Institutional Change and the Incorporation of Muslim Populations: Religious Freedoms, Equality and Cultural Diversity

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1 Introduction

The incorporation of Muslim populations in West Europe, largely but not exclusively due to immigration, has resulted in a variety of changes. This chapter proposes a framework to think about the dynamics and politics of "host society" *institutional changes* in response to Islamic presence. Institutional changes include the creation of novel institutions and Islamic varieties of existing structures (such as Islamic religious schools or Muslim sections in graveyards), amendments of legal and constitutional arrangements, or changes in administrative practices. Of course, many institutional changes, for example in education, state-religion relations or health-care, are also, and often more strongly, caused and shaped by other factors, including demographic changes that are not primarily related to immigration (such as changes in the composition of the population in terms of age), social and cultural changes (individualization, greater social and physical mobility, secularization), technological changes, or "Europeanization" of policy domains. Still, the incorporation of Muslim populations did play a role, and it is on that role that I focus here.

One goal of this chapter is to contribute to the debate on "post-secularism", a term popularized by Habermas (2008), which has become a fashionable "buzzword" in discussions on changes in the relations between religion and the state, especially in relation to the position of non-Western religious minorities. In Haber-

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mas' use post-secularism simultaneously functions as a *descriptive* term to refer to the type of society we are living in (i.e., a society in which the "secularization thesis", which suggests that in the course of modernisation religion will disappear, has lost its plausibility), and as a *normative* concept prescribing how citizens should preferably understand themselves and deal with state-religions interactions (e.g. demanding that religious citizens are willing to "translate religious reasons into secular arguments", and that liberal states and secular citizens no longer "expect all citizens to justify their political positions independently of their religious convictions or worldviews") (Habermas 2008, p. 978; Jansen 2011, p. 979, see for a critical discussion Bader 2012). But, post-secularism is also a fighting term used against "militant" or "assertive" secularism, which is then seen as a normative model of state-church relations aiming to drive religion out of the public realm, often taking an idealized picture of the French model as an example to follow.[1]

Three positions can be identified at the intersection of debates on normative models of religious governance (what institutions and policies of religious governance *ought to* look like in liberal states) and debates on empirical patterns of accommodation of Islam in different countries (in what ways *do* church-state models shape opportunities and constraints for Islam): first, advocates of secularism-as-we-know-it suggest that existing institutions should not change at all, because they provide a good framework to which "newcomers" can and should adapt.[2] Second, there are those who identify with post-secularism as a fundamental critique of secularism as implicated in contemporary forms of imperialism and an ideology that is inherently unwelcoming towards non-European traditions and religions, especially with regard to Islam and Muslims.[3] Third, there are authors who agree with the idea that a critical re-evaluation of normative theories of secularism and of existing institutional arrangements is indeed appropriate.[4] This chapter aims to engage in a discussion with the third group and shed light on transformations of institutions in ethno-culturally and religiously diverse societies that, for normative reasons, are deemed necessary (Bader 2007, p. 153). With regard to church-state relations, for example, systems with "strong establishment" have great difficulty in

[1] See for excellent discussions of normative models of religious governance Bader (2007, Chap. 7), as well as Kuru (2009) and Monsma and Soper (2009).

[2] This position in defended, among others, by Paul Cliteur (2010).

[3] This position is defended, among others, by the antropologists Talal Asad and Saba Mahmood, see Jansen (2011) for a discussion.

[4] This is the position of, amongs others, Bader (2007, 2010) and Modood (2012). See also the debate on accommodation of Islamic presence in law and legal practice (Grillo 2012).

accommodating existing forms of religious pluralism in a fair and equitable way.[5] Cultural bias in favour of Protestant-Christian conceptions of what religion is and what legitimate religious expressions are (e.g., "belief-centred conceptions"), may disadvantage newcomers. Minorities may also invoke liberal principles to challenge other forms of majority cultural bias, be it in national identity definitions and symbols, public holidays and national celebrations, allowances for religious expressions in public institutions, or hate-speech and blasphemy legislation. As Modood observes: "the issue in Europe is about the status of a minority and *its right to change* the countries that it has recently become part of or is trying to be accepted as part of" (2012, p. 132, my emphasis, M.M.).

In view of contributing to this debate I will make use of literature on the governance of Islam in Western Europe (Rath et al. 2001; Fetzer and Soper 2005; Kuru 2009; Maussen 2007, 2009). A crucial overarching concept in that scholarly field is "patterns of institutionalization of Islam", referring to the situation of Islamic institutions in a country at a given moment in time, for example whether or not Islamic schools exist, how many and what kind of mosques exist, whether special Muslim councils have been set up, how states deal with the wish of Muslim girls to wear the headscarf, in what ways dietary requirements have been accommodated, and so on. Several studies have demonstrated that differences between French, Dutch or British ways of accommodating Muslim demands can be explained in light of interactions between, on the one hand, processes of Muslim mobilisation and advocacy, and, on the other hand, host country-specific institutional, discursive and political opportunity structures. Political opportunities consist of potential allies and opponents, cleavages within and among elites, and other external resources for collective action. Discursive opportunities more specifically refer to the ways and degrees in which demands resonate with prevailing discourses, cultural themes and frames (Koopmans and Olzak 2004). Finally, institutional opportunities for the accommodation of Muslim needs and demands are shaped by immigrant integration policies and church-state regimes (Maussen 2009).

In this chapter, however, I want to embark on a different path and explore in what ways we should also treat host-country institutional policies and regimes as "dependent variables". In short, I will argue that if existing arrangements are exposed as biased and unfair with regard to newcomers there will be incentives for them to change. If liberal normative principles are taken seriously, states

[5] Systems with "strong establishment" are for example Greece, Serbia and Israel, systems with "plural establishment" (such as Finland) or "weak establishment" (such as England) have fewer difficulties in accommodating newcomers in a more or less fair way (see Bader 2007; Fetzer and Soper 2005).

should be sensitive to "injustices that are the consequence of a lack of adaptation (of the historical legislative framework in place) to recent socio-demographic developments in contemporary European societies" (Foblets and Alidadi 2013, p. 31; also Bader 2007, p. 153 ff.). Institutional changes aiming to address these injustices are also likely to affect the lives and opportunities of non-Muslims.

The chapter is structured as follows. I begin by providing the theoretical framework to conceptualize processes of institutional change and formulate hypotheses on the ways Islamic presence has resulted in pressures on existing institutional arrangements. I then explore two policy domains in which processes of institutional change appear to have played a role: (1) religion-state interactions with regard to the financing of houses of worship; (2) hate speech legislation with regard to religious sensibilities. In this part I selectively draw on secondary literature and examples from France, the Netherlands, Spain, Denmark and Britain. In the conclusion I return to the importance of the exploration of processes of institutional change in relation to the discussions on normative models of state engagement with religiously pluralist societies.

2 Institutions and Institutional Change

Institutions are sets of regularized practices, which provide a rule-like quality to social interactions in a way that reifies, stabilizes and formalizes these interactions (March and Olsen 2006). They can be analysed at the level of specific organizations or concrete interactions, and at an aggregate level. For this chapter the relevant institutional arrangements are those related to governance of pluralism, including notably church-state relations, fundamental rights and freedoms, and national identity, citizenship and integration. Major amendments of legal and constitutional texts and substantive policy redirection are forms of institutional change.[6] Institutions tend to be relatively resilient (meaning there are many incentives to go on as before), but different clusters of factors can generate change. First, structural changes and (contingent) external shocks in the real world may lead to institutions being strained, and result in "problems of rule interpretation and enforcement" (Mahoney and Thelen 2010, p. 4). A second cluster of factors includes normative,

[6] See Koopmans et al. (2012) for an attempt to develop a methodologically sound operationalization of institutional and policy changes in the domain of citizenship rights for immigrants.

regulative, cognitive and institutional pressures (cf. Koenig 2007, p. 915).[7] "Europeanization" of issues related to governance of cultural and religious pluralism and the "constitutional development" of the EU in relation to its member states are now seen as important channels via which these pressures are being exercised on national institutions, notably also via the ECtHR and the European Court of Justice. Third, while structural forces and pressures may create openings for changes, there still need to be actors who will *do* something. Political groupings and alliances need to develop, campaigns must be raised, arguments made in favour and against changes, and so on. In the next section I will further elaborate on the ways the presence of a substantial Muslim population can be conceptualized as an incentive for institutional change in West European countries.

3 Islamic Presence and Institutional Change

Islamic presence has changed West European societies in many ways: nowadays we will find respect for Muslim dietary requirements in restaurants, canteens and supermarkets, changes are visible in the work place (e.g., with regard to holidays and other religiously motivated wishes) (see Alidadi et al. 2013), schools have developed ideas about what to do when pupils want to wear religious dress or perform daily prayers, housing co-operations build houses that are adapted to Muslim "customs and wishes", banks offer Halal mortgages, hospitals have changed procedures to accommodate religiously motivated wishes, specialized circumcision clinics have been founded, as well as provisions for Islamic spiritual care, and there are Muslim graveyards. We can think of these developments primarily as social phenomena, which are the aggregate outcome of changes in individual and collective behaviour, and that have spill-over effects on institutions and structures in the "receiving" society. For example, the fact that more people want to consume Halal meat may set off a dynamic of market formation: several commercial partners want to have a "market share" (including supermarkets), a system of certification may become necessary, and in that context further regulations with regard to (ritual) slaughtering may be

[7] Normative pressures play an important role with regard to governance of cultural pluralism because institutional arrangements also aim to realize fundamental principles and ideas about the ways societies *ought to* handle religious pluralism. Normative ideas may affect institutional set-ups via different mechanisms: constitutional-legal (for example when by signing an international covenant countries oblige themselves to adjust their institutions in a particular domain), or political (for example when groups mobilize and manage to enforce institutional changes).

developed, and so on (see Bergeaud-Blackler 2007). In this scenario institutional changes primarily follow changes of behaviour and preferences. At other times, however, transformations result from explicit *demands for institutional change* in view of accommodating Islamic needs.

At this stage it is useful to link the concept of institutional change to the theoretical debate on types of claims and demands. A familiar typology distinguishes between demands for equal or similar treatment ("parity rights") versus demands for exceptional treatment ("special rights") (Rath et al. 2001; Statham et al. 2005). Parity rights comprise demands where Muslims primarily ask that an existing right or entitlement is extended to them, whether this right is grounded in church-state arrangements or otherwise. In the case of special rights, the issue appears to be about the creation of a new right for which no uncontested equivalent exists. The boundaries between these rights claims are fluid and may depend on framing processes. For example, determining whether or not the right to wear the headscarf in a school is a matter of equal rights (to wear a symbol of religious affiliation) or of special rights (mainly Muslim girls cover their heads or faces) very much is inherent in these controversies. In addition, the discussions gets further complicated if equal rights are considered to be "individual rights", whereas special rights are seen as "group rights". That distinction is of course central to the critique of normative models of multiculturalism, and the idea that granting "group rights" to ethnic and religious minorities stands in tension to the liberal principle of equal treatment.[8] However, this twofold typology does not really capture a third type of claim, namely demands for a change of existing institutional arrangements in relation to new forms of cultural pluralism. What I have in mind are demands, or more accurately "dynamics of contestation", that may result from a politicisation of Islamic presence rather than from Muslim claims per se. Take the debate on representations of national identity. At a certain moment in time it may come to be seen as inappropriate if statespersons represent their country as "Christian", or if certain public ceremonies or symbols (such as the national currency) make explicit reference to a particular religion (see Modood 2012, p. 12).[9] Similarly, it seems reasonable to expect that at a certain point there will be protests against states that continue to favour particular religions and not others, for example by granting them an official

[8] See Duyvendak et al. (2013) for a critique that particular rights, such as the right to wear headscarves, should be considered as illustrative of granting cultural and religious "group rights" and hence of "multicultural policies". See Shorten (2013) for an insightfull discussion of the relations between individual rights, groups rights and institutional exemptions.

[9] See Joppke (2013) for a discussion on the legitimacy of an explicit reference to Christian identity in the context of European states.

status, financing some of their costs and protecting their members from offensive or blasphemous speech. I am reluctant to subsume this type of claim under the categories "parity" or "special" rights because it may be that the direction of change that is being asked for in the end moves towards *less rights or less exemptions for all* (religious) people, as was the case in the Dutch debate on ritual slaughter (Valenta 2012), and in debates on male circumcision and blasphemy legislation in several countries (see below). The issue may arise in a way that does not correspond to a demand for religious rights for Muslims, neither in the form of the equal application to Muslims of existing rights ("parity rights"), nor of the creation of "group rights" for Muslim ("special rights"), but as a demand for changes of the existing arrangements in view of a new societal context, of which Islam is now a part. This type of issues will arise when the debate centres on institutions and organizations that are also *but not exclusively* implicated in the governance of Islam (cf. Castor 2014, p. 4). This type of demand may give rise to intense contestation[10] and all kinds of coalitions and oppositions may emerge: opposing "free speech absolutists" versus actors defending protection from hate speech, "legal pluralists" versus advocates of uniform (national) legal systems, "defenders of animal rights" versus "defenders of cultural traditions", and so on.

In light of the above, I explore in the remainder of the chapter examples of public debates around (proposals for) institutional changes. I explore what types of adaptations of existing arrangements were being proposed to respond to social changes related to immigration and Islamic presence, and what kind of dynamics of contestation developed.

4 Financing of Houses of Worship

National and municipal governments are involved with houses of worship in different capacities, notably when it comes to siting (choice of location, architectural and aesthetic requirements, balancing interests of different stakeholders including the concerns of residents in the vicinity) and safety and general functioning (building

[10] Carol and Koopmans (2013, p. 167) have recently introduced a typology to distinguish between claims for religious rights that have more or less potential for conflict with the institutions and the dominant culture of the host society, and which may hence trigger intense contestation. They argue that claims will be more "obtrusive" if they demand religious rights in public institutions, and/or are related to non-mainstream Islamic practices, and/or when they refer to recognition of practices that have no uncontested equivalent in Christianity.

and fire protection requirements, preventing nuisance because of noise or parking). Another aspect concerns financial support for the creation, use and maintenance of prayer spaces. The issue of financing houses of worship is directly shaped by the legal-constitutional church-state regime. State financial support for houses of worship includes tax-exemptions (e.g., for real estate taxes), indirect subsidies (e.g., by giving out land below market prices or for a symbolical amount), direct subsidies for the creation, location or maintenance of prayer spaces, and subsidies for social, educational and cultural activities that can also be used by their attributors for the purpose of financing accommodations. Systems of public support have been shown to manifest "discriminatory bias" with regard to newly arrived religions and beliefs, and a recent study observed a trend throughout Europe of demands that "minority groups are better supported financially" (Foblets and Alidadi 2013, p. 34). The examples I discuss here are taken from debates in France, the Netherlands and Spain that, for historical reasons, all have strong institutional bias in favour of the financing of Christian houses of worship, predominantly Catholic churches in France and Spain, and Dutch Reformed churches in the Netherlands. The leading question is to see what attempts were made to make the system of financing more fair, especially towards Muslims.

All three countries have a constitutional model of "separation": religious institutions are not set up as government institutions, state neutrality on religious matters is a guiding principle, and private financing of religion is the norm (although as we will see what this entails legally, and in practice, varies). There are, however, important differences with regard to the legal-constitutional set-up of the model and the ways it actually operates. The French approach to state-religion interactions exemplifies a strict separation model, sharing characteristics with the American and Turkish model. By contrast, the Dutch and Spanish approach more clearly opt for "cooperation" resulting in more openness towards organised religions, illustrated by financial support for faith-based institutions, such as religious schools and welfare organizations, and a more relaxed approach to the presence of religious symbols in the public realm and in public institutions. How did Muslim demands for recognition impact upon the institutional framework for the financing of houses of worship in each of these countries?

The principle that the state does not "pay salaries or other expenses for any kind of worship (*culte*)" is articulated in article two of the 1905 French Law on the Separation of Churches and the State. This meant a break with the preceding regime of the Concordat (+/- 1801 to 1905) in which the state paid the salaries of priests, owned the real estate of churches and paid for their upkeep. Many direct and indirect subsidies for the construction and upkeep of religious building still exist however. Because the Catholic church successfully resisted the implementation of

the 1905 law unto the mid-1920s, Cathedrals and churches have actually remained public property (of the state and municipalities respectively). The maintenance costs of these buildings are hence covered by public funds. Besides, the owners of other religious buildings (including all houses of worship built after 1905) still are entitled to receive subsidies for restorations, and they can benefit from various indirect subsidies (including tax exemptions). Furthermore, both the state and several cities have incidentally, and for exceptional reasons, decided to sponsor the building costs of houses of worship after 1905 (see Machelon 2006, p. 21). Finally, in the mid-1930s a legal possibility was created for municipalities to give out land in long term lease for a symbolical amount (a so-called *bail emphytéotique*) in view of enabling the construction of a religious building (Maussen 2009, pp. 46–48; also see the country chapter on France in this volume).

It is clear then that there is a bias in the French system in favour of financing the costs of upkeep of Christian churches, but that there are also opportunities to include newcomers in existing forms of indirect financing. In what ways have these institutional opportunities been challenged or changed in relation to the demands and needs of Muslims? Demands for support and subsidies for mosques were turned down systematically in the 1980s and early 1990s, when principles of "Republicanism and *laïcité*" were revitalized in debates on immigrant integration and Islamic fundamentalism (Fetzer and Soper 2005). In the mid-1990s, however, several municipalities such as Montpellier, Nantes and Rennes, had begun to subsidize mosque building directly or indirectly. Sometimes a municipality would claim to merely sponsor a "multipurpose space" (*une salle polyvalente*) which was then "rented out" to a mosque association. At other times a municipality would allow Muslims to benefit from existing legal provisions for religious organizations (such as a long term lease). In other municipalities, by contrast, public authorities were unwilling to help or even claimed building sites for the "general interest" (using their "right to dispensation" (*droit de préemption*)), in order to prevent the building of a mosque.

Tensions were building up in the course of the 1990s and the media repeatedly reported on the disadvantaged position of Muslims, especially with regard to the situation of mosques (Maussen 2009, p. 150 ff.) In 2000 the High Council on Integration (HCI) concluded, in a report entitled *Islam in the Republic*, that the fact that Islamic worship was still housed in inadequate "garages and basements", combined with the perception that municipal authorities were actively obstructing efforts to create more adequate housing, had created a climate in which feeling of injustice became more pronounced, especially among younger generations (HCI 2000, p. 37). Discursive opportunities thus emerged to demand a more fundamental review of existing institutions. However, it would take until the so-called

Consultation on Islam in France (+/- 1999–2005), before steps were taken to adapt policy approaches. The Consultation gained momentum against the background of the constant media attention for the disadvantaged position of Muslims, illustrated by pictures of Muslims praying on the street, but also in a post 9/11 context in which the government wanted to show that a "normalized Islam" could find its place in France. In terms of policy redirection and measures to address a situation of discriminatory bias vis-à-vis Muslims three avenues were embarked upon.

First, the national government issued a series of directives on the issue in 2000, 2005, 2009 and 2011.[11] Basically these directives did not include new legislation but simply explained what existing legal opportunities were. This was essentially an effort to harmonize municipal approaches, targeting the semi- and illegal methods of municipalities that were supporting mosque establishment *and* those that were actively opposing it. An important message of these directives was that in order to accommodate Islam in an equitable way there was no need to change the institutions but municipal practices and attitudes of local authorities should become more forthcoming in accommodating Muslim needs. In addition, the government emphatically tried to explain to Muslim organizations how they could benefit from the legal framework and opportunities for indirect financing, notably by simultaneously setting up religious (cultic) and cultural associations.

Second, a more radical proposal was to set up a special subsidy scheme to allow immigrant minorities, and Muslims in particular, to "catch up". This was framed in relation to the need to produce an adequate infrastructure for Islam in France, creating a "French Islam" rather than an Islam "in but not of France", a goal that was passionately pursued by Minister Nicolas Sarkozy. At the local level it primarily meant creating opportunities for "vicinity Islam" (*l'islam du quartier*) and adequate housing of mosques. In this context, Sarkozy had suggested in October 2004 amending the 1905 law in order to allow for the direct financing of mosque building. In May 2005 a *Commission de réflexion juridique sur les relations des cultes avec les pouvoirs publics* was installed, presided over by the legal scholar Jean-Pierre Machelon. That committee suggested in 2006 to set up a scheme of direct subsidies for the building of houses of worship *for (immigrant) religious newcomers*, suggesting this was in line with twentieth century legal practice and tradition. A subsidy scheme would illustrate a commitment to guarantee effective religious freedom for disadvantaged groups and it would show the willingness to

[11] See Maussen (2009). The latest directive dates of July 29 2011 and is entitled "Edifices du culte: propriété, construction, réparation et entretien, règles d'urbanisme, fiscalité" (NOR/IOC/D/11/21246C. Available via: http://www.legirel.cnrs.fr/IMG/pdf/110729.pdf. Retrieved January 15, 2014.

interpret equal treatment in a historical and contextual manner. Besides it would have the advantage of introducing more "transparency" in the financing of mosques because "foreign investments" from Arab countries would become less necessary (Machelon 2006; Maussen 2009, pp. 182–183). If this proposal would have been implemented it would have meant a quite drastic institutional change for French secularism. However, the committee's recommendations were confronted with massive political protest and represented as an all-out attack on secularism. A new working group of legal advisers was installed and in the end the government decided merely to issue another directive (in 2009). Rather than pursuing a major institutional transformation a choice was made to again explain better what legal opportunities existed, based on the idea that existing secular arrangements were adequate to deal with the issue.

Third, another option was created in the form of a Foundation to Finance Islam in France (*Fondation pour les œuvres de l'islam en France*) in 2007. This foundation, created under private law but then categorized as accomplishing a public interest (*d'utilité publique*) would collect funds from private domestic and foreign donors, which could then be used to finance worship costs, including the building of mosques. Due to a series of disagreements on the management of the foundation it has not yet been a viable structure to coordinate the financing of mosque building in France, even though there are efforts to launch it again and make use of the funds that were already collected.[12]

Even though France thus eventually did not carry through major institutional transformations[13], in the meanwhile several aspects of institutional discriminatory bias towards mosque building had been quite effectively addressed. In large part this resulted from efforts by Muslim communities themselves, that with the help of more forthcoming municipal authorities could now pursue mosque building projects.[14] Also the explicit articulation of institutional and legal opportunities via the earlier mentioned Directives strengthened the position of local Muslim organisations when demanding fair treatment.

In the Netherlands subsidies by the state and local governments for Christian churches were believed to be legitimate throughout the ninteenth century and the first half of the twentieth century. After World War II local governments

[12] See "L'ultimatum de Valls pour relancer la Fondation des œuvres de l'islam" *Saphir News*. January 13, 2013.

[13] In April 2011 the French Secretary of State on Housing, Benoist Apparu, seemed to re-open a debate on direct financing which, so he suggested, was a possibility to avoid the problem of "foreign financing" and of people worshipping "on the street". No follow up was given to this idea. See "Il faut un pacte nouveau avec les religions" in *Le Monde*, April 2, 2011.

[14] See "Les lieux de culte musulmans ont doublé en vingt ans" in *Le Figaro*, August 31, 2011.

continued to sponsor church buildings (in total they spent 19 million guilders between 1946 and 1960), but because there was no national regulation there were unwanted discrepancies between municipalities. Following the advice of a special commission (the commission Sassen), the Church Building Subsidy Act of 1962 harmonized these practices by guaranteeing 30 % subsidies for the costs of church creation, which was also seen as legitimate given "the importance of church going and attendance of divine services" (*een sterk kerkelijk leven*) (Maussen 2009, p. 54). Similar arguments in favour of state funding were made by a Commission of State on Religions that reported in 1967. It also deemed state subsidies legitimate, because of the importance of religious freedom and given the general value of religious life for society. It went without saying that these forms of support were about Christian religious life.

However, by the time these advices were published and legal amendments made, important societal and political changes had set in. In a de-pillarizing society direct state support for religion was increasingly seen as inappropriate. The government decided to move towards a model of non-financing and a constitutional amendment of 1972 abolished article 185, which had been the basis for the financing of religion. A precondition for the ending of existing subsidies was that an agreement with the churches would have been made (which happened in 1981). The Church Building Subsidy Act was thus rescinded in 1975 and formally abolished in 1982.

This development of the Dutch church-state regime towards a system of "non-financing of religion", had set in before the immigration of Muslims became an issue. Representatives of Islamic and Hindu communities were invited to participate in the talks about disentangling the financial ties between state and churches (in the early 1980s), but it was clear to everyone that this process of institutional change primarily involved the well-established Christian organizations, and primarily the Dutch Reformed Church.

The lack of adequate housing for Muslim "guest workers" and post-colonial immigrants from Surinam appeared on the agendas of municipal authorities in the mid-1970s. Actually, in 1975 the alertness of a local official allowed one Turkish mosque to profit from a subsidy because of the Church Building Subsidy Act just before it was rescinded. That Act had been formulated in an inclusive way and made subsidies available for all religions and denominations, including the "Mohammedan religion". Municipalities were in doubt about whether, and if so how, they should assist Muslims in creating more adequate prayer facilities. The national government issued two subsidy schemes (between 1976–1981, and 1981–1983) to cover up to 30 % of the costs for the creation or refurbishment of prayer houses.[15]

[15] The General Regulation for the Subvention of Prayer Houses (1976–1981), prolonged until 1983.

However, these measures were not framed in terms of a principled choice in favour of direct state support, nor as about a fundamental reconsideration of existing institutional arrangement in relation to a new societal reality. Rather, they resulted from a concern about the welfare and "cultural and religious life" of immigrant (guest) workers (Maussen 2009, p. 129–131).

This changed in the 1980s, however, when the idea got hold that the Dutch legacy of "pillarization" and the institutionalisation of a fairly even-handed approach to Protestants, Catholics, Jews, and non-religious "life convictions" created good opportunities to accommodate Islam in an equal manner (Monsma and Soper 2009, p. 84, see the chapter on the Netherlands in this volume). Two advisory commissions were to reflect on the issue. The Waardenburg Working Party, advising on "Religious facilities for ethnic minorities in the Netherlands" in 1983, deemed financial support necessary to guarantee effective religious freedom to newcomers, and to support emancipation and integration of immigrants "with maintenance of cultural identity". However, there was now more political resistance against such a subsidy scheme, which was seen as an infraction upon the principle of separation of church and state. A new commission, named the State Committee concerning Subsidies to Churches and other Religious Societies, presided over by the legal scholar and prominent member of the Christian Democrat Party, Ernst Hirsch-Ballin, was asked to provide a more principled answer to the issue, primarily looking at constitutional arrangements (amended in 1972 and 1983). This commission concluded in 1988 that it was both legitimate and recommendable to install a temporary subsidy scheme allowing religious newcomers to "catch up". The members of the committee believed that equal treatment demanded that Muslims and Hindus were compensated for the fact they had not profited from the generous subsidy schemes of the past. They also thought that constitutional rights should exist effectively and not only formally, which in this case could justify support for the creation of adequate prayer houses. The report was illustrative of a principled willingness to critically scrutinize legal arrangements and adapt them to address injustices towards non-Christian newcomers.

However, by the time a proposal to create a temporary subsidy scheme covering 30 % of the costs of the creation or renovation of houses of worship for immigrants was on the political agenda in the early 1990s there hardly was any political support left. Dutch multicultural policies were increasingly criticised, and a proposal that seemed grounded in a policy of "support for maintenance of cultural identity" was now seen as undesirable. Moreover, secular parties were keen on dismantling the alleged "remnants of pillarization" and privileges for religious groups. From both angles a special scheme for financial support for Muslims and Hindus seemed inappropriate and in 1991 the Minister of Internal Affairs declared the discussion ended (Maussen 2009, p. 211).

Despite the fact no schemes for direct subsidies have existed since 1983 there are still opportunities available for indirect subsidies for renovation of houses of worship and tax exemptions for real estate and religious organizations (see Van Sasse van Ysselt 2013). Yet, these arrangements continue to privilege Christian groups (and sometimes Jews), for example when subsidies are available under the Monuments Act, a category including mostly church buildings and sometimes a synagogue. Furthermore, if one would genuinely take into account the balance between needs of particular groups and the financial means they can collect, as well as the historical development of Dutch policies in this domain, it still appears there is a negative bias towards newcomers. On the other hand, nowadays Muslim organisations overall have a better financial position than 30 years ago and even if they do not have the special status of "religious body" (*kerkgenootschap*) they can still demand similar treatment, for example for tax exemptions, which makes the model relatively inclusive. At the municipal level some cities have sought to creatively invent additional forms of indirect support, mostly in the form of "land swaps", renting out land below market prices, or financing "cultural activities".

Between 1835 and 1851, Spanish authorities, in an attempt to gain control over the church, outlawed the traditional church taxes and expropriated 90 % of the Church's property. The state therefore owned the real estate of the Catholic Church when it concluded a Concordat with the Vatican in 1851 and agreed that the state would finance the costs of Catholic worship, mostly buildings and salaries. During the Second Republic (1931–1936) a clear separation of church and state was installed, but under the rule of Franco (1939–1975) the Catholic Church was restored as the established church and financial support by the state continued. The transformations of Spanish church-state institutions after 1978, also with regard to the issue of financing, were part of a transition towards a democratic regime and to a model of "separation of church and state", which were taking place in a delicate political context, and with the need for the government to maintain the support of the Catholic Church. One of the guiding principles of the new system, that was modelled in reference to the German and Italian constitutions, became "cooperation with religious groups" (Contreras Mazarío 2007, p. 585; also see Astor in this volume). Secularism was understood primarily as non-establishment and impartiality of the state towards any religious group in particular. Still, the institutional development since 1978 shows a tension between a tremendous institutional bias in favour of Catholicism, and a not yet completed struggle to create a more equal position for other groups, Islam among them.[16]

[16] For Spain regional differences play a greater role than for France and the Netherlands, due to the existence of "autonomous regions" and because governance of Islam is increasingly decentralized (Astor, this volume).

Given the intimate financial ties with the Catholic Church, an agreement was made in 1979 for a gradual transition process that should end in a "self-financing" church (Garcimartín Montero 2006). In a first phase (until 1987) the costs of the Catholic Church were covered by a special part of the state budget. In a second phase (starting in 1988) more and more of this budget was to be replaced by funds collected via "tax assignments". This system entailed that the state allocated 0.5 % of the income tax to "the maintenance of the Catholic church or social concerns", and allowed individual tax payers to choose to which one they wanted to allocate their share. The state would initially directly finance what was lacking (this happened until 1994[17]), and this would then gradually become a loan, until the church would be fully financed via tax assignments. However, it became clear that not enough money was being collected via the tax assignments and in 2000 a new system was introduced that created more options, including the opportunity for tax payers to attribute money both to the Catholic Church *and* to social concerns. The state still guaranteed to pay for the difference if the total revenues collected through tax assignments were not sufficient. Given the slow pace of this "transition", the Catholic Church continued to receive substantial state support.

In this light we should consider processes of institutional reform, involving both a process of adaptation to a constitutional regime of separation and to a society that was slowly becoming more religiously diverse. The vast majority of the population was still Catholic, and pluralisation firstly concerned the small Protestant and Jewish minorities, whereas Islam only transformed into a real "minority religion" in the 1990s (Astor 2014, p. 10). Some indirect forms of financing were opened up to religious groups that had successfully negotiated a Cooperation agreement with the state in 1992 (Protestants, Muslims and Jews) and were in that sense "recognized" and obtained the right to teach religion in schools, the right to be buried according to religious traditions, and the right to provide religious care in public hospitals. Other groups later obtained a status as being "deeply rooted" (*notorio arraigo*) in Spanish society (Mormons (in 2003), Jehova Witnesses (in 2006), Buddhists (in 2007) and the Orthodox Church (in 2010)).[18]. Islam was thus legally recognized in 1992, at a time when only a small group of Muslims lived in the country. Astor (2014, p. 6) argues this was related to "the instrumental value of Spain's Muslim heritage for political projects aimed at refashioning Spain as a modern and plural society during the post-transition period." These minority groups could therefore benefit from a

[17] Actually already between 1991–1993 the additional state money was supposed to be a loan, but given the fact that the debt of the Church grew dramatically in this period it was decided to make these into gifts (Garcinartín Montero 2006, p. 184).

[18] I am grateful to Maria del Mar Griera for enlightening me on this topic.

privileged fiscal policy that exclusively applies to religious organizations (Contreras Mazarío 2007, p. 589). Organizations are then exempted from certain taxes and the living quarters of ministers are also exempted from property taxes.[19]

These measures did not really take away major obstacles to giving a fairer treatment to religious newcomers. The Muslim population grew rapidly since the mid-1990s and mosque creation became a public issue.[20] The question was whether for the non-Catholic groups some additional system of funding should be created. It seemed unwise to introduce a (temporary) system of *direct* financing for them (either directly via the state budget or via tax assignments), because the ultimate aim remained to reach a situation of private financing of religion for all. Yet, obliging the other denominations to finance themselves, while letting the Catholic Church benefit from a prolonged "transition regime" in which it still received massive financial support of the state, was obviously also unfair.

New political and discursive opportunities emerged, somewhat counter intuitively, in the wake of the Madrid bombings of 2004. For one, the government announced its intention to finance mosques in order to address the spreading of Islamic radicalism via transnational networks. A solution was found by setting up a special Foundation of Pluralism and Coexistence (in 2005) that would temporarily be sponsored. As an official explained: "as long as complete self-financing of all the religious denominations in Spain is not achieved, funds of up to 3,000,000 € will be made available to finance projects contributing to the greater social and cultural integration of the religious minorities in Spain, represented by non-Catholic denominations with an agreement of cooperation with the state" (cited in Garcimartín Montero 2006, p. 190).[21] The Foundation should financially contribute to the "execution of programmes and projects of a cultural and educational nature, or for social integration" by non-Catholic faiths (idem). Officially, the state still does not finance worship, but because a broad range of other activities can be financed directly (via the foundation) and beneficiaries have autonomy in the allocation of funds, religious organizations may well decide to use their own private means for the costs of worship (e.g., housing and salaries) and use subsidies for all other kinds of costs and activities (Garcimartín Montero 2006. p. 195). This means that a

[19] In order not to create too many disadvantages for groups that have not concluded such a formal agreement the opportunity of claiming a status of being "deeply rooted" (*notorio arraigo*) in Spanish society also exists.

[20] Paradoxically in this period some large scale mosque projects, financed with foreign funds, were realized, notably in Madrid and Valencia, which were still framed as belonging to Spain's natural openess to Islamic culture (Astor 2014, p. 8).

[21] This budget has been substantially reduced since 2011 due to the economic crisis.

system of quite substantial state financing of non-Catholic religious organizations, including Islamic ones, has been created. In addition, the regional government of Catalonia as well as several city councils have sought to facilitate, also financially, the building of mosques, even though the economic crisis and political protests have oftentimes hindered the effective implementation of these plans (see Astor 2014).

5 Protection from Hate-Speech and Blasphemy

A second policy domain in which Islamic presence has become related to host-country institutional changes, concerns opportunities to criminalize discriminatory speech. This domain is well suited for the purposes of this chapter because the debates involved many instances of challenges to existing (hegemonic) cultural understandings, for example with regard to what should count as (deeply) "offensive" speech (Butler 2009) and as "transgressive humour" (Kuipers 2011), and about whether there exist unwanted forms of institutional bias in favour of, on the one hand, guaranteeing freedoms of expressions for extreme "secular speech" as opposed to extreme "religious speech", and, on the other hand, a willingness to protect the sensibilities of Christians and Jews more than those of other religious and non-religious people. The events around the publication in 1988 of Salman Rushdie's novel *The Satanic Verses* still stand as paradigmatic in this respect. I look here at debates on the need to address the spread of anti-Islamic discourses, especially debates on proposals revising blasphemy and hate speech legislation.[22] I discuss these debates in Britain, and more briefly in Denmark and the Netherlands.

In Britain the 1997 Runnymede Trust report on *Islamophobia* already recommended creating new legal provisions to punish "incitement to religious hatred". Eventually, the so-called Racial and Religious Hatred Act of 2006 amended legislation in view of making it possible to punish speech and acts that intentionally stir up religious hatred (Goodall 2007, p. 90). This Act is often considered illustrative of British multiculturalism and the willingness to "create space for minority groups within the law to find recognition of their cultural, ethnic and religious identity" (Grillo 2007, p. 120). I will not discuss whether or not the Act struck a good balance between the principle of free speech and protection from harm, but explore how calls for changes of hate speech legislation were to a significant extent triggered by Islamic presence.

[22] I use "hate speech legislation" as a short hand to refer to legislation that criminalizes incitement to violence, discrimination, "communal libel", "group insult", and so on (Maussen and Grillo 2014).

In the British[23] context three main opportunities were discussed to *criminalize* speech that is seen as injurious and harmful to religious people: the Race Relations Act, the Public Order Act, and the blasphemy law.[24] The Race Relations Act was introduced in 1965 in the context of inter-racial violence and it sought to deal with forms of racism and racial discrimination that did not breach public peace, and could therefore not be seen as an offence under the Public Order Act (see below) (Fennema 2000, p. 131). It was amended in 1976, in connection with the ratification by the UK in 1969 of the International Covenant on the Elimination of all Forms of Racial Discrimination (ICERD). As its name demonstrates the goal of the Race Relations Act was to combat *racial* discrimination and it defines "racial grounds" as meaning "any of the following grounds, namely colour, race, nationality or ethnic or national origins" (this was amended in 2000, see below). The Public Order Act of 1986 also, includes the criminalization of speech that can "stir up racial hatred". Since it is in place, the courts have ruled that "race" can include mono-ethnic groups defined by particular characteristics such as a shared history, cultural tradition and language, including Jews and Sikhs[25], but not Muslims, Christians, Hindus and Rastafarians, that are said to be defined by their religion (Nash and Bakalis 2007, p. 351; Bleich 2011, p. 24). Finally, the "law of blasphemy" (abolished in 2008) made it a crime to "vilify and make light of religious belief or to ridicule the central figures of Christianity" (Nash and Bakalis 2007, p. 352). This law served foremost to protect Anglican Christian beliefs associated with the Church of England.

The aforementioned Racial and Religious Hatred Act of 2006 actually is an amendment to the Public Order Act. The idea of using this law to protect non-Christian religious minorities from hateful speech reappeared on the agenda against the background of the events of 9/11 and political debates about terrorism, security

[23] I focus on Britain here, meaning laws that are binding on England and Wales, but not always on Scotland and Northern Ireland.

[24] As (Goodall 2007, p. 92) observes these special arrangements exist alongside some other, more general, legal provisions such as "religiously aggravated" offence under Sect. 5 of the Public Order Act or the common law criminalizing any incitement of another to commit a criminal act. However, amendations have also been made to these laws, for example the Crime and Disorder Act of 1998 had only included "racially aggravated" in its formulation, but the Anti-terrorism, Crime and Security Act of 2001 also covered "*religiously* aggravated" offences (Grillo 2007, pp. 119–120).

[25] See the so-called "Mandla case" of 1982, which was about a Sikh boy who was refused entry to a school in Birmingham because he was wearing a turban. In this context the application of the concept "ethnic groups" to Sikhs in the context of racial discrimination legislation came up. I am grateful to Ralph Grillo for bringing this to my attention.

and radicalism.[26] A Select Committee on Religious Offences in England and Wales, which was established in 2002 to reflect on possibilities to protect minority religious communities, deemed an "incitement to religious hatred" Act necessary. By including a separate item on incitement to "religious *hatred*" the Act sought to remedy the unequal treatment that resulted from the fact that some religious groups were considered sufficiently "ethnic" to qualify as "racial groups" (incitement to racial *hatred* was already criminalized), whereas others, notably Muslims, were not. An important contextual motive to correct this "gap in the law" (Goodall 2007, p. 91) was that Muslims were particularly prone to be victims of hate speech, notably after the July 2005 London bombing by radicalized British Muslims.

There was in principle also the opportunity of reconsidering the 1976 Race Relations Act, which also did not include an explicit reference to punishment of incitement to religious hatred or religious discrimination.[27] There were indeed institutional and political pressures to change this legislation, but they were not primarily driven by the above-mentioned debates in Britain, but involved institutional pressures at the European level. In line with EU Equal Treatment Directives, Britain has amended the Race Relations Act via new Equality Acts of 2006 and 2010, which have included a broader set of grounds for speaking of discrimination in a legal sense, now also involving distinctions on the basis of religion or belief, sexual orientation, and age.

Another illustration of contestations around the unfairness towards Muslims of British institutional arrangements with regard to hateful speech is the blasphemy law (also see Weller and Cheruvallil-Contractor in this volume). Actually, in 1991 there was an (unsuccessful) attempt by a Muslim man (Mr. Choudhury) to launch a prosecution against Salman Rushdie for offences against Islam in *The Satanic Verses*. This failed because the Magistrate noted that the blasphemy law only protected Christians, which brought the Archbishop of Canterbury (Robert Runcie) to suggest that the law should cover all religions (Tomes 2010, p. 242). British blasphemy laws should be situated in the context of an "Anglican constitutional order" (Hunter 2013), comprising the intention to "defend the religion of the land established by law" and to protect public morals (Nash and Bakalis 2007, pp. 360–61). The contin-

[26] The plan for a new law was initially proposed to be included as a part of the Anti-Terrorism, Crime and Security Bill in 2001.

[27] Importantly, in its original formulation of 1965 this Act preceded the ratification by the UK of the ICERD. Whereas many other countries, such as France or the Netherlands, changed their hate speech legislation in the 1970s to cover incitement to hatred for membership of national, ethic, racial *or religious groups*, in the British context the focus remained on "race" and the phrasing it used was to define "racial grounds" as meaning "any of the following grounds, namely colour, race, nationality or ethnic or national origins".

uation of a blasphemy law exclusively protecting (Anglican) Christian sensibilities seemed to be undermining attempts to place all religions on equal footing.

The debate on revising the blasphemy law then reappeared in the context of the Racial and Religious Hatred Act, when Lord Avebury suggested that the new Act should be a motive to abolish the offence of blasphemy. This option had been discussed, alongside other possibilities, by the Select Committee on Religious Offences mentioned above. Interestingly the Muslim Council for Religious and Racial Harmony, that was audited by them, suggested that a repeal of the bill was a form of "negative equalization" and instead proposed to introduce legislation against incitement to "sacrilege and abuse of religious sanctities" of which it deemed Rushdie's *Satanic Verses* an illustration (Hunter 2013, p. 418). In January 2008 a new debate was initiated by public figures, who demanded the abolition of a law that was discriminatory, had a chilling impact on freedom of expression and was unlikely to actually serve as a basis for conviction.[28] The Archbishop of Canterbury (Rowan Williams) stated that the Church of England would not oppose the abolition, but other Christian leaders and institutions were more reserved, fearing the abolition would send out the wrong signal with regard to respect for religion in general and the special role of Christianity for British history and culture in particular. An Act of Parliament effectively abolished the blasphemy laws in May 2008.

With regard to hate speech legislation and anti-discrimination legislation the British case was somewhat exceptional in the way a discriminatory bias was created against religious (as opposed to racial or ethnic) groups, and at the disadvantage of Muslims in particular. In Denmark and the Netherlands hate speech legislation was also amended following the ratification of the ICERD, but they included religion immediately as a possible ground for criminalization. In the Netherlands group insult and incitement to hatred, discrimination or violence on account of race, religion or belief, gender, hetero- or homosexual orientation, or handicap are criminal offenses since 1971 because of article 137c and d of the Criminal Code. Even though there have been recurrent debates on whether or not the phrasing of these articles should change, the most important changes have been in legal practice and interpretation. Of particular relevance have been changes in the politicisation of hate speech bans over the past 20 years (Van Noorloos 2014). Both in Denmark and in the Netherlands there have been debates on whether legal practice (as well as public outrage) are biased towards particular forms of hate speech, notably whether there is more moral indignation with regard to anti-Semitic speech (see also chapter on Denmark in this volume). The degree to which the Dutch law in these days

[28] The immediate context for this event was the conviction of a British school teacher in Sudan for naming a clasroom Teddy Bear "Mohammed" (Tomes 2010, p. 247).

effectively can help protect Muslim sensibilities and criminalize certain forms of Islam critique found a test case in the trial of Geert Wilders. In 2011 Wilders was acquitted for several statements, including the comparison of the Koran with Mein Kampf and his propaganda film Fitna (see van Noorloos 2014, pp. 256–258). Also in the Netherlands the idea of making use of the article on "scornful blasphemy" in the Criminal Code in order to protect Muslim sensibilities has figured in the public debate. Paradoxically a controversial suggestion to make use of this legal provision (that was in actual fact "dormant" and there had been no prosecutions since 1968) in view of addressing anti-Islamic discourses, which was made in the context of the assassination of the filmmaker Theo van Gogh in 2004, by then Minister of the Interior, the Christian-Democrat Piet Hein Donner, resulted in a renewed political debate to abolish this piece of "outdated" legislation. Eventually, in April 2013 the Parliament voted in favour of abolishing the law and in December 2013 the Senate did the same. However, the senate simultaneously accepted a motion asking for exploration of additional ways of protecting religious sensibilities.

In Denmark the idea of scrutinizing blasphemy legislation in relation to Islamic presence also arose, but in very different terms. The idea of abolishing the blasphemy provision was actually put on the agenda by the populist Danish People's Party in the 2000s, as a way to avoid that Muslims might want to use it to demand punishment of those who offended Islam and Muslims. Against the background of the assassination of Theo van Gogh and the broadcasting of his film "Submission", the party defended changing the legislation by stating: "Now the law is suddenly highly relevant, since Muslims have taken legal action against [TV channels] DR and TV2 for offending their religious feelings by broadcasting the film 'Submission' by Theo van Gogh" (cited in Larsen 2014, p. 203). Signe Larsen has shown how in the Danish debate the positions on whether one would be for or against having a law on blasphemy were not represented as opposing religious people versus secular people, but as opposing protestant Danes and non-integrated Muslims. Protestantism was represented as a "blasphemous religion" itself, in which believers and religious leaders had dared to step up against (Catholic) religious dogma. Blasphemy was therefore fundamental to the type of religion critique that was necessary for modernity and change, which was why Islam and Muslims had great difficulty in coping with it. Furthermore, the need for Muslims to learn to cope with satire and critique with regard to their religion was being represented as a requirement of cultural integration. As Fleming Rose, the editor of Jyllands-Posten publishing the Muhammad cartoons, observed, the cartoons should be seen as: "an act of inclusion, not exclusion; an act of respect and recognition" (cited in Larsen 2014, p. 206). The experiences in both countries show that the dynamics of public and political debate were such that there was progressively less understanding for legal provisions to protect religious sensibilities, and least of all those of Muslims.

6 Concluding Observations

The debate on "postsecularism" and the normative literature on church-state relations tend to focus on how institutions *ought* to change in view of accommodating Muslim needs and demands. The aim of this chapter was to conceptualize and explore *empirically* what processes of institutional change have looked like in Britain, Denmark, France, the Netherlands and Spain. Even though the unfair treatment of Muslims has been articulated repeatedly and in different policy domains, it makes more sense to speak of "episodes" of contestation and debate, rather than of a constant pressure on existing institutions. *When* these episodes occur varies per country and depends not only on Muslim mobilization but also on shifts in opportunity structures and upon many relevant "external events" and socio-political processes. The latter include notably: the steady rise of a "secular voice" and political spokesmen demanding further seculization of church-state arrangements (since the 1970s, especially in the Netherlands and Denmark); the rise of populist parties riding on an anti-Islam ticket (in France since the late 1980s, in the Netherlands and Denmark since the late 1990s); shifts in immigrant integration policy paradigms, first towards "multiculturalism" (in Britain and the Netherlands in the 1980s in Spain somewhat later) and then towards "assimilation" (shifts were most remarkable in the Netherlands and Denmark); growing concerns about Islamic radicalism coupled to the political will to demonstrate that "normalized Islam" can find its place and that preventing hate-speech against Muslims is taken seriously); and "external events" such as intense debates on free speech (the Rushdie Affair, the Danish Cartoons) and terrorist attacks (9/11, the assasination of Theo van Gogh, the Madrid and London bombings). Changes in opportunity structures shape the course that discussions on institutional changes will take, and the outcomes are therefore relatively unpredictable and contingent.

Roughly three options are commonly explored: first, pluralization of existing arrangements to allow for a more equitable position of Muslims as religious newcomers, second, further "secularization" of arrangements in view of abolishing (perceived) pro-religious and/or pro-Christian bias, and, third, maintaining existing arrangements either because they are said not to discriminate against newcomers and/or because the existence of majority bias for cultural and historical reasons is seen as legitimate and claiming that it is up to Muslims to adapt and "integrate". Far from witnessing an incremental process in the direction of more accommodation and "evenhanded inclusion", this chapter has demonstrated that processes of contestation develop and that responses can move in different directions. Not all options are equally viable though, and national and European legal-constitutional constraints exist that set limits to unequal treatment of (religious) minorities.

The examples and discussions that were documented in this chapter do not lend themselves to formulating firm empirical conclusions. Yet, several observations can be made by way of conclusion. First, the motives behind specific institutional amendations vary, and more than once the promotion of equality was not a primary objective. State subsidies for mosque creation, for example, has been justified as a way of promoting maintenance of ethnic identity, preventing radicalization, discouraging foreign investments, creating good will among the Muslim population, or promoting a tolerant image of the country abroad. With regard to financing of houses of worship, advisory committees in many countries have concluded that inequality continues to be a problem and that established religious groups continue to be priviledged, especially if one is willing to take account of history and the ways socio-economic disadvantages and a hostile societal climate constitute obstacles for Muslims. Yet, the willingness to compensate newcomers via a (temporary) subsidy scheme has been lacking at several occassions, both for more principled reasons ("private financing should be the norm") and for political reasons ("it is hard to explain a policy that seems primarily to advantage Muslims").

Second, there has been intense "politicisation" of hate-speech legislation and "Muslim sensibilities" over the past decade (Maussen and Grillo 2014). Rather than opting for a "pluralization" of existing blasphemy laws, Britain and the Netherlands have opted for a formal abolishment of this kind of laws, and Denmark is likely to do so in the near future. These laws were already in disuse anyhow, but their formal abolishment has a symbolic function and is often welcomed as a step forward in "secularizing" the governance of speech. When it comes to including Muslims equally in legislation that criminalizes incitement to discrimination, hatred or violence, the trend seems to be towards equality, especially at the level of legal provisions. The Racial and Religious Hatred Act of 2006 played an important symbolic role for discussions in Britain, whereas in the Netherlands and Denmark Muslim sensibilities were already protected equally compared to other religious groups in non-discrimination and hate-speech legislation. To what extent these arrangements also in practice guarantee equal protection against forms of abusive speech directed against Muslims is another matter.

Finally, there is a trend of treating religious and non-religious "expressions", "convictions" and "beliefs" equally when it comes to the protection of non-discrimination and fundamental freedoms, both at the national but especially also at the European level. This means that the pluralization of institutional arrangements is often less a matter of including Islam into a framework of government of *religious* diversity, but of creating arrangements that allow for peaceful and equal interactions of people with different life-convictions, sexual orientations, (dis)abilities, gender or (ethnic) background. Creating institutional space for social identities and practices associated with Islam will remain a vital aspect of that process.

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References

Alidadi, K., Bader, V., & Vermeulen, F. (2013). Reasonable accommodations for religion or belief as a challenge in contemporary European societies. *International Journal of Discrimination and the Law, 13*(2–3), 53–82.

Astor, A. (2014). Religious governance and the accommodation of Islam in contemporary Spain. *Journal of Ethnic and Migration Studies, 40*(3), 1–20.

Bader, V. (2007). *Democracy or secularism? Associative governance of religious diversity*. Amsterdam: Amsterdam University Press.

Bader, V. (2010). Constitutionalizing Secularism, Alternative Secularisms or Liberal-Democratic Constitutionalism-A Critical Reading of Some Turkish, ECtHR and Indian Supreme Court Cases on Secularism. Utrecht L. Rev., 6, 8.

Bader, V. (2012). Post-secularism or liberal-democratic constitutionalism? *Erasmus Law Review, 5*(1), 5–26.

Bergeaud-Blackler, F. (2007). New challenges for Islamic ritual slaughter: A European perspective. *Journal of Ethnic and Migration Studies, 33*(6), 965–980.

Bleich, E. (2011). *The Freedom to be Racist? How the United States and Europe Struggle to Preserve Freedom and Combat Racism*. Oxford: Oxford University Press.

Butler, J. (2009). The sensibility of critique: Response to Asad and Mahmood. In W. Brown (Ed.), *Is critique secular? Blasphemy, injury and free speech* (pp. 101–136). (The Townsend Papers in the Humanities).

Carol, S., & Koopmans, R. (2013). Dynamics of contestation over Islamic religious rights in Western Europe. *Ethnicities, 13*(2), 165–190.

Cliteur, P. (2010). *The secular outlook. In defense or moral and political secularism*. Chichester: Wiley-Blackwell.

Contreras Mazarío, J. M. (2007). The 'direct' financing of religious minorities in Spain. *Brigham Young University Law Review, 8*(3), 576–616.

Duyvendak, J. W., van Reekum, R., El-Hajjari, F., & Bertossi, C. (2013). Mysterious multiculturalism: The risk of using model-based indices for making meaningful comparisons. *Comparative European Politics, 11*(5), 599–620.

Fennema, M. (2000). Legal Repression of Extreme-Right Parties and Racial Discrimination. In R. Koopmans and P. Statham (Eds.), *Challenging immigration and ethnic relations politics: Comparative European perspectives* (pp. 119–144). Oxford: Oxford University Press.

Fetzer, Y., & Soper, C. (2005). *Muslims and the state in Britain, France and Germany*. Cambridge: Cambridge University Press.

Foblets, M. C., & Alidadi, K. (Eds.). (2013). *Religion in the context of the European Union: Engaging the interplay between religious diversity and secular models*. RELIGARE final report.

Garcimartín Montero, C. (2006). Direct financing of religious denominations in Spain: Changes introduced by the 2005 General State Budget Law. *Journal of Church and State, 48*(1), 175–196.

Goodall, K. (2007). Incitement to religious hatred: All talk and no substance? *Modern Law Review, 70*(1), 89–113.

Grillo, R. D. (2007). Artistic licence, free speech and religious sensibilities in a multicultural society. In P. Shah (Ed.), *Law and ethnic plurality: Socio-legal perspectives* (pp. 107–125). Den Haag: Brill.

Grillo, R. D. (2012). In the shadow of the law: Muslim marriage and divorce in the UK. In R. Mehdi, W. Menski, & J. Nielsen (Eds.), *Interpreting divorce laws in Islam* (pp. 203–233). Copenhagen: DJØF.

Habermas, J. (2008). Notes on a postsecular society. www.signandsight.com/features/1714.html. Accessed 28 Feb 2014.

Haut Conseil à l'Intégration (HCI). (2000). *L'Islam dans la République*. Paris: La Documentation Française.

Hunter, I. (2013). English blasphemy. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development, 4*(3), 403–428.

Jansen, Y. (2011). Postsecularism, piety and fanaticism: Reflections on Jürgen Habermas' and Saba Mahmood's critiques of secularism. *Philosophy and Social Criticism, 37*(9), 977–998.

Joppke, C. (2013). A Christian identity for the liberal state? *The British journal of sociology, 64*(4), 597–616.

Koenig, M. (2007). Europeanising the governance of religious diversity: An institutionalist account of Muslim struggles for public recognition. *Journal of Ethnic and Migration Studies, 33*(6), 911–932.

Koopmans, R., & Olzak, S. (2004). Discursive opportunities and the evolution of right wing violence in Germany. *American Journal of Sociology, 110*(1), 198–230.

Koopmans, R., Michalowksi, I., & Waibel, S. (2012). Citizenship rights for immigrants: National political processes and cross-national convergence in Western Europe, 1980–2008. *American Journal of Sociology, 117*(4), 1202–1245.

Kuipers, G. (2011). The politics of humour in the public sphere: Cartoons, power and modernity in the first transnational humour scandal. *European Journal of Cultural Studies, 14*(1), 63–80.

Kuru, A. (2009). *Secularism and state policies toward religion. The United States, France, and Turkey*. Cambridge: Cambridge University Press.

Larsen, S. E. (2014). Towards the Blasphemous Self: Constructing Societal Identity in Danish Debates on the Blasphemy Provision in the Twentieth and Twenty-first centuries. *Journal of Ethnic and Migration Studies, 40*(2), 194–211.

Machelon, J. P. (2006). *Rapport de la Commission Machelon sur la laïcité*. Paris: La Documentation Française.

Mahoney, J., & Thelen, K. (2010). A theory of gradual institutional change. In J. Mahoney & K. Thelen (Eds.), *Explaining institutional change: Ambiguity, agency, and power* (pp. 1–37). Cambridge: Cambridge University.

March, J. G., & Olsen, J. P. (2006). Elaborating the 'new institutionalism'. In R. A. W. Rhodes, S. A. Binder, & B. A. Rockman (Eds.), *The Oxford handbook of political institutions* (pp. 3–20). Oxford: Oxford University Press.

Maussen, M. (2007). *The governance of Islam in Europe. A state of the art*. IMISCOE working paper series. No 16.

Maussen, M. (2009). *Constructing mosques. The governance of Islam in France and the Netherlands*. Unpublished Dissertation. AISSR. University of Amsterdam.

Maussen, M., & Grillo, R. (2014). Regulation of speech in multicultural societies: Introduction. *Journal of Ethnic and Migration Studies, 40*(2), 174–193.

Modood, T. (2012). Is there a crisis of secularism in Western Europe? *Sociology of Religion, 73*(2), 130–149.

Monsma, S., & Soper, C. (2009). *The challenge of pluralism. Church and state in five democracies* (2nd ed.). Lanham: Rowman & Littlefield.

Nash, D., & Bakalis, C. (2007). Incitement to religious hatred and the 'symbolic': How will the Racial and Religious Hatred Act 2006 work? *Liverpool Law Review, 28,* 349–375.

Rath, J., Penninx, R., Groenendijk, K., & Meijer, A. (2001). *Western Europe and its Islam*. Leiden: Brill.

Shorten, A. (2013). *Are there rights to institutional exemptions?* Paper presented at the Social Ethics Research Centre Research Seminar, University of South Wales, December 3, 2013.

Statham, P., Koopmans, R., Giugni, M., & Passy, F. (2005). Resilient or adaptable Islam? Multiculturalism, religion and migrants' claims-making for group demands in Britain, the Netherlands and France. *Ethnicities, 5*(4), 427–459.

Tomes, L. (2010). Blasphemy and the negotiation of religious pluralism in Britain. *Contemporary British Religion and Politics, 4*(2), 237–256.

Valenta, M. (2012). Pluralist democracy or scientistic monocracy? Debating ritual slaughter. *Erasmus Law Review, 5*(1), 27–41.

Van Noorloos, M. (2014). The politicisation of hate speech bans in the twenty-first-century Netherlands: Law in a changing context. *Journal of Ethnic and Migration Studies, 40*(2), 249–265.

Van Sasse van Ysselt, P. (2013). Financiële verhoudingen tussen overheid, kerk en religieuze organisaties. *Tijdschrift voor Religie, Recht en Beleid, 4*(1), 65–86.