: for me to pay taxes, from my work, for the priest to be paid who fights me and sees me as his enemy.”

Meanwhile, this cited Orthodox cleric’s argument is classic and is used well beyond the case of clerics’ pay in order to justify a large number of the privileges the Greek Orthodox Church enjoys. So by virtue of a particular historical engagement between church and state whereby the state

took, or was given, church property, the state rightly pays (and is obliged to pay, forever) the wages of the Orthodox clergy. This is an abstract, undefined and unbounded notion of eternal debt of the state to the Church, and it is a highly *prevalent* notion, in many of my interviewees’ perspectives.

“And they may complain: why does the state give part of the pay of the clerics? And I ask, which of the non-Orthodox churches gave to the state any of its property? We have given 96% of it. And the state undertook, in exchange, to pay the clergy. Let’s leave aside the national dimension, regarding the freedom of ‘21, of ‘41, etc., and let’s just look at the financial side: all the things you see around, hospitals etc., were the Church’s. How can they demand equal treatment, without having given something to the church, I mean, state?”

Thus, in the context of this normative disagreement around these issues, not just between religious majorities and minorities but also between scholars, what can be done to help address, and re-dress, problems experienced by religious minorities which have their root somehow in the historical Orthodoxy-Greek national identity link?

There is also a great deal of scholarly debate over whether solutions lie with parliaments or with courts. I will discuss two possibilities from a theoretical and then practical perspective.

One prominent response in Greece calls for a strict separation of church and state and an end to such privileges for the Church.

In an interesting article on political liberalism and religion, political theorist Cecile Laborde (2013) applies an incisive process of elimination to a list of four ideal-typical models of religion-state relations, in order to assess which is compatible with religious freedom. The four models are listed below:

Militant separation: inadequate protection of religious freedoms; official support and promotion of scepticism or atheism by the state; secularist anti-religious state

Modest separation: adequate protection of religious freedoms; no official support of religion(s) by the state; no public funding of religious education and no state aid to religious groups

Modest establishment: adequate protection of religious freedoms; official support of religion(s) by the state; public funding of religious education and state aid to religious groups

Full establishment: inadequate protection religious freedoms; official support and promotion of religious orthodoxy by the state; theocratic anti-secular state (Laborde 2013: 68).

Through this process, she reaches the conclusion that only two of the four ideal types of religion-state relations – modest separation and modest establishment – can possibly provide adequate protection of religious freedoms, and so the other two models are ruled out as incompatible with political liberalism.

At the heart of the reasoning in this process of elimination is the principle of equality. Regarding moderate establishment Laborde explains that “A political liberal state can give symbolic preference to one religion – as long as the preference is purely *symbolic*” (2013: 82, *emphasis mine*) and that members of religious minorities are otherwise treated as free and equal citizens. Modest establishment is only acceptable, is only ‘modest’ enough, as long as these conditions are met. Strictly speaking, the norm in many if not most European states falls far short of meeting these conditions, thus not qualifying these states as moderate establishment, much less as moderate separation.

She argues further that state financial assistance within modest establishment is justifiable only if adequate protection of freedom of religion is interpreted as requiring such assistance (i.e., *if* the state assistance is *necessary* for protection of religious freedoms), *or* if equality between believers of different religions is interpreted as mandating even-handed support of all by the state (Laborde 2013: 72).

Neither of these conditions is anywhere near the case in Greece, nor in other majority Orthodox contexts. In other words: state assistance to religious groups (mainly to the Orthodox Church) is *not* granted because such assistance is deemed necessary for the protection of religious

freedom; nor is such assistance granted even-handedly across all religions in order to provide for equality between believers. Thus Laborde’s conception suggests, echoing Bielefeldt’s, that the type of establishment we have of the Orthodox Church in Greece is necessarily problematic from a religious freedoms perspective.

From a practical perspective, this is a highly polarising topic in Greece. With varying levels of intensity since the early 80s, a handful of scholars have been trying to introduce changes to current church-state relations. They rarely, however, manage to garner sufficient political support to enact changes. Meanwhile, these efforts are open to the critique that a state *ought* to be able to preserve its own cultural identity, and if religion is a part of that, then the right to privilege a religion will necessarily trump some religious minority rights to equality.

Assuming these limitations, then, what can or should courts do? Again, I will approach the topic from a theoretical perspective and then from a particular one.

Two particular provocatively titled book publications can serve usefully as a frame for my discussion here: *The Impossibility of Religious Freedom* (by Winnifried Fallers Sullivan 2005) and *The Tragedy of Religious Freedom* (by Marc DeGirolami 2013). These texts represent a budding new genre of literature questioning the role courts can play in relation to religious freedom.

DeGirolami’s and Sullivan’s concerns and conclusions are distinct, but both speak in terms of *predicaments*. DeGirolami addresses the ‘predicament of legal theory’ (2013: 2), and Sullivan the ‘predicament of religion’ (2005: 5). ‘Legal theory’, according to DeGirolami, ‘seeks to fix crystalline conceptual categories ... [b]ut the social practice of religious liberty is resistant to legal theory’s self-assured, single-minded drive to evaluate, justify, and adjudge’ (2013: 1).

For her part, Sullivan argues that religion “fits uneasily into a legal scheme that demands such categories and such expert certainty.” Rationalizing religion in the ways proposed by courts and

legislatures “fails to capture the complex nature of people’s religious lives” (2005: 10).

In short, the predicaments have a common basis in the messiness of lived religion, including the relationship between religion and national identity.

Most notable is the incredible difficulty Courts face (or, impossibility, as Sullivan might say) in untangling religion, culture, history, and identity *just* enough to be able to ascertain whether religious freedom has been violated.

Judges get into terrible muddles trying to decide, for example, whether the crucifix on Italian school walls is a religious symbol which can indoctrinate pupils, or rather a symbol of national identity (*Lautsi v. Italy*, 2009, 2011, ECtHR). Or, in the US context, whether the Ten Commandments on school walls represents state promotion of religion or a harmless example of American national identity, shaped as it is by civil religion (*Stone v. Graham*, 1980, US Supreme Court). The same applies to the pledge of allegiance recited by children in public schools, indicating that the nation is ‘under God’ (*Elk Grove Unified School District v. Newdow*, 2004, US Supreme Court).

This fact leads many scholars to argue that Courts are not the right place for sorting out such issues. And certainly Courts too experience social and political pressures, as their legitimacy is contingent on reception of the messages and decisions they communicate (as suggested above with reference to the ECtHR legitimacy crisis).

In the Greek case, Courts, and specifically, the ECtHR, has taken very bold decisions relating to religious freedom. And, again, the fact that ‘*Kokkinakis*’ is in the drawer at police stations, barring police from abusing and even using the anti-proselytism laws, is a welcome development to religious minority groups, for which they have the European Court of Human Rights to thank, even if the legislation has not changed.

In reality, I would argue that for the Greek case, both parliaments and courts are necessary actors in securing religious freedom for minority religious groups, and both are still insuffi-

cient guarantors of religious freedom. This point may be illustrated in reference to the recent bill, approved by the Greek parliament in October of 2014, introducing a new form of legal status for religious minority groups in Greece.

On October 1st, the Greek Parliament passed a bill offering a formal legal status recognizing minority religious groups specifically as religious communities (rather than as other forms of organization), thus influencing taxation, property rights, running of places of worship, etc. The only religious groups formally recognized until now as having legal personality *as a faith community*, are Orthodoxy, Judaism and Islam *in Thrace* (not in general).

This bill was largely made possible by the European Court of Human Rights’ judgment in *Chania Catholic Church v Greece*. Here, a Catholic Church in Chania was challenged by a neighbour concerning its property ownership and the Greek lower courts refused to recognize the Church’s legal personality in order to defend its property in court. The Catholic Church won the case, and the Greek state half rectified the situation by a change to the civil code in 1999, but the Catholic Church continued to press for full and formal legal recognition as a religious community.

The new bill confirms the present legal status of the Greek Orthodox, Jewish and Muslim of Thrace communities, and offers a new form of formal legal status automatically (i.e., without some application or court process necessary) to the Roman Catholic, Anglican, Ethiopian Orthodox, Evangelical, Coptic Orthodox and Armenian Orthodox communities; and it offers *the possibility* of the legal status to other religious minority groups but only through court confirmation that they fulfil the following conditions:

- a threshold of 300 members
- an application to the ministry of education including: the constituent deed establishing the group, the religious creed of the faith group; the names of the members of the group’s administration, which must necessarily include the ‘pastor’ of the group (i.e., the pastor is required to be a formal member of

the groups administration); the full CV of the pastor (including education, length of current position and way the pastor was chosen for the post); the list of places of worship; its by-laws, and the signatures of its members and the date.

- The members of the community cannot simultaneously be members of other religious communities with legal status
- The faith's by-laws must not be deemed antithetical to public order or to the acceptable standards of morality
- And the religious community with legal status may be dissolved if its membership level drops below 100; if it remains without a pastor for 6 months; if its aims are in practice different from those approved; and if its practice has become illegal, unethical, or against public order.

The new bill is problematic from several perspectives, and certainly opens Greece to the potential for further cases in the European Court of Human Rights, because in some of the groups who have now achieved legal status, there is an internal division, and through the bill only one side of the divide is effectively recognised, thus opening the state to criticism of meddling in the internal affairs of a religious group.

The bill is received with mixed feelings by religious minority groups. One Jehovah's Witness representative indicates:

"Personally, I believe it depends on the leaders of the Ministry of Education and Religious Affairs at a given time how they will use it, either liberally or to control the religious groups, since there is now [with this new bill] central control from the General Secretary of Religious Affairs. From our side, we are waiting to see what will actually happen."

In the case of this bill, we have an example of a complaint of a religious minority group, the Roman Catholic Community of Chania, supported by a court, the European Court of Human Rights in 1997, which finds its reflection in Greek legislation some 17 years later, and of course with imperfections.

Both developments are more positive than negative, but even together here the acts of the court and of the parliament are insufficient, as the worries of this particular religious minority representative cited here indicates.

The necessity of revised national identity narratives

The 'cultural defence paradigm' is quite conspicuous in the Greek context and is also well documented in relevant literature¹⁵. What the present article has sought to articulate is a nuanced perspective on the various and multi-level challenges to addressing religious freedoms problems which arise in relation to the defence of religion-national identity links.

These problems are conspicuous in, but of course not limited to, majority Orthodox contexts. The French examples of 'pluralism as problem' are also conspicuous: the 2011 ban on the burqa in public spaces in general (i.e., moving far beyond the 2004 ban on religious symbols in public schools) was notably preceded by a 'public debate on French national identity' launched by Nicholas Sarkozy in 2009 (see 'Débat sur l'identité nationale' 2010); the debates five years later around whether a Muslim girl's wearing of a long black skirt in school is acceptable may also be seen as part of the same continuum in which a particular conception of national identity leaves little space for acceptance of religious minority expression.

From wholly different perspectives and contexts in the United States and in Italy, the relationship between religion and national identity (embedded in American civil religion in the US context) underpin secularist, rather than religious minority, resistances to the predominant national narrative manifested in such practices as the recitation of the Pledge of Allegiance ('under God') and the display of the crucifix in public schools. Regardless of where one stands in ideological terms on these issues, the active implica-

¹⁵ See, for example, Halikiopoulou and Vasilopoulou (2013).

tions of national narratives with either a positive or negative relation to religion are evident.

What is, however, more unique to majority Orthodox contexts is the prevalence of particular problems related to the transition to democracy, especially in post-communist contexts¹⁶. For example, so many problems have been borne simply from the messy party politics first in the immediate and then in the less immediate aftermath of the collapse of the communist regimes.

A poignant example is that of the schisms in the Bulgarian Orthodox Church and in the Muslim Community of Bulgaria, caused in large measure by state actions. In a brief and oversimplified version of the account: a newly-elected democratic government in 1991, in a supposed process of democratisation, removed from office the Patriarch of the Bulgarian Orthodox Church, and the Chief Mufti of the Muslim community, both of whom had collaborated extensively with the communist regime. The government declared the elections of these leaders invalid and appointed new interim leaderships. In both cases, and in the context of heated party politics, subsequent governments reinstated the leaders who had been deposed, but by then the 'new' leaders had already gained followings. Both cases reached the ECtHR.

But when we consider the Greek case as a majority Orthodox context without the transition-from-communism experience, we see it as no less, only differently, challenged by pluralism. Here we find relatively fewer basic freedoms claims of religious minorities (first, life and limb; freedom of belief, freedom to worship, freedom to assemble as a religious group, etc.), and rather more demands for equality, for example equality in financial privileges such as tax exemption, or equality in access to mass media.

The religion-national identity link arises from the research as a main and common denominator between the four country cases of Greece, Bulgaria, Romania and Russia. References to this relationship are also strikingly prevalent within each country case study, in terms of the weight given by interviewees to this relationship in their explanations of limitations to religious freedom (whether they were complaining about those limitations, as religious minority groups, or explaining or even *defending* those limitations, as representatives of the Orthodox majority¹⁷). Somewhere behind nearly every cited limitation on religious freedom lurked the shadow of the close relationship between religion and national identity.

I will close with what I – to pre-empt critique – will admit is itself a banal point, but at the end of this research process it is what I find most critical: that what is most necessary for a fuller respect of religious freedoms for religious minority groups is a national-education-led change in conceptions of national identity, allowing for a more open conception that is inclusive of religious minorities and more reflective of Greek contemporary diverse society, inclusive of its religious minority and non-religious, secular and in some cases anti-religious components¹⁸.

This, of course, requires a change in the national education policy – not only in the tuition of religious education but more broadly in the way history is taught. Given the extensive debates and controversies around past efforts in these directions in Greece, this too is a political minefield. Still, subtle but consistent efforts towards a widening of conceptions of national identity could form the foundation for an unravelling of much of the often imperceptible web keeping certain limitations on religious freedoms firmly in place.

¹⁶ Anderson considers the cases of Greece and Spain alongside post-communist contexts in this study of religious liberty, for their transitions to democracy from dictatorships (40 years, in the Spanish case, 7 in the Greek case). (I find it difficult to apply the same arguments to post-communist and post-dictatorship transitions of Greece and the other case studies).

¹⁷ Whether clerical or lay, representatives of the Church or the state or others.

¹⁸ See Trine Stauning Willert's *New Voices in Greek Orthodox Thought. Untying the Bond between Nation and Religion* (2014) for an excellent elaboration on new trends within Orthodox theology calling for a de-emphasis within the Church on national identity.

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Note on the Author

EFFIE FOKAS is Principal Investigator in a research project examining 'Grassroots Mobilisations in the Shadow of European Court of Human Rights Religious Freedoms Jurisprudence' (Grassrootsmobilise, ERC grant no 338463, 2014-2019), based at the Hellenic Foundation for European and Foreign Policy (ELIAMEP). Also at ELIAMEP she previously carried out a study of 'Pluralism and Religious Freedom in Orthodox Countries in Europe' (PLUREL). She was founding Director of the London School of Economics Forum on Religion and is currently Research Associate of the LSE Hellenic Observatory. Her background is in political science and she holds a PhD in political sociology from the London School of Economics.

Authorizing Religious Conversion in Administrative Courts: Law, Rights, and Secular Indeterminacy*

by MONA ORABY (Northwestern University)

Abstract

The administration of religious difference in modern Egypt suggests more continuity in the state's involvement in personal status affairs over the course of the twentieth and twenty-first centuries than is generally thought to exist. At the same time, the role that the administrative courts have played, on the one hand, in regulating formal religious identity and, on the other hand, in adjudicating conversion and apostasy has gone largely unaddressed. This article argues that constituting religious identity as an administrative category subject to judicial oversight was part of a larger constellation of political arrangements that reorganized relations among legal and bureaucratic institutions, religious authority, and state capacity in the modern period. By accounting for the enduring inconsistency with which the rule of law is deployed in religious status jurisprudence and the French legal influences that undergird this practice, the article illuminates how the administrative judiciary, a purportedly secular institution meant to curb an unwieldy bureaucracy, sustains rather than restricts sovereign state decisionism. The paradoxes of judicial discretion construct mutable boundaries between minority and majority religious populations that are central to the exercise of secular power.

Keywords: Egypt, secularism, Majlis al-Dawla, conversion, minorities, public order

On 13 May 1973, the Egyptian Supreme Administrative Court decided whether an Egyptian woman – who was born to a Coptic Christian family but converted to Islam and then reconverted to Coptic Orthodoxy – had the right to inherit from her deceased Coptic husband.¹ The sister of the deceased challenged the legal status of the marriage, and hence the widow's right

to an inheritance, on account of the conversions. The Court affirmed the sister's contentions. It cited the widow's marriage certificate, which indicated that she entered into the contract as a Coptic Christian, as evidence that she previously denied Islam in order to commence the union. The widow was therefore an apostate, ruled the Court. According to the interpretation of *shari'a* that the Court invoked, an apostate is any individual who embraces and then denies Islam regardless of having been born a Muslim, having originally belonged to a different religious community, or having no previous religious affiliation. Apostasy, held the Court, instantaneously annuls any previous marriage and invalidates any subsequent marriage. Furthermore, "[a]n apostate has neither religion nor sect, his apostasy is not sanc-

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¹ Supreme Administrative Court no. 240, Judicial Year 22, 13 May 1973 (as discussed in Hamad 1999: 225-228).

tioned, nor is his adherence to a new religion recognized.” The Court held that its ruling does not violate constitutional protections for freedom of belief or the equality of individuals before the law since choice of religious belief is always limited by public order. The ruling had significant repercussions for the widow. She was required to return the pension she received between 1963-1966 from Cairo University, where her husband had been a professor in the Faculty of Medicine. More importantly, the judgment restricted her right to marry and inherit in order to preserve and protect what the Court called the “divine rights” of Muslims and non-Muslims, understood as Christians and Jews.

Contrary to one of the grand metanarratives of modern Egyptian history, namely that Egypt experienced a secularizing trend in the 1950s and 1960s and an Islamic trend thereafter, the administration of religious difference suggests continuity in the state’s involvement in religious and personal affairs over the course of the twentieth and twenty-first centuries. The role that the administrative courts have played, on the one hand, in regulating formal religious identity and, on the other hand, in adjudicating conversion and apostasy has gone largely unaddressed. In the absence of a statute on conversion, the administrative judiciary has relied on the notion of public order (*al-nizam al-‘aam*) to adjudicate religious status disputes. Public order as a legal concept has its origins in international law but was incorporated into the domestic laws of various states in the late nineteenth century (Mills 2007). As scholars have shown, judges in contemporary Egypt invoke public order to justify exceptions to legal norms like procedural fairness and equality under the law (Berger 2001, 2003, 2004; Agrama 2012).

What has received less attention is the fact that the public order doctrine in Egyptian law is essentially derived from Article 6 of the French Civil Code, which permits judges to dissolve a contractual obligation between two parties if they determine that the motivation behind such an agreement breaches the precedence

of public over individual interests. The obligation that I consider in this essay is one entered into between Egyptian nationals and the Ministry of Interior, and concerns the right of citizens to amend personal information – including religious identity – on their vital records pursuant to Civil Status Law no. 143 of 1994. Public order comes to bear on religious status adjudication when administrative judges employ this concept to defend the values they deem essential to the state’s social cohesion and which they purport that a majority of Egyptians hold. Insofar as they perceive the Islamic prohibition against apostasy as constitutive of public order, the rule of law incessantly blurs formal legal equality with Sunni majoritarianism even in those cases where the judiciary rules in the plaintiff’s favour. Given that Egypt’s administrative judiciary, the code which is the basis of its jurisprudence, and, importantly, the recourse to public order in judicial decision-making are all French-derived, a danger exists of understanding religious status adjudication in Egypt as a misapplication of European legal procedures and codes. Such an understanding obscures important historical reconfigurations of state institutions and authority, and should not be taken as an example of Egypt’s failed political liberalization or incomplete modernization. The question of secularism becomes relevant to the conditions in contemporary Egypt precisely because its history is intimately tied to the history of the West, and secularism as a practice enables and disavows particular forms of life (Asad 2003).

This essay is divided into two parts: the first highlights general features of the administrative judiciary, the historical context in which it was founded, and how two legal innovations in the mid-twentieth century paved the way for administrative judges to arbitrate religious status disputes. Jurisprudence on conversion, which I conceptualize as the amending of one’s religious affiliation on state-issued vital records, illustrates how constituting religious identity as an administrative category was part of a larger constellation of political arrangements that shifted relation-

ships among legal and bureaucratic institutions, religious authority, and state capacity. My interest in this article lies not in investigating how believers come to believe what they do or how they cultivate individual or collective forms of religiosity, but in the socio-political construction of religious difference. The second part of the essay examines how administrative judges have invoked a key feature of the rule of law – the concept of public order – in cases ranging from 1952 to 2011. Accounting for the continuity and inconsistency with which this concept is deployed illuminates how the administrative judiciary, a purportedly secular institution meant to curb an unwieldy bureaucracy, sustains rather than restricts sovereign state decisionism. This pattern does not, however, render the administrative judicial apparatus an anomaly among countries where civil law jurisdictions prevail. It points instead to how French legal influences have converged with the historical particularities of judicial development in Egypt, yielding an institution and a judicial practice that is hybrid at its core.

PART I

Established by the legislature in 1946, the administrative judiciary is called *Majlis al-Dawla* (State Council).² It was modelled after the French Conseil d'État and is the last major institution incorporated into the Egyptian judicial system as a result of Napoleonic influence. Though the idea of holding the government accountable for administrative harms through public law is common to both *Majlis al-Dawla* and the Conseil d'État, these institutions were never identical. Differences are evident in the context of their founding, and in their relationship to the executive branch and ordinary courts (Hill 1993: 207-212).³ *Majlis*

al-Dawla consists of disciplinary courts, courts of first instance, the Court of Administrative Justice, and the Supreme Administrative Court. *Majlis al-Dawla* has three main functions: to review all draft laws originating from the executive branch before they are submitted to parliament, formulate *fatawa* (advisory opinions) about legal matters important to the government, and ensure through adjudication that administrative bodies comply with the law. The administrative judiciary advises the government on matters of constitutionality during its review of legislation originating from the executive branch. The institution's jurisdiction spans the entire state administrative apparatus, including disputes between low-level bureaucrats, ministers, ministries, and the President of the Republic. It also hears cases filed by ordinary individuals against bureaucrats in their capacity as representatives of governing bodies of the state, and may compel the state to compensate individuals for wrongdoing as well as annul administrative decisions.

While *Majlis al-Dawla* proved to be a formidable check on arbitrary government decisions during the first few years of its establishment, a series of laws that were passed beginning in 1949 diminished the institution's formal autonomy until the post-1970 period. This trend took shape during the political climate immediately leading to and following the 1952 Free Officer's coup led by Colonel Gamal Abdel Nasser that ended monarchical rule in Egypt. What is described as the "taming of *Majlis al-Dawla*" (Brown 1997a: 75) culminated in a physical attack on Abd al-Razzaq al-Sanhuri, then-president of *Majlis al-Dawla* and chief architect of the revised Egyptian Civil Code that remains in force today. The attack occurred in 1954 and was led by military sympathizers after the publication of an article suggesting that *Majlis al-Dawla* was on the verge of issuing a decree denying the constitutionality of the Free Officers' coup. Nasser's government subsequently forced Sanhuri out of political and social life (Bechor 2007: 41). The 1956 constitution, which granted Nasser expansive power to rule by presidential decree, further limited the

² I use "administrative judiciary" and "*Majlis al-Dawla*" interchangeably in this article.

³ A particular form of separation of powers allows the Conseil d'État to oversee the apparatus of French administrative courts, which comprise a litigation division within the executive itself. Though distinct from the ordinary courts, *Majlis al-Dawla* and its hierarchy of administrative courts remain part of the Egyptian judiciary.

administrative judiciary's potential to galvanize resistance against the new regime. *Majlis al-Dawla* would reclaim some of its lost autonomy in the 1970s and 1980s as judges were given greater latitude in managing appointments, promotions, and transfers, and also were granted significant legal protections against dismissal (Rosberg 1995: 187). This was due in no small measure to the subsequent president, Anwar al-Sadat. Judicial institutions and rule-of-law rhetoric were central to his campaign of building political legitimacy that would attract foreign investments and reverse the debilitating effects of Nasser's authoritarianism (Moustafa 2008).

Two important legal developments in the early years of the Egyptian Republic set the stage for *Majlis al-Dawla* to become a key arbiter in disputes over religious identity status. In 1955, the state abolished the *shari'a* and *milliya* courts that exercised exclusive jurisdiction over Muslim and non-Muslim (Christian and Jewish) personal status matters.⁴ When this law (no. 462 of 1955) took effect the following year, confessional jurisdiction fell under the National Court system, where civil court judges would apply a codified version of the religious laws of the litigants when adjudicating disputes over marriage, maintenance, and custody. The Law on Personal Cards (no. 181) was also passed in 1955 and mandated that all Egyptians obtain a national identity card at sixteen years of age. This law empowered the Ministry of Interior to decide what criteria to include on these and other vital records. Religious affiliation became a legal category subject to bureaucratic oversight and judicial review.⁵ We see, then, that the state's attempt to establish a liberal rule of law, based on the principles of pro-

cedural fairness and formal legal equality, unified the judicial system but did not yield a uniform personal status law applicable to all Egyptians (Sezgin 2013: 119-132). The bureaucratization of religious identity not only displaced the authority that community-based structures exercised over their constituencies, but also generated and diffused modern forms of authority through the regulatory institutions of the modern state. *Majlis al-Dawla* is one locus through which religious expertise became embedded. Accounting for how the modern category of religious identity is constituted thus offers insight into the secularization of political authority whereby "politics" has come to be very differently articulated from the configurations of power and authority that had previously prevailed" (Asad 2015).

That the administration of religious difference is deliberated in *Majlis al-Dawla* suggests that scholars have underestimated the expansive regulatory capacity of this institution. Scholars of Islamic law, legal pluralism, and the rule of law in Egypt might expect to find adjudication on apostasy and conversion occurring in the personal status division of the civil courts. Indeed, with only a few exceptions (Hamad 1999; Berger 2003; Bernard-Maugiron 2011; Mahmood and Danchin 2014), most studies of legal plurality or the conflict of laws focus either on the Court of Cassation or the Supreme Constitutional Court. The literature on Egyptian judicial development provides key insights into French and British influences on the establishment of Mixed and National Courts, the courts' capacity to limit executive authority, and the effects of legal liberalization on professionalizing the judiciary (Hill 1979; Brown 1997a; Moustafa 2007). Within these contributions, however, the development of administrative courts remains understudied.⁶ In the few inquiries that do exist, *Majlis al-Dawla* is described as a neutral forum in which citizens can file claims against the state to restrain bureaucratic autonomy and to ensure

⁴ The term "personal status" was invented by European powers during the nineteenth century out of concern for the status of Ottoman Christian populations. See Sfeir 1956 and Cuno 2015.

⁵ Egyptian authorities began collecting information about individual religious affiliation before 1955 (see Cuno and Reimer 1997), but the Law on Personal Cards inaugurated bureaucratic procedures whereby individuals became required to provide proof of religious identity.

⁶ This is in contrast to the literature in Arabic. See al-Bishri 1987, Abd al-Barr 1991, and Imam 2013.

that administrative decisions comply with the law (Rosberg 1995; Brown 1997a; El-Ghobashy 2006; Moustafa 2008). The specific role that the administrative judiciary plays in managing social heterogeneity, not to mention authorizing religious conversion, has gone largely unaddressed.

Conversion in the Egyptian context is an under-researched topic despite the fact that numerous studies have identified conversion as one of the most vexing dilemmas that predates and persists in the modern period (Cromer 1915; Wakin 1963; Ziadeh 1968; Carter 1986; Philipp 1995; Afifi 1999; Elsässer 2014). Most historical scholarship focuses on two discrete time periods. One strand accounts for the social and political pressures that caused the mass conversion of Coptic Christians to Islam under Mamluk rule between 1250-1517 (Little 1976; Bulliet 1979; El-Leithy 2005). Another literature examines American and British Protestant missionary activity at the onset of British occupation of Egypt in 1882 through the end of the Arab-Israeli War of 1967 (Sharkey 2008a; 2008b). While specialists of the Mamluk period have chronicled the extent to which Coptic elites professed belief in Islam out of political expediency, scholars writing on the nineteenth and twentieth century have analysed conversion in terms of spiritual transformation and theorized missionary encounters in the context of Western imperialism following British decolonization. Both sets of scholars note the phenomenon of recording religious affiliation in state registries, and yet their relatively narrow notion of conversion as change in belief limits our understanding of the category of religious identity that emerged with the rise of the modern nation-state. Addressing the processes through which this category is constituted queries reigning assumptions about the self-evident nature and political effect of religious difference.

Jurisprudence on religious conversion is thus a compelling lens to theorize what secularism *does*. Following Hussein Ali Agrama, I understand secularism as “a historical arrangement of power in which the question of how and where to draw the line between religion and politics becomes seem-

ingly indispensable to the practical intelligibility of our ways of life” (2012: 40). I am concerned with the conditions that continually give rise to the question about religion’s proper place, the form it can take, and where and through what means it can be made manifest. I am also attuned to the effects, or what Agrama has called the “attached stakes,” of secularism’s intractability. We see this particularly well in Egypt where religious identity is a compulsory legal category that corresponds to a confessional personal status regime (*markaz qanuniy*). The outcome of religious status adjudication determines individuals’ rights in marriage, divorce, custody, and inheritance – those essential freedoms whose definition and distribution are not absolute but rather depend on judicial interpretation. Examining the conflicts that arise when individuals seek to align their self-proclaimed and official religious identities illuminates the processes, mechanisms, and principles that undergird and continually unsettle the question of what the proper place of religion should be. But just as “conversion scrambles the categories of religious identification neatly kept in place by bureaucratic logic” and exposes the limits of national belonging, conversion as an act and a process “also brings to focus an essential role of the state in modernity” (Viswanathan 1998: 16-17). This role is to constitute and maintain a distinction between the majority and its minorities (in the Egyptian case between Muslims and non-Muslims, and between *dhimmi*⁷ and non-*dhimmi* subjects) that is so crucial to the distribution of rights within the modern sovereign state.

What is particularly interesting about religious status adjudication is that it takes place in a forum initially established to reign in the bureaucracy. Recourse to public order, a legal concept which by definition affirms sovereign state decisionism, points to secularism’s tendency to blur the lines between fundamental freedoms and majority values as the secular state fashions reli-

⁷ *Dhimmi* status in Islamic law is reserved for *ahl al-kitab* – Christians and Jews – and consists of legal protections for freedom of worship and legal autonomy to organize community affairs.

gion as an object of government intervention. As Agrama has shown, this right of decision is typically vested in state legal authority and the structures of the rule of law, making sovereign power one that stands “prior to religion and politics but is not indifferent to the question of how to distinguish and separate them” (2012: 226-227). In this sense, jurisprudence on religious conversion is less about resolving a conflict between the Islamic legal tradition and the right to freedom of religion, as some scholars have suggested (El Fegier 2013). Instead, and as Tamir Moustafa (2014) has importantly shown in the context of religious liberty cases in Malaysia, judicial systems carry institutional legacies that often reproduce legal controversies and exacerbate existing ideological cleavages. The indeterminacies evident in adjudicating conversion in Egypt thus challenge the widespread understanding of courts as disinterested guarantors of freedoms essential to the liberal rule of law.

PART II

In the second part of this essay I elaborate on the arguments I developed above by focusing on particular administrative court cases decided between 1952 and 2011. While in the first part I explained how *Majlis al-Dawla* came to exercise jurisdiction over religious status disputes, here I will analyse the various modes through which judges have continually yet inconsistently invoked the concept of public order to resolve these disputes. I refer to cases decided over several decades in order to illuminate their conditions of possibility, namely, that whereas *Majlis al-Dawla* jurisdiction over the bureaucracy is specified in statutes and constitutional provisions,⁸ the conversion cases that fall within its purview exist beyond legal regulation. Law,

⁸ See Law no. 47 of 1972. The jurisdiction of *Majlis al-Dawla* has been delineated in Egypt’s constitution since 1956. The 1971 constitution significantly expanded the scope of state actions over which *Majlis al-Dawla* exercises jurisdiction, and subsequent constitutions have further elaborated on this scope.

in its simultaneous absence and presence, creates the conditions whereby judges exercise vast discretionary power in cases that give rise to the question about the proper manifestation of religion.⁹ I show that even when administrative courts rule in favour of the plaintiff, their recourse to public order nevertheless affirms state sovereignty insofar as the concept is used to both justify formal legal equality between citizens as well as exceptions to this norm. The rule of law, through its reliance on public order, thus constructs permeable boundaries between minority and majority populations. I suggest that the contradictory verdicts in the repertoire of religious status jurisprudence should be understood within the context of the civil law tradition’s enduring legacy.

Majlis al-Dawla began adjudicating religious status disputes soon after its establishment. One of the earliest cases was decided in 1952, and concerned the right of a Baha’i government employee to collect marriage and family allowances.¹⁰ The man provided a copy of his marriage contract, which conformed to Baha’i religious law, to demonstrate his eligibility to receive the allowances. When his employer, the Egyptian Railway Authority, did not reply to his requests he filed an administrative suit. The Court held that the plaintiff was an apostate and that his marriage was therefore null and void [*batil*]. The Court also struck down the plaintiff’s argument that he was entitled to equal legal treatment alongside *dhimmi* subjects, finding that *dhimmi* status is reserved for Christians and Jews with “all other religions being heresy and unbelief.” The Court moved to consider the relevance of Articles 12 and 13 of the 1923 constitution regarding freedom of belief and the free exercise of religious rites. The judgment held that “the legislator did not intend these articles to protect the change of an individual’s religion or his adherence to a religion that is not recognized by the state.” Find-

⁹ For an extended discussion of the always mutually constitutive relationship between law and religion see Sullivan et. al. 2011.

¹⁰ My discussion of this case relies on Pink 2003: 421.

ing that the plaintiff did not have legal grounds for receiving the allowances to which he claimed entitlement, the Court dismissed the suit. The judicial reasoning in this case foreshadows similar arguments that Baha'is would repeatedly face on account of the state's refusal to recognize Bahaim as a religion and, consequently, the legality of Baha'i marriage.

Following a presidential decree (Law no. 263 of 1960) outlawing Baha'i activities and authorizing the confiscation of their properties, Baha'is interacted with the state to the extent necessary for acquiring identity cards, registering marriages and births, and settling disputes over custody and inheritance.¹¹ Since the administrative bureaucracy governs these domains, and given that only Islam, Christianity, and Judaism are formally recognized by the state, conflicts often arose between Baha'is and the Ministry of Interior over the right to indicate their self-proclaimed religious identity on vital records. Allowing Baha'is to do so would amount to informal recognition of Baha'ism. And yet, compelling them to choose from among one of the Abrahamic faiths would violate their legal obligation to provide truthful information on government records. In their close reading of three administrative court cases decided in 2006 and 2008,¹² Mahmood and Danchin (2014) demonstrate that the dilemma of when and how the state should recognize or limit manifestations of religious belief tends to privilege majoritarian values, sensibilities, and customs. The judgments in these cases advance competing understandings of the public order, "holding first that Bahaim must be recorded on identity documents for the express purpose of its public order limitation; second, that the state is prohibited from recording Bahaim on identity documents because only the three heavenly religions [the Abrahamic faiths]

are recognized by the Egyptian public order; and third, that the issuing of identity documents with no space for religion or simply a dash would 'conform with the law and reality'" (Mahmood and Danchin 2014: 155).

At the same time that *Majlis al-Dawla* was adjudicating the Baha'i cases, it addressed the question of who has the right to formalize reconversion to Christianity on vital records. Dozens of religious conversion cases were decided in favour of the petitioner between 2004 and 2006. A series of Court of Administrative Justice rulings in 2007 reversed this trend.¹³ The Supreme Administrative Court subsequently ruled in 2008 that individuals of Christian origin who thereafter converted to Islam and then reconverted to Christianity could indicate a Christian identity and their original names on official documents.¹⁴ However, in what appears as a compromise between the state's position and the complainants' demands, the Court ordered that the new identity cards issued to the complainants note their previous conversion to Islam. The 2008 judgment did not apply in cases where the petitioner was born to Christian parents and whose father converted to Islam while he or she was still a minor.¹⁵ In fact, the Court of Administrative Justice ruled in 2009 that *shari'a* prohibits those who become affiliated with Islam – even involuntarily through the father's conversion – to leave it.¹⁶ A 2011 Supreme Administrative Court ruling not only affirmed the 2008 decision, but also established that children of converts to Islam

¹³ See for example Court of Administrative Justice no. 7403, Judicial Year 60, 24 April 2007.

¹⁴ Supreme Administrative Court nos. 12794 and 16766, Judicial Year 51, 9 February 2008.

¹⁵ The Civil Status Organization of the Interior Ministry often routinely assigns children a Muslim identity once the father records his conversion to Islam and irrespective of whether the mother of the child remains a Christian. The "Civil Status Organization" is also referred to as the "Civil Status Authority" and the "Civil Status Department." All three terms refer to the same institution, known in Arabic as *maslahat al-ahwal al-madaniyya*.

¹⁶ Court of Administrative Justice no. 4475, Judicial Year 58, 30 June 2009.

¹¹ The history of Baha'i relations with the Egyptian state is long and complex, and one that others have carefully analyzed. See Cole 1998 and Pink 2005.

¹² Court of Administrative Justice no. 24044, Judicial Year 45, 4 April 2006; and Supreme Administrative Court nos. 16834 and 18971, Judicial Year 52, 16 December 2006.

have the right to amend their religious status on vital records.¹⁷

Various judgments on the status of Christian reconverts assert that maintaining public order requires those who become Muslim, whether voluntarily (through conversion) or involuntarily (by birth or through their father's conversion to Islam), to remain Muslim on their vital records. Allowing these individuals to formally return to Christianity, it is claimed, harms public morals and constitutes an abuse against Muslims and Islam. Judges of this opinion have asserted that while individuals are free to change their religious beliefs, the Ministry of Interior is not legally obligated to amend their religious status. The petitioners are left to go about their lives as not fully Christian in the legal sense. Since their vital records reflect a Muslim identity they remain subject to Muslim family law, which determines their relationship to the state and the types of legal relations (including marriage) they may enter into with other Egyptians. For some judges, the discrepancy whereby individuals are not permitted to unify their self-proclaimed and official religious identities does not constitute a violation of public order while other judges have asserted the contrary. That is, public order requires state institutions to possess accurate information about the citizenry. The argument goes that it is in the state, and thus the public, interest to allow reconverts to Christianity to formalize their reconversion. In so doing, these judges have insisted, this does not amount to an endorsement of the act of reconversion but merely an acknowledgement that the individual's legal status has changed.

Administrative judges have been most reluctant to extend this line of thinking to the two cases wherein individuals of Muslim origin sought to formalize their conversion to Christianity.¹⁸

¹⁷ Supreme Administrative Court no. 5324, Judicial Year 54, 3 July 2011.

¹⁸ Court of Administrative Justice no. 35647, Judicial Year 61, 29 January 2008; Court of Administrative Justice no. 53717, Judicial Year 62, 13 June 2009; and Court of Administrative Justice no. 22566, Judicial Year 63, 13 June 2009.

Decided in 2008 and 2009, these judgements undertake investigations into the genuineness of the petitioner's religious convictions even as the judges consider the merits of each dispute. In the case decided in 2008, the petitioner is suspected of converting away from Islam "out of ignorance and a tendency toward irrational behaviour." His petition, the Court ruled, constitutes a request for state authorities to approve his "ill deeds and degenerate impulses." The Court interpreted the matter as seditious, and the judgment admonishes the petitioner for having failed to grasp the wisdom of Islam. The ruling handed down in 2009 holds that the Ministry of Interior was correct to deny the plaintiff's request to alter his religious affiliation on account of his failing to meet "the formal and procedural conditions and substantive rules that the law requires for establishing change of religion." And yet, the Court simultaneously finds that legislators have not specified a body that is competent to authorize a change of religion from Islam to Christianity. Both cases affirm that the Ministry of Interior is not legally obligated to amend religious status in a direction that is perceived to contravene public order. Importantly, the 2009 judgment holds that "it is incumbent on the judiciary, in its role as guardian of the public order, to concern itself with this automatically, even if the concerned parties fail to bring it up."

What accounts for the flexibility whereby some forms of conversion are deemed greater or lesser threats to public order? Why has the Supreme Administrative Court handed down multiple contradictory opinions on the same legal issue? More generally, how should the foregoing cases be understood? The great variation in religious status adjudication requires us to consider the enduring legacy of the civil law tradition in Egypt. I use the term "tradition" to highlight "a set of deeply rooted, historically conditioned attitudes about the nature of law, about the role of law in the society and the polity, about the proper organization and operation of a legal system, and about the way law is or should be made, applied, studied, perfected, and taught (Merryman and

Pérez-Perdomo 2007: 2).” The judgments in all of the cases surveyed for this article assert that interpreting Article 47 of the Civil Status Law, which governs the issuance of vital records and the information reflected on them, falls within *Majlis al-Dawla* jurisdiction. This insistence on following the accepted theory on the sources of law seems to affirm the administrative judges’ rote, uncreative function. In practice, however, judges in the civil law tradition actively legislate – whether adjudicating a case according to the applicable law or judging the law itself (Shapiro 1981: 155). This is particularly clear in cases filed by Muslim converts to Christianity wherein courts describe apostasy as a criminal act, even though conversion is not a crime under state law. The Court of Administrative Justice decision of 2008 argued:

And while Egyptian legislation lacks a text that explicitly outlines the act of and punishment for this crime, an administrative judge, on assuming his constitutional and legislative role of settling administrative disputes related to what an apostate claims is a right of his, need not stand about waiting for a cleric or religious organization to issue a *fatwa* no matter the religious nature of the case. Rather, it is his duty to concern himself with the public order, which is grievously wounded by the harm the sins of apostasy and deviation from Islamic precepts cause to the official national religion a majority of the Egyptian people has taken to heart.¹⁹

The reliance on the public order concept appears at odds with the foundational purpose of *Majlis al-Dawla*. If *Majlis al-Dawla* is entrusted to hold the state accountable for its administrative oversights, how can it do so by invoking a principle that affirms sovereign authority? Every attempt at adjudicating conversion continually gives rise to the irresolvable question about religion’s proper place, the form it can take, and where and through what means it can be made manifest. Secularism is fraught with precisely this questioning power.

¹⁹ Court of Administrative Justice No. 35647, Judicial Year 61, 29 January 2008.

While Enid Hill (1987) has suggested that the Conseil d’État is just one reference point for the founding of *Majlis al-Dawla*, the influence of the French institution should not be understated. This is especially since the basis of *Majlis al-Dawla*—the revised Egyptian Civil Code—was modelled on the French Civil Code and is the primary source of civil law in Egypt (Bechor 2007). Put into effect in 1949 and amended in 1994, Article 1 of the Egyptian Civil Code stipulates that in the absence of applicable legislative provisions, the administrative judge shall rule according to customary law or, in its absence, according to *shari’a*. This bears striking resemblance to the practices of administrative judges in France who apply “a pre-existing law or a custom or, in their absence ... base their decisions on principles of equity, reason, justice or tradition.”²⁰ Moreover, the legal concept of public order in Egypt is based nearly verbatim on its articulation in the French Civil Code. Articles 135 and 136 of the Egyptian Civil Code read: “A contract shall be void if its object contradicts public order or morality” and “If there were no reason for the obligation, or if the reason is contrary to public order or morality, the contract is void.” In Egypt as in France, administrative law is not codified and while judges may refer to past verdicts on similar legal issues, they are not bound to do so. This does not mean, however, that precedent plays no role in either context. Rather, the absence of a custom or statute regulating conversion in Egypt facilitates the highly varied and even opposing administrative decisions. *Majlis al-Dawla* judges interpret the *shari’a* in order to determine whether the state in fact has a legal obligation to authorize various iterations of status conversion.

Bruno Latour shows in his ethnography of the Conseil d’État that arbitration presents different opportunities for judicial activism of this kind, preserving what he calls a “fabric of discordant and concordant discourses” that sustains administrative law in the French context (Latour 2010: 170). This fabric’s coherence is invented and

²⁰ David 1960: 85 as cited in Hill 1993: 211.

maintained through continuous cycles of deliberation and judgment. Each contradictory verdict requires careful adjustment through other interpretations to ensure the integrity of the fabric. In so doing, “the judges exercise their skill upon the organization of the law itself, its coherence, its logic, and its viability” (Latour 2010: 170). An analogous sensibility is evident in the Supreme Administrative Court’s practice of hearing cases on the same legal issue and handing down incongruous verdicts. This pattern suggests that *Majlis al-Dawla* upholds petitioners’ rights to seek recourse in the law even if the institution itself remains undecided about how to interpret Article 47. The verdicts in the conversion cases were determined by how administrative judges understand freedom of belief versus the manifestation of belief, how that line can be drawn, and the insistence that such a line must be drawn to maintain public order. The distinction between freedom of belief and the manifestation of belief is neither stagnant nor predictable, and always carries enormous consequences for the petitioners. In every case, the distinction has either authorized or refused the unification of official and self-proclaimed religious identities, a judicial practice that reflects deeply held sensibilities about constituting the nation through the prominence of Islam. The contradictory opinions signal a process whereby the Egyptian Civil Code “bound society to itself, so that it would not appear artificial or divorced; it granted legal and social legitimacy to a new world view that inverted contract law; and it granted judicial discretion to the court, the guard at the gate of public order and morality that decides who may pass and who may not” (Bechor 2007: 206).

Understanding secularism as the mere regulation of religion is thus insufficient to account for indeterminacies in the administration of religious difference. When the Law on Personal Cards was passed in 1955, it entrusted the Ministry of Interior to decide what information is necessary to collect and record for managing the population. It was through this allocation of responsibility that religious identity was entrenched within

the bureaucracy and became increasingly subject to sovereign decisionism. This law was later subsumed under Article 49 of the same law at issue in the conversion cases (Law no. 143 of 1994). Article 49 states: “The executive regulations shall determine the format of the card, the information entered thereon, and the proof and procedures of procuring the card.” Though there was some latitude in what constituted “religion” on vital records in the first decades of the law’s implementation, the Ministry of Interior decided in 2004 to limit which religions would be permitted for facilitating interactions between individuals and the state.²¹ The Ministry’s new policy directive empowered *Majlis al-Dawla* to make increasingly bold pronouncements about how it understands its role in relation to the executive and legislative branches of government. These statements are couched in the Islamic prohibition against apostasy, the absence of a statute regulating religious conversion, and what the institution understands as its fundamental duty to re-establish a particular social balance between Muslims and non-Muslims—and between *dhimmi* and non-*dhimmi* subjects—when this balance is purportedly disturbed. Since the apostasy prohibition in *shari’a* is treated as constitutive of public order, with public order connoting different meanings depending on who files the complaint and which judges hear the case, the rule of law incessantly blurs formal legal equality and Sunni majoritarianism.

Conclusion

The process of authorizing religious conversion analysed here casts into doubt widely held views about Egypt’s administrative courts. Existing studies hold that since the early 1970s, *Majlis al-Dawla* has served as a vital and even neutral arbiter of citizen-initiated disputes against the state. They assert that while a powerful admin-

²¹ For a discussion of how this bureaucratic practice constrains the ability of Baha’i communities to access education; seek and secure employment; and register births, marriages, and deaths, see Human Rights Watch and Egyptian Initiative for Personal Rights 2007.

istrative judiciary can only assess bureaucratic infractions against constitutional and statutory provisions, it nevertheless “renders authoritarianism a little more consistent and less personalistic” (Brown 1997b). It is further argued that an expansion of *Majlis al-Dawla* jurisdiction to include a wider range of administrative acts resulted in a parallel expansion in the scope of civil rights protections (Rosberg 1995). While the administrative judiciary has in fact used its power of interpretation to limit executive restrictions on personal freedoms as they relate to elections procedures, arrest and imprisonment, as well as freedom of travel,²² this argument does not hold in the domain of religious liberty. As the foregoing discussion has shown, *Majlis al-Dawla* is far from a neutral arbiter. The consolidation of administrative authority since the 1970s has resulted in the arbitrary adjudication of cases on religious status conversion.

At a time when legal scholars are concerned with how political transformations in the Middle East infringe on or otherwise alter constitutional rights, we might reorient our focus toward *Majlis al-Dawla* and its work of overseeing bureaucratic agencies. As Tom Ginsburg reminds us, “[t]he average citizen is not a dissident who is concerned with the state limiting her political speech; nor is the average citizen a criminal concerned with criminal procedure provisions in constitutions.” Instead, “the average citizen encounters the state in myriad petty interactions [and it] is here that the rubber meets the road for constitutionalism, where predictability and curbs on arbitrariness are least likely to be noticed but most likely to affect a large number of citizens” (Ginsburg 2010: 118). While Egypt has adopted a host of constitutions and provisional constitutional declarations since the end of British colonial rule, its 1949 Civil Code remains relatively unchanged. Adjudication in administrative courts reveals how civil and constitutional laws interact

to structure citizen-state and intercommunal relations. This is an important site of interaction since administrative courts often have to reconcile Article 2 of the constitution, which holds that *shari’a* is the principle source of legislation, with Law no. 143 of 1994 concerning amendments to individual civil status.

On another level, this article has explored how social norms and legal procedures both create and exacerbate the tension between identities formalized on official state documents and the self-proclaimed identities to which individuals aspire or lay claim. A study of the jurisprudence on religious conversion enables a more critical scholarly engagement with the legal and political processes involved in governing social heterogeneity. Examining the arbitration of religious status disputes enhances a theoretical understanding of how religious identity is shaped and often circumscribed through administrative mechanisms, the ways in which individuals negotiate the limitations that these mechanisms impose, and how the authority to delineate boundaries between minority and majority religious populations ultimately reaffirms the sovereign state’s function as both regulator and guardian of majority rights.

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²² See Rosberg 1995: 234a for a list of 75 cases adjudicated between 1971-1986 and the civil rights significance to which they correspond. Notably, cases related to religious liberty are not part of his analysis.

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Religious Diversity in Italy and the Impact on Education: The History of a Failure

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Abstract

Cultural diversity and plural religiosity characterize today's Italy. These characterizations are traits of contemporary migration flows, which have put the country among the top receiving destinations in all of Europe since the 2000s. While diversity and religious pluralism have become politically salient issues in current public debate, these traits have contributed to forging the Italian national identity for centuries.

The different relationships entangling Italy's political and cultural institutions and the education system traditionally regard the search for a common path that conciliates religion, religious diversity and secularism as a confrontational and divisive field of action. Actors who are involved in this field, from teachers to NGOs and the Italian Ministry of Education, work to find strategies to adjust the needs emerging from relatively new religious environments. An increasing share of students coming from a diverse population and religiosity are disrupting the long-established cohabitation of the Catholic Church and the State in the public sphere.

This article tries to present different models about thinking, teaching and dealing with religions in Italy in the last 20 years, highlighting the opportunities, limitations and weaknesses associated with these attempts. If the resources of knowledge and the development of teaching skills available in schools are important for the processes of social integration, then the legislative framework, the decisions, and the services of political institutions are pivotal for the monitoring and management religious pluralism. By and large, the public school system is still tailored in prevalence to Catholic religion, festivals, customs, and precepts. Three focuses (religious education, school canteens and the case of crucifix) help to show how non-secular practices and politics have missed, until now, the opportunity to deal with pluralism.

Keywords: Religious diversity, public places, secularism, education about religions, school canteens, religious symbols

Introduction

Nowadays, Italy can no longer ignore the history of these religions – the many Christian denominations, Judaism, Islam, the oriental traditions (Filoramo and Pajer 2012) – which have contributed to forging its identity throughout the centuries and animate a present day characterized by diversity and by continuous exchange and mobil-

ity (Naso and Salvarani 2012; Pace 2011, 2013a; Marzano and Urbinati 2013; Giordan and Pace 2014; Ventura 2014)

In 2013, people belonging to non-Catholic religious communities (Caritas-Migrantes 2013; Cesnur 2013; Melloni 2014) were between 4,343,000 and 6,428,307 (7-10,5% of the popula-

tion: among them 26% Italian citizens and 74% non Italian citizens): Muslims (1,500,000) Orthodox (1,400,000), Evangelicals (650,000), Jehovah's Witnesses (400,000), Hindus (135,000), followed by Protestants, Jewish, Sikh, Mormons e Baha'i (less than 60,000). The principle of "laïcité positive" (Giorda 2009a), as applied to education, can refer to the knowledge of the religious phenomenon and of religions in general, in the respect of differences and faiths (or non-faiths), in personal (non) religious beliefs. In this sense, places of meeting, exchange, and education are multi- and inter-cultural laboratories which should spearhead all new challenges for creating processes for peaceful interactions and cohabitation among cultures, including religious cultures (Willaime 2014).

Especially due to immigration fluxes during the last two decades, Italian schools today are characterized by strong diversity: Italian residents with foreigner origin (3-17 years) are 851,579, 10% of the population; this is a constantly growing number when we consider that in 1994/1995 they composed less than 44,000 students (Colombo and Ongini 2014)¹. The International Charter of the Italian School Mean also indicates that several languages² are spoken in the country: the Romanian language is the mother tongue for 800,000 people in Italy, followed by Arab (more than 475,000 people), Albanian (380,000 people) and Spanish (255,000). The same variety is found concerning cultures and religions. Though national census in Italy does not include questions about religious affiliation, and, though relevant statistics according to Ferrari and Ferrari (2010, 431-433) are not totally reliable, a majority of the population, one way or another, still identify as Catholic and are affiliated to the Catholic Church, while about four percent are members of other religions or other Christian denominations. Here, as in many other countries

¹ <http://demo.istat.it/strasa2014/index.html> e <http://demo.istat.it/pop2014/index.html> (last accessed 23/09/2015).

² Istat, *Condizione e integrazione sociale dei cittadini stranieri*. 2011-2012.

in Europe, an increasing number of the population are Muslims (about one million), primarily due to immigration, in particular from Morocco.³ Catholicism, furthermore, is often said to be central to Italy's collective identity as well as to its culture and national heritage. However, critics as well as younger generations and pupils attending school observe that the Italian culture and life are no longer as Catholic as they once were (Mazzola in Willaime 2014).

In the following paragraphs I will explore and analyse how Italian schools accommodate religious diversity, situating them in the European context⁴ (Willaime 2007; Keast 2007; Catterin 2013; Davis and Miroshnikova 2013; Jödicke 2013; Pajer in Melloni 2014: 59-97;). Utilizing data collected from Italian and European bibliographies and information from my fieldwork conducted in schools (2011-2014, consisting of workshops with students, interviews with professors and families) as well as incorporating the results of a survey about school canteens (2013-2015), I will show how religious diversity challenges the infrastructure between relations of the State and the Catholic Church in Italy. Schools and the educational field represent a heuristic way to analyse the socio-cultural transformations occurring in the country, which serves as a good mirror of the society and a tool to analyse the relation-

³ According to statistical figures from OECD annual report 2013, Morocco is one of top three immigrant countries in Italy (OECD 2013, 324). In Pajer (2007) the statistical numbers of religious adherence are Roman Catholic (85,0%), Protestants 0,9 %, Orthodox 0,9%, Muslims 1,5%, Jewish 0,05% and Others 12,1% of the total population of 57,8 million. (Ferrari, Ferrari 2010, 431).

⁴ A pivotal document as a reference for intercultural education about religions, faiths and beliefs, both for believers and non believers, are the Toledo Guiding Principles On Teaching About Religions and Beliefs in Public Schools, 2007: <http://www.osce.org/odihr/29154?download=true>, last accessed 23/09/2015. See also 'Religion in Education. A Contribution to Dialogue or a Factor of Conflict in Transforming Societies of European Countries?' (REDCo) was financed by the European Commission 2006-2009: http://cordis.europa.eu/result/rcn/47525_en.html (last accessed 23/09/2015).

ship between the State and the Catholic Church (Prisco 2009). Three focuses – religious education, school canteens and the case of crucifix – help to show how practices and politics have challenged to deal with religious diversity and pluralism.

Teaching (one) religion

Historical facts concerning Catholic Religious Education

The majority of pupils in Italy are educated at public schools (about 90% of the students in 2014; about 65% of non-State schools are Catholic)⁵. In the Constitution, Article 33, in reference to “private schools”, states that entities and private persons have the right to establish schools and institutions of education at no cost to the State. The Republic guarantees the freedom of the arts and sciences, which may be freely taught, and also establishes general rules for education and institutes State schools of all branches and grades. The law, when setting out the rights and obligations for the non-State schools which request parity, ensures that these schools enjoy full liberty and offer their pupils an education and qualifications of the same standards as those afforded to pupils in State schools.

Private schools are mostly Roman Catholic (an average of 75% over the last 20 years)⁶: Concordat of 1984 (Act No. 121 of 1985) strengthens the general protection granted by Article 33 of the Constitution and the general laws regulating the inclusion of private schools in public education. Article 9 of Act No. 121 of 1985 provides a specific guarantee of freedom and autonomy of Catholic schools⁷.

⁵ A comprehensive description of the Italian education system (reference year 2012-13) is presented by EU through Europedia (*European Encyclopedia on National Education Systems*) <https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Italy:Overview> (last accessed 23/09/2015) and in UNESCO (2012). Both presentations have provided the background for this passage.

⁶ Data: Italian Ministry of Public Education and the Catholic schools federation FIDAE 2011-2012.

⁷ Article 10 of Act No. 121 of 1985 secures the autonomy of ecclesiastical educational establishments, and

For decades, a large section of the public opinion has opposed State funding for private schools. Reflecting this position, some legal experts have argued for a strict interpretation of the ‘at no cost for the State’ (“senza oneri per lo Stato”) clause, emphasizing the principle that State funding of private schools is constitutionally illegitimate (Ventura 2013: 195). This has become a marginal position, but establishing a system of equal State funding of State schools and private schools meets a large opposition in the country; defence of the priority of State schools embodies a consolidated pattern, deeply rooted in the national customs. Today the debate has shifted from whether the State should fund private schools or whether full parity in State funding of State and private schools should be established. Catholic Bishops have taken a clear stand in favour for the latter position and have put pressure on governments. The credit crunch and the debt crisis have deepened the divide between those who push for full parity, who criticize the inefficient State schools, while defenders of the impoverished State school are the victims of neo-liberal cuts in the State budget. If State funding of private schools remains below European standards, parity in the recognition of degrees has been basically achieved. Also, private schools integrated in public education enjoy extreme freedom, with little, if any, State control on the effective compliance of private schools with the agreed-upon standards (Ventura 2013: 195-196).

Concerning the teaching of religion in public schools, the political environment, which had so radically changed with the passage to a Republic and with the adoption of constitutional regulations, did not change the established agreements of 1929⁸: in Italian schools, the usual period of religion as catechetical education, a compulsory

a framework for civil recognition of academic degrees delivered by Catholic institutions.

⁸ The Lateran Pacts, including the Concordat, a Treaty establishing the State of Vatican City, and a financial settlement, were signed on 11 Feb. 1929 and ratified by the Italian Parliament on 27 May 1929 (L 27 May 1929, No. 810).

discipline from which parents were allowed to withdraw their children, continued for several decades after 1946. It was only in the '60s that it began to appear necessary to identify and implement choices, which could establish a new relationship between school and religion, which would take into account heretofore unheard of examples of cultural and religious pluralism, thus acknowledging the presence of children coming from families with different views or practices concerning religion. Discussions held in the late '70s were crucial, and they paved the way for the turning point in 1984: different points of view were discussed, sometimes expressing colliding positions which could not find a common ground.

Even prior to 1984, the year in which the Concordat between State and Church was renewed, there had been heated debates concerning the various options relative to the teaching of religion/religions. During this time, the 1984 Concordat⁹ signed by Bettino Craxi and by the secretary cardinal of the Vatican, Agostino Casaroli, established a non-compulsory confessional period of Catholic religion, no longer intended as catechetical education, but rather as a cultural approach to the religious phenomenon from a Catholic point of view (Guasco 2001). It was also established that Catholicism was no longer the only religion in the Italian State and, with respect towards the right to freedom of conscience and towards parents' educational responsibility, it was guaranteed that every student at every form and level of education could choose to attend the Catholic religion period or not.

Thus, since 1985, Catholic religion has been taught in every level and type of public school. This complies with the Church doctrine and in respect to the students' freedom of conscience, imparted by teachers who have been considered suitable by the religious authority and have been assigned, in full agreement, by the school authority.

⁹ The 1984 Concordat amends the 1929 Concordat and voids art. This is 1 of the 1929 *Lateran Pacts*, concerning the confessional nature of the Italian State.

In kindergartens and primary schools, a willing class teacher that is considered suitable by the religious authority can teach this subject. An agreement between the appropriate school authority and the CEI – Conferenza Episcopale Italiana (Italian Episcopal Conference) has established the following: the curricula for the various types and levels of the public schools; the ways in which said subject is organised, including its position within the frame of the other lessons; the criteria for choosing textbooks; the professional profiles for choosing the teachers. Currently, the Ministry, subject to an agreement with the CEI, establishes the curricula for the religion's lectures for each level and type of school, with the understanding that it is the latter who has the competence to define their conformity with the doctrine of the Church. IRC is thus provided, financed and guaranteed by the State and space is provided for it in the normal curriculum of the public school (Giorda and Saggiaro 2011; Giorda 2014a).

Kindergarten is assigned a yearly total of 60 hours (one and a half hours per week), primary school is assigned two hours of IRC per week, while I and II level secondary school are assigned one hour of IRC per week. Catholic schools of every level and type were assigned additional hours, in compliance with the Educational Offer Plan established by each school. As for grading, instead of marks and examinations, the teacher drafts a special report for the student's parents. This report, attached to the school report, comments on the student's interest in the subject and the benefits that he or she is gaining from the class.

As for the teachers, the necessary criteria to be able to teach this subject are established by the Agreement between the Italian State and the Catholic Church, according to which in kindergarten and elementary schools IRC can be taught by section or class teachers, which the religious authority has deemed to be suitable. It is possible for laymen and deacons, priests and religious people possessing the necessary qualification (diploma issued by an institute for reli-

gious sciences recognized by the CEI) to teach religion.

Since 2003, after having passed an open competition (written and oral test concerning general teaching and training techniques), 70% of the teachers are hired permanently; all religion teachers possess not only a professional license, like other teachers, but also a special warrant issued by the local Bishop who recognises their suitability to teach; it should be noted that in the last years this activity has generated increasing interest among laymen and women rather than among religious people (Giorda 2009b; Giorda and Saggiaro 2011).

The amount of students attending CRE declined during the 2012/2013 school year (OSReT 2014)¹⁰:

- 88.9% of students attending IRC (-0.4%)
- 11.1% of students not attending (+0.4%)

Only in secondary school:

- 82.1% of students attending IRC (-0.9%)
- 17.9% of students not attending (+0.9%).

The regulation provides for several options as alternatives to the IRC: an alternative activity period established by the school itself which should, as suggested by the 1986 Ministry Circulars Nos. 128, 129, 131, and 131, address topics concerning ethics, values, tolerance and peace. This activity should be imparted by any teacher who is available at the time. Another option is tutoring (revision, in-depth studying) or, for high school, a study activity without the presence of any teacher, within the school premises; lastly, an option that is often used is the early exit from school (or delayed entry). Statistic data from 2013 shows that 55.6% of the upper-secondary schools choose this option, while only 7.2%

offers an alternative educational option (OSReT 2013)¹¹.

The agreements between the state and religions and denominations other than the Catholic Church (“Intese”), also concern teaching their religion in public schools¹². They identify and defend the right of pupils and parents belonging to the relevant denomination not to attend classes teaching Roman Catholicism. Contrary to the case with the IRC, these religions or denominations have to finance the teaching themselves and the time for teaching must be found outside the regular timetable. Besides, while IRC is also a ‘regular’ school subject in terms of the fact that grades are given to the pupils attending it, this is not so in the case of other kinds of confessional RE. This system also stipulates the right of the relevant denomination to organize the

¹¹ See: <http://www.osret.it/it/pagina.php/100> (last accessed 23/09/2015). See also S. Ciatelli *Il contesto legislativo e amministrativo per l'effettiva attivazione delle attività didattiche alternative all'Irc*: http://www.ircagliari.it/back_end/files_news/29.pdf (last accessed 23/09/2015).

¹² The cults which are currently permitted in Italy are partially regulated by an Agreement (Intesa) with the State; concerning the latter case in these agreements, the status is as follows: agreements were signed with the Waldensian Church on 21st February, 1984 and on 25th January, 1996, with the Assemblies with the Lord in Italy on 29th December, 1996, Act No. 516 dated 22nd November, 1988 approved the agreements of 29th December, 1986 and again on 6th November 1996, with the Unione Comunità Ebraiche in Italia (UCEI – Union of Jewish Communities in Italy). Agreements with the UCEBI, Unione Cristiana Evangelica Battista d'Italia – Union of Christian Evangelic Baptists in Italy, were signed on 29th March, 1993 and approved with Act No. 116 dated 12th April, 1996 and with the CELI, Chiesa Evangelica Luterana in Italia – Lutheran Evangelic Church in Italy, on 20th April, 1993, approved with Act No. 520 dated 29th November, 1995; the Apostolic Church in Italy, the Church of Jesus Christ of Latter-day Saints, the Holy Archdioceses in Italy and the Exarchate for Southern Italy, UBI – Italian Buddhist Union), the Italian Hindu Union were approved in 2012 act. No. 246 while agreements were signed, but are not yet approved, on 4th April, 2007 concerning the Christian Congregation of Jehovah's witnesses.

Source: http://www.governo.it/Presidenza/USRI/confessioni/intese_indice.html#2 (last accessed 23/09/2015).

¹⁰ Data are aligned with the trend over the last twenty years. All schools:

- 93.5% of students attending IRC in 1993/1994 school year
- 92.7% in the 2003/2004
- 88.9% in the 2012/2013

See: <http://www.osret.it/it/pagina.php/100> (08/2015).

teaching of religion in State schools, under two conditions: a congruous number of students will have to request the activation of the teaching, and that teachers shall be paid by the denomination. Article 10 of the agreement with Waldensians, stipulates that in case arrangements are made for classes teaching Protestantism in State schools by Waldensian teachers, this must be paid by the ecclesiastical authorities (gli oneri finanziari sono a carico degli organi ecclesiastici competenti). The same phrasing is reiterated in Article 12 section 3 of 2007 intesa with Mormons enacted in 2012.

Current debates concerning CRE

In the last decades, cultural and academic environments have promoted projects, petitions and events concerning religious education which have had, or at least have attempted to have, political repercussions. I shall take into account projects on a national level, as addressing the multitude of local experiments would take this paper too far away from its original intent (Giorda 2013).

- 2002: A governmental initiative bill (dated 1 May 2002) addressing religious freedom was proposed: the need, felt and endorsed by multiple parties, to change by law and update both the concept and the application of the relationship between the Italian State and religions, is part of a process which buries its roots in the layering of complicated situations. In this context, the educational component finds its place in article No. 12 ("Education in schools"), which for the moment appears to still be temporary and not definitive.

- 2003 witnessed the *Colloquio interuniversitario e interdisciplinare, Società multiculturale, scuola italiana e cultura religiosa (Inter-university and inter-subject talks, multi-cultural society, Italian school and religious culture* – Rome, 23rd May 2003), featuring various speeches made by specialists representing public and ecclesiastical universities, among which were the Waldensian Faculty of Theology in Rome, and other cultural centres in Italy: the group underlined the need to take into consideration the new condition of

religious pluralism, to focus on the education in school as a tool to suggest a cultural path within this pluralism; this initiative, along with its great cultural implications, failed to receive a response from the political environment.

Another route which should be mentioned is the one taken by the Gruppo di Vallombrosa (September 2005), which included teachers and scholars whose proposal emerged during the annual meetings held in the Vallombrosa Abbey by the Western-Eastern Committee of the University of Firenze and by the The Laboratory of multi-cultural and multi-religious relations of the Faculty of Political Sciences of Siena.

A document written by the Gruppo di Vallombrosa (September 2005), entitled *Public school and religious culture in a pluralist and multi-cultural society*, did not have political repercussions or concrete actuations; its main objective was to "establish a self-sustaining course, with its specific subject, addressing the issue of religious culture, mandatory for all, and managed directly by the school [...] free of confessional or trans-confessional contents (Genre and Pajer 2005).

- 2006: The debate was renewed in March, when the Ucoii (Unione delle comunità e delle organizzazioni islamiche d'Italia – Union of Islamic communities and organizations in Italy) asked, against the indications written in the Manifesto dell'Islam d'Italia (Italian Islam Programme), the establishment of Islamic religion education in Italy (Giombi 2006). In 2009, the request for a period of Islamic religion study was submitted, but it did not yield any change. To introduce in both public and private schools a period of Islamic religious studies, either optional or as an alternative to Catholic studies, is the proposal made by the vice minister for Economic Development Adolfo Urso.

- 2009: Another important episode was the debate which arose after the ruling of the TAR (Tribunale Amministrativo Regionale – Regional Administrative Court) of Lazio: with ruling No. 7076 dated 17 July 2009, the TAR of Lazio allowed two appeals addressing the annulment of the Ministerial Orders issued by the former

Minister of Public Education Fioroni for the State Examinations of 2007 and 2008, which required the evaluation of the students' attendance to the Catholic Religion Education course in order to establish the overall school credits, and thus the full inclusion of Religious Education teachers during the assignment for marks.

- 2010: From the world of politics, thanks to the dialogue with the academic world, and especially with La Sapienza University of Rome and the teachers of the Master in Religions and cultural mediation, the proposal of Honorable Melandri addresses the introduction of a mandatory period in the curriculum of "introduction to religions" as a secular and technical subject, no longer as an alternative to the optional CRE period (or to other potential creeds and faiths), but rather a subject managed by the Miur as an autonomous subject and separately evaluated as an integral part of school education and training¹³. The bill was submitted on 16 September 2010 and is currently under debate.

- 2012 : In September, the Minister of Education, Francesco Profumo, highlighted the importance of pluralism in schools and the need of new tools to manage this; another time, after this declaration, the question was at the core of the public debate¹⁴.

In November 2014, with reference to the consultation promoted by the government of Matteo Renzi preparing a reform of public school ("La buona scuola"), some Italian professors of historical-religious subjects, belonging to SISR (Italian Association of Historians of Religions), had addressed a document to Stefania Giannini of the Ministry of Education. They were asking for a meeting to discuss the possibility to insert

an hour of "Storia delle religioni" in school curricula¹⁵. This meeting has not yet occurred.

Several schools have organized various kinds of non-confessional courses on history of religions as an alternative to IRC or as an extra opportunity for pupils. Some observers remain rather pessimistic with regard to the prospects for a change of the current situation (Bossi 2014)¹⁶. Exploratory alternative teachings have been conducted on a local basis, often upon the initiative of a coalition of non-Catholic denominations supported by local councils. Freelance historians, anthropologists and sociologists have also been involved in projects of this kind, along with many teachers of Roman Catholicism. Innovative textbooks have been prepared, announcing a new era in which non-denominational comparative religion will be taught along with, or instead of, doctrinal Catholicism (Willaime 2014; Andreassen and Lewis 2014). However, the level of intellectual, cultural and juridical movement has never, at least until today, been met with any results on the national level: every attempt to change status has been frustrating. Projects and designs have remained on paper and have never been made into concrete options, neither *de facto* nor *de iure*.¹⁷

The confessional religious education, the CRE, has become closely linked to the politically powerful idea about Italian culture and national identity as deeply influenced by Catholicism, and it seems – also with regard to the Constitution – difficult to imagine that secularization and the increase in religious and cultural diversity can lead to rapid and immediate changes (Mazzola in Willaime 2014; Ferrari in Davis and Miroshnikova 2013). As Enzo Pace has recently demon-

¹³ Please see the report published in IRInews 2/2010, p. 14 (<http://www.olir.it>, last accessed 23/09/2015). I shall quote directly the 16th September 2010 Bill of Law (*Atti Parlamentari* – 3 – *Camera dei Deputati* – 3711 XVI LEGISLATURA – DISEGNI DI LEGGE E RELAZIONI – DOCUMENTI / Parliament Acts – 3 – House of Representatives – 3711 XVI LEGISLATION – BILLS OF LAW AND REPORTS – DOCUMENTS).

¹⁴ See: <http://benvenutiinitalia.it/storia-delle-religioni-una-proposta-per-il-ministro-profumo/>. (last accessed 23/09/2015).

¹⁵ See: <http://sisr.unime.it/>. (last accessed 23/09/2015).

¹⁶ For an up-to-date frame of the situation and the current debate: Arrigoni, Conson, Però 2014 and http://iers.unive.it/files/2014/03/Baseline_Study-RE-in-Italy.pdf, last accessed 23/09/2015.

¹⁷ See the recent work of COPLES, the Italian National Commission about pluralism, religious freedom and education for religions: http://www.chiesavaldese.org/aria_press.php?ref=36 (last accessed: 23/09/2015).

strated (Pace 2013b), in comparison with other situations in Europe (Burchardt and Wohlrab-Sahr 2012; Burchardt, Wohlrab-Sahr and Middell 2015; Perez-Agote 2012), Italy appears to have become secularized while remaining faithful to its image, memory and identity as a Catholic country, thanks to the Church's organizational strength. It is no longer a Catholic country in terms of many Italian people's practices (Marzano and Urbinati 2013), but the Christian Catholic Church and Catholics conserve its authority and influences politics, economics and culture (Ferrari and Ferrari 2010).

Italian school canteen service

Because of the differences in diet and eating habits among children attending Italian schools, public institutions such as primary schools and their canteen services have to increasingly consider the diversity of religious and traditional beliefs regarding nutrition. Fundamentally, food consumption can be considered a religiously and culturally-defined social issue, and can be used as an instrument for inclusion and social cohesion¹⁸. The Italian school system has been experimenting with strategies to manage these dynamic and constantly changing scenarios where different cultural habits and behaviours are interlinked.

Eating is a pedagogical act; the promotion of healthy lifestyles is strongly based on food education. Besides being a source of sustenance moving from its cultural, environmental and social implications, food strongly represents a cause of celebration and serves as a vehicle for learning respect for one another.

The school canteen may represent a place where one can build commensality and knowledge in matters of food, instilling important values for the population.

Food and food traditions are tools representing the cultural diversity and act as a reading key for an education based on variety, pluralism and

social inclusion. To conclude, food represents a tool useful to avoid the diversity rejection and to promote religious and cultural equality.

School canteen services clearly represent an important arena in which it is possible to promote one's wellbeing, in terms of nutrition, a healthy lifestyle, culture and education. Kevin Morgan and Roberta Sonnino declare that "At a first glance, the aim to serve in schools healthy and locally produced food seems to be easy to realize; but it is not, in various European countries, easy to do" (Morgan and Sonnino 2008). We can say the same for Italy: the problem in our country seems not to be related to the inadequacy of school canteen service; each municipality plays an active role in offering healthy foods in school meals.

The development of nutrition policies and food practices is one of the aims of public policies. The Italian Department of Health, in order to promote and improve people's health, produced a document entitled *Nutrizione. Approfondimenti: strategie di educazione alimentare*¹⁹ (*Nutrition. Food Education Strategies*) which points out how health disease in childhood might be linked to an excess of protein, fats and rapid-absorption sugars, which can be detrimental to a child's health. The main documents and guidelines concerning health and food in Italy are represented by:

- LARN (Recommended levels of Consumption of Energy and Nutrients) produced by SINU (Italian Society for Human Nutrition)²⁰;
- Guidelines for healthy, Italian nutrition, produced by INRAN (National Institution for Food and Nutrition);
- Guidelines worked on by the Department of Health and named *Strategie per l'educazione alimentare (Nutrition. Food Education Strategies)*.

In order to encourage educational and health institutions to coordinate their efforts in pro-

¹⁸ Collected data in Italian, English and French is available at: https://www.academia.edu/9596476/2014_report_Food_religion_Benvenuti_in_Italia_ (last accessed: 23/09/2015).

¹⁹ <http://www.comune.torino.it/servizieducativi/ristorazione scolastica/doc/lineeguidaregione.pdf>, (last accessed 23/09/2015).

²⁰ http://www.sinu.it/html/pag/nuovi_larn.asp, (last accessed: 23/09/2015).

moting health through nutrition, the Minister of Health is promoting a monitoring system, OKkio alla Salute, alongside other local projects.

Regardless of these efforts, the problem may concern limits regarding social, environmental and especially cultural sustainability and quality in terms of food in schools. The issue may be linked to the concepts of social inclusion and exclusion, generated by the educational system and the food practices within schools. Are special menus inclusive or not? Why? As we know, the enormous number of special menus led to a fragmentation of food practices and sometimes to a *ghettoization* of children asking for it (Giorda 2014b).

In particular, although a survey conducted by Slow Food and including 50 Italian schools showed how 79% of the schools offer the possibility for each family to choose from menus built with medical or ethical and religious considerations, there are several cases in which schools refuse to offer this service (Fiorita 2012).

While in the case of education (religious teaching/education about religions) there are national regulations, in this case practices and norms are locally based since every city has the possibility of choosing ways of organization and management of the service; as a consequence, more variety and difference based on scalarity (small villages, medium and big cities have different opportunities). In order to have a general framework of strategies in management diversities in school canteens, we suggest 3 different models useful for analysing school menus and canteen services: *Family-based model*; *Ontological rejection model*; *Cultural identity rejection model* (Giorda 2014b).

The first model includes the experiences in which the educational institution establishes direct contact with families, in order to be aware of the families' and pupils' needs. This is the prevalent model within Italian schools; for each family it is mandatory to complete and fill out online forms with required information. Through this information, each family can illustrate its

own needs, depending on medical or ethical and religious issues.

The application of this model may be considered as *good practice*, since it also guarantees and protects the right to freedom of religion and freedom of expression, according to canteen logistical considerations.

Combining food needs due to both medical and religious needs, this model defends religious and ethical pluralism.

Regarding the menus, there are many possibilities:

- *fixed formula system*, canteen menu, from which it is possible to exclude some foods;
- *fixed formula menu and alternatives*, canteen menu, from which it is possible to exclude some foods and to indicate some alternative options, because of ethical or religious reasons;
- *mixed system*, canteen menu, from which it is possible to exclude some foods and to indicate some alternatives; both for medical and ethical or religious reasons.

Although several school canteen services are important educational resources and they have an important role in the provision of food to students, and although school canteens should reflect the educational goals of the school and support and complement student learning, some municipalities in Italy decide not to differentiate types of menus because of cultural and religious needs. One of these municipalities is Adro (Brescia) – *ontological rejection model* – who decided (2010) to offer a menu without pork in the school canteen only if this request is accompanied by a medical certificate, thereby proving a medical condition. Moreover, it represents a form of cultural discrimination, directed towards associations and religious groups, which leads to the denial of a basic right – the possibility to actively choose nutritious foods in school according to one's own religious or cultural need without a medical certificate, which, of course, cannot be related to a cultural or religious need.

Concerning the third model, the cultural identity rejection model, we can remember the case

of Albenga: when the representative of the local administration of the municipality of Albenga proposed to introduce *halal* meat in the school canteen in order to actively promote social inclusion, Enpa – Ente Nazionale Protezione Animali (Italian Authority for Animal Protection) criticized the proposal, considering *halal* slaughter as a barbaric rite²¹. The *halal* way of slaughter, made by a deep incision with a sharp knife on the neck cutting the jugular veins – even if stunning the animal before slaughter (as in Western and Italian slaughterhouses) – should, in the opinion of the Enpa representatives, never be promoted, above all in public institutions such as schools. Quite the same polemics occurred in Sarzana in 2014, regarding the idea of serving *halal* meat at school canteen²².

In the last years, the most interesting case is the management of the canteen service in Rome between 2002 and 2008, which has been called the “the food revolution at school”. During those years, the municipality decided to invest in the quality of school meals, promoting a participatory process that involved not only institutions and companies, but also families and the children that use the service, working with sustainability, and organic and fair-trade products (Morgan and Sonnino 2008). The aim of the project was to combine cultural, social and economic needs and demands, and connect these with the quality and the healthiness of food. In this period, local authorities promoted different methods in order to improve the quality of service. The related project brought about the publication of a Handbook of Transcultural Nutrition.

The increasing and continuous presence of migrants has prompted health care administration to support a research project to promote the culture of diversity. Considering the importance of dietary differences in the process of adaptation to a new culture and new context of belong-

ing, the Handbook of Transcultural Nutrition (*Manuale di alimentazione transculturale*) can be considered a useful tool to combat any difficulties (Morrone, Scardella and Piombo 2010).

After this revolutionary experiment in Rome, things came back to “normality”: nowadays, the school canteen service offers a menu articulated onto nine weeks; it is a seasonal menu changing each term and offers a range of nutritious choices (with reference to fruit and vegetables seasonality) in order to increase an awareness of sensible eating and to maintain healthy lifestyles. Moreover, the menu is prepared with the aim to meet specifications for the content of meals with reference to nursery, primary and secondary school meal needs. For any other meal options, the request should be compiled by the family doctor using indication contained in Model I (food allergies or intolerances) and Model L (food irregularities or chronic pathologies); this request should be sent to the canteen manager. Even if there is no form for meal regime change for religious reasons, it is possible to discuss this possibility with the canteen nutritionists²³. There is still much room for progress and improvement regarding these matters.

Children’s nutrition is the result of the economic, cultural and social level of a family, taking into account its religious background, level of secularization and social interaction. According to this statement, pluralism (cultural, religious, linguistic) means innovation – also in matters of nutrition.

Religious pluralism requires education, reflection, and inter-religious dialogue. School canteen service represents another good *arena* to analyse the management of diversities in the school system. It might enable pupils to stand together, more profoundly respecting one’s own differences. In Italy, some initiatives such as *Dream Canteen*²⁴, (a Slow Food network), might repre-

²¹ <http://www.uaar.it/news/2011/09/27/albenga-sv-enpa-no-carne-halal-nelle-mense-scolastiche/> (last accessed: 23/09/2015).

²² See: http://www.ilsecoloxix.it/p/la-specopia/2014/07/03/ARGGo21-polemica_musulmani_scopia.shtml (last accessed: 23/09/2015).

²³ http://www.comune.roma.it/wps/portal/pcr?jppagecode=mense_dses.wp (last accessed: 23/09/2015).

²⁴ <http://www.slowfood.it/educazione/filemanager/pages/pcm/PCM%20Internazionale.pdf> (last accessed: 23/09/2015).

sent the introjections of those values, but this is currently not enough.

Social inclusion should be considered the key, while education should be considered the venue, to enhance inclusion and pluralism, religious and otherwise.

Schools, teachers, paediatricians, nutritionists, and education authorities in matter of nutritional practices play a pivotal role. Concerning a pluralist canteen service, even if much has been done, there is still much to do. An innovative approach is needed, leading to nutritional habits, so that *in ultima ratio*, scientific knowledge of cultural food might enhance the success in nutrition education programs.

The possibility of building more homogeneous and inclusive menus is becoming clearer and clearer in order to deal with the changing food identity of the students using the canteen. More inclusivity may move from a re-thinking of the served meat quantity in school meals. Since 2012, I've been coordinating "A table avec les religions"²⁵ in different European cities: 15 primary schools (Bucarest, Milano, Parigi, Roma, Tirana, Torino, Saragozza, Sesto Fiorentino), including 5,350 students and 4,1000 families. According to the *data* gathered by the project, the meat issue represents the most prominent problem in building menus, both for cultural and religious reasons, and its exclusion does not mean a problem for the majority of the surveyed

²⁵ The surveys aimed to collect *data* with reference to:

- significance of religious and cultural pluralism in schools
- (children's and families' personal *data*);
- religious dietary laws within selected families;
- perception of religious pluralism in school canteen service.

With reference to the multicultural nature of the cities, the questionnaire was translated into Arabic, French, English, Spanish, Chinese and Romanian. Response rate is a crucial factor in evaluating the reliability of survey results; the response rate was almost 67%. For the details of the project, see: www.benvenutiinitalia.it and Giorda 2015: <http://www.resetdoc.org/story/00000022564> (last accessed: 23/09/2003).

families. The school meal represents a third of daily meals, and a quarter of weekly meals.

Beyond the protection of both food practices and cultural and religious pluralism, is there any possibility of creating an innovative menu? If we consider food practices as a set of knowledge concerning products and their preparation that exists in different areas of the world, school meals might be conceived with reference to the synergy of differing traditions, cultures and religions, depending on the individual. School may provide a model for positively influencing children's eating habits through hands-on education about nutrition and through community involvement. Overall, even if numerous initiatives have been undertaken to enhance school canteen service with emphasis on social inclusion and cohesion, much more still needs to be done. Workshops able to deal with children's and school staff's education concerning foods and food practices represent one such initiative. Learning the benefits from supporting religious and cultural diversity as a fundamental value within society seems to be a good starting point.

Last but not least, the crucifix

In the last decades the display of the crucifix in State schools has been defended not as a religious symbol, but as a cultural and national symbol (Ferrari 2011; Luzzatto 2011; Beaman 2013; Giorgi and Ozzano 2013)²⁶.

Both in political and cultural debates, discussion revolves around three different cultural and religious meanings of the crucifix: a sacred/religious symbol, a symbol of cultural heritage and national/western identity, and a universal symbol of tolerance and freedom.

Because of the ambiguous juridical framework and these meanings, different frames have emerged about the crucifix displayed in public spaces and particularly in schools.

²⁶ For a complete national and International bibliography, see: www.olir.it (section: "analisi e approfondimenti"), last accessed: 23/09/2003.

As Alberta Giorgi has recently shown (Giorgi and Ozzano 2013), the Italian debate stands out in relation to the rest of Europe because it was the only significant debate about Christian symbols in public schools to be raised in a EU member state. Additionally, the issue was enlarged to involve Europe, with the ECHR and the development of oppositions, coalitions and tensions (Annicchino 2010).

The obligation to display crucifixes in schools goes back to the times before Italian Kingdoms were unified, in which the Catholic Church detained the monopoly of instruction. The practice was maintained in the early system of public education in the Kingdom of Italy after it was unified. However, as a result of tensions between the Catholic Church and the State, and following the secularization of Italian society, the obligation of displaying crucifixes was hardly met. In an effort to enrol Roman Catholicism to its cause, Fascism endeavoured to restore the crucifix in classrooms. In Circular No. 68 of 22 November 1922, a few weeks after the Fascist takeover, the Ministry of Education took position against the lack of compliance with regulations regarding the crucifix.

A new relationship between State and Church began, marked by unilateral measures. Among these were the introduction of doctrinal Catholic instruction in primary State schools and the reintegration of the crucifix in public places and State school classrooms²⁷, where it had been previously removed for being seen as the symbol of Roman Catholicism. It was thus seen as inappropriate in the school of a modern State committed to liberalism and separation.

Under the Republican Constitution, in an increasingly secularized social climate, the crucifix disappeared from many schools. The display of the crucifix was overtly challenged after the Concordat of 1984, declaring that Italy was no longer a Catholic State. In an Opinion of 27 April

1988 (No. 63), the *Consiglio di Stato* proclaimed that the display of the crucifix was not incompatible with the secular environment of Italian State schools: the price to pay for 'saving' the crucifix was to emphasize its cultural dimension instead of its religious meaning. In fact, the crucifix, the administrative judges held, was not the symbol of the State religion, but it symbolized a universal value independent of any specific religious creed.

But the story wasn't over yet.

In the context prosecuting someone for refusing to serve as an election inspector in a polling station where a crucifix was displayed, the Court of *Cassazione* / Court of Cassation in 2000 held that the presence of the crucifix infringed on the principles of secularism and impartiality of the State; the court upheld the principle of freedom of conscience of those who did not accept any allegiance to that symbol. It expressly rejected the argument that displaying the crucifix was justified because of it was a symbol of 'an entire civilisation or the collective ethical conscience', and also of 'a universal value independent of any specific religious creed'²⁸. However, something different occurred in the following years. In the Lautsi case on the crucifix (2002-2011), after having exhausted national remedies – as we will see – the applicants complained to EctHR that the display of the Catholic symbol in State schools' classrooms violated their consciences (Ventura 2013: 69, 204-207).

The Lautsi case had originated in 2002, but Ms. Soile Lautsi applied to the Court of Strasbourg on 7 July 2006 in her own name and on behalf of her two children, Dataico and Sami Albertin, after the Italian administrative courts had dismissed her claim (Palma 2011)²⁹. Ms. Lautsi alleged that the display of the crucifix in the classrooms of the Italian State school where her children attended breached her right to ensure that they receive education and teaching in conformity with her cultural philosophical con-

²⁷ In particular, the presence of the crucifix was made compulsory through two Royal decrees of 1924 and 1928. See Art. 118, R d 30 Apr. 1924, No. 965; and Art. 119, R d 26 Apr. 1928, No. 1297.

²⁸ Cassazione 1 Mar. 2000, No. 439 (2000).

²⁹ See Antonio J. Palma 2011: http://www.olir.it/areetematiche/75/documents/palma_lautsi.pdf, last accessed: 23/09/2015.

victions under Article 2 of Protocol No. 1, as well as her freedom of belief and religion under Article 9. A unanimous chamber of the ECtHR concluded that the compulsory display of a symbol of a particular faith, exercised by public authority in relation to specific situations subject to governmental supervision, particularly in classrooms, restricts the right of parents to educate their children in conformity with their convictions. It also infringes on the right of schoolchildren to believe or not believe. The Court was of the opinion that the practice infringes upon those rights because the restrictions are incompatible with the State's duty to respect neutrality in the exercise of public authority, particularly in the field of education. Italy was condemned for the violation of Article 2 of Protocol No. 1 taken together with Article 9 of the Convention³⁰.

The European Parliament, acting collectively, supported the previous view of the Italian government, arguing that in this specific context religious symbols had a secular dimension and should therefore not be removed. The Grand Chamber reversed the 2009 decision on 18 March 2011³¹ and three fundamental assumptions presided over the judgement. Firstly, the Court disappointed those who believed that at the core of the question was the incompatibility of the crucifix as the symbol of the State and the constitutional principle of Italy as a secular State. Instead, the judgement read that it was not for the Court to rule on the compatibility of the presence of crucifixes in State-school classrooms with

the principle of secularism as 'enshrined in Italian law'. Second, the Court recognized in Italian authorities a wide margin of appreciation, taking the view that the decision whether or not to perpetuate a tradition falls in principle within the margin of appreciation of the respondent State. The third assumption, which the Court found in favour of the Italian government, was that the Court accepted the heavy discrepancies in Italian case law in the subject matter, and the uncertain nature and reach of the disputed regulations. The Grand Chamber did not accept the claim by Ms. Lautsi that the presence of the crucifix had a negative impact on non-Catholic pupils. The Court argued that there is no evidence that the display of a religious symbol on classroom walls may have an influence on pupils, so it cannot reasonably be asserted that it does or does not have an effect on young persons whose convictions are still in the process of being formed (Ventura 2013).

The ECtHR ended up endorsing the view of the Italian government that the crucifix had to be regarded as a "passive symbol" whose impact on individuals was not comparable with the impact of "active conduct". In addition, the European Court stated that the applicants had to conform to the will of the majority since it is compatible with the Convention that 'the country's majority religion' enjoys a 'preponderant visibility in the school environment'. The judges bought, without any serious scrutiny, into the inaccurate version by the government that 'Italy opens up the school environment in parallel to other religions'. The Grand Chamber concluded that the display of the crucifix did not violate the Convention.³²

It was decided to keep crucifixes in the classrooms of the State school attended by the first applicant's children. Thus, the authorities acted within the limits of the margin of appreciation left to the respondent State – exercising the functions it assumes in relation to education and teaching – in the context of its obligation to

³⁰ Lombardi Vallauri v. Italy [2009] ECtHR (No. 39128/05) (20 Oct. 2009) para. 45. Lautsi v. Italy [2009] ECtHR (No. 3081406) (3 Nov. 2009) para. 57. ³¹ Lautsi v. Italy [2011] ECtHR Grand Chamber (No. 3081406) (18 Mar. 2011). On the political background and implications of the case see P. Annicchino, *Winning the Battle by Losing the War: The Lautsi Case and the Holy Alliance between American Conservative Evangelicals, the Russian Orthodox Church and the Vatican to Reshape European Identity*, 6 *Religion & Hum. Rights* 213 (2011).

³¹ Lautsi v. Italy [2011] ECtHR Grand Chamber (No. 3081406) (18 Mar. 2011). On the political background and implications of the case see Annicchino 2011: 213.

³² Lautsi v. Italy [2011] ECtHR Grand Chamber (No. 3081406) (18 Mar. 2011) para. 36.

respect the parents' rights to ensure such education and teaching is in conformity with their own religious and philosophical convictions. The idea, widespread in the public and political debate, that the crucifix is a part of the Italian culture and history clearly still shows that Italy, despite its growing pluralism at the social and popular level, in cultural terms and from an institutional point of view, still mostly perceives itself and acts as a Catholic country.

This marks the end of the story – for now.

Final remarks

This short overview of the world of school and the world of cultural political institutions demonstrates that the intellectual and cultural movement has not been able to influence the political agenda and hasn't yet reached any formal results on a national level; moreover, there is a deep *iatu*s between the Italian families (and students) and the attitudes of politicians. Referring to this, among the most important problems are the absence of a laws concerning religious freedom in Italy, the frame of the ambiguity of the Constitution (privileges of the Catholic Church vs. secularism), the near-impossibility of intellectuals to influence political elites, and the *stabilitas* of Italian politics (opposite to continuously changing society). In this scenario, the level of the public and social sphere has other pressures and needs which are not answered at the level of politics and policies.

Regarding educational concerns, projects and designs have remained on paper and no innovative practices were proposed or enacted. The cultural debate has only had short-term concrete consequences within a local reality. These final remarks would be different if I had taken into consideration proposals and tests carried out on a more local level, since on the municipal, provincial and sometimes regional level the relationship between schools and cultural and political institutions has been constructed. Local examples can attest that, as I've said, it is possible to find virtuous cases and positive examples of activation of religious education courses, thanks to

the active involvement of local government representatives, majors and deans of schools. In all the cases, experimentation took place in selected schools of the same city over some years³³.

Different specialists coming from various fields agree that religious and inter-religious issues are quite relevant to the future of Italy (Melloni 2014, where there is a report on the knowledge/illiteracy about diversity and pluralism in Italy, built by contributors from different research fields), but policies are totally inadequate. As Giorgi writes (Giorgi and Ozzano 2015), both centre-left and centre-right supported the inclusion of Catholic schools into the public system, including the issue into the political agenda without many conflicts. The rightist parties have been defending the role of Catholicism in the Italian education system – as a neo-liberalist issue –, whereas the leftist parties maintained a position against both the role of the Catholic schools and Catholic instruction in public education. They didn't, however, concretely support the possibility of teaching about religions. Moreover, the prejudices between the right-wing Catholic and/or clerical and the left-wing reformers and radicals is equally strong on both sides.

In contemporary Italy, in a context marked by a Catholic Church which always keeps its public role, even in a political system no longer distinguishable by the presence of an only Catholic party (DC), the increasingly diverse range of social and political actors are far to write their own cultural and religious issues in political *agenda*.

Especially in the last 3 decades, Italian society has become increasingly varied mainly due to unprecedented inflows of immigrant populations, which diversified the spectrum of religious beliefs in the public space and the request of freedom of worship. This is not to deny or under-

³³ Among the most recent examples I would like to quote the IERS Project coordinated by the University of Venezia, Cà Foscari, which aims at responding to the educational challenges of an increasingly multicultural and multireligious Europe: <http://iers.unive.it/> (last accessed 23/09/2015).

rate other forms of diversity already present in the Italian society from the beginning, including the presence of important religious and linguistic minorities, but it is true that religious diversity has become a more central aspect of the society and the public discourse with the presence of immigrants.

Considering Italy in the larger European context, I assert that this country offers a special and original focus to consider the ambiguity of unsolved tensions between the authority and Constitutional privilege of one Church, the secularism of the juridical frame and the plural and super-diverse reality. Obviously the relationships between religion and education in the European States show many differences, related to historical and contextual factors, such as the degree of religious variety within the society (mono- or multi-religious), the historical relations between religion and politics within the country, the country's traditions, and, above all, the conceptions about the nature and aims of the State education and/or the State schools' religious education (Hull 2002). According to Willaime (Willaime 2014), some convergences can be traced among different European countries, such as a growing integration of religious education with the overall goals of public education, an increasing openness to religious plurality into schools' curricula, and an increasing amount of tensions and conflicts; on this last point I think Italy has reached a good European standard.

The numerous shortcomings that the system has had and continues to have are oppositions of political and cultural visions, entrenched on opposing fronts and unable to find common ground upon which to build a constructive dialogue; the irrelevancy of the education problem concerning historical and religious issues; the "positive discrimination" in favour of the Catholic church evident in the public system; the fear of disturbing a consolidated balance which, however, appears to not be able to answer to the requirements of today's society and the questions which spontaneously rise from a world of school users whose knowledge and acknowl-

edgement of the number and differences of religions is exponentially rising and is inversely proportionate to the same knowledge within the political institutions.

It's not only a matter of assigning funding, but rather of addressing cultural and political challenges (or limitations): only the acknowledgement of these challenges in their full complexity will grant the resolve and the strength, both cultural and political, to continue to propose thoughts, to amend documents and to re-submit to the attention of the Italian institutions suggestions and experiments to be assessed and implemented.

Some indicators point at the paralysis of law and religion as the result of an unhealthy articulation of religion and politics: this would result from the ineptitude of political and religious actors to enact a general bill on religious freedom replacing the antiquated 1929 Act on 'admitted cults'; from the unbalanced system of "Concordato" (privilege of the Catholic Church) and Agreements (system of "Intese" for – some of – the other religions); from the lack of an appropriate policy towards Italian Muslims but also the Orthodox Roman community who are the major contemporary minorities. As I have tried to show, deep contradictions and silences between different actors and the *iatu*s between politics/jurisprudence/intellectuals/citizenship – emerging by the media and recent research – are well attested by the case of religious education, school canteen service, and the crucifix.

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Completing the Religious Transition? Catholics and Muslims Navigate Secularism in Democratic Spain

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Abstract

In Europe, Muslims are often seen as the enemies of secularism and *laïcité*, the strict separation of church and state pioneered in nineteenth- and early-twentieth-century France. Yet the Spanish experience shows that European Muslims should not *prima facie* be considered opponents of secularism. Indeed, a majority of devout Spanish Muslims have demanded, rather than opposed, state neutrality on religious matters—this in direct opposition to a concerted effort by the Catholic Church and its supporters to maintain a privileged position vis-à-vis other confessions. In the protracted debates over the role of religion in the public sphere in Spain, devout Muslims have shown a preference for the secular Socialist Party over the militant Catholicism of Spanish conservatives. The leaders of the Protestant, Jewish, and Islamic federations demanded in 2011 that Spain complete its “religious transition” so as to ensure the equal treatment of all religious confessions by the state. Muslims in Spain, while they have echoed Catholic demands for the preservation of religion in the public sphere, have opposed Catholicism’s privileged status in the country. By demanding consistency of treatment and state neutrality on religious matters, Muslims have assisted, rather than hindered, the construction of secularism in Spain.

Keywords: transition, Spain, religious rights, minority religions, secularism, education, Islam, Catholicism

Religious Transitions

The demands made by devout European Muslims for religious rights should not be viewed in isolation from the larger historical and political contexts that have shaped, and to some extent limited, Muslim life in Europe. Joel S. Fetzer and J. Christopher Soper, in their comparative study of the relationship between Muslims and the state in Britain, France, and Germany, have shown that the development of public policy on the religious rights of European Muslims should not draw solely on theories of resource mobilization, political opportunity structure, and political ideology, since this relationship “is mediated in significant ways by the different institutional church-

state patterns within each of these countries” (2004: 7). The experience of Spanish Muslims, in particular, demonstrates the extent to which Muslims’ deployment of collective resources in the struggle for religious rights, and their willingness to take advantage of certain political opportunities to implement and extend these rights, has been limited by the institutional pattern of church-state relations in Spain, as well as the resource mobilization of the country’s main contender for religious space—the Catholic Church.

Almost twenty years after the 1992 approval of the Agreements of Cooperation between minority confessions and the Spanish state, the leaders

of Spain's Protestant, Jewish, and Islamic federations demanded that the country complete its "religious transition" (Europa Press 2011). Yet all major players in religious matters—minority religious federations, the Catholic Church, and the Spanish political establishment—maintain vastly different ideas about what a complete transition should entail. According to Jewish, Protestant, and Muslim leaders, the state must implement and enforce the democratic framework on religious pluralism that guaranteed constitutionally-mandated state neutrality in religion and equal treatment of all confessions. For the Catholic Church, however, state neutrality and the equality of all confessions could only mean a loss of privilege for Catholics and the further separation of church and state; the status quo, with the occasional reinforcement of the Church's position during periods of conservative rule, was the best possible scenario. The Socialist Party, on the other hand, viewed Spanish Catholicism's privileged status as a result of the compromise implemented during the Transition period (1975-82)—a necessary compromise, certainly, but one that was in need of revision. For the Socialists, the process of secularization in Spain, understood as the "institutional and cultural changes that take people and organizations away from the institutional authority of the church and weaken their religious referents" (Pérez Díaz 1993: 119), had to be encouraged and reinforced.

While these positions reflect a particular balance of power between religious denominations, the constitutional and legal framework that determined church-state interaction in Spain since 1978, and the positions and priorities of the two main political parties—conservative and socialist—, the larger debate over a religious transition has not been confined to Spain; it fits, rather, within a broader European, and indeed global, discussion of the meaning and scope of secularization and the place of religion in liberal democracy.

North American and European scholars have been engaged in fierce debate over the meaning

of secularization. According to sociologist José Casanova (2006: 16), for a long time scholarly debate was fruitlessly divided between North American scholars arguing that secularization was an artificial European construct, and that it did not follow directly from modernity, and European scholars claiming that secularization was empirically irrefutable, a linear *fait accompli* that originated in the European Renaissance, was strengthened during the Enlightenment and the French Revolution, and became consolidated with the liberal fight to separate church and state. In France, secularization's *coup de grâce* came with the 1905 Law on the Separation of Church and State, the backbone of the French principle of *laïcité*. Other European countries have followed their particular trajectories toward secularization (Swatos and Olson 2000).

Casanova convincingly argued that to bridge the divide between North American and European interpretations required decoupling the concept of secularization on several distinct levels. Secularization, in Casanova's view, entails 1) independence from religious institutions, 2) the decline of religious belief and practice, and 3) the relegation of religion to the private sphere. According to Casanova, even though on a global scale the second and third components have not occurred, the European case has been different to the extent that a "progressive, though highly uneven, secularization of [the continent] is an undeniable social fact. An increasing majority of the European population has ceased participating in traditional religious practices, at least on a regular basis, even though they may still maintain relatively high levels of private individual religious beliefs" (Casanova 2006: 17). New scholarship is premised upon the idea that divisions between the religious and secular spheres have resulted from social dynamics that are constantly renegotiated. Thus, "entanglements of religion and politics must be viewed as sites in which the boundaries between religion and secular spheres are negotiated, challenged, and redrawn" (Wohlrab-Sahr and Burchardt 2012: 882). The ways in which these boundaries have

been negotiated in democratic Spain form the core themes of this article.

It took less than a decade after Francisco Franco's death, in November 1975, for the influence of the Catholic Church over ordinary Spaniards to decrease considerably. While 86 percent of Spaniards considered themselves Catholic in 1984, the number of practicing Catholics dropped from about 56 percent to 31 percent between 1976 and 1983. During the same period, Spaniards came to accept: contraception (65 percent), the dissolution of Catholic marriages (47 percent), and the relaxation of premarital sexual relations (45 percent). Moreover, 43 percent of Spaniards believed the church should not have any influence over government (Pérez Díaz 1993: 173-175). Thirty years later, in 2014, the number of Spaniards considering themselves Catholic had dropped a further 16 percent, to 69.4 percent of the population, while only 13.8 percent attended mass regularly (CIS 2014). While it is undeniable that the second component of Casanova's definition of secularism—a decline of religious beliefs and practices—applies to the Spanish case, state institutions in Spain are not yet entirely independent from religious institutions, particularly in the area of education. Moreover, the relegation of religion to the private sphere has been vigorously contested by many Catholics.

This article argues that while practicing Muslims, Catholics, Jews, and Protestants have contributed to a generalized increase in religious observance in Spain since 1975, the main opponent of state neutrality on religious matters has been the Catholic Church and its powerful lobby of native Catholics who fear a loss of traditional privileges dating back to the Franco dictatorship and before.

The Catholic Church and the Spanish Transition to Democracy

The transformation of the Catholic Church after the religious wars of the sixteenth and seventeenth centuries has entailed a struggle against modernity, capitalism, the modern state, and, eventually, against liberal democracy and secu-

lar culture. As Victor Pérez Díaz has put it, "all these institutions implied a curtailment of the church's power, a reduction of its influence, and competition for its souls." Indeed, only in the last fifty years or so has the church "made its peace with [the] world, and only in the Second Vatican Council has it officially recognized this" (Pérez Díaz 1993: 123).

Political events delayed, and even limited, the development of this process in Spain. The Franco regime (1939-75), seeking to legitimize itself at the close of the Spanish Civil War, adopted Catholicism, the majority religion in Spain, as the official religion of the state. This brought about a symbiotic relationship between the church and the regime, known as national-Catholicism. Under Franco, the Catholic Church was given a prominent role in shaping social policies, like education and marriage, and was incorporated into the state structure through the subsidies its cathedrals and parishes received and by the salaries of clerics and teachers, which were paid for by the state. A Concordat with the Holy See, signed in 1953, confirmed the public status of the church, paving the way for the imposition of church influence on matters both public and private.

The relationship between the Francoist state and the Spanish Catholic Church began to change after Pope John XXIII convened the Second Vatican Council in 1962, known as Vatican II. At Vatican II it was acknowledged that the church had often failed to side with the poor, as well as the development of human rights and democracy—a failure exemplified by the Spanish church. Through *Gaudium et Spes* ("Joy and Hope"), the Pastoral Constitution on the Church in the Modern World, Vatican II also recognized the separation and autonomy of the secular and religious spheres (1965c). Through *Nostra Aetate* ("In Our Time"), moreover, Vatican II encouraged Catholics to embrace religious freedom and respect non-Christian religions (1965b).

In Spain, Vatican II triggered legislative change that would culminate in the passing of the Religious Freedom Act of 1967. It also forced a reluc-

tant Spanish church to revisit its relationship with the belligerently confessional Francoist state, and, eventually, to accept that it must operate in a “market” of religious beliefs. Of course these changes were not felt immediately, for the simple reason that it took several years for the majority of the church’s hierarchy to be convinced that the regime, and its brand of national-Catholicism, had no future (Pérez Díaz 1993: 153). In 1973, the Synod of Spanish Bishops approved the lengthy document “The Church and the Political Community,” and the Spanish church was finally disassociated from the Franco regime. In its place, the church sought a new, mutually independent collaboration with the state, and the Synod of Spanish Bishops declared the church to be neutral in political matters and committed to political and religious pluralism (Conferencia Episcopal Española 1973).

By 1976, it was clear to both the recently-crowned king, Juan Carlos I, and the first post-Franco government, led by Carlos Arias Navarro, that relations between the church and the Spanish state had to be revisited. To this end, the government entered into a series of negotiations with the Vatican. But while the government had hoped to conclude these talks in a timely manner, church representatives were more concerned about preserving their status and prerogatives than pleasing the government. While the negotiations were largely cordial, they were “not easy,” according to Minister of Foreign Affairs Marcelino Oreja (Callahan 2000: 554). Nor were they quick—in fact, they lasted from 1976 to 1979, when the final four agreements between the Spanish state and the Vatican were signed.

The fact that talks had started before a democratic framework was fully established, and that they were led by the centrist Unión de Centro Democrático (UCD), a party strongly connected to the church hierarchy, naturally created tensions. In 1977, Socialist deputies raised the question of whether the government’s negotiations with the Vatican were compatible with a yet-to-be-written democratic constitution and demanded full disclosure to Congress of nego-

tiations conducted thus far, as well as a suspension of any further talks with the Vatican until a constitution determined the principles by which church-state relations would henceforth be governed (Callahan 2000: 554).

With the 1978 Constitution, the church was ultimately forced to embrace the principles of religious freedom and a non-denominational state (“No confession will have a state character”). It also embraced a constitutional guarantee of cooperation between the state, the Catholic Church, and other denominations: “The public authorities shall take the religious beliefs of Spanish society into account and shall consequently maintain appropriate cooperation with the Catholic Church and the other confessions” (Art. 16.3).¹ Yet the Constitution struck a compromise between the idea of a religiously neutral secular state, based on the model of the French Republic and supported by the Socialist and Communist parties, and a state, supported by conservative parties and the Catholic Church, that recognized religion’s positive contribution to society by enacting a constitutionally recognized juridical status—beyond a vague recognition of the right of religious freedom—for all confessions. The one conception entailed a path towards the privatization of religious practice and a stricter separation of church and state, while the other granted churches special status. The 1978 Constitution lay somewhere in the middle: it avoided the strict separation of church and state by obligating the government to cooperate with religious confessions, but these confessions were not themselves protected by any special juridical status.

By 1978 the church had already foreseen further conflict with the state over things like education, divorce, and abortion; it thus sought some sort of constitutional recognition of its position in Spanish society that could give it influence over the political process. It had some success in this regard. In particular, the drafters of the Con-

¹ SPANISH CONSTITUTION. 1978. http://www.se-nado.es/constitu_i/indices/consti_ing.pdf.

stitution recognized the so-called “sociological fact”—the notion that the Spanish Church was a fact of life in Spanish society, one the state was bound to respect.

To this end, four Agreements of Cooperation between the Spanish government and the Vatican were signed in 1979. While three of the Agreements—related to legal and financial matters and religious and military services—were approved by substantial majorities in Congress, the one covering education was opposed by both the Socialists and the Communists.² According to historian William Callahan, the Agreements, for all practical purposes, “constituted a new concordat, although neither party wished to use a term that had fallen from favour in the post-Vatican II world” (2000: 554-5). The Spanish Church was thus granted special treatment that was not available to other religious groups.

Among scholars who have sought to analyse the post-Franco Transition, there has been sustained controversy over the role of elites and civil society in the establishment of democracy. Many have argued that the key factor in the country’s successful democratization was elite agency—namely, the ability of certain politicians, such as the first democratically elected prime minister of the post-Franco period, Adolfo Suárez, to find common ground with Francoist supporters (O’Donnell, Schmitter and Whitehead 1986; Gunther 1992). Others have contradicted this claim by arguing that the Transition cannot be understood by elite agency alone: rather, such agency was conditioned by the demands of a diverse group of civil society organizations—and not just trade unions, but women’s groups and neighbourhood associations as well (Pérez-Díaz 1993; Radcliff 2011).

While these debates remain unresolved (Encarnación 2003), there is widespread agreement concerning the contribution of the Catho-

lic Church. Political Scientist Omar Encarnación argues that the Catholic Church’s “policy of neutrality with respect to the transition to democracy” had enormous political ramifications—indeed it dealt “a final blow to Francoism” (2008: 84). A dominant narrative of the late-Franco period argues that Vatican II shifted the church’s priorities, which helped the Spanish Church to distance itself from the regime. The church’s repudiation of Franco’s national-Catholicism and its subsequent embrace of religious pluralism, albeit very slow, were fuelled by the pro-democratic position of the Synod of Bishops under Cardinal Vicente Enrique y Tarracón, as well as the demands of many younger priests who were committed to helping their congregations weather the adverse effects of mass internal migration and rapid urbanization. These were the famous “*curas obreros*,” or worker-priests, who criticized the state-sponsored Francoist labour union, and defended independent labour unions’ right to strike.

In his influential study of the Transition, Víctor Pérez Díaz calls the 1970s a period of “moderate euphoria,” since the Catholic Church had succeeded at the extremely delicate task of distancing itself from authoritarian power and embracing a liberal democratic regime; “the church was [thus] reliving an experience of co-protagonism in the events of the transition to democracy” (1993: 124). More recent scholarship has questioned how overt this embrace of democratic politics actually was; it highlights instead the indirect role played by some church officials who, for example, allowed opposition organizations to use church infrastructure to avoid the wrath of Francoist authorities (Radcliff 2007).

However, debates over the church’s role in the Transition have tended to obscure the less congenial position adopted by the Catholic Church vis-à-vis the Spanish state since 1982. This is especially true when looking at the conflict over education. It is perhaps more fruitful to consider the Transition as merely a temporary consensus—one that began to unravel in short order—concerning the ideal type of political settlement to bring about

² “Instrument of Ratification of the Agreement between the Spanish State and Holy See on Education and Cultural Matters,” Signed in Vatican City on January 3, 1979, *BOE* 300, December 15, 1979, 28784-28785.

an end to authoritarianism. Moreover, recognizing the limits of consensus during the Transition helps us to understand why certain issues, such as the role of the Catholic Church in public education, became so contentious so quickly.

Democratic Consolidation and the Demands of Organized Religion

The myth of a durable consensus between church and state actors must be replaced by a more nuanced understanding of politics as an arena of evolution and negotiation. The different roles played by religious officials during the period of democratic consolidation and deepening are best understood by looking at how the church and other confessions negotiated their relationship with the state, how religious and secular interests fought for public space, and how the church attempted to project its moral outlook onto public policy.

For the Catholic Church, the Transition entailed “a passage from triumphalism to humility” (Echarren Istúriz 1999: 424), or, to put it in slightly different terms, a move “from a system of privilege to one of rights” (Callaghan 2000: 554). Pérez Díaz, viewing this evolution in a broader context, argues that the church was “furious in the thirties, exalted in the forties and fifties, troubled and inquiring in the sixties, moderately euphoric throughout the seventies, and discreet, showing a sense of both satisfaction and disillusion, since the eighties” (1993: 123).

The earliest period of democratic consolidation, from 1982 to 1996—which happened to coincide with several Socialist governments in Madrid—was a difficult time for the Church. The earlier centrist government had passed a divorce law in 1981 and the subsequent Socialist government partially de-criminalized abortion in 1985. Such measures forced the church to maintain a prudent distance from democratizing elites. Historian Gregorio Alonso reminds us that during this period the church hierarchy largely returned to a pre-Vatican II isolation from civil society and popular demands. The church’s staunch defence of narrowly defined Catholic values and morals,

and its extensive demands in education, thus made it an unlikely ally of democratizing parties and progressive actors (2011: 127).

The church’s options during this period were limited by its recent history. Had it chosen to mobilize the Catholic masses against the authoritarian order, it could have sown the seeds for the development of a pro-democratic, Catholic social movement similar to those promoted by the church in communist countries (Encarnación 2008: 84). Pérez Díaz argues that the deliberate failure on the part of the Catholic hierarchy to create a Christian-democratic party contributed to the cordial relations between the newly-emergent political class and the church (1993: 170). While this is to some extent true, it also reduced the church’s influence over more grassroots political activity in Spain.

Indeed, the consolidation period resulted in the emergence of new religious actors who had not been visible during the Transition. The Catholic Church could have welcomed these individuals and joined forces with them in its fight against the privatization of religion and its attempt to introduce its moral outlook on legislation and public policy. Notwithstanding occasional cooperation between grassroots Catholic organizations and religious minorities, for instance in 2000, when a Catholic Church in the Barcelonan neighbourhood of el Raval offered temporary prayer space for a Pakistani Muslim religious association who was unable to secure it otherwise (Guia 2014: 109-111), the Catholic Church has viewed minority religions as competitors in the marketplace of religious ideas and as challengers to its privileged relationship with the state.

Muslim Demands for Equal Treatment

Muslim organizations had been steadily growing in Spain since the late 1960s, when Muslim leaders in the North African city of Melilla—part of Spain since 1497—began lobbying for the extension of the rights and privileges enjoyed by the vast majority of Spanish citizens. This process was accelerated by the approval of the Religious Freedom Act of 1980. In 1992, the Socialist govern-

ment signed an Agreement of Cooperation with Spanish Muslims.³ It was the goal of the Socialists to use the 500th anniversary of the Christian conquest of Granada and the expulsion of Spanish Jews to mark a reversal in the religious policies of the preceding centuries. Spain was also hosting the 1992 Olympic Games in Barcelona, as well as the Universal Exposition of Cultures in Seville, and the government knew that the country's international image and democratic credentials would be enhanced by an official recognition of its religious minorities. By simultaneously signing with Protestants, Jews, and Muslims, the government acknowledged each of these groups as "deeply rooted" (*notorio arraigo*), thus committing the state to the encouragement and protection of religious pluralism in Spain.

A precondition for the signing of the 1992 Agreement was the creation of a nation-wide organization that could speak on behalf of Spanish Muslims. (Negotiations with Protestants and Jews, who already had nation-wide federations, went more smoothly as a result). Yet Muslim leaders were often unsuccessful in their attempts to present a united front. For example, in negotiations to establish the Federation of Islamic Religious Entities of Spain (FEERI), which took place in 1989, predictable disagreements emerged and Riay Tatory Bakry, a Syrian-born physician and the imam of Madrid's largest mosque at the time, decided to create an alternative group called the Union of Islamic Communities in Spain (UCIDE) (Tatory Bakry 2006). The government refused to deal with two separate and feuding organizations, and instead forced them to come together under one banner, the Islamic Commission of Spain (CIE). The Agreement stipulated that the CIE would be in charge of monitoring its implementation with the oversight of two secretaries-general, one from FEERI, the other from UCIDE. It was a compromise destined to fail (Iglésias Martínez 2004).

³ Law 26/1992, on Approval of a Cooperative Agreement between the State and the Islamic Commission of Spain, November 10, 1992, *BOE* 272, November 12, 1992, 38214-38217.

The 1992 Agreement of Cooperation was nonetheless a milestone. For the first time in modern Spanish history, Islam would receive official recognition and its public practice would be protected throughout the country; the Agreement's preamble even recognized Islam's "important role in the formation of Spanish identity."⁴ The Agreement granted imams special privileges, offered tax relief to groups registered with the Ministry of Justice, and conferred legal protections on Islamic religious buildings and cemeteries as sacred spaces. It also recognized Islamic marriage, with the exception of polygamy, on an equal footing with Catholic and civil marriage. The government agreed to accommodate Muslim religious practices—like dietary restrictions—in prisons, hospitals, schools, and other public institutions, including the military. Finally, the Agreement recognized religious festivals, the need to regulate halal food production, and the need to preserve Spain's Islamic artistic and historic heritage. The CIE was in charge of defending religious practices, training and appointing imams, and overlooking Islamic instruction in the public school system.

The Agreement also encouraged the creation of new Muslim organizations affiliated with one of the existing federations. According to Spain's Registry of Religious Entities, the number of Muslim groups thus increased steadily to fifty-one in 1994, seventy in 1996, 176 in 2001, and 616 in 2011 (the latest published data). In twenty years, the number had multiplied by a factor of thirty (Guia 2014: 82).

While on paper, the Agreement created one of the most progressive frameworks for the treatment of Islamic minorities in Europe, it paled in comparison to the privileges accorded to the Catholic Church. For example, the financial agreement between Catholics and the state included a provision for "adequate funding," which allowed taxpayers to allocate a portion of their income tax revenue directly to the Church. The church also enjoyed tax exemptions, such

⁴ *Ibid.*, 38215.

as value-added and property tax. Only the latter was extended to other religious groups.

Among the privileges available to the Catholic Church that were excluded from the Agreement with Muslims was a provision for state funding of recognized Muslim institutions. Mansur Escudero, a psychiatrist from Córdoba who led Spanish converts and was a secretary-general of the CIE from 1991 to 2006, blamed Tatory, his co-secretary-general, for this disparity; he claimed it forced Spanish Muslims to rely on foreign capital for their religious needs (González 1999). According to Escudero (1998), Tatory had more direct access to government funding because he was a member of the Ministry of Justice's Advisory Commission on Religious Freedom, though Tatory did not view foreign funds as an issue as long as they came from a variety of sources (Tatory Bakry 2006). Escudero believed that without state funding, Spanish Muslims would be entirely dependent on foreign donors, and would thus have to accept whatever theological or political interference was involved (Guia 2014: 78-87).

While the Spanish Constitution guarantees equal treatment of minority confessions by the state—including access to public funds on par with that enjoyed by the Catholic Church—the imbalance remains egregious. In 2005, the Catholic Church received 141 million euros in tax revenue, compared to a mere 3 million euros for Jewish, Muslim, and Protestant groups combined. Moreover, while the government paid the salaries of 15,000 Catholic school teachers, only 100 Protestant and 36 Islamic teachers were hired with public funds. As for private schools receiving public subsidies, a similar imbalance exists, with 1,860 Catholic schools versus just four Protestant and two Jewish schools (Guia 2014: 83-4). This financial gap has only increased.

Escudero called on Madrid to fund Islam to the same extent that it funded Catholicism. He also asked that citizens be allowed to make income tax contributions to minority religious institutions in the same way that they could contribute to the Catholic Church. The Socialist government

sidestepped these requests by arguing that the income tax provision was “a transitory measure that was a hangover from the Spanish state's former support of Catholicism and [as such] would soon disappear” (Escudero 1998: 12). Conservative governments were likewise uninterested in pursuing equality of treatment, though for very different reasons: they preferred maintaining the status quo—or even altering it in favour of the Catholic Church—in order to please their well-organized Catholic supporters.

Muslim representatives in Spain were becoming disillusioned with successive governments' lack of will when it came to implementing the Agreement, something they now described as a “*papel mojado*”, a worthless piece of paper that failed to protect Muslim rights (Escudero 1998: 12). Mohammed Chaib, founder of the immigrant association Ibn Battuta, and a Socialist member of the Catalan Parliament from 2003 to 2011, described the various governments' treatment of religious minorities as “chaotic and catastrophic.” As he pointed out, “[n]one of the points fleshed out in 1992 when the Islamic Commission of Spain was created has been fulfilled. Not religious teaching in schools, not freedom of religion—not one” (Chaib 2005: 42).

While the state did not actively pursue the violation of Muslim religious rights, this was an inevitable result of simple government inaction. Local and regional authorities were reluctant to implement the Agreement, and Madrid was less than enthusiastic when it came to forcing the issue. The Muslim vote was still scant and a strong pro-Muslim stance might alienate the large, well-organized contingent of Catholic voters. Implementation and enforcement of the Agreement was more extensive when the Socialist Party was in power—both under Felipe González (1982-96) and José Rodríguez Zapatero (2004-11)—as the Socialists were committed to eliminating the privileged position of the Catholic Church. Moreover, when some Muslims who were members of the Socialist Party demanded equality among confessions, party leaders were therefore more likely to act. Conversely, while the conservatives

were in power, from 1996 to 2004, the national government did little to implement the Agreement, claiming that the two Muslim federations could not agree on a common path.

During this period Escudero warned that the Spanish government “needs to understand that Islam is part of Spanish culture. Either [it] backs a home-grown reformist Muslim agenda or leaves it to foreign powers” (Valenzuela 2002). Jadicha Candela, a lawyer and member of the Socialist Party, echoed this criticism of the government’s policies: “In the end the government preferred Muslims who did not ask for money, subsidies, or Islamic teachers in public schools, but rather turned to Saudi Arabia for mosques ... Later ... the government will realize that in those mosques that were erected for free, a much more radical Islam will have arisen” (Guia 2014: 85).

For Spanish Muslims, the protection of religious practice and equal access to the public sphere were of vital importance, though they were largely taken for granted by Catholics. The success of a religious transition thus depended on the state’s recognition of things like dietary needs and ritual practices, as well as guaranteed access to prayer sites—something that took on heightened significance in the early 1990s, when the construction of new mosques were increasingly challenged by neighbourhood coalitions.

Between 1990 and 2008, ethnic Spaniards opposed proposals to build mosques and prayer rooms in sixty Spanish towns, forty—or 67 percent—of which were located in Catalonia. These conflicts were triggered by Muslim attempts to move from small prayer sites to newer, larger buildings; by the renovation of existing spaces; or by attempts to construct purpose-built, grand mosques (Moreras 2009). These conflicts were also related to the newfound visibility of, and claim of permanence made by, various local Muslim communities in Spain. Of course, the disparities between Muslim and non-Muslim populations in terms of their access to public space, enjoyment of public resources, and protection by public authorities, only exacerbated these conflicts.

Indeed, as Tariq Modood and Riva Kastoryano have pointed out, a general trend across Europe has hindered Muslims’ access to the public sphere in recent decades:

Those citizens whose moral, ethnic or religious communal identities are most adequately reflected in the political identity of the regime, those citizens whose private identity fits most comfortably with this political identity, will feel least the force of a rigidly enforced public/private distinction. They may only become aware of its coercive influence when they have to share the public domain with persons from other communities, persons who may also wish the identity of the political community to reflect something of their own community too (2006: 170).

Spanish society tends to view Muslim demands for equal access to public space as illegitimate, a challenge to the status quo, while Catholic encroachment is somehow acceptable, customary, even banal. Indeed, many ethnic Spaniards—even atheists or agnostics—celebrate a variety of Catholic holidays. As Mohammed Chaib has written, “[t]hose who fear losing the secular state and who harden in the face of a group subconscious filled with battles of Moors and Christians and re-conquests of El Cid, often forget that ... they bring flowers to the cemetery every November 1st [All Saints’ Day]” (2005: 127).

Indeed, over half of national statutory holidays in Spain are Catholic. If one accounts for regional and municipal statutory holidays as well, it is difficult to celebrate anything in Spain that is not related in some way to Catholicism. While this is largely habitual, it has also been fervently defended by the church and its supporters. When the Socialist government attempted to eliminate the Festivity of the Immaculate Conception on December 8, just two days after another statutory holiday (Constitutional Day), church supporters mounted stiff resistance, and the government was forced to backtrack. Yet other confessions have not been offered the same prerogatives. Only in the North African cities of Ceuta and Melilla, where Muslims form over a third of the population, has a non-Catholic religious holiday been recognized: *Eid al-Adha*, the Feast of the

Sacrifice, was introduced as a statutory holiday in 2010 by local governments. This was the first Islamic statutory holiday introduced not just in Spain, but in Europe as a whole—perhaps a sign of changes to come in areas with a significant Muslim population (López Bueno 2013: 234-6).

Education: A Low-Key Battleground

In the nearly four decades since democracy was established in Spain, the Catholic Church has had many disagreements with the state. Some have come out of the church's efforts to retain a monopoly over spiritual power and insert its moral precepts into public policy; others from the church's refusal to recognize the equality of other confessions. Others still are related to church demands that public servants adopt an exemplary moral character in line with a Catholic worldview. In these conflicts and in spite of strong internal disagreements among Catholic institutions at times (Griera 2007), the Catholic Church has not only utilized the resources available to the official church apparatus—papacy, episcopate, secular clergy, and religious orders—but also an increasingly planned and militant laity, or community of believers. This is particularly true when lay groups have protested in favour of what they call "traditional family values," and against same-sex marriage and the decriminalization of abortion.

The most sustained battleground, however, has been education reform, since it was in this area that the Catholic Church had the most to lose if secularizing forces were to gain ground. The church's hold on education in Spain had been cemented with the signing of the Concordat of 1953, which reaffirmed the church's right to monitor the orthodoxy and morality of all aspects of education (Boyd 1997: 274). The church took advantage of these favourable conditions to construct an extensive network of schools that received substantial government financial support, particularly after the approval of the 1970 Education Act. Thus, "[b]y 1976, nearly 2 million students were registered in the church's primary and secondary schools," a figure that made up

more than a third of the total number of Spanish students (Callahan 2000: 556).

Under Francoism, relations between the Catholic Church and the Spanish state were largely cordial, yet by 1970 the church was disparaging the new General Law of Education as "Statist" (Boyd 1997: 282-83). The church was steadfast in its belief that Catholic representatives should determine the curriculum of educational structures under church supervision, and it began to resent the attempts of state authorities to control curriculum and reorganize student catchment areas.

Vatican II would establish the road map for education the Spanish Church would follow in the wake of Franco's death. Vatican II's "*Gravissimum Educationis*" acknowledged that the church "has a role in the progress and development of education." Of course, private Catholic schools and universities could play an unrestricted role in their respective institutions, but the church's influence would be severely limited if it had to rely only on those who could afford an expensive private education. Yet Vatican II conceded the primary and inalienable right and duty of parents to educate their children in true liberty, which could only be guaranteed by their free choice of schools. "Consequently, the public power ... must see to it... that public subsidies are paid out in such a way that parents are truly free to choose according to their conscience the schools they want for their children" (Pope Paul VI 1965a). In this line, the Spanish Catholic Church obtained a significant victory with the 1978 Constitution; Article 27.3 gave legal validation to some of the church's key demands—for example, that "public authorities guarantee the right of parents to ensure that their children receive religious and moral instruction in accordance with their own convictions."

The 1979 Agreement of Cooperation on educational matters was of great importance for the future position of the Spanish Church who aimed to secure Catholic instruction in public schools and public subsidies for its network of privately-owned religious schools. One consequence of

the 1978 Constitution was that students in public schools were no longer obliged to attend religion classes. For Vatican II, the defence of Catholic education in non-Catholic schools was of vital importance, as was the provision of publicly-funded religious instruction by teachers chosen by the Church. As Pope Paul VI himself stated, “the Church esteems highly those civil authorities and societies which, bearing in mind the pluralism of contemporary society and respecting religious freedom, assist families so that the education of their children can be imparted in all schools according to the individual moral and religious principles of the families” (Pope Paul VI 1965a).

Religious instruction in public schools by itself would not have satisfied the church; of equal importance was the continuation of government financial support for its extensive network of private religious schools. According to Callahan, the “hierarchy expected that Church schools would receive the same level of funding as the public system” (2000: 557). Indeed, the church hierarchy tended to view the public funding of private religious schools not as a privilege, but rather as an integral part of a single national educational system. The 1979 Agreement on education acknowledged a general principle of “equality of opportunities” for students attending private religious schools and those attending public schools, but left the extent of public funding undetermined (Callahan 2000: 558).

While the majority Socialist government elected in 1982 declared its intention to observe the Agreement with the Holy See—an attempt to forge a “definitive pacification” of the historical conflicts between church and state (Callahan 2000: 274)—its decriminalization of abortion, its strict control of the financing and management of church schools, and its attempts to curtail subsidies for clerical salaries reignited these very same conflicts. The Socialist government did not entirely undo the consensus on religious matters forged during the Transition, but it certainly understood this consensus in very narrow terms.

While the Education Law of 1980 did not interfere with the generous subsidies enjoyed by church schools, the approval, in 1983, of a new education law provoked passionate parliamentary debate, large street demonstrations, and heated exchanges between church representatives and the state, with the church officials arguing that the Socialist government was trying to eliminate religious education through “starvation and asphyxiation” (Callahan 2000: 589). To a large extent the controversy revolved around questions of funding and control. For its part, the government refused to continue providing an equal funding formula for secular and religious schools; it also challenged the independence of religious schools by mandating that all institutions using public funds be administered by elected councils comprised of members of the school’s legal proprietors, teachers, parents, students, and non-academic staff. Moreover, state-subsidized schools were obliged to modify their admission criteria so as to accept more students from the neighbourhoods they occupied. They were obliged to recognize the academic freedom of teachers, and the freedom of thought of teachers and students alike, who could no longer be required to attend religious services or live their private lives according to the church’s moral teachings. Of course, such measures were perceived by many as an affront to the “Catholic identity” of private religious schools (Callahan 2000: 590-91), and from 1983 onwards, every new education law would provoke controversy and disagreement between Catholic and secularizing forces.

Though minority confessions would fight after 1992 to enshrine their constitutional right to religious instruction within the public schools, the constraints imposed by the conflicts between the church and various Socialist governments could only bring about limited successes. In 1993, the CIE created the curriculum for an Islamic course to be taught in public schools, and in 1996 it signed an accord with the Socialist government to pay for the salaries of trained Islamic teachers. Yet school authorities and civil servants in the

regional ministries of education were nonetheless reluctant to hire teachers of Islam—something the national government did not promote, effectively hindering the introduction of Islamic education in public schools. Escudero complained that schools failed to inform parents and students they had as much right to study Islam as they did Catholicism (Escudero 1998: 13). When the national government shifted to the right in 1996, things did not improve.

Once the Socialists were back in government in 2004, they resumed their attempt at completing the religious transition. The funding of Islamic education in public schools was made mandatory whenever ten or more students requested it as an elective. However, since education is a shared jurisdiction, the law had to be advertised and implemented by regional governments, many of which enforced it reluctantly and unequally—particularly since it required most regions to pay the salaries of Islamic teachers. In some areas, educational authorities attempted to manoeuvre around the state's laws on religious education by doing away with Islamic and Catholic instruction altogether, and offering a joint secular course in the history of religion instead. Only in Ceuta, Melilla, and Andalusia—where the national Ministry of Education pays salaries directly—were teachers of Islam hired according to the law. By 2005, only 36 teachers of Islam were active in the public system across Spain (Guia 2014: 83-84). Ten years later, in 2015, the number has only reached 46 (Casa Árabe 2011), a very paltry increase as estimates indicate the demand requires something closer to 450 (Berglund 2015: 28). In 2012, there were 2,953 teachers of Catholicism in Spain, at a cost to taxpayers of 94.2 million Euros (EFE ECONOMIA 2013).

Though Article 10 of the Agreement of Cooperation states that Muslim students are guaranteed the right to Islamic religious instruction in public schools and subsidized private schools, its implementation has been highly uneven (Lorenzo and Peña 2004; Álvarez et al. 2009). The recent lobbying efforts of certain Muslim organizations—

such as the Islamic Commission of Spain, led by Mounir Benjelloun since 2012, a Moroccan-born Muslim leader from the region of Murcia, or Educaislam, led by convert, educator, and activist Natalia Andújar—have successfully pressured the government to pass a resolution detailing an official curriculum for Islamic religious instruction for Spanish primary schools in 2014.⁵ This is a first step toward securing the rights of Muslim children to receive Islamic instruction in Spanish schools. However, no private Islamic school receives public funds in the way that thousands of Catholic schools do. A clear sign of the completion of the religious transition would be the tangible promotion of Islamic education in public schools by the state, the extension of public subsidies to private Islamic schools, and the public endorsement of the construction of new mosques.

However, not all devout Muslims agree on the need for Islamic education; some, albeit a minority, feel it is an “unreasonable demand.” The Catalan-Moroccan Socialist Mohamed Chaib claims that “[w]e as a society have more important questions to resolve than Islamic teaching in schools,” and continues to argue:

It's important to remember that schools are not the place to teach religion, any religion. The big problem I see for our society is that we can't tell Muslims that natives have the right to learn Catholicism at school while Muslims don't have the right to learn Islam. This constitutes visible discrimination.... Religion is for the private sphere, in churches and mosques, but not schools, not as doctrine, only as a course in the history and culture of world religions (Chaib 2005: 66-67).

Education and the Myth of Consensus

Omar Encarnación and others have started locating the exact point at which the consensus of the Transition years began to unravel, with Encarnación (2008) arguing that a “second transition” began during the two governments headed by

⁵ RESOLUTION 12886, approving curriculum for Islamic religious instruction in primary school, *BOE* 299, December 11, 2014, 101207-101233.

the Socialist José Luis Rodríguez Zapatero from 2004 to 2011. Zapatero's substantial reforms in the areas of the historical memory of the Spanish Civil War, abortion, same-sex marriage, and support for the reform of the Autonomous Statute of Catalonia altered the consensus achieved in the Transition period to such an extent that we may indeed speak of a second Transition.

The problem with this interpretation is that it implies that the consensus achieved during the first Transition held until the second—a view that obscures the ways in which certain aspects of the Transition remained incomplete throughout. Conflicts between church and state over education show the limitations of thinking of the consensus achieved during the Transition as stable and durable. In education especially, the consensus embodied by the 1978 Constitution began to crumble with the Socialist and Communist opposition to the 1979 Agreement of Cooperation on Educational Matters, and received a further blow with the Catholic opposition to the 1983 law on education.

Encarnación has spoken of the challenges to the Transition consensus sparked by the Conservative Party's formation of a majority government in 2000. This period was marked by the government's pursuit of "a more conservative political program that in some respects can be seen as the first significant departure from the politics of consensus of the post-Franco era" (2008: 62-63). Encarnación argues that one of the most radical policies implemented by the Conservative Party was its new educational curriculum in 2003. By making Vatican-approved religious instruction a compulsory subject in primary and secondary schools, it aimed to inculcate a new generation of Spaniards in traditionalist values, "to return education policy in Spain to its Francoist days," and to blur the "very delicate church-state division established by the architects of the 1978 constitution" (2008: 63).

Yet it would be misleading to think that the rightward turn after 2000 marked a sudden departure from the politics of consensus. At least in education, church and state had been re-

negotiating the limits of the "religious transition" for decades. In the dominant narrative of the Transition, the 1978 constitutional settlement between the Catholic Church and the Spanish state is often given more weight than it ever had in reality. While it is true that the Conservative's 2003 education law returned some of the privileges the Socialists had managed to take away from the church, this was more a single battle in the low-key war to control education than a wholesale dissolution of some ideal post-Francoist consensus. A Spanish Catholic Church in traditionalist hands was once again flexing its muscle and using the conservative majority in parliament to return the "religious transition" back to 1982.

Unsurprisingly, one of the priorities of the Zapatero administration after 2004 was the reformation of the Conservative's education law. These measures were of course opposed by the Catholic Church and its allies, since they limited parents' freedom to choose schools and decreased the academic status of now again voluntary religious education. The church and its supporters focused their energies on a new compulsory course called "Education for Citizenship and Human Rights." In particular, the church opposed the course's emphasis on sexuality and its positive portrayal of non-traditional families (Aguilar Fernández 2012). As soon as the Conservatives were elected again, in 2011, they eliminated the course and moved to extend the funding of religious schools.

In the realm of education reform, the Transition was not experienced as the erosion of one consensus and its replacement by another. Rather, education policy has unfolded in a back-and-forth manner, with very little agreement concerning the role of the Catholic Church and privately-owned, but state-subsidized, Catholic schools. The completion of a religious transition in education has meant irreconcilable things for secularist forces, on the one hand, long represented by the Socialist Party, and the Catholic Church and its numerous allies on the other.

Conclusion

In 2008, Spain's Socialist government drafted a Religious Freedom Act. It was an attempt to update the 1980 Religious Freedom Act and to forge a definitive resolution to the ongoing battle between religious and secular forces by reinforcing a secular state. The draft of the 2008 law introduced the concept of "state *laïcité*" for the first time, and it tried to disentangle state authorities from religious involvement by, for example, eliminating Catholic state funerals. But after years of Catholic mobilization in the street against the legalization of abortion and same-sex marriage, and faced with an increasingly uncertain economic environment, the Act was hurriedly shelved. The debate over the role of the state in collecting tax funds exclusively for the Catholic Church, in giving generous tax breaks for property owned by the Catholic Church, in funding Catholic teaching in public schools and subsidizing private Catholic schools, remained unresolved. A similar move would eventually come from the opposite end of the political spectrum when the Conservative government, with the full support of the church, tried to pass an extremely restrictive abortion act in 2014, and widespread opposition from the left and centre forced the government to backtrack.

As a non-confessional state, one that is constitutionally obliged to cooperate with all major religions, Spain is equipped to manage these conflicts in a non-partisan manner. Yet the gap between institutional rhetoric and actual practice has endangered the religious and cultural rights of Spanish Muslims and other practitioners of minority religions. While radical secularists and militant Catholics oppose institutional compromises with minority confessions and the Catholic Church focuses on protecting its inherited privileges, a majority of Spaniards have adopted a less provocative approach to religion, one rooted in the compromises of the Transition and premised upon safeguarding religion's presence in the public sphere.

The ongoing efforts of the Catholic Church to maintain public funding of its sectarian activi-

ties; of the Socialist Party to introduce a French-inspired separation of church and state; and of minority confessions to implement the religious and cultural rights they were promised in 1992, indicate that Spain's religious transition is far from complete. What we have instead are some very uneven results. On the one hand, the failure to complete the religious transition has placed a burden on education: the conflict between church and the state have only hardened the divisions between public and private education systems, which in turn has prevented the formation of a nationwide consensus around educational priorities. As a result, the religious and cultural rights of minority confessions have not been given the proper consideration.

On the other hand, the religious transition, to the extent that it has succeeded, has allowed the Spanish government to strengthen the religious rights of minority confessions in ways that other European states have not. It has also led to the creation of a flexible institutional arrangement—one that is adept at accommodating religious pluralism—the likes of which could scarcely be imagined at the outset of the post-Francoist Transition. However, in spite of these developments, and in spite of the efforts of minority confessions to forge a truly non-confessional state, the gap between a legal framework for religious equality and the day-to-day experience of minority confessions remains unbridged.

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Religion and Migration in Morocco: Governability and Diaspora*

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Abstract

This article analyses recent Moroccan policies towards its emigrants using Spain as the observation site and the religious arena as the specific focus. Given that the framework for analysing migration and transnationalism has become progressively more complex, the study of Moroccan policies regarding migrants must include –among the many factors that combine to preserve ties with the country of origin– a more detailed and dynamic analysis of religion. This includes examining changes in policies designed to manage religious questions in the current Moroccan context and the material and symbolic efforts made to sustain Moroccan/Muslim citizens in the diaspora. All of these entanglements of citizenship and religion are affected by debates and policies in the specific local and national contexts where migrants settle and is enriched by the commitments made by individual migrants and their descendants on a daily basis and by unstoppable processes of de facto incorporation as citizens in host countries.

The most recent constitutional reform in Morocco, carried out at the behest of the king in 2011 in the context of the Arab Spring, maintained Islam as the country's official religion along with the principle of freedom of religion. This reform upheld the symbolic role of the Moroccan monarchy in religious terms and the reference to its Sherifian origins. Several efforts have been made to promote an Islam that is suitable for all citizens, with inherent tensions between more and less moderate views. Morocco has also been receptive to the arguments and needs of Moroccans living abroad regarding religion.

Keywords: Morocco, Sociology of religion, religious politics, 2011 constitutional reform, diaspora politics, Moroccans in Spain

Introduction

During the last third of the 20th and beginning of the 21st century, many countries have been affected by migration processes in which a part of

their population has left and settled more or less permanently in other countries that offer more favourable working and living conditions. A wide variety of approaches have been applied to the study of international migrations and the impact on the countries of origin and destination. The neo-realist perspective looks at migrations, policies in the country of origin and return policies with a win-win view of the situation. The new skills learned and put into circulation by individual migrants who succeed in their migration proj-

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ects are returned to the society of origin in the form of material and immaterial goods –remittances, education and experience– and they also produce citizens with a greater ability to act at local and transnational level. On the other hand, the neo-structuralist perspective, which is also based on economic considerations but is less optimistic, looks at the policies and working conditions in the countries of origin and host countries and sees that the individuals in these diasporas are victims of inequality in both countries. They work in positions that are poorly paid, are valued little by host society and the return to the country of origin is not easy in terms of job options (Ostergaard-Nielsen 2003).

An analysis of the country's policies with respect to its migrants clearly shows that Morocco has proposed to manage emigration abroad, both by increasing the political and administrative resources initially developed to deal with the RME (*ressortissants marocains à l'étranger* or Moroccan nationals abroad) and with its recent proliferation of new immigration policies.¹ Generally speaking, what began as a set of policies to provide consular services aimed at maintaining the channels needed to send remittances now consists of various programmes and

projects coming from different branches of the administration, including public foundations and specific councils created to handle these questions.

Over the course of the last two decades, the Moroccan state has created a transnational field of action that fosters a sense of belonging among those living abroad. Transnational spaces have been developed not only where migration flows and where entries and exits are managed, but also where the identities, sense of belonging, and unique forms of citizen development -- that are part of progressively more intricate international relation -- are negotiated. These "diaspora policies" consist of an array of measures, including ministerial and consular reforms, investment policies to attract remittances, the extension of political rights (dual citizenship, the right to vote from abroad), and the extension of state protection or services and symbolic policies, all of which are meant to reinforce a sense of belonging (Levitt and De La Dehesa 2003). Religious aspects are present as well, with ancillary material elements of worship, the inclusion of religious content in classes on the language and culture of origin for children of Moroccans and the creation of a symbolic language of belonging to a community defined by religion.

However, it is important not to lose sight of at least two pieces of evidence: 1) despite the mechanisms described to create a transnational dimension and to integrate the migrant population in the host countries, Moroccan immigrants in Europe continue to live in situations of subordination and subalternity, in spaces of "non-citizenship" embodied by the impossibility of participating in the process of electing the ruling elite in Morocco. Their participation in the politics of their country of origin continues to be limited and they are seen more as the objects of policy than its subjects; and 2) emigrants tend to go to places where the appearance of foreigners, and specifically Muslim foreigners, is not accepted in a calm and harmonious context, but rather in complicated social contexts, exacerbating the social tensions and debates inherent in

¹ We are aware that by using the term Morocco, it may seem that we are operating in terms of what Andreas Wimmer and Nina Glick have categorized as "methodological nationalism" in which the nation-state is naturalized and understood as a container encompassing a culture, a polity, an economy and a homogeneous social group. Regarding the origin of emigrants, this methodological nationalism, which is implicit in the use of the word "Morocco", is able to project the idea of a world in which the fact of coming from the same place is tantamount to sharing a single identity and culture and where relationships between people who share a single national origin are communitarian and produce minority or ethnic communities. This is in no way the intention of this article. If we use the national category, it is because our proposal is not to analyse the transnational strategies developed by emigrants through the creation of social fields that connect their place/nation of origin and their place/nation of settlement and involve multiple relationships that go beyond borders (familial, economic, social, organizational, religious, political) but the efforts developed by their country of origin in this particular field.

arguments of resistance. These tensions range from the discourse of protecting secularism to discourses on the threat to homogeneity or the invasion of the eternal antagonist (Bravo López 2005).

Behind the term “*ressortissants marocains à l'étranger*” lies more than a simple administrative category. With this name and the accompanying policies, a renewed diasporized national identity is being constructed with which the state is trying to design new forms of belonging and commitment to the nation for its citizens who have settled abroad. This partially-new identity is not only formed around the concept of belonging based on nationality, but also draws on other constantly evolving and plural forms in which religious identity seems to play a key role. On the one hand, these forms facilitate the positive symbolic incorporation of emigrants and encourage their civic participation in host countries and countries of origin. At the same time, they reinforce a sense of ethnic belonging, of belonging to the nation, based on more than the use of a language or knowledge and socialisation in a culture. They seek to make an exercise of citizenship visible in the countries of origin and destination that does not deny or hide its origin, but values those elements that differentiate Moroccan emigrants. By participating in associations and going to the mosque as part of their daily life, Moroccan emigrants should be able to maintain their commitment to their nation as Muslim Moroccans belonging to the Maliki school of Islam and, as believers, be committed to the human rights and the laws of the host country. This is the content that is transmitted through Morocco's most recent religious policy abroad (Réragui 2013).

Moreover, the pluralist political games in Morocco that concern religious legitimacy take on a different colour in the diaspora. In lands where Islam is new, the elements championed by the Moroccan state to manage religion in the diaspora –educating imams, establishing a presence in communities, sending women as spiritual guides– merge with other proposals for local management and strategies coming from other

states that contribute to the creation of religious transnationality, such as Saudi Arabia, Qatar and Pakistan, or from groups found in the Moroccan religious/political sphere like al-Adl wal-Ihsane (Darif 2010).

Religion and its Governance in Morocco

Tracking down religion in the context of Morocco today and understanding the mechanisms by which religion makes itself manifest in that country and abroad it is not an easy venture. An attempt to understand the characteristics of Islam in Morocco has motivated studies in the social sciences since before the country's independence. As C. Geertz noted in his book *Islam Observed: Religious Development in Morocco and Indonesia*, the key is to recognize “the material reasons why Moroccan Islam became activist, rigorous, dogmatic and more than a little anthropolatrous” (1968: 20). Like A. Bel and Westermack before him, Geertz tried to understand and explain Islam in Morocco as a cultural whole homogenized over time by the contact between rural tribes and city dwellers. Westermarck wrote that in their religious practice, Moroccans “endeavour to benefit by the baraka and to escape the bas” (1968: chap. III). The extent to which these statements characterize the relationship between Moroccans and religion in their practices today was analysed recently with a survey of 1,156 people, the basis of the book *L'islam au quotidien* by M. El Ayadi, H. Rachik, and M. Tozy (El Ayadi, Rachik and Tozy 2007). This work looks at a significant number of aspects and makes it possible to form a picture of Islam in Morocco today.

In terms of religious practice, 15% of Moroccans say they never pray and only 16% go to the mosque to do so (only 2% of women). The level increases with age (using morning prayer as an example, 9.8% of 18-24 year olds practice it, compared to 57.6% of people over 60) (El Ayadi, Rachik and Tozy 2007: 51-55). Despite the proliferation of practices like pilgrimages and religious festivals, pilgrimage seems to attract increasingly fewer Moroccans (El Ayadi, Rachik

and Tozy 2007: 61-62). Young people are more active practitioners than before, although this is seen in conjunction with religious and political fervour at a time of tension with the West. The common use of specific religious vocabulary among young people reveals a generational and ideological break and a greater understanding of their religion, indicated by 56.7% of the survey respondents (El Ayadi, Rachik and Tozy 2007: 75). Religious knowledge is trending upwards, not only among the well educated, with their scripturalist explanations of religion, but in general. Simple practice no longer appears to be sufficient; rather, there is a growing interest in knowing religious history and doctrine better (El Ayadi, Rachik and Tozy 2007: 97).

The study offers empirical data about the secularization of Moroccan society. Moroccans increasingly support separating religion and politics: 41.5% believe that politicians should not be involved in religion and that religious scholars –ulemas– should not be involved in politics (35.4%), although 25.2% believe the opposite (El Ayadi, Rachik and Tozy 2007: 82). Additionally, an important number of the survey respondents say they have no opinion about the matter. For the authors, after the 2003 Casablanca attacks and subsequent events, part of the population became disinterested in questions related to Islam and politics. They suggest that a lack of information about the subject may explain this. The direct question about the place of the monarch in this “triangle” between politics and religion was not asked in the survey.

None of this contradicts the fact that 93% of Moroccans continue to define themselves as religious according to Win/Gallup 2014. The results of the study also show that religious practice plays a declining role in daily life: *‘leur utilisation de la religion est de plus en plus circonscrite dans un espace et un temps bien délimités’* (El Ayadi, Rachik and Tozy 2007: 227), which, along with opinions about the separation of religion and politics, constitutes the basis for any secularization process.

Politically and sociologically speaking, Morocco is a country that is often seen as the product of several tensions: between tradition and modernity, between the growing urban influence and the rural base, between openness and control (López García 2000). Since the mid-1990s, the processes of openness taking place in the country have involved reform proposals that affect the economy, political life and the social landscape (Desrues and Hernando de Larramendi 2011). These reforms, which include changes in the territorial organization of the state and the balance of powers, have preserved the centrality of the monarchy in the system revealing, in turn, a decided commitment to extending democratization to various public spheres in a complex context of international pressure and regional instability.

Formally defined as a constitutional monarchy accompanied by an administrative apparatus inherited from earlier times known as the Makhzen (Boukhars 2011), the Moroccan system faces the great challenge of ensuring its permanence and its prerogatives while dealing with a public with a growing capacity to mobilize. Mohammed VI, who has been on the throne since the death of his father Hassan II in June 1999, began his government with a proposal to reform from within, trying to strengthen the parliamentary institution and executive powers using the Spanish parliamentary monarchy as a model. During the early years of the reign of Mohammed VI, a number of complex issues were addressed. In 2001, an advisory committee was created to reform the Moudawana, or family code, and between 2004 and 2005, the Equity and Reconciliation Commission, which answers to the Advisory Council on Human Rights, reviewed crimes committed during the harshest years of Hassan II’s reign. Additionally, a number of new organizations were created: the Royal Institute of Amazigh Culture, headquartered in Rabat, the Royal Advisory Council for Saharan Affairs (CORCAS) (2006), the Council for the Moroccan Community Abroad (CCME)

(2007) and the Advisory Council on Regionalization (CCR) (2010).

The challenge of religious reform for the monarchy –which witnessed the polarization of public opinion during the debate on reforming the Moudawana between supporters of the reform and those who considered any reform an attack on Islam and religious values– is a complex one. Considering the religious characterization of Moroccans, the question has entailed taking into account both the desire for more secularization expressed by some citizens and the maintenance of tradition requested by others. This needs to be done without relinquishing control of religious affairs in an international context where security and control are needed to prevent the infiltration of destabilizing interests or doctrines, as seen in the 6 June 2003 attacks in Casablanca. Furthermore, as one of the elements used to guarantee its permanence, the religious legitimacy that underpins the regime must be underscored, the role of the monarch as the guarantor of traditional religion and religious arbiter discreetly maintained, and therefore the appearance and spread of religiously inspired parties and movements controlled.

Eleven years after his accession to the throne, the regional context created by the Arab Spring and the street demonstrations of the 20 February Movement –a politically heterogeneous movement that initially brought together both militant leftist youth and the local Islamist movement al-Adl wal-Ihsane– accelerated the processes of debating and approving a new constitution that, without establishing a definitive separation of powers, advanced the course of democratization and offered a potentially transformative legal framework. In March 2011, Mohammed VI announced the constitutional reforms in a speech he gave a few weeks after the onset of protests calling for the democratization of the political system and measures to combat corruption.²

² The body in charge of drafting the constitutional reform proposal was not the parliament or a constitu-

The monarch continues to play a central role in the Moroccan political system in the 21st century (Boukhars 2011). Although no longer considered ‘sacred’, as he was described in Article 23 of the previous 1996 constitution, he is still defined as the Commander of the Faithful, the highest religious authority, and presides over the Supreme Ulema Council, which has the power to issue *fatwas* and religious rulings. Despite losing his sacred status, however, the king still has other sources of what could be called traditional legitimacy as the *khalifa* or foremost religious authority in the country, such as *sultan*, the holder of earthly power, and *sharif*, a descendant of the Prophet Mohammed with *barakah*, divine grace (Tozy 2009, Daadaoui 2011).

The traditional elements in the revised 2011 constitution include the nature of the Moroccan monarchy, which was partially reformed and defined in Article 1 as ‘constitutional, democratic, parliamentary and social’, adding the term “parliamentary” to the 1996 constitution. The relationship between the monarch and the executive power was also modified, with some of the royal prerogatives ceded to a prime minister, now the head of government chosen from the

ent assembly, but a consultative commission directly appointed by the sovereign. It was made up of 18 individuals from various sectors and with different sensibilities (union representatives, political parties, civil society, human rights organizations, activists and technocrats). During the short debate process, the commission received memoranda from most of the political parties. The PJD acted as a “veto player” regarding article 25, asking the commission not to include the freedom of conscience. On 1 July 2011, the new constitution, which substantially modified the 1996 constitution, was approved by referendum with 98.4% of the vote. With the constitutional reform and the announcement of a more even distribution of powers, the sovereign suppressed the momentum of protests that had managed to take down presidents Zine El Abidine Ben Ali and Hosni Mubarak in Tunisia and Egypt, respectively, in a matter of weeks. The preamble to the new constitution defines Morocco as a sovereign Muslim state whose unity is forged by the convergence of its Arab-Islamist, Amazigh (now a co-official language along with Arabic) and Saharan-Hasanic components, enriched by its African, Andalusian, Hebraic and Mediterranean currents.

largest party elected to parliament, and a new breakdown of the tasks entrusted to the executive. Additionally, the powers of parliament were reinforced and its functions expanded to allow it to grant general amnesties and ratify international treaties (once the exclusive prerogative of the king), reopening the debate on citizen participation in institutions and the role of political parties in it. The Moroccan monarchy has played and continues to play a decisive role beyond the borders of the country, not only at the diplomatic level but also as the highest representative of the country, and is a key player in the policies created for emigrants living abroad. As such, the fact that the monarchy has maintained its traditional character in a context of reforms is particularly important. The role of the monarch used to be considered an institution in the construction of individual allegiances –*baia*– both explicit and implicit, among citizens. The subject-citizen used to be connected rhetorically to the monarch via his powers in the area of religion, producing a bond between the king and the citizen-believers, whether or not they live in Morocco. With Mohammed VI, and since the reforms proposed beginning in 2004, this field has become increasingly better organized administratively (Bruce 2013). This does not mean, however, that the monarch has renounced his guiding role in this area. The “asymmetric cohabitation” of the Monarch and the PJD after 2011 elections shows that control of religious sphere continues to be a “*domaine réservé de la monarchie*” (López García 2011).

Thus, the state has faced a dual task regarding firstly, ideology and discourse building and secondly, specific actions. In terms of the discourse, the clear option has been to increasingly appeal to Moroccan particularism. In this respect, as Mohamed Tozy has shown, Moroccans have recourse to religious independence with respect to other influences through their king. By confirming their commitment to the Maliki rite of Islam, they are able to distance themselves from other more austere options like the Hanbali school, which is closer to Wah-

habism (Tozy 2009). A discourse of this nature is able to ease any suspicions resulting from a progressive image of Islam reflected in the cities or in individual actions among members of the more traditionalist camps both inside and outside the country, who are willing to accept the Makhzen/the monarch’s proposal due to the symbolic capital accumulated by the monarch over the centuries as Amir al Mu’minin, Commander of the Faithful. Given the many actors and settings, an increasingly clear and moderate discourse has been established that is maintained by everyone: religious authorities, politicians, academics...and consular authorities. The role of the Minister for Religious Affairs, Ahmed Tawfiq, who was appointed in November 2002, is important in this respect. In order to be efficient, a complex action strategy must be mobilized for all the different actors involved. Indeed, it would be simplistic and orientalist to view Morocco’s current positioning in terms of religion as a step back in the modernization of the country. Rather, new or renewed forms of organizing religious power are appearing during a time of tension when religion is losing its social power, producing a return to Islam (Belal 2011). When traditions weaken and the mechanism of faith begins to be used, the reaction is a return to Islam, as C. Geertz has observed (Geertz 1968). As Belal has noted, the loss of the structuring power of religion makes way for new emotional communities, like al-Adl wal-Ihsan (Belal 2011), or increases the appeal and credibility of brotherhoods like Boutchichiyya (Regragui 2013).

In his speech on 30 April 2004, the king laid the foundation for the proposed reform (El-Katiri 2012). Far from delegating the task to others, he evoked his role as Amir al Mu’minin (*‘Nous astreignant au pacte sacré de l’allégeance et aux devoirs qui en découlent d’assurer la protection de la religion et de ses adeptes’*³) to

³ Published in its entirety on <http://www.habous.gov.ma/fr/Islam-au-maroc/29-Activit%C3%A9s-d-Amir-Al-mouminine/574-Discours-royal-relatif-%C3%A0-la-restructuration-du-champ-religieux-au-Maroc.html>

call for renewed commitment from all involved, announcing his intention to bolster religious education and overhaul the structure of the Ministry of Religious Affairs, and calling for more involvement from the ulemas with social issues. From a doctrinal point of view, *'exige que l'on s'attache au référentiel historique unique qui est le nôtre, à savoir le rite Malékite sunnite sur lequel s'est construite l'unanimité de cette nation et dont la protection est un devoir et une mission dont Nous sommes le dépositaire'*. There is no doubt that he used religion to provide continuity and unity to the nation: *'Nous considérons que notre attachement à notre unité doctrinale, au plan religieux, s'apparente à notre engagement constitutionnel pour défendre l'intégrité territoriale et l'unité nationale de la patrie'*.

To maintain this discourse on faith and citizenship, the state has not looked to new spaces or created new institutions for religious governance, but rather has worked with existing institutions. In this respect, the country's imams and ulemas have been invited by the Ministry of Habous and Islamic Affairs to apply the instructions of the Amir al Mu'minin, to exchange experiences, reflect and learn how to bear witness to this tolerant, open and moderate Moroccan Islam from an orthodox perspective.⁴

At the same time, some religious traditions that have seemingly weakened have been recovered (El Ayadi, Rachik and Tozy 2007: 61-62), highlighting their traditional Moroccan character. Examples include the brotherhoods of Sufism, which have been visibilized and reclaimed in high-level cultural reunions like the Festival of Sacred Music in Fez and the Sidi Chiker World Meetings of Adherents of Sufism (Régragui 2013).

Emigration Management Policies in Morocco: Towards a Policy of Diaspora?

Since the middle of the last century, Morocco has shown a clear commitment to creating institutions that manage structural emigration. Moreover, a study of the ways power is exercised by

the Moroccan regime also provides a tool with which to assess the importance of emigration and emigrants for the regime.

As in other countries, the first organizations to concern themselves with Moroccan emigrants were based in consulates and focused on handling issues related to work and maintaining a political profile of immigrant participation that can be qualified as low. In light of the limited power of these "mutual societies" to act, other policies were quickly put into effect that involved broadening perspectives; it was suggested that in addition to receiving social assistance, emigrants needed to contribute something in exchange. In 1990, the Hassan II Foundation for Non-Resident Moroccans was created by royal initiative with the declared objective of helping Moroccans living abroad to maintain their religious and cultural identity through educational and cultural assistance for new generations.⁵

The Hassan II Foundation focused its efforts on developing programmes related to teaching Moroccan language and culture to the children of nationals who had settled in foreign countries and on studying migrations (Mijares 2011). The Hassan II Foundation was partially reformed in 1997 and continued to operate. In the reform, the Foundation was restructured to incorporate a migration observatory that organized its work around several axes: cooperation, education, culture, sports and youth, and social and legal assistance. Programmes were also designed to facilitate investment and business creation, which quickly raised two issues common in countries that create these types of institutions (Gamlen 2006): the need to explain to the population why money was being spent on policies for people who did not live in the country or pay taxes for its maintenance; and the overlap –and at times open competition– between government departments with jurisdiction in the matter and also with other institutions created by the

⁴ Published on <http://habous.gov.ma/fr/guide-de-l-imam.html>

⁵ Law 19/89 creating the Hassan II Foundation for Non-Resident Moroccans, published in the Official Bulletin of the Kingdom of Morocco No. 4055, 18 July 1990.

state. The objective of public and private institutions has been to attract emigrants to spend money or invest in the country, as seen in the campaigns designed by banks, real estate companies and insurance companies that greet emigrants when they return for their annual vacation (Belguendouz 2006).

In managing Moroccan emigration during these years, there has been a constant risk of overlapping institutional structures. There is a complex relationship between these institutions and the Ministry of Foreign Affairs, the country's principle actor abroad through its network of embassies and consulates. The explanation for this overlap or competition is that while the question of non-resident Moroccans is an internal matter that by its very nature extends beyond borders, it is not a diplomatic action *per se*. Although it is true that diaspora policies may be aimed at emigrants living abroad, it is important to remember that they also apply when the migrants return to their country of origin; this can be seen in the form of specific services like protection against rackets or advantageous investment conditions (Levitt and De La Dehesa 2003). In short, there are some Moroccans who live outside the country but have domestic interests and who are the object of government attention because of the economic importance of the remittances they send.

At this time, if states are to be successful in creating and maintaining power relations with their non-resident citizens, this cannot be solely based on the provision of social and cultural services. The difficulty in controlling a diaspora spread out over five continents has an inarguable material basis and entails a complex question: how can a state foster citizenship among emigrants that, following the classic model, includes political, civil and social rights? Advancing in the provision of any of these rights in isolation is an extremely delicate question, both because of the material resources needed and the legal difficulties inherent in taking action in another country. Protecting the exercise of civil and political rights is an exceptionally complex question since it involves

an in-depth review of legislation and procedures in order to advance, little by little, towards new forms of exercising citizenship and towards other possibilities.

The impossibility of reducing the lives of Moroccans living abroad to a single associative model, the pervasive clientelism and the suspicions that this was an instrument of political control being operated from Rabat significantly determined how the policies developed during the 1990s were received (Coslovi and Gomes-Faria 2009, Brand 2006). The renewed efforts made by Morocco and other states must be seen in relation to the dynamics of integration affecting Moroccans living abroad. This has been especially true in France, where the Association Law of 1981 lifted restrictions and allowed foreigners to form associations, opening the way to new debates and the creation of organizational strategies by the migrants themselves and their descendants: *les Beurs* (Planet 2009).

The Moroccan government was aware of the underlying problems regarding emigration and knew that it would not be sufficient to simply keep the consulates and civil registries operating or respond to the discontent expressed by non-resident Moroccans about how they were being treated by their country of origin (complaints about the lack of assistance during Operation Transit,⁶ denunciations of fraudulent real estate promotions aimed at these workers, financial abuse at the border, etc.). One turning point occurred in 1999, when the socialist Prime Minister A. Youssoufi proposed that the matter be handled directly from his cabinet along with the recently opened dossier on human rights, thus being able to deny the charge that non-resident Moroccans had been consigned to oblivion by the new "alternating government" (Belguendouz 2006).

For four years, the question of Moroccan emigrants remained in the hands of the presidential

⁶ In 2000, the Mohammed V Foundation for Solidarity was founded. Since then, it has been responsible for organizing what is called Operation Transit, a task previously handled by the Hassan II Foundation.

cabinet, during which time it was assisted by the Hassan II Foundation. In 2002, with Mohammed VI now on the throne, a proposal was made to hand the matter over to a lower-level ministry and member of the government, a delegate in the Ministry of Foreign Affairs and Cooperation. The intention was to breathe fresh air into the question of managing Moroccan emigration and to establish the basis for new policies. In March 2003, a strategy note was sent out by the delegate minister that proposed an ambitious universal plan for emigration that included objectives in the host countries and in Morocco, as well as presenting a detailed action plan (with more explicit details in the case of the host country).⁷

The initiative's marked transnational trend is indicative of the current stage of migration in Morocco: the prospect of return exists, but is not the central axis. The most innovative ideas, which continue to be implemented today, encourage Moroccans living abroad to participate in the politics, unions and associations in their country of residence and to organize pressure groups to influence national and international strategic options, along with a commitment on the part of Morocco to guarantee full citizenship rights. These concepts were added to the objectives discussed above concerning the children of emigrants and the defence of strategic national causes. Working with lobbies and speaking up in host countries was now one of the obligations for non-resident Moroccans who, as in other diasporas, form an integral part of "symbolic nation-building policies." No longer solely perceived as remittance senders, emigrants today disseminate the values of their countries of origin (Gamlen 2006).

The issue of political participation for Moroccans living abroad was addressed in this plan in a vaguely worded phrase: 'to guarantee the community's right to full citizenship via better political participation'. While Moroccans were encouraged to be

active in associations, unions and politics in their host countries, this document says very little about how to participate fully as citizens in their country of origin where they never lose their nationality, according to the current civil code in the country.⁸ As with other government actions, the delegate minister's proposal does not appear to have been autonomous from the central sphere of power, i.e. the monarchy, given that it echoed a royal speech delivered to mark Throne Day in July 2002, during which Mohammed VI addressed participation by non-resident nationals in national institutions. However, these remarks did not entail any real progress regarding the question of representation, as "participate" does not necessarily mean "to be represented" in the current established strategy.

Although those who wish to participate in politics by voting from abroad continue to present their demands, it has become clear that a new kind of logic is at play in Morocco regarding migrants, although the issue has never been removed from government control. In his comparative studies on the question, A. Gamlen has explored how it is possible for two types of mechanisms to operate simultaneously in diaspora policies, one supporting "diaspora building" and the other "diaspora integration". Diaspora building aims at cultivating diaspora identity or recog-

⁸ During these years, there was no defined way to guarantee that Moroccan emigrants would be involved and participate in their country of origin. Between 1984 and 1992, the difficulties in including emigrant votes in the organization of political representation in Moroccan institutions became apparent. At that time, five of the 204 deputies in the parliament were elected in constituencies abroad that included a vast area: one of the constituencies alone included Spain, Italy, Portugal, England, the United States and Canada, all of South America and Africa, with the exception of the Arab countries. This shed doubt upon the legitimacy of the elected officials with regard to the effectiveness of their participation and jeopardized the influence of the parliamentary proposals they made as they struggled to be heard, even within their own political groups. As a result, the parties, voters and political class in general gradually lost interest in this process (Lacroix 2005).

⁷ These documents and action plans are available at the ministry website: www.marocainsdumonde.gov.ma

niton, while diaspora integration concerns re-integration in the country of origin. If emigrants can be re-integrated into homeland policies via their rights, such as the right to retain citizenship both abroad and at home, the policies towards them can facilitate political participation: being able to vote in elections in their country of origin at consulates, for example, or other measures that have an impact on civic participation such as the creation of “consulting expatriate councils or advisory bodies” (Gamlen 2006). At issue here is not only a new form of institutional development, but also a new way of understanding citizenship as explained from within (although this idea may not be shared by all migrants, some of whom take a different approach to their actions).

As in other spheres of politics, a new institution was created in Morocco to tackle the question of non-resident Moroccans, the Council of the Moroccan Community Abroad (hereafter CCME), whose objectives, bodies and operational procedures are defined in its charter (Fernández Molina 2011).⁹ The CCME is a consultative institution with administrative and financial autonomy whose mission is to guarantee the control and evaluation of the Kingdom of Morocco’s public policies related to emigrant nationals and to collaborate in their improvement. As a forum for reflection and debate with no executive powers, its objectives include ‘contributing to the development of relationships between Morocco and the governments and the societies in the countries where Moroccan emigrants reside’. With a complex structure, the CCME is made up of two categories of members:¹⁰ the decision makers (a president, secretary-general and fifty members selected from Moroccans living abroad who have distinguished themselves by their mediation skills and their professional and social success) and seventeen observer members, including ten ministries¹¹ and six institutions that have some

⁹ The committee was created by Royal Dahir 1.07.208 of 21 December 2007.

¹⁰ See the transitional provisions in Article 24 of this Royal Dahir.

¹¹ These are the Ministry of Justice, Ministry of the Interior, Ministry of Foreign Affairs and Cooperation,

involvement in the circumstances of Moroccans living permanently abroad: the Supreme Ulema Council, the Council of Ulema of Europe, the Consultative Council for Human Rights, the Diwan Al Madhalim¹² and the Royal Institute for Amazigh Culture, as well as the Hassan II Foundation and the Mohammed V Foundation for Solidarity.

As is the case with the other councils created since Mohammad VI ascended to the throne and those created during the reign of Hassan II, this institution has ambitious and wide-ranging objectives and, while it has no executive capacity, it is not limited by parliamentary political dynamics. It is a non-executive deliberative body with its own budget and which shares specific objectives with other existing institutions. When it was created, the council was criticized for the lack of transparency in the choice of its decision-making members; additionally, its ability to operate without a clear action programme was questioned (Fernández Molina 2011). Today, the response of the council’s leaders to this criticism revolves around the fact that the consultative nature of the council is not fully understood nor, as a consequence, is its inability to take executive decisions. The CCME leaders also argue that its resources are too limited for the complexity of the task at hand and that the proliferation of institutions dealing with topics related to immigration –which do not always work in harmony– further complicates their task.¹³

Ministry of Habous and Islamic Affairs, Ministry of Finance, Ministry of National Education, Ministry of Higher Education, Scientific Research and Professional Training, Ministry of Youth and Sports, Employment and Professional Training, Ministry of Social Development, Family and Solidarity and, of course, the Delegate Minister to the Prime Minister responsible for the non-resident Moroccan community.

¹² The Diwan Al Madhalim or “Office of Grievances” was created in 1992 by Royal Dahir 1.01.298 as an ombudsman to ‘examine the claims and complaints of citizens who believe themselves to be victims of any decision or act originating from public administrations, local groups, public institutions and any body with the official powers of a public authority that are incompatible with the principles of the rule of law and justice’.

¹³ Interview with Abdallah Boussouf, October 2014. Available on: www.ccme.org.ma/es/entrevistas/37301

The CCME's ability to act has not been limited by its lack of executive capacity. On the contrary, the council is able to weigh in on legislative bills and regulations regarding emigration and non-resident Moroccans and participate in drafting guidelines for the public policies designed to maintain close ties between Moroccan emigrants and their Moroccan identity with respect to language, religious education and cultural activities. Working alongside the ministry responsible for non-resident Moroccans, the council can also propose measures to guarantee their rights and protect their interests, encourage collaboration with institutions and a variety of sectors in their country of origin and support a number of activities in Morocco and the host countries.¹⁴

With the creation of the council, the Moroccan state initiated a new policy towards its emigrants, and in doing so it has come into conflict with the actions and programmes promoted by other actors in the diaspora. Intellectuals and migrants with experience in the NGO sector and grievance groups who were not invited to join the council organized themselves a few months after the CCME was constituted as a sort of opposition movement. In particular, they view the council as an indirect way to curb or eliminate aspirations for political participation in Morocco among non-resident Moroccans.

However, this type of policy has not satisfied everyone and from time to time, voices are heard insisting on the need for direct participation as emigrant voters and elected representatives. At the end of 2009, the Moroccan parliament received some members of Daba 2012, a movement whose primary demand was the removal of obstacles making it difficult for emigrants to participate in elections as voters and candidates in the 2012 elections.¹⁵ Some experts argued

that the presence of the CCME as a consultative body could take this issue out of the hands of the parliament (which has legislative powers) and the ministries that enact the necessary electoral law reforms (Coslovi and Gómez Faría 2009). The proposal, then, was not to eliminate the council, but to reformulate its advisory capacity and reposition it within Moroccan institutions like the Social and Economic Council or the Hassan II Foundation and its directive committee.

The Transnational Capacity of the Moroccan State in the Area of Religion

The introduction discussed how the religious reforms implemented in Morocco also have an impact when they are exported to other countries. This circumstance has opened up a broad field of analysis that requires more research. To paraphrase C. Geertz (Geertz 1968), observing the Islam of Moroccans in the diaspora requires recognizing that the religious expression of immigrant populations has a great deal to do with the existing legal framework, including regulations regarding religious freedom and the promotion of this freedom through dialogue with the state and the administration. Equally important are the types of religious infrastructure migrants find when they arrive, the degree of recognition/non-recognition of their religious expression and any existing stereotypes, all of which can lead to processes in which religion is reformulated in longer-term migration trajectories. This involves the possibility of new ways of approaching religion or belief, and concerns religiosity, the way in which believers experience their relationship with their religion.

Here, again, freedom of religion is at stake, but mistrust and suspicion play a particularly important role. Clearly, at issue in the European context is the coexistence of secularism, which dominates public space, alongside the religion practiced by emigrants. The effort made by Morocco since 2003 to prevent any form of extremism, which has been qualified as incompatible with the Islam advocated by the Moroccan state, is consistent with the requirements of European

¹⁴ The council has a regularly updated website featuring the activities it has participated in since it was created. See www.ccme.org.ma

¹⁵ This theme appears frequently in the demands made by various associations, which stress the importance of being included on the electoral rolls (as set out in Law 23.06) in the creation of a Moroccan identity for young people born outside the country.

authorities. This task of regulating the presence of Islam in public life is resolved using constant reminders that official Moroccan Islam is a secular Islam that does not interfere with politics, but is present in political life in the form of the values and beliefs of the citizenry. Therefore, at this time, Islamic content in the discourse or practice of Moroccan leaders cannot be interpreted as an indication of non-integration; neither does its absence indicate better or more fully integrated citizens (Planet 2009).

The Moroccan state's possibilities for influencing this religious sphere are both ideological and material. And both discourse and action come into play.

To find out about the situation of Moroccan immigrants and their religious practices in Spain, some specific surveys have looked at the question of the religious practice of immigrant Muslims.¹⁶ In these surveys, Moroccans constitute the largest group (Moroccans 57%, Senegalese 13%, Pakistanis 11% and Algerians 5%). Most settled in Spain relatively recently (50% have lived in the country for between two and ten years), are workers (76%) and believe they have adapted to Spanish customs and the lifestyle (95% in the case of the survey recipients who have lived in Spain for more than ten years). When asked what they value about Spain, they cite the freedom, the level of state assistance, the standard of living and respect for beliefs (78%). In terms of personal religiosity, the survey speaks of people who consider themselves religious (7.6 on a scale 1-10), with 41% defining themselves as seriously practising Muslims. Just 13% of the immigrants polled said they had faced obstacles in the practice of their religion, most often mentioning the lack of a mosque as being the biggest hurdle (8%). This assertion is surprising given that a constant complaint made by spokesmen for various associations involves

the lack of religious infrastructure, mosques and specific cemeteries. This survey shows different processes of reconstruction and religiosity, but despite its undoubted interest, it does not help to specifically understand how the respondents evaluate the policies of their country of origin.

Any evaluation of the impact of the policies developed in the last decade in Morocco regarding Spain and related to the creation of a religious transnational field must be framed in the context of Spanish-Moroccan relations. The relations between the two countries are structured around a network of interests and a framework agreement, the Spanish-Moroccan Treaty of Friendship, which was signed in 1991 when migrant movements were starting to grow. There is very little in the agreement about migration and, of course, it does not contain any reference to religious cooperation. Moreover, the way in which minority church-state relations are managed by the Spanish state –unlike with the Catholic Church– does not anticipate relations with third countries with regard to religion. In Spain, religious freedom and the freedom to worship is a fundamental right guaranteed by the Ministry of Justice. In the case of Islam, religious associations are registered with the Ministry of Justice to be able to benefit from the Cooperation Agreement between the Spanish State and the Islamic Commission of Spain (CIE) signed in 1992. Dialogue with the state is done through the CIE, an umbrella organization, whose operation is hampered by the fact that it is made up of two federations with strategies and interests that are not always parallel: the Union of Islamic Communities of Spain (UCIDE) and the Spanish Federation of Islamic Religious Entities (FEERI). Since 1992, management and dialogue policies have been instituted at a fairly unsteady rhythm, unflinchingly attempting to empower Spanish Islam to the fullest with respect to foreign references. While there is little more to say about this topic in terms of relations between states, this does not mean that the associations do not maintain relationships with their members' countries of

¹⁶ Metroscopia, a social research and survey institute in Madrid, has been conducting annual polls on Muslims in Spain since September 2006 under the heading 'Barometer of opinion of the Muslim community of immigrant origin in Spain'. The most recent results were published in March 2010.

origin, although no in-depth studies have been made in this field to date (Planet 2014).

However, while there is no room for dialogue at state level, some regional administrative bodies –specifically the Government of Catalonia– have been implementing specific policies to manage religious affairs since 2002. In the Catalanian case, migration and the management of Islam as an important element of migrations from Pakistan and North Africa are influenced by complex considerations related to the Catalanian political situation. In short, Catalanian nationalism has developed a policy of collaboration with religious communities in its pursuit of ulterior political support, which gives the question of dialogue and influence a degree of dynamism not found in other regions of Spain.¹⁷ With the emergence of groups like the decidedly Islamophobic Platform for Cataluña party, the Catalanian electoral situation reveals the visibility of these policies and the suspicions that can arise about extremist positions among a specific portion of the electorate (Guía 2014). Similarly, the Government of Catalonia's foreign relations with Morocco in the last two decades have been highly politicized and become part of a regional strategy. The 2014-2017 Moroccan Plan presented in September 2014 included specific actions for the Catalanian population of Moroccan origin, such as educating Moroccan religious leaders and providing pastoral care in jails, both of which are the responsibility of the Directorate-General for Religious Affairs in Catalonia, and providing assistance from the Department of Governance about opening spaces for worship and introducing Islamic religious education by the education authorities. With the exception of the last case, these policies have been implemented in the last decade.

¹⁷ The situation in Melilla and Ceuta, Spanish autonomous cities on the Mediterranean coast of Morocco, is different. The percentage of Muslims in these cities is very high and relations with Morocco, which wants to reclaim the cities, merit a more complex analysis. With regard to religion, the cities contain mosques that are owned by Morocco and the religious influence, fostered by proximity, is unmistakable. Briones, Tarrés and Salguero published a study on this topic in 2013.

Moroccan religious policy for its emigrants who have settled in Spain is currently focused on three investment areas, both materially and symbolically. The highest level includes activities developed by the European Council of Moroccan Ulema (*Conseil marocain des oulemas pour l'Europe*),¹⁸ whose operation parallels that of the Ulema Council of Morocco. This institution's goals are broad and indicative of the concerns that led to its creation, expressing the need to promote dialogue with society and to ensure that young people are educated, ties are maintained and that room is made for a Moroccan religious outlook in Europe. All of the Council's activities can be read about in the Moroccan press.¹⁹ The Council also collaborates on the instruction of imams and overseas missions of imams to demonstrate religious values, organises pilgrimages to holy sites, and holds working groups on the Moroccan community abroad and the participation of female spiritual guides (*murshidat*) in communities at home and abroad, which is an exercise in modernizing the role of women in transmitting religious knowledge and applying it to daily life (Dirèche 2010). The Council has carried out some activities in Spain as a joint venture with other institutions. In Madrid in October 2010, for example, the Council co-organized a training seminar with one of the largest federations (FEERI), whose leadership at that time was mainly Moroccan, in the Islamic League's Great Mosque in the capital. In Barcelona two months later, a similar conference was held, this time with the collaboration of IEMED (European Institute of the Mediterranean). However, this was not the first conference of imams held in Barcelona; in October 2004, the Islamic Council of Catalonia organized a meeting on imams and mosques attended by Moroccan consular authorities, Moroccan scholars from other European coun-

¹⁸ Created by Royal Dahir 1.08.17 published on 20 October 2008 in the Official Gazette of the Kingdom of Morocco. To operate in Europe, the association has a headquarters in Belgium.

¹⁹ The news that appears can be consulted on <http://www.maghress.com/>

tries, members of the Council of Catalonia and Mohammed Chaib.

With regard to direct support for associations and mosques, according to Moroccan official sources, very few religious associations have made use of the funds that the Moroccan Ministry of Religious Affairs proposed for that purpose. For example, a 2013 activity report published by the Ministry listed only four associations headquartered in Spain that requested and received financing (the Union of Islamic Cultural Centres of Catalonia, the As-Salam Mosque, the Al-Noor Islamic Association and the Maresme Islamic Association).²⁰ Similarly, initiatives to build mosques in countries like France have not been echoed in Spain to date.²¹

The Hassan II Foundation has, in turn, used its religious leadership programme for Moroccan communities abroad to send imams overseas for Ramadan. In 2014, 20 Moroccans were sent to Spain, 10 preachers, 7 university professors and 3 imams (although no further information is available about exactly where they went).²² The incorporation of these envoys, which included *murshidats*, into mosques was seen as a positive development by the heads of the associations who had requested their presence. When asked about the programme, one imam in the Community of Madrid responded that it was 'evidence of the country of origin's interest in educating imams' at the same time that it indicated that

'managing religious affairs is the responsibility of the Spanish state'.²³

Finally, the growing participation of Moroccans in interlocution processes, which was quite negligible in the 1990s, has become significant with regard to both state and regional bodies in recent years (Planet 2014). Gone are the days when participation only occurred at the community level. Spurred by the development of dialogue with the Muslim community, which intensified after the terrorist attacks in Madrid in March 2004, there has been a notable increase in the presence of Moroccans, whether they have Spanish nationality or not, in the leadership ranks of religious organizations at national level. At state level, Moroccan association leaders have become visible in leadership positions in the Spanish Federation of Islamic Religious Entities (FEERI), but it is far from being a Moroccan official initiative. This has been apparent since the January 2006 assembly, but became extremely clear with the election of Mounir Benjelloun as FEERI president in the January 2010 assembly (an election that was challenged but upheld in January 2012). It should not be thought that the incorporation of these figures is due to efforts promoted by Morocco, since the journey made by these associations and their leaders to reach these levels of representation has been a long one. In this particular case, it is a group of associations joined together in the Organización Nacional para el Diálogo y la Participación (ONDA), which has a strong showing in the regions of Murcia, Andalusia and Madrid. Although this organisation maintains close ties with al-Adl wa al-Ihssane, it has called for these ties with the Moroccan organisation to be formally broken (Arigita 2010). This group has become increasingly involved in Spanish religious matters, challenging attempts made by the Moroccan authorities to control this sphere (Planet and Larramendi 2013).

In Catalonia, as noted above, the Islamic Council of Catalonia was created in 2002 in an attempt to create a federation of associations with roots

²⁰ The activity reports are available in Arabic on the official Ministry of Religious Affairs webpage: <http://www.habous.gov.ma/component/content/article/19-%D9%86%D8%B4%D8%B1%D8%A9-%D8%A7%D9%84%D9%85%D9%86%D8%AC%D8%B2%D8%A7%D8%AA/216-2012-05-17-09-50-02.html>

²¹ Press accounts indicate the extent of Morocco's interest in promoting the construction of a great mosque in Badalona, with the idea of fostering the influence of Moroccan Islam from there. This particular project would be done in collaboration with the Union of Cultural Centres of Catalonia. See <http://www.abc.es/espana/20150424/abci-mezquita-auge-salafista-barcelona-201504241253.html>.

²² See <http://www.fh2mre.ma/promotion-culturelle/animation-religieuse/mission-en-cours.html>

²³ Interview done in March 2015 by F. Tahiri as part of the reference research project.

in Catalonia and with which the Government of Catalonia has maintained particularly close relations since the beginning. Efforts have been made to create interlocution spaces for a Catalan Islam to integrate Muslim immigrants, alongside other citizen participation initiatives like the Ibn Battuta Association. The speed with which this process has occurred suggests that the Catalan authorities see dialogue as something that befits the political moment in the region (Guía 2014: 101-129), but it cannot be understood without the political drive and perspective of one of the most active intermediaries and politicians working with Moroccan emigration in Catalonia, the Moroccan Catalan Mohammed Chaib.

Conclusion

Migration generates a multiplicity of “life courses”. It cannot be argued that the processes of adapting, integrating or assimilating migrants into a new context result in the loss of their native cultural matrix and that preserving this matrix is, therefore, a duty of the state of origin.

Morocco’s diaspora policies should not be analysed simplistically or from a do-gooder perspective with the idea that the end goal is to maintain the culture of origin. Instead, they are some of the resources that the state has drawn on to strengthen and consolidate the political regime and political system in a broader sense, actions that operate on the periphery of the state at the service of emigrant citizens. They can only be understood from the perspective of the means, strategies and policies seen as conducive to the preservation of the Moroccan nation at a time of transition in the kingdom and relegitimization of the new monarch.

In the area of religion, the reforms introduced by Mohammed VI after he came to the throne and the constitutional reform a decade later continue to indicate the close ties between Islam and national identity. One innovative aspect is how what was traditionally used by the monarchy as a sign of legitimacy has been incorporated into the institutional framework, the administrative apparatus with close ties to the palace, but

clearly modern in its communication and the policies created and promoted by existing institutions. In the creation of a transnational space, a citizenry in the diaspora, the needs expressed by a mature community of Moroccans abroad are being met by new institutions –the Council for the Moroccan Community Abroad– and are quite apparent as well in the religious reforms.

Is this a coordinated action or a convergence of interests? It is perhaps best described as a shared progression that reminds Moroccans that Islam, which belongs to everyone, is also a source of legitimacy that gives meaning to the Moroccan community whether at home or abroad. The community may be identified with a religion that continues to be dominated by a central stakeholder, but each and every citizen is a participant (Belal 2011). The action, however, is not spontaneous, but rather coordinated by a state working at home and abroad to reinforce an image and recover deep traditional Islamic values for public action and public discourse. With this effort, the state seeks to exclude those who intend to invoke an Islam beyond the religion proposed by the authorities.

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Producing Interculturality: Repertoires, Strategies and Spaces*

by NUNO OLIVEIRA (Lisbon University Institute)

Abstract

Issues of cultural diversity governance have been on the agenda with regard to urban paradigms that seek to accommodate diversity driven by a globalized world. These new *urbanscapes* feature particular conditions of interaction involving cross-cultural social competences and have lately been analysed according to an “ethics of encounter”. This text proposes three analytical axes to evaluate repertoires of cultural diversity in contemporary cities, particularly with regard to its inscription in public spaces and the underlying logic of their social organisation. Drawing on Foucault’s idea of the production of social realities, practices and subjectivities by means of the ways in which power circulates in social relations, I term this the *production of interculturality*. I argue that one can examine three logics of the production of interculturality at the urban space level: a political, an economic-competitive and an ethical-symbolic.

Keywords: interculturality, ethics of encounters, governance, diversity, repertoires

Introduction

Local space is becoming increasingly important in observing and understanding contemporary forms of cultural belonging and their social organization (Conradson and Latham 2005, Nathan 2011, Caglar and Schiller 2011). The overcoming of the nation-state as the paradigmatic unit for the integration of immigrants and the social accommodation of cultural diversity is clearly reflected in new notions such as *transnational-*

ism from below, conviviality and *super-diversity* (Smith and Guarnizo 1998, Gilroy 2005, Vertovec 2007). Such concepts highlight the fact that the nation-state has ceased to be the locus of cultural intersections, and instead a more complex space of diasporic contacts structured by globalized trends is emerging in cities (Sassen 1991). While similarly underscoring the growing complexity of migratory fluxes and their cultural intersections, other perspectives have shifted the focus of analysis to everyday practices. One such shift reflects the growing importance of local spaces in processes to accommodate cultural diversity.

The resulting research has viewed such spaces as sites of everyday encounters, which involve a certain “ethos” of relations between people (Wise 2009, Yuval-Davis 2011, Amin 2002, Wessendorf 2013). Accordingly, a dialogical and

* This text is based on work carried out within the project *Conviviality and Superdiversity* headed by Beatriz Padilla of whose team I was a member from 2010 to 2011. I would like to thank both the Lisbon and the Granada team with whom I was fortunate to work and discuss many of the problems arising from fieldwork and conceptual fine-tuning. My recognition goes to them. However, all the arguments and conceptual building expressed here are entirely my own.

relational process is said to unfold through an acceptance of the stranger – ultimately, a necessary sharing of common humanity – and is henceforth incorporated in our subjective spheres. But how are such spaces of sharing and commonality produced by urban governance discourses and what are the differential stakes involved in its definition? In this article I set out to discuss an apparent neglect of a more strategic and discursive dimension, at the same time integrating such spaces of encounters in inner city locations into a broader conceptual and political space of planning and governance. In order to do this, I look into intercultural/diversity festivals as social constructions of the intertwining of practiced diversity, planned interculturality and urban positioning strategies. I show that there is a link between the nature of the space, the strategic articulation of actors engaged and the expression of the intercultural festivals, which give significance to the circulation of power and its role in constructing subjectivities. This combination is part of the new urban governance of cultural diversity.

Following this idea, this article proposes three analytical axes to evaluate the governance of cultural diversity in contemporary cities, paying special attention to their incorporation of public spaces and the underlying logic of their social organisation, which I call the *production of interculturality*. This term directly evokes Foucault's idea of the production of social realities, practices and subjectivities by means of the ways in which power circulates in social relations (Foucault 1975, 1976). Of such modes, the article focuses on an economic aspect, a political aspect and a symbolic aspect that one can find in the discursive construction of the intercultural. It is clear that they maintain relations of dependence and can in no way be viewed as being mutually exclusive; however, for analytical purposes it is necessary to examine them in isolation.

The space of the cultural encounter

Wise (2009) proposed the expression “quotidian transversality” in the wake of the sociological appropriation of Deleuze & Guattari's concept

of transversality offered by Yuval-Davis (1997). This reprised the notion of ‘transversal’ as a ‘transversal transformation’ in the sense of anti-essentialism that refutes life being the result of pre-existing forms; it instead views it as ‘becoming’, which is modified with each new encounter, by means of which the beings involved undergo changes. In the same mould, expressions such as “ethos of mixing” (Wessendorf 2013), “habitual engagement” (Amin 2002) or “ethics of care” (Yuval-Davis 2011) highlight the relevance of everyday local practices and the specific nature of this ethos in encounters between people. In spite of slight conceptual and lexical differences, all these notions seem to place greater emphasis on the inter-subjective realm of meaningful relations and negotiated cultural codes. Considering these notions, it is possible to affirm that there is a certain implicit discourse on empathy and spontaneity associated with these interactions. Wise (2009: 36) suggests that owing to a social relationship of care, the relations in cross-cultural encounters sometimes produce a capacity for recognising “alterity” in particular situational conditions.

Many of these topics are also found in the images and discourses associated with intercultural festivals. As part of a larger social imaginary on diversity, the intercultural festivals seek to construct this image of spontaneity and interpenetration between people from different cultural and national origins. This is part of the wider discourse on diversity -- with its emphasis on communication and interrelation – that, for some, has become an ideological franchise (Lentin and Titley 2008: 12). For others, it is the reflex of ever-greater diversification of social differences that have culminated in superdiversity (Vertovec 2007).

I'm not delving into the issue of defining an intercultural festival, because this is exactly what from a Foucauldian viewpoint should be avoided. Following Foucault, it would be necessary to redeem the institutional dimension not as a centre for issuing norms, but as a space where strategies and behaviours of agents are

managed and mobilised. Hence, it is necessary to analyse this spontaneity by examining means of local forms of power and how they are negotiated by individuals and other agencies. With the same Foucauldian bent, Keith (2005) suggests an analytical framework that focuses on vocabularies, technologies of representation and spatiality. As Keith says, such an approach does not privilege the “heroic everyday tactics (...) of the ethnographical particular cultures of the urban” (ibid: 12); instead, it looks into the multiplicity of ways producing the visibility of the multiculture within the urban.

Nevertheless, in a conceptual move outside the established boundaries of the Foucauldian framework, the empirical research in this article brings in the cultural repertoires of the multiple agents involved in planning, producing and executing such events. I draw from Lamont’s (2000a, 2000b) notion of repertoire as the set of elements, symbols and codes that articulate and form a system of values and strategies that people use to evaluate social situations. Such strategies and representations of diversity and its expressions should be understood against the backdrop of spatial realities that, as Doreen Massey (1994) famously put, are the setting for geographies of power where material and ideological dimensions become mutually constitutive. Complementing the “ethnographic real” of local encounters entails relating these with urban planning processes, local cultural policies, strategies by political agents and, above all, the market (or markets) as a dimension – sometimes an overwhelming dimension – for the production of interculturality. One instance where such forces come together is precisely the intercultural festivals.

Interculturality is basically the equivalent for the southern countries of the “diversity” discourse in the northern ones. It has been for quite some time the preferred term to name policies targeting migrants’ integration both in Portugal and in Spain. Moreover, in both countries it has been defined as implementing a principle of positive inter-

action that allegedly would supersede multiculturalism closure¹. Thus, interculturality is not a complexified theoretical rendition of new patterns of diversification, but a tag name for a set of policies aiming at governing cultural and ethnic diversity, that seldom coalesce into a model (Oliveira 2014). Indeed, the terms multicultural and intercultural are so often interchangeably used, or in casting the intercultural as the beneficial phase of a multicultural society, that they do not specify any contending policy fields. The name resonates with other similar initiatives to celebrate diversity in its multiple expressions and images. It is necessary to frame such acceptance against the background of a debate where “real” differences between interculturalism and multiculturalism are ascertained, as the one we can see in the UK (Cantle 2012, Meer and Modood 2012).

In order to break out of this unproductive debate, because there was never a multicultural model neither in Spain nor in Portugal, we ask about the conditions for producing interculturality when this are explicitly required as part of the governance of urban city space.

This entails the qualification of the spontaneous vision of the cross-cultural space of encounters propounded by the “ethics of encounter approach”. In this sense, emphasising cultural policies means keeping in mind the structured set of social actions and practices of public bodies and other social or cultural agents – whether public or private – within the scope of culture. Cultural diversity appears as an important element in this process of aggregating synergies

¹ For Spain, see for instance Giménez (2003); for Portugal, the numerous publications from the High Commissioner for Intercultural Dialogue’s Office, in particular its definition as “accepting the cultural and social specificity of different communities and stressing the interactive and relational character between them, supported in mutual respect and in the compliance with the laws of the host country” (, Plano para a Integração dos Imigrantes (PII) [Plan for the Integration of Immigrants] – Council of Ministers Resolution n.º 63-A/2007, DR 85 SÉRIE I de 2007-05-03, p.6).

between the public and private sectors insofar as something like the governance of cultural diversity is playing an increasingly important role in socio-political orientations of local public agents. In this context, the accommodation of cultural diversity in a multi-scale space, encompassing not just a national element but also being part of a network involving local, regional and global elements, is gradually incorporated by means of strategies and policies that interpret this diversity. It does so not just through codes referring to the norms of the nation-state, but also according to the codes emerging from the intersection of these new spaces of local governance.

The data discussed in this article resulted from fieldwork carried out within the project *Convivial Cultures and Super-Diversity* from 2010 to 2011². Empirically, it was based on qualitative methodologies, namely a slightly modified version of what is generally understood to be a multi-situated ethnography, what can loosely be called a multi-situated ethnographic sociology (Nadai and Maeder 2009), encompassing ethnographic observation with interviews and discursive analysis. This approach continues to emphasise a gaze that is 'close up and from within' which observes and, as can be expected, understands the socio-cultural regularity produced by a web of meanings shared by the users of the space in question (Geertz 1973). Intercultural festivals emerge as the locus of the study but are not the object of the study. Consequently, our research topic consisted in comparing the main intercultural festivals in Lisbon and Granada as planned intercultural practices in different urban spaces to try to understand local variations of actors' repertoires and strategies and its link with the specific territories.

The project paid particular attention to planning meetings in strategic locales to observe actors and repertoires as well as conducting semi-directive interviews with a range of people

responsible both for organizing the events and for local policies. Accordingly, key-actors such as cultural entrepreneurs, grassroots organizations representatives, migrant associations' leaders, and public authorities were interviewed during this period; simultaneously, as support material, we used field notes and obtained visual material during our observation/participation while the events were being held. Specific interview guides and observation grids were utilized in both contexts to assure comparability. The analysis focused on the 'Festival of Interculturality' (*Fiesta de la interculturalidad*) held in the Realejo quarter in Granada and in the Festival Todos – *Walk of Cultures*, held in the Mouraria, in the historical centre of Lisbon. These two events and contexts have noteworthy similarities and specific features which directly impact the definitions and social organization of interculturality and its expressions.

Differences and similarities between the events: Space and organizational features

Centrality is a shared feature of both festivals, although they are nomadic in their intent; that is, they have been held in different parts of the city centre. In the year of observation of the *Fiesta de la Interculturalidad* (2011) this was celebrated in the very central quarter of Realejo in Granada. In Lisbon, that same year, the Festival Todos was held in Mouraria, a location within the historic centre. Common features should also be noted regarding the broader urban structure and its dynamics. The centre of Granada consists of a historical nucleus encompassing the quarters of Albaicín, Sacromonte and Realejo. Different from other urban nuclei that accumulate central functions, these are essentially residential quarters (Susino 2002). However, it is one of the most gentrified areas of the city (Calvache 2010), alluring for a new population because of its combination of centrality and alternative life styles. Similarly, Mouraria is part of the historical Lisbon, adjacent to the old medieval wall which has recently been in high demand by gentrifiers and tourists alike (Oliveira 2013). While the age structure of

² The project entitled "Convivial Cultures and Super-Diversity", coordinated by Beatriz Padilla, PTDC/CS-SOC/101693/2008

Mouraria is considerably biased, with 53% of the population aged over 65, research indicates that in the case of Realejo, the elderly have moved out and are gradually being replaced by younger gentrifiers (Calvache 2010: 210).

Symbolically, both territories share a history of intercultural continuity, or as of lately are codified as such. The Realejo was the erstwhile Jewish quarter in Granada, therefore symbolising a space of intersection between cultures – the Arab, Jewish and Catholic backgrounds mingled together within city life. Mouraria is inextricably intertwined with the narratives of the Portuguese empire. Linked to the symbolism of the Christian re-conquest of Lisbon and to the Moorish presence within city walls – significantly signalled by a plaque in Martim Moniz Square commemorating the year of the Reconquista – the narrative of its origins bestowed historical and mythical multiethnic contours to its image (Menezes 2012). It is also the locale traditionally associated to the cradle of Fado, the melancholic song invoking Arabic soundscapes. Thus, the two neighbourhoods share a symbolic central location in urban semiotics as part of a cultural frame buttressed on an original signifier of encounters, hybridism and mixing.

Finally, both neighbourhoods show significant shares of residing foreign population. Although the Realejo is not the neighbourhood with the highest concentration of foreign population (in fact, Zaidin is the one with the greatest share). It is home to 7% of the total according to 2011 data³, making it the second area with higher foreign concentration in Granada. The main backgrounds are from America and Europe, the latter composing middle and upper-middle class foreigners actively seeking to stay in the historic centre, especially in Realejo and Albaicín. These foreigners are often Erasmus students. The three parishes of Mouraria concentrate the

bulk of Lisbon's foreign population. According to the 2011 census, there are nearly 60 different nationalities residing in the three main parishes of Mouraria⁴. While people of Asian background remained overrepresented, reaching 56% of the foreign population, the gradual increase on European origins has attained 12%. The increase in the percentage of Europeans signals Mouraria's new role within the recent symbolic and economic dynamic of Lisbon inner city (Oliveira and Padilla 2012).

Conversely, the timing of discernible trends to make urban historic centres attractive for tourism and to gentrification are disparate. In Granada's case, such developments can be traced back to the end of the 1980s, while in Mouraria these urban modifications result from an urban and social rehabilitation plan dating from the first decade of the 21st century (Calvache 2010, Susino 2002, Menezes 2004).

As for the events' organisational features, specific characteristics can also be observed that distinguish their social intents. The *Fiesta de la interculturalidad* is entirely organised by associations of immigrants or associations defending their rights, more specifically by the Forum for the Defence of the Rights of Immigrants (*Foro por la Defensa de los Derechos de los Inmigrantes*), which, as the name indicates, is a collective of associations that came together around the *Fiesta* to draw attention to the problems immigrants face in Granada⁵. The *Fiesta de la interculturalidad* (2011) depends on voluntary efforts and modest resources, although efforts are being made to gain visibility in the public space by exhibiting cultural national traditions through street performances, dances and gastronomy, as well as seeking to engage spectators and passers-

⁴ The parishes are Socorro, São Cristovão e São Gonçalo.

⁵ The *Foro por la Defensa de los Derechos de los Inmigrantes* consists of a platform that brings together associations, NGOs and public and private entities with the intent of working together to promote the rights of immigrants on a local scale. The *Foro* has been in existence since 1993.

³ Data from the Empadronamento Municipal, Granada, available at <https://mail.granada.org/idegeogr.nsf/wwwtod/B80AFDFC3CF48C95C12578930031424D>.

by in a multitude of initiatives. It seeks to contrast with the *Fiesta de la Toma*⁶, in which the fall of Muslim Granada and the “Andaluz Reconquista” is celebrated through a nationalist and conservative narrative, with various nationalist groups flocking into town for the event, amidst ultra-right wing falangists (supporters of Franco) holding placards saying “Spain will never be Muslim” (Kottman 2011).

In the case of the *Todos* Festival, investment is higher and more diverse, with the event being backed and funded by the Socialist Party government in Lisbon Municipality. This initiative is part of the project to rehabilitate the Mouraria within the scope of the QREN programme. The rehabilitation project encompassed a material aspect, such as the restoration of buildings and infrastructure, and a social aspect, that of integrating its inhabitants and reviving life in the neighbourhood, recognizing the diverse cultural and social groups present in the area.

The 2011 *Todos* festival, the third (the last one in Mouraria) of a series of rotational festivals (to be held in different Lisbon quarters with a view to cultural marketing, improving images and promoting socioeconomic development and social cohesion), encompassed a wide range of performances and events. The core idea was to encourage intermingling between professional artists and the neighbourhood’s residents in a kind of integrating communion achieved by articulating the fringes with the dominant society. In the

⁶ Every year the *Fiesta de la Toma* is celebrated on January 2nd, commemorating the surrender of the Nasrid Granada to the Catholic Kings which, according to national historiography, marks the end of the Islamic rule in the Iberian Peninsula. It has been subject to polemics, namely and most recently, being classified as “fascist, anachronic and racist” by a collective of associations called Granada Abierta which alternatively suggests an intercultural celebration on another date (Open Granada) [<http://www.ideal.es/granada/201412/30/granada-abierta-pide-toma-20141230193913.html>]. However, it has been upheld by the Ayuntamiento (the municipality) which organizes a gathering in the Town Hall square in conjunction with the celebrations in the Cathedral on that same day.

words of one of the festival’s producers and artistic entrepreneur:

[This] publicises a series of nightlife establishments, from the margin, the fringe, but which are fashionable nowadays [...] it is through these dynamics of joy and integration [...] even for one night, they feel integrated [...] and I believe that the contact with others, having different ways of life and have the openness to carry out this encounter [...] it can positively impact those communities experiencing hardships there.

In both events, there is a shared discourse concerning the positive benefits of interculturality; i.e., the co-presence of diverse cultural traditions and expressions. The key word is coexistence and this is expected to happen in multicultural settings. However, as we shall see, the strategies conducing to such outcomes are fundamentally different. It is here that the *ethics of encounters* come into play, not just in terms of their spontaneous everyday displays, but also their practice of instrumentalised production and reproduction. In effect, the mechanisms to implement the ‘positive nature’ of the mixing as well as the social repertoires mobilised by the agents are different, in particular in the articulation between enhancing urban spaces and creating symbolic and material assets and the rhetoric and practice of hybridity. In the following paragraphs I shall try to characterise two social grammars expressed by the repertoires mobilised by actors in the sense of evaluating situations and formulating their strategies which frame differentiated understandings of the space of interculturality. I will start by addressing the Grenadian case.

Politics and collective action

Granada’s *Fiesta de la interculturalidad* aims to involve immigrants themselves as participants. This initiative demonstrates its political bent and collective thrust, far removed from official agendas and the gaze of the media. In effect, the organisational structure maintains diverse aspects. An example of this is the way in which the festival is publicised: by word of mouth and the distribution of pamphlets in the street by

members of the immigrant associations, often working voluntarily. Support and subsidies by the local authorities have vanished ever since the PP (*Partido Popular* or People's Party) came to power at the parish council level. This reveals a clash between two opposing political wills: the occupation of the public space by immigrant's claims and protests against a deliberate quenching of this presence pursued by the local authorities.

(...) Every year we have faced the problem of finding a place to hold the event. (...) We have been refused the use of the square outside the Palace of the Congress and we are still waiting for them to give us alternatives...if they give us any at all. However, this isn't the first year we have faced such a situation. We have been prohibited from holding the event anywhere for several years... [leader of an association in Granada]

Clearly, local authorities are pushing forward an attempt of depoliticization, which is nevertheless counterbalanced by the marked political overtones of the *Fiesta*. The Granada festival is organised by a set of associations of and for immigrants, which ensures the festival has marked political overtones in terms of claiming rights. The festival and the fact that diverse associations made a joint effort to organise it resulted in the institutionalisation of a political entity henceforth known as the Forum (*Foro*). This consists of human rights associations, immigrant associations and other organisations from the Spanish Catholic Church milieu. From the outset the struggle for immigrants' voting rights played a key role in the contention repertoires of this platform. This markedly political connotation of claims making was driven by the need to disseminate a positive image of immigration; in the words of its proponents, "an image that breaks the cycle of illegality-criminality-immigration". Among other things, the event's organisers frequently cite topics such as the rights of immigrants, reformulating the public image of immigrants through positive aspects, rejecting a subaltern status.

Such political posture, more related with the logic of claims by social movements, is associated

with a distancing from public powers, above all, with the governments of the *Partido Popular* (PP). As one of the event's organisers explained, while in the past the PSOE (*Partido Socialista Obrero Espanol* or the Spanish Socialist Workers Party) did provide some (albeit limited) support, when the PP came to power this support was stopped entirely. Now, organisational responsibilities and obtaining necessary materials are solely dependent on the organisers' own resources.

We have been trying for a long time to integrate this population that is living in each of these places so that they bring more things to the festival...there are possibilities and that is why we do it, of course any individual can of their own initiative invite their contacts... shops, local residents, platforms... Currently it's being done like I told you, due to the goodwill of all the associations and people who participate in publicising the event [organiser of the event and leader of an association in Granada].

However, the disappearance of state support does not mean that the theme of interculturality has completely vanished from the PP's political agenda. In effect, among other initiatives, the Granada town hall promotes an *Intercultural Community Intervention Project*⁷ which largely emulates the guidelines of the Community Cohesion programmes that have been in vogue in the United Kingdom throughout the last decade⁸. Consequently, with an emphasis on community solidarity, like the Community Meetings promoted by this programme in 2013, the language of *community cohesion* is incorporated in the governance of diversity. Unlike its British counterpart, however, no attention is paid to problems such as segregation, discrimination, isolation, etc. In other words, no structural condition

⁷ <http://www.granada.org/inet/bsocial12.nsf/223466fbb745b87dc125740a002a8647/58b8f20e26d2b9abc1257abe0044cc09!OpenDocument> [accessed on 16-07-2013]

⁸ For a critical vision see McGhee, D. (2003) "Moving to 'our' common ground – A critical examination of community cohesion discourse in twenty-first century Britain" in *Sociological Review*, vol. 51 issue 3, pages 383-411. For an apologetic view of this discourse and methodology see Cantle, Ted (2005) *Community Cohesion. A New Framework for Race and Diversity*, London: Palgrave Macmillan.

is reflected and incorporated into these concerns for community cohesion.

On the contrary, the association's activities demonstrate genuine political concerns, not just with regard to the policies for immigration and integration but also in the more practical and strategic sense of the term; the festival establishes alliances with political parties as it receives support and visibility, especially from the IU (*Izquierda Unida*)⁹. It is also important to note that the organisation of the event (but not just this event) reveals a hierarchy of relationships between national associations for human rights and the rights and associations of immigrants, properly speaking. In effect, it seems that the former controls most of the processes by means of political networks of influence. However, this does not mean that the associations of immigrants are redundant; i.e., associations that represent specific communities of immigrants, which play a role in showcasing their cultures – the difference that is to be protected and understood – as well as in defending the rights of their members and countrymen. In Granada, however, the umbrella organisations are native associations and this is perceptible in the relationships of prestige and power established between these native associations and the other immigrant organisations that are part of the Forum¹⁰.

The intervention of these organisations, most of which defend human rights and the integration of immigrants, occurs within the collective action frame of what Koopmans has identified as being political altruism (Koopmans et al. 2005, Giugni and Passy 2001). Two aspects characterise the repertoire of actions: on the one hand, their demands are placed in the public sphere in the sense of defending the rights of social and iden-

tity categories other than their own; on the other hand, these same repertoires suggest a universalism focused on particular categories, such as refugees, immigrant women, etc.

We always seek to go beyond in terms of human rights, because we believe that this shouldn't just be limited to a festival (...) we think that the element of denouncement, the element of claiming rights should be more present in the festival (...) our association is one that denounces wrongs, we raise political and social awareness in the area of human rights, this festival includes some elements that are compatible, [leader of an association in Granada]

Moreover, the forum for the rights of immigrants and its umbrella of national organisations foregrounds a social and political preoccupation, not just with the rights of immigrants and refugees, but more specifically with the expression of their identities. Once again it is possible to integrate this pattern into what Koopmans has assessed as political altruism oriented towards identity, as opposed to an orientation towards interests. The former corresponds to collective actions structured around solidarity and group identifications that make definitions of citizenship and nationality by the host society more complex. Reflecting the systematic allusions to interculturality as a form of accommodating the most diverse cultural expressions in the national sphere and the insistence on reciprocal knowledge and consequent acceptance, the slogan of the festival in the year of the fieldwork was, "We build citizenship by bringing people together", encompassing the activities of these groups in this type of political altruism.

"(...) we believe that only intercultural solidarity provides a possibility of finding a way out of the current situation. Curtailing the rights we already have cannot be allowed and we believe that it is essential to establish ties and networks among people irrespective of their origin"¹¹.

⁹ The United Left is a Spanish political coalition set up in 1986 which brings together several left wing parties, where the Spanish Communist Party leads at the national level.

¹⁰ The organisations that comprise what can be called the apex of the Forum are *Granada Acoge*, the organisation that coordinates the forum, *ADPHA* (*Asociación pro derechos humanos*) and *Acción en red*, none of which are associations of immigrants.

¹¹ With reference to the XVII *Fiesta de la interculturalidad* held in May 2012, statement made at a press conference and cited from <http://www.parainmigrantes.info/xvii-fiesta-por-la-interculturalidad-y-la-convivencia-en-granada-697/> [accessed on 29-08-2013].

This emphasis on the theme of rights and the universalisation of citizenship is accompanied by a generic demand to incorporate diverse identities in the wider national narrative; incorporation of their histories, traditions and memories that go beyond the local level and that are intended to be part of a composite national narrative that can henceforth build into the representations of the nation and their belonging. The universal dimension of the struggle for citizenship rights is consequently based on a policy of cultural recognition reflected in the building of self-esteem at an individual level and incorporating difference at an institutional level, foregrounding asymmetries and injustices of which migrants constitute particular targets. In short, it develops a politicisation of cultural difference.

Territorial competitiveness and the aesthetics of everyday sociability.

In the case of the festival held in the Mouraria, the situation is rather different. Not only does the Municipality support and manage the initiative, it also mobilises it as a symbolic element typifying its actions. In other words, *Todos* Festival is a vital part of the project to renovate the city centre as an aspect of the wider urban process of “returning to the centre” (Rojas 2004). Making this territory attractive and appealing to new dwellers and visitors is a strategy explicitly held by many of the actors involved in its renewal, both regarding its material and social aspects. The processes of what has recently been designated as “culturalization of urban planning” play a major role in the renovation, rehabilitation and transformation of the inner city. Culture is no longer synonymous with “urban culture(s)”; it gains autonomy as part of an urban development strategy. This culturalization falls into the growth dynamics of the symbolic economy and the role it has played in the promotion and competitiveness of urban areas (Zukin 1995, Florida 2005). Its association with art, the aesthetisation of spaces and urban interventions has been interpreted both as standardization of urban cultures diversity (Zukin 2010) and as part of a competitive process of

“city branding”, entailing the search for a market niche in which a city can stand out in a range of cities competing in a globalized economy (Dinnie 2011). As Michael Keith argues, multicultural mediates such articulation in which social and economic urban form is the cultural quarter (2005: 116). In Lisbon, the articulation between interculturality and territorial competitiveness is made apparent both in its wider strategy as well as in the particular case of Mouraria and its festival. On the one hand, references to the significance of interculturality as a specific trait of Lisbon abound in the strategic “Vision” of the city¹². On the other hand, zooming in the *Festival Todos*, actors’ strategies to produce images and give visibility to cultural diversity are consistent with this branding strategy. The idea of a cosmopolitan capital, where diversity inheres, making the most of the comparative advantages it offers, is clearly delineated therein. This trend reveals that the urban strategy of the Lisbon municipal authorities is increasingly considering the trio of artistic-cultural activities, interculturality and the symbolic economy (Oliveira and Padilla 2012). It is, in a sense, a modality of the governance of cultural diversity in the city. Producing interculturality as part of governance entails a certain type of visibility. In this context, how to legitimize the rendition of some symbols in the public space is part of contemporaneous urban governance, especially whenever given territories are adjusted to the discursive and imagistic mobilization of cultural diversity. The Festival *Todos* epitomizes such logic. Part of a combination of numerous initiatives arising from the urban renewal of the city centre, it was explicitly commissioned by the Lisbon municipality “to assert the visibility of interculturality in the city” (interview with the founder of the Festival). Among these initiatives,

¹² There is a very pronounced emphasis on cultural diversity in three axes, viz. economic (Lisbon, city of entrepreneurs), cultural (Lisbon, city of culture) and community (Lisbon, city of neighborhoods). *Visão Estratégica, Lisboa 2002-2012. Eixos de desenvolvimento urbano*, Lisbon: CML, 2007, p.75 [cited from <http://ulisses.cm-lisboa.pt/data/002/009>; accessed on 21-03-2012].

those traditionally clustering within the cultural quarter suggest its planned emergence. Without being exhaustive, the renewal plan entailed, directly or indirectly, a Centre for Innovation at the heart of Mouraria that would lodge creative industry workshops, an Lx Factory (according to the model of the factory in Manchester) in one of the contiguous hills, an university residence, studios/lofts for 140 artists, a creative market in the adjacencies and a “fusion” market already set up by a cultural events entrepreneur. Additionally, the myriad of commerce and night-time economies that foregrounded Mouraria as the “Hipster Lisbon”, as one fashionable magazine put it, are the visible expression of the tenants of a cultural quarter in the making. What is, then, the role of the Festival, and how has interculturality been defined and functionally recreated according to consumption patterns?

Taking the descriptions of the cultural entrepreneurs engaged in designing and staging the Festival, the resulting narrative is structured by the twin topics of creating synergies through artistic performances and recognition through interaction between cultures. Building trust and understanding by knowing the other is the key objective. In the invitation to participate in the Festival, people were summoned “to visit, know and interact with the inhabitants in this area of the city” fighting the fear of the unknown “by knowing each other”. This experiential dimension, the construction of empathy, is apparent in the declarations of one public responsible.

(...) we have started to create the local conditions so that interculturality can work (...) No idea how many people living in Lisbon – starting by myself – have visit that space before. Why? It is the other, the stranger, the fear – lets try!

The Festival is thus rendered as the guarantee of Lisbon’s practical recognition of interculturality. In the words of the Director of Culture and Cultural and Natural Heritage Department of the Council of Europe, Robert Palmer, on the accession of Lisbon to the network of intercultural cities that coincided with the 2001 edition of the Festival,

the city was “an example for the rest of Europe concerning the healthy coexistence of immigrants”¹³.

Henceforth, a number of initiatives highlighting the intercultural potential of Mouraria were carried out. From the onset, the Festival announced as its main aim to promote the “historical and cultural universes of Mouraria and to show the diverse cultural manifestations of the people of the world, by showing the various artistic fields, cultural and gastronomic, through the commitment of the community in the programming and functioning of the festival”¹⁴. The organisation of the event entailed hiring artists and exhibitions, as well as smaller parallel performances involving the residents. Among such noteworthy examples were the photography exhibition held in the Municipal archives and the display of posters in the public space rendering Mouraria’s inhabitants in cultural and ethnic mixed situations. Thus, interculturality is constructed while an integral element to the city imaginary and narrative, and it is with such goal in mind that the various actors are engaged in reformulating the image of Mouraria – previously seen as a marginal space within that imaginary – into an appealing space both for tourists and gentrifiers alike. In this frame, interculturality becomes instrumental for urban renewal and the construction of the cultural quarter. While attempting to assure social cohesion within the quarter by improving material living conditions, planning seeks to articulate the cultural and historical heritage with diversity as a representation for the tourist gaze.¹⁵

¹³ http://www.rtp.pt/noticias/cultura/festival-todos-caminhada-de-culturas-muda-se-em-2012-para-o-poco-dos-negros_n477118

¹⁴ CML (Lisbon Municipality) site *Há Mundos na Mouraria*, <http://www.aimouraria.cm-lisboa.pt/valorizacao-socio-cultural-e-turistica/festival.html>.

¹⁵ In the CML (Lisbon Municipality) website, the page dedicated to the QREN Action Programme, Mouraria, reads that “the appreciation of the historical and architectural heritage of the buildings and the pub-

Here, interculturality is a factor for attraction bereft of political content. In essence, there are similarities between the repertoires of the collective actors in Lisbon and Granada, such as the aforementioned positive benefits of a coexistence of cultures as the leitmotif (manifest) for carrying out such initiatives, although in Lisbon this appears without the politico-national component that seems to characterise the repertoires of associations in Granada. In effect, in the context of the *Todos* festival, part of the plan to rehabilitate the Mouraria quarter, questions of identity (when they surface) are above all limited to a local scale, a community element in which the quest for a *Gemeinschaft*, in which ties are structured by relationships of solidarity, is evident both in the initiatives as well as the discourses.

What we want is to create happiness and self-esteem among this population. In order to create self-esteem among this population it is necessary to develop the neighbourhood in urban terms and on the other hand implement a Community Development Plan, a plan involving people, prepared above all in collaboration with the people and which is not a “prêt-à-porter” for the people. The people are the ones who must be the local actors. [Association leader in Mouraria].

The universalist dimension of the expansion of rights, with the corresponding implications on citizenship conceptions and claims, is not marked in the agents discourses involved in planning and conceiving the event in Mouraria. The repertoire is organised around questions that are important for revitalising the neighbourhood and protecting Mouraria’s historical and architectural heritage. Some examples include initiatives such as the *intercultural walk*, with its traditional component of revisiting the history of *fado* music or Moorish style architecture intertwine with the multicultural of the neighbourhood.

lic space in the Mouraria quarter (...) as well as its manifested intercultural characteristics in downtown Mouraria, will allow the insertion of the quarter in the tourist routes of the city.” With a view to that objective, the Tourism Association of Lisbon (ATL) was contacted that, as a partner of this application, is available to include Mouraria in its Cultural Routes, posted on the website: <http://www.visitlisboa.com/>.

It is in this sense that the intercultural initiatives in the Mouraria are part of a kind of field homology in the marketed production of the urban territory that it encompasses. In the logic of territorial competitiveness, the creation of a particularity associated with an urban space creates an urban scene with its comparative advantages in relation to other urban scenes “made” according to the same principles. Thus, the universalist repertoire that characterises forms of action in the public sphere by the associations in Granada is adjusted and translated into a language of consumption and marketability. This does not mean that the same preoccupations with the ethics of encounters are not present, i.e. the same code of the accommodation of cultural difference as mutual knowledge and openness to the subjectivity of the other. This is a definition that does not need to be proved and is assumed by associative and administrative actors and cultural industries entrepreneurs in any scenario.

Modalities of the production of interculturality

It is thus possible to consider various types of logics for the production of interculturality, which are not limited to daily practices, as suggested by the “ethics of encounters”, but are instead mediated by power configurations, different cultural repertoires and social grammars which in turn translate into various forms of its expression in the public space.

It is also in this sense that it is possible to establish a distinction between the political repertoire of the *Fiesta* in Granada, without it being incorporated in planning or the revitalisation of the city centre with its more universalist languages, against the backdrop of a process of building a ‘glocal’ mechanism, in Lisbon. This mechanism combines global cultural trends with their ensuing local economic benefits – basically adjusting itself to the demands of the symbolic economy.

It would thus be of interest to consider another profile of intermediaries which Wise does not contemplate. Take the distinction suggested by Evans and Foord (2003) between culture as a cultural landscape, a connection to a

place and the intensified exchanges of those living there, and culture as an asset, in the forms of production-consumption promoted by cultural industries, cultural neighbourhoods and tourist bubbles. While Wise examines intermediaries of cultural landscapes, other intermediaries also exist, related with the second sense of culture underscored herein, constituted by professionals who “act as interfaces between cultural activities and the system for urban regeneration” (such as intervention departments, local authorities, real estate entrepreneurs).

Of such logics of the production of interculturality, I underscore a *politico-universalist*, an *economic-competitive* and an *ethical-symbolical*. Here, I make no attempt to examine how they mutually reinforce or demobilise each other. We can specify them as follows:

Politico-universalist: the frames of action that establish intrinsic links between identity claims and the grant of citizenship rights. The issue of the equality of rights is directly related to a normative categorical imperative language where the expansion of the space of political engagement is equated with the expression of new identities in the public sphere and therefore the opening-up of restricted national conceptions of belonging.

Economic-competitive: the discourse is patently organized around the core ideas of territorial competitiveness, urban branding and the incorporation of the local in global cultural and economic dynamics. The gist of this strategy is to combine the reinvention of a communitarian localism with the heterogeneity of transnational flows capitalizing on the economic gains arising from the commodification of ethnic traits, which do not limit themselves to ethnic markets and products, but are caught in mechanisms of aesthetization of a more global and postmodern bent, such as the importance of ethnicized images to tourist campaigns and city branding.

Ethical-symbolic: everyday practices are seen as potential transformative encounters. These are underpinned by a structure of a dialogical ethics of relations between different cultural

backgrounds. To a transcendental principle of human communion – such as an ‘ethic of care’ – given by the nurturing nature of personal interrelations is added a concern with collective boundaries intersections and its global social locations.

While these three dimensions are not mutually exclusive, some have more elective affinities than others. This is the case of the strategic proximity between the economic-competitive and ethical-symbolic logics. The harnessing of local autogenic forces and their subsequent use by markets, where symbolic reinforcement is attributed by expressions such as “tolerance” and “mutual understanding”, have practical effects in a commodified multicultural. Culture as an asset benefits from the interstitial connections between differentially cultured bodies without being undermined by the strangeness of alterity. This relationship not only institutes new identities-identifications but also new patterns of consumption. These new patterns of consumption, pragmatically related to identity (insofar as they incorporate an identity and differentiate it) particularly adjust to the consumable aspects of the ‘ethnic’.

On the other hand, if the politico-universalist dimension is easily given form by ethics and a symbolisation of the encounter, the distance between the former and the economic dimension becomes greater. In effect, if the logics of production-consumption of the cultural industries are adjusted to the *ethics of encounters*, there is an almost unsurpassable irreducibility with regard to the rhetoric of political claims. This is not so much because it appeals to a universal language based on rights, but rather because it uses a code that is fundamentally oppositional. In this sense, it is a language of antagonisms that establishes the radical difference between the social horizontalisation, resulting from a reduction of social relations to cultural sharing, and a rhetoric that contemplates socially differentiated positions and their reflections in an unequal structure for the distribution of social, economic and symbolic resources, as the following testimony indicates:

The daily grind, the system, sometimes their work situation does not allow it, sometimes ... specifically this weekend they will not leave the house where they work; (...) it's a pity that people who were already dancing and already practising the dance that we will present... will not be able to participate because they can't have this weekend off. It's a shame. Their labour situation is now further compounded by the crisis: "Either you work or I will hire someone else", it's that clear and sometimes weeks and months pass by without them going out. Where are our rights to be able to socialise a bit? [Head of a Columbian association in Granada].

Only when viewed from a merely symbolic-ethical perspective does it become saturated with this dimension of human, spontaneous sharing, subordinate to emotional aspects, such as "care" as an expression of an ethical relationship negotiated in encounters where cultural boundaries intersect. Moreover, space becomes crucial not only because its associate meaning affects social processes, but more significantly, as Berland (2009: 133) says, the process of producing publics is inseparable from the process of producing spaces where they live or frequent.

Consequently, the processes of cultural production oscillate between "advantageous" options according to the greater or lesser degree at which they are aimed at specific audiences. Thus, the visibility of "cultural encounters" in public spaces can result from a combination of cultural policies and the requalification of territories, a combination that is organised by a certain ideology for urban areas in which planning and urban marketing (a specific city *branding*) come together (Oliveira and Padilla 2012). Space mediates the regimes of visibility differently. Whenever a specific territory fits appropriately with the logic of culture as asset, interculturality can become commodified and integrate global flows of images in the form of an ethnoscape. Thus, the way interculturality features in the social imaginary is mediated by the "visual ordering of the spatial", to paraphrase Keith (2005: 125) However, as has been seen, this is not the only way of producing interculturality: such processes of cultural production and social organisation

can be supported by strategies of a more political nature. The latter will become even more prominent when their claims contradict mere 'culturalisation' dominated by aesthetic strategies for the occupation of public spaces.

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Shunning Direct Intervention: Explaining the Exceptional Behaviour of the Portuguese church Hierarchy in Morality Politics

by MADALENA MEYER RESENDE (FCSH-UNL and IPRI-UNL) and ANJA HENNIG (European University Viadrina)

Abstract

Why are the Catholic churches in most European countries politically active in relevant morality policy issues while the Portuguese hierarchy has remained reserved during mobilizing debates such as abortion and same-sex marriage, whose laws' recent changes go against Catholic beliefs?

The explanation could be institutional, as the fairly recent Portuguese transition to democracy dramatically changed the role attributed to the church by the former regimes. However, in Spain – whose case is similar to Portugal in matters of timing and political conditions – the hierarchy's behaviour is different. This begs the question: what elements explain the exceptionality of the Portuguese case? This article shows that the Portuguese case illustrates an element usually not emphasized in the literature: the ideological inclination of the church elites. The article thus concludes that institutional access is a necessary, but not a sufficient, condition for the church to directly intervene in morality policy processes. A church may have access to influence political decision makers but, for ideological reasons, may be unwilling to use it.

Keywords: Portugal, morality policy, Catholic church, Vatican Council II, abortion, gay-marriage, ideology, historical institutionalism

Introduction

The recent debate in the Portuguese parliament (July 2015) about restricting the 2007 liberalized abortion law in Portugal revealed a novum in the context of Portuguese morality policy: the Cardinal Patriarch of Lisbon, Manuel Clemente, showed a clear intention to intervene directly in a moral-political process, unlike his predecessors (*Publico* 2013; Campo 2015). This stance contrasts with the former Cardinal Patriarch José Policarpo's political strategy during the 2007 referendums on liberalization of abortion and the 2010 implementation of a law regulating same-sex marriage. He preached and implemented a doctrine forbidding clerical direct intervention in the moral-political processes that de-linked

the church from the policy-making arena. As we will show, up until 2013, the Portuguese hierarchy showed great restraint during the process of moral-political liberalization.

From a comparative perspective on morality policy change in Catholic Europe, the Portuguese legal changes in the fields of abortion and same-sex-marriage confirm a common trend towards more permissive laws in the morality policy arena. Civil society also seems to be more open to these legal changes towards more permissive legislation. The aforementioned behaviour of the Portuguese church, however, is exceptional. While in Poland, Italy, Spain, Ireland, and France, the church hierarchies intervened directly over leading policy makers and political elites in the liber-

alization of abortion (Poland, Spain), attempting to restrict the law of in vitro fertilisation (Italy) and legalising same-sex partnerships (Poland, Italy, Spain, Ireland, France), (Hennig 2012; Grzymala-Busse 2015) the Catholic church in Portugal did not directly intervene in the political arena. This meant that neither political parties nor the grass-roots pro-life movements received support from the Portuguese Episcopal Conference and the Cardinal Patriarch during the 1998-2010 period. The contrasting political strategies of the Spanish and the Portuguese Catholic hierarchies, however, are particularly puzzling, especially considering their historically similar church-state relations.

Against this backdrop, we aim to explain why the Portuguese hierarchy avoided direct intervention during these crucial morality policy processes. The literature on the Catholic church in moral policy processes focuses both on the church as a political actor that directly influences policy (Engeli, Green-Pedersen, and Larsen 2013; Knill, Preidel, and Nebel 2014) and the church's search for alliances with political forces (see Kalyvas 1996; Gould 1999; Hennig 2012). However, this literature has been less inclined to explain why church hierarchies sometimes choose to abstain from direct intervention in the political arena, limiting their action to influencing individual consciences. Church non-intervention in moral policy debates, if acknowledged, is taken to be the consequence of their lack of power to influence decision makers, rather than being an ideologically informed choice from the hierarchy (see Warner 2000; Grzymala-Busse 2015).

However, the liberal church doctrine, derived from the Vatican Council II's *Dignitatis Humanae* declaration, proclaims that the church should stay clear of imposing religious-based moral norms onto secular law, for example in moral-policy debates (see Christians 2006). It is, thus, relevant to question if and where this doctrine influenced national hierarchies and how they conceive their political strategy in the context of liberal democracies, and whether the Catholic church is not just a passive subject of secu-

larization, but also its agent, in the sense that it self-limits the scope of clerical authority in the context of liberal democracies.¹

The first explanation proposed here follows historical-institutionalist arguments, which consider the church's political strategies as contingent upon the structure of institutional opportunities created at moments of political transition. Following this path, one would argue that the 1974-75 revolutionary transition to democracy resulted both in a loss of the church's institutional access to decision-making bodies and this political transition was uncondusive to the establishment of a stable alliance between the Portuguese hierarchy and political parties. The lack of reliable political partners in the political sphere would result in a distancing between the Episcopate and the political arena. The second explanation is an actor-centred approach focusing on the ideology (Freedon 1996) or the beliefs system of the hierarchy (Sartori 1969). Pursuing this explanation, we would argue that the ideological orientation of the Portuguese Cardinal Patriarch and a majority of the bishops bears an important impact on the decision not to intervene in the moral policy transformations.

The article proceeds in three steps. It first locates the case study within the literature on comparative analysis of morality politics. The second section will proceed with an analytical narrative of church behaviour based on a non-exhaustive analysis of the official documents of the Episcopate and the Patriarchate, the pronouncements during the referendum campaigns as well as a reconstruction of the policy processes through an analysis of the press and the secondary literature. The narrative uses the collected evidence to classify church behaviour according to the categories of church direct and indirect intervention in the political arena during the periods of politicization of abortion and same-sex marriage. We will then differentiate the church's direct intervention in the political arena from its indirect influence over public

¹ For a debate on the secularisation of the ecclesiastic sphere, see (Perez-Diaz 1991: 62-65).

opinion, concluding that, while the Portuguese hierarchy did not give up the latter, it did not pursue a strategy of direct intervention. Last, tracing both the ideological orientation and the lack of institutional opportunities, the article considers the weight of these factors to explain the outcome described.

Catholic church and Morality Policies

Morality policy is considered a political arena in which conflicts merely arise regarding the regulation or distribution of moral values and not of material goods (Mooney 2001; Haider-Markel and Meier 1996).² Within the debate about what counts as morality policy (Heichel, Knill, and Schmitt 2013) we refer to a narrow definition which focuses on fundamental questions about family, gender-roles, and life and death matters (Gutmann and Thompson 1997). When morality policy changes towards a set of more permissive rules in these fields, it epitomizes certain effects of modernization and secularization hitting at the core of religious concerns. This results in political and societal contention. The most prominent conflicts concern the political regulation of abortion, artificial fertilization and same-sex-marriage. In a liberal understanding, these controversies are characterized by the incommensurability of values, which makes reaching a compromise between cultural conservatives or “pro-life” and cultural liberal or “pro-choice” positions almost impossible (Gutmann and Thompson 1997).

In Europe, social scientists have only recently begun to apply the moral-political lenses to understand cross-national patterns of contention among the mentioned core issues of morality policy and to explain different legal regulations in similar states. Among the few uncontested factors affecting morality policy processes we see: the strategies of religious actors, the denominational heritage of a state, the patterns of church-state relations and the impact of reli-

giosity on voting behaviour (Hennig 2012; Engeli, Green-Pedersen, and Larsen 2013; Knill 2013; Minkenberg 2003).³

Several studies have shown the impact of the Catholic church on moral policies in Catholic-majority countries to be somewhat paradoxical. If the Catholic church’s opposition to processes of liberalisation of moral policies, on the one hand, has delayed the adoption of more permissive laws in some countries (Knill, Preidel, and Nebel 2014), then, on the other hand, once policy change is under way, the issues become more politicised and liberalisation goes further and faster (Engeli, Green-Pedersen, and Larsen 2013). Grzymala-Busse’s analysis of the success of the Catholic church in determining policy processes (morality issues, education, clerical privileges) considers that the un-mediated institutional access to policy-makers appears a more successful strategy to influence policy than alliances with political parties (Grzymala-Busse 2015).

However, none of these approaches considers the relevance of the ideological orientation of national hierarchies for their strategy in influencing policy. We instead argue that although the church’s calculations linked to power and authority may be an important determinant of its political strategy, the ideological orientation of national hierarchies, in particular their openness to liberal understandings of Vatican Council II’s doctrines, can in some cases be an overriding determinant of political strategies. In other words, we argue that institutional access is a necessary, but not a sufficient condition for church intervention in morality policy processes. A church may have access to influence political decision makers but, for ideological reasons, be unwilling to use it. As we will show, an ideological predisposition not to intervene is sufficient to determine church behaviour. Drawing on the distinction between the strategic and the ideologi-

² Although political regulations on bioethics may include also economic interests, morality policy is more about the re-distribution of non-material values (Lowi 1964; Studlar 2001).

³ Recent studies also show how political opportunity structures such as unstable political coalitions or a fragmented party-system decisively determine the success of religious actors (Hennig 2012; Knill, Preidel, and Nebel 2014).

cal basis of political action, we thus propose two non-exclusive causal paths which we will explore more thoroughly in the following section.

Explanatory pathways: Institutional access and ideological orientation

The first explanatory pathway considers the church as an interest group that strives for political influence in vital issues and calculates its intervention in terms of costs and benefits (see Warner 2000). According to this literature, national hierarchies' access to policy makers or long-term alliances with political parties and party minorities, may condition the church's strategy of intervention in the political arena during processes of moral policy change (Hennig 2012; Knill, Preidel and Nebel 2014). If the hierarchy's links to political parties are weak and its institutional access to policy-making processes is limited, the hierarchy will consider costs of intervention as high and this will likely result in the church maintaining a low profile rather than attempting to intervene and lose authority. On the contrary, if there are established links between the church and political parties or established access to policy makers, the cost of intervention is lower and intervention more likely (see Grzymala-Busse 2015). To assess the institutional access and alliances with political parties of the Portuguese hierarchy we will analyse the historical roots of the establishment of new relation during the revolutionary transition, and how this process occurred.

The ideological orientation of the hierarchies illustrates a second pathway that explains the decision to intervene in moral policy processes. Following scholars that incorporated elements of actor-centred analysis to explain the politicization of religious identities (Gould 1999; Kalyvas 1996), we will look at the predominant ideological inclination of the prelates at the top of the hierarchy, considering the ideological background of an individual a "set of beliefs according to which individuals navigate and orient themselves in the sea of politics" (Sartori 1969: 400).

In this context, the hierarchies of the national Catholic churches are specific societal actors,

composed by the Episcopal Conference and the leader of the clergy, the Bishop of the country's siege. These two components have different roles and weights in the hierarchy: The Episcopal Conference is composed by the bishops of all the country's dioceses organized in a permanent council. Every four years a new president is elected (Denzler, Andersen 2003: 352-357). However, and although the Episcopal Conference has an important role in confirming and supporting the decisions of political relevance, the Conference's pluralistic composition and consensual style of decision making results in it having a representative rather than executive role (see Martin and Bourdieu 1982). The other – at the helm of church's relations with the political arena – is, in this case, the Patriarch of Lisbon. His powers vary according to his theological authority over the remaining bishops, but in the end, he is the executive element in the hierarchy. This explains why, despite internal pluralism, church hierarchies mostly follow a single strategy in moral-political debates, as the cases of Portugal, Spain, Italy and Poland demonstrate (Hennig 2012).

The Catholic church hierarchies have had to respond to the trends of democratization, increasing the value of pluralism and secularization. For Portugal, opinion polls show that the number of Catholic believers has been in decline since the 1970s (see Catroga 2006: 234), and studies for the period between 1999 and 2011 show a decrease in population from 86.9% to 79.5%. The same study reveals that religious practice has declined to 36.2% (participation in a religious act at least once a week) (Teixeira 2012: 1). Although, in comparison with the rest of Catholic Europe, the Portuguese population scores are relatively high in all levels of religiosity⁴, and religious plu-

⁴ The European Social Survey gives us an idea of Portuguese attitudes towards religion and the church. In 2008, in a scale of 1 (not religious) to 4 (very religious), respondents scored an average of 2,8 (at a part with Italy, also with 2,8 and higher than Spain). In terms of church attendance, in a scale of 1 (never) to 7 (everyday) the average in 2008 was 3,2, the same as in Italy and higher than Spain (2,4). The level of trust in the church is also relatively high. In a scale of 1 (very

ralism is relatively low (Vilaça 1999), decreasing religiosity in Portugal is a challenge for the church hierarchy. Of particular relevance is the decline of church influence over the popular attitudes regarding moral policy issues, such as more permissive legislation on same-sex marriage and abortion (Vilaça and Oliveira 2015a: 130),

As part of our analysis we will consider the different ways in which the Catholic church decides to intervene in moral policy debates. Whereas the church doctrine regarding many of these moral issues is undisputed (e.g. abortion, same-sex marriage), there are different positions among Catholic prelates in the debate on the justness of church intervention in the political processes to impose religious inspired stances on secular law (Christians 2006).⁵ Liberal interpretations of the Vatican Council II doctrine deem religious-inspired moral norms, such as the prohibition of abortion, to be within the reserve of religious freedom, and thus considers that the hierarchy and the clergy should not fight for their inclusion into secular law. By contrast, the conservative stance, explicitly formulated by Cardinal Ratzinger in the 2002 *Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life* (Congregation for the Doctrine of the Faith 2002), takes the prohibition of abortion and other morality policies to be part of an “objective moral order and therefore to be the duty of the church to intervene for their translation into secular law” (Christians 2006).

We argue that the different doctrinal positions taken by liberal or conservative church leadership is a sufficient condition to explain different strategies of intervention during morality policy processes. Thus, our hypothesis is that the Por-

low) to 4 (very high), the Portuguese score 2,8, higher than Italians (2,6) and Spanish (2,1) (European Social Survey 2014).

⁵ The Vatican Council II provoked a significant shift in attitude in the church’s relation with political power. This change is visible in the translation of the doctrine on religious freedom on the drafting of concordats and constitutions (Minnerath 1997), and in the Vatican’s reserve in supporting efforts to establish confessional parties in new democracies (Perez-Diaz 1991; Linz 1991).

tuguese liberal Catholic hierarchy between 1998 and 2013 would tend not to intervene directly in the political arena to impose the Catholic view on moral issues nor to prevent the liberalisation of morality policies because it considers this intervention as inherently against the mandate of the church. By contrast, a doctrinally conservative clergy is normatively in favour of intervening to fulfil the church mission of protecting objective moral norms.

Shunning direct intervention: The Portuguese church in morality politics

Following the previous comparative analyses (Hennig 2012; Enyedi 2003; Hennig forthcoming), we distinguished two church strategies during moral policy processes: the first is a strategy of direct intervention in the political arena, while the second is one of indirect intervention. Examples of the church’s direct intervention in policy processes implies explicitly addressing political actors. A recent example is the Spanish hierarchy, which appealed to the conservative government to proceed with its paused project to restrict the abortion law (Hennig and Meyer-Resende 2016 forthcoming). Another way of direct intervention would be to actively campaign for/in a referendum as the Italian Cardinal Ruini did when he launched a “no vote” campaign in order to make the referendum on a more liberal law concerning assisted reproduction fail (Hennig 2012: 322-3). Other examples are the support of political parties’ efforts at determining the outcome of the policy process, clerical ex-pulpit political pronouncements in support of one of the outcomes, and clerical orientations to policy makers.

Clerical indirect influence over the policy process may include efforts to influence individual consciences through mobilization and/or support of societal protest against permissive laws, clarification sessions, and doctrinal pronouncements over the moral dilemma at stake. Taking these different strategies in consideration, this section illustrates how the Portuguese church hierarchy avoided direct intervention into the political arena with regard to the mentioned con-

flicts on abortion and same-sex marriage, and restricted itself to only few indirect interventions.

Liberalisation of the abortion law

In Portugal, the liberalization of abortion was an important topic for the left since the 1974 transition. In 1984, the Socialist Party (PS) supported a reform of the law, and the parliament allowed this change in limited cases of fetal malformation, rape and danger to the health of the mother in early pregnancy. This provoked Cardinal Ribeiro to expressly ask Catholics not to vote for those who supported the bill.⁶ The law was approved in parliament and its application was implemented in a restrictive manner, maintaining a very low number of authorized legal abortions and high numbers of estimated clandestine abortions.

The return of socialists to power in 1995, after ten years of conservative governments by the PSD, led to the return of the abortion liberalization to the political agenda. After several debates, a law instituting abortion on demand was approved in parliament in February 1998. However, on the run up to the vote, the Catholic leaders of the two main parties, the PS and the PSD, made abortion liberalization subject to a referendum which was scheduled to take place in June 1998.

The church intervention concerning the 1998 referendum debate had two phases. A short initial phase in which the Cardinal Patriarch, António Ribeiro, interfered directly by appealing to Catholics in decision making positions to act against the liberalisation of abortion. In a Pastoral Note in February 1997, António Ribeiro would plea to “all believers, especially those present at decision making centres, to contribute to form a correct public opinion, not abandoning to others what they morally ought to do” (Ribeiro 1997). The second phase coincided with the choice of José Policarpo as Patriarch of Lisbon to

replace D. António Ribeiro as Patriarch of Lisbon (between March 1997 and March 1998 D. José Policarpo was Patriarch-adjunct). Albeit reiterating the opposition of the church to the practice of abortion on doctrinal and political grounds (Policarpo 1998), Patriarch Policarpo formulated a strategy that dispensed of direct clerical intervention in the political arena, while maintaining its prerogative of influencing public opinion. In an official note about the referendum the Cardinal advised clerics not to get involved in the campaign and declared that was the task of “lay movements” (Conferência Episcopal Portuguesa 1998). He later announced that the church was averse to the political decision to organize a referendum on abortion, declaring that matters of conscience, such as abortion, should not be put to referendum. He stated that “to make a referendum about abortion is to make a referendum about life” (Juntos pela Vida 1997).

Catholic milieus resented D. José’s strategy and a group of prominent laymen and priests wrote an open letter to the “Portuguese priests” asking for a clearer and more active stance of the hierarchy during the political process. However, despite the involvement of a few priests on polemics during the campaign, the church largely kept its distance from direct involvement, avoiding support to political parties and civic movements, vote declarations or a clerical campaign against liberalization. Nevertheless, and denoting the influence of religious speech on public opinion, the discursive frame during the 1998 campaign was based on the classical opposition between the Catholic movements’ defence of the “right to life” and the pro-liberalization discourse of women’s right to choice (Alves et al. 2009).

The hierarchy’s withdrawal from the political arena during the campaign was compounded by political parties. The parties at the extremes of the party system, the right conservative Democratic and Social Center (CDS) and the Communist Party (PCP) were campaigned in clear terms against and for the liberalization of abortion. But the two centre parties, the Socialist Party (PS)

⁶ Fear of a Catholic backlash in the upcoming presidential elections of 1985 and of a serious split in the then centrist government coalition between PS and PSD, led the PS leader, Mário Soares, to make an unannounced visit to Pope John Paul II in Rome (Polk 1984).

and the the centre-right Social Democratic Party (PSD) were reserved during the campaign. The PS was neutral and divided due to the opposition of the Catholic Socialist leader and Prime Minister António Guterres to the legalization of abortion on demand (Manuel and Tollefsen 2008: 121). It should, however, be noted that Prime Minister Guterres conveyed his stance as his personal opinion, rather than him acting as an agent of the church. The PSD also appeared divided, with some of its prominent members supporting liberalization (Rodrigues 2013: 345). The main drivers of the referendum anti-abortion civic movements were the Catholic civic movements (Pirralha 2009). The referendum results gave a small advantage to the no vote against liberalization of abortion (50,4%) and a low turnout of 32% resulted in an inconclusive result (Freire and Baum 2003). The issue was shelved.

The victory of the PS in the 2005 parliamentary elections under a new leadership led to a second attempt to change the law, with a new referendum being scheduled to take place on 11 February 2007. This time, during the pre-campaign, the Cardinal-Patriarch Policarpo made more explicit non-intervention as the basis of the church doctrine. At the start of the legislative process in April 2006, the Patriarch publicized the basis of its political strategy in a clear statement of liberal doctrine: „Nobody in the church wants to impose religious law as civil law. When the church respects the autonomy of the state, it respects its own autonomy” (Policarpo 2006a).

Policarpo’s liberal stance again provoked criticism among Catholics, but the Patriarch reaffirmed his position in a pastoral note issued on 19 October 2006, where he stated that the church strategy during the upcoming referendum campaign would be guided by “a healthy distance between the church and the democratic political arena”. The Patriarch justified his position with an argument that illustrated a distinction between a forbidden intervention in the political campaign while emphasising the church’s attempt to influence civil society. “The role of the clergy is to illuminate consciences. Priests should proclaim

the church doctrine about life, *but distinguish between their ministry and the campaign actions, necessary and legitimate in their proper place*” (Policarpo 2006b). Arguing that the process of liberalization of abortion had been politicized by the parties, Policarpo foresaw that the referendum would become, “in language and methods, a vulgar political campaign” and not a place for the church to engage. Thus, “family man and medical doctors should lead the campaign” (Policarpo 2006b). The strategy defended by the Cardinal clearly distinguishes between the two types of intervention, a direct one which would see the Catholic hierarchy involved in the campaign against abortion and an indirect intervention, of church involvement upon people’s consciences but no involvement in the political processes.

There were costs to this strategy: internal divisions and resentment weakened the unity of the church and caused tensions among the hierarchy. Conservative Catholics regretted the Patriarch’s and the bishops’ reserve during the referendum campaign and this amplified the increasing dissonance among Catholics in terms of the substance of the abortion law (Marujo 2007; de Lucena 2007). Thus, in the ensuing months, the debate among Portuguese Catholics focused not only on the liberalization topics, but also on the proper political role for Catholics in the processes of morality policy change.

If, during the 1998 campaign, political parties had been lukewarm in their participation, in 2007 the absence of church agents among political parties was even more apparent. The centre right PSD was officially neutral and abstained from campaigning against liberalization. Nor did the hierarchy attempt to join the civic Catholic organizations that took centre stage in the anti-liberalisation campaign. D. José Policarpo kept a distance, to the conservative movements within the church (such as the movement Communion and Liberation and the Opus Dei) that promoted the anti-abortion campaign. Fourteen civic groups (against five created to campaign for liberalization) registered in the months before the referendum to campaign against the liberaliza-

tion. The Plataforma “Não Obrigada!” (“Platform No, Thanks!”) brought together these pro-life movements and aggregated their efforts into a cohesive movement (Dias Felner 2007). On 28 January 2007, the Platform mobilized eight to nine thousand citizens in the “Walk for Life”, the largest demonstration held during the campaign (Público 2007a).⁷ Neither priests nor bishops were to be seen among the street demonstrators.

In sum, the hierarchy passed on the opportunities for church intervention created by the plebiscitary nature of the 2007 referendum, deciding not to support Catholic pro-life civic movements. Thus, during the campaign, the hierarchy was confronted with a sizeable Catholic grass roots movement that it did not create or support. This generated an unprecedented situation in the history of modern Portuguese Catholicism. Unlike in Spain, where bishops are used to share the public space with numerous Catholic movements and to cooperate with likeminded ones, in Portugal the clergy normally holds the monopoly of the Catholic voice in the public debate. The unprecedented nature of the situation was called by the Archbishop of Braga and President of the Episcopal Conference, D. Jorge Ortiga, “the hour of the laity” (Ortiga 2007). The distance kept between the hierarchy and the anti-abortion civic movements was one more sign of the determination of the hierarchy to maintain a strategy of non-direct intervention in the political arena.

The capacity to the church to influence the terms of the debate seems to have suffered. The more fundamental argument of the opposition, which had predominated in the 1998 referendum – pitching women’s right of choice against the embryo’s right to life – was replaced by a pragmatic debate over the consequences of clandestine abortion (Alves et al. 2009: 31-33). The anti-abortion movement tried to counterpoise the dominant frame by accusing their proponents of “banalising abortion” (Público 2007b), but was largely unsuccessful in this enterprise, showing

the extent of withdrawal of religious language on the campaign and reflecting the more liberal public attitudes towards moral issues (Vilaça and Oliveira 2015b: 33).

On 11 February 2007, voters were asked: ‘Do you agree with decriminalization of abortion when requested on women’s demand, up to 10 weeks of pregnancy, and performed in an authorized clinic?’ The referendum results were 59 % voting “yes” and 41% voting “no”. Only 40% voted, undercutting the legality of the results. After the defeat of the “no” vote in the referendum, the Portuguese bishops’ attitudes were again characterised by moderate language, lamenting the victory of abortion liberalization and recalling that its practice clashes with Catholic doctrine, but restraining from claiming any religious sanctions to those Catholics involved in the liberalization campaign. The following day, the Socialist Prime Minister José Socrates declared that in Portugal, although the referendum results were not binding- referenda needs at least 50% of voting to be lawfully binding –, he would proceed with the liberalization of the law. The right-wing President of the Republic, Aníbal Cavaco Silva, ratified the law and the law liberalizing abortion in Portugal was adopted in April 2007 (Público 2007c).

Liberalization of the same-sex marriage law

The church hierarchy’s behaviour during the process of liberalization of same-sex marriage in 2009-10 was largely similar to the abortion debates. The Patriarch and the Episcopal Conference issued a critique of the PSD and CDS’s call for a referendum on the change of legislation, based on the liberal argument that morally sensitive issues were part of the reserve of conscience, and should not be matters for a popular plebiscite (Marujo 2009b). During the brief period of discussion of the new legislation in parliament the church declined from intervening in the policy process, stating that the change of legislation was not a “provocation to the church” (Marujo 2009a). The church’s silence led several analysts to comment on the existence of a pact between the Cardinal Patriarch and the Socialist prime

⁷ In Spain public demonstrations against abortion mobilized about a million people on 17 October 2009.

minister José Sócrates: in exchange for the the church's silence, the PS would make see that the legislation would exclude the possibility of adoption by same-sex couples (see Vilaça and Oliveira 2015a, 38-41).

Regardless of whether he was in agreement with the government or not, the Cardinal Patriarch advised the clergy not to support political parties nor civic movements involved in the process, and much less to use the pulpits to proclaim their opposition to the law on same-sex marriage. In this vein, although the Portuguese Bishops Conference (CEP) proclaimed the doctrine that marriage was to be reserved for a union between a man and a woman, it declined to give advice to decision-makers on how to vote on the legislation (Conferência Episcopal Portuguesa 2009).

Thus, although both centre-right parties, the PSD and the CDS, declared their opposition to the legislation on same-sex marriage (Vilaça e Oliveira 2015b: 136), none invoked religious reasons for their position. There were no church agents to be seen among the political elites. The Cardinal Patriarch and the bishops, again, maintained the church's distance with the demands of the Catholic civic movements, which claimed for a referendum on the change of the law to take place (a 5,000 people strong demonstration against the law took place in Lisbon) (Lusa 2009). When the law instituting civil marriage for homosexual couples (but excluding the capacity of these couples for adoption) was approved in parliament in February 2010, the church hierarchy lamented the lack of democratic debate, but continued not to denounce explicitly on the outcome (Lusa 2010). After the law was adopted in parliament, there were hopes among the hierarchy, including D. José Policarpo, that Pope Benedict XVI's visit to Portugal in early April would influence the President Cavaco Silva, persuading him not to ratify the law (Henriques 2010). However, after getting the confirmation of the law's constitutionality from the Constitutional Court, the President ratified it.

The behaviour of the Catholic hierarchy in these three moments of moral policy liberaliza-

tion (1998, 2007 and 2010) shows a consistent application of a doctrine of non-direct intervention in the political arena. Rather, the church concentrated in influencing indirectly the public opinion by disseminating its doctrine on moral issues among the faithful "and those who want to hear" (Policarpo 2006b). Moreover, the Cardinal Patriarch José Policarpo made public the doctrinal underpinnings of the church in a democratic and plural setting, by insisting on a proper distance between the church and the political arena. Neither did the Portuguese hierarchy, unlike in Italy, Ireland, Spain or Poland, intervene by supporting civic movements or by offering voting suggestions. In the next section we will explore the explanatory paths to understand the origins of these choices.

Explaining the church behaviour in the 2007 and the 2010 change of abortion laws and same sex marriage laws

No stable ally: Lesser institutional access and shifty party alliances

The first pathway considers the Catholic church as an interest group that strives for political influence in vital issues. The church will, taking account of its resources in terms of linkages with parties and/or access to decision-making institutions, evaluate the costs/benefits of forming an alliance with political parties or try to exert influence over the relevant institutions. In this section we will thus characterise the structural conditions of institutional access of the Portuguese church with the political arena. We focus on the particular historical moment of transition to democracy and spell its consequences for the church relations with political parties and political institutions in the years thereafter.

The Portuguese democratisation process was more like the taming of a revolution than a transition from authoritarianism to democracy (Maxwell 1995: 12-14). This kind of transition posed a threat to the church, as the radical elements of the Movement of the Armed Forces (who were the protagonists of the revolution) and the extreme left led an attack against church's

authority in an environment of massive popular mobilization (Hamann and Christopher Manuel 1999; L. Salgado Matos 2001). The assault peaked during the period between January and November 1975, with attacks on churches and the occupation of the Catholic Radio *Renascença* station.

During the revolutionary period, the church, nevertheless, defended its position through popular actions, sometimes violent, and counter-attacks on the extreme-left and on the communist forces (with highest intensity in the Northern region) while searching for allies among democratic forces (Salgado Matos 2001: 120). However, because of the internal divisions running through both the laity and the clergy, the church did not respond to the attack through the organization of a Christian Democratic party as happened in many other European countries (Clímaco Leitão 2013; Braga da Cruz 1997). Instead, the episcopate created a strategic alliance with the Socialist Party – which came out victorious in the April 1975 elections to the Constituent Assembly – to counter the forces striving for installing a communist regime, and generally to quell the deepening antagonisms over religion (Braga da Cruz 1997; Maxwell 1995).⁸

Despite the intensity of the links between the church and the socialists during the revolutionary months of 1975, Mário Soares, the leader of the Socialist Party, did not aim at institutionalizing the relation with the church. Instead of deepening the links between the two institutions (the Socialist Party and the church), Mário Soares relied on this personal relation with Cardinal Ribeiro. In a background interview with one of the senior clerics involved in church relations with the political arena (P. Jardim), it was conveyed to us that Cardinal Ribeiro noticed Soares' attitude, and the church reciprocated to the PS's lack of commitment by maintaining a reserved

⁸ When the fall of the regime seemed imminent in the early seventies, the church and the Socialist Party saw each other as plausible allies in the transition process and early contacts were established between progressive Catholics and Socialist politicians such as Mário Soares. In 1973 Cardinal Ribeiro met Mário Soares in Rome (Barreto 2004).

stance. As a result, the relation consolidated into a pact of necessity, rather than an alliance of partners.

On the right of the political spectrum, the church did not try to establish any stable and durable alliance with the PSD or with the CDS, either. When the political situation normalized past the revolutionary period in November 1975, the bishops, taking stock of the deep divisions among Catholics, and divided between an interventionist and a possibilist line, decided against mobilizing a confessional party or supporting directly any of the two centre-right parties, the PPD and the CDS (Clímaco Leitão 2013: 210-213).⁹

The church maintained its distance from political parties throughout the years, and the absence of church agents among political parties was particularly visible during the campaigns for the referendum on abortion in 2007. The centre-right PSD – which had been against the liberalisation of abortion during the 1998 referendum campaign – was neutral in 2007 (Sá 2007). The PSD's Catholics were increasingly demobilised, with the voices in favour of liberalizing of abortion increasing among its ranks (Valente 2007; Público 2007a). The PS's official position also shifted from neutrality in the 1998 referendum to a clear position for liberalization of abortion. The only party campaigning against liberalization was the right conservative CDS-PP – but even the CDS started the campaign rather late and in a reserved manner (Lourenço 2007).

The revolution, by its radical character and left-wing orientation, led to the curtailment of a great part of the links between the church and the political institutions that had characterised the New State (1926-1974). The church saw its institutional access severely limited. The new status was negotiated in the new Constitution of April 1976, which although establishing safeguards for the institutional autonomy of the church (Braga da Cruz 1997: 528) also expressly instituted a clear cut separation between the

⁹ The PPD (later renamed the Social Democratic Party – PSD) and the conservative Democratic and Social Centre Party (CDS).

church and the state, and the constitutional text does not include a provision privileging religion – as is found in most other constitutions in Europe. Article 51.3 institutes a constitutional prohibition to use religious names and symbols in political parties, showing the willingness of the constitutional framers to separate church and politics. The Constitution of 1976 (still in force today with very few amendments on the provisions on religion) is thus symptomatic of the considerable retreat of church influence over the political arena.

Summing up, the legacy of church-state separation from the transition period resulted in limited institutional opportunities for intervention, both due to a lack of stable political partners who would translate the church's moral-political position and also to the absence of direct access to decision making institutions.

The ideological orientation of the Portuguese hierarchy

The seventies also saw a shift in the ideological orientation of the Portuguese hierarchy, marked by the appointment of António Ribeiro, a moderate liberal, as Patriarch of Lisbon in 1971 (Barreto 2004: 12). Cardinal Patriarch Ribeiro was a moderate member of the reformist and progressive group that emerged in the context of Iberian Catholicism in the 1960s (Fontes 2013). In Portugal and Spain, the later years of the dictatorships saw the growth of a new generation of clerics critical of the strong links between the national hierarchies and the authoritarian regimes of Franco and Salazar¹⁰ and adopted a preferential concern for social reform (Pérez-Díaz 1991: 15). In an effort to reform the Iberian churches according to the spirit of the Vatican Council II, Pope Paul VI promoted these progressive clerics to bishops. D. António Ribeiro's choice to lead the Portuguese church in 1971 was a case in point (Barreto 2004). The Vatican's policy meant that

¹⁰ In Spain, the Franco dictatorship established the Catholic church as the official state religion; in Portugal, Salazar maintained a regime of separation between church and state.

the Portuguese church became an important ally of the democratic forces during the 1974-75 transition. To a lesser extent, this holds true for the Spanish transition period, as well (Casanova 1994).

D. António Ribeiro prepared the ground for the transition to democracy by starting to disentangle the strong link between the church and the New State and opening the way for the church to adapt to the loss of institutional access and fewer privileges (Barreto 2004; Fontes 2013). His moderate positions were crucial during the 1974-75 revolution.¹¹

The cleric that succeeded Ribeiro in 1998 was an eminent liberal theologian, José Policarpo. Renown for his theological teaching and writing, Policarpo's liberal Catholic intellectual inclination can be traced back to his academic formation. José Policarpo doctoral thesis "Signs of times: The Theology of Non-Christian Nations" (Policarpo 1971) was written in Rome at the Jesuit-led Pontifical Gregorian University, at the heyday of the church reform movement that led to the Vatican Council II (1962-65) aggiornamento of the church with liberal democratic values. The thesis was in line with the themes and approaches of the liberal Catholic doctrines. In an interview to a daily newspaper in 2001, Cardinal Policarpo acknowledged the profound impact that Pope Paul VI had on his doctrinal thought and actions: "Paul VI was an extremely courageous man, and a lucid one, with extreme openness to new values." (*Público* 2001).

As professor of the Theological Faculty of the Portuguese Catholic University, of which he became a Rector from 1988-1999, José Policarpo's theological writings and teaching focused

¹¹ This disengagement was to have a long lasting effect on the Portuguese party system: contrary to the religiosity does not organize the competition among the main Portuguese political parties (Montero, Calvo, and Martínez 2008: 11). The minority of „nuclear“ Catholics, who go weekly to church, voted as much for the Communist Party (*PCP*), as to the right conservative CDS. In 2002, „nominal“ Catholics who attended church about twice a month, were equally distributed in 50% of the votes for the PS, for the PCP and for the PSD (2008: 43).

on the proper role of the church in a secularized society (Público 2001). In the spirit of the worries of the Council fathers, he would state: "Nothing which is human should be indifferent to the church: politics, culture, the reorganisation of society, the fight for justice, family, cultural mutations and the change of life's ethical sense" (Policarpo 2003). The strong influence of the progressive liberal current among the Portuguese hierarchy can thus be seen as a continuous and intensifying trend among the Portuguese clergy from the early seventies to the end of José Policarpo's tenure in 2013. In the next section we will consider the influence of this current of thought in the strategy of the church during processes of moral policy change held during that period.

Analysis

To what extent does this data confirm our hypothesis that the ideological inclination of the hierarchy is a sufficient condition to determine a strategy of direct intervention? On the one hand, the absence of church agents within political parties in the campaigns for the two referendums on abortion, in 1998 and 2007, points to the influence of institutional legacies. Indeed, political parties acted largely independently of church authority and there were practically no organised Catholic factions within the party groups involved in the campaign. Plus, it was the Socialist governments, the party with the strongest link to the church instituted during the transition, that acted as main agents of moral policy liberalisation, even when the Catholic and socialist leader António Guterres was Prime Minister (1995-2002). The PSD, while traditionally more conservative in moral issues, also kept a strong reserve during the campaigns against abortion and same-sex marriage.

However, a thorough analysis of the hierarchy's actions shows that the hierarchy's self-restraint went beyond its relations with formal institutions, even when referendum campaigns opened opportunities for the expansion of church intervention through civic movements, thus showing the principled reserve towards direct interven-

tion in the political arena. Whereas Spanish bishops marched on the streets and Cardinal Rouco Varela threatened excommunication to those politicians engaged with liberalization, Cardinal Patriarch José Policarpo and the Portuguese Episcopal Conference forbade any clerical presence in street demonstrations, the use of the pulpit to campaign, and largely shunned from offering voting and policy-making advice to the population and to politicians. Also, while the hierarchy in Spain coordinated and supported the actions of civic protest movements, the Portuguese hierarchy maintained a reserved distance towards the Catholic civic movements, and this led several engaged Catholics to publicly demanding more support in their plight against moral policy liberalisation. Even though the hierarchy was aware of the divisions caused by its non-interventionist options during the 2007 abortion referendum, it accepted the costs and repeated the strategy in the 2010 same-sex marriage liberalisation process.

The analysis of Cardinal Patriarch Policarpo's political strategy, in particular during the referendum campaigns in 1998 and 2007, shows that liberal doctrinal convictions were sufficient to determine a church strategy of no direct intervention. Lack of access to institutions and the absence of alliances with political parties may determine the cost/benefit analysis of an intervention, but only if there is an ideological predisposition to intervene.

The effect of the ideological orientation of the hierarchy in processes of morality policy change proposed here is particularly useful to explain the differences between Portugal and Spain. Despite the fact that during the Spanish transition of 1975, the church's institutional access largely diminished, from the mid-eighties, the Spanish Catholic hierarchy was again led by conservative clerics who intervened directly in the political arena through their agents in political parties; the hierarchy support and organization of social movements involved in the campaign (Hennig 2012) were in favour of direct intervention in the political arena, and this determined

their political strategy regarding the processes of moral policy liberalisation, both in terms of establishing links with Catholic minorities within the Partido Popular and through direct action in morality policy processes (Meyer Resende 2015). In Portugal, however, after the death of Cardinal António Ribeiro in 1998 the liberal orientation of the Portuguese church was kept, and such orientation dictated a policy of non-intervention. From 1998 to 2013, Cardinal Patriarch José Policarpo led the church, and his liberal doctrinal teachings were translated in a reserved attitude of the church during the controversial debates leading to the change of the abortion and the same-sex marriage laws (2007-2010).

Conclusion

The analysis of Portuguese church behaviour during the process of moral political liberalisation is relevant not only because it is an exceptional case, but also because it links to broader theoretical debates. Empirically, we have observed a church hierarchy that has chosen to remain out of the political arena during the policy processes leading to a more permissive abortion law and the implementation of gay marriage. In theoretical terms, we have considered a question that religion and (morality) policy research has not addressed so far: is the ideological orientation of liberal Catholic national hierarchies relevant for the actions of the church during policy processes? While we consider institutional constellations as important, the Portuguese case shows that morality policy analysis should also pay attention to the ideology of the main actors involved. The case shows that the way national hierarchies respond to the decline of religiosity and the change of values, is itself an important element of secularisation. A liberal response may accept the limitation of clerical authority in an increasingly plural society. Secularisation is thus also a result of religious actors' reaction to socio-cultural changes, even in societies marked by centuries of Catholic monopoly of the religious space.

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